PROPORTIONAL REPRESENTATION


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PROPORTIONAL REPRESENTATION

SECOND EDITION
WITH CHAPTERS ON THE INITIATIVE, THE REFERENDUM, AND PRIMARY ELECTIONS

BY

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New York
THE MACMILLAN COMPANY
LONDON: MACMILLAN & CO., LTD.
1907

First published elsewhere. New edition May, 1907.

Norwood Press
J. S. Cushing & Co. — Berwick & Smith Co.
Norwood, Mass., U.S.A.

PREFACE TO THE FIRST EDITION.

It is intended in this book to show the historical significance of the recent movement for Proportional Representation, and a detailed application of the reform to American politics. Special consideration is given to city government, where, at present, other reforms are being tried, and where, it is believed, this one, if it were understood, would also be heartily accepted.

I am grateful for expert criticism on the proof, received from Professor J. W. Jenks of Cornell University, and Mr. Stoughton Cooley, Secretary of the American Proportional Representation League; and for helpful suggestions from Professor Richard T. Ely.

JOHN R. COMMONS.

January, 1896.

PREFACE TO THE SECOND EDITION.

THE principal events in the history of Proportional Representation occurring since the publication of the first edition, in 1896, have been the adoption, in 1899, of the system in Belgium and its rejection in Switzerland for the election of the national legislatures. The rejection in Switzerland was made under the initiative and referendum law. The adoption in Belgium applies to both the upper and lower houses of parliament. The system employed is that proposed by M. D'Hondt, fully described in this book, pp. 122–130 and 271–278.

Appendix I. is retained as offering my proposition for simplifying the mathematical calculations required in the "distribution of seats." I believe the plan proposed, which consists merely in excluding insignificant parties from the calculation, removes the only technical or complicated feature of proportional representation.

Appendix II., "The Legalization of Political Parties," written in 1898, is a stronger appreciation of the part to be filled by the system of direct

primary elections than the paragraphs written two years earlier and contained in the body of the book. Likewise, the chapters on direct legislation and the referendum and initiative are intended to attach more importance to these reforms than they seemed to me at first to possess. The relations of these different reforms one to another and the stages which they necessarily follow are brought out in Appendix V., "Proportional Representation from an American Point of View."

I have omitted the list of books and periodicals on account of the excellent and much more complete bibliography published in 1904 by the Library of Congress under the title, "A List of Books (with references to periodicals) relating to Proportional Representation."

In preparing the first edition I was glad to acknowledge the aid of Professor J. W. Jenks of Cornell University, of my teacher and colleague, Professor Richard T. Ely, and of Mr. Stoughton Cooley, Secretary of the American Proportional Representation League. In preparing this second edition I am indebted for suggestions to Mr. Robert Tyson of Toronto, Canada, the present secretary of the League, and to Mr. George H. Shibley, Secretary of the National Federation for People's Rule.

Recent statistics of elections do not modify the disproportions shown on pages 55 to 80. In the congressional election of 1904 the Democrats cast

41 per cent of the votes and elected 35 per cent of the congressmen, while the Republicans cast 54 per cent of the votes and elected 65 per cent of the congressmen. The Republican majority of 112 should have been a majority of 49. In 1906 the proportion was more nearly accurate. The Democrats with 44 per cent of the votes elected 42 per cent of the congressmen, and the Republicans with 51 per cent of the votes elected 59 per cent. The Republican majority of 60 should have been a majority of 38. In other words, the change in the popular vote, instead of reducing a Republican majority of 112 to one of 60, should have reduced a majority of 49 to one of 38.

The congressional delegation elected in Ohio in 1906 contained 5 Democrats and 16 Republicans. The popular vote should have returned 10 Democrats and 11 Republicans. One Republican vote in Ohio has the value in Congress of 2.7 Democrats.

In the British parliamentary election of 1906 the Ministerialist groups had 56 per cent of the votes and elected 72 per cent of the members, and the Conservatives had 44 per cent of the votes and elected only 28 per cent of the members. The unprecedented Ministerialist majority of 256 should have been the safe majority of 68.

In the Oregon State election of 1906 the Republicans with 55 per cent of the votes elected 83 members of the legislature, and the Democrats

with 34 per cent of the votes elected only 7. It required 4499 Democrats to elect one representative and only 619 Republicans to elect one. Socialists and Prohibitionists with 11 per cent of the votes are unrepresented. In Wisconsin 32 per cent Democrats elected 19 per cent of the lower house, 57 per cent Republicans elected 77 per cent, and 8 per cent Socialists elected 4 per cent. In New York 49 per cent Democrats elected 30 per cent of the assembly, and 49 per cent Republicans elected 69 per cent.

In the New York aldermanic election of 1906 a proportional count would have returned 18 instead of 41 Republicans, 27 instead of 26 Democrats, 26 instead of 6 municipal ownership candidates, and 2 instead of no Socialists.

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PROPORTIONAL REPRESENTATION.

CHAPTER I.

THE FAILURE OF LEGISLATIVE ASSEMBLIES.

THE American people are fairly content with their executive and judicial departments of government, but they feel that their law-making bodies have painfully failed. This conviction pertains to all grades of legislatures, municipal, State, and Federal. The newspapers speak what the people feel; and, judging therefrom, it is popular to denounce aldermen, legislators, and congressmen. When Congress is in session, the business interests are reported to be in agony until it adjourns. The cry that rises towards the end of a legislature's session is humiliating. The *San Francisco Bulletin* is quoted as saying:—

"It is not possible to speak in measured terms of the thing that goes by the name of legislature in this State. It has of late years been the vilest deliberative body in the world. The assemblage has become one of bandits instead of law-makers. Everything within its grasp for years has been for sale. The commissions to high office which it confers are the outward and visible signs of felony rather than of careful and wise selection."

Every State in the Union can furnish examples more or less approaching to this. Statements almost as extreme are made regarding Congress. Great corporations and syndicates seeking legislative favors are known to control the acts of both branches. The patriotic ability and even the personal character of members are widely distrusted and denounced.

These outcries are not made only in a spirit of partisanship, but respectable party papers denounce unsparingly legislatures and councils whose majorities are of their own political complexion. The people at large join in the attack. When statements so extreme as that given above are made by reputable papers and citizens, it is not surprising that the people at large have come thoroughly to distrust their law-makers. Charges of corruption and bribery are so abundant as to be taken as a matter of course. The honored historical name of alderman has frequently become a stigma of suspicion and disgrace.

As might be expected, this distrust has shown itself in far-reaching constitutional changes. The powers of State and city legislatures have been clipped and trimmed until they offer no inducements for ambition. The powers of governors, mayors, judges, and administrative boards have been correspondingly increased. The growing popularity of the executive veto is one of the

startling facts of the times. President Hayes vetoed more congressional bills than any predecessor, and his record has been excelled by President Cleveland. A city has been known to turn out in mass-meetings, and to illuminate the heavens with bonfires, in honor of a mayor's veto which rescued it from outrages and robberies perpetrated by its own lawfully elected "city fathers." The prevailing reform in municipal government is the transfer of legislative functions, and even legislative discretion, from the city council to the mayor.

Our municipal institutions were transplanted from England. As in the English system, the municipal council was supreme. It engrossed all the legislative and administrative powers of local government. It elected the mayor and heads of departments. It governed its appointees through its own committees. New York was the first city to break from this simplicity, as it has since gone farthest in stripping the council of power. Universal distrust led first to the mayor's appointment by the governor, then to his popular election, and later to popular election of heads of departments. Again, the control of finances was taken from the council and placed in an *ex-officio* Board of Estimate and Apportionment. The council still retained the right to confirm or reject the mayor's appointees. Thus the *unity* of govern-

ment was lost. Responsibility was ravelled out into scores of aimless threads. Mr. A. H. Green, a few years ago, found "eighty different boards or individuals who could create debt independently of each other." [1] Here was the opportunity of the "boss" and the party machine. Unity must somehow be secured. The "boss," a mere private citizen, gathered into his hands these scattered threads, and centralized the government of the city in himself. He controlled nominations and elections. He appointed and removed officers. He pitted council against mayor, boards against council, subordinates against chiefs, making them all responsible to him. But he was responsible to no one. The latest movement in municipal reform is to legalize the boss in the person of the mayor, to give him sole power to appoint and remove all heads of departments, but to elect him by popular vote and make him responsible to the people. The movement is not yet completed. The council remains a shrivelled and vicious relic. Logically, it should be abolished or reformed.

A similar movement, though later in time, is affecting State legislatures. The governor has been considerably exalted, but the movement is as yet mainly in the stage of independent boards, clothed with certain legislative and administrative

[1] L. Williams, *Arena*, vol. ix., p. 644.

authority. Where the governor at first appointed these boards, as in the case of the Railway Commissioners of Iowa, popular election is substituted. The Constitutions of the new States of North and South Dakota, Montana, and Washington, may be considered as stating the thought of the American people at the present time regarding their legislatures.[1] Several administrative boards are created in these new States, all filled by popular election. Among these are commissions to supervise and regulate insurance, railroads, agriculture and labor, prisons, and public lands. These commissions absorb, in various degrees, the powers of legislatures, executives, and judges. They are the nondescript, many-headed agents of the people distrusting the legislature, but not yet ready to confide everything to the governor's autocracy.

If it be inferred that these commissions are created not to belittle, but to enlighten, the legislature, and to act as its agents, we need only notice the maze of constitutional restrictions thrown about all legislative acts. "The articles in the new State Constitutions on the 'legislative department' are long and detailed. They seem to be composed by the framers in order to declare what the respective State legislatures cannot be permitted to do. . . . [They declare] by what

[1] See article by F. N. Thorpe in *Annals of the American Academy of Political and Social Science*, September, 1891.

procedure the legislature shall act, on what it shall not act, and to what extent it may act. The chief limitations on the legislature are with respect to special or private legislation, corporations, political corruption among members, taxation, and power to use the credit of the State." [1]

These constitutional restrictions, extending to legislatures and municipal councils, have forced another branch of government, the judiciary, to the front. Conscious of popular approval, judges have steadily encroached upon the field of legislative discretion, and reluctantly, it may be, have more and more assumed the right to set aside legislative statutes. This interference, however justifiable the reasons, is fraught with danger to the judiciary. It is thereby, at the expense of its integrity in the field of administration and justice, forced into the political arena, where are the heated questions of political expediency. Popular election of judges, short terms, and partisanship will result. "The executive," says Judge Horace Davis,[2] "all-powerful at the beginning [of colonial history], was reduced to a mere shadow of its former glory, and in these later days is regaining some of its lost power. The legislature, at first weak, afterwards absorbed the powers of the other

[1] Thorpe, as above, p. 17.

[2] "American Constitutions," "Johns Hopkins University Studies in History and Politics," 3d series, pp. 55, 59.

departments, but is now much reduced again. Throughout all these changes the dignity and power of the judges have steadily increased. . . . Their greatest power, most amazing to Europeans, is the authority to set aside a statute which they hold to be in conflict with the written Constitution. No other courts in the world possess this unique power. . . . The scope of this power is much broadened by the modern tendency to limit legislation. The early Constitutions were very brief, containing usually little more than a bill of rights and a skeleton of the government, leaving all details to the discretion of the legislature. Now all this is changed; the bounds of the different departments are carefully defined, and the power of the legislature is jealously curbed, particularly in the domain of special legislation. It will be seen at a glance that this enlarges the relative power of the courts. It limits the legislature and widens the field of the judiciary at one stroke."

Not only do the judges pretend to override the legislatures, but their exalted position renders them confidently autocratic in other directions. They are learning to dispense with juries, to dangerously widen the scope of injunctions, and to punish for contempt in cases not contemplated in our Constitutions. The legislatures and Congress, which are legally in a position to check these usur-

pations, are practically helpless from their lack of ability and their loss of popular confidence.

This demoralization of legislative bodies, these tendencies to restrict legislation, must be viewed as a profoundly alarming feature of American politics. Just as the duties of legislation are increasing as never before, in order to meet the vital wants of a complex civilization, the essential organs for performing those duties are felt to be in a state of collapse. The legislature controls the purse, the very life-blood of the city, the State, the nation. It can block every other department. It ought to stand nearest to the lives, the wishes, the wisdom, of the people. It is their necessary organ for creating, guiding, watching, and supporting all the departments of government. Above them all, then, it ought to be eminently *representative*. But it is the least representative of all. Surely, then, for the American people beyond all others, and in a high degree, too, for all peoples who are developing popular government, it is pertinent to inquire carefully into the fundamental nature of these representative institutions, the causes of their failures, and the means, if any can be found, to adapt them to the exigencies of modern times.

Why is it that a legislative assembly, which in our country's infancy summoned to its halls a Madison or a Hamilton to achieve the liberties

of the people, has now fallen so low that our public spirited men hesitate to approach it? The municipal council in early times, as now in England and Germany, comprised the stanchest men of the community. The American Congress was once the arena for a Webster, a Clay, a Calhoun, whose debates a nation followed. If it can be shown by what means representative assemblies formerly enrolled the honored leaders of the people, and met precisely the problems of the day, we may be able to see how the social and political conditions of to-day, resulting from changes of the past fifty years, have outgrown those early institutions, and rendered their original fitness a disastrous encumbrance.

CHAPTER II.

THE ORIGIN AND DEVELOPMENT OF REPRESENTATIVE ASSEMBLIES.

A STRIKING feature of social evolution is the decay and obstruction of institutions which in their day were essential to progress. The fundamental changes in society are unobtrusive. The increase of wealth and intelligence, the rise of corporations, the combinations of labor, the spread of democracy, the deepening of religion, the unfolding of new ideals and hopes, — these are the fundamental motives and objects of social growth. Laws, legislatures, commissions, courts, are the machinery and devices whereby the people work out their ideals. If the work to be done changes, the machinery becomes obsolete. It may be abandoned altogether, as was slavery; or it may be revised and readapted, as when the king, an hereditary executive, was displaced by the president, an elected executive — provided always that the good fruits of the past be not jeopardized.

Representative assemblies were devised to meet certain social ends; they sprang from historical conditions. It is in the changing character of these ends and conditions that the modern problems of representation have arisen.

1. The original object which produced representative assemblies was *nationalization*. This is shown in the twofold aspect of the union of local governments into a nation, and the coalescence of social classes in a single representative assembly.

(1.) The English nation, from which our representative institutions were inherited, was formed by welding together independent local communities into a central organization, without destroying the local governments. Previous experiments in nationalization had resulted in the tyranny of the capital city and the slavery of the provinces. The reason is plain to every historical student, and the same forces were working to the same outcome in England. But the principle of representation, almost unknown to the ancients, was discovered; and it permitted the unity of a nation, while preserving the freedom of the localities.

The primitive idea of a law-making body was the primary assembly of all the warriors. The king and his chief adviser sagreed on resolutions, and offered them to a simple *yea* and *nay* vote of the army. Every freeman had the right to appear in his own person in the national assembly. After the Norman conquest this right was retained in theory, but abandoned in practice. Gradually only the wealthy land-owners, the tenants in chief, and the higher clergy appeared. The distances were too great, the expense too heavy, and their

influence too slight, for the small land-owners to continue attendance. And as for the serfs and the town merchants and artisans, they never had the right. Thus the king and his council of magnates became the sole government of England. They enacted the laws and controlled their enforcement. The people had no voice, neither were they represented.

Slowly two forces were at work. The king gave away his private estates, upon which he was supposed to support himself and his administration, and was therefore compelled to look elsewhere for funds. During the same time the unrepresented classes of small farmers and town merchants and workmen were acquiring wealth. The king was forced to ask them for contributions, or "subsidies," to help him in his wars. Experience showed that these aids could not be secured by compulsion. The king must obtain the consent of his subjects. Neither could their hearty consent and co-operation be obtained when they were approached privately and individually. They must have the king's affairs laid before them in assembly, and the state of his exchequer explained. But a national primary assembly of all the people was impossible. However, there was in existence the more or less well-organized county government, with a history running far back into Anglo-Saxon times. Here was a convenient pri-

mary assembly of all the landowners, twice a year at the county seat, when the king's justices made their circuit. Here the germs of representation had appeared in the practice of electing juries to present the criminal matters of the county before the king's judges, and of electing assessors to levy the king's taxes upon the county.[1] Also there was a true legislative representation in the practice of the rural towns and the boroughs, which sent delegates to the county courts. Very naturally, it occurred to the king to ask this county primary to elect "two good and discreet knights," who should represent the land-owners before him, and hear and act upon his demands.[2]

In the towns, also, had quietly grown up the merchant and craft guilds, compact organizations of tradesmen and manufacturers, with mutual interests mutually protected. When the king could no longer wring from them money by coercion, he invited them to send their two accredited delegates for a national gathering of guild representatives.

What is the significance of these devices? In ancient Rome the tax collectors swarmed from the imperial city with proconsuls and armies at their backs, to exact arbitrary tribute from the prov-

[1] Stubbs, "Constitutional History," vol. i., p. 586.

[2] These were first summoned in 1254, by Henry III., on occasion of a military campaign into Gascony.

inces. Provincial self-government, and with it liberty and rights of property, were destroyed. In England the provinces joined with the central government, through their elected representatives, in determining the rate of taxation and in assessing it to individuals. Concessions in turn were made by the king, grievances were redressed, local self-government, and with it liberty and rights of property, were maintained.

(2) The union of localities alone does not form a nation; there must be added the union of classes. The first was the work of the thirteenth century, the second of the fourteenth. At the end of the thirteenth century there were at least four legislative assemblies, each representing a distinct class. They hardly deserved the name of legislatures; they were rather conventions of different social classes, negotiating with the king at separate times and places, regarding their own particular class interests. They did not meet together. Each convention separately enacted laws with the consent of the king. In 1336 a council of merchants from twenty-one cities agreed with the king "to increase customs on wool, to extend monopolies, and enlarge the privileges of trade."[1] Such matters were considered to affect only merchants and townsmen. In the thirteenth century military tenants and land-owners, including the

[1] Stubbs, "Constitutional History," vol. ii., p. 379.

representatives from the counties, enacted the great statutes, *De Donis*, *Quia Emptores*, and others, — regulating the holding of real property, without consulting the burgesses and clergy. The clergy also managed their large estates and voted taxes thereon without reference to other assemblies; and the laws of a political nature, such as those affecting Ireland and Wales, or foreign relations, which were not supposed to affect clergy, knights, or burgesses, were enacted by the Great Council without consulting these popular bodies.[1]

By the end of the fourteenth century, these assemblies were combined in the House of Lords and the House of Commons. Here were the steps: The clergy were gradually deprived of their power to legislate. The higher clergy then simply retained the place they had always held in the Great Council, and this became the modern House of Lords. The lower clergy were merged into the electorate of the counties and towns. Again, the representatives from the small landowners of the counties, and those from the guilds of the towns, were drawn together by common interests against king and nobility. They elected a "speaker" to present their petitions to the king, and thus, in time, became the House of Commons.

This legislative assembly, therefore, was based

[1] Hearn, "Government of England," pp. 423–428.

upon two principles, the representation of localities and the representation of the two organized social classes, town capitalists and country farmers, which governed those localities.

This was the original problem of representation. How different is it now! Not only the kingdom of England, but the "United Kingdom" of England, Scotland, Wales, and Ireland, has become a nation. Localities have lost their significance and their sanctity. Certain sections, like Ireland, retain apparently local, but really class, grievances. On the whole, railways, telegraph, the press, internal trade, and representation itself, have brought the people together. Foreign relations, a world-wide system of colonies, national armies and navies, have exalted a national flag and inspired a national patriotism. No longer would it be tolerable to leave the laws upon the tariff to merchants and importers, land-laws to real-estate owners, foreign relations to the nobility, or church taxation to the clergy. The representative to-day is therefore not a mere agent of a close corporation or a social class. After five centuries, Edmund Burke could say, "Parliament is not a congress of ambassadors from different and hostile interests, which interests each must maintain, as an agent and advocate, against other agents and advocates; but Parliament is a deliberative assembly of our nation, with one interest, —

that of the whole, — where not local purposes, not local prejudices, ought to guide, but the general good, resulting from the general reason of the whole. You choose a member, indeed, but when you have chosen him, he is not a member of Bristol, but he is a member of Parliament." [1]

In America, too, the problem of representative government has been that of nationalization. It has passed three stages. First, counties and towns were united into colonies; second, colonies united in the Confederation; third, States formed the nation. By the first, the State legislatures arose; by the third, the national Congress.

Just as the physical child, according to the biologists, repeats in a brief time its ancestral history of geological ages, so did the colonies, the children of English political institutions, repeat in a few years the slow and painful evolution of centuries. The stages are best recorded in Maryland.[2] Originally the Constitution, as framed by the proprietor, consisted of the governor, appointed by the proprietor, a council, appointed by the governor, and a primary assembly of all the freemen. At first all could attend. But settlements expanded over a wide area. At the second assembly, in 1638, those who could not attend

[1] Address to the electors of Bristol, "Collected Works," London, 1854. Bonn, vol. i., p. 447.

[2] See Doyle, "English Colonies in America. Virginia, Maryland, and the Carolinas," p. 286 ff.

in person were allowed to send proxies. But proxies were apparently bought up by the governor and his council in order to override the popular wish. In 1639 the third assembly met. On this occasion the various "hundreds" were instructed to elect representatives. Yet, after the election, one person, at least, came forward and claimed the right of appearing in person, on the ground that he had voted in the minority and so was not represented. The claim was allowed. In 1642 the assembly became typically representative by excluding the proxies and those appearing in their own right, and limiting its membership to those elected by the localities. Thus the lingering hope of doing justice to the unrepresented minority was abandoned. But the colony was united on the basis of local interests.

In the colony of Massachusetts Bay we find again similar conditions and a similar outcome. "The growth of fresh settlements brought with it an expansion of the constitutional machinery of the colony. . . . The Constitution of Massachusetts was older than the existence of the colony. The legislature of the colony was simply the general court of the company transferred across the Atlantic. At the same time the dispersal of the settlers at once unfitted that body for the work of legislation. The remedy first applied to this difficulty was, not to substitute a representative

assembly for a primary one, but to limit the functions of the court. It is clear that there was an oligarchical temper at work among the leading men in Massachusetts. The action of this was plainly shown by the transfer of all legislative rights from the court of freemen to the governor, deputy-governor, and assistants. At the same time the election of the governor was handed over from the freemen to the assistants. . . .

"True to English precedent, Massachusetts found the salvation of her constitutional liberties in a question of taxation. When the governor had intended to change his abode to Newtown, the assembly resolved to fortify that settlement at public charge. . . . To meet the cost a rate was levied on each town by order of the governor and assistants. Against this the men of Watertown protested. . . . Though the men of Watertown gave way on the main issue, their protest seems to have borne fruit. In the next year the powers of the governor were formally defined by an act. It was also enacted by the General Court, in the following May, that the whole body of freemen should choose the governor, deputy-governor, and assistants. A farther step towards self-government was taken in the resolution that every town should appoint two representatives to advise the governor and assistants on the question of taxation. We can hardly err in supposing that this

was the direct result of the protest made by the men of Watertown."[1]

It was in Connecticut that the origin of representative government first appears as a federation of independent towns, rather than a local representation to resist a central authority. The three towns which had been settled along the Connecticut River united in 1638, and "formally declared themselves a commonwealth with a Constitution of their own. . . . A system of representation was adopted at once, instead of being slowly worked out through a series of expedients and compromises. The legislature was to consist of a governor, six assistants, and deputies. The governor and assistants were to be elected annually by the whole body of freemen, met in a general court for that purpose. The deputies were to be elected by the three existing towns, four from each. As fresh towns were formed, their number of representatives was to be fixed by the government."[2]

Other colonies passed through similar experiences. A common form of representation was developed in them all. It was exactly suited to the needs of an independent, but busy and scattered farming and land-owning constituency, in their efforts to combine and resist the royal and oligarchical tendencies of the times.

[1] Doyle, "The Puritan Colonies," vol. i., pp. 103–106.
[2] *Ibid.*, pp. 159, 160.

The Confederation was a temporary experiment in nationalization which served the purposes of revolt against England, but failed in peace.

In the Constitution of the United States two principles are recognized, — representation of States in the Senate, representation of the people in the House. But in both cases representation is based on residence. Pre-eminently, sections are represented.

The problem of nationalization has been solved, not by Congress, however, which proved inadequate, but by civil war. The days of the brightest glory of Congress were those preceding the war, when the question of the Union was debated. Sections have yet their claims in a nation as wide as ours, but social and economic and class questions have overshadowed them. Foreign relations, currency, customs duties, are national questions. The war amendments have brought citizenship and rights of property under Federal protection. Federal control has reached out for the two most important business interests, banking and railways. Federal interference has grown into marvellous ramifications; and, with the consolidation of national trusts and syndicates, we may expect to see it still further extended. The significance of these momentous changes will appear when we proceed to the development of modern political parties.

It has appeared from the preceding pages that the origin of representative assemblies in State and national governments depended upon the previous existence of organized local governments separated by wide territorial areas. This necessitated the adoption of what has become the district system of electing single delegates to represent semi-autonomous governments. Such a system has still its justification in many respects, especially in a country as extended as the United States, with its sectional differences of climate, resources, products, and people. But why this system should survive to the present day in the election of city legislatures is one of the enigmas of politics, to be solved by reference to the traditions and inertia of mankind. In the United States and new countries there are not even historical reasons for the growth of this system. Here the transition from primary assemblies was made simply by way of imitation. It was to England that the framers of our municipal constitutions turned when our cities had advanced beyond a size convenient for the ancient popular assembly. It is, therefore, in the origin of English cities that we shall find the explanation of the origin of the district system.

The earliest records seem to indicate that English cities were simply concentrated hundreds and counties. In Norman times, the larger cities were

organized like counties, with their sheriff, their county court, composed of all the freeholders of the county, and the historical representatives from the townships. Here we have the origin of councilmen elected from the wards, the condensed townships. But the city was not at all an organic body, with recognized common interests. It was a curious mixture of all the different interests which happened to be thrown together in the neighborhood. In primitive London [1] there were the original military tenants of the crown, with their independent manors and courts and their agricultural serfs; there were the parishes, governed by the bishop and the chapter and the monasteries; and there were the guilds, administered by their own officers and administering their own property. Over all these jarring interests the sheriff presided as the representative of the king.

But the circumstances of the times and the needs of defence drew the residents nearer together in common interests. This appears first in the development of the guilds of merchants. Through commerce they gained wealth; this brought political power; and soon the merchant guild absorbed the law-making power of the entire city, its charter became the city charter, and its *maire* the city mayor.

[1] See Stubbs, vol. i., p. 407.

In still later times, when manufactures arose into prominence alongside merchandizing, new guilds were organized, representing different trades. There were the weavers, the shoemakers, the goldsmiths, the butchers, and many others. Each of these craft-guilds had its own president, the *alderman*. They soon demanded a share in the city government, which was finally granted; and their aldermen were given the right to sit together as a law-making body, each representing his own guild. In the reign of Edward II., "all the citizens were obliged to be enrolled among the trade-guilds, and in the reign of Edward III. the election of the city magistrates was transferred from the representatives of the ward-moots to the trading companies." [1] Thus, to-day, "London, and the municipal system generally, has in the mayor a relic of the communal idea, in the alderman the representative of the guild, and in the councillors of the wards the successors to the rights of the most ancient township system." [2]

The question arises, How came it that so rational a system as the election of aldermen by the different organized interests of the cities should have been displaced by the arbitrary system of election by territorial districts or wards? The

[1] Stubbs, vol. i., p. 419.
[2] *Ibid.*, p. 424.

answer is brief. The ancient system itself was practically an election by wards, because the different trades were grouped together, each in its own district of the city. And when the federation of guilds was abolished and elections thrown open to a widened suffrage, it seemed wholly natural to continue that district system which was seen to be in vogue in the counties and in the election of councilmen.

When American cities adopted representative government, they adopted the English district system. The transition is vividly portrayed in the history of Boston.[1] Until the year 1822 the government of Boston had been a primary assembly. On the 1st of May, 1822, the population had grown to 45,000, the qualified voters to 7,000 or 8,000, too many for a primary assembly. In that year the General Court of Massachusetts drew up a charter entitled "An Act establishing the City of Boston." It was presented to the voters of Boston, and accepted by a vote of 2,797 to 1,881. ". . . As authorizing the first departure from the system of local government which had been in operation nearly two centuries, it was regarded as a measure of the very highest importance. Not a few of the old residents, who had

[1] J. M. Bugbee, "The City Government of Boston," in "Johns Hopkins University Studies in History and Political Science," 5th series, p. 95.

fought under the eyes of Washington in the field, and under the eyes of Samuel Adams in the town meetings, looked upon the act which divided their great folk-mote into twelve separate and silent gatherings, where men delegated their rights to others, as the beginning of the end of democratic government."

Little need be said about the differences between the original problems of representation in cities, and those of their present development. The city is, above all political organizations, a unit in itself. Aldermen and councillors should not represent wards, they should represent the city. The ward has no place in city politics except, perhaps, as an administrative division. It is well recognized that cities present the most aggravated failures of American politics; and, so far as the legislative branch is concerned, the failure lies mainly in this unnatural partition into petty districts.

2. Proceeding from these historical conditions, we can perceive the impressive significance of the modern growth of national political parties. Before there were national questions there were no national parties, and even the early development of party divisions was on territorial lines. The Whigs were almost unknown in the counties, and the Tories unknown in the cities. Consequently, there was no important minority in either division

which was unrepresented. Cities were unanimous on national questions, and so were the counties, because the only important question they had to meet was the demand of the king for additional subsidies. More or less, the distinction between city and county continues in England to the present day. The original representatives of the agricultural and the capitalist classes, whose coalescence formed the nation, have carried their different interests into the House of Commons. And now that the king is only a figurehead, and the House of Lords an occasional check, the House of Commons has become almost supreme; Social and economic questions divide its members; and they group themselves in national parties, to contend, not against king and lords, but among themselves.

In the United States, on the other hand, the corporate, autonomous character of local governments is scarcely recognized in the creation of representative districts. District lines are frequently changed; cities have grown up, and have been grouped with rural areas; the apportionment of representatives is wholly territorial. Consequently, in the country at large the national parties which have grown up are often evenly divided in the territorial districts, and a representative of the majority, therefore, does not represent the opinions and wishes of the mass of his con-

stituency. The minority is simply discarded for the time being.

In the United States the power of political parties has reached a vigor unattained by those of any other country. This power is the growth of not more than fifty years. It has made its greatest advances since the period of the civil war. The peculiar feature of this development has been the supremacy of that new force in political parties, the "machine." Party organization is an essential element of party government; but the extent, perfection, and detail of this organization in the United States are bewildering. It controls both candidates and voters with an iron-like grip, and they glory in their subjection. These parties are not divided on territorial lines. They are divided mainly on national questions.

In colonial times parties were unknown. Or rather, we might say, there was a court party, or a party of prerogative, represented by the governor and his council, while the legislatures, the representative bodies, stood practically for a united people. The upper house being appointed by the governor, the lower house was drawn together as a single unit, representing all the people. No matter from what county a representative was returned, he was the ablest man in the county, for the people were unanimous in their wishes to withstand the party of prerogative. Furthermore,

the districts were all alike, being exclusively agricultural, and the representative from one was in harmony with the people of the others. There was no minority in any district to be unrepresented by a delegate chosen by the majority.

But to-day the legislature, whether in city, State, or nation, instead of being the organized representatives of those who protest against the government, is itself the government. Within its walls occur the struggles for the control of the fortunes and destinies of the people. There is no outside enemy whose constant presence enforces harmony and mutual help. Two national parties stand face to face in constant conflict, and whichever masters the legislature masters the people.

3. Furthermore, from the earliest times, the suffrage, both in England and the United States, was narrowly limited. The masses of the people were not considered as citizens, or entitled to political weight. In the counties, serfs, copyholders, and the lesser freemen were excluded from the suffrage. Only the freehold knights were voters. The cities were close corporations, made up of the mayor and aldermen, and a few of the leading men of the guilds. Altogether, perhaps not one-fifth of the adult male population was entitled to vote for representatives to Parliament. As a result, on the few questions of national interest on which they were required to select representatives,

the ruling classes in their respective districts were practically unanimous. The trial of representative government in England on a democratic basis did not really begin until after the years 1867 and 1884, when the town and country laborers were enfranchised. And if the failure of these institutions is more complete in the United States than in England, it is mainly because we have been longer trying to solve the problems of democracy with an aristocratic and capitalistic form of representation. For it must be remembered, as already shown, that the local government and liberty which representation preserved to Englishmen was the government and liberty of land-owners and capitalists, and not primarily of serfs and laborers.

In colonial times, also, the local governments were close corporations, and the representation by districts suited their purposes. In the South a few aristocratic slave-holding families, united by ties of blood and marriage, controlled each county government. They could come together often in social and business meetings, and, like the directors of a modern business corporation, could choose their agents and attorneys to conduct the county government and to represent them in the State and national legislatures. They selected the ablest men they could find. They wanted their property and their independence well pro-

tected. And in New England the church members alone, that is, the wealthy and educated classes of the community, held the suffrage. In Massachusetts, in 1780, only 4 per cent of the population were voters; in 1890, 29.7 per cent.[1]

In the United States, to-day, not only the original Anglo-Saxon is admitted to the suffrage, but also millions from antagonistic races. Especially is this true of the large cities, where 50 per cent to 80 per cent of the voters are foreign-born and children of foreigners.[2] If England is threatened by the widening of the suffrage, far more is the Republic of America. The great political questions of to-day are those which grow out of the citizenship of the manual laborers, the former serfs. These questions have to do directly or remotely with the profound problem of the ownership of wealth and the betterment of the social

[1] See A. B. Hart, "Practical Essays on American Government," pp. 35, 54.

A representative assembly may be seen to-day emerging in the Empire of India, and the methods of election there to be observed illustrate precisely the advantages of limited suffrage and *viva voce* voting in primitive English and colonial constituencies. The natives are unrepresented in the British government of the empire, but they have recently instituted representative assemblies to consult and petition the India Council and the Crown. The delegates to these assemblies are voted for in the various localities by only the high-caste, educated, and wealthy classes, numbering, perhaps, 15 per cent of the population, and they are elected by *acclamation*. They are in all cases the most distinguished men of their constituencies.

[2] Hart, as above, pp. 196, 198.

conditions of the lowest classes. These classes are distributed throughout all districts. They form the wide foundation structure of every community, upon which the other classes are built. They compose the majority of the voters. They feel that they have not heretofore been represented in the councils of the city, the State, or the nation. They are unaccustomed to political control, and therefore they are the fertile soil for demagogues and partisans. They hold the balance of power. They must be placated and pacified. The party or candidate who presents to them the most specious appeals wins the day. They themselves are not allowed to combine according to their natural divisions, and elect their acknowledged leaders to the council, the legislature, and Congress. Could they combine throughout the nation, the labor unions, scattered as they are through a hundred districts, would unite, and the more intelligent of the laborers would have influence in selecting those who represent them as a body, just as they select their national presidents and secretaries. As it is, they are forced into artificial territorial divisions, and are compelled, along with the whole of the electorate, to submit to the candidates who appeal to the more ignorant, thoughtless, prejudiced and easily influenced masses.[1]

It is in the wide extension of suffrage that we

[1] On this point see also below, Chapter VIII.

find the underlying cause of the "machine" and the "boss." Close organization, with its minute attention to details, and personal supervision of the rank and file, is the secret for wielding great armies of unthinking men. The Catholic and Methodist churches and the Salvation Army are striking triumphs of organizing ability dealing with the unprivileged and disorganized masses. The party machine does the same for the neglected, isolated, ignorant voters.

4. Again, legislation in the olden times was very limited, both in the number of subjects discussed and the details of the regulations. The people were satisfied to live according to the customs of their ancestors. Government was simply a matter of administration. The king, his council, his officers, and his judges were not called upon to make new laws, but to learn what were the customs of the land, and then to act accordingly. But to-day legislation is the most intricate of arts, depending upon the profoundest sciences, and dominating the most vital of human interests. There are hundreds of pressing problems, requiring legislative direction, which the assemblies of Edward I., or even the parliaments of George III., never dreamed to be of social importance. "Time was," says Woodrow Wilson,[1] "in the infancy of national representative bodies, when the representa-

[1] "The State," New York, 1890, page 583.

tives of the people were called upon simply to give or to refuse their assent to laws prepared by a king or by a privileged class in the state; but that time is far passed. The modern representative has to judge of the gravest affairs of government, and has to judge as an originator of policies. It is his duty to adjust every weighty plan, preside over every important reform, provide for every passing need of the state. All the motive power of government rests with him. His task, therefore, is as complex as the task of governing, and the task of governing is as complex as is the play of economic and social forces over which it has to preside. Law-making now moves with a freedom, now sweeps through a field, unknown to any ancient legislator; it no longer provides for the simple needs of small city-states, but for the necessities of vast nations, numbering their tens of millions."

The modern legislator must, therefore, be well equipped. He must give the greater part of his time to parliamentary duties, and, above all, must have a long experience in his particular art. No more striking evidence of obsolescence can be cited than this, that, while the duties of legislation have increased as never before, the law-makers themselves have sunken into incompetence and obloquy.

5. There is one external influence on modern legislation so extremely important as to demand

special notice. This is the private corporation, with its professional lobby. Corporations are as recent as party machines, and both have grown up together like Siamese twins. The professional lobbyists are nearly always the managers of the political machine. They carry in their pockets the political fortunes of the legislators. The "third house" is the modern legislature, at least in the United States. Corporations, from their very inception and in their daily activities, are the creatures of government. Their life is legislation. They cannot, if they would, dispense with their lobby.

This is an entirely new feature in the constitution of representative assemblies. The first general corporation laws in the United States were enacted in the '50's, following the rapid extension of railways and the organization of banks. A legislature that may have sufficed for simple duties in the days of isolated individual industries, is almost sure to wither in an era of private corporations with public functions and fabulous resources.

CHAPTER III.

THE DISTRICT SYSTEM AT WORK.

In the preceding chapter the main differences have been shown between the ancient and the modern problems, constituencies, and conditions of representation. We have now to inquire into the actual workings of this primitive institution in the midst of modern surroundings.

The position of the American voter who attempts independence is well known to be unenviable. When he comes to the polls to cast his ballot, he finds but one candidate to be chosen for any given office. He finds that, through the machinery of the political party with which he has acted, there is one candidate offered to him. There are practically but two candidates in the field, those of the two great parties. If the voter is dissatisfied with the nominee of his own party, there are three courses open to him, to vote for the opposing candidate, to vote for a third candidate, or to stay at home. It is likely that his dissatisfaction with the opposing candidate is more intense than with his own. Only in times of exceptional unrest, or as a protest against an exceptionally corrupt nomination, do large numbers of voters so radically revolt as to go entirely over to the enemy. The majority

of the dissatisfied simply stay at home. This is their only comfortable way to condemn their party's nominee. But should they be intensely exasperated, or should they be of an uncompromising turn of mind, they may go to the extreme of nominating and voting for a third candidate. In this case their offence is even worse than if they vote for the principal opposing candidate. They indeed give him a half vote, just as they do when they stay at home; and they gain the opprobrium of "crank," and the scorn of having "thrown their votes away."

In this way the party machine is the master of the situation. It alone can name the candidate; the only check upon it is the fear of a "bolt" on the part of the voters. This fear is reduced to a minimum. Though there may be loud protests and a vigorous show of independence, it is well known that most of the protesters will fall into line on election day, rather than see the other side win.

Add to the foregoing the fact that wards and election districts are bounded more or less arbitrarily, that they include a heterogeneous and polyglot population, and that boundaries are frequently changed, and we have an additional reason for the supremacy of the party organization. The voters have very few interests in common. They see little of each other; they have few of those so-

cial and business relations that would accustom them to join and work together. They do not meet in mass-meeting, as in the New England town-meeting, where individuals of all parties come together and discuss in public the affairs of their district and the qualifications of candidates, before the candidates are nominated. They must, therefore, look to their party organization for the dictation of a policy and the designation of a candidate. It is in the party that they find their common meeting-place. The strength of Tammany Hall, with its affiliated saloons, is in the social and fraternal life which it furnishes to the thousands of neglected voters who have no home, no church, no club.

The party organization is a more or less close corporation, composed of a series of practically self-perpetuating committees, the committees corresponding to the different election areas. The party primary of the smallest division — precinct, township, or ward — is the foundation of the system; but the primary is in the hands of its standing committee. A very small percentage of the party voters, for one reason or another, attend the primaries. In cities the percentage ranges from two to ten,[1] in the townships from ten to forty. A majority of the voters in these primaries elect

[1] A. C. Bernheim, in *Political Science Quarterly*, vol. iii., p. 99.

delegates to the nominating conventions, or they nominate ward or township candidates. This is the case with both the ruling parties. These candidates are the only ones between whom the voters can choose at the elections. The primaries and the nominating conventions, controlled by the party managers, are therefore practically the electing conventions.

I do not mean that the party managers who have this power can use it autocratically. They must keep before themselves always the qualities of their candidate which would promote or mar his popularity. They must nominate a man who, as they say, is "available." But within this limit, unless the popular interest has been aroused by some unusual emergency, they have a wide field of autocracy.

Such a system results in the selection of weak and inefficient representatives. They are not necessarily corrupt, but they are tools and figureheads.

In the first place, the area of choice is arbitrarily limited. It is a principle in elective constituencies that the larger the area over which a district extends, the more distinguished and capable are the candidates of all parties. In all districts representatives can be elected only from the ranks of the party which happens to have the majority. It is wholly improbable that the able men of a

party will be distributed about, one by one, in the small districts where the party has its majorities. But, even were they so benevolently scattered, the conditions are against their nomination. The political managers must have men who will do their bidding. At the same time, with only one to nominate and elect, the selection of candidates is subject to the dictation of cliques. In wards where the party has a safe or overwhelming majority, the party managers often flagrantly override the honesty and decency of the community by nominating the basest of men. And, in close districts and wards, a compact faction, bent on its own aggrandizement and threatening to help the other party, can often name a candidate, or, at least prevent the nomination of an outspoken and capable one. The influence of saloon-keepers in city and State politics is well known to depend on the power which close organization and unscrupulous methods give them over party leaders in the primaries and conventions.

Besides operating within the party lines, these same factions, as well as other classes of voters, hold the balance of power between parties. Hence candidates must placate them. Now, it is characteristic of the greatest of party leaders that they raise up about themselves a body of strong admirers, and a body of equally vigorous haters. Consequently, we seldom find in American politics

that a great party leader can be elected repeatedly in a close district. This principle comes out distinctly in the election of the President of the United States. Those men who have achieved the highest honors in the leadership of their party in the halls of Congress and in political battles, are seldom elected to that high office. They are not often even nominated; and, if nominated, they are almost destined to be defeated. Unknown and obscure men, or men whose record has been made entirely apart from leadership in political debate, are hunted out and given the place that in the affection and admiration of the party voters belonged to others. The true leaders must be content with appointive positions.

In congressional and legislative elections, also, it is well known that, when a party leader has achieved prominence, the entire resources of the opposite party throughout the nation or State are thrown into his limited district to compass his defeat. And these extraordinary exertions are usually successful, if the district be in any way a close one. Several leaders in Congress, after serving a few terms and acquiring familiarity with the rules, and then becoming the recognized leaders of their parties, have been defeated in their districts. In this way the Democrats lost the services of their leader, William R. Morrison, and the Republicans lost also their tariff leader, William

McKinley, Jr. Only in the case of a man like Blaine or Garfield, who happened to live in overwhelming Republican districts, could the leaders be kept in the public stations where their services would redound to their party and their country. In the case of Mr. McKinley, a Democratic legislature had used the gerrymander to create for him a strong Democratic district.

The same forces operate still more inexorably the further down we go to the lesser and lesser districts; until, when we come to ward politics, we reach the very narrowest area of choice, with, consequently, the lowest extreme of ability and the highest power of greedy factions and combines.

This is the main reason why our legislative bodies are composed of inexperienced men. A careful analysis of State legislatures will probably show that, in the average election, one-half the representatives are new men, with no legislative experience. An actual count of the Indiana legislature of 1893 shows that, in a house of one hundred representatives, there were 63 men who were there for the first time, 16 men who were serving their second term, 12 men their third term, one man his fourth term, and one man his fifth term. And this was not the result of a "landslide," bringing a new party into power; but the legislature was of the same political complexion which it had borne for several years.

Professor Hart asserts [1] that in Connecticut, in the year 1790, 64 per cent of the members of the legislature had sat in it before, while in 1889 the number was only 5 per cent. It is well known that the American House of Representatives is becoming more and more a body of one and two term men. In the Fifty-third Congress (not a "landslide" Congress), out of a membership of 353, there were 133 new men, 78 men serving their second term, and only 142 — i.e., 40 per cent — who were serving their third term and upwards. And everywhere the aldermen have learned to be content with one or two terms, but meanwhile to make a heavy "strike," and then give way to another of "the boys." Throughout the country it may be asserted, as a general rule, that the laws of the people are enacted by a majority who have had no previous experience in law-making.

This is the explanation of two significant facts in American legislation, the power of the speaker of the House, and the power of the lobby.

The American speaker, unlike the English and Canadian, is a man of dictatorial power. In the national government he is ranked next to the President. He appoints the committees, lays down the rules, and controls legislation. He has a similar position in all State legislatures, and in many municipal councils. The reason for this

[1] "Practical Essays on American Government," p. 90.

dictatorship is the same as that which explains the power of a tribal chieftain or an imperial Cæsar — the ignorance, incapacity, and faction of his subjects. Leadership is essential wherever a body of men are compelled to act in concert. But there are two kinds of leadership. One is that of debate, argument, and statesmanship, depending upon ability and enthusiasm, where the followers have confidence in their chief, and accept his leadership, and act in concert with him voluntarily. This is the leadership of Gladstone in the House of Commons. The other is that of coercion, growing out of necessity and circumstance, where followers distrust the ability of any leader they may choose, where they distrust their own ability to follow, and therefore they consent to the abdication of self-government and the elevation of a tyrant. This is the leadership of the American party speaker. It proceeds from the lack of acquaintance among the members of the legislative bodies, and from their mutual incompetency. They serve short terms, they come together for the first time knowing little of the qualifications of each. If they should keep the control of affairs in their own hands, there would be wrangling and wire-pulling over the appointments of committees, and then factions and mutiny on account of their final disposition. The only escape from this evil is in the power of the speaker.

If our representative bodies were composed of able men, if their terms of service were longer and their legislative acquaintance wider, if the natural party leaders were not excluded from their midst by a petty district system of election, — then the representatives would claim for themselves the power which they bestow upon their autocrat. They would appoint their own committees, as in the United States Senate, control their own rules, make their own laws, and the speaker would be simply a moderator instead of a dictator.

Though the speaker has a unique dominion, there is another power in American councils, legislatures, and Congress, still more ominous — the lobby. It is the lobby which controls legislatures to-day. If any law demanded by the people at large, or even by a majority of the law-making body, is defeated or emasculated, its fate can be traced to the dominating influence of the lobby.

The lobby is a new feature of representative government. It is coincident with the very recent growth of large private corporations. It is organized by them. They have such immense interests at stake on the turn of legislation, that their lobby, with unlimited resources at its disposal, is almost irresistible.

But the lobby could not have acquired its powerful influence were it not for certain qualities in the legislative bodies themselves which place them

at its mercy. Corruption is not the only explanation. Legislators fall into the nets of lobbyists largely because of inexperience and incapacity. The lobbyists themselves are the shrewdest, brightest, and most influential men of the State or nation. They often control the party spoils, and an ambitious legislator cannot afford to antagonize them. The lobby is organized as well as the legislature itself. It has its chiefs, who band together. All of the corporations and enterprises interested in legislation practically combine as a unit. Then these able and honorable chiefs employ their resources of argument and suggestion with individual legislators and before committees. They take the dimensions of every individual who comes in their way. But if their honorable methods are inadequate, they then turn the legislator in question over to the petty lobbyist who carries the pocket-book. Their own hands are clean.

The power of the lobby is found mainly in the fact of the party machine. The lobbyists are usually the managers of the machine. They control State and national party spoils and offices. They have the political fate of individual lawmakers in their hands. They are the actual leaders in party politics. The wealth of a Tammany "boss" comes from his employment as a corporation lobbyist. There must be leadership

somewhere. The only question is, Shall the leaders be elected to the legislature by the people, or shall they control the legislature from outside as mere irresponsible private citizens? As long as the people are prevented from electing their leaders to positions of responsibility, there will surely arise these self-constituted leaders, whose shrewdness gives them control over the weaklings and hirelings who are actually elected.

The absence of true leadership and the opportunity of the lobby are shown in the fruitless bickerings and factious combinations which so often prevent a legislature from accomplishing anything good. A party in the majority needs to be held together through confidence in some leader or leaders. But their forces are often scattered, and legislation is blocked. The opportunity of the lobby is of most value in the election of a speaker, who, when once elected, becomes the instrument of those who created him.

It is not to be inferred that the lobby alone is responsible for corrupt legislatures and councils. It is equally true that corrupt legislatures are responsible for the lobby. Law-makers introduce bills attacking corporations for the express purpose of forcing a bribe. This is called a "strike," and has become a recognized feature of American legislation, to meet which the corporations are compelled to organize their lobby.

A very apparent weakness and injustice of the district system is the opportunity it gives a majority party to crush out and disfranchise the minority. This is seen flagrantly in the "gerrymander." But, even where the system is not thus abused, it is almost wholly a matter of chance whether the opinions of the people are justly expressed or not. This danger was not imminent under the earlier conditions of representation, as has already been shown, when electoral districts were natural units and the problem of representation was the federation of local communities. But now that party lines are drawn through the midst of every community, it nearly always happens that one party gains in the elections an unjust proportion of representatives at the expense of others. From the theory of the matter it is possible to exclude minority parties altogether, and to give the entire legislative body to the majority. Suppose a legislature to be composed of forty members elected from forty districts, and that the popular vote of the political parties stands respectively 120,000 and 100,000. If the districts are so arranged as to have 5,500 votes each, and the parties happen to be divided in the districts in the same proportion as at large, we should have in each district a vote respectively of 3,000 and 2,500. All of the forty candidates of the majority would be elected, and the minority wholly

excluded. An extreme result like this seems improbable, but it sometimes occurs.

Again, it may happen, and often does, that a minority of the popular vote obtains a majority of the representatives. In the case assumed, parties may have been divided in the several districts as follows: —

PARTY A.

Majority of 100 in 25 districts, $2,800 \times 25 = 70,000$ votes.
Minority of 1,500 in 15 districts, $2,000 \times 15 = 30,000$ votes.
TOTAL, 100,000

PARTY B.

Minority of 100 in 25 districts, $2,700 \times 25 = 67,500$ votes.
Majority of 1,500 in 15 districts, $3,500 \times 15 = 52,500$ votes.
TOTAL, 120,000

In this assumed case, Party A, with a total of 100,000 votes, obtains twenty-five representatives; while Party B, with a total of 120,000 votes, obtains only fifteen representatives.

Where a system offers in theory such fruitful opportunities, it is too much to expect party managers to refrain from using them. Consequently, the district system, combined with party politics, has resulted in the universal spread of the gerrymander. It is difficult to express the opprobrium rightly belonging to so iniquitous a practice as the gerrymander; but its enormity is not appreciated, just as brutal prize-fighting is not reprobated, providing it be fought according to the

rules. Both political parties practise it, and neither can condemn the other. They simply do what is natural: make the most of their opportunities as far as permitted by the constitution and system under which both are working. The gerrymander is not produced by the iniquity of parties, it is the outcome of the district system. If representatives are elected in this way, there must be some public authority for outlining the districts. And who shall be the judge to say where the line shall be drawn? Exact equality is impossible, and who shall set the limits beyond which inequality shall not be pressed? Every apportionment act that has been passed in this or any other country has involved inequality; and it would be absurd to ask a political party to pass such an act, and give the advantage of the inequality to the opposite party. Consequently, every apportionment act involves more or less of the gerrymander. The gerrymander is simply such a thoughtful construction of districts as will economize the votes of the party in power by giving it small majorities in a large number of districts, and coop up the opposing party with overwhelming majorities in a small number of districts. This may involve a very distortionate and uncomely "scientific" boundary, and the joining together of distant and unrelated localities into a single district; such was the case in

the famous original act of Governor Gerry of Massachusetts, whence the practice obtained its amphibian name.[1]

But it is not always necessary that districts be cut into distorted shapes in order to accomplish these unjust results. A map of all the congres-

[1] The term "Gerrymander," though not the practice, originated with the Democratic party in Massachusetts in 1811, when Elbridge Gerry was elected governor. Says Professor Ware, in *The American Law Review*, January, 1872, from whose article the accompanying illustration is taken: —

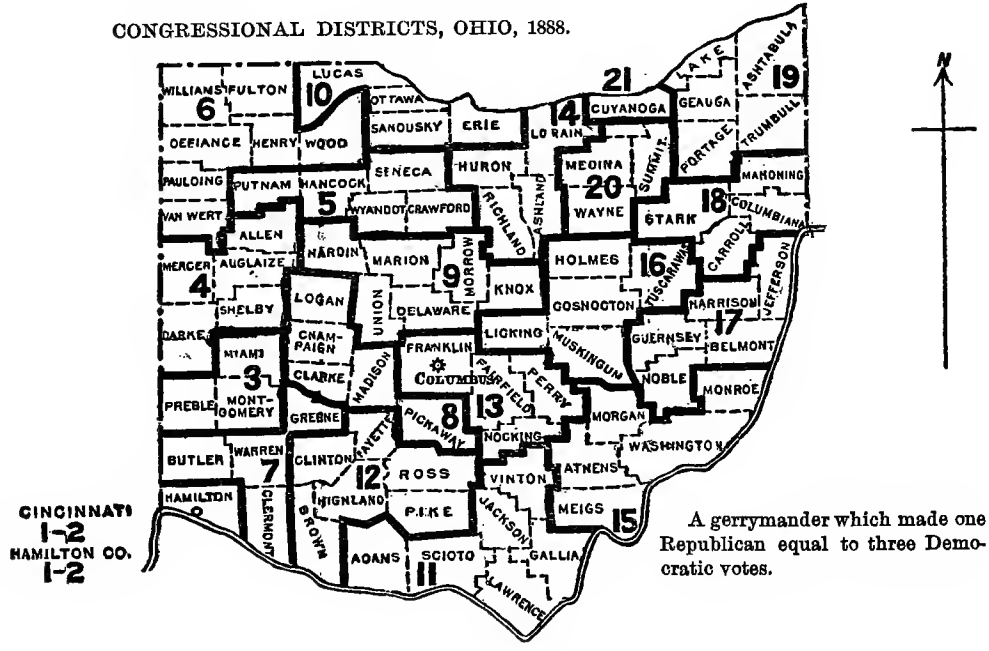
"In order to secure themselves in the possession of the government,

sional and legislative districts of the United States would by no means indicate the location of all the outrageous gerrymanders. In fact, many of the worst ones have been so well designed that they come close within all constitutional requirements. The truth is, the district system itself is so faulty that constitutional restrictions cannot correct it. The national Congress has attempted to do so by requiring the districts for congressional elections to be compact and of contiguous territory, and of nearly equal population. But the law is everywhere disregarded. Parties are compelled to disregard it, for a gerrymander in a Democratic State can be nullified only by a gerrymander in a Republican State.

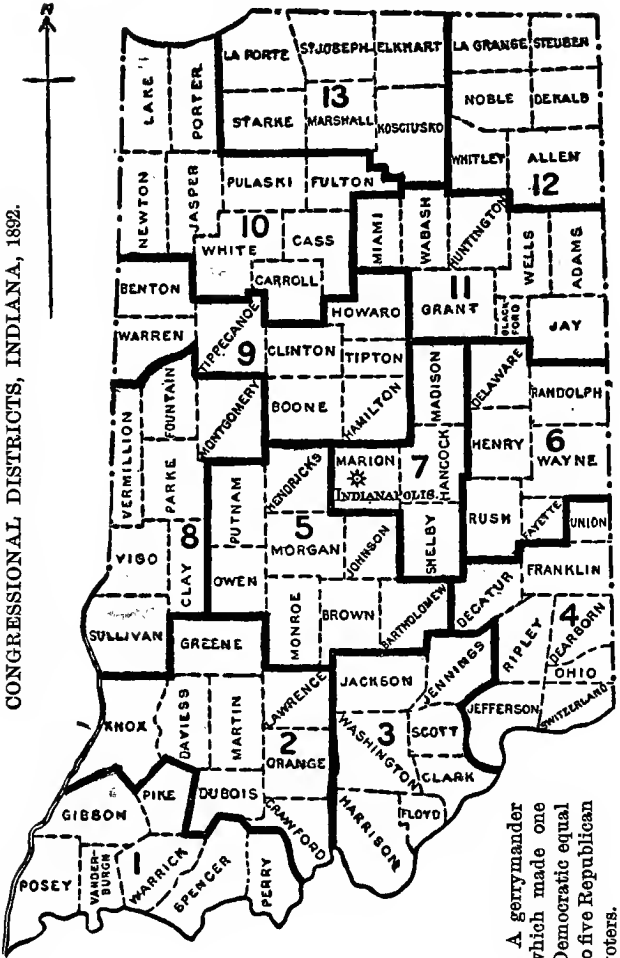
As a result of the district system, the national House of Representatives is scarcely a representative body. In the Fifty-first Congress, which enacted the McKinley tariff law, a majority of the representatives were elected by a minority of the voters.

the party in power passed the famous law of Feb. 11, 1812, providing for a new division of the State into senatorial districts, so contrived that in as many districts as possible the Federalists should be outnumbered by their opponents. To effect this all natural and customary lines were disregarded, and some parts of the State, particularly the counties of Worcester and Essex, presented singular examples of political geography. It is said that Gilbert Stuart, seeing in the office of the *Columbian Centinel* an outline of the Essex outer district, nearly encircling the rest of the county, added with his pencil a beak to Salisbury, and claws to Salem and Marblehead, as shown in the engraving, exclaiming, 'There, that will do for a salamander.' — 'Salamander,' said Mr. Russell, the editor, 'I call it a Gerry-mander.'"

CONGRESSIONAL DISTRICTS, OHIO, 1888.



A gerrymander which made one Republican equal to three Democratic votes.



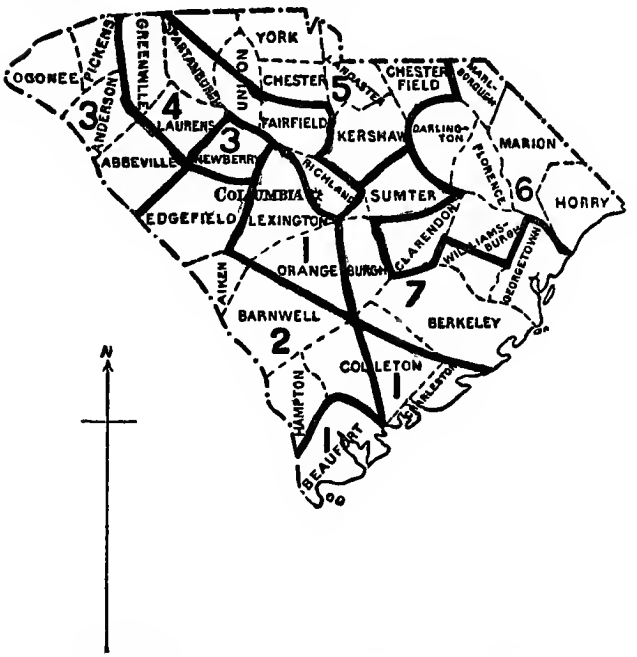
CONGRESSIONAL DISTRICTS, INDIANA, 1892.

A gerrymander which made one Democratic equal to five Republican voters.

FIFTY-FIRST CONGRESS — ELECTION, 1888.

PARTIES.	CONGRESSIONAL VOTE.	ELECTED.	PROPORTIONAL.
Republican . .	5,348,379	164	158
Democrat . . .	5,502,581	161	162
Prohibition . .	184,937		5
Scattering . .	56,889		
	11,092,786	325	325

CONGRESSIONAL DISTRICTS, SOUTH CAROLINA, 1890.



An illustration of "compact and contiguous territory."

The Republicans, instead of having a majority of three, should have been in a minority of four, as against the Democrats. The Republicans, with 48.2 per cent of the votes, elected 50.4 per cent of the representatives; and the Democrats, with 49.6 per cent of the votes, elected 49.6 per cent of the congressmen.

That this Congress did not represent the people, is emphasized by the "avalanche" of 1890.

FIFTY-SECOND CONGRESS — ELECTION, 1890.[1]

PARTIES.	VOTE.	ELECTED.	PER CENT OF VOTE.	PER CENT OF REPRESENTATION.
Republican	4,217,266	88	42.9	26.5
Democrat	4,974,450	235	50.6	71.1
Populist	354,217	9	3.7	2.4
Prohibition	207,814		2.1	
Independent	76,788		.7	
	9,830,535	332	100	100

This election again displays the fortuitous results of the system. The Democratic minority of 49.6 per cent of the congressmen in the Fifty-first Congress was changed to a Democratic majority of 71.1 per cent in the Fifty-second Congress, while in the popular vote the Democratic proportion of 49.6 per cent of the total was increased only 1 per cent. The Republicans, with 42.9 per cent of the vote, secured only 26.5 per cent of the representatives.

[1] Calculations for the Fifty-second, Fifty-third, and Fifty-fourth Congresses are made by Mr. Stoughton Cooley in *Proportional Representation Review*, March, 1894, based upon returns in the *Chicago Daily News Almanac*.

The Republican vote fell off 4.9 per cent of the total; their representation decreased 24.1 per cent. It required 47,923 votes to elect a Republican, 44,276 votes to elect a Populist, and only 21,078 to elect a Democrat. The Democratic majority of 147 over the Republicans, and 138 over all, should have been a Democratic majority of 2.

For the Fifty-third Congress, elected in 1892, the total vote polled for congressmen was 12,032,203, of which the Republicans polled 5,031,360; the Democrats, 5,670,148; the Populists, 1,046,392; the Prohibitionists, 244,726; and 39,577 were scattering. The result of this poll was that the Republicans elected 131, the Democrats 213, and the Populists 12 congressmen. This is to say, the Republicans, with 41.9 per cent of the total vote, (a decrease of 1 per cent below that of the previous election), secured 36.8 per cent of the representatives, an increase of 10.3 per cent; the Democrats, with 47.2 per cent of the vote (a decrease of 3.4 per cent), got 59.8 per cent of the representatives; the 8.7 per cent of the Populists obtained 3.4 per cent of the representatives; the Prohibitionists' 2 per cent secured nothing." Instead of a Democratic majority of 79 in Congress, there should have been a Democratic minority of 10, as against all other parties.

The stupendous Republican victory of 1894 was equally illusory. The total vote cast for congress-

men was 11,288,135. Of this number the Republicans cast 5,461,202; the Democrats, 4,295,748; the Populists, 1,323,644; the Prohibitionists, 182,679; and 24,862 were scattering. The result was the election of 245 Republican, 104 Democrat, and 7 Populist congressmen. Or, in other words, the Republicans, with 48.4 per cent of the total vote (an increase of 6.2 per cent), elected 68.8 per cent of the congressmen; the Democrats, with 38.1 per cent of the vote (a decrease of 9.1 per cent), secured 29.2 per cent of the representatives; the 11.7 per cent of the Populists obtained 2 per cent of the representatives; and the 1.6 per cent of the Prohibitionists failed of recognition. The Republican majority of 134 in the present Congress should be a minority of 7, as against all other parties.

The injustice of the district system is extreme in its effects on new parties. Such parties suffer for two reasons. In the case of the dominant parties there is a rough equality, because a Democratic gerrymander in one State is likely to be balanced in another by a Republican gerrymander. But a new party cannot establish a gerrymander to suit itself until it gets control of a State government. Also, a new party is usually scattered throughout a large number of districts and States, and the district system prevents its members from combining to elect their fair share of representatives. For

example, in the Fifty-first Congress, the Prohibitionists should have had 5 representatives, they received none; in the Fifty-third Congress the People's party should have had 31 instead of 8, and the Prohibitionists should have received 8 instead of none; and in the Fifty-fourth Congress the Populists were entitled to 42 votes instead of 7.

Many examples might be given from individual States to show the unrepresentative character of congressional representation. Those States which are close in their majorities, and whose legislatures alternate frequently, show an endless seesaw of gerrymanders. Ohio has, perhaps, had more of these partisan displays than any other State. It was during the war that the first Republican legislature overthrew a long-standing Democratic apportionment act. The results were brought out forcibly by Mr. Garfield in a speech in Congress in 1870. He said:—

"When I was first elected to Congress, in the fall of 1862, the State of Ohio had a clear Republican majority of about 25,000; but, by the adjustment and distribution of political power in the State, there were 14 Democratic representatives upon this floor, and only 5 Republicans. The State that cast a majority of nearly 25,000 Republican votes was represented in the proportion of one Republican and three Democrats. In the next Congress there was no great political change in the popular vote of Ohio — a change of only 20,000 — but the result was that seventeen Republican mem-

bers were sent here from Ohio, and only two Democrats. We find that only so small a change as 20,000 changed their representatives in Congress from fourteen Democrats and five Republicans, to seventeen Republicans and two Democrats.

"Now, no man, whatever his politics, can justly defend a system that may in theory, and frequently does in practice, produce such results as these."

The Republicans retained power in the Ohio legislature from 1862 to 1876, with a consequent unfair advantage in the distribution of congressional seats. In the latter year a Democratic legislature passed a new apportionment act. Since that time there have been eight such acts, the results of which upon the fortunes of the two parties are depicted by the following statistical analysis:—

REPRESENTATION OF THE STATE OF OHIO IN CONGRESS.

CONGRESS.	YEARS.	CONGRESSIONAL VOTE.		REPRESENTATIVES.				ACCORDING TO ACTUAL REPRESENTATION.
				ACTUAL.		PROPORTIONAL.		
		Rep.	Dem.	Rep.	Dem.	Rep.	Dem.	
45th,	1877-79	314,529	310,434	12	8	10	10	1 Rep. = 1½ Dem.
46th,	1879-81	277,875	264,737	9	11	10	10	1 Dem. = 1¼ Rep.
47th,	1881-83	405,042	340,572	15	5	11	9	1 Rep. = 2⅔ Dem.
48th,	1883-85	306,674	268,785	8	13	11	10	1 Dem. = 2 Rep.
49th,	1885-87	395,596	380,934	10	11	11	10	1 Dem. = 1⅓ Rep.
50th,	1887-89	336,063	325,629	15	6	11	10	1 Rep. = 2⅓ Dem.
51st,	1889-91	412,520	395,639	16	5	11	10	1 Rep. = 3 Dem.
52d,	1891-93	362,624	350,528	7	14	11	10[1]	1 Dem. = 2½ Rep.
53d,	1893-95	397,320	407,120	9	12	10	10	1 Dem. = 1⅓ Rep.
54th,	1895-97	407,371	274,670	19	2	12	8[2]	1 Rep. = 6 Dem.

1 One Prohibitionist. 2 One Populist.

It will be seen that the Democrats in Ohio have never, since 1862, had a majority of the popular vote on national questions, except in 1892; yet in four elections they have returned a majority of the congressmen. Neither are party calculations always realized. In the Forty-fifth Congress the Democratic gerrymander returned a Republican majority of the congressmen, and in the Fifty-third Congress a Republican gerrymander returned a Democratic majority, although in the Fifty-fourth Congress the same gerrymander responded well to the Republican designs.

In Indiana, in 1892, under a Democratic gerrymander, the Democrats cast for congressmen 259,190 votes, and elected eleven congressmen; the Republicans cast only 5,522 less votes, namely, 253,668, but elected only two congressmen. It required 126,834 Republican votes to elect one congressman, against only 23,565 Democratic votes; in other words, one Democratic vote was worth 5.4 Republican votes. The Democrats, casting 47.2 per cent of the total vote, secured 85 per cent of the representatives; and the Republicans, with 46.2 per cent of the vote, secured only 15 per cent of the representatives. The smallest majority received by any Democratic candidate was 42, the largest was 3,081; whereas the smallest majority received by a Republican candidate was 4,125, and the largest was 8,724. To see that the gerryman-

der, though the apparent, is not the essential, evil of the district system, it needs only to be noted that in the election of 1894, in Indiana, with the same gerrymandered districts as in 1892, the Republicans elected the entire delegation of 13 members; yet the total Republican vote for congressmen in the State was only 50.5 per cent (284,447) of the total vote, and the Democratic vote was 42 per cent (238,371) of the total.[1] The Republicans are entitled to only 7, instead of 13 representatives in the present Congress, and the Democrats of the State, who should have elected 6 congressmen, are wholly unrepresented.

The inequalities of the district system are not confined to the United States. They appear in all parliamentary countries. Some interesting results from England are given by Sir John Lubbock in his tract on "Representation."[2] In the parliamentary elections of 1886, there were contested 460 seats. "The total number of votes given were 2,756,900, of which 1,423,500 were for Unionist, 1,333,400 for Home Rule candidates, or a majority of 90,000 votes for maintaining the Union. According to the votes polled, the number of members returned should have been 238 Unionists and 221 Home Rulers, which, adding the members returned without a contest, viz., 111 Unionists and

[1] 8.5 per cent going to Populists and Prohibitionists.

[2] The Imperial Parliament Series, London, Swan Sonnenschein & Co., 1890.

99 Home Rulers, would have given 349 Unionists and 320 Home Rulers, or a majority of 29. The actual numbers, however, were 394 Unionists and 275 Home Rulers. The Unionists, therefore, obtained 45 seats more, and the Home Rulers 45 fewer seats, than they were entitled to from the votes polled, making, of course, 90 on a division. Thus, then, in 1874 the Conservatives obtained 38 seats more than their votes entitled them to, counting 76 on a division. In 1880, on the contrary, the Liberals had 44 too many, counting 88 on a division. . . . Thus, whatever side has the majority, we are confronted with a violent contrast between the voting strength in the constituencies, and the voting strength in the House of Commons."

"In my own county of Kent," continues Sir John Lubbock, "the Liberals polled in the three divisions, at the last election, over 13,000 votes, against 16,000 given to their opponents, and yet the latter had all the six seats. Taking all the contested seats in the county, the Liberals polled 32,000 votes against 36,000, and yet the Conservatives carried sixteen members and the Liberals only two." [1]

"At the general election (in Ireland) in 1880, 86 seats were contested. Of these the Home Rulers secured 52, the Liberals and Conservatives together only 34. Yet the Home Rule electors

[1] Page 17.

were only 48,000, while the Liberals and Conservatives together were no less than 105,000. . . . If the uncontested seats were estimated for, the results would remain substantially the same."[1]

The parliamentary election of 1895 brought an overwhelming defeat to the Liberal party. There were 481 seats contested, of which the Liberals obtained 202 and the Conservatives and Unionists 279, a majority of 77. Yet in the popular vote the Liberals stood 1,800,000 and the Conservative-Unionists 1,775,000, a minority of 25,000. The true representation would have been: —

	CONSERVATIVE.	LIBERAL.
Contested seats	239	242
Uncontested seats	132	57
Total	371	299

giving a Conservative-Unionist majority of 72, instead of the actual majority of 152.[2]

In the Italian elections of 1884 the popular vote stood in the proportion of 1.85 for the government to 1 for the opposition, but the representation in the Chamber of Deputies was 5.19 for the government to 1 for the opposition.

Other election figures might be given to show that in no country are the people accurately represented in their legislative assemblies. This is true

[1] Pages 19 and 20.

[2] See article by Sir John Lubbock, "Analysis of English Elections," *Proportional Representation Review*, September, 1895.

whether the gerrymander is employed or not. Perhaps, taking a nation as a whole, the gerrymanders of the United States in congressional elections do not affect the average result; since, as already shown, both parties enact them, and the work of a Democratic gerrymander in one State is offset by that of a Republican gerrymander in another.

State legislatures, on the other hand, show greater inequalities, seeing that the party in power outlines the districts for the entire constituency, and there are no offsetting gerrymanders.

In the Massachusetts State election of 1892, according to Mr. Berry,[1] 116,708 Republican votes elected twenty-five Republican senators, while 119,045 Democratic votes failed to elect the Democratic candidates for whom they were cast. The total Democratic vote of 165,606, elected ten senators, thus requiring 16,560 Democratic votes to elect one. The total Republican vote of 185,479 elected thirty senators, requiring only 6,182 to elect one. In State legislation, therefore, 1 Republican was worth 2⅔ Democrats.

Indiana in 1892, taking the presidential vote as a basis, should have elected to the lower house 48 Democrats, 46 Republicans, 4 Populists, and 2 Prohibitionists. There were actually elected 63 Democrats and 37 Republicans. In 1894, on the

[1] "Proportional Representation," Worcester, Mass., 1892, p. 32.

basis of the vote for Secretary of State, the Republicans should have had 50 State representatives, the Democrats 43, the Populists 5, and the Prohibitionists 2. Instead, the Republicans had 82, and the Democrats 18.

Ohio elected 72 Republicans, 35 Democrats, to the lower house in 1892. Had the people been truly represented, there would have been 51 Republicans, 51 Democrats, 3 Prohibitionists, and 2 Populists.

Michigan in 1894, with a popular vote for governor of 237,215 Republicans, 130,823 Democrats, 30,002 Populists, and 18,788 Prohibitionists, elected to the lower house of the State legislature 99 Republicans and 1 Democrat. The representation should have been 57 Republicans, 31 Democrats, 7 Populists, and 5 Prohibitionists.

For members of the lower house of the New York legislature in the last three elections, the vote and actual elections, contrasted with what would have been the proportionate elections, were as follows: —

NEW YORK ASSEMBLY, 128 MEMBERS. 1892.

PARTIES.	VOTE.	ELECTED.	PROPORTIONAL.
Republican	598,012	54	60
Democrat	644,988	74	65
Prohibition	33,012	..	3
Socialist Labor . . .	8,472	..	..
Scattering.	16,463	..	..
	1,301,947	128	128

	1893.		
Republican	538,471	74	65
Democrat	510,608	54	60
Prohibition	21,525	..	2
Socialist Labor . . .	8,631	..	1
Scattering.	32,357	..	..
	1,111,592	128	128
	1894.		
Republican	665,857	105	71
Democrat	501,015	23	53
Prohibition	21,626	..	2
Socialist Labor . . .	9,575	..	1
Populist	6,914	..	1
Scattering.	9,339	..	..
	1,214,326	128	128

The table on the following page is compiled by Mr. Geo. H. Haynes,[1] in order to show the contrast between the popular vote and the representation in the New England legislatures.

In the four States, Maine, New Hampshire, Vermont, and Massachusetts, representation in the Senate must, according to the Constitution, be proportioned to population, and the partisan gerrymander is therefore responsible for its distortion. In two of these states, Maine and Vermont, it will be noticed that the theory of the gerrymander has been perfected in practice. In Rhode Island and Connecticut, representation is fixed by the

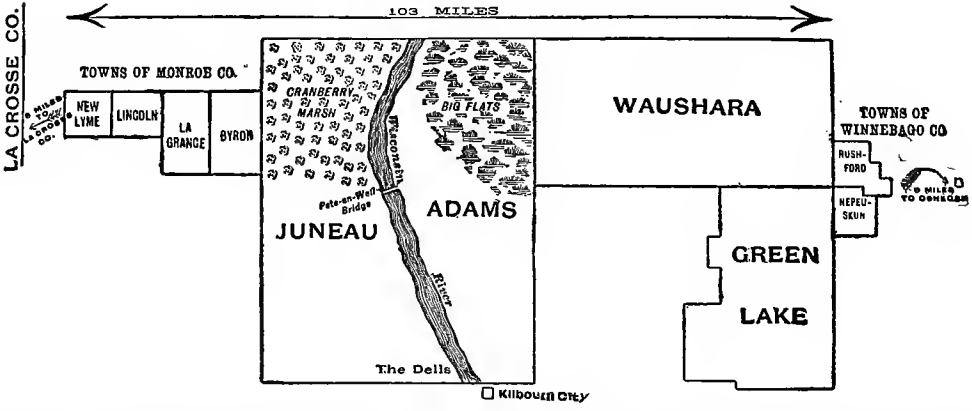
[1] *Annals of the American Academy of Political and Social Science*, September, 1895. "Representation in New England Legislatures."

NEW ENGLAND LEGISLATURES. 1894.

STATE.	PARTY.	PER CT. OF VOTE FOR GOVERNOR.	PER CT. IN SENATE.	PER CT. IN HOUSE.
MAINE	Republican	64.3	100	96.7
	Democrat	28.3	0	3.3
	Prohibition	2.5	0	0
	People's	4.9	0	0
NEW HAMPSHIRE	Republican	56.0	87.5	72.7
	Democrat	40.9	12.5	27.3
	Prohibition	2.1	0	0
VERMONT	Republican	73.5	100	94.6
	Democrat	24.4	0	4.6
	People's	1.3	0	0.4
	Prohibition	0.8	0	0.4
MASSACHUSETTS	Republican	56.5	90	81.3
	Democrat	36.9	10	18.7
	People's	2.7	0	0
	Prohibition	3.0	0	0
	Labor	0.9	0	0
RHODE ISLAND	Republican	53.1	94.6	95.8
	Democrat	41.3	5.4	4.2
	Prohibition	4.1	0	0
	Labor	1.1	0	0
CONNECTICUT	Republican	53.5	91.7	81.3
	Democrat	43.3	8.3	18.3
	Prohibition	1.5	0	0
	People's	1.3	0	0.4

Constitution for towns and cities, regardless of population. In the lower houses of these States both towns and population are represented, and the gerrymander is not responsible for misrepresentation as it is in the other States where population alone is considered.

WISCONSIN LEGISLATIVE APPORTIONMENT, 1891.



Ninth Senatorial District, framed under the State Constitution requiring districts "to be bounded by county, precinct, town, or ward lines, and consist of contiguous territory, and be in as compact form as practicable." Declared unconstitutional by Supreme Court.—From "The Gerrymander of Wisconsin," by A. J. Turner, Portage, Wis., 26 pp.

Municipal elections give results equally disproportionate. Three aldermanic elections in Chicago were as follows: —

ELECTION OF ALDERMEN. — CHICAGO.

	VOTE.	ELECTED.	PROPORTIONAL.
	1893.		
Republican	89,162	20	15
Democrat	88,280	12	14
Independent Democrat	17,118	1	3
Independent	12,466	1	2
Socialist Labor	168	..	..
	207,194	34	34
	1894.		
Republican	100,647	22	18
Democrat	83,008	12	14
People's	3,557	..	1
Socialist Labor	572	..	..
Independent	6,452	..	..
	194,236	34	34
	1895.		
Republican	136,233	28	19
Democrat	86,287	5	12
People's	17,199	..	2
Prohibition	942	..	..
Independent	10,649	..	1
	251,310	34	34

In St. Paul, a minority party elects a majority of the board.

ELECTION OF ALDERMEN. — ST. PAUL. 1894.

	VOTE.	ELECTED.
Republican	12,180	4
Democrat	11,327	7
People's	1,117	..
Prohibition	477	..
Independent	444	..
	25,545	11

In this election, six aldermen, a majority of the board, received 4,879 votes, less than one-fifth of the votes polled.

The Minneapolis election was as follows: —

ELECTION OF ALDERMEN. — MINNEAPOLIS. 1894.

	VOTE.	ELECTED.	PROPORTIONAL.
Republican	17,705	9	6
Democrat	13,378	3	4
People's	2,132	..	1
Prohibition	1,484	..	1
Scattering	4	..	..
	34,703	12	12

The most startling and seemingly impossible results are found in New York City, where, in 1892, Tammany Hall, with 59 per cent of the votes, elected every one of the thirty aldermen. This election is to be compared with the State senates in Maine and Vermont.[1]

ELECTION OF ALDERMEN. — NEW YORK CITY, 1892.

	VOTE.	ELECTED.	PROPORTIONAL.
Tammany	166,693	30	19
County Democracy	4,384	..	..
Republican	99,463	..	12
Prohibition	2,105	..	..
Populist and Socialist	7,359	..	1
	280,007	30	30

In the election of 1894, strangely enough, the results were nearly proportionate.

[1] See p. 68.

ELECTION OF ALDERMEN.—NEW YORK CITY, 1894.

	VOTE.	ELECTED.	PROPORTIONAL.
Republican	112,316	14	13
Tammany	106,238	14	13
State Democracy	33,900	2	4
Socialist Labor	5,296	..	..
Scattering	7,861	..	..
	265,611	30	30

In the foregoing statistical exhibits, political parties have been treated as corporate entities; and the revelations of inequality have been based upon the total number of votes cast for each, regardless of the variety of opinions and interests within the party. This comparison does not reveal the extent of a still more serious evil, the fact that nearly one-half the votes are cast for unsuccessful candidates. The candidates who are actually elected, while they may be said to represent their parties, do not represent all the voters within the parties. They are elected only in the strongholds. Parties tend to become sectionalized, and their antagonisms are thereby intensified. Of the 105 Democratic representatives in the Fifty-fourth Congress, only 14 are from the Northern States, while only 28 of the 241 Republicans come from the South. As the following table will show, there are 3,062,383 Democratic voters in the Union who are not represented by congressmen in whose nomination and election

they have had a voice. The large majority of them are from the Northern States; and they must be content to have their views on national questions represented by men from an entirely dissimilar section of country, with different interests and prejudices. The same is true of Southern Republicans. The table on pp. 74 and 75 shows that 44½ per cent of the voters are in this way unrepresented in Congress.

This table shows the percentage of unrepresented voters in a "landslide" Congress, and might therefore be considered as an extreme case. Mr. Salem Dutcher, in his work on minority representation, published in 1872, made similar calculations for three congressional elections in which there were only two political parties concerned, and the representation was fairly proportionate (see Table, p. 76).

In the Assembly of New York State, as shown by the table on p. 76, the voters are misrepresented, not only in the numerical proportion, but also in the personnel of assemblymen. Only 23 assemblymen represent 501,000 Democrats, and 13 of these, constituting a caucus majority, are elected by 47,700 Tammany votes; 352,000 Democrats in the State at large have no spokesmen whom they can truly acknowledge as their own. Republican voters of the city, too, must depend upon rural Republicans for the protec-

VOTES FOR CONGRESSMEN IN 1894.[1]

STATE.	REPRESENTED.						UNREPRESENTED.				
	REPUBLICAN.		DEMOCRATIC.		PEOPLE'S.		REPUBLICAN VOTE.	DEMOCRATIC VOTE.	PEOPLE'S VOTE.	PROHIBITION VOTE.	SCATTERING VOTE.
	VOTE.	MEMBERS.	VOTE.	MEMBERS.	VOTE.	MEMBERS.					
Alabama	. . .	. .	69,847	8	6,838	1	20,797	3,452	26,610	. .	. .
Arkansas	. . .	. .	38,177	6	. .	. .	10,089	. . .	3,927	. .	208
California	100,777	6	14,748	1	. .	. .	9,785	81,404	55,164	7,133	915
Colorado	47,710	1	. . .	. .	47,703	1	42,369	1,847	34,223	4,497	.
Connecticut	85,178	4	. . .	. .	.	. .		64,582	1,636	2,349	. .
Delaware	19,699	1	. . .	. .	. .	. .	.	18,559	. . .	587	. .
Florida	. . .	. .	21,608	2	. .	. .	. .	. . .	4,469	. .	.
Georgia	. . .	. .	127,422	11	. .	. .	. .	. . .	78,218	. .	. .
Idaho	10,303	1	. . .	. .	. .	. .	. .	5,834	7,547	. .	. .
Illinois	413,964	20	33,172	2	. .	. .	33,101	290,294	64,331	16,042	640
Indiana	284,447	13	. . .	. .	. .	. .	. .	238,281	26,267	9,669	. .
Iowa	230,692	11	. . .	. .	. .	. .	. .	136,430	48,799	3,599	. .
Kansas	133,620	6	. . .	. .	16,585	1	16,391	41,472	82,781	3,907	. .
Kentucky	87,649	5	83,310	6	. .	. .	70,448	77,070	18,477	2,396	544
Louisiana	. . .	. .	78,630	6	. .	. .	22,507	14,545	. . .	. .	. .
Maine	69,487	4	. . .	. .	. .	. .	. .	29,505	5,303	2,644	.
Maryland	54,523	3	47,365	3	. .	. .	44,801	49,263	1,056	6,368	. .
Massachusetts,	178,597	12	11,459	1	. .	. .	10,732	116,075	10,583	3,280	29
Michigan	234,139	12	. . .	. .	. .	. .	. .	112,076	40,893	15,382	1,537
Minnesota	150,021	7	. . .	. .	. .	. .	. .	73,574	55,956	8,038	. .
Mississippi	. . .	. .	26,865	7	. .	. .	165	. .	12,097	451	45

Missouri . .	162,735	10	74,637	5	. .	. .	68,978	145,580	31,159	13,161	1,779
Montana . .	23,140	1	. . .	. .	. .	. .	. .	10,369	15,246	519	. .
Nebraska . .	83,565	5	. . .	. .	17,077	1	14,676	19,822	59,422	4,769	. .
Nevada. . .	. . .	. .	. . .	. .	4,472	1	2,847	220	2,771	. .	. .
N. Hampshire,	46,146	2	. . .	. .	. .	. .	. .	33,629	673	1,500	. .
New Jersey .	163,823	8	. . .	. .	. .	. .	. .	115,345	5,348	7,246	. .
New York . .	621,819	29	48,783	5	. .	. .	42,105	461,944	7,212	16,552	7,542
N. Carolina .	67,961	4	39,416	3	35,177	2	16,379	87,186	28,571	. .	. .
North Dakota,	21,615	1	. . .	. .	. .	. .	. .	1,283	15,660	439	. .
Ohio	373,034	19	37,917	2	. .	. .	36,237	236,853	51,466	19,571	. .
Oregon . . .	41,139	2	. . .	. .	. .	. .	. .	19,803	23,369	1,855	. .
Pennsylvania,	524,862	25	52,062	3	. .	. .	47,994	280,687	12,966	20,783	. .
Rhode Island,	22,661	2	. . .	. .	. .	. .	. .	13,619	197	1,146	. .
S. Carolina .	. . .	. .	47,445	7	. .	. .	14,322	1,163	342	. .	373
South Dakota,	81,306	2	. . .	. .	. .	. .	. .	16,143	54,737	1,695	. .
Tennessee . .	64,315	4	65,005	6	. .	. .	36,712	34,732	26,453	4,530	. .
Texas . . .	11,958	1	206,787	12	. .	. .	18,754	16,833	161,568	. .	16,089
Vermont . .	41,883	2	. . .	. .	. .	. .	. .	13,645	. . .	. .	71
Virginia . .	14,287	1	100,107	9	. .	. .	74,559	13,331	10,329	1,056	395
Washington .	68,742	2	. . .	. .	. .	. .	.	28,242	49,747	411	248
W. Virginia .	89,405	4	. . .	. .	. .	. .	. .	76,146	. . .	. .	. .
Wisconsin . .	200,619	10	. . .	. .	. .	. .	. .	119,938	34,322	13,700	128
Wyoming . .	10,068	1	. . .	. .	. .	. .	. .	6,152	2,906	. .	. .
	4,835,889	241	1,224,762	105	127,852	7	654,748	3,062,383	1,187,340	195,475	50,003

Total represented, 6,188,503 = 55.5 per cent; total unrepresented, 5,149,949 = 44.5 per cent; grand total, 11,338,452.

[1] This and the Tables for New York are based on returns given in *The New York World Almanac*, 1895.

VOTES FOR CONGRESSMEN.

	REPRESENTED.			UNREPRESENTED.	
	VOTES.	MEMBERS.	PER CENT.	VOTES.	PER CENT.
Fortieth Congress.					
Republican . . .	1,751,804	142	. .	427,841	. .
Democrat. . . .	583,813	49	. .	1,242,115	. .
TOTAL	2,335,617	191	58	1,669,956	42
Forty-first Congress.					
Republican . . .	2,356,421	159	. .	820,824	. .
Democrat. . . .	1,167,914	83	. .	1,731,254	. .
TOTAL	3,524,335	242	58	2,552,078	42
Forty-second Congress.					
Republican . . .	1,826,338	136	.	960,209	. .
Democrat. . . .	1,360,170	106	. .	1,366,330	. .
TOTAL	3,186,508	242	58	5,513,539	42

tion of their interests. Altogether, 44.4 per cent of the voters who actually cast their ballots are unrepresented.

VOTES FOR ASSEMBLYMEN, NEW YORK, 1894.

PARTY.	REPRESENTED.			UNREPRESENTED.	
	VOTES.	MEMBERS.	PER CENT.	VOTES.	PER CENT.
Republican . .	585,937	105	. .	79,920	
Democrat . . .	40,840	10	. .	352,838	
Tammany . . .	47,701	13	. .	59,636	
Socialist Labor .	. .	. . .	. .	9,575	
Populist . . .	. .	. . .	. .	6,914	
Prohibition . .	.	. . .	. .	21,626	
Scattering. . .	. .	. . .	. .	9,339	
TOTAL . . .	674,478	128	55.6	539,848	44.4

In the Board of Aldermen of New York City, in 1894, although the parties are represented in nearly numerical proportion, yet 52 per cent of the voters are actually unrepresented.

VOTES FOR ALDERMEN, NEW YORK CITY, 1894.

PARTY.	REPRESENTED.			UNREPRESENTED.	
	VOTES.	MEMBERS.	PER CENT.	VOTES.	PER CENT.
Republican . . .	66,683	14	. .	45,633	
Tammany . . .	52,679	14	. .	53,559	
State Democracy .	8,702	2	. .	25,198	
Socialist Labor .	. .	. . .	. .	5,296	
Scattering . . .	. .	. . .	. .	7,861	
TOTAL	128,064	30	48.1	137,547	51.9

These exhibits for New York State and City are, of course, typical for all assemblies elected by single districts. Nearly one-half the voters are without personal representation in the law-making bodies. The significance of this fact is not readily perceived. It is one phase of the conditions which give the local machines their hold upon the parties. In the strongholds the machines are supreme because they have no fear of independent movements, and where the minority is hopeless the machines are left in control from sheer indifference of the voters. The party conventions, therefore, which nominate general officers for city, State, and nation, are entirely controlled by the local machines. In the legislatures, however, the

machines from the strongholds control the situation, and give character to the party as a whole. In either case, the rank and file of the voters have but little direct influence in politics.

The significant feature of the district system is not only the fact that voters have a choice only between the candidates of the dominant political parties; it is also significant that a very small proportion of voters hold the balance of power between these two parties. In the congressional election of 1890, which substituted a Democratic majority of 127 for a Republican majority of 3, this result was brought about by a change of only 5 per cent of the total vote,[1] the Republicans losing that proportion, and the Democrats gaining only 2 per cent. On the other hand, the election of 1894, which turned a Democratic majority of 79 into a Republican majority of 134, was the work of 9.1 per cent of the voters, who abandoned the Democratic party.

In Indiana the remarkable overthrow, in 1894, of a Democratic delegation of eleven members, and two Republicans, by a solid delegation of thirteen Republicans, was effected by only 5.2 per cent of the voters who left the Democrats, while the Republican vote was increased by only 4.3 per cent of the total.[2]

In the Massachusetts Senate, elected in 1891,

[1] See pp. 56, 57.

[2] See p. 62.

a change of less than 5 per cent from the vote of those elected to the candidates in their respective districts who received the next highest vote would have defeated every member of the senate, and a change of less than $1\frac{1}{3}$ per cent of the vote in twenty-one districts would have made the State Senate Democratic instead of Republican.[1]

Professor Giddings[2] asserts that "the total possible gain or loss to a political party through strictly independent voting does not exceed, under the most favorable circumstances, 5 per cent of the maximum total vote of a presidential year." This statement is sustained by even the unprecedented "landslides" of the past six years.

It is in the exaggerated weight of small factions holding the balance of power between the two parties that is to be found the secret of the corrupt influences already described. The great majority of the voters are conservative, and do not readily change their party. Especially in close districts, therefore, interested elements can dictate terms to both parties. This, too, gives the bribable vote an influence far in excess of its proportions. Professor J. J. McCook[3] finds in twenty-one towns of Connecticut that 15.9 per

[1] J. M. Berry, "Proportional Representation," Worcester, 1892.

[2] *Political Science Quarterly*, vol. viii., p. 117 ff., "The Nature and Conduct of Political Majorities."

[3] *Forum*, September, 1892. "The Alarming Proportion of Venal Voters."

cent of the voters are venal. The proportion ranges from 3 per cent to 50 per cent. The average for the city and county is about 12½ per cent. The proportion in other States is doubtless much less; but even then it is plain that the bribable voters themselves are adequate to hold the balance of power between the parties. The single-membered district, therefore, places a magnificent premium upon bribery.

We have seen how unequally parties are represented in the city, State, and nation. Our representative system was contrived to represent not parties, but sections. The efforts toward its improvement have been directed not toward equality of party representation, but equality of district representation. Congressional statutes and State constitutions require the districts to be of "equal" population. But this is not enforced. South Carolina has a "white" district as low as 134,369 (Census, 1890); but the sole "black" and Republican district, the seventh,[1] contains 216,512 population. In Texas the districts range from 102,000 to 210,000; in Kansas from 167,000 to 278,000; and in Pennsylvania from 131,000 to 310,000 (both extremes in the city of Philadelphia). In Illinois in 1892 the four Chicago districts had an average population of 297,980, while the sixteen country districts averaged only 164,914.

[1] See Diagram, p. 55.

State and municipal representation is still more unequal. In New York City the State assembly districts are identical with the aldermanic districts. Says the Report of the New York Senate Committee on cities:[1] "In the common council, as well as in the legislature, a voting constituency of 7,000 has the same representation as a like constituency of 24,000. The principle of numerical equality, therefore, finds no application whatever in the common council of New York City. The same may be said of the principle of locality representation. The interests of the first and second districts are in all things practically alike; the total vote of the two districts is 14,498. The interests of the twenty-third district are in many regards distinct from those of the first and second. The territorial area of the first and second combined is 634 acres, that of the twenty-third is 1,881 acres; and yet the twenty-third, with almost twice the population of the first and second, and three times the area as well, has but one vote as against the two accorded to both the smaller area and the smaller constituency."

These statistics prove the excessive inequality and minority domination of the present system wherever applied. But we have not yet reached the end of the story. We must enter the legislative halls in order to see the final chapter. To

[1] P. 92.

say nothing further of the rule by the speaker of the House and by the legislative committees, through which power is taken out of the hands of the assembly itself, there is on all party questions the *imperium in imperio* of the party caucus. If one party in a legislature has 60 representatives out of 100, the policy of the legislature is not dictated by an open conference of the 60 with the 40; but the majority party withdraws, and in secret conclave determines by a majority vote what shall be its united action. Thus 31 members — a majority of the 60, but a minority of the whole — may determine the policy of the legislature, and enact the laws of the people. This is no fanciful sketch. The power of the party caucus is well known. A man who "bolts" the caucus can have no influence whatever in legislation. He has measures of his own, which he wishes to see enacted into laws. These may be appropriations of money for improvements, or for State or national institutions in his own district. They may be good measures, or they may be bad. But he knows that, in order to carry them, he cannot afford to stand against the wishes of his fellow-partisans on other measures. Thus every representative is in the power of his party caucus. He cannot stay out of the caucus, and when he enters he must abide by its decisions. To say that legislatures are deliberative assemblies, under such circumstances,

is ironical. They are rather war-camps. Deliberation involves consultation between opposing interests and opinions, and the development of a compromise policy, which will be modified more or less by all who have a voice. But the caucus rule, dominated in the interests of the party rather than of the people, based on an electoral system which usually gives a political party a clear majority, begets intolerance and the overriding of minorities. The party emerges from its caucus like an army from its fortress, runs upon the enemy, listens to no cry for quarter or compromise, beheads its own deserters, and then carouses over its victory.

We have now been able to follow the various evil phases of recent American political life directly or remotely to their root in the system of electing single representatives from limited districts, — a system which we have inherited unchanged through six centuries of political and social evolution. At the present time, when political parties based on social questions divide the people and seek representation, we are using a system of representation based on locality. The political parties inevitably seize upon this machinery and use it for party ends. Thus violently distorted, it represents neither sections nor parties. Instead, it has divided the people in every district

into two camps, each dictated by its own party machine and spoilsmen.

These two machines are often leagued together. Professor Bryce has pointed out the community of interests which exists between them on occasion of independent reform movements, when they actually combine against the reformers.[1] They are also in a more or less permanent coalition. Men who are jointly interested in corporations which seek legislation and franchises are ostensibly opposed to each other as prominent managers of the different political organizations. Though differing in politics, they unite the two machines in the promotion of their own corporate interests. The perfection of this unity of interests seems to have been reached in various cities where, as in Cincinnati, the same man is reported to be the "boss" of both political organizations.[2] This coalition extends to Federal politics. Recently a leading national manager has been publicly accused, by a reputable member of his own party, of affording campaign assistance to the manager of the opposing party in return for congressional aid to a corporation client. Both machines in nation, State, and city are the tools of the corporations and speculators who plunder the public. Conse-

[1] See Bryce, "American Commonwealth," vol. ii., p. 111.

[2] See "Proceedings of the Cleveland Conference for Good City Government," p. 318, Philadelphia, National Municipal League, 1895.

quently, those voters who would be independent, and would gladly revolt against ring rule, have no place. They cannot elect an independent candidate unless they carry a majority of their petty ward or district. This is almost impossible in the face of the party organizations. They can do nothing but combine with one machine against another. Hence come hopelessness and apathy of the better classes of citizens. Hence also come those violent explosions and hysterics of reform, those popular uprisings, which occasionally break down the barriers of machine rule, but relapse again, like a mob in contest with troops. The gerrymander and inequality in the representation of parties are bad enough; but the deadly evil of the system is the expulsion of ability and public spirit from politics, and the consequent dictatorship of bosses and private corporations.

CHAPTER IV.

THE GENERAL TICKET, THE LIMITED VOTE, THE CUMULATIVE VOTE.

ENOUGH has been said to show the array of evils which spring from the single-membered district system. These evils have not escaped observation, and various attempts have been made to remedy them. Especially in France have interesting experiments been made by the substitution of "*scrutin de liste*," or the general ticket. Under this method each constituency elects several members, each elector has as many votes as there are members to be elected, and those candidates are declared successful whose votes stand at the head of the list. In this way the majority party gets the entire list and the minority is wholly unrepresented.

There are two applications of this system which lead to important differences in the final results. The first is that adopted in several instances in the United States in the election of boards of county commissioners and boards of education, where the entire assembly is elected on a single ticket. With such a system, the question of equal representation plays no part whatever. The minority parties are without a single representative. But the system usually results in the election of

abler men than the district system. This would naturally be expected from the fact that a party, in making nominations for a large area, cannot afford to nominate obscure men. For example, the city of Cleveland, Ohio, recently introduced, with the sanction of the State legislature, a far-reaching reform in its system of public schools, one feature of which is the election of a school-board of seven members on a general ticket. In the first election under this plan the vote stood as follows: —

REPUBLICAN.		DEMOCRAT.	
Buss . . .	15,714	Dodge . . .	13,661
Boutell . . .	15,595	Goulden . . .	13,551
Backus . . .	15,385	Pollner . . .	13,306
House. . . .	15,860	Ryan	12,851
Daykin . . .	16,198	Burke. . . .	12,814
McMillan .	15,690	Hoffman. . .	12,777
Ford	16,036	Plent	12,804
TOTAL	110,518	TOTAL	91,764

It will be seen that the Republicans obtained the entire board; but had there been a change of only 1,000 to 2,000 votes from Republicans to Democrats, the Democrats would have carried their entire list.

The Cook County (Illinois) commissioners are elected on a general ticket, with the result that in 1892 the Democrats, with a vote of 133,000, elected their entire list of 10 candidates, and the Republicans, with 100,000 voters, were unrepresented. In 1893 the Republicans, with votes ranging from 70,926 to 72,554, elected 9, and the

Democrats, with votes ranging from 69,305 to 70,980, elected one. This was the first election in many years when both parties had representation on the board.

The second application of the general ticket is a compromise between the single-membered district and the general ticket. Districts are retained, but they are enlarged, the number is lessened, and a solid delegation to the legislature of from five to twenty representatives is elected on a general ticket for each district, by a majority or plurality vote. For example, the county of Cuyahoga (including the city of Cleveland) sends repeatedly a solid delegation of six Republican representatives to the Ohio State legislature, and not one Democrat. The county of Hamilton (including the city of Cincinnati) sends a solid delegation of nine Democrats.

Representatives to Congress in the first half century of our constitutional history were elected by this system. Each State sent to Congress a solid delegation of one party or another, elected either by the State legislature or by popular vote. So unjust did the method prove to be that gradually the single-member district was substituted by individual State action, and finally Congress, in 1842, made the latter obligatory in all States.

Presidential electors are still chosen by this system, though the State of Michigan made, in the

election of 1892, a notable departure, by substituting the district system. The legislature of 1893, however, controlled by an opposing party, repealed the law, and returned to the general ticket.

It will, of course, be observed that a legislative body elected upon this basis will not wholly exclude a minority party. Indeed, the experience of France seems to show that as far as equality of representation is concerned, the general ticket — *scrutin de liste* — is as equitable as the single district ticket — *scrutin d'arrondissement.* In the election of members to the Chamber of Deputies in 1885, conducted according to *scrutin de liste*, the Republicans, with 4,300,000 votes, obtained 366 seats, whereas their numbers entitled them to only 311; while the Conservative-Monarchists, with 3,550,000 votes, obtained 202 seats against their rightful proportion of 257, — a result not materially different from that of the district system in the United States. The general ticket was abandoned in 1889, after the trial at this one election; and the French method at present is the same as that of other countries.

The general ticket presents exactly the same fault as the single-membered district — it divides the voters into two camps with no representation of the minority, and commits the control of elections to the party machines. Its only difference is that it makes the area of election larger.

A modification of the general ticket, intended to give the minority party a limited, though not necessarily proportional, representation, is the so-called *Limited Vote.* This was used for nine years in the election of aldermen in New York by "three-cornered" constituencies, where, with three to be elected, each voter had but two votes instead of three. The majority party therefore could usually elect only two candidates. In Boston since 1893 there have been elected annually twelve aldermen at large, but each voter has only seven votes. The majority party therefore elects seven, and the minority five. Following is the election return for 1894. The two principal parties nominated but seven candidates each, while minor parties nominated a smaller number. The candidates elected are those twelve who receive the highest number of votes, as indicated below.

VOTES CAST FOR ALDERMEN, BOSTON, 1894.

REPUBLICAN.		DEMOCRAT.		INDEPENDENT REPUBLICAN.	
Allen,	31,276	Barry,	28,592	Fottler,	10,894
Bryant,	28,630	Dever,	27,642	Hallstrom,	12,976
Dyar,	24,945	Flood,	30,718		
Folsom,	29,534	Lee,	26,115		
Presho,	26,479	Lomasney,	26,657		
Sanford,	26,062	McClellan,	24,069		
Witt,	25,836	O'Brien,	24,587		
	192,762		188,380		23,870

Independent Democrat, Dolan, 10,234; scattering, 19,667.

Total vote for all parties, 434,913. Republicans elect seven; Democrats elect five.

It will be seen from the above return that the limited vote creates an artificial representation of the two dominant parties, and permits no representation whatever of minor parties and independent movements. Parties are not represented in proportion to this popular vote, else the above election would have returned but six Republicans, one independent Republican, and five Democrats. The fact that the dominant parties nominate only seven candidates makes a nomination almost equivalent to an election, the voters of the majority party having no choice whatever, and the voters of the minority having only a possible choice of two out of the seven.

The limited vote is an interesting example of the way in which the very classes against whom a reform movement is aimed may divert it to their profit. This method of election does not permit independence; it rather tightens the hold of the party organizations, and is in harmony with those well-known developments of municipal politics where the two party machines agree to divide the spoils. It is paralleled by the "bi-partisan" commissions, which, instead of being non-partisan, are all-partisan. And it is a long step in the direction of that highest development of machine politics referred to in the preceding chapter, where one man is the "boss" of both political organizations. The limited vote in Boston has

not appreciably improved the type of aldermen, and cannot be said to have accomplished any result except a permanent alliance of the two machines. In New York the law was repealed after a trial of nine years.

The general ticket has been shown to be crude, even barbarous, in its destruction of minorities. The limited vote is less barbarous, but it does not widen the field for independence. The *Cumulative Vote* is a further modification of the general ticket in the direction, apparently, of freedom for the voter. According to this plan, the elector has as many votes as there are representatives to be elected, but he may dispose of them as he pleases. Not only may he distribute them one by one among the candidates of one or all parties, as in the general ticket or limited vote, but he may cumulate them upon one or more candidates. In this way a small minority, which would have no opportunity in the limited vote, may elect a small number of candidates by cumulating all its votes on one or more. For example, in the election of Boston aldermen, given above, if the Independent Republicans could have cumulated their 23,870 votes upon one of their candidates, instead of dividing them singly between two, and being compelled to vote presumably for five regular Republicans in order to use all their lawful

number of votes, they could have elected that one by a vote as large as that received by any other candidate.

With the cumulative vote, very much depends upon the size of the districts. If they are small, as in the election of representatives to the lower branch of the Illinois legislature, the result differs but little from the limited vote. In Illinois each district elects on a general ticket three members of the State House of Representatives; but the voter may cumulate or divide his votes, giving one vote to each candidate, or one and a half votes to each of two candidates, or three votes to one candidate (called "plumping"). This system was adopted in 1870, and has therefore had a trial of twenty-five years. Testimony as to its practical workings will throw light upon the problem before us. Mr. M. N. Forney has published answers from Illinois editors to inquiries which he submitted to them.[1] From these replies and other sources, the following conclusions are drawn.

1. It appears that representatives of third parties in Illinois do not, as a rule, secure election. In 1892 the Prohibitionists in the State mustered for representatives 24,684 voters (not votes); the People's Party, 20,108, out of a total of 872,948. If these parties could have concentrated their votes,

[1] See "Political Reform by the Representation of Minorities," New York, 1894.

they would have elected four and three members respectively, out of a total of 153. In the election of 1894, the results were as follows:—

ILLINOIS LEGISLATURE, 1894.

	VOTE FOR REPRESENTATIVES.	PER CENT OF TOTAL.	REPRESENTATIVES ELECTED.	PROPORTIONAL.
Republicans . .	1,332,488	53.4	92	82
Democrats . . .	914,735	37.2	61	57
Prohibitionists .	43,402	1.7	..	3
People's Party .	174,465	7.1	..	11
Independent . .	6,323	.2	..	..
Ind. Democrats .	1,407	..	..	..
Ind. Republicans .	8,867	.3	..	..
Amer. Citizen . .	2,585	.1	..	..
Scattering . . .	2,575	.1	..	..
TOTAL . . .	2,486,847	100	153	153

The elections are therefore confined, as in the limited vote, to the candidates of the two dominant parties. Unlike the single-membered district system, however, both parties have representatives from every part of the State instead of from the strongholds only, and there are no hopeless minorities of the two main parties. Every citizen who has business before the legislature has some member of his own party to transact that business. The vote in the legislature is close, requiring the constant attendance of all members. By the election of 1892 it stood 75 to 78.

2. Votes are wasted whenever a popular candidate receives "plumpers" beyond the number

necessary to elect him. "A candidate who runs too far ahead is just as dangerous to his party as the man who runs far behind. Under the old system, the man who runs ahead does so at the expense of his adversary, but under the cumulative system it is at the expense of his colleagues."[1] For example, in the election of 1894 the vote of the forty-fifth district was as follows:—

Callahan . . .	Republican	11,140
Black.	Democrat	9,793½
Tiptit	Democrat	9,699½
Lathrop	Republican	9,628
Palmer	People's Party . . .	2,921½
Smith	Prohibition	960

The total Republican votes were 20,768, representing approximately 6,923 voters; the Democratic votes were 19,493, representing 6,498 voters. Yet the Democratic minority elected two representatives, and the Republican plurality only one, because Callahan, Republican, received at least 1,400 votes more than he needed; but his colleague, Lathrop, lacked at least 75. This result occurred in one district in 1892, and in three districts in 1894.

3. In order to obviate this waste, all the resources of the party managers are enlisted, and the party machine becomes even more indispensable than under the old system. In the first place, the managers determine how many candidates

[1] See Forney, above.

shall be nominated. Only where the parties are close, as in the forty-fifth district above cited, do both parties nominate two candidates. In other cases, the minority nominates but one, and a nomination is equivalent to an election. For example, the vote in the thirty-sixth district was : —

Kitzmiller . . .	Republican	16,525
Mounts	Democrat	9,013½
Jones	Democrat . . .	9,059
Winters	People's Party . . .	2,360
Kelly	Prohibition . . .	1,117

The Republicans, though lacking but 1,500 of the Democratic vote, nominated but one candidate. Again, in close districts, the managers must exercise great care in selecting good "running mates," as did the Democrats in the forty-fifth and thirty-sixth districts. For these reasons the party organization is greatly strengthened, there is a strong opposition to "plumping," and voters are careful not to disobey the party instructions.

4. The quality and ability of representatives are no better than under the old system. In close districts, where four candidates are nominated, there may be a slight improvement; but in other districts, where a nomination is equivalent to election, the worst elements get control, and bid defiance to the people. There are frequent "deals" between parties, the minority agreeing to put up one man, and the "gang" in both parties controlling the primaries.

If districts are larger, electing five to fifteen members, the cumulative vote gives a decided advantage to very small parties, both from the smaller quota necessary to elect a single candidate, and from the increased waste of the larger parties. In England the school boards are elected on the cumulative plan by districts returning four or more members.

A correspondent of the *New York World*, reporting the first election held in Manchester under this system, wrote: [1] —

> In Manchester there were fifteen members of the school board to be elected, and each voter had fifteen votes at his disposal. Forty-four candidates went to the polls, and over 390,000 votes were given by 26,513 voters. . . . Manchester is famous for two things, — first, the fervor of its Protestantism; second, the number, organization, and strength of its working-classes. But at this election the two Roman Catholics were brought in at the head of the poll, one of them receiving nearly 20,000 more votes than any Protestant candidate, and no working-class candidate, of whom there were seven, being elected at all, the highest vote any of them received being 3,854, while one of them got only 166. Here is the list of the successful candidates, with the votes given to each: —
>
> | | |
> |---|---|
> | Rev. Canon Toole, Roman Catholic . . . . | 54,560 |
> | George Richardson, Roman Catholic . . . . | 36,308 |
> | Wm. Birch, "Philanthropist" . . . . . | 35,415 |
> | Herbert Birley, Episcopalian . . . . . | 34,026 |
> | Wm. B. Callender, Episcopalian . . . . . | 31,824 |

[1] Quoted by Dutcher, "Minority or Proportional Representation," New York, 1872, p. 72.

Robert Gladstone, Episcopalian	24,237
Thos. Dale, Episcopalian	20,688
Joseph Lamb, Episcopalian	22,987
Lydia Becker, "No Religion"	15,249
Richard Haworth, Wesleyan	13,137
Rev. W. McKerrow, Presbyterian	9,919
Robert Rumney, Presbyterian	9,510
Dr. John Watts, Unsectarian	8,861
John Cooper, Wesleyan	8,020
Oliver Heywood, Secularist	7,902

The 90,868 votes given to the Roman Catholic candidates were polled by about 7,000 voters, who either "plumped" for the reverend gentleman who heads the list, or split their votes between him and the lawyer who follows him. The 133,762 votes given to the five Church of England candidates were polled by about 9,000 voters; so that it seems that in Manchester the relative strength of the Church of England and the Church of Rome is as nine to seven. It is quite clear that under the old system the former could have elected all the candidates, while the latter would have been unrepresented; but it is equally clear that these two parties underestimated their own strength, and that between them they might have elected all the candidates but one. The Catholics might have had six instead of two candidates, and given each of them 15,144 votes; the Episcopalians might have had eight candidates, and given each of them 16,720 votes; while all that the other parties could have done would have been to elect the remaining candidate.

The cumulative vote, therefore, whether in small or large constituencies, must involve either waste and guesswork, or extreme dictatorship of party machinery.

CHAPTER V.

PROPORTIONAL REPRESENTATION.

THE cumulative vote makes it possible for the elector, entitled to vote for a number of candidates, to concentrate his entire voting strength upon a single candidate. This is the advantage to minority parties which it gives, as compared with the general ticket. It compels all parties, therefore, to cumulate in order to prevent a waste of votes. Now, suppose every elector were required to "plump" all of his votes on a single candidate. Every one would then be equally well provided for, if he had but one vote on a general ticket, instead of as many votes as there are candidates. Ten votes given to one candidate count no more than one vote given to that candidate, provided every other elector has but one vote. It has, indeed, been proposed[1] that representatives should be elected on general ticket, but that each elector should be entitled to vote for but one candidate, the candidates who stand highest on the poll up to the required number being declared elected. This would be in effect a compulsory "plumping." The

[1] L. C. F. Garvin, "How to effect Municipal Reform," *Arena*, September, 1894.

same objections would apply as against the cumulative vote. It would waste the elector's voting strength by giving surplus votes to popular candidates, which the electors, could they know beforehand, would wish to give to others representing the same views. The party organization would therefore decide for the electors exactly how their votes should be cast.

But this dictation could be avoided and the voter's freedom guaranteed, if he were permitted to indicate on his ballot his second and third choices, for whom his single vote should be counted, if it were not needed to elect his first choice, or if it were given for a candidate who could not be elected. This is the "single transferable vote," which, as its name would indicate, allows each elector to vote for but one candidate, instead of the entire number to be elected, but permits him to indicate second and third choices. The total number of votes cast is therefore the same as the number of valid ballots, which, divided by the number of members to be elected (or number of members plus one), gives the unit or quota of representation necessary to elect a single representative. Each voter marks his ballot with the figures, 1, 2, 3, etc., opposite the names of candidates in the order of his preference. In counting the ballots, at first only the first choices are counted, and as soon as a candidate has

received a number of first choices equal to the quota, he is declared elected. After that no more votes are counted for him, but remaining ballots which give him first choice are counted for the candidates marked second choice, or if the second choice be declared elected, then for the third choice, and so on. After the ballots have been gone over once in this way, and it is found that the full number of members is not elected, as would usually be the case, then candidates whose total vote, either by way of first or secondary choices is less than a quota, are declared "out" in the inverse order of their vote, and their ballots are transferred to the successive choices indicated thereon, until the complete number of members is declared elected.

This method of election has been exhibited by Miss C. H. Spence of South Australia, in some fifty public meetings. By massing together the results of these several elections, she has presented the following scrutiny of 3,824 votes for the election of six parliamentary representatives. There were twelve names of candidates on her voting-papers, arranged in alphabetical order.[1]

"The instructions to voters were that they should mark with figures, in the order of their preference, the candidates

[1] "Report of meeting on Proportional Representation, or effective voting, held at River House, Chelsea, London." John Bale & Sons, 1894, p. 36.

CANDIDATES.	First Votes.	SURPLUS.		ELIMINATED.						ELECTED.
		1. Charlston.	2. Magarey.	3. Robinson.	4. Harrold.	5. Guthrie.	6. Fowler.	7. Buttery.	8. Baker.	
Angas (Capital) . . .	419	..	2	4	10	7	44	12	139	637
Baker (Do.)	262	1	..	1	10	6	47	15		
Birks (Single Tax) . . .	361	11	2	4	2	31	17	64	27	517
Buttery (Labor) . . .	190	2	..	11	2	72	11			637
Charlston (Do.)	682	..	..	..	..	..	..	..	..	
Fowler (Capital)	167	1	1	1	37	9				
Glynn (Irish Catholic) . .	320	3	..	6	11	..	28	88	127	
Guthrie (Labor)	136	18	..	30	2	32				615
Harrold (Capital) . . .	93	1	..	1						
Magarey (Prohibition) . .	656	..	..	..	..	..	..	..	..	637
Robinson (Labor)	72	4	..	..	..					637
Stirling (Wom.'s Suffrage),	466	4	13	17	21	22	63	31	..	144
Null	. . .	..	..	1	..	..	6	80	49	
	6)3,824	45	19	76	92	187	216	290	342	3,834
	637 — quota.									

as far as six or fewer. *This is all the voter has to do.* His vote is to be counted for one, and that one the first on his list who needs his vote and can use it. If his first choice has already reached the quota, or has too few votes even with his aid to do so, the vote is transferred to his next, as shown by his number, and *used and not wasted.*

"The quota is found by Mr. Hare's original method, by dividing the whole number of votes by the number of representatives needed, in this instance six. The votes should be first mixed thoroughly together, and then taken out one by one and numbered, and allotted according to first choice, as shown in the first vertical column of the table appended. The votes are found to be 3,824, which, divided by six, gives as a quotient or quota 637, leaving out the fraction.

"This shows that only Charlston and Magarey had any surplus; and, after cutting the pile of votes once, like a pack of cards, so that there might be no arrangement of preferred second choices, the 45 and the 19 unneeded votes were taken from the top, and allotted according to second choice, as seen by columns two and three.

"Next, the returning officer declares Robinson, the lowest on the poll, *not elected*, and proceeds to distribute his original and transferred votes by second choice, or third, if second is already elected. (See column 3.) Next, Harrold is declared *not elected*, and his votes dealt with similarly. Thus, step by step, six of the twelve candidates are eliminated from the contest, leaving six elected.

"Of these, two have quotas of first choice votes, two have quotas of first and transferred votes, and two have what Mr. Hare calls approximate quotas sufficient for returning them. . . . The appropriation of transferred votes may be followed in the horizontal lines. At the foot we see a line marked 'Null;' these were ineffective apparently more than in reality. These 144 voting papers could not be used because the voters had marked the names of men who had already obtained the full quota of 637 votes, or who had been eliminated as hopeless.

"But I believe that there were only two unrepresented; one who had marked one name, and that one of the unsuccessful candidates, while the other voter had ingeniously picked out the six who failed to make a quota."

The single transferable vote has become the classical form of proportional representation, from the great ability with which it was presented by its author, Mr. Thomas Hare, and advocated by John Stuart Mill.[1] It was also devised inde-

[1] See Chapter X. and Appendix IV.

pendently by the Danish statesman, M. Andrae, and introduced by him into the election of a portion of the members of the "Rigsraad" in 1855, and for the "Landsthing" in 1867. It is advocated by the English Proportional Representation Society, of which Sir John Lubbock is president.

There is a practical difficulty, almost insurmountable, in the application of this system to large constituencies, in the fact that all the votes of the entire constituency must be brought together to the central bureau for counting. They cannot be counted by the various precinct officials, leaving only the totals to be handled by the central board. The Hare system doubtless works well in a constituency of a thousand voters, as in the Mechanics' Institute of San Francisco, where it has been successfully employed in three elections, or in constituencies electing only three to seven candidates by a restricted suffrage, as in the Danish law of M. Andrae; but when ten thousand, or a hundred thousand, or a half million votes are to be counted, and a large number of the ballots must be recounted to make the proper transfers, the task is too heavy.

The Hare system is advocated by those who, in a too *doctrinaire* fashion, wish to abolish political parties. They apparently do not realize the impossibility of acting in politics without large groupings of individuals, nor do they perceive that

the Hare system itself, though apparently a system of *personal* representation, would, nevertheless, result in *party* representation. And this from the fact that voters who act rationally, and wish to see their own views most strongly represented in legislation, would always transfer their secondary choices to candidates of the same party as the ones who receive their first choices. The only way in which the system could lessen party cohesion would be to require the names of candidates to be printed in alphabetical order, as in the present Massachusetts and California ballot laws, and not by party tickets, so that the voters would be compelled to search through the entire ballot for the candidates of their own party. This would doubtless encourage independent voting, but would by no means abolish parties. A study of the scrutiny of votes taken by Miss Spence, as given above, shows that the "surplus" votes, and votes of "eliminated" candidates, have been transferred as far as possible within party lines. In an actual instead of a trial election the adherence to party would be closer.

With the present organization of parties in the United States, and with the customary method of printing party tickets on the so-called Australian ballot, there is reason to believe that the Hare system would be forced into the service of parties. There is a general agreement among the

leading advocates of proportional representation that a system of election is needed which will do as little violence as possible to existing prejudices and habits, — a system which will fit in with the methods of voting and the political traditions of the people, and yet will utilize these traditions and methods in such a way as to free the voter from the tyranny of the single-membered district system. It must also be a system in which the ballots can be counted at the precincts where they are cast.

VOTE FOR PRESIDENTIAL ELECTORS, INDIANA, 1892.

	DEMOCRAT.	REPUBLICAN.	PEOPLE'S.	PROHIB.
I.	262,270 *	255,615 *	22,208 *	13,050
II.	260,661 *	253,878 *	21,861	12,830
III.	260,600 *	253,836 *	21,883	12,827
IV.	260,586	253,815 *	21,876	12,824
V.	260,580	253,799 *	21,873	12,823
VI.	260,560	253,807 *	21,873	12,821
VII.	260,588 *	253,793	21,873	12,821
VIII.	260,547	253,808 *	21,865	12,820
IX.	260,575	253,787	21,873	12,819
X.	260,600 *	253,792	21,873	12,813
XI.	260,591 *	253,777	21,871	12,820
XII.	260,590 *	253,767	21,867	12,819
XIII.	260,581	253,767	21,867	12,815
XIV.	260,538	253,770	21,865	12,816
XV.	260,533	253,770	21,864	12,815
	3,910,390	3,808,791	328,392	192,533

In order to approach the solution of our problem from a standpoint familiar to Americans, we may examine the principles involved in a vote for

presidential electors, and the possible modifications necessary to make such an election proportional. Take, for example, the vote in the State of Indiana in 1892, as shown on p. 106. The particular candidates are indicated by Roman numerals, in the order in which they stood on the respective tickets.

Of course, under the existing system of majority (or rather plurality) rule, the fifteen Democratic nominees are declared the successful candidates, seeing that individually each one receives more votes than any Republican candidate. But with proportional representation, *parties*, rather than individuals, must receive their just deserts. Therefore the following calculation is made: —

Democrats	3,910,390
Republicans	3,808,791
People's Party	328,392
Prohibitionists	192,533
	8,240,106

8,240,106 ÷ 15 = 549,340 = unit of representation.

Since there are fifteen representatives to be elected, it would appear that every party should be entitled to one representative for every fifteenth part which it receives of the total vote for all parties. This quotient would be 549,340, which would be the unit of representation. Dividing, now, the several party votes by the unit of representation, we have, —

			REMAINDER.	ELECTING.
Democrats,	3,910,390 ÷ 549,340 =	7 +	165,010	7
Republicans,	3,808,791 ÷ 549,340 =	7 +	63,411	7
People's Party,	328,392 ÷ 549,340 =	0 +	328,392	1
Prohibitionists,	192,533 ÷ 549,340 =	0 +	192,533	0
	Total,	14		15

The People's party, having the largest remainder above a full quotient, would be entitled to the odd delegate, making the complete representation consist of seven Democrats, seven Republicans, and one Populist.

It now remains to select the individual candidates on the several tickets. This is done by taking the seven Democrats, seven Republicans, and one Populist, who show the highest number of individual votes. I have indicated the successful candidates by an asterisk.

Here we have the simplest modification possible of the existing general ticket with which Americans are familiar. It secures justice between parties, obviates the waste of cumulative voting, breaks the monopoly of the dominant parties, and elects the most popular and representative men in each party.

But as a practical instrument for a scheme of proportional representation, it presents serious difficulties. Like all of the plans for minority representation that have been examined, as well as the existing single-membered district, it is based, primarily, upon the theory that the voter casts

his ballot for individual candidates and not for a political party. This is the primitive theory of representation, which, as we have seen, emerged from the primary assembly through the instrumentality of proxies. Based, however, upon this earlier theory, the modern voter approaches the election with the idea of his political party uppermost in his mind. He votes for persons because they are the nominees of his party. The personality of the candidates is a secondary consideration. This is seen in an extreme case in the general ticket of a presidential election. Each political party nominates a list of candidates equal to the total number to be elected; and the voters of the majority party, by voting individually for each candidate on their party ticket, elect the entire ticket. For this reason the plan is not suited to proportional representation, under which the political parties could not hope to elect an entire delegation, and would naturally not wish to nominate a larger number of candidates than they could expect to elect.

At the same time there is a very prevalent modification in the method of voting the general ticket in the United States, which will suggest a way out of this difficulty. The voter is usually given the privilege of voting a straight ticket by placing a single mark opposite the title of the party of his choice. In this way he gives a vote

individually for each candidate on the ticket, although not required to check the individual names. Plainly, if all the votes are cast in this way, the final result as between parties is the same as though each voter cast but one vote for a party instead of his ten or fifteen or more votes for the individual candidates of that party. Considerations of this kind influenced Mr. Thomas Gilpin of Philadelphia, who in the year 1844 published his pamphlet "On the Representation of Minorities of Electors to act with the Majority in Elected Assemblies."[1] This was probably the "earliest attempt to find a philosophical solution for the problem of presentation."[2] Mr. Gilpin proposed that voters should have but one vote, which they should cast, not for a candidate, but for a *party*. The constituencies were to be enlarged, and each party committee or convention was to present one list of candidates. The voter was to hand in to the election officers his party ticket which might contain "as candidates the whole number of representatives to be voted for in the district; and these should be placed in preferences highest on the list, in order that those set first on it may be chosen according as the number of votes given may entitle the ticket to one or more of its candidates." The total number

[1] Philadelphia, John C. Clark, printer, 1844.

[2] Professor Wm. R. Ware, in *American Law Review*, January, 1872.

of tickets voted divided by the number of persons to be elected, gives the electoral *quota*, which, in turn, used as a divisor, determines the number of candidates who are elected on each list. No provision was made whereby the elector could indicate his preferences among the candidates on his party ticket, the rule being that, as already quoted from Gilpin, if a given list was entitled to, say, three *quotas* of votes, the first three candidates were to be the elected deputies.

In 1846 M. Victor Considerant published at Geneva, Switzerland, a plan similar to that of Gilpin, but independently originated.[1] He did not contemplate a full list of candidates on all party tickets, but only partial lists, as the nominating agencies might choose. Each list was to be published before election and given an official number. Each elector was to vote for a ticket by writing on his ballot the number, "No. 1," "No. 2," etc., and then also to name the candidates of his own ticket whom he wished.[2]

In 1870 M. Borély of Nîmes, France, proposed that each elector should himself indicate his preferences by numbering the candidates 1, 2, 3, etc.

[1] "De la Sincérité du gouvernement représentatif, ou Exposition de l'Élection Véridique." Reprinted by Karl Bürkli, Zurich, 1892.

[2] "D'écrire sur son bulletin le numéro de sa section, et au-dessous, la liste des noms qu'il aura choisis parmi les candidats de sa section," p. 12.

In this form the plan was adopted in 1871 by the Association Réformiste of Geneva, Switzerland, and became known as the *liste libre*, or "free ticket."

While recognizing political parties as primarily entitled to representation, it was again soon perceived that the restriction of the elector to one vote for a single party did not permit him to vote for individual candidates on other party tickets whom he may have preferred; and his freedom of choice within his own party would not be great, seeing that his party managers would nominate no more candidates than they hoped to elect. In 1875 the Swiss Association, therefore, abandoned the double vote for party and for candidates within the party, and advocated a combination of the cumulative vote and the free ticket. The voter was to have as many votes as there were deputies to elect, and he might cumulate them as he saw fit. However, to avoid the wasted votes of the crude cumulation, the free list feature was added; and it was provided that the total number of votes given to individual candidates on the respective tickets were to be added together to determine the share of representation which the parties as such should have.

Much can be said in favor of this plan, especially in connection with the Australian system of voting, where all the party tickets appear upon

the same "blanket ballot." It is also well adapted to the Massachusetts and California ballots, where candidates are named alphabetically, and not according to parties. By it the voters may plump their votes without regard to the instructions of the party managers, yet with the assurance that no votes are wasted. For example, in the election in the forty-fifth Illinois district, as given on page 95, where the Republican Callahan ran so far ahead of his ticket that his colleague was defeated and two Democrats were elected, the "free ticket" amendment would have given the following result:—

REPUBLICAN.	DEMOCRAT.	PEOPLE'S AND PROHIBITION.
Callahan, 11,140	Tiptit, 9,793½	
Lathrop, 9,628	Black, 9,699½	
Total, 20,768	19,493	3,881½

Republican, 20,768
Democrat, 19,493
People's, 2,921½
Prohibition, 960

Total, 44,142½ ÷ 3 = 14,714 = unit of representation.

Republican, 20,768 ÷ 14,714 = 1 + 6,054, electing 2
Democrat, 19,493 ÷ 14,714 = 1 + 4,779, electing 1
People's, 2,921 ÷ 14,714 = 0 + 2,921½, electing 0
Prohibition, 960 ÷ 14,714 = 0 + 960, electing 0
2 3

In the crude cumulation, where candidates and not parties are considered, as in the Illinois method, the Republicans with a majority of the votes

elected only one candidate, who received 1,400 votes more than he needed. But with the free ticket modification, these 1,400 wasted votes are counted for the *party* to which this leading candidate belongs and are in effect transferred to his colleague. Thus that party secures its rightful proportion of two representatives instead of one, and the candidate running ahead of his ticket becomes a help instead of a danger.

A bill based upon this combination was introduced by Hon. Tom Johnson in the Fifty-second Congress, and is given herewith:—

52d CONGRESS, 1ST SESSION.
H. R. 9222.

IN THE HOUSE OF REPRESENTATIVES.

June 15, 1892.

Referred to the Committee on Election of President and Vice-President, and ordered to be printed.

Mr. Johnson of Ohio introduced the following bill:—

A BILL

PROVIDING FOR THE ELECTION OF REPRESENTATIVES BY PROPORTIONAL REPRESENTATION.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That members of the House of Representatives shall be voted for at large in their respective States.

SEC. 2. That any body of electors in any State may, in convention, nominate any number of candidates not to ex-

ceed the number of seats to which such State is entitled in the House, and cause their names to be printed on its ballot.

SEC. 3. That every elector shall be entitled on his ballot to one vote each for as many persons as the State whereof he is a resident is entitled to seats in the House, and he may cumulate his votes on a less number of persons in such manner as he may choose.

SEC. 4. That the sum of all the votes cast for all the candidates in any State shall be divided by the number of seats to which such State is entitled, and the quotient to the nearest unit shall be known as the unit of representation.

SEC. 5. That the sum of all the votes cast for all the candidates of each body of electors nominating candidates shall be severally divided by the quota of representation, and the units of the quotients thus obtained will show the number of representatives to which each such body of electors is entitled; and if the sum of such quotients be less than the number of seats to be filled, the body of electors having the largest remainder after division of the sum of all the votes cast for all its candidates by the quota of representation, as herein specified, shall be entitled to the first vacancy, and so on until all the vacancies are filled.

SEC. 6. That the candidates of each body of electors nominating candidates and found entitled to representation under the foregoing rules, shall receive certificates of election in the order of the vote received, the candidate receiving the highest number of votes the first certificate, and so on; but in case of a tie, with but one vacancy to be filled, the matter shall be determined by lot between the candidates so tied.

This combination of the cumulative vote and the "free ticket" answers in most respects the ideal of electoral reform. It gives to the voter

the widest freedom of choice between all the individual candidates on all the tickets, avoids the waste and the consequent "machine" supremacy of the simple cumulative vote, and opens the way for independent movements within and without the dominant parties. There are, however, two minor objections. If voters are allowed to write on their ballots the figures 1, 2, 3, etc., against individual candidates, it becomes easy to make those "distinguishing marks" which the laws against bribery seek to prohibit. This objection would not hold against a plan by which the voter gives but one vote to a candidate or one to a ticket. Again, the cumulation involves a waste of votes between the groups or factions within the party corresponding to the waste which the simple cumulation permits between parties. Voters of a given faction who cumulate on their own first choices of their party candidates, and who fail to distribute their votes so as to aid the secondary candidates of the same faction, would be at a disadvantage, and minor but shrewder factions would secure disproportionate influence in the party representation. This objection, however, is not a serious one, provided the several factions nominate separate tickets, as they could easily do.

The cumulative vote, with the "free ticket" amendment, has been adopted by the Canton Zug in Switzerland, and is favored by Professor Ernest

Naville, the leading advocate of proportional representation in that country. It is simpler than the plan finally agreed upon by the Swiss and American advocates of the reform, and would perhaps secure all the advantages of the latter. It could be adopted in Illinois by a slight amendment to the cumulative vote, though the small size of the constituencies would prevent the best results. It is the only form, too, which could conveniently be adopted in States like Massachusetts and California, whose ballot laws require that candidates' names be printed in alphabetical order, and not by party groupings. In these States the voter could cumulate his votes on individual candidates, and it would be the duty of the returning officers to separate out the candidates by parties and add up the individual votes in order to find the several party votes. The simple rule of three would then determine the party representation, and the individual candidates who stood highest on the party lists would be declared elected.

It is evident, however, that the advantages of cumulation will be secured to the party, though not to favored candidates, if voters, being allowed to cast but one vote for individual candidates on any of the party tickets, are permitted to cast all the unused votes to which they are entitled for a single party, by merely making the legal mark

against the title of the party. Thus if a voter in a constituency electing twenty candidates chooses to give single votes to five candidates on one or more tickets, he may, instead of cumulating the remaining fifteen on a single candidate, by writing the figures "15" against the candidate's name, be permitted to "bunch" them directly for the party ticket to which his favorite candidate belongs by making the simple cross against the party emblem. His fifteen votes would go for the party thus indicated; and his remaining five would count both as preferences for individual candidates within the parties, and as votes for the parties to which those candidates belong.

This is the plan finally agreed upon by the Swiss Association, and recently incorporated into the electoral laws of Neuchâtel and Geneva. It was also adopted by the American Proportional Representation League at Saratoga in 1895, as most nearly suited to American habits. A bill drawn up by a committee of the League [1] appointed for the purpose is given herewith, together with an introductory statement by the committee: —

"The accompanying bill is provided with especial reference to the election of boards of aldermen in cities; but

[1] Professor J. R. Commons, Syracuse University; Mr. Stoughton Cooley, Secretary American Proportional Representation League; Professor J. W. Jenks, Cornell University. This bill has not been officially adopted by the League. It is simply the recommendation of the committee.

the same provisions may be adapted, with simple verbal changes, to the election of members of a legislature, or congressmen, or any board consisting of a number of representatives with equal powers. The number of candidates on any ticket ought ordinarily not to exceed fifteen, and may well be as small as five. In case of large bodies, therefore, the city or State can be divided into large territorial districts, and the proportional system applied to each.

"It has been presumed that the general laws of the State provide for the nominations by parties and by petition; follow the general plan of the Australian system of voting; provide for election inspectors, canvassers, etc.; lay down principles determining the validity of votes; and in general provide for the carrying out of elections, — so that this bill provides only the specific requirements needed for the proportional system."

BILL

TO ESTABLISH A SYSTEM OF PROPORTIONAL REPRESENTATION IN CITIES.

SEC. I. The members of the board of aldermen to be chosen at any election shall be chosen by all the voters of the city on a general ticket, and not by separate districts.

SEC. II. Any party or body of voters which polled at the last preceding city election one per centum of the total vote cast for the principal office filled at said election, or which shall present a nomination paper signed by voters equal in number to such percentage [or by the number specified in the law of the State concerned], may nominate a ticket or list of any number of candidates for said board of aldermen not to exceed the total number of persons to be elected to said board; and the names of the persons thus nominated shall be printed on the official ballot, but so that

the list of candidates nominated by each party or body of voters shall be printed separately.

Sec. III. A candidate may be placed upon several party tickets, but he may choose in favor of one of them. All the votes cast for him are then counted for the ticket chosen. In default of a choice by him, the ticket to which he shall be assigned is determined five days before the election by lot, by the proper officer, in the presence of the official representatives of the parties or petitioners concerned, if they wish to appear.

A candidate's name cannot be placed on any ticket if he makes objection in writing to the proper officer five days before the election.

Sec. IV. Each voter shall have as many votes as there are persons to be elected, which he may distribute as he chooses among the candidates, giving not more than one vote to any one candidate, votes thus specifically given to be known as "individual votes;" and each such vote shall count individually for the candidate receiving the same and for the ticket to which the candidate belongs. In case a voter does not use the total number of votes to which he is entitled by specifying that number of candidates, the remainder of his votes, to be known as "ticket votes," shall be counted for any ticket as a whole, provided that he designate such ticket by title; otherwise only the "individual votes" shall be counted. His entire ballot will be void if more than one ticket is designated by title.

The voter casts his "individual votes" by marking in the space provided by law opposite the names of the separate candidates; he casts his "ticket votes" by marking in the space provided at the head of the ticket.

Sec. V. Judges and inspectors of election shall determine for each precinct, and the central canvassing board for the city, the following: —

1. The number of votes invalidated for any cause.
2. The number of valid "individual votes" cast for each candidate.
3. The number of valid "individual votes" cast for each party or ticket.
4. The number of "ticket votes" cast for each ticket.
5. The total number of valid votes cast for each ticket, including "individual votes" and "ticket votes."
6. The total number of all valid votes cast.

SEC. VI. In determining the results of the election, —

1. The total number of valid votes cast for all tickets shall be divided by the number of candidates to be elected; the quotient, ignoring fractions, to be known as the "unit of representation."
2. The total number of valid votes cast for each ticket shall be severally divided by the unit of representation, and each such ticket shall be entitled to a number of aldermen equal to the quotient thus obtained, ignoring fractions.
3. If the sum of such quotients be less than the number of persons to be elected, the ticket having the largest remainder after the division aforesaid shall be entitled to an additional alderman; thereafter, the ticket having the second largest remainder; and so on, until the whole number is chosen.

SEC. VII. When the number of representatives to which each ticket is entitled shall have been determined as provided in Section VI., the candidates upon such tickets who shall have received the highest number of votes (not exceeding the number of representatives to which such ticket is entitled) shall receive certificates of election. In case of a tie between tickets or candidates, the lot decides.

SEC. VIII. If a ticket obtains more representatives than it has presented candidates, the number of seats remaining

to be filled is distributed among the other tickets in proportion to the votes cast for each.

SEC. IX. When there is a vacancy in any seat, the candidate who has received in the general election the greatest number of votes after the last one elected, in the party or group within which the vacancy has occurred, is chosen to fill it.

In order to illustrate the practical operation of this measure if enacted into law, I give herewith an abstract of the report of a special commission to the Belgian Parliament appointed for the purpose of holding a trial ballot in Brussels, Nov. 19, 1893. The report is published in full in *La Représentation Proportionelle*, Brussels, December, 1893. It gives a detailed and careful exhibit of all the steps in proportional voting. To Americans it is especially useful; since, although the Belgian bill differs in some points from the American, yet it is an application of the Swiss plan to the Australian ballot — a ballot not used in Switzerland.

The Belgian parliament, having in hand the revision of the constitution, determined to test the claims of the advocates of proportional representation by a trial election of the eighteen representatives from Brussels in parliament; and although parliament finally rejected the reform, yet the object lesson has attracted international attention. The commission having the matter in charge

placed in nomination six different tickets, — a larger number than would usually have been presented, since the Catholics and Independents, and the Socialists and Progressists, would usually nominate fusion tickets.

Although there were eighteen seats to be filled from the Brussels district, the committee did not place full tickets in nomination, the largest being that of the Socialists, containing ten names. As no party could hope to secure all the seats, no party would nominate a full list of candidates unless required by law to do so. Each party would nominate one or two more than it hoped to elect. On page 124 is given the form of ballot used in this election, with initials for the names of the candidates. These candidates were men who had retired from active politics, but whose political reputation made them well known in the city.

The instructions given to voters were as follows:—

INSTRUCTIONS FOR ELECTORS.

A. The elector may stamp the white spot in the square placed at the head of a list of candidates. By voting in this way he gives eighteen votes to the ticket, *no matter how many candidates there are upon it.* ("Ticket votes.")

B. He can, after having stamped the square at the head of the ticket, also stamp the white spot in one or more squares placed at the right of the names of those candidates *who figure on the same ticket.* By doing this he

BALLOT VOTED AT BRUSSELS TRIAL ELECTION.

LIBÉRAUX MODÉRÉS.		LIBÉRAUX PROGRESSISTES.		SOCIALISTES.		DÉMOCRATES FLAMANDS.		INDÉPENDANTS		CATHOLIQUES.	
1	AN	1	DA	1	BR	1	CON	1	V de D	1	d'A
2	BI	2	DEM	2	CO	2	De C	2	HE	2	DEC
3	DE	3	GEN	3	De B	3	GER	3	KI	3	DED
4	FU	4	LAB	4	De P	4	LE	4	RE	4	De H
5	HV	5	LAV	5	GO	5	MO	5	SI	5	DEL
6	JA	6	SCA	6	VE	6	SCH	6	ST	6	De T
7	OR	7	SP	7	VO	7	Van D	7	SY	7	JAC
8	Van H	8	CA	8	WA	8	V de S			8	MA
9	VL			9	WI					9	TH
				10	Van C						

Stamped to indicate the vote of a Liberal Progressist who gives eighteen votes to his party and preferences to DEM. and LAB.

gives eighteen votes to that ticket and *one vote of preference* ("individual votes") to each of the candidates whom he has thus designated.

C. The elector *who has not voted at the head of any ticket* can stamp the white spot of one or more squares placed at the right of the names of candidates on whatever ticket the candidate may appear. In this way he gives for each square stamped *one vote of preference to the candidate designated*, and *one vote to the ticket to which this candidate belongs*. (Mixed ballots.) (This differs from the American bill and from the Swiss laws, in which the elector gives "individual votes" on as many tickets as he pleases, and then gives the remainder of the number to which he is entitled to any ticket, even though his "individual votes" are on both tickets.)

D. The following ballots are void: —

1. Ballots having more than one vote at the head of tickets.

2. Ballots upon which the elector has stamped the white spot placed at the head of a ticket, and has voted at the same time for candidates on the other tickets. (Not void in American bill and Swiss laws.)

3. Ballots in which the elector has voted for more than eighteen candidates."

The people of Brussels took a lively interest in the experiment. Meetings were held in various parts of the city, and the method of voting was explained. About 12,000 electors cast their ballots. The voting-booths were open from 9 A.M. to 4 P. M. The counting of ballots was begun at once, and completed in all the precincts in three-quarters of an hour to four hours' time for from

300 to 1,940 ballots each. This work was found to be not at all complicated, and was done as easily and rapidly as in the ordinary elections.

The work of the central bureau began at 5.30 P.M.; and the returns from the several precincts were added up as rapidly as they came in. The first results were as follows:—

Number of votes	12,192
Blank or void ballots	333
Valid ballots	11,859

A large number of the void ballots had been purposely annulled by the voters, who had covered them with fantastic inscriptions. The party votes were the following:—

PARTY.	TICKET BALLOTS.	TICKET VOTES.	MIXED VOTES.	TOTAL VOTES.
Moderates	546 × 18 =	9,828 +	1,865 =	11,693
Progressists	2,013 × 18 =	36,234 +	3,278 =	39,512
Socialists	5,748 × 18 =	103,464 +	3,217 =	106,681
Flemish Democrats	1,127 × 18 =	20,286 +	1,427 =	21,713
Independents	411 × 18 =	7,398 +	1,027 =	8,425
Catholics	972 × 18 =	17,496 +	1,909 =	19,405
TOTAL	10,817 × 18 =	194,706 +	12,723 =	207,429

A very small number of the ballots contained "mixed votes," — only 1,042 out of 11,859, — the great majority, 10,817, being cast for "tickets." With the American law there would doubtless be a larger proportion of mixed or scattering votes, since the voter who has marked the head of his

ticket is not prohibited from scattering a portion of his votes for candidates on other tickets. In the Belgian law, of course, each "ticket vote" counts eighteen votes for the party; in the American bill it counts only the surplus remaining after the "individual votes" have been counted for those several tickets in which the individually designated candidates appear.

The 1,042 mixed ballots contained 12,723 votes, an average of twelve to the ballot, whereas the voter was entitled to eighteen. This may be explained. The elector who scatters his votes is embarrassed in finding eighteen individuals who satisfy him, and on the average, therefore, loses one-third of his party-voting strength. He finds it easier to vote for tickets than for candidates. The modified "ticket vote" of the American bill, therefore, again assists those who wish to vote mixed tickets, and in so far promotes the independence of the voter. It allows him to use all the votes to which he is entitled after he has scattered his individual votes among various tickets by merely "bunching" the remaining votes on a single ticket.

For the distribution of seats among the political parties the Belgian reformers have indorsed a plan drawn up by Professor D'Hondt, and explained in Appendix I. to this book. It is a complicated plan, and does not secure better results than the

simple rule of three adopted in Geneva and Neuchâtel and by the American League. According to this latter simple division, the distribution would be the following: The total number of votes, 207,429, divided by eighteen, gives 11,523 as the unit of representation. Dividing the party votes by this unit provides for fifteen representatives; the remaining three are assigned to the parties having the largest remainders.

PARTY.	TOTAL VOTE.	UNIT OF REPRESENTATION.	REMAINDER.	SEATS.
Moderates	11,693 ÷	11,523 = 1 +	170 =	1
Progressists . . .	39,512 ÷	11,523 = 3 +	4,943 =	3
Socialists	106,681 ÷	11,523 = 9 +	2,974 =	9
Flemish Democrats	21,713 ÷	11,523 = 1 +	10,190 =	2
Independents . .	8,425 ÷	11,523 = 0 +	8,425 =	1
Catholics	19,405 ÷	11,523 = 1 +	7,882 =	2
TOTAL		15		18

It is impossible under any plan yet devised to to find an exactly proportionate representation.[1] Representatives are living units, and cannot be parcelled into fractions for the accommodation of unfortunate remainders. But taking the above distribution, we find that the

Moderates	get one representative for 11,693 votes.
Progressists	get one representative for 13,170 votes.
Socialists	get one representative for 11,853 votes.
Flemish Democrats	get one representative for 10,856 votes.
Independents	get one representative for 8,425 votes.
Catholics	get one representative for 9,702 votes.

[1] In Appendix I. will be found a comparison of different plans proposed for the distribution of seats.

After determining the number of representatives to which each party is entitled, the next step is to designate the individual candidates actually elected. The vote for candidates on the Progressist ticket is here given, the others being similar. This ticket is entitled to three seats, and the individuals chosen are those having the three highest votes, as indicated below.

INDIVIDUAL VOTES ON PROGRESSIST TICKET.

	VOTES OF PREFERENCE ON TICKET BALLOTS.	VOTES OF PREFERENCE ON MIXED BALLOTS.	TOTAL.
DA	738	459	1,197*
DEM	1,012	495	1,507*
GEN	394	442	836
LAB	228	349	577
LAV	282	365	647
SCA	616	428	1,044*
SP	388	367	755
CA	393	373	766

The report of the commission states that the most important men of each party lead the tickets in the number of their votes. In this connection should be noted the small number of preferences given on ticket ballots. Of the 10,817 ticket ballots only 6,317 indicated preferences for candidates, the remaining 4,500 voting straight tickets with only the single mark against the title. The 6,317 "ticket votes," which contained also individual votes of preference on the same ticket, indicated only 21,105 such preferences, an average

slightly exceeding three, as against the average of twelve individual votes on the 1,042 mixed ballots. It would seem, therefore, that the mixed ballots, which do not throw their entire weight for one party against others, and so have little influence upon the share of *party* representation, have, nevertheless, a disproportionately large influence in designating the candidates upon each ticket who shall be elected. This might occur; but in the above election, as a matter of fact, the candidates who received the largest number of votes of preference on ticket ballots generally received a similar advantage on the mixed ballots.

In this connection the objection is made against the Swiss system that a strong party with surplus votes might defeat the leader of another party by giving preference votes to a weak candidate on the ticket of the latter. That this objection has but little weight can be seen by examining the above table of individual votes on the Progressist ticket. Not often would a party be so strong as willingly to transfer votes to an opposing party which would be liable to swell the latter's representation at the expense of its own. It could jeopardize only one of the candidates on the latter's ticket, and this would not affect the leader unless the party were so small as to be entitled to only one representative. In the Progressist ticket, it will be seen, 209 votes would have been needed

to displace S.C.A., the lowest successful candidate on the ticket, by G. E. N., the next in order, while the leader of the party, D. E. M., exceeds S. C. A. by nearly 500 votes. The principal leader of a party may always be expected to run considerably ahead of his ticket. As between the larger parties, therefore, which are entitled to more than one representative, the objection has no weight, while with a party barely entitled to but one representative it assumes an improbable waste of votes by the larger parties. It might be added, however, that in the cumulative variety of the free ticket as proposed in the Johnson bill and adopted in Canton Zug, the principal leaders of a party would be further removed from such risk than in the single-vote variety.

CHAPTER VI.

APPLICATION OF THE REMEDY.

In stating the advantages of proportional representation there are two lines of discussion, a theoretical and a practical. The theoretical principle involves the goal towards which electoral reform should be directed. But to reach this goal a plan of action must be devised. In the latter case the discussion is practical, dealing with the various methods which have been proposed.

In a Democratic form of government, unlike an absolute monarchy, methods are as important as measures. If a practicable and effective method of proportional representation cannot be discovered, the theoretical principle is a mere dream. We shall therefore best perceive the general principle and the practical method by examining them together.

In the first place, proportional representation recognizes the nature of modern political parties as based, not altogether on sectional divisions, but on social and economic problems of national scope. There is in various quarters a disposition to decry and resist any recognition of parties. It is pointed out, for example, that the very essence of civil

service reform lies in taking the offices "out of politics," and that the evils of municipal government proceed from political parties.

The contention is mainly one of definition. Possibly a new definition is needed of "party," as well as "politics." The latter has come to mean a base, underhanded manipulation and diplomacy. But there is also an honorable and necessary politics. All action by government, whether city, State, or nation, is political action. And all action by individuals towards incorporating their views in laws and public policy must be through associations or groupings of individuals under their chosen leadership. These groups are political parties, and this action is the genuine, educational, vital function of parties in popular government.

But where there is freedom and intelligence, such groupings are not rigidly permanent. They turn on political questions, and as questions change there come new alignments of individuals. If the electoral machinery prevents this, and fortifies the dominant parties against inroads, compelling alignment on new questions the same as on old, and forcing the same alignment on municipal and State questions which exists on national questions, the party becomes a machine, sustained by spoils and plunder, and there is no freedom for the voter. If, however, the electoral machinery

be modified so as to permit the representation of new elements within the old parties, or to facilitate the representation of new parties, then we should have, not rigidity and corruption, but natural and wholesome political growth, whether in city, State, or nation.

Proportional representation, therefore, is based upon a frank recognition of parties as indispensable in free government. This very recognition, instead of making partisan government all-powerful, is the necessary condition for subordinating parties to the public good. To control social forces, as well as physical forces, we must acknowledge their existence and strength, must understand them, and then must shape our machinery in accordance with their laws. We conquer nature by obeying her.

At the same time, though recognizing political parties based on social questions, yet, in a nation of such vast territory as the United States, sectional differences also demand recognition. These are amply provided for in our Federal Constitution. The Senate of the United States represents the States, without regard to population or parties. It is not proposed to criticise this practice. It is an important feature of our Federal system. Yet it does not seem that the Senate should have the same weight in legislation as the House of Representatives. It ought to sink to the level

of a revisory board like the House of Lords, or the upper chambers of the Canadian and Provincial parliaments. Such would become its status, if the House truly represented the people, and furnished a lifelong arena for their political leaders. As it is, the Senate shines, not by ability, but by comparison.

The House is supposed to represent the people. A combination of sectional and party representation would be secured in this branch by electing State delegations on the proportional basis. Congress has power to provide without Constitutional amendment for this plan of election. The gerrymander has destroyed whatever unity of local representation the present system may retain in theory. Districts are frequently changed; agricultural, manufacturing, mining areas are thrown together. The State, however, is a truly organic unit, accustomed to act as such; and State election of national representatives would harmonize with this unity, and would permit the free play of sectional as well as national interests.

In State legislatures a similar distinction might be made. In the lower house the county, or a small group of counties, electing ten or twelve representatives, could be made the unit. In a House of one hundred members, there would be eight or ten districts, each sending its delegation elected on the proportional basis.

The State senate should be elected on a general ticket for the State at large, one-half perhaps at each election. It is difficult to describe the principle upon which senates at present are chosen. Their membership is small, ranging from thirty-five to fifty. Hence senators cannot stand for counties. Only nine of the fifty-two Indiana senators represent single counties, and two of these are from one county. The others represent the most arbitrary combinations of two, three, and four counties each, arranged only for partisan purposes. May not the senate be given a distinctive place and character, elected on the broad basis of the State, representing the whole people, thereby attracting to its halls the recognized leaders of thought and action throughout the commonwealth?

At the same time local interests would have their influence. A political party with only meagre sagacity would distribute its nominees either for Congress or for a State senate as widely as possible over the State. Only in this way could it appeal to the voters of all classes and interests. Even now we see this distribution in the nomination of tickets of State candidates, from the governor to the chief of statistics. If sectional differences are decisive, political parties may be trusted to provide for them.

The canton of Geneva, with a single legislative

assembly of one hundred members, elects them on the proportional plan, in three nearly equal groups; one group of thirty-four from the city of Geneva, one group from the right and another from the left bank of the river.

In municipal elections the unity of the city would be recognized by abolishing the wards altogether, and by electing only one legislative assembly instead of two. With a single chamber also, as in foreign cities, responsibility will be centralized, and the honor of the position enhanced. The board of aldermen or common council might consist of thirty members, ten of them to be elected each year. There might, indeed, be cities of extensive area, or with sections of opposing interests, where two or three general tickets could be elected. But as a rule this would not be necessary, for the parties would be careful to distribute candidates among the sections.

The significance of proportional representation, as far as it affects popular elections, consists in the fact that it prohibits the exaggerated influence of small factions holding the balance of power between two parties. For this reason it will remove the incentives to bribery and extravagant use of money in elections. The secret ballot has made bribery difficult and dangerous, but it has not touched the inducements to bribery.

The number of close districts is so large that majorities in the legislatures and Congress, as well as popular majorities for executive and judicial officers, turn on narrow margins. The bribable vote is as large as, or even larger than, the shifting vote,[1] and is therefore adequate to decide elections, and to turn the control of legislative bodies with large majorities from one party to the other. But with proportional representation there is no faction or group which holds the balance of power. A change of the entire venal vote, should it equal the Connecticut average of 12½ per cent, would affect only 12½ per cent of the result. But as the changes of this kind are more or less offset by both parties, they could not disturb more than one per cent to three per cent of the total vote. It can therefore be seen how diminutive would be the briber's influence. Successful bribery would endanger only one candidate out of a party's representation. And this, unless the legislature were minutely close, would not be worth the briber's expense. A legislature elected by bribery could be of no service unless it contained a majority for the bribers. The only cases in which bribery might be expected to give a political party such a clear majority, would be in those States where the party vote is very close, as in New York and Indiana, where the two parties often

[1] See pp. 79, 80.

differ by less than 1 per cent of the total vote. But even in such cases, it must be remembered, there are third and fourth parties, which, if represented, would hold the balance, and would prevent a clear majority for either of the great parties. The same is true of the Federal Congress. In other States, where one party has a heavy majority, the bribable vote is not large enough to overcome it. The secret ballot makes bribery difficult; proportional representation makes it fruitless.

Proportional representation based upon political opinions, rather than territorial areas, is a "specific" for the gerrymander. As already shown, the gerrymander is an inevitable result of the district system. It is merely a phase of the attempt to outline the districts or the wards. If there are no districts, there can be no gerrymander. Other remedies must fail. The courts in various States have recently taken upon themselves the right to overrule certain redistricting acts contrived for the election of State legislators. This policy is dangerous to the integrity of the courts, as well as fruitless. The courts are not empowered to substitute an apportionment of their own creation; and therefore, by declaring an existing gerrymander unconstitutional, they merely call back a previous one of another party, usually their own, and equally vicious with the one condemned. But

proportional representation, by abolishing districts altogether, wipes out the very substance of the gerrymander. It relieves the courts and the legislatures of an onerous burden and a dangerous power. So inevitable and self-evident is this remedy for the troublesome gerrymander that to add more words in explanation of it could only weaken the force of the simple statement.

Not only are parties primarily represented, they are represented with mathematical accuracy in proportion to their strength. Justice and equality become realities. Instead of the flagrantly distorted assemblies, which by way of rhetoric we call representative, we should have a true reflection of the people. And this equal representation is elastic. It conforms to all the movements of population. If cities increase in size, their representation increases in legislatures and Congress.

Even more significant than unequal representation as between parties, is the large number of voters who under the district system are wholly unrepresented. The tables given in Chapter III.[1] show for certain elections of congressmen, of members of the New York Assembly, and of aldermen of New York City, the number of electors who voted for successful candidates, and are therefore represented by men of their choice, and the num-

[1] See pp. 74–77.

ber who voted for unsuccessful candidates, and are therefore unrepresented. By reference to those tables it will be seen that, by the congressional election of 1894, 44.5 per cent of the voters are unrepresented in Congress by men of their own choosing. That this is the usual proportion is shown by the fact that for the Fortieth, Forty-first, and Forty-second Congresses, elected more than twenty years earlier, the proportion of unrepresented voters was 42 per cent. In the New York Assembly elected in 1894, 44.4 per cent of the voters are unrepresented; and in the Board of Aldermen of New York City 51.9 per cent are unrepresented.

The theory by which it is sought to justify the present system in its denial of representation to nearly half the voters, is based on the assertion that a minority party in one district will be a majority party in another; and that, therefore, the minority voters whose particular candidates are not successful will, nevertheless, be represented, because legislators in other districts will be elected by voters of the same political faith.

That such an argument should be generally accepted as adequate is striking evidence of the hold which political parties as corporate entities have gained upon the popular imagination. So unquestioned is the notion of the solidarity and the community of interests of men of the same party, no

matter how far apart they may live in different sections of the nation, the State, or the city, that one-half the people are willing to forego the right of personal representation, and to permit distant and often antagonistic interests to choose for them their own representatives. It is assumed that the Negroes and Republicans of the Southern States are represented by Republicans chosen in the North, and that Northern Democrats can find their spokesmen in the Democrats from the South. In the present New York Assembly, 13 of the 23 Democratic assemblymen were elected by 47,700 Tammany voters of New York City. Can it be said that the 350,000 Democrats of the remainder of the State will find their views expressed by these Tammany assemblymen from the city? Are the Republican merchants of the city represented by the farmers from the country? These voters for defeated candidates have no voice in the selection of the standard-bearers of their own party. In this important sense they are unrepresented. Unable to affect elections within their own party, they leave the machine in control. The present influence of Tammany Hall would be much lessened in State and Federal politics, did not the district system make its leaders spokesmen, not only for its own following, but also for the unrepresented Democracy of the State at large. Proportional representation would increase the representation

of the latter while reducing the representation of Tammany, and so lessen its autocratic power. Candidates, too, are not nominated on one issue alone, but on several. It is this tempering and modulation of the representative body so as to correspond with all phases of opinion and policy throughout the country or the State that proportional representation guarantees.

It is to be noted that, in this discussion, we are not concerned directly with the basis of suffrage. We are not inquiring whether it shall be wide or limited, plural or singular, male or female, old or young, white or black, intimidated or free. We take the suffrage for granted, and inquire only whether, such as it is, it is effective; whether, with the show of representation, there is essential disfranchisement, and what are the remedies therefor.

Proportional representation promises, above all, the independence of the voter, and freedom from the rule of the party machine. It will not abolish parties, it recognizes them. But it permits new alignments and groupings of individuals within and without existing parties at the expense of the iron-bound classification imposed by the modern highly developed party machine.

The secret of machine rule lies in the control of nominations, and the rigid alignment of voters in two camps. Freedom from the machine, then,

means, first, power on the part of the voters to control the nominations of their party; and second, power to defeat obnoxious candidates without endangering the success of the party. Both of these advantages are provided for in the proposed bill.

First, as to influencing nominations. In many of the cities of this country, where representative institutions have most signally failed, the public alarm is showing itself in spirited independent movements of the best classes of citizens from all political parties. But these municipal leagues and civic federations can act only indirectly upon the city authorities. They have very little influence upon the nominations of the two parties for municipal officers. They do not attempt independent political action, their only resource being to enter into combination with one of the machines in order to defeat the other. But suppose, in such a situation, proportional representation were adopted. The Municipal League could then nominate an independent ticket by petition signed by one per cent of the voters at the last general election. Let this ticket be nominated in advance of the nominations by the dominant parties. Let it contain names of the best citizens of both parties, men whose ability, public spirit, and integrity are everywhere acknowledged. The two dominant parties would be almost forced to indorse these candidates. In that case the candidates would select

the party for which their individual votes should be counted. If it should happen that the entire ticket of the Municipal League were indorsed by the various parties, the League's ticket would wholly disappear; but the members and friends of the League would scatter their votes among the other tickets, voting individually for their own original candidates. The following will illustrate the process.

Suppose there are ten aldermen to elect, and that the League can muster 300 voters, the Republicans 500, the Democrats 400, and the Labor party 100. Each voter being entitled to ten votes, there would be 13,000 votes in all, requiring 1,300 to elect a single candidate. Suppose the League to place in nomination the following ticket, consisting of three Republicans, three Democrats, and one Labor candidate.

TICKET OF MUNICIPAL LEAGUE.

REPUBLICANS	A..... B..... C.....
DEMOCRATS	D..... E..... F.....
LABOR	G.....

If, now, the character of their nominees is so distinguished that the existing parties would be constrained to indorse them all, and, being thus

indorsed, the candidates should indicate the existing parties as the beneficiaries of their votes (in accordance with section 3 of the bill), the tickets to be voted at the election would be as follows: —

MUNICIPAL LEAGUE.	REPUBLICANS.	DEMOCRATS.	LABOR.
A	*A	*D	*G
B	*B	*E	N
C	*C	*F	O
D	H	L	
E	I	M	
F	K		
G			

Each party, unless required by law, would nominate, not a complete list, but only about as many as each expected to elect. If, now, the 300 voters of the League should distribute their votes individually for the seven League candidates, as indicated above, while all others should vote straight tickets for their respective parties, the result would be: —

Republicans,	5,000 + 900 = 5,900 votes,	electing 5 aldermen.
Democrats,	4,000 + 900 = 4,900 votes,	electing 4 aldermen.
Labor,	1,000 + 300 = 1,300 votes,	electing 1 alderman.
TOTAL,	12,100	10

In this extreme case the League has seen its own ticket disappear, but has dictated the nominations of the other parties, and, by adding its votes to theirs, has elected its own nominees. The five Republicans elected would include A, B, C, who

receive 800 individual votes each, against 500 each for H, I, and K. The four Democrats would include D, E, F, who receive 700 individual votes each, against 400 each for L and M. The Labor candidate, G, receives 400, against 100 for N and O. Of course it is not expected that in actual practice the 500 Republicans, for example, would all vote straight tickets. Many of them might give preferences for H, I, and K, but many more would give their preferences for A, B, and C, while the entire weight of the League would be thrown for A, B, and C. And so for the other parties.

What reason have we to suppose that other parties would swallow the League ticket, as above indicated? Simply the fact that their voters are perfectly free to abandon their party nominees, and to vote for the League candidates of their own political stripe, yet not nominated by their own machine. For example, if the other parties declined to indorse the League candidates, the tickets now to be voted would be: —

	MUNICIPAL LEAGUE.	REPUBLICANS. ✕	DEMOCRATS.	LABOR.
Republican	A ✕	H	L	N
	B ✕	I	M	O
	C ✕	K	R	
Democrat	D	P	S	
	E	Q	T	
	F	U		
Labor	G			

I have indicated the vote of a supposed Republican who gives one vote each to the Republicans on the League ticket, and his other seven votes to his own ticket straight. Supposing all the Republicans, Democrats, and Laborites to do the same (of course an extreme case), we should have the following result: —

MUNICIPAL LEAGUE.	REPUBLICANS.	DEMOCRATS.	LABOR.
3,000 straight	5,000	4,000	1,000
1,500 Repub.	—1,500	—1,200	— 100
1,200 Demo.			
100 Labor			
5,800	3,500	2,800	900
Electing 4	3	2	1

The extent to which the Municipal League could go in electing its candidates would, of course, depend upon the ripeness of voters for revolt from their parties. In a case like that above, where the parties declined to indorse any of the League candidates, we might expect a much larger disaffection than above supposed, and the election of a larger number of League candidates. It will be noticed that the Republicans, by "bolting" their party, have succeeded in electing six Republicans instead of the five to which their proportions originally entitled them. But three of these six are nominees of the League, A, B, and C, who get 800 votes each (300 from the League and 500 from the Republicans). One of the League Democrats is elected with 700 votes.

I have given two extreme variations out of the several combinations possible. Many others might be suggested and worked out. I will conclude with one more.

Suppose the Republicans and Democrats each nominate one of the League candidates. The tickets would be: —

MUNICIPAL LEAGUE. ×	REPUBLICANS.	DEMOCRATS.	LABOR.
A	A ×	D ×	N
B	H	L	O
C	I	M	
D	K	R	
E	P	S	
F	Q	T	
G			

I have indicated the vote of a Leaguer who gives one vote to each of his nominees on the Republican and Democratic tickets, and eight to his League ticket. Supposing the others to vote likewise, and the other parties to vote straight, we should have: —

League,	2,400 votes,	electing	2 aldermen.
Republicans,	5,300 votes,	electing	4 aldermen.
Democrats,	4,300 votes,	electing	3 aldermen.
Labor,	1,000 votes,	electing	1 alderman.
	13,000 votes,	electing	10 aldermen.

In this case the League has elected two men on its own ticket, and two of its own nominees on other tickets.

So much for the influence of voters upon the

nominations of candidates. The second element of strength in proportional representation is the power it gives to voters to defeat obnoxious candidates of their own party without endangering the success of the party as a whole. This may be illustrated by another example, such as may often be found in a State at large, where there is no independent organization like the Municipal League, ready to anticipate the party nominations. Suppose in such a case that the parties with the relative strength of 500 Republicans, 400 Democrats, 100 Laborites, place the following tickets in nomination: —

REPUBLICANS.	DEMOCRATS.	LABOR.
A	D	N
B	E	O
C	F	
H	L	
I	M	
K	R	

If the voting were as usual, the Republicans would have 5,000 votes, electing five candidates; the Democrats 4,000, electing four; and the Laborites 1,000 votes, electing one. But suppose the party organization of the Republicans has flagrantly disregarded the wishes of 200 Republicans, and nominated no candidate representing them. Under the present system of plurality election, these 200 Republicans know that to put up an in-

dependent ticket means both their own defeat and that of the Republican party as a whole, with the election of the Democrat. But with proportional representation they could safely nominate an independent ticket. The tickets would be as follows: —

REPUBLICANS.	DEMOCRATS.	LABOR.	INDEPENDENT REPUBLICANS.
A	D	N	AA
B	E	O	BB
C	F		CC
H	L		
I	M		
K	R		

The result of the election would be: —

Independent Repnb.,	2,000 votes,	electing 2 representatives.
Republicans,	3,000 votes,	electing 3 representatives.
Democrats,	4,000 votes,	electing 4 representatives.
Labor,	1,000 votes,	electing 1 representative.

We see here a striking advantage of proportional representation. An independent movement takes place in the ranks of a plurality party, and does not in the least endanger the success of the party as a whole. The Republicans elect as many representatives as before the division, so that on party questions they retain their original strength in the legislature; but the *individuals* elected are by no means the same. Two of the five are wholly independent of the machine organization. Of course, if the independent movement increased, as it could

readily do, if the candidates of the regular organization were objectionable, the number of independent representatives would be increased proportionally at the expense of the regular nominees.

It is easily seen that this increased power to reject the nominees of a party must react strongly upon the character of the nominees. The latter are nominated to be elected. Under the present system very inferior men may be elected, because the voters have no other choice. Let them have, however, the wide freedom of choice which proportional representation gives, and the party managers will be forced to place before them a much higher grade of candidates, who will be suited to their wishes. Thus proportional representation gives the voters power against the influence of the machine to control nominations, not only directly, by nominating early their own candidates for a later indorsement by the regular organization, but also indirectly, by their increased power to "bolt," and defeat obnoxious candidates who have been "regularly" nominated.

The secret of these combinations and recombinations, of this unparalleled freedom of the voter, springs from two facts: first, instead of requiring a majority or plurality to elect a candidate, a much smaller fraction can do so; and second, a wide territorial area is given for combinations of voters of the same opinions. Instead of a ward we have

a city; instead of a district we have a State. Under the present system, independent voters who actually place a ticket in the field are usually in the minority. If, however, we count those who stay at home, as we should do to a large extent, the number of independents is very great. But they have only a choice between two machines. They are penned up in narrow districts under the whip of the party bosses. But proportional representation breaks down the fences, and enables them to combine throughout the city or State. And, furthermore, it allows them to combine within their own party organization without promoting the success of the opposing party's machine.

That this feature of proportional representation strikes at the radical evil of present-day politics, is shown abundantly by current literature. We may notice absenteeism and the primaries.

Surely it is an alarming condition when the intelligent and business classes everywhere leave the primaries and the elections to the "heelers," the loafers, and the ignorant. The extent of this evil is in recent years well understood, but its causes are unexplained. Says a writer in an article favoring compulsory voting:[1] "In the State of New York 300,375 persons who voted in 1888 remained

[1] F. W. Holls, in *Annals of American Academy of Political and Social Science*, April, 1891, pp. 589, 590.

away from the polls in 1889; and 286,278 did so in 1890. In the last mayoralty election in New York City (1890), over 35,000 men who had even registered abstained from voting, with the result that the city was once more turned over to an organized band of plunderers. A more deliberate and extensive betrayal of trust would be difficult to find. In Massachusetts the total vote of 328,588 in 1888 fell to 260,798 in 1890, a difference of 67,790. In Chicago the figures are even more startling. In the spring election of 1887 less than 72,000 out of a possible 138,000 were cast, — 66,000 citizens failing in their duty, — while in June of the same year, at the judiciary election for the choice of judges for a city of almost a million of souls, the total vote was 44,074, less than one-third of the number of qualified voters." Professor A. B. Hart[1] affirms that the voting population is one-fourth of the total population, and that in the presidential elections five-sixths of this vote is cast. In New York, in 1880, the vote was 1,104,605, being 23 per cent of the population, and 95 per cent of the legal voters; but in 1891 it was only 259,425. In New York City in 1888, the vote was 18 per cent of the population; in 1890 it was 11 per cent, and in 1891 it was 13½ per cent. In Massachusetts the census of 1885 showed

[1] "Practical Essays on American Government," pp. 24, 30. New York, 1893.

442,616 voters; but the vote for governor in that year was only 209,668, and in 1894 it was 13 per cent of the population. For president in 1888 in that State it was 344,243. In Boston, says Mr. S. B. Capen, President of the Municipal League, the assessed polls in January, 1895, were 143,435. Of these but 88,214 were registered, and only 70,191 — less than one-half of the eligibles — took the trouble to vote. Ward 11, the home of the rich, shows the lowest proportion of actual votes, as compared with registered citizens. The full figures are: assessed polls, 7,809; registered, 4,807; votes cast, 3,533. Ward 9, the Beacon Hill ward, shows assessed polls, 3,838; registered, 2,260; votes cast, 1,687. And at a party primary held in Ward 11, there were but 81 votes cast in four precincts out of 800 entitled to vote.

Up to the present time the greater part of the agitation for better government consists in bitterly criticising the intelligent voters who stay at home, and beseeching them to meet their political duties. It is assumed that their only reasons are bad weather, dirty politics, business engagements, and lack of public spirit. Indeed, such reasons come to the surface; but even when these classes are aroused, as at the present time, and ready to do their share of work, no one can fail to see that they are cowed and silenced by their utter helplessness and the hopelessness of their cause. Sep-

arated by arbitrary ward lines in narrow districts, they cannot get together throughout the city. If they have a record of independence, the party primary excludes them; and, if admitted, they are not a match against the party organization. Politics is a business. It requires time and strength. The politician does the least of his work in the primary. The real work is done beforehand, and the primary registers the "cut-and-dried" decrees. America has no leisured citizens who can afford to give themselves to this work. They must leave it to the professionals.

With proportional representation the party primary loses much of its significance. Nominations can be made by petition. Municipal leagues, civic federations, business men's associations, chambers of commerce, labor unions, have their completed organizations. These can nominate their tickets by petition, or can indorse those already nominated. As in English cities, where it requires but eight signatures to nominate a candidate for the municipal council, the matter would adjust itself, and there would be no danger from a multiplicity of candidates and tickets. With such facility in the nomination of independent tickets, and with independent parties holding the balance of power, the party primaries would fall into disuse. Politicians would not struggle to control them, seeing that even if successful, yet their

party could not elect a majority of the assembly, and so make it worth while for them to control the primaries. They would learn also to nominate by petition, as is the practice in other countries.

At the same time the primaries and conventions must be recognized at present as the sources of power. The most serious evil connected with them, and the one which gives the machine its control, is the practice of exclusive majority rule. Committees and delegates are elected by a majority vote on the principle of the general ticket, or else the chairman is authorized to appoint them, and he is the product of a majority vote. The true purpose of a primary or convention, as representing all sections of a party, is defeated. It is proper that the majority should elect the chairman, or nominate single candidates; but why should the majority be alone represented on committees, delegations, and general tickets? Plainly, here is need for a further application of the proportional rule.

Mr. D. S. Remsen of the New York bar, in his essay on "Primary Elections," has made a careful study of the rules governing party organizations, and the management of primaries and conventions in the United States. He advocates a plan of primary election similar to Mr. Hare's single transferable vote already described in these pages. It is probable that the complexity involved in counting the votes according to that

plan would cause it to break down in the confusion of a mass-meeting and in the hands of tellers who are inexpert. A plan is required which will be simple and quickly worked. Such a one has been proposed by Dr. L. B. Tuckerman of Cleveland, Ohio, and is described by its author under the title, "Election by Preponderance of Choice."[1]

"1. Each voter writes on his ballot as many names as there are persons to be chosen, writing the names in the order of his choice, first choice first, second choice second, and so on. When nominations are made before balloting, it is more convenient to write them on a board where all can read them.

"2. In tallying the vote, the tellers read the last name on each ballot first, crediting the name with one tally; the name next to the last, second, crediting the same with two tallies; and so on, always crediting the name written first on each ballot with as many tallies as there are names written on that ballot. Thus a ballot written:—

SMITH
BROWN
JONES
FETZER
COLEMAN

[1] *Proportional Representation Review*, September, 1893.

would be read, Coleman 1, Fetzer 2, Jones 3, Brown 4, Smith 5.

"3. The person receiving the highest number of tallies is first declared elected; the person receiving the next highest, next; and so on, until all the vacancies are filled. In case of a tie with but one vacancy to be filled, the incumbent is determined by lot.

"The practical working of this rule is that every element in the electing body large enough to have a quota, finds itself proportionately represented, and by its own first choice or choices. Suppose, for instance, a caucus in a ward containing one hundred voters. They are to choose delegates to a convention. Suppose there are two factions, one counting on fifty-five voters, the other on forty-five, and the contest so lively that a full vote is polled. Suppose, further, that the first faction decides to support A, B, C, D, and E, in the order named, and the second F, G, H, I, and K, the resulting ballot will tally as follows:—

A $55 \times 5 = 275$	F $45 \times 5 = 225$
B $55 \times 4 = 220$	G $45 \times 4 = 180$
C $55 \times 3 = 165$	H $45 \times 3 = 135$
D $55 \times 2 = 110$	I $45 \times 2 = 90$
E $55 \times 1 = 55$	K $45 \times 1 = 45$

"The five highest are A, F, B, G, and C, three of the majority faction and two of the minority —

the first choices, the representative men of both parties. The advantage of this method in a caucus or convention is that it reaches the result certainly, directly, and quickly; there is no counting the number of ballots cast, and dividing by the number of persons to be chosen, to find what the quota is."

This plan, while simple enough, is open to objections similar to those described in the case of the limited vote and the cumulative vote. It would be a mistake to adopt it by legislation, though it is convenient for the use of voluntary assemblies. With the legalized primaries and the direct nomination of candidates by the voters, exactly the same system should be used as the one that is adopted for the general elections. This would be either the Belgian or the Swiss system, with such modifications as are adapted to the American party-column ballot and American habits of voting.

With a rule of this kind governing primaries and conventions, we should accomplish within party lines results similar to those to be accomplished by the proposed bill between parties. All classes within a party would be represented, "packed" conventions would be unknown, the party machine would be shorn of much of its undeserved power, tickets would be nominated with candidates acceptable to all ranks of the

party, the necessity for independent tickets would be largely obviated, and citizens would be more inclined to attend their party primaries, knowing that their wishes would find expression.

When finally we come to the elections, proportional representation would go far towards bringing out a full vote. There would be none of the present hopelessness. "It is only the fear of wasting their votes on good men who have no chance of winning which deters the people from voting against the bad candidates who are forced upon them by the regular machine."[1]

So crude a measure as compulsory voting could not change the results of the present system. In two recent elections in the Swiss canton of Zurich, with a compulsory voting law applying to two communes, 21 per cent to 24 per cent of the ballots were blanks, while in the communes without the compulsory law, 17 per cent and 20 per cent were blanks.[2] Compulsory voting does not furnish an outlet for independence. It would rather tighten the control of the party managers.[3] We have seen that the margin of mobile voters who change from one party to another is seldom more than 5 per cent of the maximum total vote in a presidential year. Compulsory voting might

[1] Chas. Richardson in *Annals of American Academy of Political and Social Science*, March, 1892, p. 86.

[2] See *Direct Legislation Record*, September, 1894, p. 63.

[3] See Hart, "Practical Essays," p. 51.

possibly change this proportion slightly, but it could do no more than substitute one machine for another. The real problem is not how to compel unwilling electors to vote, but how to give effect to the votes of those who are willing.

CHAPTER VII.

"PARTY RESPONSIBILITY."

THE ideal of democratic government in the United States has centred about the principle of rule by the majority of the people. Its aim is Bentham's aphorism, "the greatest good of the greatest number." The means whereby in practical politics this greatest good is to be secured is to divide the people into two political parties based on numbers alone, and to give to one of these parties entire control of government in at least its legislative and executive departments. If the people happen not to be divided in such a way as to gather a majority into a single party, then a plurality is to be permitted to choose the governing officials. By this process it is maintained that the rule of the majority is secured through the device of what is known as "party responsibility."

It must be noticed that the word "party" in this connection has a double meaning. The argument begins with the conception of a popular party composed of a mass of voters; it ends with a party of office-holders and law-makers who are elected by the voters. These officials are commis-

sioned as a kind of extra-legal corporation to conduct the government, and are required to appeal often to the voters for continuance in power.

One thing overlooked in this form of government is the quality of the individual men who constitute the governing corporation. Individual statesmen do not stand out as leaders of the party or the people. They all are merged in a corporate mediocrity. The bosses who actually control the corporation by no means represent the popular party, much less can they command a majority of the popular vote. They are irresponsible. A party and not a man becomes responsible.

Proportional representation is advocated as a means for supplementing party responsibility with the individual responsibility of law-makers to the people. It will do this, first, by bringing into legislative assemblies able and experienced men, the true leaders of their parties and the people.

The assertion is often made that our public officers and representatives are as good as the people who elect them; that they are representative in the sense of possessing the average ability, intelligence, and integrity, of the community; and therefore the failures of our governments are to be found, not in the machinery, but in the voters.

It is questionable whether this assertion is true. Very often the legislative body is below the average citizenship of the community. But the ques-

tion comes, Do we want only average men to govern us and make our laws? We do not select *average* physicians to save our lives, average lawyers to protect our rights, average ministers to interpret the gospel, nor average tailors, bakers, and carpenters to clothe, feed, and shelter us. We select men of exceptional native ability, who through training have become experts and professionals, men versed in their callings. So in this most important of our delegated services, this revising and framing our laws which regulate the very structure of society, and make our lives, our rights, our religion, and our enjoyments possible, in this supreme service, why should we not select men far above the average? Should they not be men who are grounded in jurisprudence, sociology, political economy, comparative legislation, besides possessing that infinite tact known as statesmanship?

Indeed, the American people do desire such men. They have long been dissatisfied with their law-making bodies. They have been persistently depriving them of power because they are both unrepresentative and inefficient. The people sincerely wish to have capable legislators, but have not been able to enforce their wishes. The reason is that social and legal institutions of themselves possess a certain capacity of natural selection. They are the framework, the environment, within which individuals and classes co-operate. As in

the biological world, those individuals survive and prosper who are best able to utilize the passions, customs, and legal regulations of their fellow-men.

But society, unlike the animals, can change its customs and laws within certain limits, and thereby can change the environment of individuals. New and different qualities are now necessary for survival and power. Such a change is the secret ballot, which handicaps bribery; or civil service reform, which evicts spoilsmen; or hundreds of those political devices whereby government has been for centuries slowly perfected. The same will hold for legislatures. If the people wish to bring to their legislatures intelligence, experience, ability, probity, and sympathy with popular aims, they should first develop those forms of government and that political machinery which will insure adequate security, support, and dignity to such qualities.

Proportional representation would be an improvement of this kind. In the first place, it would secure all the advantages of the English and Canadian practice of non-residency. Five-sixths of the members of parliament do not live in the districts they represent. This enables a political party to keep its leaders always in power, by selecting for them a sure district in which to make their canvass. With proportional representation, as with a general ticket, representatives could be

selected from an entire State or city without reference to their residence in a limited district or ward. The area of choice is widened. A party leader, like McKinley or Morrison, need no longer be excluded from Congress because he happens to live in a district where his party is a minority. Gerrymanders could not be constructed to exclude him. All the money and influence of a wealthy opposing party could effect nothing. His party might be a minority in the State, yet, if it could poll only a single quota of the votes, he would be sure of election. Nothing could exclude him except the disaffection of his own followers.

Neither could factions and interests holding the balance of power dictate nominations, and thus put unknown and opinionless men before the voters. Every faction, every party, every interest, could place its own strongest men in the legislature; and compromise candidates, "dark horses," would be unknown.

Mr. Albert Stickney has found in frequent elections and short terms the root of corrupt politics and machine rule.[1] There is truth in his contention. A representative must indeed give his time to carrying elections. He must placate and harmonize factions. He must properly distribute the spoils, and must not break with the machine. Little time is left to study legislation.

[1] See "A True Republic," New York, 1879.

But with proportional representation, frequent elections would be combined with life-long service, provided the representative retained the confidence of a single quota of the voters. The manipulation of elections would not engross him. His only thought would be to know that in his legislative duties he truly represented his quota of supporters. Frequent elections, on the other hand, would give the people power quietly to drop him if he ceased to represent them. They would simply give their preferences to others on their party ticket, or would nominate a new ticket which would draw from him. Frequent elections under the district system are dangerous to both the good and the bad. Under proportional representation they would endanger only the bad.

The representatives therefore will not only be capable; they will be responsible directly to the people. The objection against proportional representation on the ground that it abandons what is called "party responsibility," proceeds from the assertion that it gives no party a clear majority in the legislature; that ours is a government by political parties, and parties must therefore be permitted to make a record in the legislature or Congress, upon which they can go before the people for approval or rejection.

This objection will be considered later when speaking of minority parties. In this place let

us notice the nature of "party responsibility." It is multiple and corporate. The people can select no individual upon whom to centre responsibility. A party, like a corporation, can be held accountable only through its individual agents. For this reason, cities in the United States are transferring legislative and administrative functions from boards and councils to the mayor. Thus responsibility is fixed. But when a national party of four hundred representatives and senators, besides hundreds of State and local officers, is defeated at the polls, both the good and the bad are defeated together. Why should a representative rise above party expediency when he knows that the deeds of his colleagues will drag him down with them?

There are two features of proportional representation which permit the voters to hold individual representatives, instead of parties, responsible. The first is the fact that parties, if defeated, would lose but a small proportion of their representatives. No matter how close the votes of parties in any State, a popular rebuke would usually lessen its vote not more than five per cent, except in cases where disaffection within the party has brought out an independent ticket. A party having eight representatives in a delegation of fifteen would thereby lose not more than one. Under the district system, as has been shown, a reversal of five per cent is

catastrophic; and an entire party, good and bad, go down together. Thus the idea is unduly prominent that the people reject the party as a whole, and the fiction is fostered of "party responsibility." But with proportional representation only a very few of the party candidates would be defeated.

Now, if the voters have the power to select those candidates who are to be defeated, and to continue the others, shall we not have the essence of individual responsibility? The second feature of proportional representation gives them this power. Not only may electors vote for "tickets," they may also indicate their preferences for individual candidates upon their party ticket. Thus, in the case of a party expecting to elect eight representatives, and therefore nominating nine, but in the final count electing only seven, the voters by their preferences will have dropped at least two who have not met their responsibility. And, again, in the provisions for nominating independent tickets, and thus drawing off from a political party all those voters who are dissatisfied with the candidates it has nominated, and in the provisions for scattering individual votes among candidates of several tickets, the electors have the widest freedom for distinguishing between candidates, and holding each one personally responsible. Consequently, bad candidates cannot ride into power on a wave of party prosperity, nor can

good candidates be swamped in the ebb of party adversity. Each candidate stands upon his own merits and record, and by these is he judged, apart from the judgment upon his party as a whole.

With all parties fairly represented by their ablest leaders, legislatures would become deliberative assemblies, instead of arenas for party strife. The objection against proportional representation has just been cited, that it would nullify party responsibility. It is said that it would do this by giving a small minority the balance of power and enabling it to dictate legislation. This would weaken the government and prevent a consistent policy. We have frequently noticed the very close popular vote as between the two great parties, neither of them receiving a majority. Third and fourth parties, therefore, if given their proportionate weight in legislation, would often hold the balance. Of course, with the existing system they already often have this advantage, but with proportional representation the same would more frequently happen.

The weight of this objection, the most serious yet presented against proportional representation, varies in different grades of government. Political parties are divided on national questions. City and State politics do not (or should not) follow the same alignment. Leaving the consid-

eration of city politics to another chapter, we may at this point examine the objection as applied to Congress (and incidentally to the State legislatures), where it has its greatest force, and where pre-eminently party responsibility may be expected to be decisive.

In the first place, the objection overlooks the principle of equality and justice in representation. It may prove here, as elsewhere, that justice is the wisest expediency. It is a curious anomaly, showing confusion of thought regarding democracy, that a people who insist on universal suffrage, and who go to ludicrous limits in granting it, should deny the right of representation to those minor political parties whose existence is the natural fruit of this suffrage. The argument against proportional representation is made that it would enable the degraded and corrupt elements of the community to keep a bad man in the legislature against the wishes of all the honest and patriotic classes; that it would give saloon-keepers and gamblers representation; that it would give too great influence to the socialists and other "dangerous" elements.

Possibly universal suffrage is unwise, and the franchise should be restricted; but, having granted it, the dangerous elements become more dangerous if they are denied that hearing which the suffrage promises. Vice and corruption thrive by

secrecy. Nothing is so mortal to them as exposure. It is suicidal to come out in the open, and defend themselves in their nakedness. The serious fault with the present system is its rich opportunities for under-handed work on the part of the corrupt classes. They alone have no political principles, and can therefore take sharp advantage of the party divisions of the people. By their very corruption they have far more than their proportionate representation. It is a serious evil of the existing system that the two industries most largely represented in municipal councils are those of the saloon-keepers and the gamblers. Far better would be a system which reduces their representation to the same proportions which their numbers bear to the whole community. The corrupt and dangerous classes are a very small minority of the people, but by their well-chosen methods they get majorities in our legislative bodies. Proportional representation would give them a hearing, for they are entitled to it, but it would deny them supremacy.

The argument, however, of those who fear that third parties will hold the balance of power is not based solely on a dread of the corrupt classes, but rather of the idealists, the reformers, "faddists" and "cranks" so-called. They would retain exclusive majority rule and party responsibility in order to prevent the disproportionate influence of

these petty groups. They overlook, of course, the weight of the argument already made, that individual responsibility is more important for the people than the corporate responsibility of parties. They overlook also other considerations.

A significant fact in American national politics is the actual break-down of this presumed party responsibility. In our system of co-ordinate powers, there can be no party responsibility for legislation unless the Senate, the House, and the President agree in politics. Yet since the election of 1876 there have been but six years of such agreement, namely, in the Forty-seventh, Fifty-first, and Fifty-third Congresses. And in the Forty-seventh Congress the Senate was tied, and in the Fifty-third the Senate, with a Democratic majority, was constantly opposed to the Democratic House and President. For less than one-third of the time, therefore, can we be said to enjoy party responsibility. Only where a single party for a long series of years has possession of government, as was the case during and following the Civil War, is it likely to get control of all branches, so that party responsibility can be located. And even in such a period internal dissensions between the President and Congress confuse the public.

Again, a strong government, so-called, is needed mainly in the administration of foreign affairs.

In the American and German systems, as distinguished from the English and French, in which the executive is independent of the legislature, such a government is secured regardless of party revolutions. If this were not so, the deadlocks of the past twenty years would have rendered our system intolerable. At the same time there is no public question which so thoroughly extinguishes party lines as a serious foreign complication.

But there are deeper reasons than these for believing that a just representation of the people by their recognized leaders would guarantee an efficient and stable government, freed from the dictation of extremists who hold the balance of power.

There are but two classes of questions in American politics which are characteristically party questions, — these are questions of the suffrage, such as force bills and gerrymanders, which threaten to deprive one party of its votes; and questions of legislative election or civil service appointment to office. It must be admitted that on these two classes of questions a clear party majority is necessary. But other questions can be compromised. The legislature of Nebraska of 1893 adjourned with probably the best record achieved by any State legislature in several years. Yet it was composed of three parties about equally divided. The legislature spent six weeks out of

the legal twelve in a deadlock over the election of United States senator. Such a matter cannot be compromised except by electing an unknown man. This the legislature did, and then proceeded to law-making. It enacted good laws on important matters, such as railways and indebtedness, which were exciting popular feeling at the time; but these laws were neither confiscatory nor reactionary. They were just to all concerned. There were no deadlocks. Every measure was a fair compromise.

Proportional representation could not exist with a spoils system, and probably not with the election of United States senators by legislatures. It would end in deadlocks and incapacity. But this surely cannot be a serious objection to the reform. On other grounds the country would gain if merit were substituted for spoils, and senators elected by the people.

With these two occasions of difference removed from legislative halls, the possibilities of compromise would soon appear. They proceed from the fact that the majority of the people are not extremists. They will not consent to radical departures from existing institutions. The points of agreement between political parties on principles and measures are therefore far more numerous than those of divergence. Parties differ only on the fringe of policies. Their battles are usually

mock battles inspired by spoils instead of policies. When the *outs* come *in*, they do not radically reverse the policy of their predecessors. Even the tariff, on which they fight their battles, resolves iself into a matter of a very high tariff, or one not quite so high. The country will not permit a return to no-tariff. Other questions, such as free silver and anti-options, are settled by divisions which run across party lines. Upon pensions both parties bring out emulous majorities. River and harbor bills are bargained through by individual "log-rolling," and exchange of favors. On so many of the vital questions do representatives in Congress disregard party lines, that one is led to suspect that the tariff is merely a "war scare" to keep the voters in line.

The fundamental nature of legislation is not party victory, but compromise. Compromise is expediency. Expediency is nothing more nor less than ideal principles and institutions in process of realization. Compromise rests on the fact of growth. Society is developing out of a primitive barbaric state, where human rights were unknown, towards an era when the ideal rights of man shall be recognized and obtained for every individual. One by one the burdens of the past are being discarded in the march towards the goal. And this is expediency — compromise. Enthusiasts appeal to the higher law, and demand that all

obstructions be overthrown at once. This is impossible. These obstructions are not mere coats of mail and trunks and luggage. They are human beliefs, habits, passions, prejudices, necessities. They exist in the very souls of men. It requires time and death to remove them. No more can the physical body separate itself suddenly from immature childhood, and, omitting the period of youth, suddenly leap into ripened manhood, than can the social body abruptly break from its past.

But the social body grows through modifications of social institutions. The family, the church, the State, private property, are all being changed in the direction of social ideals. These changes are made unconsciously, as in primitive times, also consciously, as in modern times by legislation. Here arise the two primary divisions of society, which, shifting slightly, according to the issues in hand, appear in general as the conservative and liberal parties, the former holding to the things already achieved, the latter urging change.

These different classes and interests come together in the legislative halls. The circumstances of the time compel change. The radicals demand extreme measures. The conservatives resist. If, now, the system of representation is such that neither has a majority in the legislature, but the

overwhelming majority of the people who hold moderate views is adequately represented and holds the balance of power, compromises will result. Measures will be examined, debated, amended, until they reach the shape which will command a majority of the votes.

There is no measure in politics which cannot be thus modified. Even the question of slavery could have been compounded. There are a hundred intermediate positions between immediate emancipation and permanent slavery. Had a law been enacted in the '40's or '50's providing for gradual emancipation, even upon the basis proposed by Abraham Lincoln, of a hundred years, the Civil War might have been averted. But the district system had excluded from Congress Democrats from the North, and Whigs from the South, men who occupied a middle ground, and the antagonism between the sections was thereby exaggerated. Especially was it affirmed by a committee of the United States Senate in 1869, and it is well known to students of history that the South was not fairly represented in Congress. A large minority of the whites were in favor of the Union, and doubtless they could have been brought to gradual emancipation. But they were excluded from the State legislatures and from the halls of Congress. The slave-holding oligarchy precipitated the South into rebellion; and when the

die was cast, the people were forced to follow.[1] Would not compromise have been better than war? Would not the Negroes to-day be in a better condition?

Compromise seems to compound with evil. "No question is settled until it is settled right." True indeed. There is a base compromise born of pusillanimity. It fortifies and strengthens the evil. But true expediency plans for the ultimate extinction of hoary wrong. It recognizes, however, that right is not all on one side. Historical conditions, inherited privileges, legal enactments, of themselves create rights. Slave-owners should have been compensated, as in the West Indies, or else been granted time to prepare for emancipation, as in Brazil. The district system prevents this kind of compromise. It keeps new parties out of representation. Their leaders have no influence on legislation, whereby they might force a compromise looking to the future. Thus the anti-slavery movement had no strength in Congress commensurate with its strength among the people. It was choked and suppressed until it became irrepressible. It ended in civil war, immediate emancipation, and no compensation.

It must not be supposed, therefore, that pro-

[1] See Report of the Select Committee of the United States Senate, on Representative Reform, Senate Document Fortieth Congress, Third Session, No. 271, March, 1869.

portional representation, by increasing compromise, would prevent reform. Indeed, it would bring forward the day of genuine reform. And this not by erratic jumps or civil war, but like the steady processes of nature. Reform movements would have a hearing in their beginnings. Legislation would prepare for them. The minds of men would ripen for them. Only in this way could they prevent reactions. Those anti-slavery agitators who saw in Lincoln's proclamation the final triumph of their work, and those extremists who gave the new-fledged freeman the ballot, may well to-day look back with chagrin on those exultant measures. The slave is not yet free. He was not ready for the ballot. He has even been openly disfranchised. And the South is a land of smothered anarchy. Surely gradual emancipation and progressive enfranchisement would not have been slower in final results than were those uncompromising reforms.

So it is with present-day reforms. By means of proportional representation they would show themselves inside party organizations. At present our parties are grown over with a crust of tradition. They do not respond to the growing body within. There is a false feeling of security on the part of managers. New movements being unrepresented, the leaders run to extremes. These have not the advantages of responsibility, of con-

ference and friction with the representatives of existing conditions. Hence they become visionaries instead of practical reformers, and the public learns to distrust them.

Mr. Wm. Dudley Foulke, president of the Proportional Representation League, has said : [1] —

"The result of nearly all political action is compromise. In the present system this compromise is made when the great parties are organized. It is made amid the excitement of a political convention. When proportional representation is adopted those compromises will be made in the legislative body, where all can see more clearly the strong and the weak points of every claim. Suppose you are in favor of some particular reform — civil service reform, for instance — will you have a better chance of success when you urge your claims upon one of the two great parties in the turmoil of a political contest, or where these claims can be freely presented by your own representatives in the legislative body? Let us suppose, for instance, that we have a number of prohibitionists in a legislative body, sufficient perhaps to control the balance of power, what will be the probable result of legislation? A prohibitory law will hardly be adopted — for this would be in opposition to the great majority; but stronger temperance legislation will be enacted — local option, for instance, or more stringent excise laws. It is by such compromises as these that civilization makes its safest and most effective strides. Small factions which control the balance of power may occasionally get more than they are entitled to, but this will only be the case where there is some greater issue between the larger parties which compels the relinquish-

[1] *Proportional Representation Review*, December, 1895.

ment of something for the sake of obtaining something of greater importance. Compromise is of the essence of popular government, and the fairest compromises are most likely to be made when all phases of popular thought are proportionally represented."

The first effects of every innovation are always viewed with alarm. So accustomed are we to the workings of existing institutions, that, though we acknowledge their imperfections and injustice, we rather cling to them than risk the imagined incidental results that may flow from the triumph of justice and fairness. Our principal difficulty is our failure to perceive that a far-reaching reform, which strikes at the root of existing evils, brings with it a series of changes which harmonize with it. We assume that under the new system all conditions, except the mere mechanical improvement, will remain the same as they are before. At first, indeed, the people might not fully understand the innovation, and shrewd schemers might take advantage of their ignorance; but soon they will comprehend it, and will adjust their actions to it. It does not follow that, with proportional representation, third parties, composed of so-called "cranks," "faddists," impracticables, "anti-vaccinationists," repudiationists, or what not, would increase in size, and continuously hold the balance of power. A few able men of noble humanitarian, though "visionary," ideas, in every

assembly, would be an actual gain. But if their views are truly impracticable and unjust, nothing will so demonstrate the fact to them and their followers as the responsibility for practicable legislation, and the hard contact with other views upheld by men of ability in legislative halls. Idealist reformers would send their ablest spokesmen. Other parties in self-defence would be compelled to do the same. The representative assembly would become the great forum of the people. Its debates would command attention. It would educate the nation. Reformers would see that their cause is strengthened, not by sending eccentrics to Congress, but by sending capable, all-round men. At present, having no representation whatever, only their extremists can attract attention. The very nature of reform movements would change. There are many sensible citizens who to-day would gladly see political and industrial conditions improved, but who find no place in the dominant party organizations, and are distrustful of the extreme reform organizations, and are therefore enrolled in that army of often nearly half the voters who stay at home. These men would take an active interest in politics, and would modify by their new-found influence the personnel of both the new parties and the old. In these ways the balance of power would be held, not by "faddists," but by the

solid, patriotic, disinterested citizenship of the country.

Proportional representation was advocated thirty years ago in the interests of the minority. It was thought to be a promising corrective of the newly widened suffrage. The franchise in England was extended in 1867 to the artisans, and in 1884 to the agricultural laborers. In the United States it was granted in 1869 to the Negroes. Conservatives thought minority representation was necessary to protect the rich against the confiscation of these mobs. This was partly the thought of John Stuart Mill, in his classical work, "On Representative Government." But to-day it is advocated in the interests of the masses. John Stuart Mill knew nothing of the power of the lobby as against an extended franchise. One man of wealth has the influence of a thousand farmers, storekeepers, and laborers. But the lobby is a dangerous machine in legislation. It protects the unscrupulous for a while, but stirs those vindictive passions which finally lead to indiscriminate spoliation. Far better for one and all would be fair and open compromise! If legislatures were deliberative assemblies, bringing together the leaders of all classes and interests, this would be secured; and the progress of enduring social and industrial reform would be quickened.

These considerations have a bearing upon the

arguments for the so-called "Direct Legislation" by the people. Direct legislation exists at present in various forms in every canton of Switzerland. Three of them have no legislature, retaining the primitive primary assembly of all the voters. Direct legislation applies to cantonal and municipal questions, and has been extended to federal legislation. It exists in two principal forms, the Initiative and Referendum.

The Referendum is the right of the people to vote upon a law which originates in the legislature. This exists in two forms, the optional and the obligatory. In the optional referendum the proposed law is referred to the people only when a certain proportion of the citizens, usually one-sixth to one-fourth, demand it by formal petition. It exists in eight cantons, and in the federal legislature. The obligatory referendum permits no law to be passed, or expenditures beyond a stipulated sum to be made, by the legislature, without a vote of the people. It exists in eight cantons, including the two most populous — Zurich and Berne. The tendency in Switzerland has been to pass to the initiative and the obligatory referendum as the complete and only satisfactory form of "legislation by the people."

As applied in America, the referendum promises decided advantages over delegated legislation. It would take important questions out of party

politics. Legislatures already use it for this purpose, especially in liquor and local-option legislation. It would educate the people on public questions. The press in Switzerland to-day "has a *rôle* more preponderant than formerly." But its principal advantage is as a check upon corrupt, incapable, and unrepresentative legislatures. It utterly deprives them of power. It has banished the lobby from Swiss legislation. Representatives cannot sell out, simply because they cannot "deliver the goods." The people alone decide. The referendum is a club of Hercules in the hands of the people. But it does not create; it destroys.

This is shown in various ways. The people can vote only on certain, large, simple, well-defined measures, such as loans, public improvements, saloon license, etc. The details of legislation in these days are far more important than ever before. This gives abundant opportunity in the legislatures to introduce "ambiguous phraseology or provisions which would neutralize the purpose of the bill, or make it unconstitutional or obnoxious."[1] Consequently the people are better able to vote for *men* than for *measures*. This is shown by the following examples: —

In New York, in 1894, the vote on the revised Constitution was only 57 per cent of the vote cast for governor at the same election; the vote on

[1] Alfred Cridge, in "Hope and Home."

apportionment (gerrymander) was 59 per cent; and the vote on canal improvement was 60 per cent.

In California, in 1892, the vote on five amendments to the Constitution and four propositions ranged from 53 per cent to 80 per cent of the votes cast at the same election for members of the assembly. (Popular election of senators 80 per cent; educational voting qualification 77 per cent.)

In Ohio a Constitutional amendment to tax franchises of corporations was lost three times, although the majorities in its favor were large, simply because the total vote on the question was less than 75 per cent of the total vote cast at the same elections for state officers, as required by the Constitution.

In Switzerland, of the twenty federal referenda during 1879–1891, the average vote was 58.5 per cent of the total number of voters, ranging from 40 per cent to 67 per cent. Upon the "Right to Employment" it was 56 per cent.[1]

In Zurich a larger percentage of votes is cast, owing to the compulsory voting law; the average on 133 cantonal propositions of all kinds being 74 per cent of the eligible voters. 26 per cent of the votes were blanks, while in two recent elections of candidates 21 per cent and 24 per cent were blanks.[2]

[1] A. B. Hart, "The Referendum in Switzerland," in *The Nation*, September 14, 1894.

[2] J. W. Sullivan, *Direct Legislation Record*, September, 1894.

In Switzerland it turns out that many bills are approved or rejected in the referendum not on their merits, but on the questions "Confidence" or "No Confidence" in the legislature which submitted them. In federal legislation, twenty-seven laws and constitutional amendments were submitted to the referendum (optional) during the years 1874 to 1894; and of these fifteen were rejected and twelve approved. In Zurich, with the compulsory referendum, there were 128 legislative acts voted upon between 1869 and 1893. The people ratified ninety-seven, and rejected thirty-one.[1] A few laws at first rejected by the people were later adopted; and although Zurich is engaged in manufacturing and has a large working-class vote, it has rejected laws reducing the period of work in factories to twelve hours a day, protecting female operatives, making employers liable for accidents to employees, increasing the amount of education in the public schools, and providing free text-books.[2] These votes do not mean always that the people are more conservative than their representatives, but that the particular form in which the legislature drew up the measures and the personnel of the legislature itself were not satisfactory to the people. These adverse votes

[1] See A. Lawrence Lowell, "The Referendum and Initiative," *International Journal of Ethics*, October, 1895.

[2] See Lowell as above.

on advanced measures should be compared with the votes when the referendum was first established in 1869. Says Herr Burkli, "The Father of the Referendum:"[1] "The plutocratic government and the Grand Council of Zurich, which had connived with the private banks and railroads, were pulled down in one great voting swoop. The people had grown tired of being beheaded by the office-holders after every election."

The unrepresentative character of the legislatures has led to the Initiative, whereby the people purpose to draw up their own measures, and have them voted upon without the interference of the legislature. A petition signed by six to eight per cent of the voting constituency submits the bill to the legislature, which must in turn promptly submit it unchanged to the people, though it may express an opinion or submit also an alternative proposition, if it wishes. The cantonal initiative exists in fourteen of the twenty-two cantons, and was introduced into federal legislation in 1891.

But the initiative is almost valueless as a means of legislation. It, indeed, educates the people and shows the weakness of extremists, as when the initiative federal bill, guaranteeing "right of employment" to every citizen, was rejected by a vote of four to one; but it does not enact good laws. In Zurich, from 1869 to 1893, nineteen initiatives

[1] Quoted by Sullivan, "Direct Legislation," New York, 1893.

were voted upon. "Four of them the legislature advised the people to adopt, and of these two were ratified at the popular vote, and two were rejected; but of the other fifteen proposals which were disapproved by the legislature, only three were enacted by the people. One of these set up houses of correction for tramps, a measure the wisdom of which was much doubted; a second re-established the death penalty, but this came to nothing, for the people rejected, at the referendum, the law which was prepared to carry it into effect; the third abolished compulsory vaccination."[1]

The initiative is weak for the reasons already given as to the true nature of legislation. It prevents compromise and mutual concession. Measures are drawn up, not by a body representing all interests, which would therefore be fair to all, but by a faction or group of extremists. It by no means embodies the joint wisdom and sense of justice of the community. It therefore cannot often command a majority of the votes; and if it does, the animus is likely to be not a generous spirit of tolerance, but a petty hatred of a small minority. This is shown by the recent federal referendum forbidding the slaughter of animals by bleeding, which was adopted mainly to persecute the Jews.

The referendum, on the other hand, exhibits

[1] See Lowell, as above.

strikingly the unrepresentative character of the legislatures. The people reject both measures patently vicious and others whose details they suspect, merely on the question of confidence in the legislature.

Unquestionably direct legislation in the form of the referendum would serve an important purpose in the present condition of American politics. It would promptly bring all legislative assemblies to a standstill. But, as in Switzerland, it would make them no more attractive than now to the ability and statesmanship of the country. They would be simply advisory committees on legislation, with no responsibility, attracting neither the political leaders, nor enlisting the popular vote at elections. But the political atmosphere would be cleared. The people would have relief from the surfeit of partisanship and corrupt influences. They could calmly contemplate the obstacles to popular government. In Switzerland, direct legislation is being followed by proportional representation. Five cantons have adopted it since 1891, through the referendum. Four have rejected it by referendum, in some cases because it was confused by partisan legislatures with other issues.[1] But in two cases an initiative is demanding a new vote. The opinion is expressed that "in less than

[1] See *Bulletin des Schweiz. Wahlreform-Vereins für Proportionale Volksvertretung*, No. 8 and 9, Mai, 1894.

ten years the whole of Switzerland will have proportional representation carried out peaceably, without revolution and bloodshed."[1] Thus direct legislation proves to be an efficient instrument, not so much for legislation, as for reforming the legislatures. If the arguments presented in the foregoing pages are valid, and proportional representation brings into the legislatures the political leaders of the people, transforming them from partisan organs into deliberative bodies accurately representing the public, we may expect that the referendum and the initiative in Switzerland will be gradually discontinued, but not until they have made possible a genuinely representative democracy.

The preceding discussion is concerned only with the legislative department of government. However the executive may be chosen, he is properly only the agent of the legislature. As such he is not called upon to exercise discretion, which is the prerogative of legislators, but to execute laws exactly as their framers contemplated. He is therefore, strictly speaking, not a party official, but a non-partisan agent. As a matter of efficiency, he should be in sympathy with the ruling policy of the legislature. There is therefore no reason why minority representation should be

[1] Charles Burkli, in *Proportional Representation Review*, September, 1895.

introduced in the executive department. Where it has been attempted, as in the executive boards of Switzerland, the results are unsatisfactory. Practical efficiency also requires that the executive head be a single officer, and this excludes the principle of minority representation.

The case is somewhat different with the judiciary. This branch of government interprets the laws, and applies them to particular cases. To a considerable extent it creates new laws through its application of recognized principles to new conditions. In the United States it has also an important political function through its control over the legislature. Whether, therefore, judges should be appointed or elected is a debatable question. Undoubtedly, if the courts further extend their powers over legislation, they must, like the legislatures, be made elective. Any other policy would be destructive to democratic tendencies. But if the courts are to come under the control of machine politics through popular elections on party tickets, they, too, must sooner or later become degraded. Already supreme court and inferior judges in various States are known to be nominated and elected by saloon and corporate interests with a view to their action on the constitutionality of important statutes.

Possibly proportional representation will solve the enigma of an elective judiciary. Police magis-

trates in Philadelphia and supreme court judges in Pennsylvania are elected by the "limited vote," a form of minority representation, which, as already explained, makes them directly the agents of party politics. The principle, however, might be employed with a better form of proportional representation, which would tend to remove the bench from partisan control.

The problems of the executive and judiciary are subsidiary ones. They have appeared important only because the failure of legislatures has imposed heavy obligations on the co-ordinate branches of government. The legislatures have been unrepresentative in character because the theory of party responsibility has prevented reform of electoral machinery. More important than party responsibility is such a perfection of methods as will maintain individual responsibility of all officials directly to the people. By proportional representation this would be secured, and with it would appear in legislative assemblies the leading men of the city, State, and nation — men who would possess that spirit and capacity of just compromise which proceed only from wide experience, distinguished ability, and patriotism. With such men in power it would no longer be necessary to hold a majority of the legislature together by the party machine, but new majorities could be trusted to be formed on every ques-

tion in harmony with the wishes and interests of all the people. And instead of idealizing the rule of a mere numerical majority on the plea of the greatest good of the greatest number, we should promote mutual concession for the sake of a broader ideal, the greatest good of all the people.

CHAPTER VIII.

CITY GOVERNMENT.

It is admitted that a portion of the arguments in the preceding chapter is in advance of what the public is ready to accept. Jeremy Bentham is quoted as saying that a reform may be so entirely just that all classes will forthwith join together to defeat it. Not only must it be just, it must be practicable; and it must not run counter to public prejudice. We as a people are not yet ready to abandon the notion that party responsibility in Federal affairs is essential for safety; and even in our State governments the election of senators by State legislatures, and the congressional gerrymanders, force us to decide State questions by Federal parties.

But in city affairs it is different. The thinking and practical public is consenting, even insisting, that city politics must be separated from State and Federal politics; that a man's views on the tariff have nothing to do with his views on special assessments, health administration, franchise-stealing, or police. It is also agreed that third parties in cities are not composed of visionaries and irresponsibles, but of the intelligent and

well-to-do classes. Consequently, reformers are appealing to citizens to abandon their political parties in city elections, and to vote for the best man on business principles. Independence in city politics is coming to be dignified and respected. Public prejudice may soon permit the necessary political machinery for promoting this independence. But up to the present time what has been done?

The city is looked upon as a business corporation, instead of a political corporation, to be managed in a business manner. It must therefore have its general manager, who shall appoint all heads of departments, and become clearly responsible for its administration. Power must be taken from the council and from boards, and be concentrated in the mayor. The mayor must be elected by popular vote.

Mr. James Bryce calls this a "cure or kill" method of government.[1] It places tremendous interests at stake in every election upon the turn of a few votes. When the people are thoroughly aroused they may elect a good mayor. But how? Usually, as recently in New York City, one of the two political party machines must be recognized in the nomination. A compromise candidate must be agreed upon, and the other elective officials must be properly distributed so that this machine,

[1] "American Commonwealth," vol. i., p. 617.

usually in the minority, may get a share of the spoils. But in case such a patchwork ticket cannot be arranged, the independents are forced to nominate a ticket of their own. Here the result is familiar. Three candidates are in the field for one office. The great majority of the voters adhere to their party. The independents cannot elect their man; they can only draw from one machine to the success of the other. And it is usually found that the two machines have an agreement both to keep the field as a lesson to the reformers, and afterwards to share the offices.

Thus the one-man system compels the very thing which the reformers deprecate, the introduction of Federal politics. It does not permit the introduction of a third element wholly disentangled from any alliances with the two dominant parties. To ascribe the failure of mayoralty despotism to the indifference of the intelligent and business classes is to overlook the fact that the system of majority election, all the way from primaries and conventions up to the mayor, rigidly excludes those classes. They may be aroused for a time, may abandon their Federal politics, and may join in a popular uprising. In that case the independent movement may show considerable strength, and in isolated cases may control the election. But popular uprising is not the normal condition. It is rebellion, it requires

unusual exertions and great expenditures of time and money by the few who take the lead. It depends upon impromptu organization, and soon exhausts itself. One or two mayors may be elected through its influence; but the politicians know that, by quietly waiting, their turn will come again. This explains why the advocates of one-man power, in looking about for the failure of their remedy, are beginning to ascribe it to the short term of the mayor, which prevents him from developing a "policy."

This last explanation of failure shows us a fault not only in the practice, but also in the theory, of one-man rule. The city is not merely a voluntary business corporation organized to economize the taxes of the stockholders; it is a compulsory corporation, into which men are born. It is a branch of the State, and exercises the sovereign functions of eminent domain, taxation, ordinance-making, based on compulsion rather than on free contract. In a private corporation the interests of the stockholders are all in one direction — the increase of dividends. In a political corporation different classes of citizens have often different interests. Therefore all interests and classes should be represented in its administration. In what direction its sovereign powers shall be employed is a *political* question, involving justice and expediency as well as business. Shall taxes

be levied to protect health, to extend free schools, to cleanse the slums, to buy water-works or street-car lines? — these are a few of the political questions which cities must consider. Upon these questions there is room for an alignment of political parties, of conservatives, and progressists, as much as in Federal politics, but not corresponding to the Federal alignment. The mayor represents only the majority. If he has a "policy," it should affect nothing more nor less than the execution of the laws and ordinances; and these a representative body must determine — if not the municipal council, then the State legislature. They are not matters of free contract to be agreed upon by private individuals; they are coercive enactments to be executed by the mayor and the police. They cannot be determined except to a limited extent by the initiative and referendum, for reasons already given; and if municipal home rule is to be extended or even retained, they must be determined by local legislation.

But "the council," says Mr. Seth Low, "is the great unsolved organic problem in connection with city government in the United States." Originally given complete control of city affairs, it has been forced to share its power with other branches. To its incapacity and gradual subsidence are to be ascribed the miserable plight of our cities.

German and English cities retain the council as

the all-important and only elective body of city officials. But it is doubtful whether American cities can learn from them. European cities do not have a heterogeneous population of foreigners and foreign extraction furnishing one-half the votes or more. Neither do they have universal suffrage. In New York one person in six is a voter; in Glasgow, one in nine; in Berlin, one in eleven. In Berlin the voting age is twenty-five; and non-taxpayers, numbering 10 to 15 per cent of the men of voting age, have no vote whatever. The council is elected by an ingenious "three-class" system, in such a way that 10 to 15 per cent of those who vote — including only the very wealthiest citizens, numbering not more than 7 or 8 per cent of the total male population above twenty-one years — elect two-thirds of the council.[1] In Glasgow, 25,000 adult males — equal to one-fourth of the population — are disfranchised; while the influence of property is still further emphasized by the provisions that women may vote provided they are taxpayers, and also suburban merchants and property owners who live within seven miles of the city.

The restrictions in all British cities on registration, the requirements of two years' residence in the same precinct, and the exclusion of those

[1] See Albert Shaw, "Municipal Government in Continental Europe," p. 307, ff.

who receive public relief, disfranchises many thousands of the poorest classes who freely vote in America.[1]

France, with a wider municipal suffrage than Germany or England, nevertheless disfranchises habitual drunkards, recipients of public poor relief, and those convicted of crime. It is significant that France, with her comparatively wide municipal suffrage, elects municipal councilmen below the ability of those in England and Germany, and that city government in that country has been centralized in the hands of the mayor who appoints all subordinates. He is elected by the council, but can be removed by the prefect of the department. In Paris there is almost no home rule; the two prefects who govern the city being appointed by the president of the Republic.[2]

It is generally agreed that the government of English and German cities is superior to that of American cities. Public officials are renowned for their honesty, efficiency, and the economy of their administration. The municipal councils include the best and most intelligent citizens, who serve without salary. And yet they who thus represent the wealth of the community have promoted much further than American cities many public services for the wants of the unrepresented

[1] See Albert Shaw, "Municipal Government in Great Britain."
[2] *Ibid.*, p. 23 ff.

masses, such as parks, baths, gas and water supply, cheap car-fares, and many others. The reason for this is probably to be found in the very purity and efficiency of their administration, which encourages the citizens to intrust to their municipalities many functions which the corruption of American cities forces them to remand to private corporations. In German cities, also, the compulsory enlistment of private citizens of wealth and influence in unpaid co-operation with city authorities in the details of administration, acquaints them thoroughly with the needs of the people and stimulates a public spirit. In Berlin 10,000 taxpayers are thus enrolled, nearly 2,500 being in the department of charities. That a restricted suffrage would bring similar results in American cities is not to be expected. In the words of Mr. Seth Low, "In a country where wealth has no hereditary sense of obligation to its neighbors, it is hard to conceive what would be the condition of society if universal suffrage did not compel every one having property to consider, to some extent at least, the well-being of the whole community."

Yet it must be acknowledged that the failure of American cities is in some way connected with universal suffrage. The fault, however, lies, not with the extension of the suffrage, but with an obsolete system of election devised for aristo-

cratic and capitalistic representation. The wealthy classes of Berlin, who elect two-thirds of the council, are more amenable to business considerations than are the masses of the voters. Just as little as railway stockholders would consider the Federal politics or the religious belief or any other quality of their directors, attorneys, and managers, except their business capacity, so little would a capitalistic suffrage allow these qualities to influence the selection of councilmen. Were the suffrage restricted to any other single class in the community, little difficulty would be met by such class in selecting its ablest and typical representatives for important positions. School-teachers and professors, if they alone held the franchise, would select the leading men of their calling. Ministers of the gospel would select the leading minister, physicians the leading physician, merchants the most successful merchant, manufacturers the best organizer of industry, and so on. But when the suffrage is extended to all these classes, and they are thrown together in a miscellaneous grouping, and instructed to elect a single representative who stands for them all, they cannot do it. The typical physician does not represent the merchants, nor the most successful merchant the ministers. Compromise candidates must be selected who do not stand out typically as the leaders of any class. Far more difficult is

the problem when the manual working classes, with new and opposing interests, receive the franchise. Not only are the business classes themselves, under such conditions, unable to elect their own typical representatives and councilmen, but the propertyless laborers and the small home-owners are likewise handicapped. The ward lines separate them all into artificial groupings, and prevent those natural combinations based on business and social interests which they would readily adopt could they join together throughout the city, irrespective of residence. Neighborhood, though more compacted, is less united in the city than in the country. Friendship, business alliances, religious co-operation, social enjoyments, bind together people of different wards instead of those of the same ward. The ward system, separating politically those whom interest would join, and so preventing their natural representation, ends inevitably in the party machine, with its military and fraternal organization of the voters who are otherwise separated. It is useful, therefore, only to the astute schemer and wire-puller, the representative and "boss" of the machine, who balances skilfully interest against interest, faction against faction, party against party. He represents nothing but his own shrewd manipulation of the separated fragments of the body politic. His success is that of Napoleon, "divide and conquer."

It is admitted that government by the mayor in American cities is better than government by the common council elected by wards. It centralizes the administration in one head, which is more easily decapitated by a popular uprising than the hydra-headed council. But its limitations and dangerous tendencies have been indicated. The council, however, elected upon the proportional basis, promises more for municipal reform than the mayor. In the first place it would soon remove the government from Federal politics, simply because it would introduce representation of business interests, good citizenship interests, labor interests, and various interests other than partisan, which would hold the balance of power, and prevent every partisan action.

The appeal to voters to abandon their Federal politics in city elections must in the long run be fruitless under a system of majority or plurality rule, where one party by the election of a mayor can capture the entire city government. The prize is too great to be neglected by partisan interests. Party machinery must be constantly active, or else be weakened. To exert influence on national issues, the local organization must find cohesion in local issues. Local victory strengthens its hold on the State and national organizations. The only way to prevent national parties from struggling to control city politics is to introduce a

system which prevents any one party from securing majority control of the city government. If third or fourth parties hold the balance of power, they can check the domination of either national party in city affairs, and so reduce them both to a minimum. And here again, since the public looks on third parties in city affairs with a favor which it does not vouchsafe to third parties in Federal affairs, the time is ripe for a system of city government with proportional representation which will frankly give these third parties the balance of power, and, indeed, encourage them to increase in numbers, variety, and vigor. At the same time, by electing a council of, say, thirty, in annual groups of ten, the quota of representation would be large enough to exclude petty and factious interests, but small enough to represent all interests of municipal significance.

Proportional representation would bring able and public-spirited men into the service of the city. As a legislative body meeting once a week or fortnight, and supervising through their committees, but not administering the city departments, the councilmen would receive no salaries, as in German and English cities; but they would be glad to serve. It is a mistake to assume that the best business men are so engrossed with their private affairs that they would not act as councilmen. Such men already give their unpaid services as

trustees of institutions, as members of State boards of charities, as school, park, and sinking-fund commissioners, and in many public positions where they are not compelled to seek appointment by questionable means. So would they serve in the city council if chosen on the proportional plan in such a way as to be free from humiliating bargains. "Elected in this way," says Charles Francis Adams,[1] "who could refuse to serve? Consider the prestige, the weight of authority and influence, with which any man could walk into a council chamber, who entered it at the head of the poll under such a system as this. No citizen, whether in New York or Boston, so elected, could or would refuse to obey the mandate of his fellow-citizens. And so it would be in the power of any considerable body of voters to lay a hand on the shoulder of any man, no matter how eminent or how busy he might be, and call upon him to perform his tour of municipal duty."

Such citizens, too, would be elected from the different sections of the city. Proportional representation in cities would not abolish local representation. In some cases where a river or a railway system divides the city into two widely different sections, it might be well to provide for two tickets, one for each section. But even without such provision, the parties nominating candi-

[1] "Proportional Representation Review," March, 1894.

dates could bring out a full vote for their tickets only on condition that they distributed the candidates among the sections. And if the voters as a matter of fact attach weight to sectional representation, they can readily cast that weight in their ballots by voting for such candidates as represent their sections. Thus sectional interest must come forward under such a system in its true proportions along with other interests, though it is prevented from becoming the exclusive interest.

With a reformed city council removed from Federal politics, the city administration would assume a new efficiency. The council is not only a legislative body; if it truly represents the people, it must be also an administrative body. Therein it differs from the State and Federal legislatures in that the latter are sovereign in every regard over their respective fields. But the city government is only a branch of the State government, its powers are delegated, and it possesses only those granted by the legislature or the Constitution of the State. Matters of general legislation, such as health, administration of justice, property, and personal rights, in all their manifold forms, are withheld from it. The council, representing the delegated sovereignty of the city, has but limited legislative duties, even under the most generous grant of home rule. It remains, therefore, to in-

quire how far it should be intrusted with administrative duties.

At the present time, civil service reform in the United States has advanced no farther than the control of subordinate positions. It is not even proposed by the ardent advocates of this reform that either in city, State, or nation, it should include the heads of departments. The consequence is that, in the cities where civil service rules apply, there is a double head to each department; a *political* head, appointed by the mayor for his own term of office, and a professional or *expert* head, holding under civil service rules during efficiency. The latter has the entire administration of the details of the service, and the supervision of subordinates; he is an expert who has usually come up from the ranks, and is thoroughly acquainted with every feature of his department. The political head comes and goes with the mayor, and is supposed to represent his "policy." The actual administration, however, he is compelled from very inefficiency to leave to the expert head. Now, civil service reform comes in as a mechanical arrangement to prevent the political heads of departments from applying to subordinates the same rules of appointment and removal as those which are applied to themselves. So far it has best accomplished its aim when administered by a commission appointed independently of the city

authorities, as in Massachusetts by the governor. This commission, after competitive and non-competitive examinations, can alone "certify" candidates for subordinate appointments to the heads of departments, upon requisitions from the latter. Usually, when one appointment is to be made, the three candidates who stand highest on examination are certified, and the head of the department must select one of these. Promotions, too, must be made according to fixed rules of precedence. The object here is to restrict the freedom of the political heads of departments, so that they will not dismiss subordinates in order to appoint their own political adherents.

Undoubtedly, with the existing methods of selecting heads, these rules are indispensable. They give employees security of tenure, they promote efficiency and economy, but above all they prevent the demoralization of the voters, a surprisingly large number of whom are controlled by the hope of office for themselves or their friends.

But civil service reform as thus administered is strikingly inadequate in municipal government. The general testimony is that it succeeds well when the heads of departments are in sympathy with it; but if they are not, they can defeat its aims. On the other hand, if the heads are permanent expert officials, as is often the case in the fire department, they do not need the services of an

outside commission, and are awkwardly hampered by it. The appointment and promotion of subordinates is not a mere mechanical matter of examinations, measurements and averages, which can be done by a commission having no professional and expert knowledge of the services required. Rather is it a work of tact and insight into character, a work requiring that sound judgment, that thorough experience in the service, and that full knowledge of those subtle qualities which bring success in the particular duties required, — a judgment, an experience, and a knowledge which can be found only in the resourceful head of a department, who has served in subordinate positions, and who has at heart the success and honor of his department. The weakness of civil service reform is that it does not reach the fountain and source of efficient civil service, the heads of departments.

A thorough reform of the civil service in city affairs cannot be expected until the political heads of departments are abolished altogether, and the entire administration intrusted to the expert professional heads. In German and English cities the civil service commission as an independent organization is unknown. Heads of departments are selected by the council, sometimes from the subordinates by promotion, but usually from the lists of those who have achieved success and

reputation as heads in smaller cities, having begun their careers as subordinates in both large and small ones. Upon these heads is laid the complete responsibility for the administration of their departments, and, as an indispensable condition of such responsibility, the unrestricted appointment and removal of all subordinates.[1] The council, of course, legally and formally ratifies the action of its heads of departments through its own committees, though not interfering in the election of subordinates.

In the United States an essential feature of government by the mayor, both as practised and advocated, is his unchecked freedom in appointing his so-called "cabinet," the heads of departments. They are his personal representatives in the city administration. But the mayor, as already shown, must necessarily be elected, except in sporadic cases, on the basis of Federal politics. His personal representatives, therefore, must reflect his political complexion. They must come and go with him. They are appointed and removed, not on account of their intimate knowledge of the departments and their eminently successful administration therein, but solely for those political reasons which may, for the time being,

[1] Illustrations of this and other statements regarding foreign cities are found in Albert Shaw's "Municipal Government in Great Britain" and "Municipal Government in Continental Europe," New York, 1895.

strengthen the popular hold of the mayor. As long as the mayor, elected by popular vote, appoints them, such must be their character. They are at the best a useless encumbrance, and in all cases a serious danger to the administration of city affairs.

On the other hand, if a reformed and strictly non-partisan council of the foremost citizens, wherein no single political party held the majority, should appoint the heads of departments, these would not be chosen for political reasons, but simply to carry out the wishes of the council. The latter would determine its own "policy," as far as the city government is empowered to do so; and the heads of departments would be its professional, expert administrators for developing that policy. The civil service commission could be abolished as a wasteful obstruction; and the department chiefs, whose only claim to permanency would be the efficiency of their administration, could be intrusted with entire responsibility in all the details of appointments, promotions, and removals.

Thus it will be seen that proportional representation in American cities will achieve its marked success not merely in the legislative field, but in the more important administrative field. There is, in fact, no half-way position between rule by mayor and rule by council. If Americans accept

the present tendency, they cannot stop short of the abolition of the council. Following that must come longer terms for the mayor; next, removal from office by the governor, not only for malfeasance, but for political reasons, as in France. Home rule, democratic self-government, civic pride, municipal patriotism, must gradually disappear in the face of advancing centralization.

On the other hand, a council elected from the best citizens by the free choice of the voters, as guaranteed by proportional representation, would gradually absorb into its hands the control of city administration. Beginning with the control of taxation, the legislature would remove from it those restrictions against granting franchises and making loans, and those financial limitations imposed by independent boards of estimate and apportionment, which now render even the legislative functions of the council in our large cities a mere formality. Then the council would be able to control the mayor, and to state the terms of financial support. And finally, proceeding from one success to another, the mayor would again be reduced to the position of chairman and dignitary, while the grand committee of the people, representing them wholly and in part, freed from machines, bosses, and spoilsmen, would restore to our cities a genuine representative democracy.

Practical illustrations of the line of reasoning pursued in the foregoing pages might be found in any American city. I will select the campaign of 1895 for the election of mayor and councilmen in the city of Syracuse. The Republican organization had been in control of the city for several years. After both the Republican and Democratic parties had made their nominations for mayor, there was considerable dissatisfaction. A Citizens' Reform party was organized, composed mainly of Republicans. This party offered the mayoralty nomination successively to three well-known and capable citizens, two of whom declined, and the third accepted. Thus three candidates were in the field. As a result, the Democrats elected their nominee on the following vote: Democrats, 9,184; Citizens, 6,018; Republicans, 5,831. At the same election 19 councilmen were elected by wards. Had the councilmanic election been based on proportional representation, according to the vote for mayor, the council would have stood, 8 Democrats, 6 Citizens, 5 Republicans. Neither party would have secured a majority. At the same time the Citizens' party would have met no difficulty in finding eminent candidates. The two men who refused to run for mayor would willingly have accepted a place on a proportional ticket, because a nomination would have been equivalent

to an election. They would not have been forced to undergo the bitter personal attacks which spring from the supreme importance of a single candidate, upon whom depend all the appointments and the distribution of patronage. There would have been no fight whatever over the four or five principal candidates nominated by the Citizens' party. Then, when elected, such men would not have been compelled to drop their private business, at great loss to themselves, their partners, and their families, only to return to it after two years of harassing struggle with spoilsmen. Serving without salaries, meeting once a week, supervising through committees the heads of departments, to whom the actual administration is intrusted, they would have time for their private affairs. Under such conditions, there is no reason why the best men of American cities, as of European cities, should not find the honor and opportunities of an aldermanic seat greatly to be desired. When once elected, and their records made, they would be returned again and again to the council, with no effort, no political wire-pulling, simply through nomination by petition and the untrammelled suffrage of their fellow-citizens. In the council they would hold the balance of power between the two dominant parties. They would prevent all partisan legislation and appointments, would be the spokes-

men for the public opinion of the community, and a rallying-point against corruption in the city affairs.

Here the objection naturally arises, granting that the Citizens' Reform party would be able to guarantee election to its principal candidates, would not the same be true for the regular parties and their nominees? Therefore, would not the proportional plan strengthen instead of weaken the hold of the machines? Could they not elect the very worst candidates whom they might choose? And when elected, could not these representatives of both party organizations combine to defeat the Citizens' party and then divide the appointments and share the corruption funds between themselves? After all, does not municipal reform depend solely upon the renewed interest and independence of citizens in municipal affairs rather than in any mere revision of political machinery?

Unquestionably, the first requisite of any reform is the public spirit, intelligence, and independence of the voters. A corrupt and ignorant electorate can never produce good government. At the same time, the history of the secret ballot legislation in the United States the past five years demonstrates beyond doubt the importance of reform in political machinery. The ballot laws did not create patriotism, public spirit, intelligence, inde-

pendence; but they have given these qualities an advantage which they never before possessed in the electoral contest with bribers. Proportional representation goes farther in the same direction. It offers to would-be independent voters the guaranty that they will not throw their votes away if they cast them for third-party candidates. In the Syracuse election hundreds of voters were influenced by this consideration. A bolt from the Republican ticket to the Citizens' ticket on the mayoralty election was quite generally understood to be simply a vote for the Democratic candidate. But with proportional representation every 1,100 votes turned over to the Citizens' ticket carries the assurance of electing one candidate on that ticket; whereas in the election of mayor it would have required nearly 10,000 votes. So easy and safe is the bolting from the regular nominees under the proportional plan that the political organizations would see the necessity of nominating at least prominent men instead of mere tools and figure-heads. Otherwise the Citizens' ticket could easily increase its share of representation from a third to a half or more of the aldermen. In either case there would be a decided gain. If only the men who engineer the political machines, but who usually hold no offices, could be placed in the municipal council, they would be in a position where the people could condemn them.

And succeeding elections, with the habit of independence encouraged among the voters, would gradually weed out even the least corrupt of aldermen. The voters in American cities are already independent enough to bring about these results. Our cities are not now in need of greater independence among the citizens, but of better machinery for expressing their actual independence.

City government in the United States is at once the direst failure and the brightest hope of our politics. It is based upon the ward, — the pettiest extreme of the district system of representation, — and ward politics is recognized as the worst politics. This is the hopeful feature, that the people acknowledge the failure, and are looking for remedies. What these remedies shall be is not yet clear nor agreed. A great many must be tried and tested, and their defects noted, and finally by experimental selection the fittest will survive. With three thousand cities and villages, America has the widest variety of municipal experiments in the world. Small governments can be reformed more readily than large ones. To experiment upon Congress jeopardizes the nation; to experiment upon cities risks but a fraction. And no experiment scarcely can aggravate the actual situation. From one city to another the successful reform will extend, and finally, like other reforms

in America, proceed to State and national adoption. If proportional representation can be fairly introduced and tested, it is believed that the foregoing pages have indicated the hope of its universal success.

CHAPTER IX.

SOCIAL REFORM.

THE motive of political reform is not a mere academic delight in symmetrical and clean government. It goes much farther. Political reform is only the preliminary to social reform. The most serious objections urged against the interference of the State or the city in promoting social welfare are grounded on the incapacity of administrative officials. The experience of foreign cities has demonstrated the value of municipal ownership and operation of all public services, such as water, gas, electric lighting, and street railways. The efficient municipal governments of Europe have done much more. They have erected municipal dwellings with the best equipments, to be leased at moderate rentals to working people. They have conducted municipal farms, slaughter-houses, savings banks, pawnshops, baths, laundries, ball-grounds, technical schools, with the purpose to improve the condition of the poorest working population, and to elevate the life of every class. In American cities it would seem absurd to intrust such important enterprises to the authorities as at present constituted. Generally, where water-

works, gas, or electric lighting is taken up by a municipality, it is placed in the hands, not of the council, but of a board or commission newly created for the purpose, and elected by the people or appointed by the mayor. This does not bring satisfactory results. It unnecessarily splits the government, divides responsibility, involves wasteful administration. Yet, where the council cannot be trusted, it is the only practicable plan. At the same time, it is so objectionable that it affords little encouragement to those who desire the extension of municipal functions. With a reformed council, however, the way would be open to a business-like administration of all new enterprises which the public might wish the municipality to undertake. The reform of the government of London, through the County Government Act of 1888, which created a council of able and representative citizens, was followed immediately by energetic work in the direction of municipal dwellings, street and dock improvements, abolition of contract work, and purchase of street-railway lines. The latter, throughout the whole area of London, will be owned and operated by the council, and consolidated into a single system within fifteen years.

The people who suffer most from inefficient and corrupt government in the United States are the wage-earning classes. Their streets are ill kept;

sanitary and building regulations are unenforced; heavy charges are imposed for car-fares and gas; parks, playgrounds, and schools are inadequate. So little does the city do for the classes who have no property, that they lose their interest in municipal government, and readily follow the politician who appeals to their prejudices. This becomes a serious matter as these classes grow in self-consciousness, as they begin to learn their political power, and to feel that the motive of municipal government is not to promote their welfare, but to restrict their liberty. They have a majority of the votes, and they tend to combine under machine leadership for what they consider their class interests. Municipal reform must consider the welfare of the masses of the working classes. But it is a mistake to suppose that their welfare will be promoted by giving them exclusive majority rule, as with the present system. Tammany Hall secures their votes, but neglects their homes and schools. A corrupt government, with weak officials, managed by private bosses, can never introduce social reforms. It must first have a share of the business integrity and leadership of the community. There are many men of this type in every city who would gladly enter upon reforms for the people could they be placed in power. If the working classes were free to vote as they pleased, they would soon learn to stand by such men and to keep them in

the municipal council against all the influences of machines and corporations. At present these men are excluded by the very qualities which would make them of service. Proportional representation is the only political reform yet proposed which will guarantee them continued election, and thereby bring about that interest of the working classes in good city government and that harmony of all classes which is becoming indispensable.

Thoughtful persons who contemplate the social conditions of to-day are oppressed by anxiety. So suddenly have a multitude of strange evils sprung into sight that the observer is bewildered, — on one side, an unprecedented concentration of wealth in the control of a few syndicates; on the other, a growing restlessness and frantic attempts at organization on the part of the wage-earning classes. As phases of these changes, there are also the rapid rise of cities where capital and labor meet face to face in secret and open battle; the mobilization of the army near these cities, and the equipment of armories; the increase of the unemployed, of crime, intemperance, and vice; the purchase of legislation and the degradation of politics. But more serious than all is the cynical recognition of these facts in the club-room, the bitter emphasis of them in the back alley and the tenement and among the small farmers, and the hopelessness of

millions of workers. Forty years ago the farmer and his sons worked early and late, opening up the wilderness, but they went and came with songs. To-day they cannot endure it; sons abandon the farms for the cities, work is irksome and a curse; they hurry through it to reach the saloon. Have the people become individually and severally degenerate, or are they distorted by social conditions?

Whatever the causes, the problems are here. And the array of solutions is more bewildering than the multitude of problems. Here are isolated groups of visionaries and enthusiasts, ready to sacrifice themselves for their several panaceas. Here are timid souls anxious to smooth the elements by charity, and beseeching competitors to show brotherly kindness. Here are hard intellects, demanding the police.

The situation cannot remain. It rests on a profound contradiction. On one side is a religion quoted and invoked at school, in the pulpit, by the press, by socialists, even by atheists, which exalts an ideal of human brotherhood and equality; on the other side, an industrial condition fast solidifying class distinctions, and a political philosophy teaching the infallibility of the majority.

The conviction is growing that in some way the government, as city, State, or nation, is to have an important place in solving these contradictions. It

is seen that the church has lost its hold — in the Middle Ages it might have sufficed. Education is not enough — it, with religion, intensifies the unrest. Public opinion grows and accomplishes much, but it is limited. Feelings of brotherhood and a spirit of concession soften antagonism in individual cases, but they are not comprehensive. The state alone includes all the other elements; it alone is coterminous with society. Without it education is not universal. Religion and brotherhood do not reach criminals, degenerates, nor tyrants, but the state lays its hand upon them. Society acts through the state — it is society's organ. Public opinion, as modified by religion, education, and brotherhood, effects its main purposes through legislation.

But the state is too much considered as merely coercive. It is primarily co-operative. Coercion is needed only for anti-social individuals and emergencies. The state seems to be coercive because it does not represent all the people; it is not yet a perfect organ for expressing their wishes. Many who are not truly anti-social are crushed by it. Were its laws and administration accurately just to all classes, and did it promote the general rather than influential private welfare, public opinion would exact such close obedience that coercion would almost disappear.

No social doctrine can long be held by a considerable body of people if it does not include a side of truth. It may not be intelligently held, nor be intelligible to others, and may be grounded mainly on feelings; but it is the expression of feelings which are themselves products of social conditions, and so has a place in social organization. Such are the profound conservative instincts which sustain private property, the family, political parties, and the state. Less so, and modified more or less by intelligence, are the instincts which demand change, such as abolition of slavery and the saloon, or which seek socialism, anarchism, single tax, co-operation, or other innovations. Out of the proper and just balancing of all these interests and doctrines, and their proportionate realization in social structure, proceeds that "moving equilibrium" which is the life of society.

It is the province of the science of sociology to discover what is this just balancing of social forces which will harmonize antagonisms and make for progress. Science should indicate those lines of development and social experiment which will economize the life of society, and secure the good of every individual.

But science alone is inadequate. It is merely academic and preliminary. Its honor is that it leads to invention, and invention in society is legislation. Legislation, comprehending the en-

tire range of human social existence, lays the foundation for individual development and private co-operation. Law-makers, then, are sociological inventors, and require the aid of sociology as electricians require the aid of physics.[1]

Social invention, however, differs from mechanical invention in one most important character. Society is not dead matter to be ruthlessly adjusted. It is a vital, historical growth, composed of human lives, feelings, and interests. These interests must be consulted. Monarchy was abolished because royal inventors did not consult social classes. Likewise every system of government which is partial and unrepresentative will be left behind, whether it be conducted by aristocracy, plutocracy, or political machines.

But if a system of government can be perfected where all classes and interests shall be represented by their leading spokesmen, social invention will proceed, not by the coercive arm of the state, but by mutual concession. Labor and capital to-day have no recognized common ground or meeting-place, neither in shop, factory, church, college, nor state. It is left for demagogues, the representatives of neither, to bring them together. But a city council, having the responsibility of the city in its hands, and containing in its membership the acknowledged leaders of capital and labor, would

[1] See Ward, "Dynamic Sociology," 2 vols. New York, 1886.

be, within its jurisdiction, the most efficient instrument yet discovered for harmonizing the two. It would be a perpetual board of arbitration, possessing many powers of sovereignty, but not compelled to use them. Strikes and boycotts would be settled by mutual agreement between authorized negotiators. And for the wider interests of States and nation the legislatures and Congress would fill the same office.

Such a representative assembly would be composed of moderate, sensible, earnest men, because the people are moderate and earnest. There would be extremists and idealists, but their visions would be controlled by hard contact with the practical difficulties of ideal legislation and with the overwhelming majority of moderates. And the latter, too, would be forced to see that ideal conditions must have consideration as well as the rude facts of the present.

From such assemblies of leaders in all the cities and States and the Congress of the Union would proceed such well-considered, straightforward, and simple laws, without the coercion of partisan majorities or the injustice of partial representation, that the people would learn to respect their government, and to fall in line heartily with its laws and ordinances. Such assemblies, instead of shooting back and forth between revolution and reaction, would march steadily forward in the line

of social reform. They would call science and comparative legislation and history to their aid. They would establish by mutual concession the essential conditions for the brotherhood of capital and labor, and with these conditions would lay the foundations for the gradual solution of the main problems of social organization. And the state, instead of being a coercive policeman to force degenerates into line, would become the honored instrument of social co-operation.

It might then be expected that the legislature would resume its rightful place as the sovereign branch of government. Unquestionably, its position is such that, no matter how degraded its character, unless restricted by the Constitution, it gradually absorbs supreme control of the other departments. It alone can grant and withhold financial support; and sooner or later this power subordinates the executive, the judicial, and the administrative branches. The national Congress, notwithstanding presidential vetoes and popular distrust, has drawn to itself the management of the details of administration. State legislatures and municipal councils would have done the same but for the increasing constitutional restrictions which have subordinated their financial powers to the judiciary and the executive. Could the Federal Constitution be readily amended, doubtless similar restrictions would be imposed upon Congress.

If government is to be an agent for social reform, it must have first the confidence of the people. This can come only as it commands the best ability of the community, and is representative in character. The executives and judges do not answer these requisites. They cannot represent all the people. They are single officers elected by a majority, or appointed by the agent of the majority, and they do not inspire universal confidence. Generally, indeed, they do not represent even a majority of the people, but only a plurality; and even in that plurality a small faction of astute politicians and influential capitalists interested in legislation or contracts and franchises, has dictated the nominations and the appointments. It cannot be expected that the people, who are only awaiting a new election to bring in a new executive hostile to the incumbent one, will trust such a government with the delicate and portentous problems of social reform. In the legislature, however, elected upon the proportional basis, by the free choice of all classes of voters, and uncontrolled by a partisan majority, the people would find that ability, that extended experience, that representative character, and that continuous policy, which would command their confidence.

With the confidence of the people assured, the legislature must become solely responsible for the

policy and administration of government. It is becoming plain that, in times of urgency, the American idea of "checks and balances" is fallacious. A government in which departments are pitted against each other cannot be consistent and harmonious, much less efficient. The idea is already nearly abandoned in municipal government, where the mayor is made alone responsible for the administration. There must, indeed, be checks and balances in government, else one class will override the others. But these checks should not be founded upon the antagonism of independent departments; rather should they be provided for within a single sovereign department. By a proportional election of law-makers this is secured. Within the legislative body itself, controlling all other departments, would be found such a balancing of interests and classes that, on the one hand, the despotism which our constitution-makers feared would be obviated, and, on the other, the indispensable harmony and unity of government would be guaranteed.

The legislature could then safely be made the sovereign organ of the government and the promoter of social reform. The executive would sink to its true position, that of an agent for carrying out the policy of legislation; and the judiciary, instead of annulling the laws, would simply apply them to concrete cases.

All this, of course, involves a change in the character of our representative assemblies difficult for the American citizen to comprehend. It implies not merely a constitutional supremacy of the law-making body over the other departments, but primarily a popular supremacy in the hearts of the people. Proportional representation is not advocated only to give the minority a hearing, but mainly to give all the people confidence in their rulers and in one another. And unless the rising demand for social reform now urging forward all classes can bring them all together into harmonious, progressive, and just legal relations through the law-making agencies, the outlook for these movements is indeed ominous.

CHAPTER X.

THE PROGRESS OF PROPORTIONAL REPRESENTATION.

In its English and colonial origins, representative government was an almost unconscious growth. No philosophical dissertations preceded it. The masses of the people, with slavery and serfdom their lot, were ignorant and without voice in the government. Representation at that time was an instrument in the contest between monarchy on the one hand, and aristocracy and wealth on the other. The first outcome was the success of representation and the limitation of monarchy. The problems of government which attracted attention down to the middle of the nineteenth century turned upon the relative weight of the monarchical as against the representative principle. Consequently, the philosophical works of the eighteenth century, and the written constitutions from 1787 to 1848, were concerned with the distribution of powers, and the balancing of executive, legislative, and judicial branches. In all of these discussions, the unpropertied classes had no immediate interest, and were not consulted. The final result of this constitution-making has been the destruction or the constitutional limitation of

monarchy and aristocracy based on birth, and the increased influence of plutocracy based upon property.

In the third and fourth decades of the present century, a remarkable wave of democracy culminated in our Western civilization. In the United States, property and educational qualifications were very generally removed from the suffrage. In France, and more especially in Switzerland, the franchise was made nearly universal. In England and Germany, while the suffrage was not extended to the wage-receiving classes, yet the spirit of the times liberalized the constitutions through the Reform Bills of 1832 and 1854 in England, and the representative parliaments of 1848 in Germany.

The modern political parties date from those decades. Popular suffrage introduced a radical change in the nature of the representative system. Politicians began to bid for the labor vote. A few pioneering minds saw the inevitable outcome, and set about a philosophical study of the foundations of representation. It was not accidental that the years 1844 in America and 1846 in Switzerland mark the first attempts of individual minds to inquire into the true basis of representation. Mr. Thomas Gilpin published at Philadelphia, in the former year, his prophetic work, of which little notice was then taken, "On the

Representation of Minorities of Electors to act with the Majority in Elected Assemblies." In 1846 Victor Considérant, the distinguished leader of the socialist school of Fourier, addressed an open letter to the Grand Council of Geneva, entitled, "De la Sincérité du Gouvernement Représentatif, ou Exposition de l'Élection Véridique." In this brochure M. Considérant proposed independently a plan of election almost identical with that of Thomas Gilpin. Each voter was to cast one vote for a party, and then to indicate the names of the candidates of his party whom he preferred. The proportion of representatives to which each party should be entitled was to be determined by the rule of three, and the successful candidates by the order of their preferences. Something akin to this plan had been suggested some twelve years before by Considérant's master, Charles Fourier; and its publication in 1846 preceded by one year the wide extension of the suffrage in Geneva. There was as yet no feeling of serious need for it, and it therefore lay dormant for fifteen years. In 1861 it was revived by M. Antoin Morin in two pamphlets.[1]

In 1864, at the August election, the city of Geneva was the scene of violent outbreaks and bloodshed, resulting from the political strife of the

[1] Un Nouveau Système Électoral. Genève, 1861. De la Représentation des Minorités. Genève, 1862.

Conservative and Radical parties. The following September, Professor Ernest Naville published his first brochure[1] addressed to the federal council and the Swiss people, showing that the violence of the elections which threatened the stability of Swiss institutions, and inspired throughout Europe a dread of the new democracy of 1848, was but the natural outcome of the general ticket and exclusive majority rule. Professor Naville from that date has been the recognized leader of the reform in Switzerland; and his numerous publications, besides presenting cogent arguments, afford a complete history of proportional representation to the present time.

In 1867 was formed l'Association réformiste de Genève, composed of Professor Naville and six associates. But the time was not yet ripe for a popular appreciation of the principles of proportional representation; nor, indeed, had a plan been perfected which would appeal to the public. The movement for the referendum and initiative as a decidedly practical and thorough-going deadlock upon their unrepresentative assemblies absorbed the thought of the people. Another twenty-five years passed without appreciable advance in popular approval. A small group of students continued at work improving the plan of reform which

[1] Les Élections de Genève, Mémoire présenté au Conseil fédéral et au Peuple Suisse, par Ernest Naville; Lausanne et Genève, 1864, p. 59.

they would present to the people. In the year 1876 the national Association Suisse pour la Représentation Proportionelle was organized, with branches at Berne and Geneva. Hearings were obtained from time to time before legislative and constitutional assemblies. But it required a crisis to force public attention upon the reform.

The crisis came in 1890 in the Italian canton of Ticino. The Conservative party in 1889, with 12,653 votes, elected 77 of the 112 members of the Grand Council, while the Liberals, with 12,008 (a handful less), elected only 35. Out of a total vote of 24,671, it was calculated that 9,157 were unrepresented.[1] Finally, in 1890, an insurrection broke out. The Liberals seized upon the arsenal, and overthrew the Conservative government. Federal troops were despatched to put down the revolt. Then it was that the federal government recommended to the canton the adoption of proportional representation. The suggestion was acted upon, a commission was created, and in 1891 the Free List was adopted in the form approved by the Swiss Association. Says Professor Louis Wuarin of the University of Geneva:[2] —

"Had not the system of proportional representation been carefully worked out by men who, believing in the correct-

[1] W. D. McCracken, *Proportional Representation Review*, September, 1893, p. 12.

[2] *Annals of the American Academy of Political and Social Science*, November, 1895.

ness of the principle, were desirous of changing the basis of the electoral law, the great achievement in the cause of justice and peace we now rejoice at, in Switzerland, would not have been effected. Is not this an eloquent encouragement to every man to look for the truth and prepare its advent, no matter if the feeling of the people should even be strongly adverse or sceptical at the beginning? The reformers, a small handful of workers, met with but little encouragement at first; they were opposed by almost all the men playing some part in politics, and who enjoyed the reputation of being practical. But an hour came when the stone intended to be put at the corner of the edifice of democracy was found useful, and was used. In the organization of free government, there is something which is left to the brain and the spirit of research. The power of thought is a living force, and no department of the world can prosper where it is stagnant."

From Ticino the reform has spread rapidly to other cantons. The initiative and referendum have helped it very much. The French Protestant canton Neuchâtel adopted it in 1891; the large canton of Geneva in 1892; the Catholic Fribourg, for municipal elections, in 1894; the German Catholic Zug in 1894, which combined the "free ticket" with cumulative voting; finally the German Catholic Soluthurn in March, 1895, the first to introduce the Droop quota (the votes divided by the number of representatives *increased by one*). In a few cantons and cities the reform has been rejected by referendum. The city of Basle rejected it a few years ago, but the people are now demanding it

anew by initiative. The German Catholic Lucerne and St. Gall rejected it, though large minorities were for it. It is expected that "they will soon follow, and take it up like Basle; so that in less than ten years the whole of Switzerland will have proportional representation carried out without revolution and bloodshed."[1]

In a small decentralized country, like Switzerland, a political reform is more readily accomplished than in a large one. England and America, however, have actually preceded Switzerland by twenty to twenty-five years in the adoption of certain forms of minority representation. Doubtless the crudity and comparative failure of those primitive forms were important factors in blocking their progress and prejudicing the public against mere *doctrinaire* tinkering without a practicable basis. Similar conditions, however, and similar problems, suggest similar solutions. In 1854, in the discussion of the second Reform Bill, Lord John Russell moved in Parliament, on the suggestion of Professor Fawcett, that, in the newly created electoral districts returning three members, no elector should vote for more than two candidates. He said:—

"Now it appears to me that many advantages would attend the enabling the minority to have a part in these returns. In the first place, there is apt to be a feeling of sore-

[1] See article by Charles Burkli, "Free List *vs.* the Hare System," in *Proportional Representation Review*, September, 1895.

ness when a considerable number of electors, such as I have mentioned, are completely shut out from a share in the representation of one place. . . . But, in the next place, I think that the more you have your representation confined to large populations, the more ought you to take care that there should be some kind of balance, and that the large places sending members to this House should send those who represent the community at large. But when there is a very large body excluded, it cannot be said that the community is fairly represented." [1]

In 1854 Mr. James Garth Marshall published at London his "Majorities and Minorities; Their Relative Rights," wherein he proposed for the first time the cumulative vote which has been so popular in English and American reforms. The limited vote of Lord Russell, however, did not find legislative enactment until twenty-three years after its first proposal; and the cumulative vote was first employed in 1870. Two events prepared the way for this adoption. The first was the discussion inaugurated by Mr. Thomas Hare in 1859, when he published his volume entitled "The Election of Representatives, Parliamentary and Municipal," which was followed in 1862 by John Stuart Mill's profoundly philosophical "Considerations on Representative Government." Mr. Mill speaks of Thomas Hare as "a man of great capacity, fitted alike for large general views and for the contri-

[1] Quoted by Salem Dutcher, "Minority or Proportional Representation," New York, 1872, p. 38.

vance of practical details;" and of his plan as "among the very greatest improvements yet made in the theory and practice of government."[1]

Certainly no discussions have equalled these treatises of Mill and Hare in placing before the thinking people of all countries the true nature of representation under universal suffrage and political parties. The very extreme to which Mr. Hare carried his plan, proposing as he did to abolish all districts, and to make one great constituency, enabled him and Mr. Mill to develop fully the philosophical principles underlying *personal* rather than *party* or *sectional* representation. The unit of representation was to be determined by dividing the whole number of votes in the entire kingdom by the number of seats in the House. Every candidate who obtained a quota would be returned, from however great a number of local constituencies his votes might be gathered. The elector would indicate his first and second choices, and so on; so that his single vote might be transferred from elected or defeated candidates to some one whom it might assist in electing.[2] The mechanical details for counting, calculating the quota, and

[1] "Considerations on Representative Government," American edition, New York, 1875, pp. 153, 156.

[2] The plan is substantially the same as that described on pp. 100–105. It is approved by British, Canadian, and Australian advocates, but is not adapted to the American party system.

transferring the votes, are given by Mr. Hare in great detail. So complicated did the plan appear when presented on a national scale, yet so powerful were the considerations urged in favor of its underlying principle, that for ten years in England and America the simpler forms of the limited and the cumulative votes received earnest attention and occasional enactment into law.

At the same time the suffrage was again being widely extended in both countries. In 1867, when the Reform Bill which granted the ballot to the artisans in towns was being adopted by Parliament, Mr. Mill, as member for Westminster, moved an amendment embodying the essential features of Mr. Hare's scheme. The motion did not prevail; but at a later session the limited vote of Lord John Russell was adopted for all parliamentary constituencies returning three members, known as "three-cornered constituencies." It will not be surprising to the reader who has followed the description of the limited and cumulative votes in the foregoing pages to learn that it was the manipulation of this limited vote which first introduced into England the American political machine. Mr. Joseph Chamberlain and the Liberals of Birmingham proceeded to organize thoroughly their following, in order to secure not merely two but the three candidates of their constituency.

In 1870, when the English government began

its wide extension of free schools, the cumulative vote was introduced in the election of the new local boards of education. This was by way of concession to the supporters of private and sectarian schools, who wished to retain their hold in the distribution of public funds, and in the administration of their schools.

With this Act the progress of proportional representation in England ceased. When the suffrage was extended in 1884 to agricultural laborers, an attempt was again made to introduce the reform, but after considerable discussion the amendment was defeated. The next year was organized the English Proportional Representation Society, of which Sir John Lubbock is president, and several of the members of Parliament are members. The society advocates the Hare system in constituencies electing five to fifteen representatives.

In the United States, the work of Thomas Gilpin followed close upon the Act of Congress of 1842, which for the first time took the control of elections for congressmen from the several States, and provided, among other things, that the single-membered district should be universal. This was an attempt to give representation in Congress to the minority, who were practically disfranchised by the laws of certain States wherein congressmen were elected on a general ticket.

Gilpin's essay grew out of the discussion upon this measure.[1]

Not until the period following the Civil War was public opinion ready to discuss the principles of representation, nor, indeed, was there any pressing occasion. The writings of Mr. Hare and Mr. Mill were widely read in the United States; and the pending reconstruction of the States lately in rebellion, and the agitation for the enfranchisement of the freedmen, brought the problems of representation suddenly to a focus. There were only two plans which reached practical adoption, the limited vote and the cumulative vote. The legislature of New York, in 1867, in providing for a constitutional convention, required that thirty-two of the delegates to be chosen should be from the State at large; no voter to vote for more than sixteen candidates. In this way, though the political bias of the delegates elected to the convention from single districts stood 81 Republicans to 47 Democrats, the delegates from the State at large stood 16 to 16.[2]

In the same year the Congress of the United States considered a supplementary reconstruction bill, to which Hon. C. R. Buckalew, the Democratic senator from Pennsylvania, offered an amendment providing for the cumulative vote. A sub-committee, of which Senator Buckalew was chairman,

[1] Dutcher, p. 41. [2] *Ibid.*, p. 42.

reported to the Senate in 1869 a bill providing for the cumulative vote. Senator Buckalew supported his amendment with great ability. Two extended debates occurred in the House in 1870 and 1871, on the motion of Mr. Marshall of Illinois to apply the cumulative vote to the new members of Congress, provided for in the new apportionment Act of those years. But both in the Senate and in the House the amendments were defeated. Congress was in no mood to grant this concession to the minority.

The significance of proportional representation in the event of Negro enfranchisement, and the reasons why it did not at that time appeal to the party in control of Congress, are strikingly portrayed by the proceedings of a convention of taxpayers of South Carolina, assembled at Columbia in May, 1871. The convention adopted the report of a committee favoring the cumulative vote for the State legislature. Among the speakers was Mr. D. H. Chamberlain, attorney-general of the State, who said: —

"In the first place, gentlemen, it is necessary to modify the absolute control which a mere numerical majority has obtained over the State, and to secure for intelligence and property a proper representation in the affairs of the government. And looking about for some device which, without violence to the fundamental principle on which our government rests, will bring relief from the grievances

which afflict our people, I have fixed upon this system of cumulative voting, because it is not only just in its theory, but it will prove itself right in its results. It takes nothing from the rights of the majority. It gives them a predominating control, but not an absolute disposition of the entire fortunes of the State. Do you believe for a moment, then, when you put into an ignorant assembly, many of whom can neither read nor write, forty-seven gentlemen whom I might select in this body, that you would not shame them into decency, or frighten them from crime? Who does not know that the presence of one honest man puts to flight a band of robbers? Now, according to this system, you deny nothing which belongs to the majority, but from the moment you place in the lower house forty-seven of your ablest citizens, bad legislation will cease, and good legislation will begin." [1]

Although rejected by Congress, the cumulative or limited vote was adopted, to a greater or less extent, in various States. The most important action was that taken by the constitutional convention of the State of Illinois, which met December, 1869. The convention adopted the report of a committee of which Mr. James Medill was chairman, dividing the State into 51 senatorial districts, each electing a single senator, but creating a lower house of 153 members, to be elected in the senatorial districts by threes by the cumulative vote. This section was voted upon separately by the people, July 2, 1870, and carried by a vote 99,022 in favor, and 70,080 against.

[1] Dutcher, p. 62.

High expectations were entertained of the reform. Mr. Medill in convention said: —

"Perhaps no proposition has come before this convention that has more fully taken possession of my mind, because I believe it is one of the greatest and most valuable improvements in a free government ever devised by the wisdom of man since representative government has been established. I believe it is only a question of time when the principle of minority representation will be applied to all legislative elections in Europe and America, from Parliament or Congress down to village aldermen, and in all other cases when two or more officers are to be voted upon at the same time, for the same office. By this plan, and this only, can the democratic equality of the citizen be asserted, and carried into practice in public life. . . . The whole people, instead of a plurality or majority, will be represented by this plan; and it is as much superior to the old method of representation as the whole is greater than the half. It does not attempt to take away any of the rights of the majority. The majority, under this system, will still rule, having full and ample control, and still being responsible for the laws made. But this gives the disfranchised minority, who may amount to almost one-half the community, some voice, some representation in government, some chance to be heard. It secures representation with taxation, which the existing one-sided system does not. It gives the minority some opportunity to present their views, and defend their principles and interests, in the halls of legislation. What can be more just than that, or more correct in principle?" [1]

How these bright hopes have been disappointed is shown by the previous discussions of this book.

[1] Dutcher, p. 55.

The action of the New York legislature and the veto by Governor Hoffman in April, 1872, of the bill providing for the cumulative vote in the election of aldermen in New York City, mark the highest point attained in America in the discussion of minority representation. The Personal Representation Society of New York had appeared before the constitutional convention of 1867, to urge the adoption of the Hare plan. Mr. Horace Greeley, as a member of that convention, had moved an amendment requiring the cumulative vote in the election of senators and representatives. After considerable discussion it was defeated by a vote of 93 to 20. Later an amendment requiring minority representation in the election of directors of private corporations was defeated by 71 to 32. It remained for a Republican legislature, desirous of breaking the hitherto impregnable Tammany majority in New York City, in 1872 to provide, in an Act creating a new charter for that city, that the board of aldermen should be elected by the cumulative vote in five districts of nine aldermen each. The discussion in the legislature and in the press attracted national attention. Without previous experience, it was impossible to foresee all its consequences. Yet with districts as large as the bill provided for, there would have been opportunity for the representation of minor parties, though the waste of

votes would have prevented their greatest influence. The arguments of Governor Hoffman in his veto message present such a mixture of specious falsity and shrewd knowledge of the situation, and the document is of so great historic importance in the movement for true representation, that it is here given in full: [1] —

"EXECUTIVE CHAMBER, ALBANY, *April* 30, 1872.

"*To the Assembly*, — I return, without approval, Assembly Bill No. 118, entitled, 'An Act to reorganize the Local Government of the City of New York.'

The bill provides a new charter for the City of New York, the main features of which are these: One board of forty-five aldermen, elected nine in each senate district, by a novel method called the cumulative vote, under which one man may vote nine times for one candidate, and whereby a minority can elect its candidate or candidates, against the will of the majority in the district; this board of aldermen to appoint (by the same vote) four out of the five heads which are given to each of the administrative departments. . . .

The remedy which is relied on against the evils of misgovernment under this charter is the cumulative system of voting, which it introduces in order to secure fuller representation of the minority. It is claimed that this will result, not only in a better class of representatives, but in greater power on the part of the minority to restrain the majority. Nine aldermen are to be elected in each district; and every elector is authorized, instead of voting once for each of nine candidates, to cast, if he chooses so to do, nine votes for any one candidate, or to cast three votes each for

[1] Quoted by Dutcher, pp. 158–161.

any three candidates, and so on. This plan seeks to let the party which is in a minority in any political subdivision put into office its candidate, in spite of the opposition of the political majority. Experiments are now being tried in one or two of the other States, of this cumulative method of voting as to some of their local elections; but these have been inaugurated so recently that they afford us no guide to sound judgment derived from actual practice and experience. It is proposed by this bill that we shall try the experiment in the chief city of the continent, with its vast and complicated interests exposed to great injury if this new theory prove to be a failure. A city of a million inhabitants is not the place for trying experiments in government, especially an experiment which many of the most thoughtful of our people believe to be visionary, impracticable, and unconstitutional. It would be much wiser for us to await the result of the trials now going on elsewhere. This would not be the first time that a scheme to allow the minority to put men into office, in spite of the opposition of the majority, has been tried in this State. For many years the Board of Supervisors in New York was elected upon this principle. In that instance the minority were allowed, practically, to choose just half the Board. This experiment, warmly and earnestly advocated at its introduction as a valuable improvement, resulted, as all admit now, in a disastrous failure, and was abandoned with general consent. There is this difference between that instance and the method now proposed — that there the minority were secured an equal share of power, while here it is expected that they will obtain only a share proportioned to their actual numbers.

A very serious question arises whether this method of voting is in conformity with the provisions of the Constitution. Many of the ablest lawyers of the State have

not hesitated to express their convictions that it must be held to be unconstitutional. It is said, and with great force, that the election, as regulated by this charter, is not an election in the sense in which that word was understood at the time the Constitution was made, and in the sense in which it has always been understood among us. An election is the choice of a public officer by his receiving a larger number of votes than any other candidate in the district entitled to fill the office, all the electors being entitled to vote once at such election for a candidate for the place to be filled. It is suggested also that the Constitution guarantees that all electors shall be entitled to vote for all officers who are to be elected by the people, and that if any elector exercises his right to vote once for each of the nine aldermen to be chosen for his district, his single vote as to any one of the candidates cannot be overridden by one of his neighbors voting nine times for some one man for the same place without an infraction of his equal right of suffrage as an elector under the Constitution. . . .

The fundamental principle of our government, familiar to the people, is that elective officers shall be chosen by a majority of the votes of the people entitled to take part in the choice. In all cases submitted to the people, the majority decides. When any other principle is sought to be introduced, a revolutionary change of great magnitude is proposed, which ought not to be tried under the sanction of an Act of the legislature only; if so great a change is to be made at all, it should be done only with the careful deliberation which pertains to revisions of the Constitution. Independent of the constitutional question is that of the expediency of this change in the method of choosing representatives. I am not disposed to take the ground that some form of minority representation may not prove to be

an improvement. This has nowhere been tried long enough to prove anything.

In all free government the people divide themselves into two great parties. This tendency is so universal that it is not statesmanship to ignore it. Enactments will not overcome it. It is a natural, useful, and wholesome division; it insures a large body of men among the people interested in and intent upon fault finding with the party in power, and struggling by means of exposure of their errors to bring over to the side of the minority enough of the electors to convert it into a majority, and so to take over the government. In politics, as in other things, it is agitation which purifies. Under this proposed new system of voting, the minority carry in their candidates without effort. The majority do the same. In a district where it is known that the political majority usually casts about two-thirds of the whole vote, there being nine aldermen to be elected, the caucus or nominating convention of the political majority will naturally concentrate all their votes upon six candidates; the caucus of the minority will concentrate on three. There will be no actual contest before the people. The decrees of the party caucus will be absolute. Neither side will be in fear, lest, by putting forward unfit candidates, it may lose the election. For the two parties will be acting at the polls, not against each other, but independent each of the other. This condition of things, where the decrees of the party caucuses on both sides are final, naturally gives rise to secret combinations between the leaders on both sides for an agreed-upon division of power, against which combinations the mass of the voters might, under this system, struggle in vain. It is true that there is an opportunity for a combination in favor of one or two candidates of independent voters, who may be regardless of party associations. But when the power of the regular party or-

ganization is considered, will not this influence of combinations of independent voters make itself felt to a very limited extent, and very rarely? Will it be equal to the power which voters, disposed to disregard their party associations on any occasion, can now exert, by temporarily voting with the opposing party, by way of rebuke to their own?

. . . . . .

It may be a fatal mistake for us to be overconfident that the effect of this method of voting will be merely to add to the influence and power in politics of the more unselfish and more virtuous among the electors. The professional politicians may use it more skilfully and effectually than others, and it may intrench them in power beyond the reach of the popular majority or of popular condemnation. This system must tend to increase very largely the power in politics of men who have a personal following, in the shape of clubs and associations, formed to promote the success of one man in local politics. The weight of a club of this kind will be increased ninefold, a club of 1,000 wielding 9,000 votes. Nor is it to be overlooked that this cumulative method of voting confers a higher money value on the ballot of any man who is corrupt enough to sell it. He can make his vote worth to any one candidate nine times as much as it is now. The inducement to pay and the inducement to take bribes will both be greater than now. The legislature must itself have looked upon this method of voting as nothing better than an experiment. If it had been satisfied of its merits, and had had confidence in its working well, it would have applied the principle generally, wherever it could be applied, to local elections at least, throughout the State.

It is right that the minority should be represented in all public deliberative bodies; and the American system of government makes provision for its representation. Every

political subdivision sends a representative of its own choice to the general representative body, congressional districts to Congress, assembly districts to the Assembly, towns to the boards of supervisors, wards to village and city councils; and thus the minority in the State at large, being nevertheless the majority in many of the political subdivisions of the State, is able to secure its approximate share in the public councils.

. . . . . .

I have dwelt at so much length upon this question of minority representation, because it is the distinguishing feature of the charter, both in the election of the legislative branch of the city government and in the choice by it of heads of executive departments; and this feature its advocates claim as its chief merit.

The bill does not limit itself in applying the minority doctrine, so-called, to the election of representatives of the people in the public councils. It proposes to give the minority of the members of the common council the same power of selecting, independent of the majority in that body, a portion of the men who are to administer the government of the city in its various departments.

THE RIGHTS OF THE MAJORITY.

The minority ought to be represented as fully as possible, in proportion to its numbers, in the public councils. But the minority has not the right to govern. It is not wise that it should share in any degree in the actual administration of affairs. The majority must govern. The useful sphere of duty for the minority is to watch the governing party, to expose its wrong-doing, if any, to restrain it by this vigilance and exposure. Just so far as the minority is admitted to a share in the actual administration of government, to a share in executive duties, just so far

is it weakened for the performance of its proper duty, — that of vigilance over those in authority, — just so far is its inclination to be vigilant lessened. It is only a minority out of power that will be faithful to the duties of a minority. Every member of the minority who is admitted to take part in the actual administration of public affairs, and all of his party whom he can influence, naturally acquire a tendency to defend the administration of which he forms a part; and where they ought to be exercising a restraining power by their vigilance, they are often found helping to cover up things that need exposure. An administration that has its corps of defenders in both political parties will be much more likely to continue improper practices than if it relies for its defence only on its own party friends, and feels that the opposite party is ready, in solid ranks, promptly to assail it if guilty of wrong-doing. I believe the clear, complete, and undivided responsibility of one or other of the political parties into which people in all free communities divide themselves, is essential to good government. For vigilance on the part of the people themselves, this bill proposes to substitute the services of a few individuals put into partial power by the minority as watchers, which will tend to make the people rely on these few, and indifferent to their own duty of vigilance in their own affairs. These few hired watchers may become screens for errors and neglect of duty on the part of their associates and themselves.

The government of the majority is the only government recognized by the Constitution of the United States and of the State. The majority controls, and must control, in legislation, and ought to be solely responsible for administration. When its representatives prove recreant to the trusts committed to them, a vigilant minority is quick to take advantage of the fact, and in turn it becomes

the majority. The existence of a strong, vigilant minority, which, not being a sharer of power, has no motive to defend those in power, but every motive to expose them when doing wrong, is quite as essential to honest and faithful administration of the affairs of the republic, as is the existence of the majority in whose hands the actual management of public affairs is placed. This cumulative method for appointing heads of departments may have the effect of fatally lessening at once the sense of responsibility on the part of the majority and the vigilance of the minority."

There are three features of the foregoing message which will be noticed here, the others having been mainly anticipated in the preceding chapters. It is a patent fallacy to assert that, by giving to every voter nine votes instead of one, thereby the influence of venal voters and bad politicians with a personal following is increased ninefold. If the votes of the corrupt are multiplied by nine, so also are the votes of the good, and relatively they all retain the same influence.

Again, the provision for constituencies electing nine aldermen makes possible the representation of third and fourth parties of independents and good citizens, though with a great waste of their votes. They could not be entirely excluded as in the Illinois "three-cornered" constituencies.

The arguments of Governor Hoffman against minority representation in the board of aldermen are not altogether invalid, and his objections to a similar representation in the administrative

departments are well considered. Later experience has shown that administrative boards are incompetent as compared with single heads of departments, and that bi-partisan boards are not superior to those composed of members of a single party. Minority representation in an executive department dissipates the energy and responsibility of administration; but minority representation in the legislative branch is necessary to enable the minority "to watch the governing body, to expose its wrong-doing, if any, to restrain it by this vigilance and exposure."

The crude cumulation in constituencies electing as many as nine members might possibly have been of some advantage to good government in New York City; but the limited vote, which was successfully adopted a year later, was no better than the single district. This law, enacted in 1873, provided for the election of aldermen in nine districts of three members each, no voter to cast more than two votes. The limited vote is apparently in contradiction to the State Constitution, by which every elector is entitled to vote "for all officers that now are or hereafter may be elective by the people." At any rate, it of course proved unsatisfactory, and was repealed in 1882.

The State of Pennsylvania has experimented with the cumulative and limited votes in various directions.

On March 4, 1870, the legislature provided by special act for the cumulative vote in the town of Bloomsburg, the home of Senator Buckalew, for all offices of two or more incumbents. In June, 1871, the act was extended to all elections of members of town councils throughout the State. This was repealed in 1873.

By a provision of the Constitution of 1874, the limited vote is applied in the city of Philadelphia to the election of police magistrates. The legislature in 1875 created twenty-four courts with the same number of magistrates, who are elected on a general ticket; but no voter can vote for more than two-thirds of the number to be chosen at a single election. The same Constitution requires the limited vote in the election of judges of the supreme court of the State. There are seven judges elected, and the elector votes for six.

These various experiments with crude forms of minority representation furnish in part an explanation of the entire subsidence of the movement since 1874. To have extended the cumulative or limited vote after the exhibitions of their shortcomings in three States was not to be expected. Indeed, the only places where minority representation now remains are in the States of Illinois and Pennsylvania, where it is incorporated in the Constitutions. Doubtless at the first general revision of these Constitutions it will be dropped.

There are also other reasons why the speculative political thought of the country has not turned to the problems of representation. Other pressing subjects, growing out of the war, such as the tariff, the greenback, specie payments, have engrossed the public mind. The attention of speculative reformers has been occupied with the civil service, and the protection of those subordinate offices which are the spoils of party victory and the demoralization of the people. It is probable, indeed, that, in the practical sequence, civil service reform was necessary to prepare the way for proportional representation. The American people needed education upon the matter of rotation in office, and, indeed, upon the very nature of government. They did not want a system of bureaucracy, with officials holding for life. They felt that public offices were "common property; that the right to hold them, like the right to pre-empt government land, is a natural incident of citizenship," and that government service is an asylum for the unfortunate. They lacked "confidence in expert knowledge of every kind."[1]

Correct views on these points could practically be first impressed upon the public only in connection with those minor civil service offices of a routine character which do not carry political

[1] A. B. Hart, "Practical Essays on American Government," p. 91.

responsibility. With the ground cleared in this way, the nature of other higher offices can more plainly come to view, and thus the way be prepared for substituting appointive heads of departments for elective heads. Finally, with the administrative branches of government accurately comprehended, the people are beginning to concentrate thought upon the legislative branch, to inquire into the principles of representation, and to perceive the need of abler and more experienced men with life-long service in legislative halls. Even now the weightiest popular objection to proportional representation springs from that partisan sympathy with the spoils system which denies the right of representation to minor groups of voters not included in the two dominant parties.

Another political reform which has cleared the way for proportional representation is the secret ballot, with all the party tickets printed on a single large sheet. This encourages independence, and facilitates that choice of individual candidates on various tickets which is an important feature of the bill recommended by the American committee.

After these important preliminary reforms are accomplished, it can be more clearly seen that the very citadel of political power, the legislative assembly, is the source of the degradation of American politics, and that with a reformed legislature all other reforms can be perfected. A revival of

interest in proportional representation has begun within the past five years. The civil service reformers of the country with unanimity have espoused it. This interest took definite shape in 1893, through the organization at Chicago of the American Proportional Representation League, and the launching of the *Proportional Representation Review*. Magazine articles have appeared, two or three books have been published, bills have been introduced into legislatures and Congress, and an enthusiastic and capable agitation has been inaugurated.

In 1891 the people of South Dakota voted upon a minority representation clause to their Constitution, copied after the Illinois system, which they rejected by a vote of 46,200 against 24,161.

The cumulative vote has been applied by the Constitutions of the eleven States of Illinois, Nebraska, California, Pennsylvania, West Virginia, Missouri, Mississippi, Idaho, Kentucky, North Dakota, and Montana, to the election of directors of private corporations. I shall not enter at length into this and other minor phases of its application, but shall only observe that, among the evils attending the rise of corporations in the United States, has been prominent the practice known as "freezing out" the minority stockholders. Says a well-informed writer:[1] —

[1] Isaac F. Rice, *Forum*, vol. xiv., p. 206.

"All our public affairs having become permeated with the poison of dishonesty, it necessarily has affected our quasi-public relations as well. Indeed, our great public corporations, such as railroads, are in themselves species of communities, of which the security holders are the citizens, and in these communities the right to steal under certain legal forms and sanctions has in certain directions become fully recognized.

Whatever frauds are perpetrated under advice of counsel, or by resolutions duly passed by a majority vote, at a regularly constituted meeting, security holders have long since come to regard as unobjectionable, or at least beyond the reach of successful attack. . . . Indeed, quite frequently, as soon as a board of directors is elected, it considers itself the absolute owners of the property, to manage or mismanage, as its private interests may dictate. These private interests are sometimes in such direct conflict with the interests of the corporation as to involve it in bankruptcy."

Proportional representation in private corporations would partially meet the evils above described, though of course many other factors are involved in the problem.

There remains to be noticed the constitutional aspects of proportional representation. Of course, just as in Switzerland, the American people can adopt the reform by a referendum vote, by way of amendment to their Constitutions; and possibly in many States a constitutional amendment would be required; but the machinery of amendment is so very cumbersome and dilatory that direct

action of the legislature is preferable whenever legal. Congress unquestionably has power, without constitutional amendment, to adopt the system for congressional elections. Indeed, it is only the Act of Congress of 1842, prescribing the present district system, which legally prevents individual States from adopting it.

In the election of State legislatures, there are serious difficulties in the interpretation of Constitutions. So strict are the courts in holding legislatures to the terms of the Constitution, that amendments would be required, probably, in nearly every State. Yet the following considerations are offered.

The first condition for proportional representation is a consolidation of the present single-membered districts into a smaller number, each electing several members. The Constitutions of all the States require that State senators shall be elected by districts. In only nineteen States,[1] however, is it specifically asserted in one way or another, that but one senator shall be elected in each district. In each of these States a Constitutional Amendment would be required for the Senate. In the other twenty-five States, so far as a fair interpretation is concerned, counties can

[1] Georgia, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Vermont, Texas, Wisconsin.

be grouped together, and two or more senators elected from each district. Furthermore, there would seem to be no constitutional inhibition against enlarging these groupings, even to the extent of dividing the State into only two districts. These could then either elect their senators at the same election or in alternate elections, as the larger number of Constitutions require.

As regards the lower house, seven State Constitutions [1] require that members shall be elected by single districts. Counties which are entitled to more than one representative are to be divided into districts by either the legislature or the county supervisors.[2] Thirty Constitutions guarantee at least one representative to each county or town, but permit counties entitled to more than one to elect them on a general ticket. In these States, the proportional plan could be adopted without constitutional amendment only in the counties electing more than one member.

There remain six States, not counting Illinois, in which the system could probably be adopted over the entire State without amendment. Delaware allots seven representatives to each county, and the legislature is free to prescribe either the general ticket or the single district. Indiana,

[1] California, Kansas, Kentucky, Maryland, Michigan, New York, Wisconsin.

[2] New York and Michigan.

Minnesota, Nevada, and Washington permit their legislatures to create districts as they may see fit, only requiring that representatives shall be proportional to the population.[1] Iowa permits four counties to be combined into a single district.

Whenever, as in the above cases, a general ticket is permitted, proportional representation may be adopted by the legislature. There is a second condition, namely, that each voter may be permitted to cast as many votes as there are candidates to be elected, which he may also distribute as he pleases. Five Constitutions actually require this condition in the provision that every elector shall be entitled to vote "for all the officers that are now or hereafter may be elective by the people."[2] It would seem that this provision excludes the Hare system and the limited vote, but does not stand in the way of the Swiss "free list" or the cumulative vote. Other Constitutions merely provide that persons of the proper age, etc., shall be "entitled to vote at all elections."

The third condition is that the legislature must be free to provide rules for the canvass of the votes and the apportionment between political parties. Nearly all the States have adopted in their Constitutions the plurality rule, by which

[1] In the apportionment Act of 1895, Indiana has actually combined various counties into districts electing two representatives on a general ticket.

[2] New York, Minnesota, Montana, Nevada, New Jersey.

candidates having the highest number of votes are declared elected. Applied to a general ticket, this rule would exclude minority representation, except in the case of the simple cumulative vote. In twenty-seven States, however, the Constitutions do not apply this rule to the election of members of the legislature.[1] The legislatures of these States are, therefore, free to change their plurality rule, and to adopt the proportional plan of the addition and transference of votes within party lines, and the selection of candidates according to their standing on their respective party tickets.

In the matter of local government, all of the Constitutions give the legislature almost complete power to provide for the organization of counties, cities, incorporated villages. The only restrictions are of a general nature, imposed either by the prohibition of special legislation, or by the collateral articles of the Constitution. This sovereign power of the legislature carries the right to create, define, and abolish offices, and to determine the method of selection, either by appointment or election, at large or by wards. Where election is determined upon, the collateral provisions of the

[1] New York, New Jersey, Pennsylvania, Ohio, Indiana, Illinois, Michigan, Wisconsin, Iowa, Kansas, Nebraska, Maryland, Delaware, Virginia, West Virginia, North Carolina, Kentucky, Tennessee, Missouri, Arkansas, Texas, California, Nevada, Colorado, Alabama, Mississippi, Georgia. See Stimson, American "Statue Law," vol. i., p. 56.

Constitution hold, which set forth the qualifications and rights of voters, and the manner of conducting elections and canvassing the returns. These provisions have just been referred to. As they apply in the same manner to city and county as to legislative elections, they leave all the legislatures free to apply the Swiss system or the cumulative vote to the municipal council.

APPENDIX I.

THE DISTRIBUTION OF SEATS.

THE significance of proportional representation in the United States consists not so much in a mathematically accurate assignment of representatives to the several parties, as in the freedom of the voter from machine rule, and the introduction of leadership into legislative assemblies. Yet the mathematical calculations are important. Several plans have been suggested for a just distribution of seats, but fault can be found in every one.

The difficulty of the problem lies in the fact that, when the several party votes are divided by the unit of representation, the sum of the quotients does not equal the number of representatives to be elected, and consequently the remaining representatives must be assigned to parties on the basis of remainders. Now, these remainders may be scattered about in such a way as to destroy the symmetry of the result, especially where they fall to minor parties. For example, in the Belgian election, described on page 127, the unit of representation, found by dividing the number of votes by the number of representatives, is 11,523. This unit provides for but fifteen seats, and the other three are assigned to the Flemish Democrats, the Indepen-

dents, and the Catholics, on remainders. The result is an advantage to the smaller parties, and a disadvantage to the larger. The Independents, for example, who did not have even a single unit, secured their only seat on a remainder, giving one representative for 8,425 votes, whereas the Socialists, who receive no seat on a remainder, have but one representative for 13,170 votes.[1]

It will be seen that, the smaller the unit of representation, the less probability will there be of remainders. If, instead of dividing the total vote by the exact number of representatives to be elected, we divide by that number *plus one*, our proceeding would be more accurately mathematical, and would produce a smaller unit. In the Belgian election, instead of 11,523, it would be 10,917. The principle here involved is the evident one that, if one candidate is to be elected, he will require only *one-half* the votes *plus one;* if two are to be elected, each one will require but *one-third plus one*, and so on. That is to say, the denominator of the fraction which elects is a unit larger than the number to be elected.

This was the rule adopted by the Swiss canton of Solothurn in 1895, and is known as the "Droop"

[1] Socialists 106,687
Progressists 39,512
Flemish Democrats 21,713
Catholics 19,405
Moderates 11,693
Independents 8,425

207,429 ÷ 18 = 11,523

quota, having been proposed by Mr. H. R. Droop of London, in 1869.[1] In the Belgian election it happens that the result would be the same as in the division by the exact number of representatives, although but two candidates are assigned on remainders instead of three. The chances, however, would be in favor of a fairer representation for the larger parties.

Still another plan of distribution, which finds a unit of representation so small that it does away with remainders entirely, is that of Professor V. D'Hondt of Brussels. This is the plan actually employed in the Belgian election, and is explained by the Commission as follows: —

"We write, in the order of their importance from left to right, the electoral vote of the six tickets, Socialists, Progressists, Flemish Democrats, Catholics, Moderates, and Independents, and then proceed to reduce the unit of representation by successive divisions, until a unit is found small enough to be contained eighteen times into the party votes.

	SOCIALIST.	PROGRESSIST.	FLEMISH DEM.	CATHOLIC.	MODERATE.	INDEPENDENT.
1.	106,681	39,512	21,713	19,405	11,693	8,425
2.	53,000	19,000	10,000	9,700	5,000	
3.	35,000	13,000	7,000			
4.	26,000	9,878				
5.	21,000					
6.	17,000					
7.	15,000					
8.	13,000					
9.	11,000					
10.	10,000					
11.	9,600					

[1] "On the Political and Social Effects of Different Methods of Electing Representatives," London, 1869.

We then reason as follows: If there had been only one seat to fill, it would have fallen to the largest party, the Socialists; we therefore write down the figure 106,681, which assigns the first seat. For the second we find what would be the number of votes required of the Socialists if the two seats were distributed equally. This would require 53,000 votes for each seat, more than that obtained by any other party. We write down the 53,000, which assigns the second seat. Next, 106,681 divided by three gives only 35,000, a figure less than that of the Progressists, 39,512, and the latter figure is therefore entitled to the third seat. We write down this figure, and then determine that if the Progressists had a second seat they would have had only 19,000 votes to each seat. The fourth and fifth, therefore, go to the Socialists, who have 26,000 votes for each of four candidates elected. The sixth and seventh seats go to the Flemish Democrats and Socialists, the unit of representation now descending to 21,000 votes for each seat. The eighth and ninth go to the Progressists and Catholics, who would still have 19,000 votes for each candidate to be elected. The tenth and eleventh go to the Socialists; the twelfth and thirteenth to the Socialists and Progressists (13,000 votes to the seat); the fourteenth and fifteenth to the Moderate Liberals and Socialists (11,000 votes per seat); the sixteenth and seventeenth to the Flemish Democrats and Socialists (10,000 votes per seat); and, lastly, the eighteenth to the Progressists, who thereby secure one seat for 9,878 votes.

The Socialists have now obtained ten representatives, the Progressists four, Flemish Democrats two, Catholics one, and Moderate Liberals one, total eighteen; and 9,878 is the unit of representation, which obviates the assignment of representatives to any party on the basis of a remainder. This number is contained ten times in the vote of the Socialists, four times in that of the Progressists, two times in that of the Flemish Democrats, and one time in that of the Catholics and Moderate Liberals, and it is not contained in the vote of the Independents."

The main difficulty in the distribution of seats, it will be noticed, springs from the fact that a small party, whose vote is not equal to a single unit of representation, may, nevertheless, secure a representative on the score of having a remainder larger than the remainders in other parties. To meet this difficulty, I proposed, in the *Proportional Representation Review*, March, 1894, that every party whose total vote is less than, say, 85 per cent of the unit of representation, be excluded altogether from the apportionment, and that a new unit be found on the basis of the remaining votes. In the Belgian election the Independent vote is only 73 per cent of the unit 11,523; and if it be excluded, the total number of votes of other parties would be 199,004 (207,429 minus 8,425). Dividing this by eighteen, we have a second, or *effective* unit of representation, 11,055, which provides for sixteen full quotients, and gives the Catholics and Flemish Democrats each one additional on remainders.

The same result could be reached in a simpler way. The legislature could fix specifically the fraction or percentum of the aggregate vote, falling below which, no party should be granted a representative. For example, in the above election, one-eighteenth would be 5.55 per cent of the aggregate vote. Let all parties be excluded (where eighteen are to be elected) whose total vote is less than one-twentieth, 5 per cent, of the aggregate vote (in this case 10,371). If ten are to be elected, the parties to be excluded would be those casting less than 9 per cent of the aggregate vote. And, supposing ten to be elected, Sec. VI. of the law,

as given on p. 121, could be amended so as to read: "Sec. VI. In determining the results of the election, 1. From the aggregate number of valid votes cast for all tickets, shall be deducted the votes of all parties whose total vote is less than 9 per cent of the aggregate, such parties to be excluded altogether from representation. The remainder shall be divided by the number of candidates to be elected; the quotient, ignoring fractions, to be known as the "unit of repre sentation," etc.

If fifteen representatives are to be elected, the parties excluded would be those receiving less than, say, 6 per cent of the aggregate vote. With such a distribution the election returns given on page 107, where fifteen presidential electors are chosen,[1] would have excluded the People's party, whose total vote, 328,392, was less than 494,406 (6 per cent of the aggregate, 8,240,106), and the result would have been eight Democrats and seven Republicans, instead of seven Democrats, seven Republicans, and one Populist.

Returning to the application of these four plans to the Belgian election, we should have the following units of representation in the order of size: —

UNITS OF REPRESENTATION.

1. Dividing by number of candidates . . .	11,523
2. Droop (number of candidates plus one) . .	10,917
3. Excluding parties less than 5 per cent . .	11,055
4. D'Hondt	9,878

[1] Republican . . 3,910,390 People's 328,392
Democrat . . 3,808,791 Prohibition . . 192,533
8,240,106

Simple unit = 549,340. Effective unit = 514,612.

The comparative distribution among the several parties would be as follows: —

	SIMPLE DIVISION.	DROOP.	D'HONDT.	EXCLUDING PARTIES LESS THAN 5 PER CENT.
Moderates	1	1	1	1
Progressists	3	3	4	3
Socialists	9	9	10	10
Flemish Democrats	2	2	2	2
Independents	1	1	0	0
Catholics	2	2	1	2

As exhibiting the difficulty in securing accurate proportional representation, the following table shows the number of votes in each party required to secure one representative, under the various plans: —

	SIMPLE DIVISION AND DROOP.	D'HONDT.	EXCLUDING PARTIES LESS THAN 5 PER CENT.
Moderates . .	1 seat for 11,693 votes	1 for 11,693	1 for 11,693
Progressists .	1 " " 13,170 "	1 " 9,878	1 " 13,170
Socialist . . .	1 " " 11,853 "	1 " 10,668	1 " 10,668
Flemish Dem.,	1 " " 10,856 "	1 " 10,856	1 " 10,856
Independent .	1 " " 8,425 "	0 " 8,425	0 " 8,425
Catholics . .	1 " " 9,702 "	1 " 19,405	1 " 9,702

It will be seen that, in this particular election, M. D'Hondt's highly complicated plan, though dispensing with remainders, is yet the most unequal of all, seeing that the Progressists get one representative for 9,878 votes, while the Catholics get only one for nearly twice as many (19,405).

Considering the complexity of all plans except the simple division, and the practical objections against overloading the reform with too many explanations,

besides the impossibility in any case of an absolutely perfect result, it is probable that the bill as presented by the American committee will appeal most strongly to the public. However, it seems that a feasible plan, which would obviate too great influence of such parties as are too insignificant to command a single unit of representation, would be just and expedient.

APPENDIX II.

THE LEGALIZATION OF POLITICAL PARTIES.[1]

It is now generally recognized that political parties are essential to popular government. But our Federal and State constitutions were originally framed under the conviction that parties were the deadliest rocks in the path of freedom. Parties were identified with factions. Washington's farewell address was inspired almost solely by this dread. He said: —

"Let me . . . warn you in the most solemn manner against the baneful effects of the spirit of party generally. This spirit unfortunately is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all governments, more or less stifled, controlled or repressed; but in those of the popular form it is seen in its greatest rankness, and is truly their worst enemy. . . . All obstructions to the execution of laws serve to organize faction, to give it an artificial and extraordinary force; to put in place of the delegated will of the nation the will of a party, often a small but artful and enterprising minority of the community; and according to the alternate triumphs of different parties to make the public administration the mirror of the ill-concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans digested by common counsels and modified by mutual interests."

In this last solemn warning Washington stated the convictions of those who framed our constitutions. Our

[1] Address before the National Conference on Practical Reform of Primary Elections, New York, January, 1898.

early statesmen, therefore, instead of incorporating parties into the constitutional framework of government, made every effort to suppress them. It was natural for a people who had just emerged from a life-and-death struggle with a foreign foe, where unanimity was required for success, to look with anxiety on the personal, factional, and sectional struggles that followed. Washington himself could hardly see that the differences in his cabinet between Hamilton and Jefferson were anything more than the personal differences between an energetic business man and a theorist. But we know that each stood for deep and lasting principles which since that time have competed for supremacy. These opposing principles, if not recognized in the organic structure of the Constitution, must make a place for themselves outside and above the Constitution.

But there is a familiar and valid distinction to be made between the *principles* for which a party contends and the *organization* by which it gains success. Its principles are all the selfish and the patriotic interests which its members strive to have embodied in law and enforced upon the people. Its organization is the machinery by which it marshals together a majority or a plurality of the voters. The success of organization depends not only upon the number of voters, but also upon their discipline. Consequently organization tends to monopoly and centralization. This is shown in the history alike of warfare, of government, of religion, of industry, and of politics. In the struggle for existence the best disciplined and largest organization, if backed by the motive power of desires and

conscious interests, will survive. In our system of election by plurality vote there can be but two great parties, and every advance in organization of the one must be copied or bettered by the other, under penalty of lasting defeat. So urgent is this necessity that widely divergent principles and interests are usually forced into the same organization. It does not follow, because there are two parties, that there are also but two opposing principles animating their membership. It is the overpowering demand for success that gives organization preponderance over minor divergent principles. Various subordinate groups and factions of the party may be unrepresented in the ruling faction, but they must yield. And with this yielding of factions within the party for the success of the whole, it has followed that parties have become more powerful than the Constitution itself. The Federal and State constitutions recognize only the individual candidate and the individual voter. But parties strive to elect those men who will above all things else enforce the party's principles, and in so doing they have forced the Constitution to their necessities. This is shown notoriously in the election of the President on a party ticket, instead of the election of a non-partisan, like George Washington, as contemplated in the Constitution. It is shown also in the appointment of the subordinate civil service officials in nation, State, and city on the basis of partisan activity — a policy of appointment introduced by those early prophets of the political machine, George Clinton in New York and Andrew Jackson in the Union. This policy has greatly strengthened party organization by enabling the party

to hold together between elections, and by fortifying the leaders in their supremacy over the government and over their own partisans.

This centralizing tendency in party government was resisted by the American voters in the same way that centralization in national government has been resisted, by the formation of peoples' clubs in various localities, meeting together to criticise and take independent action against their leaders. These local clubs gradually compelled recognition and secured as the authoritative organs of the party the substitution of a party-nominating convention composed of their own delegates in place of the legislative or congressional caucus of party leaders. Thus the primaries originated. They tended to democratize the parties and to give voice to the wishes of the party membership as a whole. They thereby greatly strengthened the party organization, not by lessening the power of leadership, but by reconciling the members to the leadership of those they believed to have been fairly chosen. When there is harmony between leaders and led, we may, in America, usually depend upon the minority to act faithfully with the majority, for they have the hope through education and discussion of becoming themselves the majority.

With the completed recognition of the primary in the first thirty-five years of this century, party government came to be firmly established in the hearts of the people. The increase of power coming from it led the parties to seize upon the machinery of government, the subordinate offices, and the laws in order to keep themselves in control. It then became necessary for

the opposing parties in self-protection to use legislation to hold each other in check. Consequently the first legal cognizance of parties appears in the effort to put both parties on an equal footing in elections. The first intimation which I can find in the statutes of New York that political parties actually existed is in the election law of 1842, which provided for the election of three inspectors of elections, but permitted the electors to vote for only two. This was doubtless designed to give the minority party one of the inspectors. But the party organization as such was not yet acknowledged, the theory still being that candidates, not parties, were being voted for. Not until after the war, in the election law of 1870, which provided for bipartisan police and election boards in New York City and Brooklyn, were parties recognized as actual factors in elections. This act provided specifically that the choice of the third inspector should not be left to chance, as in the law of 1842, but that he should be chosen "from the party in general political opposition on State issues to the party electing the two successful candidates." An act of 1880 provided for a board of registration in counties of more than 300,000 population, to be appointed from both political parties. And a general law of 1880 provided that every "political organization that shall present a candidate or candidates" should appoint watchers to oversee the inspectors in counting the ballots. This legislation embodied merely a negative recognition of parties; it did not give them a place in the legal machinery of government, but merely protected them against each other. The same was true of the first primary law, that of 1882,

providing penalties for those who should wilfully obstruct the primaries, and placing the presiding officer under oath.

Another negative legal recognition of parties is found in the so-called civil service reform legislation. The appointment of strictly administrative officials to strengthen the party organization is, from the standpoint of the public, an unwarranted use of these offices and is dictated only by party necessity. Civil service reform aims to exclude this necessity. Here for the first time legislation deals with political parties by taking away one of the strong props of their organization. Such legislation is an effort not to incorporate parties into the machinery of government, but to exclude them from a large part of this machinery.

The first positive recognition of parties came with the Australian or legalized ballot. The principles of this legislation were the following:—

1. A rough definition of political parties, based upon the party convention and the general and executive committees of the party, but not based on the rank and file of the membership.

2. Party nominations as certified by the aforesaid party authorities. Here for the first time it was legally recognized that the American voter does not vote for candidates, but for parties, and the party was accordingly made a constituent element in the machinery of government.

3. While recognizing parties as belonging to the legal machinery of government, the law deprived these same parties of their most important mechanical function — the management of elections, the printing and

distributing of ballots. This function does not pertain to the essential nature of parties in so far as they are based on principles, but is only an accident of their organization; the State, therefore, in assuming to execute the function itself through its own sworn officials, in no way interfered with the rôle that parties must play in popular government. It rather liberated the true spirit and function of parties from the shell of organization. Originally the ballot was a piece of paper prepared by the voter himself; afterward the party organization, in the interests of economy and superior efficiency, assumed the performance of this strictly mechanical service; and finally the State took upon itself this service, because it had become in the hands of the party organization an instrument of autocracy, tending to check a free spirit and a free expression of party principles in the mass of the party membership.

We have therefore, now, the official or legalized ballot instead of the private party ballot, and the results are noteworthy. It greatly increases the influence of the individual citizen in the elections. It gives, as far as it goes, a preponderance to the principles rather than to the mere organization of parties, and so tends to bring to the front in party leadership those who stand for principle rather than mainly for shrewdness and manipulation. Finally it puts both parties on a higher level of competition by eliminating from party strife the factitious elements of bribery and intimidation, depending as these do upon private control of the machinery of election, and so increases rather than lessens devotion to party by giving the voters more confidence in their leaders.

But we know that much remains to be done. The next step is in the same direction: the further legal recognition of parties as belonging to the structure of government, and the further assumption by the State of certain merely mechanical incidents of party organization. Having legally incorporated the party machinery into the system of government, the law must now more carefully define what is meant by a party. A party is not its general committee nor even its party convention — as the official ballot law assumes. It is primarily all the voters who support its principles. The election law leaves this definition to those in control of the organization, — a palpable instance of the suppression of the individual citizen by the conquering power of monopoly. Parties having been legalized and made a constituent element in the organization of government, it follows that the individual citizen has as inalienable a right to be a member of a party as he has to be a citizen. By this is meant that his right to party membership must be defined and enforced by the same power as that which defines and enforces his right to citizenship; namely, the law of the land. Just as we do not leave the definition of citizenship and the machinery of naturalization to the private interests of any body of men, so we cannot leave the definition of party membership to even the party organization. Political parties are no longer private concerns organized for agitation, but they are public institutions organized to name the officers of government and so to control the government itself. They are now constituted by the ballot law for precisely this purpose. The individual citizen has

practically no voice in government except through these party organizations. Consequently the State, which protects his rights of citizenship, must protect his rights of partisanship. If this protection is left to a private syndicate, the test will be his past devotion to the syndicate. If it is put in the hands of the State, the test will be his present intention to support the party of his choice. This declaration of intention, rather than previous affiliation, is the test of citizenship whenever needed, as in naturalization, and should also be the test of partisanship whenever needed. The only safeguard of such a test is the sovereign power of law.

A primary election law must first of all increase the influence that may be exerted by each voter upon the committees and the nominations of the party of his choice. In the legalized ballot such an increase of influence is secured especially by secrecy. I know the sentimental objections to secrecy, — that it is degrading and hypocritical. But I know that it protects the voter from something far more degrading if not hypocritical; namely, bribery and intimidation. And now that the official ballot is secret, so that a voter's declaration and oath of affiliation at the primary are only nominally binding, it would seem to be the true interest of parties, in framing a primary election law in order to protect themselves from nominations by voters under duress, to make the primary also secret. This could be done by providing a blanket ballot containing the names of all candidates for nomination by all parties, and by dispensing with all declarations or oaths of party affiliation. This expedient is perhaps

not practicable at the present stage of the discussion, though it may ultimately be adopted by amendment after the law is once enacted. It would both simplify the voting at the official primary and materially increase the influence of the upright voter within the organization.[1]

Such primary election law gives a preponderance to the principles animating the members of the party rather than to the machinery of its organization; and this is done by putting into the hands of the State, which is the common representative of all parties and all citizens, the machinery of the primary itself, such as the printing and handling of the ballots, the appointment of officials, inspectors, and judges. This, of course, gives a further guaranty of the rights of the individual voter to a place in the party membership, by protecting him in the enrolment and counting of his vote and the certificate of the result. But it is also a subordination of the machinery of organization to the principles of the party. Party success will then depend not so much upon control over the mechanical details, as upon enthusiasm for common principles. And these principles will therefore become broader and more patriotic, because they must be broad enough to hold together the various factions and minor interests which must be combined to get a majority. Patriotic principles rather than shrewd organization will be the banner of party success. It is petty factions and intractable parties whose principles are dangerous, and great parties become dangerous when they

[1] In the primary election laws of Wisconsin and Oregon this principle is substantially adopted.

are ruled by a faction, — a situation which arises usually through the imperfections of organization. It is the business of election and primary laws to remove these mechanical imperfections.

A primary election law of this kind will not lessen the hold of parties upon the hearts of the people. It will, rather, like the official ballot, increase the devotion to party and the acquiescence of the minority to the leadership of the majority. Neither will it deprive parties of the eminent leaders who have justified their position by the decisive criterion, success. The same abilities which have subserved the demands of a faction in the party or the inordinate love of power on the part of their possessors will, instead, be made subservient to the party as a whole.

Thus primary election reform is one of the steps away from the early dread of political parties toward the legal recognition of parties as a constituent of our governing machinery. Only when recognized as such, can they be controlled in the interest of the people. They ought to exist not for themselves, but for the country as a whole. Yet they have in themselves what larger patriotism does not always possess, the powerful motive of self-interest. Their so-called principles consist mainly in the common interest of their members. This is their constant impelling force. This is the source of that energy in them that gets results. The problem of politics is how to direct this self-interest for the common good. At first the problem was attacked negatively, the endeavor being to prevent one party from getting unfair advantage over the other. Next the attack was positive, in the interest of

the people at large, endeavoring through the official ballot to deprive parties of those artificial and factitious means of success which depend only upon the machinery of organization. Now the problem is the internal organization of the parties themselves, the legalized primary, the very heart of the party situation. The party primary is peculiar to American self-government. We cannot get lessons from other countries. The primary is democratic in its origin. It has become oligarchical only through the unregulated development of organization. The problem of politics is to recognize organization as necessary and then so to order its conditions and terms as to make the party an agent for securing equal opportunities for all its members and all citizens. When this is done, we may look with confidence upon the arena of party strife not as dividing the country and leading to the despotism which Washington feared, but as promoting those principles which truly subserve the good of all the people.

APPENDIX III.

DIRECT LEGISLATION. — THE PEOPLE'S VETO.[1]

By direct legislation is meant the following: —

1. *The Optional Referendum.* — The right of a fraction of the voters, say five per cent, to require by petition that a law or ordinance adopted by the legislature, Congress, or a municipal council shall be submitted to popular vote.

2. *The Compulsory Referendum.* — The constitutional requirement that all laws and ordinances (excepting urgency measures and existing budget) be submitted to popular vote.

A majority of the votes cast decides in each case.

American examples of the compulsory referendum are the vote on State constitutions and constitutional amendments; local option on liquor-selling; municipal and town vote on borrowing money, purchasing or erecting water-works, gas, or electric-light plants, or constructing large public improvements. The optional referendum and the initiative have been adopted with various modifications in South Dakota, Nebraska, Missouri, and Oregon. The Swiss Confederation and Swiss cantons have adopted the three forms of direct legislation. The genuineness of direct legislation depends upon the details. It may be so hedged in by hostile restrictions as to be almost worthless. Such

[1] From the *Arena*, December, 1899.

restrictions are, for example, the excessive number of petitioners required, as in Nebraska — fifteen per cent; vexatious obstacles to legal signatures; formalities, time limits, etc. The system as adopted in Oregon is the most effective and genuine of the American examples. Constitutional obstacles have been ingeniously surmounted in some localities by the "Winetka system," which is merely a rule of procedure adopted by the municipal council requiring an ordinance to lie on the table for thirty days in order to give opportunity for a referendum petition, the councilmen having promised to vote as instructed by the majority at the referendum. The details of this transitional system have been worked out by the National Federation for People's Rule, Washington, D.C.

Some of the explanations offered to account for the success of direct legislation in Switzerland show a curious reversal of cause and effect. They seem to imply that the Swiss people dropped into the initiative and referendum through some unexplained hereditary instinct, just as a bug flies to its proper food without being taught. It is said that direct legislation is successful in Switzerland, while it would not be so in England and America, because the Swiss have no hard-and-fast "parties"; because they have greater respect for one another's opinions; because they do not have wide extremes of wealth; because they do not vote against legislators for re-election even though they vote against the laws of these same legislators at the referendum; because they are a quiet, peaceable, home-staying folk, etc. It is true that these qualities accompany successful direct legislation; but they are

its fruits, not its soil. They are results of the referendum, not its causes. The Swiss were at one time the mercenary soldiers of European kings and dukes, and they brought to their homes the low morals and turbulence of such a life. Yet it is agreed that in the cantons that formerly were noted for violence and bloodshed there has been a marked decline in homicide and other forms of crime since the introduction of law-making by the people.

The Swiss people re-elect their legislators even when opposed to their politics — not because they have a kind of quaint, absurd instinct for keeping the same man always in office, but because they know that he does not have the final decision, anyhow, and they are willing to have his expert advice even though they do not accept it. They employ their law-makers as we our lawyers and doctors — not to dictate what we shall buy and sell, eat and drink, but to arrange the details; to tell us *how* to buy and sell, and *how* to keep our health. Our family doctor is not a boss, and we keep him even when we violate all his good advice. So the Swiss re-elect their law-makers, not as law-makers, but as a statutory revision commission. This is a result of the referendum, not a condition precedent.

The Swiss have not developed political parties, because their direct law-making obviates the need of parties. It is an easy matter to get together a new party on each new question of importance as it arises. To introduce a measure into politics and get it enacted into law, it is not necessary first to find a party that will adopt it in a platform, but those interested can place it directly on the statute book by petition and

popular vote. Where a party is relied upon to take up an issue, there is prospect of its repudiation after election, and the voters must stay by the party and must accept all its other planks even against their judgment, or else lose their favorite one. Consequently party organization and party solidarity are the first conditions of success, and voters are even prone to place party above principles. Bitter execration follows the man who abandons his party, — more bitter than that heaped upon the long-standing foe, — because the party is the only means of successful political action. All this is absent in Switzerland. A standing party, with machinery always at work, is a waste of effort where the people can get the laws they want by direct vote.

Why do the Swiss people respect one another's opinions and consider it an indignity to influence another's vote at elections?[1] Because they know that each man's opinions count. Each man votes directly upon issues; his votes for candidates are secondary. He is never humiliated by seeing his opinions spurned by the very legislators who before election were pledged to support them. Opinions, like men, are seriously respected only when they have power. Then only do they truly *command* respect.

In so far as the Swiss people are free from the corrupting extremes of wealth and poverty, it is mainly because direct legislation headed off the encroachments of boodlers, bribers, and monopolists, and all kinds of special legislation, by which so many American for-

[1] See article by Professor Jesse Macy, "The Swiss and their Politics," in *American Journal of Sociology*, vol. i., pp. 31–33.

tunes have been created. Prior to the referendum Switzerland was going through an era of political villainy quite similar to that which the American people know so well. In fact, Swiss politics from 1830 to 1860 reads quite like a chapter in current America. It was no abstract philosophy nor democratic instinct that brought the referendum. The people were driven to it as the only certain means of expelling corrupt wealth from politics. The alliance between the private corporations — the railways and the banks — that furnished the funds and the politicians who manipulated the people was exactly that to which Americans are now opening their eyes. No matter which of the two parties elected its candidates, the result was the same. Election promises were violated — the people were "sold out." Franchises were granted, subsidies and tax exemptions were bestowed, and extremes of wealth and poverty were forced upon the people by law, simply because the law-makers were absolute. They voted these special privileges; they received their share and their perquisites from the boodlers; they were building up political machines and controlling elections with these funds taken from the people, and there was no restraint. The referendum was the remedy. The canton of Vaud adopted it immediately following an especially exasperating grant of a subsidy to a railroad corporation.[1] Other cantons followed. The movement is likened by Deploige to a perfect wave of democracy sweeping over the country. The remedy

[1] Deploige, "The Referendum in Switzerland," London, 1898, p. 82.

was complete. Switzerland was rescued from evils that now threaten the life of other democracies. No longer could law-makers sell out the people; they could no longer "deliver the goods." The people themselves must ratify the sale. The referendum was the people's veto.

It must not be thought that in America the people have not been as wide awake as in Switzerland. They have had similar experience. They have seen their representative bodies violate pledges and sell the people's birthright to corporations. They have struggled vigorously to stop the abuse, but they have developed, *not the people's veto,* but the *executive veto* and the *judiciary veto.* To understand the present need of the referendum, we need to understand this diverse development in Switzerland and America in the effort to resist the same political outrages.

Representative government originated in the Swiss cantons in much the same way that it did in the American colonies. The government had been feudal and aristocratic. The people arose in revolt and conducted their revolt through the leadership of their own elected representatives. This was in Switzerland in 1830 as in America in 1776. When revolution was successful in both countries, the legislatures thus elected became naturally sovereign in the place of the expelled rulers. There was no division of power between the three branches of executive, judiciary, and legislature, but the legislature was the sole and absolute sovereign. Judges and governors were appointed by it. In five States it was even a court of appeals, like a house of lords. It contained the ablest men

of the cantons or the colonies — men who were truly representative and who showed their ability by their management of a successful rebellion.

These legislatures, however, were not elected by universal suffrage. They were legislatures of property owners. It was not until the decade of the twenties in America and following the revolution of 1830 in Switzerland that universal manhood suffrage without qualification of property, religion, or education became established as the basis of electing the legislators. This introduced a new and inconsistent feature. It had been firmly asserted in both couutries that the people were sovereign, but it was thought that their sovereignty would be fully assured if every man had a vote for a delegate who actually exercised sovereignty. The result was disappointment. Universal suffrage introduced conflicting interests into the elections. Property owners, when voting alone as a class, could elect their own best men, just as a private corporation of stockholders can elect their directors without interference from outside. But when the property owners were compelled to vote with the nonpropertied, with the uneducated, the foreigner, the unbeliever — all these discordant elements were unable to agree on one man who should represent all. It was as if the stockholders of a railway corporation should be forced to admit their employees to an equal vote on the basis of numbers in electing their president. Such a president would not be a leader either of the stockholders or employees; he would be a compromise — a "dark horse" — of some kind. So it was with the legislatures. They quickly fell into the

hands of professional politicians and wirepullers whose shrewdness could marshal majorities or pluralities from these conflicting classes. Immediately these politicians allied themselves with the new class of speculators and capitalists who were coming upon the stage with the railway, the bank, the corporation, the mechanical inventions, and the new sources of unprecedented wealth. We have seen the outcome. The legislatures degenerated and became the tools of the speculators, and the latter seized upon the property and privileges of the people. The people must now either depose their legislators or tie their hands. The former was impossible, for headship must reside somewhere. They proceeded to tie their hands.

In Switzerland the only way to do this was to give the people a veto over the specific acts of the lawmakers. There must be a veto somewhere, because the people had found that no matter how they voted for candidates they could only displace one party by another — one set of ringsters by another set. The only veto they could adopt was the people's veto, because they could not call in foreigners, and they had never conceived the idea of an executive or a judge independent of the legislature.

But in America a different course was open. While the legislatures were supreme in the new State constitutions formed during the revolution and in the Continental Congress, yet when it came to the federal constitution, a new theory was adopted. This theory was supposed to have come from the English constitution, but it came by the way of France and was more logical but less truthful than it would have been had

it been stated by Englishmen. It was the theory of the three branches of government — the executive, the judiciary, the legislature — each independent of the others and each a check and a balance on the others. Influenced by this theory, the framers of the federal constitution made the president elective — not by the people indeed, but by an electoral college independent of Congress, and, it was hoped, independent of the people. In the early years, however, it was still the congressmen of the two parties who actually nominated the presidential candidates. Not until the time of Andrew Jackson and the rise of the party convention did the people take the nomination away from congressmen. The reason for this innovation was plain. They believed that Congress was controlled by the wealth and aristocracy of the land. They saw the deal it had made with the private corporation known as the United States Bank. This bank, with its powerful monopoly of money, threatened to control the government, to intimidate the voters, and to fleece the people. The people turned to Andrew Jackson. They made him almost dictator. They took advantage of his constitutional veto to break the alliance between private speculators and Congress. For the time being the executive veto was successful and overwhelming. It was not necessary to invent a people's veto.

In the State governments the executive's power over the legislature has been introduced by direct and formal revision of the constitution; whereas in the federal government, as we have just seen, it was brought about by subordinating the electoral college to the party convention. In the thirteen revolutionary

constitutions the governor had no veto, except in Massachusetts and New York, where it was narrowly limited.[1] In no State did he appoint officers. These were chosen by the legislature. His term was the shortest possible — only one year in ten States. In six States re-election was prohibited. Every State legislature elected a privy council to sit with him, whose advice and consent he was required to secure on all important acts. He was plainly dreaded. But in the constitutions of the new States, beginning with Ohio in 1802, the federal plan was imitated. And when, after the War of 1812, the older States grew dissatisfied with their legislatures, the revisions of State constitutions restored to the governor the power he had held as colonial representative of the king. Every State revision since then has added to his power and, in turn, has stripped the legislature. He has now the veto in nearly all. He appoints officials and judges. But, more significant, the constitutions place all kinds of obstacles in the way of legislatures. They cannot hold annual sessions. They cannot sit more than two or three months. Special legislation is prohibited. Minute regulations are prescribed as to the introduction, reading, and adoption of bills. Where these restrictions have not yet been imposed, there is scarcely any other demand so popular. In fact, the legislatures, more than the governors, now are dreaded.

[1] Historical statements here given are based on the monograph by Judge Horace Davis in the "Johns Hopkins University Studies in Historical and Political Science," entitled "American Constitutions: The Relations of the Three Departments as Adjusted by a Century," Baltimore, 1885.

Yet more striking is the suppression of the municipal legislatures. These were also originally supreme in the cities. But here the "federal plan" has overreached itself. The mayor has not only been given the veto, but he and his appointees are the government. There is no pretext of checks and balances. The board of aldermen has practically disappeared, or where it still holds a vestige of authority, its power is believed to be a "mischievous relic."

So much, briefly, for the executive veto. The judiciary veto is the unique feature of American government. We do not appreciate its novelty nor the grounds of its popularity and urgency. Two developments of the judiciary have occurred, both provoked by the degeneracy of the legislatures. The one is the veto; the other is the popular election of the judges. When, through the revision of constitutions, the legislatures were hemmed in and tethered, there was urgent need of machinery for holding them to the restrictions thus prescribed. The legislature could not be effectively muzzled by a written constitution, if it continued to be the final interpreter of that constitution. In lieu, therefore, of a popular veto the judiciary was naturally given the final decision as to the constitutionality of the acts of the legislature. And the governor, too, was put under judicial dominion, for the constitution also definitely limited his powers.

At the same time the judges were made elective by popular vote. This again is unique and peculiar to America. No other great country elects its judges. It also is recent and dates only from those constitutional revisions that accompanied and followed univer-

sal suffrage and legislative incompetency. New York was the first to make this provision for the highest courts, and this was done as late as 1846. The reason is plain. Judges could not veto the legislature and governor if their positions and salaries were dependent upon them. They must get their authority direct from the people if they were really to be a third branch of government. The federal judiciary has escaped this fate, because the federal constitution is hardly amendable. But the federal Supreme Court has seldom used its veto on the president and Congress. Its principal field has been in the control of the State governments. The State judiciary, on the other hand, in thirty-three States is now elected by the people, whereas it formerly was elected by the legislature.[1]

Thus in nation, State, and city the legislative branch of government has been fettered and suppressed. The executive and the judicial branches have been exalted over it. But, instead of curing the legislature, the remedy has only infected the other branches with the legislature's vices. The executive is equally the creature of the politicians. After reformers in New York had bestowed on the mayor the powers of the obsolete aldermen, they were surprised to hear him announce that it was not he but Tammany Hall that had taken the contract for governing the metropolis. The President's veto gives him large powers in legislation, but for that very reason he has been made the creature of partisan machinery. The con-

[1] See article by Frank Gaylord Cook in the *Atlantic Monthly* for June, 1899, "Politics and the Judiciary."

stitution attempted to provide for a non-partisan like George Washington. But, so long as the president has political power, the politicians and the corporations are compelled to exert themselves to control his nomination and election. The federal judges are appointed by the president from members of his own party, or from those who agree with him on corporation law. The State judges are ominously the creatures of political methods. Candidates for the judiciary in New York City have paid Tammany Hall $5000 to $10,000 for their offices. Candidates for the chief-justiceship of the State have been nominated by the State central committee, without the trouble of calling a convention of the people.[1] Professor Kenneson, of New York University, says publicly to his graduating class of youthful lawyers: "Profound knowledge of your profession, high ideals of your calling, never will commend you to the boss for nomination to the bench, nor lead the average judge to name you as referee. Such things go by political preferment, and not by merit."[2]

Did the facts conform to the theory, the judiciary veto would be consistent. The theory holds that the people are sovereign; that they express their will in a written constitution; that the judiciary is merely their agent in enforcing their constitutional will upon the other departments. But the constitutions are care-

[1] See article by Mr. Cook, above cited. Mr. Cook argues for return to appointment of judges. This is not possible so long as judges have a veto on the other branches of government. New York has voted it down by 3 to 1.

[2] New York daily papers of June 15, 1899.

fully guarded so as not to express the people's will. It is inaccurate to hold that a federal constitution adopted one hundred years ago and amended only through civil war[1] should express in all its parts the will of the living generation. To amend the constitution requires a two-thirds vote in Congress and a three-fourths vote of the States. Practically this means that the politicians now in office are impregnable. So with the State constitutions. Pennsylvania permits only one amendment in five years. Others permit only one at a time. All amendments must originate in the very legislatures whose privileges the people are striving to lessen. Even then, in many States, two successive legislatures must agree on the amendment.[2] And finally, the people have often only the choice of either accepting an amendment that is doctored contrary to their taste, or of retaining a provision that has been outgrown or has been interpreted by the courts without their consent.

The case is worse when a total revision of the constitution is attempted. Total revisions ought never to be needed, but sometimes they are the only way of getting the partial amendments demanded. Then a constitutional convention, elected under the party system like the legislature, submits a completed instrument, minute in details and involved in technicalities, and the sovereign people are given the empty option of approving it as a whole or retaining the existing con-

[1] The original twelve amendments belonged properly to the original adoption of the whole.

[2] See Borgeaud, "Adoption and Amendment of Constitutions in Europe and America," New York, 1895, pp. 188–189.

stitution. This decision usually turns on one or two paragraphs, and the many important parallel clauses are swallowed or overlooked. No wonder we do not have lawyers or judges nowadays emphasizing the old theory that the courts in declaring a law unconstitutional are merely applying the will of the people to their law-makers. Instead, we hear the pious lauding of the courts as a check on the "passions and frailties" of the people; as the representative, not of the people, but of "law — impersonal, impassive, and serene in the innermost shrine of the temple" of popular government.[1]

But the constitutions are not clear on every point. They are susceptible of opposite interpretations. Lawyers differ. The courts of last resort seldom, if ever, render a decision on a constitutional question by a unanimous vote. With such differences of interpretation it is plainly not the constitution, but the *judges' idea* of the constitution, that settles the case. Judges are human; they begin as lawyers; they are generally elected or appointed as partisans; the ablest of them have made their standing as corporation attorneys; and, though we gladly acknowledge that they succeed better than the rest of us in forgetting politics and former clients, yet they must have opinions on questions of property and constitutionality. They certainly do extend the scope of the constitution with the appearance of new industrial conditions. In nothing is this more patent than where they have treated corporations as "artificial persons," and have transferred to them those "natural rights" which the constitution of the United States grants to "natural persons."

[1] Judge Horace Davis, in monograph cited above.

Can it be true that the people's will, expressed in a constitution drawn up a hundred years ago when a private corporation was almost unknown, could have anticipated the rights that fifty years later it wished to see bestowed on these artificial beings yet unthought of? We cannot answer this question until we make it possible for the people freely to express their will at the appearance of each new issue of importance. As long as they fail to do this, the judges can only do the best they can — declare the constitution as they themselves believe it. But let us remember that the real decision is merely the judge's *opinion*, in place of the legislature's opinion, of what the law ought to be.

The apparent solution of the matter is to make the constitution promptly amendable by the people. In Switzerland this is nothing more nor less than the *initiative*. I am not ready to say that the initiative as now formulated in Switzerland is satisfactory. The Swiss people themselves, while unanimously in favor of the referendum, are somewhat disappointed in the existing initiative. Those who favor it in general are willing to amend it in details. The referendum is negative. It is a check — a veto. By its provisions every important act of the legislature must be submitted to popular vote for final acceptance or rejection. But the initiative is intended to be positive. By it a small number of citizens can draw up a bill, present it to the legislature, and require a popular vote upon it without amendment. The legislature can express its opinion and submit an alternative bill at the same time; but it cannot obstruct the petitioners' bill. This

criticism of the initiative does not strike its principle. The initiative in some form is the necessary complement of the referendum. It has indeed done its best work where it has served as a perpetual power of repealing laws, whereas the referendum proper must be voted within thirty or sixty days, or where it has forced the legislature to take action and to present to the referendum some kind of a bill. But the initiative does not directly accomplish progressive legislation. The Swiss radicals are especially disappointed in it. Petitions are drawn up by small fractions of the people; sometimes they are whimsical and abstract, and are nearly always voted down. But I consider this one of the truest guaranties of the initiative. It is the strongest justification of the position taken by those who hold that law-making is soundest when it most frankly trusts the people. Direct legislation in Switzerland has abundantly shown that the people are safer than their rulers. Extremists have no hope in them. They vote down the bills of both reactionaries and radicals. This is true not merely in the country districts, but also in the cities, where the unpropertied working classes are supposed to show disregard of property rights. Direct legislation gives voice and influence to the great mass of home-loving, peaceable, industrious people, who make little agitation and who are not heard in the ordinary clamor of politics. Such people are fair-minded and love justice. They want only what they earn, but they want it themselves. They are the bulwark of democracy. They cannot be crowded or dazed. They wait until they understand. Yet in the long run, at the second or third voting, it

is found that they are ready to accept progressive measures. They voted down government railroads twice, partly because of the exorbitant price the legislature agreed to pay to the private owners; but finally, when the question reached the stage where it excited almost no discussion, they voted in its favor by a large majority. So with other measures. Says M. Stüssi, in his notable account of direct legislation in the city of Zürich: "All laws useful to the canton have been accepted, even those which demanded considerable money sacrifices from the people. No law which would really have advanced either moral or material progress has been definitely laid aside. In those rare cases which seem to contradict this conclusion, the referendum has simply displayed its inherent ultra-conservative character and delayed an advance which would seem to most to be too rapid."

The foregoing discussion is intended to show that many of the arguments usually advanced for and against direct legislation miss its true position. Direct legislation is not strictly a means of legislation: it is a *check on legislation.* It is a *veto.* But none the less it is the most urgent proposition before the American public. While theoretically basing our government on the will of the people, we have been experimenting for a century to find a machine that will run itself independently of the people. But government is not merely a nice set of checks and balances, of vetoes and countervetoes. It is the outcome of the whole life of the people. The executive veto and the judiciary veto are irritating substitutes for the people's veto. Yet too much must not be expected from direct legislation.

It is to be classed, not with legislation proper, but with such devices as the secret ballot, the official primary, the corrupt practices acts. Its urgency is not as a means of bringing in reforms, but as a cure for bribery, spoils, and corruption. These are indeed the pressing evils of American politics. No reform movement, no citizens' union, or the like can fully cope with them. A despotism, a monarchy, an oligarchy, or an aristocracy can be corrupt and survive; for it depends upon the army. A republic or a democracy depends on mutual confidence; and, if bribery and corruption shatter this confidence, it is of all forms of government the most despicable. It can survive only by the army and the police.

The referendum is the only complete and specific cure for bribery. It alone goes to the source of corruption. It deprives law-makers and executives of their monopoly of legislation. The secret ballot, official primaries, civil service reform, proportional representation — these are all needful, but they leave to a few the monopoly of government and the power to sell at a monopoly price. If they should all be adopted, the immense interests dependent on legislation will pay not less but more money in order to control them. Even public ownership of public enterprises, although it ultimately destroys the largest corruption fund, must first be brought about by legislation; and this, unless checked by the referendum, will be the signal for exorbitant prices and a carnival of bribery more profligate than any hitherto seen. But with the referendum this corruption is almost abolished. The way, then, is open to such

affirmative action as the initiative can secure. This will appear mainly where an unrepresentative legislature has restrained the people's will so long that it has had time to become united. Several such measures might be mentioned, as the popular election of United States senators and the direct primaries. In the early stages of an agitation the initiative is usually futile — in the advanced stages, when public opinion is formed, it is a welcome portage around the dam of an obstructive legislature.

APPENDIX IV.

REFERENDUM AND INITIATIVE IN CITY GOVERNMENT.[1]

THE theory of recent municipal reform in the United States is that of a "business corporation rather than an integral part of the state." Upon this theory power and responsibility have been transferred to the mayor, on the ground, as stated by Mr. Seth Low, one of the earliest exponents of the theory, that "in the administration of large business enterprises some one man must be given the power of direction and the choice of his chief assistants." Perhaps its earlier advocates did not intend to carry their theory as far as it has gone; but, however this may be, the mayor in the larger cities has been made, under the influence of the theory, not only the chief executive, but also the chief legislative authority. The climax was reached in New York in the charter of 1897, wherein the initiative in matters of taxation, indebtedness, franchises, and improvements was bestowed upon the mayor and the boards appointed by him, with a joint and absolute veto upon the common council, and a personal veto of the mayor equal to a five-sixths vote of the council. It is significant that in the revision of 1900 a reverse step was taken, and the excessive power of the mayor was slightly reduced. At present

[1] From the *Political Science Quarterly*, vol. xvii., p. 609 (1903).

there is a lull in the progress of the theory throughout the country, caused, perhaps, by its admitted failure in many cases. As shown by the results, the theory neglects factors which demand recognition. What these are should be, if possible, determined.

Political science and economic science are alike in that they seek a basis in psychology. If the city is exclusively a business corporation, it must call into play only the psychic factors which belong to business. If it is also a political corporation, it must call into play also the psychic factors which underlie politics. These personal factors operate through social organization, and to operate effectively the organization must be so shaped as to furnish to each factor its own proper machinery of expression. An analysis based on this principle shows that there are in city government three distinct problems, corresponding to three distinct types of mind, namely, the technical, the business, and the political problem; and that two distinct forms of organization are required for these problems, namely, the business and the political organization.

By far the greater part of the people living in a city, whether engaged in private pursuits or employed by the city government, are occupied in working up the material of physical nature for the satisfaction of human wants. They are engaged in manufacturing, transporting, and delivering goods, or in fitting up the machinery, buildings, and highways for such purposes. The work is planned by architects and engineers, whether mechanical, electrical, or civil, who are more or less equipped in the technology of their peculiar callings and in the sciences of mathematics,

physics, and chemistry. The work is executed by foremen, artisans, and laborers, who have varied skill in handling the material to be worked up. Here is suggested the first problem of the city, — a technical problem, dealing with physical material.

The same considerations apply to that large army of people which includes the teachers who are supervising the children at home or in the schools and churches, the policemen and prison officials who are dealing with the anti-social classes, the charity workers, and pauper overseers who are dealing with the sub-social classes. These workers are fitting social material for society just as the other workers are fitting physical material for society's use. As in the latter, so in the former case, the work is technical, requiring knowledge gained more or less from the sciences of psychology, penology, and sociology, and skill gained from experience in the application of scientific principles. Whether these two classes of technical workers are the employees of the city or of private parties, is not at all a matter of concern, seeing that the psychic qualities required are the same in either case. Here the problem is a purely intellectual one, — the problem of knowledge and skill. The higher this knowledge goes, as in the case of engineers, chemists, penologists, the more nearly it becomes science; and the larger the experience and the greater the aptitude of the individual in disciplining his mind and members under the guidance of science, the more nearly does he become an expert. Science and technique are the goal of the intellectual factors, knowledge and skill.

But a high development of technical ability is not possible without a minute division of labor and a specialization of knowledge and skill in limited fields of work. This necessitates transfers of goods, the selling of one's own special products, and the buying of the products of others for one's personal and industrial needs. Furthermore, this technical ability must also be specialized within a single industry, and a hierarchy of knowledge and skill must be organized on a large or a small scale according to the extent of the market and the character of the production. Here we have a new problem, that of buying and selling, and the organization of responsibility. Material must be bought and sold, wages and salaries must be paid, employees must be selected and fitted into the processes according to their equipment in knowledge and skill, and the highest productive energy must be evoked from each employee by the proper play upon his motives. All together the problem is one of economizing the technical abilities of individuals; that is, of increasing the productive power of each group with the least sacrifice of strength and the least concessions to other groups and to the individuals within the group. This is usually known as the problem of business or administration. It deals with individuals, and the intellectual qualities required for handling it are tact and intuition. These qualities are seen in the successful business manager, who generally has but little technical ability, knows but little of the sciences and the various branches of technology over which he presides, and has no skill in handling material, but who, nevertheless, is able

to "deal with men" through the personal qualities of foresight, diplomacy, courtesy, persuasion, blandishment, and firmness. His predominant intellectual qualities are not accuracy but shrewdness, not knowledge but insight, not skill but strategy, not breadth but intuition. Here, again, we are not concerned with the question of public or private management. The same qualities are required in a business manager, whether he be employed by the city or by a private company, or whether he be "his own employer."

The intellectual qualities corresponding to a technical and to a business problem respectively having thus been established, what is the nature of a political problem?

Society is made up of individuals working each in his own field. Division of labor is the instrument for creating wealth. The product is not the work of one man or of one set of men, but of society as a whole. All that the individual uses in his work and his pleasure — his tools, food, clothing, luxuries — is the joint product of all society, past and present. These things simply represent the services which his fellows everywhere are contributing to his life. Society is mutual service. But the motive which leads each individual to contribute his share to the joint product is mainly the share which he and those he loves can get in turn. Society is opportunity. Freedom is command over the services of others. But the larger opportunities may be monopolized and the rewards for services may be unfairly distributed. Freedom of opportunity and increase of reward are

the objects for which individuals are continually yearning. Opportunity and reward are the twofold aspect of the benefits which society renders. Yet in acquiring these benefits the lone individual is helpless against the pressure of others. Consequently those with common interests are compelled to join together for the power which united effort secures. That which holds them together is their common beliefs and opinions regarding rights. Here the intellectual element merges with the ethical, the ethical element being founded on wishes and interests. Beliefs and opinions in social matters are concerned with the distribution of wealth and social opportunities. This is essentially a problem of social classes, and differences of opinion on this problem are based on differences in the wishes and interests of social classes. Self-interest is elevated from gross selfishness into a moral enthusiasm, partly by identification with the interest of a social class and partly by the claim that the interest of this class is the interest of society as a whole. On this high plane self-interest is armed for the political arena, and its demands aspire to the dignity of a public policy. But public policy, in domestic affairs, is a matter of the distribution of social benefits, and there would be no political problem were there no social classes; for there would be no problem of the distribution of wealth and opportunity. The problem here is not one of knowledge and skill in handling material, nor of tact and intuition in handling individuals, but of beliefs and opinions concerning the just and expedient disposition of social advantages. In solving this problem

the conduct of the individual is modified, not through argument, but through change of heart; not through proof, but through conversion; not through logic, but through ethics; not through enlargement of his knowledge or increase of his tact, but through change of his opinion; and in last instance, if all these fail, his conduct is modified by compulsion.

Here we have the mark which separates the political from the technical and business problems. In the technical field there is no power of compulsion. One must act according to unchangeable laws governing human nature and physical nature. "We conquer nature by obeying her," *i.e.*, by knowledge and skill, not by opinion and prejudice. In the business field we apparently come nearer to compulsion. Successful business enterprise depends partly upon control of the supply of the commodity produced, and successful business discipline depends on the power to appoint, promote, and discharge subordinates. In each case the power is that of reward and punishment. But this power exists only so far as the laws of person and property permit and enforce it. Here the business problem depends upon the political decisions that regulate property. The business manager is allowed to use compulsion only to the extent that the people, through their laws, have chosen. His success within this area is based primarily on tact and persuasion.

The political problem of society appears exactly at this point. It is concerned with the extent to which compulsion shall be used by private persons, by sects or classes, in promoting their interests. History is full of the uprisings of sects and classes, of riots, wars,

and strikes, brought about by the struggle to share in a larger degree the rewards and opportunities which society vouchsafes. This struggle is not always violent. It may be constitutional; that is, the machinery of government may be so constructed and the suffrage so extended that each sect and class may increase its share of social services by simply getting control of the constituted authorities through recognized channels and without resorting to violence. The power of compulsion, belonging thus to the realm of practical politics, is the power to put one's own opinion or desire into effect regardless of the desires and opinions of others. This power cannot dominate in the technical field, where only knowledge and skill control, nor in the business field, where tact, intuition, and enterprise hold sway, but is limited to the ethical field, where opinions, beliefs, and prejudices contend for authority. Yet compulsion is not independent of technology and business. It depends upon them for execution. It cannot override them, but it can use their results. It deals only with the question, Who shall get the social advantages derived from them? The answer is given by one's desires, opinions, prejudices, with an ultimate appeal to force. It is for this reason that the political problem takes precedence over all other social problems in the hearts of the people. Men are first of all creatures of desire. Knowledge, skill, tact, are useful only as they satisfy the desires. Then when desire is hallowed by ethics, and what one wishes is what one along with others has a right to have, this union of desire, justice, and fraternity dominates and guides all one's powers and

activities. Consequently if the structure of government does not provide separately for the problem of compulsion, the voters will assuredly subordinate considerations of technical and business efficiency to the interests of their political preferences.

It is a mistake to suppose that political considerations are mainly to be found in State and Federal politics. It is often held that voters elect their alderman and mayor on the basis of their opinions concerning the tariff or the currency or other federal policy. This may hold of a few highly educated and philosophical-minded persons and of business men with large national interests, but for the majority of the voters it is their class traditions, friendships, likings and dislikings, their clubs, saloons, social gatherings, neighborhood acquaintances, their habitual preferences and prejudices that determine first their local alliances and then their national alliances.

The most inveterate and deep-seated of these political preferences has been that based on religious belief. In the United States, where Church and State are separated and where religious opinions are allowed no place in determining the laws, these opinions are nevertheless sometimes injected into the election of officials who will throw the balance of advantage to the side of their religious *confrères*. But, on the whole, the separation of Church and State removes religious opinion from politics. If there were a State or city church supported by taxes, then violent political contests would arise between Catholics and Protestants as to which should get the benefit of the taxes and the clerical appointments. All ques-

tions of business and technical efficiency would be subordinated to this political question of the distribution of social privileges among religious classes.

As the religious hold weakens, both through decay and through the separation of Church and State, the majority turns to material pleasures. There then arises a determined insistence on the right of the voters to enjoy themselves in their own way, to spend their money as they choose. Freedom of consumption now takes precedence over all other desires in the hearts of the voters.

Again, with the growing density of population, with the increase in technical improvements, with the development of wide extremes between propertied and non-propertied classes, new political prejudices spring up. The contests between capital and labor begin, and the labor unions, with their emphasis on the class-consciousness of the working classes, soon show themselves in resistance to the business and property interests which have hitherto controlled the cities and which are also the overt antagonists of the unions in private dealings. Important questions affecting the diffusion of property among the different classes in the city now begin to emerge. Such is the question of municipal ownership of monopolies. Whether these monopolies shall be owned by the city or by private persons, what shall be the charges for services, whose real estate shall be benefited — these are political questions affecting social classes. The economical administration of the monopolies, the appointment and discharge of subordinates, are business and technical questions. So with the choice between the contract system of public

work and the system of direct employment; which of these systems the city shall adopt, is a political question of opposing class interests. On one side the contractors and their friends, politicians and spoilsmen; on another side are the taxpayers; and still another class is the wage earners. Wage earners want high wages and short hours; taxpayers want low taxes. Contractors and politicians play them against each other. Naturally enough these questions, which are really political in their nature, since they are class questions, are held by adherents of the business theory to belong solely to the business field and to be determinable only by business considerations. But this claim is really that of a particular social class accustomed to think in terms of competition, cost of production and profits, and the demand that these political questions shall be left to a business decision, is a demand that the interests of but one of the classes concerned shall be considered. But the strictly business and technical questions are subordinate to the political questions at stake. Whichever side wins in the conflict over the latter, the conditions determining the former are much the same. They are concerned solely with the economic execution of the work upon the basis of the hours, wages, and taxes previously settled by politics.

Other political questions are the relative taxation of personal property, real estate, and land values; the maintenance of public schools in place of private schools; and in the public schools, if maintained, the provision of free text-books, free meals, manual training, etc.

Perhaps the most obvious of political questions is that concerned with the distribution of offices and employments. The traditional aristocratic and feudal notion finds in public office a means of privilege and leisure and of protection of personal and class interests at the expense of society. Modern political parties which have grown up on the soil of feudalism have merely elevated the strife for office from the secret and devious ways of court favoritism to open contest before the people. The early notion of privilege and leisure is still the animating motive. Only as room is made for business and technical qualities inside the political organization of the city does a different view of office prevail. The struggle for office and public employment grows intense on account of unstable conditions in private employment. For this reason the high wages, short hours, leisurely work, and sure pay of municipal employment are well fitted to enlist in opposing political parties the anxious crowds of competing laborers. The distribution of public employment becomes a dominant political question. Here the business theory is undoubtedly the correct one. When public office and public employment have come to be merely the execution and not the choice of a policy, the problem is one of dealing with individuals and not with social classes. It is a business problem and cannot be successfully solved by those who are interested mainly in the political problem.

We may sum up now the radical differences between the three problems of city government. The city is both a business corporation and a political corporation.

Both business and politics are grounded upon technological problems, dealing with the raw material of nature in order to fit it for man's uses or with the undeveloped material of society in order to educate it for society's uses. In these problems the mental qualities required are knowledge and skill.

The business problem deals with individuals in order to economize and stimulate their energies. It is a problem of buying and selling and the organization of responsibility. The mental qualities required for its solution are tact, intuition, and enterprise.

The political problem deals with social classes; or it consists in the dealing of social classes with each other. It is a problem of the distribution of the wealth and privileges, the rewards and opportunities, which are being created through the solution of technical and business problems. The mental factors are the class desires and class opinions concerning justice and expediency. The problem is one of choices and is essentially ethical.

These problems are not, in the existing political organization, distinct and separate. They overlap. The same person is often called upon to meet more than one. But they are essentially different and the mental qualities required in dealing with each are radically unlike and are seldom found together in a marked degree in one person. Consequently, for proper solution, the problems should be distinctly separated. Individuals should find their field and line of promotion in the solution of but one of them. This is impossible if the city government is so framed that the different problems necessarily overlap; especially

if the political problem must be solved by the very same person whose field is the technical or business problem. In American cities there are two notable sources of this compulsory overlapping. One is the State legislature; the other is the mayor.

The American state gives to the city the privilege of electing its own officials, but gives to the state legislature the power of enacting laws which these officials are to enforce. It follows that when these social and class questions of beliefs, enjoyments, and incomes pertaining to cities are settled by the State legislature, the only means which the voters have of enforcing their predominant desires is to elect officials, not on the question of their business ability or integrity, but on the question of enforcement or non-enforcement of state law. That is to say, not a man of business, but a man of politics, is necessarily their choice.

In order, therefore, that the American city may acquire technical and business efficiency it must have, first of all, legislative home rule. When the state legislature continues to enact laws for the city, it is compelled sooner or later to appoint and remove the city's officials. The tendency in this direction has shown itself in a State or "metropolitan" police system for Boston, St. Louis, and other cities. To what extent the city should have home rule in order to offset this centralizing tendency, is a matter of expediency; it should probably include local option on liquor excise questions and on all financial and business questions of strictly local concern, like municipal ownership, objects of taxation, free text-books, etc.

Here, however, we are met by the business or eco-

nomic theory of the city: the city is only a business corporation organized to collect and expend the taxes, and it should therefore be organized like a private corporation with responsibility centred in a general manager; that is, in the mayor.

If the city were really a business corporation with the one purpose of saving money for its stockholders, this theory might result in the election of a capable business manager for its chief. But it is a political corporation with the power of coercion; and since the political interests of the voters are as various and antagonistic as their passions and opinions, the mayor is elected, not for his business capacity, but for his political and social preferences.

The business theory is not even true to its business analogy. If the mayor is to be the executive head of the city, he will correspond, in the comparison with a private corporation, not to the president, but to the general manager or the superintendent, or to the cashier of a bank. The president of a corporation, as such, is merely a presiding officer of the board of directors. He has one vote, like every other director. He has no veto and no legislative discretion. The general manager, on the other hand, is the executive head, and he has no voice in the board. He merely executes the policy which the board and the president determine. The president, indeed, controls the manager, but he does so only as the intermediary between the board and the manager. The business theory, if true to itself, would deprive the mayor of veto power and would make him a responsible executive without political discretion.

Seeing, then, that the city is both a business and a political corporation, the mayor, if he is to be the head of the business side, should be deprived of all political discretion. He should have no veto whatever, no initiative, no power over franchises, taxes, improvements, or excise, but should merely execute the wish of the voters; and this wish should have an entirely separate avenue for expression. In European cities this avenue is furnished by the common council, and the council has discretion in all matters, including the appointment and removal of subordinates. It is both the political and the business head of the city. But the council system has broken down in the United States. The reason usually given is the alleged injection of "politics" into the councils and boards of aldermen. But politics is always predominant in a municipal government. This predominance, however, is not a source of business confusion when the suffrage is limited to a single class, as is the case in a private corporation, or in the mediæval guild, or in the municipal governments of a country like Germany. But with the extension of the suffrage to conflicting classes it follows that conflicting policies are injected into the directorate, which otherwise would give its whole attention to the mere execution of its single policy. This is why municipal governments in France are less efficient than those in Germany, and why the extension of the suffrage in England is transforming the municipal council from a business management into a debating society. It is not that political considerations are subordinate when the suffrage is limited, and paramount when the suffrage is

extended; for political questions always precede business questions so long as there are social classes, whether suffrage is limited to one class or extended to all. The difference between the two conditions is that in one case there is but one policy, that of the represented class, and the only problem for solution is the method of executing that policy, while in the other case there are divergent policies of different classes, and the problem of execution must be held in abeyance pending discussion of the problem of politics. But while suffrage is universal, this problem of politics can never be solved; or, rather, the apparent settlement of one political issue simply makes room for another, and this will continue as long as society is composed of divergent classes and interests.

It is perhaps this practical failure of the council under universal suffrage, more than the abstract principles of the "business theory," that has driven American cities to shift power to the mayor. If, then, the council cannot be trusted, and the mayor is to be deprived of political discretion, the only resort is the direct popular vote. This would be the referendum and the initiative on questions of policy. Without entering into the plan of the initiative and the referendum, or the necessary constitutional safeguards, it is enough here merely to indicate what are the subjects which would properly be dealt with by this method. These would include the tax rates and the classification of property for purposes of taxation; compensation for franchises; charges, fees, and licenses for public services; liquor and saloon regulation; municipal ownership and indebtedness; rates of

wages and hours of employment; the choice between the contract system and direct employment; the location of public improvements and the distribution of assessments. Here is a wide field for discretion and political opinion — a field now occupied by the State legislature and the mayor, with participation in various degrees by the decadent municipal council.

The practical operation of the referendum on a few of these subjects can already be seen in many places. The towns and cities of Massachusetts have for several years been permitted to vote upon the question of "license or no license" at a popular referendum. Partly as a consequence, the cities have been able repeatedly to elect "non-partisan" or "independent" or "citizens'" candidates for mayor, — an achievement which few other cities can boast of. It has even occurred that cities which have voted for licensing the saloon have at the same election given majorities for anti-saloon mayors. The simple device of the referendum subtracts the political preference of the voters from their choice of mayor, and by separating the political from the business problem of the city enables them, in electing the business head, to attend solely to the business qualifications of the candidates. The two issues are clarified, and each is settled on its own merits. As an isolated proposition voters do not wish corrupt and ineffectual government, but as a subordinate proposition they prefer such a government to the restriction of those enjoyments and liberties which lie close to their habits of life. Furthermore, with honest and efficient administration the political problems of the city can be debated and decided on their merits.

At present the honesty or dishonesty of the officials who are to execute the voters' will enters largely into the debate on these problems, and the solution in each case is determined less by the real wishes of the people than by their distrust of the administration to which the execution of their decision must be confided.

We reach, then, this conclusion: If with a system of universal suffrage we are to have business-like municipal administration, we must recognize that the city is not primarily a business corporation; that it possesses the power of coercing those who do not willingly acquiesce in its policy; that if the city charter is so framed that to the business administration is given discretion in the control of this power of coercion, the voters will strive to use the administration, first of all, to control this discretion in their own diverse interests, and but secondarily to secure efficiency and honesty. But if the business head and the State legislature are deprived of political discretion through direct vote of the municipal constituency on questions of policy, then the charter will follow scientifically the social psychology of the voters, and the city government will be, as it should be, efficient on the business side and popular on the political side. The mayor's only problem will be the selection, appointment, promotion, and discharge of the technical experts and workers, who by their knowledge and skill execute the will of the voters. His own election will turn not on his beliefs, his habits, his pleasures, his prejudices, and opinions, but on his honesty, efficiency, and tact in organizing the staff of technical workers and in dealing with the contractors and

merchants from whom labor and material are to be purchased. The voters themselves will decide, independently of the mayor and his appointees, what they wish to have done or not done, how much it shall cost, how the funds shall be raised, who shall bear the expenses, to what extent their beliefs, enjoyments, and habits of life shall be regulated. Thus the three problems of the city government — the technical, the business, and the political problems — will each be settled in its own field on its own intrinsic merits, and the minds of the voters will be freed from that maze of conflicting problems which bewilders them in the solution of each.

The argument is frequently made by those who, notwithstanding the admitted disease and inefficiency of city government, yet favor the extension of municipal ownership and operation of public enterprises, that an increase of municipal responsibility will necessarily call forth improved business administration through "civil service reform." This reform will come because the voters' attention will then be forced upon the administration on account of its increased importance. In justification of this view appeal is sometimes made to biology, where, it is urged, in the process of evolution the organ follows the function; the animal first does a certain act over and over again, and in doing it the necessary muscles and organs are built up by which it may be better done.

Possibly these theories of heredity may be mistaken and may be displaced by others, but however that may be, the biological analogy is not safe ground for sociological conclusions. The evolution of government has

been twofold: it has developed an increase of function in one direction and a decrease in another direction. Government has decreased its activity and interference in the control of personal beliefs and enjoyments and the regulation of personal earnings. It has separated Church from State and has repealed sumptuary laws. During the same time it has increased its control over the administrative and economic conditions which make up the framework of society. It has displaced private police by public police, voluntary fire companies by a municipal department, private toll roads by free public highways, private water supply by municipal ownership, private autocracy in industry by factory laws, and so on. Thus it has gained control of the merely mechanical conditions of society, but has let go the personal appetites, desires, beliefs, and initiative of individuals. One movement has been as important as the other, but neither movement has been blind or aimless. Both have been brought about by the demand of the masses for more and more personal liberty. Freedom of belief, freedom in the pursuit of happiness, free enterprise — these have been the banners of armies and parties which have overthrown monarchs and church, have nullified sumptuary laws, and abolished monopolies and privileges. From the standpoint of the people this demand for freedom is the first and paramount demand. It comes directly from their desires, their faiths, their passions. They are more eager to have government take its hands off their beliefs and enjoyments than to have it lay its hands on their business and industries. So long as government keeps its

hands on the former, the attention of the people is largely absorbed in that direction. They care more to see the administration devoting its coercive power to the emancipation of their beliefs and desires than to see it economical, honest, and efficient. Hence no matter how much the business functions and the civil service of government are expanded, the voters under universal suffrage will not give perceptibly increased attention to them so long as suppressive and sumptuary activities are undiminished.

The conclusion from the foregoing is that progress and development in the scope of municipal operations and in the efficiency of municipal civil service must necessarily be accompanied by a curtailment of sumptuary and restrictive legislation. The two movements have gone together in the past and must probably go together in the future. But if, as is undoubtedly true, restrictive legislation in the interests of morals cannot be altogether abandoned, and if, in the nature of the case, government must deal with the distribution of wealth and privilege, then new machinery must be devised by which these matters can be managed without interfering with the questions of business and administration. The initiative and referendum furnish this machinery. They provide a means outside the administration for the discussion and settlement of questions of policy, questions of class interest, questions of the distribution of wealth and privilege, questions of control over morals, beliefs, and enjoyments. They make it impossible for municipal officials to have political influence one way or the other. They separate the political from the business problem.

With the proviso, therefore, that some such separate channel be furnished through which the debate on political questions may flow, we may admit that an increase of municipal responsibility will bring increased attention to and improvement of the civil service — that increase of "function" will bring improvement of "organ." But without this proviso — without a separation of political questions from the questions of the civil service — there is little hope that the latter will be solved in a business-like manner.

In addition to the reasons already given for providing that questions of policy should be decided through the initiative and referendum, there are other reasons based also on the nature of democratic government. In the United States the council is overshadowed by the mayor. It has not prestige or standing as against his influence. It does not speak with authority and does not influence the voters at election time. It is easily swerved by special interests — by private corporations, political organizations, and trades unions, which hold the balance of power through their control of wealth or votes. On the other hand, at a popular vote under universal suffrage there are so many diverse interests and so many voters with scattered interests, that no special interest can hold the balance of power, much less secure a majority. For this reason a popular vote tends to moderation, and is neither conservative nor radical. Each issue is voted upon separately, and this breaks up the log-rolling combinations of divergent interests which, in voting for a candidate who stands

on a party platform, are compelled to vote for extreme policies with which they have little or no concern, in order to obtain the policy in which their concerns are predominant. Furthermore, innovations require too much explanation, and those who are undecided and not influenced by log-rolling are more inclined to reject and wait than to approve and repent. And on the assumption that the popular vote is to be taken on political questions only and that by political questions are meant those which affect the distribution of wealth and privilege among social classes, it follows that the widest discussion and participation in the decision should be accorded to every interest, party, faction, and individual. This is possible in city governments, since the questions of policy, though all-important and basic, are not continuously up for solution. Administration is much the larger part of municipal government in point of time occupied, though not in point of popular passion excited. The political questions arise only on somewhat rare occasions, and a settlement once reached on any point guides the administration for years.

Again, the psychological influence upon the voters of a direct voice in their settlement is a prime argument for the initiative and referendum. These questions take precedence in their minds over all other questions, and to vote directly upon them is that form of personal compliment which prepares the voter to accept philosophically the decision of the majority, where that decision, if made by a council, would provoke resentment through the knowledge or suspicion of undue influence. The very fact that the settlement of a given political issue consists in overriding a mi-

nority by compulsion makes it necessary to devise a method that will pacify that minority. This can be done only when the minority is satisfied that it has had its just share in the decision and that it always will have an opportunity to bring up the issue again in the same or other form if it seems worth while.

The psychological and sociological analysis above advanced furnishes a basis for an explanation of the power of the political organization and the political boss in American cities. The boss is the avowed agent of a social class in the distribution of wealth and privileges. He secures for his adherents either favorable legislation or exemption from unfavorable legislation. His avowal is not always thus brutally expressed, but with his growing importance he tends to throw aside the subterfuge of "general welfare" and to speak boldly of his proper function. Especially is this so when the classes to which he appeals are those who are, or think they are, unprivileged classes. With them he frankly takes the attitude of Robin Hood, acknowledges that he is "in on the graft," but that he uses his position to get jobs for his constituents, to furnish medicines and doctors for their families, to pay their bills for groceries and rent, and to relieve them from the harsh enforcement of laws in whose enactment they have had no voice. And even with the business and propertied classes, whose especial boss is still obliged to put great stress on the "public welfare," it is the special services which he renders to corporations and property-owners that give him his hold. In every case the political machine and the political platform which the boss constructs are clev-

erly designed to take in enough divergent interests to secure a majority of the votes. And since the officials who care for the business side of the city government have discretion in the political field, which is his province, he necessarily strives to secure control of the business management. He is not himself a candidate for elective office, except in a few wards where a single class predominates, because he must appeal to a variety of classes and consequently must seek his end by naming such candidates as are sufficiently indefinite in their beliefs to stand on his mosaic platform and sufficiently docile to do his bidding. The referendum and initiative are a specific for the social disease which gives him power. They deprive the business management of the political discretion through which privileges are distributed; they separate and individualize issues which are essentially distinct, and thus insure that no single platform or candidate can be set up broad enough to attract from divergent interests a plurality of all voters; and they remove the animus which springs from the sense of helplessness in controlling the distribution of privileges and which therefore condones the irregularities of the boss in securing for his constituents whatever share he can.

A probable criticism may be met at this point. It naturally is objected that the distinctions here made between the technical, the business, and the political qualities and functions cannot, in actual city government, be rigidly observed. Conceding that the distinctions may hold true in abstract psychology and metaphysical politics, yet the human mind, it will be said, does not operate in separate compartments, nor can government

be so nicely split as to take all political discretion from business heads and technical subordinates.

In city government there are, it must be admitted, three departments — those, namely, of police, of education, and of charity — where the technical and the business qualities required of subordinates merge into the qualities that pertain to political authority. These departments do not deal with physical material, where knowledge and skill suffice for the required end, but they deal with human beings who, in the execution of the law, may be actually coerced. The policeman must necessarily retain a large element of discretion in the enforcement of a law, since he determines first in his own mind whether or not a given person is violating it. He is partly judge and partly executive. But there is a qualification to be observed. In proportion as any department of government or of social life develops scientific principles based upon an understanding of the human nature to be controlled, and in proportion as the law conforms to these principles and the administrators of the law become versed in them, in that same proportion does the mere empirical discretion, which bunglingly drives by means of coercion, give way to scientific insight which leads by persuasion. The science of pedagogy reduces the school-teacher's personal discretion by revealing the uniformities in the operation of the minds of children; as a consequence persuasion displaces coercion, and we see illustrated the social counterpart of the maxim in physics, that we conquer nature by obeying her. The charity agent who learns through the science of sociology how to transform the beggar into the useful

worker does this by reducing the penal and coercive features of his office and by enlarging its educational and persuasive features. Likewise the policeman, were he to become the scientific penologist instead of the empiricist, would be recognized as an educational rather than a repressive agent of the city. Some such outcome might reasonably be expected if a direct popular vote and local self-government on questions of morals and enjoyments should be instituted. If those whose morals are to be controlled have a direct voice in determining the kind and extent of control, and if they must exercise this voice by securing a majority of their local fellow-voters rather than by diverting the policeman, they will be more obedient to the law thus determined and so will endeavor to influence the discretion, not of the policeman, but of the voters. In this way, automatically, the police discretion will be shifted from the policeman to the voters, and the officer himself will have a wider field for his scientific and reformatory functions through the lessening of his coercive and discretionary functions. The referendum and initiative with home rule, therefore, when once adopted, would tend to develop more clearly, both in the individual psychology and in the city government, the very distinctions which furnish the ground for their adoption; namely, the separation of the political from the technical and business problems.

Another objection sometimes raised against the referendum and the initiative is their alleged reversal of the trend toward specialization. One writer asserts that "the referendum idea rests on the theory that all men are specialists in everything," and that "this is

an extraordinary development, in view of the opposite trend of legislation towards relieving the individual of having to guard his own food, his own plumbing, his own milk supply," etc.

But the direct popular vote, as shown in the preceding pages, tends to increase rather than diminish specialization. It does this by separating clearly the several provinces of government in harmony with the corresponding mental aptitudes of individuals, especially at the most exasperating point of the present overlapping. This is the point where politics interferes with technical and business qualities. If the mayor and his subordinates shall be deprived of the greater part of their discretion, they will be left free for a degree of specialization that is impossible under present conditions. This specialization will be developed in the only field where, in a democracy, it is desirable; namely, that of technical and administrative problems. But in the field of politics, which is the field of choice and coercion, specialization means despotism. Here the specialist is the king, the tyrant, or the boss. In a democracy there can be no specialization in dealing with questions of the distribution of wealth, privileges, and enjoyments among social classes. The separation of political questions from technical and business questions is indeed the vital problem of democracy. This must be effected in such a way that the general will of the electors can be exercised without changing the administrative and technical agents who enforce it. These agents will then become experts, who in turn will have their part to play as expert advisers on the political questions. And this advice will be far

more influential than it is at present, because, the advice-givers having no discretion in executing the policy finally decided upon, the acceptance or rejection of their advice affects in no way their tenure of position. Their advice is listened to by all classes, since it does not carry the suspicion of being influenced in behalf of one class to the detriment of others. In this way the proper reciprocity between the several provinces of government is secured, and the political questions, which must always be decided with reference to technical and business questions, are raised to a more dispassionate level of discussion and decision.

APPENDIX V.

PROPORTIONAL REPRESENTATION FROM AN AMERICAN POINT OF VIEW.[1]

In order to appreciate the need of proportional representation from an American standpoint, we need to understand the peculiar defects of American politics and the particular remedies which have found popular approval. The defects, I should say, can be summed up in what is called "boss politics." The remedies in the chronological order of popular acceptance are civil service reform, legalized primaries, referendum, and proportional representation.

The nature of the boss system will appear in a discussion of the primaries. In theory the political party in the United States is the most democratic in its organization of all parties in modern nations. The primary is the local mass meeting of all the voters of the party. It holds its meetings prior to a campaign, elects its officers, nominates its candidates to be voted upon at the following election, and elects a standing committee to conduct the campaign aud to call future meetings. As thus conceived and originally organized the primary was a remonstrance against the authority of the party leaders in the legislature and Congress, who for the first twenty to thirty years of the republic

[1] Prepared for the Congress of Comparative Law at the Paris Exposition, 1900.

assumed the privilege of nominating candidates and managing the party. This is even yet the practice in European countries. The parliamentary representatives and their friends constitute themselves a set of committees for making the nominations and managing the affairs of the party in the several districts. Such an arrangement was too highly centralized and autocratic for American democracy. At a very early time local clubs of the party voters were organized, usually secret, in order to work against this authority of their representatives. Eventually these clubs were federated by means of delegates elected to a central convention, and this delegated convention nominated its own candidates for the State legislature and Congress. The party convention, being thus a representative body of the voters themselves, forced recognition as the only means whereby the candidates of the party could be vouched for. Only the "regular" candidates thus nominated could command the strength of the party vote. The local clubs whose delegates thus created the party convention now became the recognized "primary" of the party, no longer secret, but open to all the local voters of the party. The theory of the party convention and the party primaries is therefore the theory of representative democracy applied to the party organization.

At this point the unique feature of the American form of government came into play; namely, popular election of the executive and judiciary. Had the State legislature or the national Congress been superior to the executive, as in France, or had the executive been hereditary, then the highest grade of convention would have been only the one for nominating legislative and

congressional candidates. But the State governor and judges and the national President are also elected directly by popular vote. This is a practice not originally contemplated but latterly forced into the constitutions by the same democratic spirit that forced the primaries and conventions into the political parties. Consequently the principle of representation within the party was consistently carried to the nomination of candidates for the highest offices. State and national conventions were organized for nominating State officers and the president. These higher grades of conventions are composed of delegates elected not by the primaries directly, but by the lower grades of conventions. Thus we have a hierarchy of conventions built upon the primaries in the following order. The primary is organized for each ward and township, and nominates directly its candidates for ward and township officers. It also elects delegates to the city and county conventions which in turn nominate city and county candidates. These conventions in turn elect delegates to the congressional and State conventions which nominate their respective candidates, and the congressional and State conventions elect delegates to the national convention which nominates candidates for the offices of President and Vice-President.[1]

But this representative hierarchy of primaries and

[1] I have described only the typical situation. In so extensive a country as the United States, with so great local independence, there are many varieties of party practice, but they all tend by evolutionary steps toward the most perfect organization — a tendency in which the city and State of New York have taken the lead.

conventions must be accompanied by a corresponding hierarchy of standing committees elected by vote of the delegates and primaries to manage campaigns, collect funds, and issue calls for future primaries and conventions. These standing committees are the recognized party "organization." Here we come to the Boss.

Each primary is wholly independent and self-governing. But it has two entirely different problems to meet. In electing its standing committees and its delegates to conventions, it consults only its own wishes, but in nominating candidates for public office it must consult the wishes of all the voters at the coming election. Its committees and delegates may be strong partisans and recognized leaders among the party workers, but its *candidates* must be able to get the votes of outsiders. This situation arises solely from the fact of plurality elections. For the first half century of national independence all elections required a majority vote. If no candidate received a majority, then second and third elections were held, just as second elections continue to be held in France and Germany. So expensive was this and so favorable to minor parties to the disadvantage of the two leading parties that quite generally the legislatures changed the law so that the candidate receiving the highest vote on the first election should be declared elected. This method of plurality election discourages third-party movements. It narrows the election down to the two leading parties. He who votes for a third party "throws his vote away." This is the appeal made by the party leaders to stand by the party, and it is decisive with the bulk of the voters.

At the same time the party membership itself is not homogeneous. This is especially true in the larger cities where rich and poor, foreigners and natives, whites and blacks, are thrown together in the same wards. It is scarcely appreciated by Europeans that American cities are ruled by voters born in Europe. London has only two per cent of its population foreign born. Paris and Berlin have even less. But a third of the voters in New York and Chicago were born in Europe. Moreover, the foreigners are from different nations. New York is not only a large Irish city, but also a German city and an Italian city.

These various races continue to speak their own languages and to live together clannishly, following their own leaders. But they are not distributed according to ward lines. Consequently a party which can get a majority from them must be managed in such a way as to unite antagonistic interests. Here is the opportunity for manipulation. It consists in selecting candidates, usually by distributing different elective offices and making pledges of appointive offices to the different nationalities and interests. This is the work of the Boss. He sets up a ticket that will get a majority from these heterogeneous voters. He is not concerned with party principles — this is a matter of cold bargaining. He buys and sells with the various leaders. The strongest of them can force themselves upon him. He is not exactly a dictator — he is a manipulator. And since the election is narrowed down to the two leading parties, only one of which can be successful, there are two bosses — one for each party.

Each boss is elected by the party primary and is usually the executive head of the standing committee.

The foregoing is a description of the ward or primary boss, the lowest in the scale. But the same holds true for the standing committees of the larger areas. The city boss and the county boss are elected by the delegates chosen from the primaries — that is, by the ward and township bosses who control the primaries. The State boss is elected by the delegates to the State convention — that is, by the city and county bosses. Of course these higher bosses have influence in all the primaries and conventions which elect the lower bosses, and the tendency is for each State to concentrate its party system under the State boss, who really dictates the election of the local bosses. The system has not yet been perfected in the national organization, although in the campaign of 1896 the party in power came under the influence of one of the State bosses who was able to name the candidate for president.

Now, naturally enough, throughout this entire hierarchy of bossism the boss is a man who cannot get elected to office by popular vote. His strength does not lie in his popularity or his principles, but in his strategy. Wherever he holds an office, it is an appointment which he has received from the mayor, the governor, the president, or the legislature whom he has nominated and elected to office. The State bosses usually direct their own election by their creatures, the State legislatures, to the United States Senate, and the Senate has thereby become the House of Bosses. The seats in the lower branch of Congress, the House of Representatives, like those in the House of Com-

mons in early days, are the appurtenances of the bosses in the upper branch.

It is this federation and hierarchy of bosses in each party controlling elective offices, appointive offices, contracts, and legislation that is known as boss politics. The bosses have protected themselves by ingenious legislation. When the secret ballot was introduced, some ten years ago, as a protection against bribery, it was generally so framed as to legalize the two leading parties in their practical monopoly of nominating the candidates. This has led, in the past two years, to the most remarkable extension of the party system yet devised in any country; namely, the legalized primary. Hitherto the primary had little or no recognition in law. The boss controlled it in two ways — first, by his arbitrary power of defining membership and therefore of excluding his opponents, and, second, by his appointment of the judges and watchers at the primary elections from among his faithful servitors. The legalized primary, however, places partisanship upon the basis of citizenship — that is, it frames a legal definition of the qualifications to membership in the party primary; usually defining a party member as one who supported the leading candidate of the party at the last election. It also substitutes State officers for the party judges and watchers. In these two ways it was intended to give to the "independents" within the party a right to vote for the party committees and to nominate the party candidates, and thus to overcome the autocracy of the boss by making him elective and therefore responsible to all the party voters. But these hopes are already decadent. The

bosses retain their control just as powerfully as before. It is not that the boss is irresponsible, but that the boss is absolutely necessary for party success. He harmonizes differences. He selects candidates who can win. He gets majorities. He is a survival of the fittest. His ability rises by natural selection, not by artificial election. He is not popular — he is only indispensable. The legalized primary is not a remedy for bossism — it is only a remedy for dissatisfaction among the boss's henchmen.

The power of the boss in the primaries depends largely on the number of faithful workers who attend the primaries and do his bidding. These men are held together by the possession or promise of offices and public employment for themselves and their friends. The boss controls the appointments and removals in these offices and jobs through his control over the elected officers and chiefs of departments. He distributes the appointments to his followers as the "spoils" of victory. Here is the most glaring exhibition of the power of the boss, and here has been the first point of attack by the reform elements, under the name of civil service reform.

The significance of civil service reform in America is quite different from that on the continent of Europe. In England it was introduced by the middle-class parliaments as a means of depriving the aristocracy of their monopoly of appointments in the public service. In France the system of competitive examinations was introduced by Napoleon that he might organize a perfect machine of government with every

official from top to bottom dependent, like an army, upon his immediate superior, and all dependent on the Emperor himself. This is true also of the bureaucracy in Prussia. But in America civil service reform has its popular strength in that it strips the boss of power. This is shown by the form of machinery designed to enforce it. Whereas in France and Prussia the civil service examiners are themselves subordinates of the chiefs of departments who make the appointments, in England and the United States the examiners are the subordinates of an independent civil service commission. This commission draws up a list of "eligibles" based on examinations, or, in the case of laborers, based on the order of registration, and the chief of the department is restricted in his appointments to a limited number of these eligibles. He has no control over the commission, and, in fact, certain laws in the United States make the commission an administrative court, competent not only to control appointments, but also to reinstate subordinates whom the chief has dismissed. Civil service reform laws in England and in the United States are alike in that they are designed to break down the favoritism which in the one case gave to the aristocracy the monopoly of offices and in the other gives to the boss the same monopoly. Although advocated on the ground of introducing "business" methods into government it really violates the basic principle of effective business which makes the business manager responsible for his subordinates. The civil service commission deprives him of power to appoint and remove subordinates, and therefore les-

sens his responsibility for his department. It is not business efficiency that makes civil service reform popular in America, but popular hatred of boss rule.

Civil service reform exhibits the defect of striking at effects rather than causes. It reaches only the lower appointive officers and employees and not the elective officers nor the chiefs of departments. The chiefs are the key to administration. As long as they are controlled by the boss, they resist the civil service commission, and they often nullify the law. After fifteen years of trial in Massachusetts, New York, and the federal service, the people begin to feel the need of striking higher.

The next weapon of attack cuts closer to the boss's sinews of war. This is the referendum and the initiative. The enormous expenses of political campaigns require enormous contributions. These naturally come from those corporations and individuals who hope to get public contracts and favorable legislation or to prevent hostile legislation. Formerly these corporations appeared in the person of their agents or lobbyists before the committees of the legislature. Now they have discovered a less obtrusive and more effective method: they contribute a lump sum to the State boss for campaign expenses. With these large contributions the State boss controls the local bosses, and together they nominate and elect a State legislature which quietly votes as the boss commands. The referendum is the people's veto on this conspiracy. If all contracts and legislation required approval by a majority vote at a popular election,

then the corporations could not afford to spend their money upon the boss. He would be impotent to fulfil his part of the contract. If, moreover, the people had the initiative, so that they themselves could introduce positive legislation, then the corporations would be compelled to go directly to the people instead of the boss for protection. The boss's treasury would be short.

But the referendum and the initiative, like civil service reform, are negative. The experience of Switzerland shows that it is very difficult to enact positive legislation through the initiative. In a popular government the source of power ultimately lies in the elective officers. They enact the laws, award the contracts, and appoint the subordinates. Whoever controls elections controls the government. There may be checks and hold-backs, like civil service reform and the referendum, but these tend to obstruct the government rather than make it go. They deal with the effects of boss politics and not its causes. They are necessary as a beginning. Like all improvements, whether in mechanics or politics, the first inventions are directed to check evils, not to readjust causes. The last reform espoused is that which goes to the roots. This is the place of proportional representation. Thirty years ago, when the boss system was infantile, there was frequent reference to minority representation, and several States enacted laws embodying that idea. But the arguments were wholly different from those of the present. At that time the suffrage had just been extended to the negroes

in the South, and universal suffrage was just revealing its results in the large cities of the North. The argument of John Stuart Mill in favor of minority representation was the only argument of force; namely, that without it the educated and propertied classes would be overwhelmed by the majorities of ignorant and irresponsible voters.

The situation now is quite different. The growth of large corporations has made business dependent on legislation. The bosses who control the legislatures, the municipal councils, and the Federal congress, have these corporations at their mercy. They can demand campaign contributions from banks, "trusts," railways, insurance companies, and city monopolies. The corporations are compelled to make alliance with the bosses. Together they build a bulwark of bossism in both politics and business. Proportional representation is no longer needed to defend the rich against the poor. Its problem now is to defend the masses against the monopolists. It is the only remedy that utterly disintegrates the power of the boss. How this occurs is apparent from the description just given of the primaries and elections. Plurality voting forces divergent interests into one party in order to get a majority. The boss arranges the details of the union. The one criterion, success, makes him indispensable. Now proportional representation removes the very keystone of his arch — the plurality. It enables any one of his constituent groups to go ahead independently. If the group has only enough voters to form an "electoral quotient," it can elect at least one candidate without joining any other group or

confiding itself to the boss. After election these independent candidates can form such alliances as they wish. But they are not forced into alliance. They are not responsible to this irresponsible boss who has dictated the nomination of them all.

We can now see the relation between these four reforms which are aimed against boss rule. The legalized primary assumes that the boss is inevitable, but hopes to elect him by the votes of partisans. The referendum places a veto on the legislatures and executives whom the boss has elected and the chiefs of departments whom he has appointed. Civil service reform deprives him of the lower appointive offices and the labor service. Proportional representation deprives him of the elective offices. The latter are the sources of power, and, when once controlled by the people, they lessen the field for the other reforms. The boss need not be legalized if he is not inevitable. With proportional representation he is wholly displaced. The lower appointive offices will be properly filled when once the chiefs of departments stand for all the people instead of the bosses. Such is their position where they are themselves appointed by a truly representative body, as in the cities of England and Germany, and not by an executive controlled by a boss. The referendum is essential only as a veto on *unrepresentative* law-makers. Where the legislature represents all the people instead of the bosses, then the referendum, while retained as a safeguard, will gradually drop into disuse. Proportional representation, from the fact that it makes the elective officers responsible directly to the people who elect them,

restores the essential principle of representative government. Only in this way is irresponsible bossism cut down at the roots. Other reforms which clip the branches of bossism without destroying it are needed. They lessen the power of resistance, and they open the way for the reform that strikes at the roots.

The foregoing argument for proportional representation is based on the peculiar features of American politics. There are, of course, other arguments more akin to those put forward by the European advocates. At the present time there is a situation in current politics which reminds one of political conditions in France and Germany. This is the break-up of the two leading parties into third, fourth, and fifth parties, and into "citizens'" movements. This break-up, if we may judge by the lesson of anti-slavery politics fifty years ago, is temporary, provided the plurality system is retained. Realignments, more or less incongruous, are already taking place. "Fusion" tickets are appearing in every part of the country. These small parties, most unjustly deprived of their proper share in government by the plurality system of election, are peculiarly open to the arguments for proportional representation. It is possible that this break-up of parties, as was the case in Belgium, will bring proportional representation into the field of practical politics.

APPENDIX VI.

REPRESENTATION OF INTERESTS.[1]

LINCOLN said that in politics a nation needs, at least once in a generation, to get back to first principles. It is now a generation since Americans finally abandoned the original idea of representative government, and this generation also has seen as a result the practical collapse of the representative institution itself. The board of aldermen has almost disappeared from New York City, and boards of aldermen in other cities have been moving in the same direction. To get back to the first principles of representative government, we need to inquire into the social conditions out of which it originated. These conditions were found in the free cities of the Middle Ages. The free cities were at first private business corporations of merchants, pedlars, and hucksters, chartered by the king in order that they might manage their private affairs and might travel over the king's highways free from interference of the feudal lords. This corporation of merchants elected a president whom they called the *maire*. After a while, in one way and another, the different trades of handworkers, such as weavers, armor-makers, shoemakers, and so on, also organized their own corporations, and elected their own presidents whom they called *ealdormen*. These aldermen met together as a

[1] From *The Independent*, June 21, 1900.

kind of trades assembly, or central labor union, or board of walking delegates, and finally demanded and secured a *veto* on the *maire*. In this way the city became a representative government in which the merchants were represented by their president, the mayor, and the labor unions by their several presidents, the board of aldermen. Each had a veto on the other, and therefore the consent of each was necessary to enact laws and ordinances.

Now, notice the method of election. Neither the mayor nor the aldermen were elected by universal suffrage. Each was elected by the members of his own corporation or trade union. Each represented frankly and openly, not "all the people," like the modern politician, but his own organized interest. The mayor spoke for the merchants, just as much as Chauncey M. Depew spoke as president for the stockholders of the New York Central Railway. Each alderman spoke and voted for his union, just as much as P. M. Arthur spoke for the locomotive engineers, and F. P. Sargent for the locomotive firemen. The city business could not be conducted unless the mayor and the aldermen agreed, just as the New York Central Railway could not carry on business unless Mr. Depew had an understanding with Mr. Arthur and Mr. Sargent. And just as the stockholders in the Central Railway do not vote in the elections of the labor unions, and the engineers and firemen do not vote in the meetings of the stockholders, so the merchants did not vote for the aldermen, and the handworkers did not vote for the mayor. The system was a representation of *interests*, not a representation of individual voters.

It was with this form of city constitution that the liberties and the parliaments of Anglo-Saxon government were fought for and won. Parliament was originally only a national convention of mayors, aldermen, attorneys, and head men, representing the merchants and handworkers of the several corporations. This convention met at intervals in order to "parley," to pass resolutions, and to send up petitions to the king and his Grand Council, just as the American Bankers' Association, or the National Board of Trade, or the American Federation of Labor nowadays holds its annual convention and sends petitions to the President and Congress. The small farmers also had their national Farmers' Grange and Farmers' Alliance. Latterly, when these small farmers and these merchants and handworkers felt the heavy hand of king and nobles, they began to hold *joint* conventions and to send up joint petitions. Lastly these petitions became "bills," and the king was prohibited from violating them without the consent of those who sent them up. Thus a national convention became a "parliament," and a mutual veto became established in the nation as it had already been established in the cities. The result is known as constitutional government in the place of absolutism.

To-day we can see history repeating itself. Representative bodies — congress, legislatures, boards of aldermen — are becoming less and less competent and representative, just as the king and his Grand Council had ceased to represent the people. And, on the other hand, private organized interests are gaining political power, just as the guilds

of merchants and handworkers gained power. These two movements should be studied and understood.

The decay of representative bodies has come about through universal suffrage. As long as each corporation elected its own representative in its own meeting, by itself, it could elect its truly representative man. But when all classes of voters — capitalists and laborers, Catholics and Protestants, educated and ignorant, natives and foreigners, whites and blacks — are thrown into one district or ward and are commanded to elect one man who shall represent all, plainly they can elect only a colorless candidate who represents none.

To get back to first principles of representative government historically as well as logically, each of these diverse interests should be permitted to assemble by itself and elect its spokesman. The negroes would then elect Booker T. Washington; the bankers would elect Lyman J. Gage and J. Pierpont Morgan; the trusts would elect S. C. T. Dodd and J. B. Dill; the railroads would elect Chauncey M. Depew; the express companies, Senator Platt; the trade unions would elect Samuel Gompers and P. M. Arthur; the clergy would elect Archbishop Corrigan and Dr. Parkhurst; the universities would elect Seth Low and President Eliot. These were the type of men with whom representative government originated. They are to-day *representative* men in the true meaning of the word. As long as representative government enlisted such men, it was brilliantly successful. But scarcely one of these men could to-day be elected by popular suffrage and majority vote in those limited

wards or districts where they happen to sleep. Their admirers are scattered throughout the city or State. It is only compromise and colorless men who can get majorities in the wards and districts, — men who have few enemies because they have no backbone, — men who are outspoken for no interest, and who, for that very reason, are the tools of special interests. Such men are kindly furnished to the voters by the boss, and they are his tools. Consequently representative government has decayed and the irresponsible boss has emerged, because no device has yet been discovered by which we can return to the original principle of representation of interests on the higher level of universal suffrage.

But at the same time this original principle is unconsciously forcing its way forward. There is no social movement of the past twenty years more quiet nor more potent than the organization of private interests. No other country in the world presents so interesting a spectacle. Almost every trade, industry, and profession has its national association and its State, county, and city associations and conventions. Every city has its chamber of commerce composed of the associated capitalists; its trades assembly, composed of delegates from the laborers; its several associations of clergymen, ministers, lawyers, scientists, and engineers. Lastly, where the struggles of competition have been severe, these associations in both city and nation have taken on a more compulsory organization, in the form of pools, corporations, trusts, and labor unions.

This new grouping of interests is brought about

for several reasons: partly as the natural association of those with common ways of thinking; partly to lessen destructive competition among the members; partly to control legislation and politics. It is in the last-mentioned object that these private associations and corporations have developed the *lobby*, and the lobby is both a cause and a result of the decay of representative government. The lobby is now the unofficial but controlling factor in legislation. At the same time, it is, in the original sense of the word, more representative than the legislature. Each interest is represented in its lobby by its ablest spokesmen. They are freely chosen without dictation from bosses or outsiders. The corporations select their own lobbyists just as they select their attorneys. The labor unions have their "legislative committees" and have established their national headquarters at Washington. There is also the liquor lobby and the temperance lobby; the school-teachers' lobby and the woman-suffrage lobby; the insurance lobby and the bankers' lobby; the permanent lobby and the casual lobby; the lobby eloquent and the lobby silent; the lobby with cash and the lobby with votes.

These various lobbies struggle among themselves to control the legislature, just as the mediæval lobbies struggle to get control of the king and his Grand Council. The shrewdest or wealthiest wins. If now these lobbies were officially recognized and legalized; if they were all thrown into one body and required to fight out their struggles for control according to published rules of order, we should have almost the exact steps by which the House of Commons originated. Such a

movement is already taking place in our cities. The Merchants' Association of New York has become a definite factor in the city government. It held up the Ramapo contract pending an investigation by its own engineers, and finally secured legislation protecting the city. The Merchants' Association of San Francisco actually carried through the reconstruction of the city charter. Everywhere the Trades Assembly, composed of delegates elected by labor unions, has a growing influence on city wages, city hours of labor, and labor legislation in general.

But it will at once be seen that a modern project for representation of interests exactly parallel to that of mediæval times cannot be admitted. First, there is a large number of voters, perhaps a majority, who are not members of any organized interest. In mediæval times a man had no political rights except as he gained them through membership in a legalized corporation. But to-day he has the suffrage as a man and not as a member of a guild. Consequently, as such, he is entitled to representation. Representation of interests cannot be merely representation of *organized* interests — it must also include the unorganized.

Furthermore, mediæval interests were rigid, and the corporation or guild absorbed the whole life of the man and his family. But modern interests are fluid and transitional. Membership can be changed from one to another.

For these two reasons the voter must be permitted readily to shift his vote from one interest to another. In other words, while the organized interests should be permitted to elect their avowed representatives with-

out interference, the unorganized voters should be permitted, not to defeat the candidates of the organized interests and so to force compromise candidates upon the voters, as at present, but to elect also their own representatives, or to add their weight to the representation of one interest or another as they choose. This end can be reached by what the late Dorman B. Eaton described as "free nomination" and "free voting." Free nomination is simply nomination by petition. Free voting is simply the provision that a minority shall have representation proportionate to its numbers. This requires election on a general ticket instead of single-membered wards and districts. A municipal council of thirty-five members, like that of New York, elected in this way, would enable any interest within the city commanding one-thirty-fifth of the voters to elect its own leading spokesman without compromises with any other interest or boss. One-third of the voters would elect ten or twelve, and so on. The labor unions could elect the very men who now compose their central federated union; the merchants' association could elect their leading merchants; the bankers could elect a banker; the saloon-keepers and gamblers would elect a minority proportionate to their numbers, instead of their usual majority. The unorganized voters would distribute their influence according to the issues which to them seem uppermost. Free voting, already adopted in Switzerland and Belgium, is the modern form of representation of interests.

It is not to be inferred that representation of interests is the same as government by special interests. Where all interests are fairly represented by their

leaders there is no one interest which can dominate the others. It is exactly the evil of existing forms of government that a few special interests with wealth and shrewdness have gotten control. Boss politics is possible only because the boss is not compelled to make concessions to any interests other than those of the "organization" and the campaign contributors. Let all substantial interests have an equal voice with the party organization and then representative government will take the place of boss government. The welfare of society as a whole will be cared for, because every interest in society will have weight in the legislature according to its social importance. And the legislature itself will be a notable body composed of the acknowledged leaders of men, instead of the partisan tools of special interests.

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