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THE SECRET BALLOT.

TOWNSEND PRIZE ORATION, BY GEORGE E. HILL.

Popular government in America is no longer an experiment. The principle that all government derives its just powers from the consent of the governed has extended its influence into the thought and practice of the civilized world, and has prepared the way for that broader principle, its logical successor, that the government and the governed should be one. The government truly popular is not that which exists because it has the mere consent of the governed but that in which the people are the moving cause.

Back of these principles we dare not go. Our aim must be twofold ; to keep this operating cause of government fitted for its duty as sovereign, and the machinery in such working order, that the finished legislative product shall be a true manifestation of the will of the people. • If either permanently fail, then popular government is a failure.

The dangers which threaten popular government in the United States, are not those coming through errors in the popular judgment, so much as those which tend to prevent a correct expression of the popular will. The charge of corruption in politics, at all times a weapon of political warfare, is no longer, with us, a vague declaration. On every hand, at every election, the evil shows itself and the slight attempt made at concealment, illustrates the exemption from punishment, either by legal penalties or by public condemnation, which it usually enjoys. No longer confined to the bribery and intimidation of the individual voter, it infects the whole political system, from the nominating convention to the public acts of the successful candidate, in legislative halls, the Executive chamber or upon the bench.

The bribery of the individual voter necessitates some agent through whom it may be effected, a political middleman or broker, whose reflex influence upon the candidate, even before nomina-

tion and after election is no less pernicious than his direct influence upon the voter himself. This agent, by means of his power to win elections, becomes an element to be weighed by the candidate when considering a nomination. He must be conciliated by an opportunity to distribute money at elections, or by promises which will fetter the official in the discharge of his duties.

The necessity of such relations with the political manager naturally deters from candidacy that class of men who would best represent a constituency, thus leaving open the avenues of success to those willing to avail themselves of such means. For like reasons, the most desirable class of voters shrink from active interest in election contests.

To remedy these evils must be the aim of ballot reform. Remove the organizer of corruption, and the corruption itself must diminish. And yet, mere penalties, however severe, will hardly prevent the evil. Men hazard detection and punishment when the prize is tempting and success probable. Take away the opportunity and the profit and the crime will disappear.

The recent movement on these lines almost simultaneously begun in several parts of our country, is thus far of a non-partisan character. It is a response to the demand, not alone of that class of citizens who fear only the result of a corrupt suffrage upon our National institutions, but of that large class who see their individual rights invaded by the intimidation of employers, and of official and even religious superiors. The "working classes" particularly, recognizing in their electoral privilege the most distinctive badge of their political equality, have been demanding such protection, partly perhaps, because they are actively interested in the purity of the ballot, but more especially because they feel that under the old system they approach the polls at the risk of individual independence.

Varying in detail as do the numerous ballot reform laws passed in many States, through them all runs the same fundamental idea of securing to the voter a freedom from that scrutiny which has so often prevented a truthful expression of the people's choice. This element of secrecy is the corner-stone of the system, since, as Judge Hoadley has observed, no one will trust to the honor of another in a transaction which is of itself a breach of honor.

But it is not alone the voter who seeks protection. It must be extended to the candidate upon whom there remains a legitimate demand for contributions, if ballots are still to be printed and distributed at private expense. Hence, the reformed system gener-

ally provides for the furnishing and distribution of the ballots by the State. This additional expense to the State affords a ground on which not a few efforts at ballot reform have met defeat at the hands of legislative or executive opponents. But clearly, the State should hesitate to permit a part of the expense of the exercise of its functions—and the conduct of elections is certainly one of its functions—to be borne in any degree directly by individuals.

To these two fundamental principles—secrecy in the preparation and casting of the ballot, and provision by the State of the ballots themselves—the reform system adds details, many commendable, some cumbrous.

Driven from the position of auctioneer and purchaser of votes, and deprived of his power to abstract money for election purposes, the man who has been accustomed to derive personal benefit from the manipulation of elections, will devote himself to the caucus and the candidate. It has been a device frequently resorted to by those who would elect an unworthy nominee by the mere weight of a party name, to secure the postponement of a nomination until the eve of election. Then by controlling the machinery of the party caucus, such nomination and subsequent election are secured.

Although protection to the public from evils of this class may not be within the proper scope of ballot reform, yet many statutes aim to protect the voter from imposition of this nature, by placing such restrictions upon the time and method of selecting candidates as shall prevent corrupt combinations, irregular nominations, and kindred devices. The reform may be carried even further in this direction, by applying its principles to the nominating primaries where in many instances, unworthy designs have had their origin.

It is essential to an honest ballot, that no deception should be practiced upon the voter, by means of ballots which are not what they purport to be. Hence, by most secret ballot laws, an official character is given to the ballot, in order that no ticket issued with false party names or combinations may be used. Not infrequently has it happened that tickets bearing a party caption and many of the names of candidates of that party, together with a few of the opposing party have been dishonestly distributed at the polls and inadvertently cast. The official character of the ballot prevents this imposition and affords to the voter a protection against his own carelessness. Nor does it infringe his right to vote for such a combination of candidates as he chooses, since he can so prepare the official ballot as to accomplish the desired result.

No method of secret balloting can accomplish its purpose, which leaves unguarded any way of so discriminating between ballots cast, as will enable the counters to determine how any individual voted. Hence, any secret ballot law must carefully provide for the rejection of any ballot which is so marked as to be subsequently recognized. This should be accomplished, however, by means of as few technical rules as possible, in order to reduce to a minimum the opportunities for wholesale rejection of ballots for mere technical irregularities, by partisan tellers.

On almost every plan of ballot reform have been engrafted various devices for regulating remote abuses. In some States, statutes require each candidate to file with a specified officer, a statement of all election expenditures, in such detail as will expose any wholesale misuse of money. Such a law, while rather one of penalty than of prevention, will accomplish good results just so far as its enforcement can be secured. It affords, however, such ample means of evasion, and is so nearly an attempt to compel self-crimination that it must soon either be superseded or become a dead-letter. Such a law is contrary to the spirit of the secret ballot system, the great underlying purpose of which is, as we have seen, not to provide penalties for such corruption of the suffrage, as law and public sentiment have always, nominally at least, condemned, but rather to prevent such corruption by rendering it unprofitable because uncertain.

Thus it involves no new principle, but, like all great reforms, is a mere application of old principles to existing conditions which are not indeed in themselves new, but which have of late more vigorously than ever before demanded attention and correction.