

## CHAPTER LXVI

## ELECTIONS AND THEIR MACHINERY

I CANNOT attempt to describe the complicated and varying election laws of the different States. But the methods of conducting elections have so largely influenced the development of Machine politics, and the recent changes in them have made so much stir and seem likely to have such considerable results, that the subject must not pass unnoticed.

All expenses of preparing the polling places and of paying the clerks and other election officers who receive and count the votes, are borne by the community, not (as in Britain) by the candidates.

All elections, whether for city, State, or Federal offices, are in all States conducted by ballot, which, however, was introduced, and was long regarded, not so much as a device for preventing bribery or intimidation, but rather as the quickest and easiest mode of taking the votes of a multitude. Secrecy had not been specially aimed at, nor in point of fact generally secured.

An election is a far more complicated affair in America than in Europe. The number of elective offices is greater, and as terms of office are shorter, the number of offices to be voted for in any given year is much greater. To save the expense of numerous distinct pollings, it has been usual, though by no means universal, to take the pollings for a variety of offices at the same time, that is to say, to elect Federal officials (presidential electors and congressmen), State officials, county officials, and city officials on one and the same day and at the same polling booths. Presidential electors are chosen only once in four years, congressmen once in two. But the number of State and county and city places to be filled is so large that a voter seldom goes to the polling booth without having to

cast his vote for at least eight or ten persons, candidates for different offices, and sometimes he may vote for twenty or thirty.

This gave rise to the system of slip tickets. A slip ticket is a list, printed on a long strip of paper, of the persons standing in the same interest, that is to say, recommended by the same party or political group for the posts to be filled up at any election.<sup>1</sup> Till very recently, the universal practice was for each such voting ticket to be printed and issued by a party organization, and to be then distributed at the polling booths by the party agents to the voters and placed by them in the box. The voter usually voted the ticket as he received it, that is to say, he voted *en bloc* for all the names it contained. It was indeed open to him to modify it by striking out certain names ("scratching") and writing in others, or by placing over a name a bit of paper, gummed at the back for the purpose (called a "paster"), on which was printed the name of some other candidate. But the always potent tendency to vote the party list as a whole was naturally stronger when that whole list found itself on the same piece of paper in the voter's hands than it would have been had the paper contained in alphabetical order the names of all the candidates whomsoever, making it necessary to pick and choose among them. This, however, was the least of the evils incident to the system. When (as often happened) the two great parties had had names on their respective State or city tickets, the obvious remedy was the formation of a "Citizens'" or "Independent" organization to run better men. The heavy expense of printing and distributing the tickets was a serious obstacle to the making of such independent nominations, while the "regular" ticket distributors did all in their power to impede the distribution of these "independent tickets," and generally to confuse and mislead the independent voter. The expenses which the regular parties had to bear were made by their leaders a pretext for levying "election assessments" on candidates, and thereby (see *ante*, p. 118) of virtually selling nominations. And, finally, the absence of secrecy, for the voter could be followed by watchful eyes from the moment when he received the party

<sup>1</sup> A ticket includes more names or fewer, according to the number of offices to be filled, but usually more than a dozen.

ticket from the party distributor till he dropped it into the box, opened a wide door to bribery and intimidation. A growing sense of these mischiefs roused at length the zeal of reformers. In 1885 a bill for the introduction of a really secret ballot was presented to the legislature of Michigan, and in 1888 such a measure, resembling in its outlines the ballot laws of Australia and those of the United Kingdom, was enacted in Massachusetts. The unprecedented scale on which money was illegitimately used in the presidential election of 1888 provoked general alarm, and strengthened the hands of reformers so much that secret, or, as they are called, "Australian," ballot laws are now in force in all the States except seven; viz., North Carolina, South Carolina, Georgia, Louisiana, Florida, Texas, Idaho, all (except the last) States in the South, a part of the country where reforms make their way more slowly, and where one party has so marked a predominance that a provision for fair elections may seem matter of less urgency than in the more equally divided Northern States. It may cause surprise that communities which live in alarm at the large negro vote should not seize so simple a method of virtually excluding the bulk of that vote, but the reason is doubtless to be found in the fact that a secret ballot, unaccompanied by provisions for illiterate voters, would also exclude a considerable number of whites. However, these seven States will probably ere long follow their sisters in the enactment of secret ballot laws, and the strength of the movement is witnessed by the fact that in three States, Mississippi, Texas, and Kentucky, provisions on the subject have been embodied in the constitutions, though, in the case of Texas, the legislature has not yet given effect to them by statute.

The new laws of these thirty-seven States are of varying merit. As might be expected from the character of their legislatures, those of New York, Connecticut, and New Jersey are the worst. Nearly all the laws, however, provide for the official printing of the voting papers, for the inclusion of the names of all candidates upon the same paper, so that the voter must himself place his mark against those he desires to support, and for the depositing of the paper in the box by the voter in such manner as to protect him from observation. Thus secrecy

has been nearly everywhere secured, and while independent candidates have a better chance, a heavy blow has been struck at bribery and intimidation. The practice of "peddling" the ballots at the polling place by the agents of the parties, which had reached portentous dimensions in New York, has in most places disappeared, while the extinction of the head of expenses incurred for this purpose, as well as for ballot printing, has diminished the pretext for levying assessments. Elections are far more orderly than they were, because more secret, and because the attendant crowd of those who peddle and hang about the polls, disposed to turbulence and ready for intimidation, has been much reduced. And it is an incidental gain that the most ignorant class of voters, who in the North are usually recent immigrants, have been in some States deprived of their votes, in others stimulated (as has happened to the more intelligent negroes in parts of the South) to improve their education, and fit themselves to vote. Even where provision is made for the voting of illiterates, a certain disgrace, which citizens desire to escape, attaches to him who is forced to have recourse to this provision. The presidential election of 1892, conducted in thirty-five States under these new laws, has approved their superiority to the old system, and has further encouraged the reformers, who have been surprised to find how rapidly success has crowned their efforts. For a final judgment, however, we must wait until time has shown how far the ingenuity of corrupt politicians may devise methods for evading the salutary provisions of the new statutes.

So much for what may be called the machinery of voting. There are, however, several other questions that may be asked regarding an election system. One is, whether it is honestly carried out by the officials? To this question no general answer can be given, because there are the widest possible differences between different States; differences due chiefly to the variations in their election laws, but partly also to the condition of the public conscience. In some States the official conduct of elections is now believed to be absolutely pure, owing, one is told, to the excellence of a minutely careful law. In others, frauds, such as ballot stuffing and false counting, are said to be common, not only in city, but also in State and Federal elections. I have no data to determine how widely

frauds prevail, for their existence can rarely be proved, and they often escape detection. They are sometimes suspected where they do not exist. It is however clear that in some States they are frequent enough to constitute a serious reproach.<sup>1</sup>

Another question is: Does the election machinery prevent intimidation, bribery, personation, repeating, and the other frauds which the agents of candidates or parties seek to perpetrate? Here, too, there are great differences between one State and city and another, differences due both to the laws and to the character of the population. Of intimidation there is now but little, save in a few cities, where roughs, or occasionally even the police, are said to molest a voter supposed to belong to the other party, or to be inclined to desert their own party. But till the enactment of the secret ballot laws, it sometimes happened that employers endeavoured to send their workmen to the polls in a body in order to secure their votes; and the dislike to this was one of the motives which obtained popular favour for these laws. Repeating and personation are not rare in dense populations, where the agents and officials do not, and cannot, know the voters' faces; and these frauds are sometimes organized on a grand scale by bringing bands of roughs from one city to another.

Bribery is a sporadic disease, but often intense when it occurs. Most parts of the Union are pure, as pure as Scotland, where from 1868 till 1892 there was only one election petition for alleged bribery. Other parts are no better than the small boroughs of Southern England were before the Corrupt Practices Act of 1883.<sup>2</sup> No place, however, not even the poorest

<sup>1</sup> They were specially frequent, and are not extinct, in some of the Southern States, being there used to prevent the negro voters from returning Republican candidates. It was here that the use of "tissue ballots" was most common. I was told in San Francisco that elections had become more pure since the introduction of glass ballot boxes, which made it difficult for the presiding officials to stock the ballot box with voting papers before the voting began in the morning. After the election of 1893, nearly 100 election officers in New York City, about 25 in Brooklyn, and a good many in the smaller cities were indicted for offences against the election laws, and especially for permitting "repeaters" to vote, for accompanying voters into the booth on a false pretence of their blindness or physical incapacity, and for cheating in the counting of the votes. Many were convicted.

<sup>2</sup> The British general election of 1880 gave rise to no less than 95 petitions impugning returns on the ground of some form of corruption, and many were sus-

ward in New York City, sinks below the level of such constituencies as Yarmouth, or Sandwich, used to be in England. Bribery is seldom practised in America in the same way as it used to be at Rome, by distributing small sums among a large mass of poor electors, or even, as in many English boroughs, among a section of voters (not always the poorest) known to be venal, and accustomed to reserve their votes till shortly before the close of the poll. The American practice has been to give sums of from \$20 to \$50 to an active local "worker," who undertakes to bring up a certain number of voters, perhaps twenty or thirty, whom he "owns" or can get at. He is not required to account for the money, and spends a comparatively small part of it in direct bribes, though something in drinks to the lower sort of elector. This kind of expenditure belongs to the category rather of paid canvassing than of bribery, yet sometimes the true European species occurs. In a New Hampshire rural town not long ago, \$10 were paid to each of two hundred doubtful voters. In some districts of New York the friends of a candidate will undertake, in case he is returned, to pay the rent of the poorest voters who occupy tenement houses, and the candidate subsequently makes up the amount.<sup>1</sup> The expenses of congressional and presidential elections are often heavy, and though the larger part goes in organization and demonstrations, meetings, torchlight processions, and so forth, a part is likely to go in some illicit way. A member of Congress for a poor district in a great city told me that his expenses ran from \$8000 up to \$10,000, which is just about what a parliamentary contest used to cost in an English borough constituency of equal area. In America the number

tained. After the election of 1886 there was not a single petition. After that of 1892 there were ten petitions alleging corrupt practices, and in three of these the election was declared void on the ground of such practices. This improvement must, however, be in some measure ascribed to the Redistribution Act of 1885, which extinguished the small boroughs.

<sup>1</sup> At a recent election in Brooklyn, a number of coloured voters sat (literally) on the fence in front of the polling booths, waiting to be bought, but were disappointed, the parties having agreed not to buy them. There is a good deal of bribery among the coloured voters in some of the cities: *e.g.* in those of Kentucky and Southern Ohio.

When there is a real issue before the voters, bribery diminishes. In the mayoralty contest of 1886, in New York, the usually venal classes went straight for the Labour candidate, and would not be bought.

of voters in a congressional district is more than five times as great as in an average English constituency, but the official expenses of polling booths and clerks are not borne by the candidate. In a corrupt district along the Hudson River above New York I have heard of as much as \$50,000 being spent at a single congressional election, when in some other districts of the State the expenses did not exceed \$2000. In a presidential election great sums are spent in doubtful, or, as they are called, "pivotal" States. Indiana was "drenched with money" in 1880, much of it contributed by great corporations, and a large part doubtless went in bribery. What part ever does go it is the harder to determine, because elections are rarely impeached on this ground, both parties tacitly agreeing that by-gones shall be by-gones. The election of 1888 was one of the worst on record, so large was the expenditure in doubtful States. In that year well-informed Americans came to perceive that bribery at elections was a growing evil in their country, though even now they think it less noxious than either Bossism or election frauds. In 1883 the disease seemed to me no more diffused than it had been in England up to that date. In 1890 the shadows had grown darker; and good citizens were evidently becoming anxious.

This alarm has favoured the movement for the enactment of laws against corrupt practices. A few States have now passed such statutes. Those of Missouri and California are described as likely to prove efficient; those of Massachusetts and Kansas, as less drastic, but fairly useful; those of New York, Michigan, and Colorado, as amounting to little more than provisions for the compulsory publication of certain items of expenditure. In Pennsylvania it would appear that the acts are seldom put in force. The practice, so general in America, of conducting elections by a party committee, which makes its payments on behalf of all the candidates running in the same interests, renders it more difficult than it is in Britain to fix a definite limit to the expenditure, either by a candidate himself or upon the conduct of the election. However, the new Missouri law attempts this, fixing a low scale for "campaign expenditures," and imposing severe penalties on the receiver as well as giver of any bribe, whether to vote or to refrain from voting, a form in which bribery seems to be pretty fre-

quent. Other but much lighter penalties are imposed on the practice of treating. It seems probable that the example set by Missouri and California will be largely followed, and that the blow struck at electoral corruption by the secret ballot laws will be followed up by a general limitation of expenditures. Whether the improvement will be permanent, and how deep it will go, is another question. It is always difficult to estimate the exact value of laws which propose to effect by mechanical methods reforms which in themselves are largely moral. This much, however, may be said, that while in all countries there is a proportion (varying from age to age and country to country) of good men who will act honourably whatever the law, and similarly a proportion of bad men who will try to break or evade the best laws, there is also a considerable number of men standing between these two classes, whose tendency to evil is not too strong to be repressed by law, and in whom a moral sense is sufficiently present to be capable of stimulation and education by a good law. Although it is true that you cannot make men moral by a statute, you can arm good citizens with weapons which improve their chances in the unceasing conflict with the various forms in which political dishonesty appears. The value of weapons, however, depends upon the energy of those who use them. These improved Ballot acts and Corrupt Practices acts need to be vigorously enforced, and the disposition, of which there have been some signs, to waive the penalties they impose, and to treat election frauds and other similar offences as trivial matters, would go far to nullify the effect to be expected from the statutes.

Strong arguments have been adduced in favour of another reform in election laws, viz., the trial of contested elections, not, as now, by the legislative body to which the candidate claims to have been chosen, but by a court of law. The determinations of a legislature are almost invariably coloured by party feeling, and are usually decided by a party majority in favour of the contestant whose admission would increase their strength. Hence they obtain little respect, while corrupt or illegal practices do not receive their due condemnation in the avoidance of the election they have tainted. Against these considerations there must be set the danger that the judges who try

such cases may sometimes show, or be thought to show, political partisanship, and that the credit of the bench may thus suffer. The experience of England, where disputed parliamentary elections have since 1867 been tried by judges of the superior courts, and municipal elections since 1883 by county court judges, does not wholly dispose of this apprehension; for it happens every now and then that judges are accused of partiality, or at least of an unconscious bias. Still, British opinion decidedly prefers the present system to the old one. In the United States the validity of the election of an executive officer sometimes comes before the courts, and the courts, as a rule, decide such cases with a fairness which inspires general confidence. The balance of reason and authority seems to lie with those who, like ex-Speaker Reed, himself a hearty party man, have advocated the change. It was proposed as a constitutional amendment by the legislature of New York to the voters in 1892, but rejected, under circumstances, however, which do not forbid the hope that it may eventually prevail.

Not satisfied, however, with the purification of election methods, some reformers go further, and have proposed to render the ballot box a more complete representation of the will of the people by making voting compulsory. The idea is not quite new; in some Greek States citizens were compelled to attend the Assembly; similar provisions were to be found in parts of the United States in the last century, while in modern Switzerland several cantons fine electors who fail to vote at elections or when laws are proposed under a referendum. The Swiss evidence as to the merits of the plan is not uniform. In St. Gallen, for instance, where it was introduced so far back as 1835, it seems to have worked well, while in Solothurn it proved ineffective, and was ultimately abolished. On the whole, however, the effect would seem to have been to bring out a comparatively heavy vote, sometimes reaching 83 and even 84 per cent of the registered electors, though it deserves to be noticed that the cantons in which the plan exists are, speaking generally, those in which political life is anyhow most active.<sup>1</sup> In the United States, however, abstention from voting does

<sup>1</sup> I quote from a paper by M. Simon Deploige in the Belgian *Revue Générale* for March, 1893.

not appear to be a very serious, and certainly is not a growing, evil. City and State elections sometimes fail to draw even three-fourths of the voters to the polls; but in the presidential election of 1880, a year coinciding with that of the national census, and therefore suitable for investigation, 84 per cent of the qualified voters in the whole United States actually tendered their votes, while of the remaining 16 per cent fully three-fourths can be accounted for by illness, old age, necessary causes of absence, and, in the case of the Southern negroes, intimidation, leaving not more than 4 per cent out of the total number of voters who may seem to have stayed away from pure indifference.<sup>1</sup> This is a good result as compared with Germany, where, in 1887, only 77 per cent of the qualified voters came to the polls, or with the United Kingdom, where, at the parliamentary election of 1892, an election of unprecedented excitement, about 77 per cent of the electors seem to have voted in those constituencies where there was a contest, the figures being: for England, 78 per cent; for Scotland, 78; for Wales, 75, and for Ireland, 66. It is right to add that, owing to the defects of the British registration laws, there were probably more names on the register in proportion to the number actually in a position to come to the poll than would be the case in the United States or in Germany. In the presidential election of 1892 the total number of votes cast showed only about half the increase on 1888 which the estimated growth of population ought to have given. This abstention, however, may have been largely due not to indifference, but to an unwillingness in one party to support the party candidate.

The plan of compelling men to vote on pain of being fined or incurring some disability, though it has found some favour in America, is not likely to be adopted, and one of the arguments against it is indicated by the cause suggested for the abstentions of 1892. It is not desirable to deprive electors displeased by the nomination of a candidate of the power of protesting against him by declining to vote at all. At present, when bad nominations are made, independent voters can express their disapproval by refusing to vote for these candidates.

<sup>1</sup> The subject is examined with care and acuteness by Professor A. B. Hart in his *Practical Essays on American Government*.

Were voting compulsory, they would probably, so strong is party spirit, vote for these bad men rather than for their opponents, not to add that the opponents might be equally objectionable. Thus the power of party leaders and of the machine generally might be increased. I doubt, however, whether such a law as suggested could, if enacted, be effectively enforced; and it is not well to add another to the list of half-executed statutes.

The abuse of the right of appointing election officers can hardly be called a corrupt practice; yet it has in some places, and notably in New York City, caused serious mischiefs. There elections have been under the control of the Police Board, consisting of four commissioners, two of whom are required by law to be Democrats, two to be Republicans.<sup>1</sup> By a statute of 1892, this Board is directed to appoint in each of the 1187 election districts of the city, three inspectors of elections, two of whom are to belong to the party which cast the greatest number of votes in the last preceding election, and one to the party which cast the next greatest number. This audacious piece of partisanship has given the dominant faction in the city the command of a great number of paid places wherewith to reward its adherents. The cost of the three inspectors, two poll clerks, and two ballot clerks in the 1187 districts is \$178,800; and the selection of shops or other buildings as polling places, with the nomination to some other election posts, adds still further to the mass of patronage, and enables the party Machine to benefit no small part of its adherents at the cost of the city. Taken along with the practice of treating all, or nearly all, appointments in the service of the city as party spoils, it provides a Machine with a large number of paid workers in each Assembly district, who can be depended on to fight hard and constantly for the party, and especially to enrol recruits and bring them up to the poll. The statute, it is right to add, has received much censure, and may probably be soon repealed.

<sup>1</sup> This statutory recognition of party as a qualification for office is not unusual in America, having been found necessary to ensure an approach to equality of distribution between the parties of the posts of election officers, for the fairness of whose action it was essential that there should be some sort of guarantee.

The particular form of evil here described still flourishes like a green bay tree. But on the whole, as will have been gathered from this chapter, the record of recent progress is encouraging, and not least encouraging in this, that the corrupt politicians themselves have been forced to accept and pass measures of reform which public opinion, previously apathetic or ignorant, had been aroused by a few energetic voices to demand.