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A STUDY IN CORRUPT PRACTICES

Legislation.

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* CHAPTER I *
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ENGLISH DEVELOPMENT IN CORRUPT PRACTICE LEGISLATION

For the nation as well as for the individual, self government today is the recognized type of highest development. The growth of the principle of self government in the consciousness of various nations as evidenced in their history and registered in their constitutions, shows an ever increasing purpose running through the ages of Political History, that government by and for the people so far from perishing from the earth, has come in one form or another to be the prevailing and permanent type.

In this form of government, the people are the determinative factor upon whom rests not merely a privilege but the sacred duty and responsibility of promoting the civic and political interests of the

country, for by the casting of their votes, they determine the personnel and policies not only of the local units of their government but also of the state and nation. People generally are alive as never before to the fact that the most perfect mechanism of government is not conclusive indication as to the character of its legislation and the effectiveness of its administration. That while possessing all the forms of self government, a people may through indifference to or abuse of their political obligations, have really surrendered it. That while living under the freest and most liberal constitution in the world, they may find themselves powerless, when face to face with the energetic and self seeking interests of great industrial and commercial organizations led by their tools, the corrupt politicians. In other words, although to a certain extent a nation may protect itself by the character of its constitu-

tion and laws, the integrity of the people, which is the source of its power, is also its greatest safeguard.

It is then of vital importance to the nation that the verdict rendered at the polls be the superior aggregate of the calm, deliberate judgments of its individual citizens and not as an acknowledged authority upon the subject says, ⁽¹⁾"merely the mechanical consensus of the majority of the mass; and for that reason, there should be eliminated from the electoral tribunal to the utmost possible extent, all opportunity for the accidental predominance of the minority and all the influences that have their origin in, or tend towards, caucus control, habit, mystery, corruption, passion, coercion, caprice and individual irresponsibility as well as all the operations of mass suggestibility." To guard against some one or several of the above quoted influences has been the aim

(1) Ellis T. Powell's Essentials of Self Govt. p. VII.

of the legislation upon the subject of Corrupt Practices enacted from time to time.

Corrupt Practices, by which we mean in a general sense, all undue influences, as bribery, treating, personation and solicitation, in their various forms, which brought to bear upon the voter, hinder his voting in accord with his own deliberate conviction, are as old as government itself. Treating them in their modern forms, and considering the United States especially, it is valuable to study the history of the revolution against electoral corruption in England and the character and working of the Corrupt Practice Bill of 1883, as throwing considerable light upon such legislation in the United States.

Corrupt Practices under various favoring influences, developed and flourished with the rise and growth of political parties in England. The mass of the English people during the seventeenth, eighteenth,

and half of the nineteenth centuries, had little or no voice in the government. The House of Commons was distinctly an aristocratic body of landowners who quite ignored any political or other equality with their tenants, while the manufacturing centers which rapidly grew up, were either totally or very inadequately represented. The aristocrats, were naturally slow in surrendering that political ascendancy which they gained when as champions of liberty, they withstood despotic tyranny and wrested the Magna Carta from King John. On the other hand, it is not to be wondered at, that the mass of the common people ignorant as they were, and totally unaccustomed to participation in Parliamentary Government directly, did not realize the significance of a vote and were slow to develop a full sense of themselves politically. From the very circumstances of their relations with the gentry, they were peculiarly open to

influences, political and otherwise, exerted by them and accepted as a natural accompaniment of Parliamentary elections, most open and gross forms of electoral corruption while they used to the full every offered opportunity of diversion and profit. The growth of an active sentiment against corruption was slow and the legislation passed from time to time necessarily in advance of general public opinion. In a constituency here and there, corruption never became general, but in others, it has been almost impossible to do away with it even to the present day and there are strong evidences that undue influences generally exist, in new and unregulated forms.

During the years prior to 1832, corruption prevailed along two separate, but parallel lines. By bribery and treating, the voter was corrupted personally and individually while through the pocket-borough system, he was bought and sold en masse by

various political parties who profitted by the nefarious traffic.

Bribery took several general forms. It appeared as municipal and government patronage against which, as early as 1694, was aimed a statute, which states, (1)"any collector of excise, who should by word, message or writing, or in any manner whatsoever, endeavor to persuade any elector from giving his vote for choice of any person to be of the House of Commons, should be liable to a penalty of £486." While glaringly limited in scope, and inadequate, the act is interesting as showing that this form of bribery was recognized as prevalent. (2) In the shape of money, bribery became so open and lavish that votes were quoted as ranging in prices from five dollars to one hundred dollars, and at one place Grampound, a pocket-borough, some of its forty-two voters boasted of receiving as high as

(1) 5 & 6 W. & M. c. 20

(2) No. Am. Rev. 182 p. 279

one thousand six hundred and fifty dollars each in cash for their votes. There was strong competition in this case, however.

In the same manner, treating expanded. ⁽¹⁾In 1677 in consequence of a report from the Committee of Election and Privileges, the House passed the famous Treating Resolution, "Resolved, etc., that if any person to be elected into a place, for to sit and serve in the House of Commons, after the test or the issuing out of the writ or writs of election--- shall by himself, or by another on his behalf or at his charge, at any time before the day of his election, give any person or persons having voice in such election, any meat or drink, exceeding in true value about \$48.60 in the whole in any place or places but in his own dwelling house or habitation, being the usual place of his abode for six months last past; or shall before such election be made and declared,

(1) E. T. Powell - Essentials in Self Govt. p. 171

make any other present, gift, or reward, or any promise, obligation, or engagement to do the same, every such entertainment, present, gift, reward---- etc., is by this House declared to be bribery and such entertainment--- etc., being duly proved, is, and shall be a sufficient ground, cause and matter to make every such election void as to the person so offending, and to render the person so elected, incapable to act in Parliament by such election." "Resolved, that the said order against excessive drinking at elections be a further instruction to the Committee of Elections."

Voters as a matter of course, took their bribes, lived, ate and drank and smoked at the candidate's expense during the whole fourteen days the election lasted. The Annual Register for 1761,
(1) bears this interesting commentary upon the electoral atmosphere of the time: "The following, is an exact account of the articles consumed at dinner

(1) Annual Reg. 1761, page 101.

only by the voters of a small borough on the day of electing their members: 980 ⁽¹⁾stone of beef; 315 dozen of wine; 72 pipes of ale, and 365 gallons of spirits converted into punch, and that, following hard after a breakfast, which alone amounted to \$3645." ⁽²⁾Sometimes, after drinking their borough monger's wine to the last drop, the voters went over in a body to the Opposition and drank theirs, as Northhampton, at the election of 1768. When the voters had drained all the old port at one of the castles, their host had to offer them claret, whereat they all declared they would never vote for a man who gave them sour port. The proceeding comes down to us styled, "The Spendthrift Election". "The canvassing began long before the fourteen days of polling and the contest raged not between the candidates but their respective sponsors who had entered to win, or ruin themselves. It cost one of the sponsors

(1)stone - about 8 lbs. of meat.

(2)No. Am. Rev. Vol. 182, p. 278. .

\$1,000,000, and the two opponents, for their nominees \$1,500,000 each, while the total number of electors was 1,000. The significant feature is, that the election was contested not on the ground of corruption, but because the number of votes cast exceeded the number of qualified electors, by two hundred and eighty-eight."

The cause of the other kind of corruption, the pocket-borough system, is to be found in the economic changes which were taking place throughout the country. Towns which during the Middle Ages often had been important, retained control of such representative system as there was. Many of them were growing to be of ever diminishing importance in the economic life of the country, while many flourishing centers of industry which had grown up since, had no means of impressing their fresher civic ideals of life and duty upon Parliament. In the older towns

the number of burgesses fell away, the rest became easier to control partly because of the intellectual stagnation which follows civic decay and because of the greater economic independence which was the result of dying trade and vanishing population from places once thronged but were now mere groups of scattered mounds or ruins. These two sources of weakness, threw their old constituencies into the hands of landlords and speculators. Boroughs were bought and sold quite openly at prices which reached their maximum at four hundred and eighty thousand dollars, the price paid for ⁽¹⁾Gatton, a place of twenty-five houses and about one hundred inhabitants. Prices fell rapidly just before the reform act of 1832 when it became clear that the reform spirit would soon sweep away the system and eight seats went for \$19,440 the lot.

The significant legislative attempts to check

(1) Ellis T. Powell - Essentials in Self Govt. p. 174
Ed. 1909.

electoral corruption in England, fall roughly within the two hundred years between the Act of 7 William III. 1695 and the Corrupt Practices Bill of 1883.

(1) Act of 7 William III., is to the effect that during certain prescribed times, "No person to be elected shall directly, or indirectly, give or allow, to any voter any money, meat, drink, entertainment or provision, or make any promise or engagement to give or allow any money to such voter in order to be elected, on pain of being disabled to serve in Parliament for such place in such election." Although a step in advance, the act obviously failed of effectiveness since it applied only to the person to be elected, and it was repealed in 1854.

A second step was made in April, 1728 during George II's reign, when a (2) "Bill for The More Effectual Preventing of Bribery and Corruption in Elections", passed which authorized, "any two electors

(1) No. Am. Rev. Vol. 182, p. 278, Ed. 1906.

(2) Hansard Debates, George II. 1729
Vol. 8 Ed. 1811, p. 102

Also, No. Am. Rev. Vol. 182, p. 281, Ed. 1906.

to demand that a voter presenting himself to vote, might be called upon to swear, that I, A. B., do swear that I have not received or had, by myself or by another for me, any benefit, directly or indirectly, any sum of money, or any promise of employment, gift or reward, or promise of security for money, in order to give my vote at this election." This act is the entering wedge since it so clearly recognizes the existence and potency of the indirect method of corrupting.

That this early legislation on ⁽¹⁾the subject, was considerably in advance of general public opinion, seems evident when as late as 1903, in the case of the Hertfordshire Petition, it attempted to establish upon the basis of a speech made by Lord Mansfield, "that there may be a giving of money, meat, and drink to an elector, by a candidate and during an election, which notwithstanding, not being given with

(1) 1803 Peck 184.

Ellis T. Powell - Essentials in Self Govt.
Ed. 1909, p. 173.

corrupt intent, or with view to influence the election, is not an offence within the statute of William III."

(1) On May 5th, 1809, during George III's reign, Mr. Maddocks, a member of the House of Commons, made a motion against two of His Majesty's ministers relative to their having been guilty of corrupt practices of the treasury, with respect to the returns of members. One is not to suppose this is the first case of bribery in the form of government patronage, but merely a typical case, which brought to light under the favoring circumstances of an awakening political conscience, led more or less directly to a piece of legislation designed to check it.

A week later, the same gentleman made a significant motion in Commons to the effect, (2) "that it was highly criminal for any ministers, or other servants of The Crown in Great Britain, directly or

(1) Annual Register 1809, p. 157

(2) Annual Register 1809, p. 158

indirectly, to make use of the power of his office in order to influence the election of members of Parliament and that an attempt to exercise that influence was an attack upon the dignity, the honor, and independence of Parliament; an infringement of the rights and liberties of the people; and an attempt to sap the basis of our free and happy constitution."

Commons was aroused over the result of an investigation into the matter and passed a bill which was sent to the House of Lords. The journal of the House of Lords inserts the notice that it was thought best, "the House resolve itself into a committee of the Whole House upon the Bill, entitled, ⁽¹⁾"An Act for the better securing the independence of the Parliament by preventing the procuring or obtaining, of Seats in Parliament, by Corrupt Practices". Whereupon there was strong dissent on the part of a representative present, inserted as follows: "Because

(1) Journal of The House of Lords, Vol. 47, p. 387.

the bill is delusive, inasmuch as it professes to prevent the sale of seats directly or indirectly for money and yet does not impose with equal caution and earnestness any difficulty in procuring them by barter of the patronage of the Crown." The dissenting opinion here expressed voiced one of the great weaknesses of the bill better than we could, yet the Bill was reported from the Committee as passed and without amendment. It enacted that, "any person directly or indirectly giving or promising, or agreeing to give, any money, etc., to procure the election of a member of Parliament shall forfeit \$2500." A good feature of the Act was that it recognized the receiver as well as the giver of a bribe equally guilty but legislation promised little hope of efficiency as long as the Committee of Investigation as to the expenditure of funds was composed of members of Parliament itself; themselves, frequently elected by

unlawful tactics.

Much was expected of the Reform Bill of 1832 as an effective blow against corrupt practices in an indirect way, since it abolished the small nomination boroughs; greatly extended the franchise; and reduced the period of election. It was thought by some, that it would greatly diminish if not abolish such acts. Sales of boroughs' representation as a whole, were done away with but the extending of the franchise to the middle-class householders, enlarged the class accessible to them. Later complaints were being made that the landlords of certain agricultural holdings interfered with the exercise of the franchise by their tenants and the extension of the franchise to tenants-at-will of holdings rented at \$243 per annum in the counties, extended still further the opportunity of exercising this influence. The Annual Register for 1835 cites a typical case of

the (1) Knight of Kerry who found himself the opposition to a candidate backed by the Catholic priests. He was defeated because the priests, gathering their flocks into the churches, refused them all rites should they vote for anyone but their candidate, O'Connell.

(2) As the result of petitions from Yarmouth, complaining of bribery, a select committee was appointed by the House to consider, "the most effectual means of preventing bribery, corruption and intimidation at elections". The evidence submitted, and the discussion following, indicate a regrettable state of affairs, but exhibited with equal clearness, a growth of more wholesome public opinion.

(3) Following the report of a special committee of investigation, upon the existence of widespread bribery at St. Albans, that borough was disfranchised in 1852. It had for some time been customary to

(1) Annual Register 1835, Vol. 77, p. 15.

(2) Annual Register 1835, Vol. 77, p. 341.

(3) Annual Register 1852, Vol. 94, p. 78.

punish such wholesale corruption by the disfranchisement by Parliament of a borough, for a certain number of years. The inconvenience of passing a special act for proceeding by a commission, in every case, led to the passage of a general act covering these cases. It provided, ⁽¹⁾"that upon a joint address of both houses to The Crown, representing that it had appeared by report of an election committee that extensive bribery had occurred at any place returning members, Her Majesty might issue a Commission to three barristers to institute a local inquiry into the case and report thereon to Parliament. Very stringent powers were conferred upon the Commissioners for this purpose and a procedure was directed nearly similar to that which had terminated so effectually in the instance of St. Albans."

⁽²⁾ In 1854, there passed the first law which dealt in a systematic manner with bribery and treat-

(1) 15 & 16 Vict. c 57.
Annual Reg. Vol. 94, 1852, p. 78, Ed. 1853.

(2) 17 & 18 Vict. c 102.
Rogers On Elections, Vol. II. p. 161, Ed. 1906.

ing. Sections two and three of the act defining bribery and treating and undue influence were so comprehensive that they were retained in the law of 1883 as conclusive on the subject. It first defined an "undue influence" and made it an offence within the strict meaning of the word. One of the most creditable features of this Act was its attempt to clear the way for thorough legislation by repealing all acts passed previously upon the subject of Corrupt Practices. It also made the recipients of a bribe amendable to punishment and the penalties for it were clearly defined. Its weakness was that of being too narrow in scope, leaving out entirely illegal payment of rates, illegal practices and personation.

(1) The Representation of The People Act, of 1867, provided that, "Any person, either directly or indirectly, corruptly paying any rate on behalf of any

(1) 30 & 31 Vict. c 102 § 49.

Rogers on Elections Vol. II. p. 639.

ratepayer for the purpose of enabling him to be registered as a voter, thereby to influence his vote at any future election, and any candidate, or any person, either directly or indirectly, paying any rate on behalf of any voter for the purpose of inducing him to vote, or refrain from voting, shall be guilty of bribery, and be punishable accordingly; any person on whose behalf and with whose privity any such payment as in the section mentioned, is made, shall also be guilty of bribery, and be punishable accordingly."

The Act covers the deficiency of the Act of 1854 and is a good type of later legislation in its thoroughness of treatment. There followed a Representation of The People Act for Scotland covering the same ground in 1868.

In 1868 Commons finally disposed of the question of the trial petitions. Up to this time, the committees of Commons for this purpose had been ap-

pointed. But as the Register for that year bears witness, (1)"experience had proven that the election committees did not satisfactorily fulfill the office either of detecting electoral corruption or determining the rights of conflicting claimants to a seat." They were neither wholly exempt from the suspicion of partiality according as the composition of the particular tribunal might impress it with a party bias, nor even if they escaped such imputation, were they considered to possess the judicial attributes which might qualify them to ascertain the truth and enforce "the penalties of the law upon the offender".

The Select Committee appointed to consider the subject arrived at the conclusion that, "the time had come when in order to grapple effectually with the hitherto irrepressible vice of electoral corruption, the jurisdiction of the House as to its own members should cease". Several plans were in-

(1) Annual Register 1868 Vol. 110, p. 38.

troduced, but the one adopted finally has become permanent. According to it, the trial of election petitions should be conducted by a single judge, to be selected from a rota which should be formed by arrangement among the judges of the three superior courts. Since 1879 the number has been increased to two judges from a rota, selected annually by the judges. The judges report their findings to the House of Commons, which thus makes manifest its own jurisdiction in the matter of its own elections. As their findings are never challenged, they are considered as final and authoritative as if given in pursuance of their ordinary judicial functions. The importance of this reform cannot be emphasized too strongly as a distinct advance toward an effectual administration of laws regulating corrupt practices.

Still another step in promoting the purity of elections was made when the ⁽¹⁾Ballot Act of 1872

(1) 35 & 36 Vict. c 33 § 24.
Rogers on Elections, Vol. II. Ed. 1906, p. 640.
An. Reg. 1872, Vol. 114, p. 73, Ed. 1873.

passed, substituting the secret for the open ballot, and fixing definite penalties for fraudulent use of the ballot. As early as 1835, the Annual Register bears witness that Mr. Grote had made his annual motion to the effect that, ⁽¹⁾"It is the opinion of this House that the vote at elections for members of Parliament be taken by the way of the secret Ballot." Surely the mills of political reform grind slowly. The change could not help striking a mortal blow to individual and personal bribery, since the briber could have no real guarantee that the recipient of his bribe had furthered "the cause" by his vote. The second part of the act was an important step in securing uniformity regulation extending the provisions of Corrupt Practice legislation to cover municipal elections.

⁽²⁾ In spite of almost constant agitation upon the subject, and the passing of some act of Parlia-

(1) Annual Register 1835, Vol. 77, p. 345.

(2) Sir H. James - Corrupt Practices - Forum, Vol. 15, p. 129.

mentary reform year after year, in the Spring of 1889 it had to be admitted that there was little or no diminution of corruption. There was a serious number of petitions following the election and the number of cases detected are admittedly less than the actual number. In the Autumn of that year, Commissioners were appointed for investigating nine cases reported. The evidence brought before them clearly showed such responsible men as Justices of the Peace, among the nine thousand electors guilty of corruption. The Commissioners had reported several men of local standing guilty. Of this number, fourteen or fifteen, to whom freedom from conviction had not been promised, in order to get proper evidence, were selected for prosecution. The juries did their work and those convicted were given substantial terms of imprisonment. Intense feeling and indignation were aroused by these disclosures and a popular demand for

more effective regulation of corrupt practices followed, and between 1881 and 1883 the Corrupt Practice Bill of 1883 was framed and put through Parliament. Lord James of Hereford, then Attorney General, the author of the bill, gives the objects he designed it to cover. ⁽¹⁾ It aimed to consolidate the laws affecting Corrupt Practices at elections; to check the same by punishing and degrading the offenders; to abolish, or generally reduce the extent of paid agency in the conduct of elections; and limit by means of a fixed scale, the amount of expenditure by candidates at elections.

The Act divides electoral corruption into two classes: Corrupt Practices, which in the election included bribery, treating, undue influence, personation, and the making of false declaration with regard to election expenses; and Illegal Practices, which are minor offences, such as providing bands

(1) Sir H. James Forum, Vol. 15, p. 133.

and banners, paying for the hire of conveyances to take voters to the polls and exceeding the statutory maximum of election expenses. A Corrupt Practice (1) would be defined as one such that no man of ordinary intelligence could commit it without a corrupt intention. (2) An Illegal Practice is one the legislature is determined to prevent, whether done honestly or dishonestly. The question in the latter case being not one of intention but of contravention of the Act.

Bribery is explicitly defined by the act as follows: (3) "Every person who directly or indirectly, by himself or by any other person, gives, lends, or agrees to give or lend, or offers, promises, or promises to procure, or to endeavor to procure, any money or valuable consideration, or any office, place, or employment, to or for any voter, or to or for any person on the behalf of any voter, or to or for any

(1) Ellis T. Powell, Essentials in Self Govt. p.167.

(2) Barrow Petitions, Justice Field, 40 M. & H., 77.
Ellis T. Powell, Essentials in Self Govt. p.167.

(3) 17 & 18 Vict. c 102, 2, I & II.
Rogers On Elections, Ed. 1906, Vol. II. p. 491.

other person in order to induce any voter to vote or refrain from voting,"⁽¹⁾ or who in any similar manner "seeks to induce any person to procure, or endeavors to procure, the return of any person to Parliament, or the vote of any voter at any election."

⁽²⁾ He is also guilty of bribery who in consequence of the forbidden acts mentioned, "procures or endeavors to procure, the election of a candidate, or who advances, or pays, or causes to be paid, any money to, or to the use of any other person with the intent or knowledge that it shall be applied, wholly or in part in bribery;"⁽³⁾ and "any voter who, directly or indirectly, receives, either before or during election, any consideration of the kinds forbidden in the anti-bribery provisions above summarized, either for voting, or refraining from voting," is also pronounced guilty of bribery;⁽⁴⁾ as also is "any person who after election, directly or indirectly, by himself or

(1) Ibid. 2, III.

(2) Ibid. 2, IV & V.

(3) 17 & 18 Vict. c 102, Sect. 3, I.

(4) Ibid. Sect. 3, II.

by any other person in his behalf receives any money, or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting." The question as to whether an employer might give his workmen a holiday on the day of the poll without charge of bribery has been set at rest by ⁽¹⁾Act 48 & 49 Vict. c 56, which legalizes giving such holiday providing it is given to all alike; is not given as an inducement to vote for any one candidate; and is not refused to any person in order to prevent him voting for a particular candidate. ⁽²⁾Any person is pronounced guilty of treating "who corruptly by himself or by any other person either before, during or after an election, directly or indirectly, gives, or provides, or pays wholly or in part the expense of giving or providing any meat, drink, entertainment, or provision to or for any person for

(1) Rogers On Elections, Ed. 1906, Vol. II, p. 661.

(2) 46 & 47 Vict. Sect. 1 - (1) & (2) Ibid. p. 574.

the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at the election, or on account of such person or any other person having voted or refrained from voting at such election, shall be guilty of treating, and every elector who corruptly accepts or takes any such drink, meat, entertainment, or provision, shall also be guilty of treating."

Undue Influence: (1)"Every person who shall directly or indirectly, by himself or by any other person in his behalf, make use of or threaten to make use of, any force, violence, or restraint, or inflict or threaten to inflict, by himself, or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person, in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted, or refrained from voting at any election,

(1) 46 & 47 Vict. c 51, Sect. 2.

Rogers on Elections, Ed. 1906, Vol. II. p. 574.

or who shall by abduction, duress, or any fraudulent device or contrivance impede or prevent the free exercise of the franchise of any elector, or shall thereby compel, induce, or prevail upon any elector either to give or to refrain from giving his vote at any election, shall be guilty of undue influence."

(1)"A person shall for all purposes of the laws relating to Parliamentary and municipal elections be guilty of the offence of personation who, at an election for a county or borough, or at a municipal election, applies for a ballot paper in the name of some other person, whether that name be a person living or dead, or of a fictitious person, or who, having voted once at any such election, applies at the same election for a ballot paper in his own name."

(2) Another Corrupt Practice is committed if any candidate or election agent knowingly makes the

(1)35 & 36 Vict. c 33, Part III. § 24, Ibid. p. 640.

(2)46 & 47 Vict. c 51, Sect. 33-(7).
Rogers, Vol. II. p. 592.

declaration required by this section falsely swearing as to expense incurred by him, he shall be guilty of an offence, and on conviction thereof shall be liable to the punishment for wilful and corrupt perjury; such an offence shall also be deemed a Corrupt Practice within the meaning of this Act."

(1) The penalties for bribery, treating, and undue influence, each of which constitutes a misdemeanor, is liability to "imprisonment with or without hard labor, for a term not exceeding one year, or a fine of any sum not exceeding \$²272."

(2) "A person who commits the offence of peroration, or of aiding, abetting, counselling, or procuring the commission of that offence, shall be guilty of felony, and any person convicted thereof on indictment shall be punished by imprisonment for a term not exceeding two years, together with hard labor."

(1) 46 & 47 Vict. c 51, Sect. 65-(1)
Rogers, vol. II. p. 576.

(2) Ibid. Sect. 6--(2).

In addition to the above penalties, (1)"a person who is convicted on indictment of any corrupt practice shall not be capable during a period of seven years from date of his conviction:

(a) Of being registered as an elector or voting at any election in the United Kingdom, whether it be a Parliamentary election or an election for any public office within the meaning of the Act.

(b) Of holding any public or judicial office within the meaning of the Act, and if he holds any such office, the same shall be vacated."

(2)"Any person so convicted of a corrupt practice in reference to any elections shall also be incapable of being elected to and of sitting in the House of Commons during the seven years next after the date of his conviction, and if at that date he has been elected to the House of Commons, his election shall be vacated from the time of such convic-

(1) 46 & 47 Vict. c 51, Sect. 6-(3).

(2) Ibid, Sect. 6-(4).
Roger's, Vol. II. p. 576.

tion."

(1) If on the trial of an election petition, "the election court reports to the speaker in pursuance of section eleven of the Parl. Elections Act of 1868 that any Corrupt Practice other than treating or undue influence has been proved to have been committed in reference to such election by or with the knowledge and consent of any candidate at such election or that the offence of treating or undue influence has been proved to have been committed, by such candidate, that candidate shall not be capable of ever being elected to or sitting in the House of Commons for the said County or Burrough, and if he has been elected, his election shall be void; and he shall further be subject to the same incapacities as if at the date of the said report he had been convicted on an indictment of a corrupt practice."

(2) If the election court reports that a candidate has

(1) 46 & 47 V. c 51, Sect. 4.

(2) Ibid, Sect. 5.

been guilty by his agents, of any Corrupt Practice at the election inquired into, the candidate shall not be capable of being elected to or sitting in Parliament for the County or Burrough in respect of which the election has been held during a period of seven years after the date of the report, and if the candidate so reported has been elected, his election is void.

Improper payment of election expenses constitutes the offence of illegal payment. Such improper payment consists on ⁽¹⁾any incurring of expense or any payment in excess of the statutory maximum of election expenses; ⁽²⁾any payment otherwise than by or thru the election agent; ⁽³⁾any payment of accounts sent in after the expiration of the statutory period for their receipt (that is, fourteen days after the declaration of the election); ⁽⁴⁾any payment whatsoever (unless it be made by leave

(1) 46 & 47 V. c 51, Sect. 8 & 28, (2).

(2) Ibid, Sect. 28-(1).

(3) Ibid, Sect. 29-(2) & (3).

(4) Ibid, Sect. 29-(5).

of the court) after twenty-eight days from the declaration of the election; (1) any payment which is otherwise legal if being over forty shillings it is not vouched for by a bill stating the particulars and by the receipt. Specific objects of expense are prohibited. (2) "No payment is to be made for the conveyance of electors to or from the polls whether by hiring horses or carriages or for railway fares or otherwise;" or no elector is to be paid anything for the use of any house or building for the purpose of exhibiting addresses or placards; no payment is to be made for the use of any committee-rooms beyond one room in respect of every one hundred electors; (3) voting by any person who knows that he is prohibited by statute from voting, or knowingly inducing such person to vote, are offences which are made illegal practices.

(4) Publishing a false statement of the with-

(1) 46 & 47 V. c 51, Sect. 29-(1).

(2) Ibid, Sect. 7-(1).

(3) Ibid, Sect. 9-(1).

(4) Ibid, Sect. 9-(2).
Rogers 578.

drawal of any candidate for the purpose of promoting or procuring the election of another candidate; ⁽¹⁾ the printing, publishing or posting of any bill having reference to the election, without the name and address of the printer and publisher or agent thereof, is an illegal practice in candidate or agent.

The most important of the illegal practices has been created by the ⁽²⁾ Corrupt and Illegal Practices Acts of 1895 which prohibits the making or publishing by a person, directors of a body or association corporate, of a false statement with reference to the personal character or conduct of a candidate for the purpose of affecting his return. ⁽³⁾ The Public Meeting Act of 1908 creates a new illegal practice as follows: "Any person who at a lawful public meeting acts in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, shall be guilty of an offence, and

(1) 46 & 47 V. c 51, Sect. 18.

(2) 58 & 59 V. c 40.
Rogers, p. 671.

(3) E. T. Powell's Essentials of Self Govt., Ed. 1909, p. 215.

if the offence is committed at a meeting during the progress of and in connection with a Parliamentary election, he shall be guilty of an illegal practice within the Corrupt and Illegal Practices Act, 1883."

(1) The penalty upon conviction for an Illegal Practice is a fine not exceeding £100 and political incapacity for five years thereafter. (2) The same offence committed by a candidate, or with his knowledge and consent, upon conviction by the election court, brings incapacity to sit as representative from the borough in which the election occurred, for seven years thereafter. If convicted by his agents his election is voided and incapacity holds thru that same Parliament in which the report was made.

The act attempts to limit objectionable expenditure by restricting the employment of clerks, agents, messengers and others within very narrow limits. The plan adopted for controlling the amount

(1) 46 & 47 V. c 51, Sect. 10.
Roger's, p. 578.

(2) Ibid, Sect. 11-(a) & (b).

of expenditure was by a fixed schedule. Section 8 provides that, "Subject to such exception as may be allowed in pursuance of this Act, no sum shall be paid and no expense shall be incurred by a candidate or his election agent, before, during or after an election on account of, or in respect of, or in conduct or management of such election, in excess of any maximum amount in that behalf specified in the 1st Schedule of this Act."

(1) In the borough the expenses of an election other than the personal expenses and sums to be paid to the returning officer for his charges, shall not exceed in the whole the maximum amount in the scale following:

If the number of electors on the register does not exceed 2000 the maximum amount shall be £350. If it exceeds 2000, £380, and an additional £30 for every complete 1000 electors over 2000.

(1) 46 & 47 V. c 51, Sched. I. Part IV. (1) & (2).
Rogers, 629.

In Ireland if the number of electors on the register does not exceed 500, the maximum amount shall be £200. Exceeds 500, but not 1000, maximum amount £250. Exceeds 1000, but not 1500, maximum amount £275.

In a county such expenses shall not exceed in the whole the maximum amount in the scale following: If the number of electors does not exceed 2000, maximum amount shall be in England and Scotland £650; in Ireland £500. If number of electors exceeds 2000, maximum amount shall be in England and Scotland £710, and £540 in Ireland; and an additional £60 in England and Scotland and £40 in Ireland for every complete 1000 electors above 2000.

The number of persons which can be legally employed in the conduct of the election, by the election agent or candidate, is explicitly defined and restricted and ⁽¹⁾all of them are forbidden to

(1) Schedule I. (7)

vote. (1) There may be legally employed, including one election agent and no more: in counties, one deputy agent (sub-agent) to act within each polling district; one polling clerk on each polling station; in a borough, one clerk and one messenger, or if the number of electors in the borough exceeds 500, a number of clerks, not exceeding one clerk and one messenger for every complete 500 electors, but if there is a number less than the required 500, over and above any complete 500, one clerk and messenger may be employed for them. In a county for the central committee room, one clerk and one messenger may be employed. If the number of electors exceeds 5000, then one clerk and messenger for every complete 5000 electors and an additional clerk and messenger may be employed for the number less than 5000 remaining. For every polling district, a clerk and messenger may be employed, and for every additional

(1) Schedule I. (1) to (7) inclusive.

complete 500 electors over and above 500, and additional messenger and clerk may be employed; also, for the number remaining over and above a complete 500.

Assumed that for good reasons one group of clerks might be substituted for another during the course of the election, provided that in no one day the maximum number of clerks was exceeded.

There is a possible loophole for corruption here, since although the number of persons to be legally employed at any time is defined, yet there is no provision that the same persons be employed thruout the election period. In the case of ⁽¹⁾Walsall petition it was assumed, "that for good reason one group of clerks might be substituted for another during the course of the election, provided that on no one day the maximum number of clerks was exceeded." There is not apt to be a change every day, but by changing

(1) Rogers Vol. II. p. 172.
Day Election Cases, 73.

clerks often, a large number of corrupt individuals might be influenced, especially if they were inclined to vote, for there is no way the public may know who are employed until after election and no way of providing effective remedy if they did. ⁽¹⁾ A provision might be made prohibiting the employment for this purpose of any persons but those who should make written application stating that they were not voters in the district in which the election takes place and making the candidate keep this paper fifty days after the election or fifteen days after he makes his returns. Failure to comply might constitute illegal practice. ⁽²⁾ It would seem that exception should be made in the clause about not voting in favor of the election agent and permanent members of the party organization. There will be strong temptation to vote which will foster breaking the law.

In addition to the prohibitions a breach of

(1) Powell, p. 129.

(2) Powell, p. 129.

which, constitutes an illegal practice, there are some further prohibitory regulations imposed, but being regarded as of comparatively minor importance, a breach of them constitutes an "illegal payment", an offence falling short of an illegal practice. They are applied as follows: "A person who knowingly provides money for any payment contrary to the provisions of the Act, or for any expenses incurred in excess of any maximum ⁽¹⁾ amount allowed by the Act, or for replacing any money expended in any such payment or expenses, except where the same may have been previously allowed as an exception, is guilty of illegal payment. ⁽²⁾ Any person who corruptly induces or procures any other person to withdraw from being a candidate in consideration of any payment or promise of payment is guilty of illegal payment, as is also any person withdrawing in pursuance thereof. ⁽³⁾ Any payment or contract for payment, either during, before

(1) Sect. 13.

(2) Sect. 15.

(3) Sect. 16.

or after an election made for the purpose of promoting or procuring the election of a candidate at any election, on account of bands of music, torches, flags, banners, cockades, ribbons, or other marks of distinction, constitutes illegal payment. Any person a party to or receiving such payment, if he knew that it was contrary to law is also guilty of illegal payment. (1) The engaging or employing for payment or promise of payment, before, during or after any election, for any purpose or capacity whatever, except for any purposes or capacities mentioned in the 15th and 2nd parts of the first schedule, is guilty of illegal employment and the person so engaged, if he knew he was being employed contrary to law, is guilty of the same offence. (2) Should a person let, lend, or employ for the purpose of conveying electors to or from the poll, any public stage or hackney carriage, or any horse, or other animal which

(1) Sect. 17.

(2) Sect. 14 (1).

he keeps or uses for the purpose of letting out to hire, knowing at the same time that it is intended so to be used, is guilty of illegal hiring. ⁽¹⁾On the other hand, a person should not hire, borrow, or use for that purpose any carriage, horse, or other animal which he knows the owner is prohibited from letting, lending or employing for that purpose, and if he does so he is guilty of an illegal hiring. ⁽²⁾But nothing in the act is to prevent a carriage, horse or other animal being let to or hired, employed or used by an elector or several electors at their joint cost, for the purpose of having conveyed to or from the poll, and ⁽³⁾no person need pay any duty or take out a license for any carriage by reason only of its being used without payment or promise of payment for such conveyance.

The effect of the clauses is absolutely to prohibit the providing of hired vehicles for convey-

(1) Sect. 14 (2).

(2) Sect. 14 (3).

(3) Sect. 14 (4).

ing voters to and from the poll but does not affect the right of persons to lend their vehicles. The effect is to put a poor candidate at a disadvantage as compared with a rich one, since his wealthy friends may put a large number at his disposal free of charge and the effect of such a line of carriages might influence votes to that side. (1) A certain number might be made to put in the cost of their use at current prices in his returns. Rich and poor would then be put upon an equal footing. The problem would also be simplified by providing that only the aged and those bearing certificates to the effect that they were invalid or infirm, might lawfully be so conveyed, and punishment might be provided for any breach of these provisions. It would not be necessary then to use more than a few carriages.

A person who hires or uses any premises or any part thereof in contravention of Section 20, is

(1) Powell, p. 4.

guilty of illegal hiring and the person letting or permitting the use of such premises or part, if he knew it was intended to use the same in contravention of that section, is guilty of illegal hiring.

Section 20 prohibits the hire as a committee room or use for the purpose of promoting or procuring the election of a candidate, of any premises:-- on which the sale of any intoxicating liquor is authorized by a license; where any intoxicating liquor is sold, or is supplied to members of a club, society, or association, other than a permanent political club; wherever refreshment of any kind, whether food, or drink, is ordinarily sold for consumption on the premises; of any public elementary school in receipt of an annual parliamentary grant, or any part thereof. The section is not to apply to any part of such premises which is ordinarily let for the purpose of chambers or offices, or the holding of public meetings

or of arbitrations, if such part has a separate entrance and no direct communication with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied.

(1) A person guilty of illegal payment, employment, or hiring shall, on summary conviction, be liable to a fine not exceeding £100. The same offence committed by a candidate or election agent of a candidate who is personally guilty shall be an illegal practice.

(2) There are two relief clauses. In respect to avoidance of the election, no relief is given in cases where bribery or personation is established, but where treating, undue influence, or illegal practices are proved to have existed and the court finds that no Corrupt or Illegal Practice has been committed by or with the sanction, or connivance of the candidate or his election agent, that the candidate and

(1) Sect. 21 (1) & (2).

(2) Sect. 22.

the election agent took all reasonable means for preventing the commission of Corrupt or Illegal Practices and that the offences mentioned in the report were of a trivial character, relief is granted and the election is not voided. (1) In favor of the candidate's agents and others, it is provided that when the offences of illegal practices or payment have been committed, "an application may be made to the High Court for relief, and if it shown that the act of commission constituting the offence arose from an inadvertance or from miscalculation, or from some other reasonable cause of like nature, and not from any want of good faith, the Court may absolve the applicant, and by its order absolve of all consequences with respect to the offence committed."

(2) A candidate is compelled to have one and prohibited from employing more than one election agent. Upon the agent, the money duties are cast.

(1) Sect. 23.

(2) Sect. 31 (1).

No money can be paid, or contract made in connection with the election, except by him. ⁽¹⁾The candidate may discharge his own personal expenses, but if they exceed £100, a return of them must be made to the election agent. Within fourteen days after the day on which the candidates returned are declared elected, all claims for payment must be sent to the election agent, who upon discharging them, must take a receipt. ⁽²⁾All election expenses are to be paid within twenty-eight days after the candidates returned are declared elected. ⁽³⁾Within thirty-five days after the day on which the candidates returned are declared elected, the election agent must send to the returning officer a full account of all payments made in connection with the election, together with the vouchers of payment and a statement of all money received by him for the purposes of the election.

The return of expenditures and receipts has

(1) Sect. 31 (4).

(2) Sect. 31 (4), and sub-section.

(3) Sect. 33 (1).

to be accompanied by a sworn declaration by candidate and election agent to truth of the items contained in the return. If either of them knowingly swear to the truth of what they know to be a false return, he commits perjury. The offence is also a Corrupt Practice. In Tasmania, the oath is merely an oral one taken upon honor and a man's conscience, which it would seem more difficult for a man to make falsely.

To prevent corrupt withdrawal of election petitions it is provided that the making of any agreement to withdraw a petition in consideration of any payment or the withdrawal of any other petition shall amount to a misdemeanor, subjecting a person convicted of the offence to imprisonment for a period of not greater than twelve months and a fine of £200. Special care is taken to make the withdrawal of a petition difficult. An application for withdrawal must be made to the judges of the High Court, who have to

examine most carefully into the circumstances attending the purpose of the withdrawal. Affidavits are required that the withdrawal is made in good faith. Evidence to that effect has to be placed in the hands of the public prosecutor, whose duty it is to test the truth of the statements made and if he thinks fit, to oppose the application for leave to withdraw the petition. Ypon the trial of every election petition, a representative of the public prosecutor must be present to assist the court in arriving at the truth, especially to prevent any collusive abstention from proving the existence of Corrupt Practices. It is also the duty of the public prosecutor to take criminal proceedings against all the principal offenders in the commission of Corrupt Practices.

It is a striking fact in connection with the English Law of 1883, that although the candidate is warned that he can legitimately spend but so much and

that any more than that will void his election, yet he is left entirely to his own judgment as to the period his election expenses should properly cover. The Law is extremely definite upon every other point apparently, except the period of candidature and of that there is no definition whatever given. The omission is serious from the candidate's point of view, since no matter how much he may desire to have his candidature managed in a perfectly legitimate fashion, his election returns have to be made up in a more or less haphazard fashion. At the same time, it throws the decision of many cases upon the discretion of the judges as to whether an item omitted should have been in the return, and if it isn't, whether the omission has been due to inadvertance. Nor can a candidate employ counsel to ascertain whether a certain expense should properly be considered an election expense, since by so doing, in case

he is charged with false returns of election expenses, he has thereby lost his only possible chance of relief, i.e., the inadvertance or miscalculation of his action.

various writers speaking upon the subject of Corrupt Practices, have pointed to England as the example of a nation which has practically abolished electoral corruption. They cite with pride, that since the passing of the 1883 Bill, Corrupt Practices have become a negligible quantity, basing their arguments upon the^{few} election petitions reaching the election court for trial, and concluding as a matter of course, that the result is due to the efficacy of their law. In the first place, it may safely be affirmed that in the face of such a law, the old form of Corrupt and Illegal Practices by the candidate and his agent have been very effectually stopped. There is too much at stake for them to run any unnecessary risks and at the same time an opportunity would seldom

be lost by the disappointed opposition, of making his successful opponent void his seat.

Ellis T. Powell, the greatest authority at present upon the electoral system in England, has called attention to the fact that the period of candidature which should be perfectly plain and definite, might be rendered so by amending the act to read that, (1) "the return of a candidate's expenses shall include all expenditures incurred by him or in his behalf, in the furtherance of his political interests, within the three calendar months previous to the day of the poll." The tendency would be to keep a man with political aspirations from spending much money in such a manner at any time, since it is impossible to say three months in advance when a Parliamentary election will take place. Should such an election be suddenly declared, and his contribution fall within the three calendar months previous, his legitimate amount of

(1) E. T. Powell, "Essentials of Self Government"
p. 101.

funds might be too greatly reduced to be effective.

The assumption that because candidates and their agents have been limited in the scope and exercise of their activity, that an election in England is conducted solely upon a merit basis as to choice of candidates, and that its management is carried on along the simple and comparatively inexpensive lines indicated within the terms of the law together with an entire absence of the convivial and spectacular features which so irresistibly appeal to the mass, would seem scarcely justified by contemporary testimony.

According to good authority the questions asked concerning a candidate are, ⁽¹⁾"What sums will he contribute to the local funds for the purposes of organization and registration? How much did he give to the central fund of the party whose administration furnished him with his credentials to the local leaders? Can he pay his own election expenses?"

(1) E. T. Powell, "Essentials of Self Government,"
p. 97.

More than that, can he make himself popular by means of liberal donations to various local charitable and philanthropic organizations?" If he cannot meet the requirements, he is not usually given an opportunity to run. A noticeable feature of this system is that it depends entirely upon the pecuniary power either of the candidate, or the party. It leaves the voter no right of choice, but simply allows him to endorse one of two men, or not vote. Money, rather than merit, is the qualification and party interests rather than public welfare receive first consideration. For such a situation the law provides no remedy. It has been suggested for the purpose, ⁽¹⁾"the expenses of any bona fide candidate running with a reasonable chance of success, provided that within a fixed number of days he apply for public aid to that end, and furnishes a certificate from the returning officer certifying that he really was a candidate and polled

(1) E. T. Powell, "Essentials of Self Government"
p. 114.

15% of the vote cast," be paid for by the State.

That plan seems impracticable because of its throwing so great expense upon the Government, because there is nothing in the nature of an election defying adequate regulation by law which will render election possible to secure by candidates in very ordinary circumstances, without serious drain upon their finances. All unnecessary dependence of individuals upon the Government directly for financial aid of any sort is not a desirable thing from any point of view. The law may well place the plane of the contest upon such a level that a lack of unlimited means shall not be a bar to election.

At the time when the Act of 1883 passed, few could have thought that considerable expenditure was likely to be made at an election other than by the candidate and his agent. Parties have become strongly centralized and powerful today. When an election

is to occur, the head of the central party office committee communicates with the party candidate or with the chief of his party organization and offers the services of a number of agents in various constituencies, who are attached to the central office. The candidate asks for as many as he needs. These men as far as he is officially concerned, are offering their services gratuitously and yet they are professionals at the electioneering business, whose services he could not afford within the legal limit of expense. He is obliged to make no account of them in making up his election returns and the result of the law is that the party organization which is still without the pale of the law, does for its candidate what he cannot legally do for himself. Both sides use the plan which alone gives it sanction, but the fact remains, that the work is done and the money spent none the less surely for that reason.

The Political field may be taken up by any number of other outside organizations with varying aims which work for the most part in complete irresponsibility as to amount of expenditure and whom they employ. In some cases their real source may be unknown. Their activities are wholly unregulated by the Corrupt Practices Act, unless their expenditures should appear to take the form of bribery. If they work with the candidate he has a powerful support, but they may oppose him on personal or political grounds, in which case, he is at a great advantage because of his legal and expense limitations. All these various subsidiary influences and display brought to play upon the electors, together with the activities of the candidates and their agents, tend to confuse and distract them from exercising their sober political judgment and for that reason there should be an amending clause to the effect, "that all

persons other than electors, coming into a constituency to canvass are to be registered in the manner described. All organizations, whether local or not, and whether permanent or temporary, which engage in election work must be similarly registered. All persons, whether electors or not, and all organizations spending more than one pound in connection with the furthering of the election must make return in the same form and with the same completeness, as if they had been candidates."

Enough has been said to indicate that in spite of the law the amount of money spent in the conduct of an election has not been strictly limited, nor the number of agents strictly curtailed. It remains to see whether aside from the regular recognized expense of a campaign, the possession of a fortune may not still be a very distinct advantage in influencing the result of the poll.

Any man living in a constituency, who it is very probable entertains political aspiration, whether it has formally been made known or not, will find himself besieged with demands for contributions from all existing organized local activities, philanthropic, public, quasi-public and social. If his fortune is sufficient to the occasion, he is said to be "nursing the constituency", but should the candidate for any reason whatsoever refuse a donation, or make it less than his opponent, he loses votes. (1) The judges do not pronounce against this practice unless they feel sure that there exists a corrupt motive, or in case the gifts are made so near the election as to produce an immediate and direct effect upon voters, or when that which purports to be entertainment supplied at the mutual cost of the members of an organization, is really supplied at less than cost price, the balance being paid by the candidate." These cases because

(1) E. T. Powell, "Essentials of Self Government"
p. 103.

of their nature, cannot be entirely stopped, but ostentatiousness could be done away with by making the candidate make return of all such contributions of money, or money's worth, made personally or by his wife during the period of candidature in his other election expenses, and pronouncing a failure to do so, a Corrupt Practice, challengeable in the usual way. It would have a tendency to control lavishness because if it fell within the period of candidature, it would lighten the candidate's money for other expense and if it were without that period, time would have weakened its effect.

A reason why so few election petitions are sent in is that when a candidate has used questionable devices in conducting his campaign he may intimate to the other candidate that his side intends doing so, whereupon the opposition says that had been their intention. By mutual agreement, all intentions of

election petitions on either side are given up. The practice is termed a "Saw-off", and is quite as effective, one dare say, for practical purposes of doing away with election petitions as a stringent law upon the subject is, so long as public sentiment will permit the practice. Absence of election petitions may not be conclusive evidence then to an absence of political corruption, but may possibly be a cause of that situation.

The Act of 1883, penalizes any false statement of fact regarding the personal character or conduct of a candidate and renders it fatal to the election if the candidate or his agent are guilty. Another form of falsehood should be brought under the law, i.e. all false statement of fact whatsoever, as well as any disguised assertion, which if made with regard to a person in a direct way would lead to proceedings for slander or libel.

This extension of the Law would protect the electorate from political and other statements made in handbills, speeches, etc., which are designed to give a false impression. The making of such a statement when there is not time to refute it, has been known to forfeit an election. The public has a right to the truth at all times from those who would represent the people as their political agents and intentional political falsehood is as truly corrupt practice or bribery, and its consequences may prove more disastrous.

In conclusion, the Corrupt Practice Bill of 1883, considered as a pioneer of its kind, and in the light of then existing conditions was a well nigh comprehensive and effective Bill. That it is ineffective today is due to changing conditions, which were impossible to see at the time perhaps. In meeting the more modern conditions it is not nec-

essary to change to any great extent the principal features. There have simply grown up outside the pale of the law organizations far more powerful than individual citizens. These in their corporate capacity form, for political purposes, to a greater or less extent, a new class of individuals whose activities at present almost totally unregulated, must be brought under the Corrupt Practice Laws, if the State would fulfill its duty of protecting the electorate in the name of public welfare.

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* C H A P T E R I I *
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THE MONSIEUR
SUPERIOR BOND

CORRUPT PRACTICES - FEDERAL LEGISLATION

Article X. of the Constitution of the United States asserts that, "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." The fixing of the qualifications necessary for an exercise of the franchise, is not among the powers delegated to the Federal Government by the Constitution, nor denied to the States, and hence constitutionally belongs to the several States subject only to the restriction laid down in the fifteenth amendment that, "the right of citizens of the United States to vote shall not be denied or abridged by the United States or any State on account

of race, color, or previous condition of servitude." Under Section 2 of Article 15, Congress has the power to enforce the imposed restriction "by appropriate legislation", which clearly gives ⁽¹⁾ Congress the right of supervising elections held in the various States to the extent of preventing any discrimination upon the grounds mentioned. In the Enforcement Act of 1870, 2 Hughes (U.S.) 1518, it is even asserted that, "the words, "race, color, or previous condition of servitude," are general terms descriptive in their character and are not restrictive, and do not limit the preceding words, "all citizens of the United States who are and shall be otherwise qualified to vote in any election by the people in any State." However, judicial determination has been to construe those terms as ⁽²⁾ restrictive, but it is not necessary to attempt the interpretation above quoted, since Congress has indisputably been given the control

(1) McKay v. Campbell (1870) 1 Sawy. (U.S.) 374.
Fed. Cases Bk. 16, Ed. 1895, p. 157.
James v. Bowman, (1903) 190 U. S. 127.

(2) James v. Bowman, (1903) 190 U. S. 127.

over all Federal Elections by ⁽¹⁾another section of the Constitution in which, "the times, places and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."

From the time of the adoption of the Constitution, until the Civil War, Congress was under no necessity of interposing to protect her citizens in their right of franchise. The war has suddenly enlarged to an alarming extent, in the Southern States, the number of inhabitants entitled under the Constitution of the United States to all the rights and privileges of citizens. While perfectly willing that three-fifths of their slaves should be enumerated as a basis of representation in Congress, at each taking of the census, from the very nature of existing condi-

(1) Sect. 4, Art. I.

tions, aside from all natural prejudice, the Southern States were forced to oppose the political supremacy of their negro inhabitants, due to their preponderating numbers. The negroes were ignorant and when not actually vicious, were totally unused to the exercise of personal freedom or self-control, and so were unfit for any political control of others or to intelligently exercise their new rights of franchise. It was a critical time for the South, since the negroes in possession of the ballot, under the influence of "carpet-baggers", and all the term implies, were a real menace to the civil rights and political liberties of the people. To save these, it was imperative that the white population rule, by fair means if possible, but since it was not possible, by force,- a Klu-Klux Klan, or otherwise. Congress, having waged a great war in behalf of the Nation and Humanity to free these same negroes, and the Sovereign Power of

the people having declared them to be ⁽¹⁾citizens and ⁽²⁾guaranteed their right to vote, Congress felt it equally incumbent upon it to protect them in the exercise of their new rights and privileges, and passed the ⁽³⁾Act of May 31st, 1870, to the effect that, "all citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality or other territorial sub-division, shall be entitled and allowed to vote at all such elections without distinction of race, color, or previous condition of servitude, any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority notwithstanding." This section was aimed against a direct or indirect deprivation of the right to vote, rather than corruptly influencing by bribery, intimidation, etc., the vote of those whose right of fran-

(1) 14th Amend. declared in force July 28, 1868.

(2) 15th Amend. declared in force March 30, 1870.

(3) May 31, 1870, ch. 114, 16 Stat. L. 140.

chise is unquestioned, which is corrupt practice in the strict sense of the word.

However, on the same date, there was added to the Federal Statutes, a genuine Corrupt Practice Act, (1) Section 5507, in which, "every person who prevents, hinders, controls, or intimidates another from exercising the right of suffrage, to whom that right is guaranteed by the fifteenth amendment to the Constitution of the United States, by means of bribery, or threats of depriving such person of employment or occupation or of ejecting such person from a rented house, lands or other property, or by threats of refusing to renew leases or contracts for labor, or by threats of violence to himself or family, shall be punished by a fine of not less than \$500, or by imprisonment of not less than one month, nor more than one year, or be punished by both such fine and imprisonment."

Bribery was not defined, but intimidation,

(1) May 31st, 1870, par. 116 § 5, 16 Stat. 141.
Comp. Stats. 1901, Vol. III. of 1902 Ed.
p. 3712.

in its various forms, was carefully described. It is a noticeable feature of the law that it could be made to apply not only to Federal elections, but in a general manner to all elections. Due to this unfortunate circumstance, it occasioned much discussion and the several judgments rendered by the various courts on cases arising under it, are interesting as illustrating the opinions expressed as to the power of Congress to pass Corrupt Practice legislation of application to elections in general. In the case of James v. Bowman, which held the act to be unconstitutional, it was the opinion that, "Congress has the right to regulate elections at which Representatives and Senators are to be elected for Congress, but by the terms of the Section 5507, it is aimed at all elections, being clearly an attempt to exercise the power of Congress conferred on it by the fifteenth amendment, which was merely the right of preventing any dis-

crimination in the matter of suffrage on account of "race, color and previous condition of servitude" and was not limited in scope to any particular elections over which alone Congress has the power."

It was further declared that, "It would be judicial legislation for the Court to change a statute enacted to prevent bribery of persons named in the fifteenth amendment at all elections, to one punishing bribery of any voter at any election."

This decision was rendered in 1903, when the right of Congress to control Federal elections was quite generally admitted. The exact manner of that control had been determined by various judicial determinations, at least ⁽¹⁾ one decision being to the effect that violations of election laws could only be brought before Federal Courts in case Congress had in some manner altered by legislation the State laws, since Section 4 of Article I. only stated that Congress might

(1) Ex parte Clarke, 1879, 100 U. S. 399.

"at any time by law make or alter such regulations", in which case, violations of these laws might properly come within the jurisdiction of Federal Courts, if the laws so passed, were considered Federal, rather than State, laws. On the other hand," in⁽¹⁾ ex parte Siebold, the opposite view was taken that, "in making regulations for the election of Representatives and Senators to Congress, it is not necessary that Congress should assume entire and exclusive control thereof. By virtue of⁽²⁾ the clause of the Constitution which declares that, "the times, places, and manner of holding elections for Senators and Representatives, etc." Congress has a supervising power over the subject and may either make entirely new regulations or add to, alter, or modify the regulations made by the States. In the exercise of such supervisory powers, Congress may impose new duties on the officers of elections or additional penalties for

(1) Ex parte Siebold, 1879, 100 U. S. 371.

(2) Sect. IV. Art. I.

a breach of duty or for prohibition of fraud or provide for the attendance of officers to prevent frauds and see that elections are legally and fairly conducted. The power adopted for compelling the State officers to observe State laws regulating elections of Representatives, not altered by Congress, are within the supervisory powers of Congress over such elections. The duties to be performed in this behalf, are owed to the United States as well as to the State; and their violation is an offence against the United States which Congress may rightfully inhibit and punish. This necessarily follows from the direct interest which the national government takes in the due election of its Representatives, and from the power which the Constitution gives to Congress over this part of the subject." Also ⁽¹⁾"ex parte Yarbrough" to the effect that the implied power of Congress is as much a part of the instrument of the

(1) Ex parte Yarbrough, 1883, 110 U. S. 651.

Constitution as what is expressed, is a necessity, by reason of the inherent inability to put all derivative powers into words." By Section 4 of Article I., of the Constitution, the State qualification is adopted as the Federal one but a man's right to vote is based upon the Constitution, and not upon State law, and Congress has the constitutional power to pass laws for the free, pure and safe exercise of that right."

(1) Section 5511, of the same date was in better form and complete, comprising provisions against impersonation, voting when unqualified, and unlawful conduct of elections, but did not mention treating. It provides that, "if at any election for Representatives or delegates in Congress, any person knowingly personates and votes, or attempts to vote, in the name of any other person, whether living or dead, or fictitious, or votes more than once at any election for any candidate for the same office; or votes

(1) May 31st, 1870, c. 114, 16 Stat. L. 141.

at any place where he is not lawfully entitled to vote, or does any unlawful act to secure for himself an opportunity to vote, or for any other person, or by force, threat, intimidation, bribery, reward, or offer thereof, unlawfully prevents any qualified voter of any State, or of any Territory, from freely exercising the right of suffrage, or by any such means, induces any voter to refuse to exercise such right, or compels or induces by any such means, or other unlawful means, induces any officer of an election, or any officer whose duty it is to ascertain, announce or declare the result of any such election, or give or make any certificate, document, or evidence in relation thereto, to violate or refuse to comply with the vote of any person not entitled to vote, or refuses to receive the vote of any person entitled to vote, such voter, person, or officer to do any act hereby made a crime, or omit to do any duty the

omission of which is hereby made a crime, or attempts to do so, he shall be punished by imprisonment of not more than three years, or by both, and shall pay the costs of the prosecution." These Sections 5507 and 5511, comprising a fairly comprehensive Federal Corrupt Practice Act, were repealed by the ⁽¹⁾ Act of February 8, 1894.

In 1876, Congress passed the ⁽²⁾ Act of August 15, c. 287, sec. 6, designed to guard against corrupt practices on the part of employees since, "all executive officers or employees of the United States not appointed by the President with the advice and consent of the Senate, are prohibited from requesting, giving to or receiving from, any other officer, or employee of the Government, any money, or property or any other thing of value for political purposes, any such officer or employee who shall offend against the provisions of this section, shall be at once discharg-

(1) Act. Feb. 8, 1894, c 25, par. 1, Revised Stats. Ed. 1902, p. 1272.

(2) 19 Stat. L. 169 (1876) Aug. 15, Fed. Stat. (1903) Vol. I., p. 824.

ed from the service of the United States and he shall also be deemed guilty of a misdemeanor and on conviction thereof, be fined a sum not exceeding five hundred dollars. The law ⁽¹⁾ has been declared constitutional by a judicial decision in which the opinion rendered was that, "it is constitutional because it does not prohibit all contributions of money for all political purposes by the designated officers, but only these acts in connection with fellow employees."

The Penal Code of March 4, 1909, Chap. III. contains one law of very general content touching upon the subject of Corrupt Practices. "If two or more persons conspire to injure, or oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or the laws of the United States, or because of his having so exercised the same; or

(1) Ex parte Curtiss (1882) 106 U. S. 371.

if two or more persons go on the highway or the premises of another with the intent to prevent or hinder his enjoyment of any right or privilege so secured, they shall be fined not more than five thousand dollars, and imprisoned not more than ten years and shall moreover, be thereafter ineligible to hold any office, or place of honor, profit or trust secured by the Constitution or laws of the United States."

The two other sections apply only to officers or other persons in the employ of the military or navel service, the first prohibiting these in any manner to influence a voter in his exercise of the franchise and the second forbidding their bringing any undue influence to bear upon any election officer in any State.

(1) Jan. 26, 1907, Congress passed An Act to Prohibit Corporations from making money contributions in connection with political elections. Under the

(1) Statutes at Large 1907, Chap. 321, Sec. 83.

act, first, no national bank, or any corporation organized under the authority of the United States, is to contribute money to any election for political office; secondly, no corporation whatever, is allowed to make a money contribution in connection with any election at which the Presidential and Vice-Presidential electors or a Representative in Congress is to be voted for, or any election by any State legislature of a United States Senator. The penalty for violation of this act by a corporation, is a fine not exceeding five thousand dollars, and every officer or director of any corporation who shall consent to any contribution by the corporation in violation of the act, shall be fined not exceeding one thousand dollars, nor less than two hundred and fifty dollars, or by imprisonment for a term of not more than one year, or both, at the discretion of the Court.

(1) A Federal Statute entitled, "An act pro-

(1) Act of June 25, 1910, H.R. 2250. Stats of U.S. 2nd Sess. 61st Congress, 1909-10. c. 392. Part I. p. 822.

viding for publicity of contributions made for the purpose of influencing elections at which representatives in Congress are elected", passed and became law June 25, 1910.

(1) This act defined a political committee as including, "the national committees of all political parties and the national congressional campaign committees of all political parties and all committees, associations, or organizations which shall in two or more States influence the result of an election at which Representatives in Congress are to be elected."

(2) It is provided, that every political committee have a chairman and a treasurer. It is, "the duty of the treasurer, to keep a detailed and exact account of all money or its equivalent received or promised to such committee or any member thereof, or by or to any person acting under its authority, or in its behalf, and the name of every person, firm,

(1) Sec. 1.

(2) Sec. 2.

association, or committee from whom received, and of all expenditures, disbursements and promises of payment or disbursement made by the committee, or any members thereof, or by any person acting under its authority or in its behalf, and to whom paid, distributed, or disbursed. No officer, or member of such committee, or other person acting under its authority or in its behalf, shall receive any money or its equivalent, or expend, or promise to spend any money on behalf of such committee, until after a chairman and treasurer of such committee shall have been chosen."

(1)"Every payment or disbursement made by a political committee exceeding ten dollars in amount be evidenced by a receipted bill stating the particulars of expense, and every such record, voucher, receipt, or account shall be preserved for fifteen months after the election to which it relates."

(1) Sec. 3.

(1) "Whoever, acting under the authority, or in behalf of such political committee, whether as member thereof, or otherwise, receives any contribution, payment, loan, gift, advance, deposit of money or its equivalent, shall, on demand, and in any event within five days after the receipt of such contribution, payment, loan, gift, etc., render to the treasurer of such political committee a detailed account of the same, together with the name and address from whom received, and said treasurer shall forthwith enter the same in a ledger or record to be kept by him for that purpose."

(2) "The treasurer of every such political committee shall, within thirty days after the election at which Representatives in Congress were chosen in two or more States, file with the clerk of the House of Representatives in Washington, District of Columbia, an itemized, detailed statement,

(1) Sec. 4.

(2) Sec. 5.

sworn to by said treasurer and conforming to the requirements of the following section of the Act. The statement so filed with the clerk of the House of Representatives shall be preserved by him for fifteen months and shall be a part of the public records of his office, and shall be open to public inspection."

(1) The statements required by the preceding statement must state:

- First: "The name and address of each person firm, association, or committees who or which has contributed, promised, loaned, or advanced to such political committee, or any officer, member, or agent thereof, either in one or more items, money or the equivalent of the aggregate amount or value of one hundred dollars or more."
- Second: "The total sum contributed, promised, loaned, or advanced to such political committee, or to any officer, member, or agent thereof, in amounts less than one hundred dollars."
- Third: "The total sum of all contributions, promises, loans, and advances receiv-
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(1) Sec. 6.

ed by such political committee or any officer, member, or agent thereof."

Fourth: "The name and address of each person, firm, association, or committee to whom such political committee, or any officer, member, or agent thereof, has disbursed, distributed, contributed, loaned, advanced, or promised any sum of money or its equivalent of the amount or value of ten dollars or more and the purpose thereof."

Fifth: (1) "The total sum disbursed, distributed, contributed, loaned, advanced or promised by such political committee, or any officer, member, or agent thereof, where the amount or value of such disbursement, distribution, loan, advance, or promise to any one person, firm, association, or committee in one or more items is, less than ten dollars."

Sixth: "The total sum disbursed, distributed-- etc., by such political committee or any officer, member, or agent thereof."

Moreover, (2) "every person, firm, association, or committee, except political committees as hereinbefore defined, that shall spend or promise any sum

(1) Sec. 6.

(2) Sec. 7.

of money or other thing of value amounting to fifty dollars or more for the purpose of influencing or controlling, in two or more States, the result of an election at which Representatives to the Congress of the United States are elected, unless he or it shall contribute the same to a political committee as hereinbefore defined, shall file the statements of the same under oath, as required by Section six of this Act, in the office of the Clerk of the House of Representatives at Washington, District of Columbia, which statements shall be held by said Clerk in all respects as required by Section five of this Act."

(1) "Any person may in connection with such election, incur and pay from his own private funds for the purpose of influencing or controlling, in two or more States, the result of an election at which Representatives to the Congress of the United States are elected all personal expenses for his traveling

(1) Sec. 8.

and for purposes incidental to traveling, for stationery and postage and for telegraph and telephone service without being subject to the provisions of this Act."

(1) Nothing contained in the Act limits or affects the right of any person to spend money for proper legal expenses in maintaining or contesting the results of any election.

(2) "Any person wilfully violating any of the foregoing provisions of this Act shall, upon conviction, be fined not more than one thousand dollars or imprisoned not more than one year, or both."

The law will force more and more, public attention upon the activities of the national committees of political parties. It may not greatly reduce the amount of contributions to these bodies, but it will tend to create some wholesome respect for public opinion which will in time condemn too great expenditure

(1) Sec. 9.

(2) Sec. 10.

and have a conservative tendency if not restrictive force upon them.

During the first session of the sixty-first Congress, there was introduced into the House of Representatives a bill providing that it should be,
(1)
"unlawful for any railroad, sleeping-car, dining-car, steamboat, express, telegraph or telephone company, or any company incorporated by Act of the Congress of The United States, or any corporation or firm engaged in interstate commerce, to give any Senator or Representative of the United States, or to any Judge or Justice of any Court of the United States, any free transportation of person, or property, or frank or franking privilege, or money or any other thing of

(1) H. R. 439775

value;" and any company or person violating any provision of the section, should be punished by a fine of not less than one hundred dollars, nor more than five thousand dollars for each such offence. Any officer or agent violating the act to be punished by a fine not exceeding five thousand dollars, or by imprisonment in the penitentiary not less than six months nor more than two years, or both such fine and imprisonment.

Any officer of the United States mentioned above, who should receive any of the quoted considerations from the named corporations was considered to have committed a misdemeanor and on conviction thereof, be punished by a fine not exceeding five thousand dollars, or by imprisonment not to exceed one year or both, and be forever barred from holding office under the Government of the United States. This bill was given over to the Judicial Committee

of the House for consideration, where it was killed.

The first of the laws last named, created the machinery which, if enforced, would largely wrest Congress from the grip of the interests of the few, which have so long dominated it, and restore it to the body it was designed to be, representative of the public welfare. There is a possibility that the law might be very difficult of enforcement in case a corporation making a money contribution in violation of the act should attempt to prove it given for State election purposes, even though national representatives were being chosen at the same election. The difficulty will be met in time, anyway, by all States having laws of their own prohibiting contributions from corporations to the campaign funds of elections.

Although it may not have been the purpose of the leading men at the time of the adoption of the Constitution, that the Government of the United States

should be as popular in character as it came to be, it is now one of the most cherished tenets of the American people that their government is and was designed to be representative of them as individuals, and not as classes or interests. For this reason it is entirely natural that they should resent as contrary to that principle, contributions to campaign funds by corporations. By giving corporations free play, the law tends to give preponderating influence to the few men who largely control them, over the ordinary individuals, who lack the wealth, influence and power of a great collection of individuals. To make all as equal before the law as possible, it is absolutely necessary to prohibit such contributions from corporations. Congress endorsed this principle fully in the 1907 law, and although there will doubtless be many ways of successfully evading this law, it is a step in the right direction. It is probable

that Congress may be compelled to adopt still more drastic measures for supervising corporations and to make the law against their contributions to campaign funds efficient, be compelled to insist upon a uniform prescribed system of accounting for all corporations which will render very improbable any successful expenditure not easily traced. The present law, however, indicates clearly the attitude of the Federal Government and should do much to strengthen and crystalize public opinion to such extent that the States may follow more generally in this respect with similar laws.

The Bill which went to the judicial committee of the House, and for some unexplained reason lost vitality, was a much needed attempt to guard the Judiciary, the most distinctive feature of our Federal System, and most determinative factor for weal or woe over our destinies civil and criminal, against

influences which tend to lower that legal purity and impartial attitude of mind which are absolutely essential to it for a continued existence of the present form of American Government. Congress has guarded against the corruption of her administrative officers. She must sooner or later, recognize that her judges are human beings and subject to influences as other men are. It is a duty to guard them from corruption before some scandal reach the public to lower its respect for court decisions and law, which respect is itself necessary to Federation.

In conclusion, while summing up the chapter on Federal Legislation, one is impressed by the fact that the United States Federal Government has no general, comprehensive and effective Corrupt Practice Act as England or Canada, for instance. England, possesses a unitary government and Canada, though it has a Federal framework of government, yet the natural factors dominate it, and it works upon the principle of responsible government. Due primarily to these conditions, these countries have been able to pass Corrupt Practices Acts comprehensive and locally effective; the English Act original, and the Canadian, substantially the English Act of 1883 adapted to Canadian conditions.

Since the United States Government is a true Federal System in framework and practice and inasmuch as the qualification for exercising the franchise was left largely to the several States by the Constitution,

the Federal Government has been handicapped in passing such a Corrupt Practice Act and abandoned its small attempts in that direction since 1894. Its supervisory control over elections in the States has been held to be confined to those in which Representatives, Senators and Presidential and Vice Presidential electors are to be chosen. Should Congress pass such an act, doubtless the differences arising through misunderstandings growing out of the concurrent operation of both State and Federal laws would more than offset the resulting advantages. Were the laws of the various States more uniform as to time and manner of conducting elections, the Federal Government might advantageously pass a model law which the States might adopt.

However, people are very generally cognizant at the present time of existing corruption and abuses in Government and are passing laws which, in so far as laws may, make the various legislatures as well as

Congress representative of the people, rather than the tools of a few selfish interests. For this reason it would seem better after the fashion of Congress, to leave it to the people of the various States, as more in harmony with American traditions and principles, to work out for themselves the problem of preventing Corrupt Practices at their elections.

Recent legislation upon the subject, already indicates a marked improvement in the drafting, scope, and provision for enforcement of the Corrupt Practices Acts passed by the States. There is a marked tendency to incorporate the best features of other State laws in these draft Acts and secure the suggestions of expert authorities in Political Science upon these, before their final submission to the legislature for passage. The practice tends toward uniformity so much to be desired, and the other results aimed at in Corrupt Practice legislation, as well as an

effectiveness not possible to a Federal law, since the people regard these laws as State laws, made in harmony with their own exigencies and experiences.

SOME RECENT STATE LEGISLATION IN CORRUPT PRACTICES.

Since the Constitution of the United States left to the States, the fixing of the qualifications necessary for an exercise of franchise within their respective limits, and the conduct of all elections, upon the States, has lain the responsibility for protecting citizens in their free and safe exercise of the suffrage. The safeguards thrown about this right, by Corrupt Practice legislation in the several States, has been found, as in England, to have kept pace with plane of awakened political consciousness in each.

It is not the purpose of this chapter to make a detailed study of the development of laws against Corrupt Practices in the States. It is sufficient

for the purpose, simply to call attention to the fact that all the States in the Union at present, have laws against electoral corruption. These vary all the way from a few provisions, covering the most direct and open forms of corruption, as bribery, intimidation, personation and repeating, with little if any provision for enforcement, found in general election laws, which has been the type at one time or another in the history of all the older States, up to recent Corrupt Practice Acts. The latter are attempts on the part of the older States to make their laws on the subject effective, by sweeping amendments or acts entirely new superseding old laws, or on the part of the newer western States to avoid some of the unfortunate chapters in the political history of the others, by passing Acts which appear to embody the best features of earlier laws, with the addition of newer provisions designed to meet recent

conditions.

Before considering at some length, one or two more recent State laws, with a view if possible, of ascertaining what is to be the character of the more permanent Corrupt Practice laws passed in the States from the present time, it is necessary to an understanding of the situation, to trace as briefly as possible, political development in the United States.

The American people through British ancestry inherit, a deep love and reverence for a constitution and laws. Due to circumstances dependent upon a Parliamentary system of government, the English in order to safeguard their liberties, have been forced into being politicians all the time. The Federal government set up in the United States, however, being representative and likewise one of separation of powers with mutual checks and balances of each department on the others, tended to cause Americans

to trust in their constitution and laws as a sort of perpetual guarantee of political freedom. After the Constitution came into force, the party system developed as the only means of bringing into expression in legislation and administration, the will of a people scattered over so wide a territory. Along with this growth of strong political parties, the nation entered upon its unprecedented career of commercial and industrial development, engrossing almost to the exclusion of all else, the activities and attention of the greater number of the people. These, after short periods of intense political discussion and activity about election time, returned to their occupations, leaving the Government to run itself until the next election. The American people were suddenly aroused, to find that through the growth and organization of strong party government, the only means of running our national and state government success-

fully, the people at large, no longer controlled the government, but a political machine composed of self-seeking, professional politicians who, taking advantage of strong party organization to get the important political offices in the gift of the people, used their power in the interests solely of themselves and their friends. Closely associated with machine control of Federal, State, and Municipal politics, was the growth in politics of that influence which came to be controlling, of various great industrial and other corporations who needing the favor and sanction of Government contracts to gain, develop, protect and perpetuate their interests, bought up corrupt politicians and elected them by machine methods. Much of public value has already passed into the control of private interests, but the die is now cast. People are alive to the situation and the meaning of the new movement for a People's Rule System of Government

through the direct primary, initiative, referendum, and recall is an earnest attempt to wrest the control of the Government from those representing the interests of the few. With this legislation, as a part of the plan, comes naturally the new laws against Corrupt Practices drawn with the design of checking those undue influences which brought to bear upon electors, tend to further the retention of that control so detrimental to public welfare.

Examination of the California and Oregon laws suffice to indicate the trend of such legislation in the States today..

California passed her first Corrupt Practice Act in 1893. This law, amended in 1895 and again in 1905, may be taken as typical of State laws on the subject, now in the process of development, which although presenting many good features are still far from exhaustive.

The (1)act applies to all candidates for public office to be filled by election within the State and to presidential electors. Definite regulations are made with regard to filing of certificates of nomination and the constitution and duties of political committees. (2)Whenever the members of a political party, convention, or organized assemblage of delegates, or other body of citizens representing a political party or principle, file as they must, with the proper officer, the Secretary of State, if the office be one to be filed by an electoral unit larger than a county, or otherwise with the county clerk, the person signing the certificate of nomination, in order to get it filed, must file at the same time, the names of five persons who have consented in writing, together with their written acceptances, to act as their auditing committee. Independent candidates must file the names of five persons to act

(1) Cal.Gov.Laws Henning Ed. 1905 p. 420 - Stats. 1893 ch. 16; amended 1895, 227 ch. 18. 1905, 93 ch. & § 42 a.

(2) Sect. I.

as an auditing committee in the same manner and at the same time as required by all regular party nominees or candidates, whose members are to be governed by the same laws and requirements.

¹ These committees which must be composed of citizens and qualified electors, have been selected "to receive, expend, audit and disburse on proper vouchers under the direction of their superior body if they have one, all moneys, contributed, donated, subscribed or in anywise furnished or raised for the purpose of aiding or promoting the election of the candidates for office or electors named in the certificate, or in any manner to be used in respect of the conduct and management of the election at which such candidates are to be voted for."

² "No person can lawfully make any contribution of money, or incur any expense in behalf of any candidate, or with respect of the conduct or management

of an election held within the state, except by a candidate or the auditing committee provided for in the act, or its superior authority. And all expenses incurred by the committee, body, or its superior authority shall be paid only from the fund in custody of said committee so selected." Any contract for the payment of money or any expenses incurred contrary to the provisions of the section, shall be absolutely null and void. Since nowhere thruout the Laws of California on corrupt practices, is the word "person" defined, it is evident that corporations or various other associations or organizations are not expressly forbidden to expend money upon the elections.

(1) It is provided that if any vacancy in the auditing committee provided for in the act take place before 15 days, previous to the holding of an election, the vacancy must be filled by the same body

(1) Sect. I.

as vacancies in the lists of nominees are filled. No vacancy other than that caused by death, or legal disability is to take place in the committee within fifteen days of the election, in which cases, the vacancy is not to be filled and the remaining members are to discharge and complete the duties required of the committee as though there had not been a vacancy.

Both the auditing committee and the candidate are compelled to file itemized statements of their expenses. (1) Within twenty-one days after the official canvas of the result of the election has been completed, the committee must file in the same office in which is filed the list of their selections an itemized statement showing in detail "all moneys contributed, donated, subscribed or in anywise furnished or received for the use of the political party, organized assemblage, or body, or any or all of the candidates for public office, or electors coming under

(1) Sec. 2.

the control of such committee, or into their custody directly or indirectly together with the name of each contributor, donor, subscriber, or source from which such moneys were derived, and an itemized statement of all moneys expended." The latter is to include, "the names of the various persons to whom such moneys were paid, the specific nature of each item, by whom the service was performed and the purpose for which it was expended." Attached to the statement there must be an affidavit, subscribed and sworn to by each member of the committee, setting forth in substance, that the statement thus made is in all respects true and that the same is a full and detailed statement of all moneys, securities, or equivalents for moneys, coming under their control or into their custody, and by them expended directly or indirectly. "The statement so filed, becomes a public document, and open to inspection by any citizen." Violation of this provision by

a member of a committee with regard ⁽¹⁾ to neglect or refusal to file is a misdemeanor. ⁽²⁾ False statement is perjury.

The candidate also shall file with the Secretary of State, or with the County Recorder, according as the office to which he was to be elected was filled by an electoral unit larger than a county or not, together with vouchers for all sums expended over five dollars, showing "in detail moneys paid, loaned, contributed, or otherwise furnished to him, or for his use directly or indirectly, in the aid of his election, and all moneys contributed, loaned, or expended directly or indirectly, by himself or through any other person in the aid of his election." In nature of statement, it is exactly like that required of the Political Committee, and must be accompanied by an affidavit, subscribed and sworn to by the candidate in the form prescribed in the law. ⁽³⁾ Penalty for

(1) Sect. 35.

(2) Sect. 30.

(3) Sect. 34 & Sect. 4.

violating this section by neglect or refusal to file the statement required is a misdemeanor and the office is forfeited. The observation might be made in this regard, that false statement is ⁽¹⁾ a more flagrant offence under this law than neglect or refusal to file. ⁽²⁾ Other State laws also make the false statement regarding election expenses, by a candidate, perjury.

Legitimate expenditures in connection with an election are expressly declared to be, ⁽³⁾ expenses of holding and conducting public meetings for the discussion of public questions. These are, printing and circulating specimen ballots, handbills, cards and other papers previous to such elections; advertising; postage; expressage; telegraphing; telephoning; supervising the registrations of voters; watching the polling, or counting of votes cast; salaries of persons employed transacting business at

(1) Sect. 30.

(2) Oregon Huntley Law 1907, Sec. 55.

(3) Sect. 5.

the office or headquarters, and the necessary expenses of maintaining the same; rent of rooms necessary to transacting such business of the candidate or committee, and for necessary incidental expenses which must not exceed one hundred dollars, when expended by the candidate, or one thousand dollars if expended by a committee.

Furthermore, the basis for determining the maximum amount to be expended by the candidate upon his campaign expenses is made the length of the term of the office to be secured, rather than the amount of salary attached thereto.

(1) The schedule is as follows:

Term of office ran for, 1 year or less,
5% of the amount of one year's salary;

Term of office ran for, more than 1 year
and not more than 2 years, 10% of one
year's salary;

(1) Sect. 5.

Term of office ran for, more than 2 years
and not more than 3 years, 15% of one
year's salary;

Term of office ran for, more than 3 years
and not more than 4 years, 20% of one
year's salary;

Term of office ran for, more than 4 years,
10% of one year's salary.

If the office be one for which in lieu of salary,
there is allowed per diem for a statutory period, or
for the number of days actually engaged in the per-
formance of public duties, 25% of the amount to accrue
during the statutory period is allowed. If the
office be one for which in lieu of salary, a yearly
sum is allowed for all expenses of the office, the
expenditures of the candidate for such office shall
not exceed 10% of the yearly allowance. If the sal-
ary be one in fees, or a salary not exceeding nine
hundred dollars per annum and fees, the maximum ex-
penditure allowed is not to exceed one hundred and

fifty dollars. If the office be unsalaried, or for which a per diem is allowed for days actually employed, the maximum allowed expenditure is one hundred dollars. If the candidate is also candidate for an unexpired term, he shall incur no additional expense on that account, but the maximum expense be as provided above.

(1) All legitimate election claims against an auditing committee must be presented to the committee within ten days of the return day of the election, and if not so presented, shall not be paid. Legitimate claims against the candidate for election purposes, must also be presented to him within ten days after the day of the election and are not to be paid after that time. All claims presented within the legal time limit are to be paid within twelve days after the election day. Making a payment in contravention to the act is a misdemeanor.

(1) Sect. 8.

(1) The superior court of the county wherein such statement is filed, may, "upon application of either the committee or candidate, or a creditor of either, allow any claim not in excess of the maximum allowed, to be presented and paid after the time limit set by the act and the statement of the sum so paid, shall be filed in the same place as the original one of the committee or candidate." The court however, issues order for a payment of this kind only after satisfactory evidence is given before it to the truth set forth in such application, that the error or false recital in the statement or affidavit, or the failure to make such statement or affidavit, or to present within the given time a claim otherwise just and proper, has been occasioned by the absence or illness of such candidate or one or more members of such committee, or by the misconduct of any person other than the applicant or by

(1) Sect. 7.

inadvertance, or excusable neglect, or any reasonable cause of a like manner, and not by reason of any want of good faith. Much is left to the discretion of the court in this provision..

(1)"No payment of money can lawfully be made renting any premises for committee room or headquarters, holding a meeting, or promoting the election of a candidate, or in conduct, or management of, an election where intoxicating liquors are sold for consumption on the premises, or supplied to the members of any club, society, or association. The provision does not apply to any part of such premises ordinarily let for the purposes of offices, or holding public meetings, if such part has a separate entrance and no direct communication with any part of the premises on which the intoxicating liquor or refreshment is sold or supplies." The clause is very similar to a like clause in the English law of 1883.

(1) Sect. 10.

(1) Every bill, placard, poster, pamphlet, or other printed matter having reference to an election, or to any candidate has to bear on its face the name and address of the printer and publisher thereof and no payment can lawfully be made or allowed for such purpose unless such address is so printed. The English law went still further, providing a penalty for the printing of any false statements regarding a candidate's character and it might have gone further and penalized the publishing of false political statements of any kind designed to mislead voters.

Whenever any candidate for a public office, pays, lends, or contributes, or offers or agrees to do so, any money or other valuable consideration to or for any person, for "The doing or procuring to be done any act forbidden by the laws of the State regarding public elections; for the committing, encouraging, or assisting of any person to commit a

(1) Sect. 10.

crime against the elective franchise, or to aid or assist one charged with such crime to escape correction and punishment for his crime; for providing wholly or in part the expense of boarding, lodging or maintaining at any place or domicile in any election precinct or ward, with the purpose of securing that person's vote for himself, or any other person at any election held in the State; for services rendered on securing his nomination for the office for which he is a candidate, or for placing his name on any list of nominees for filing, except the expense authorized a candidate by the Political Code, or in consideration of any member of a convention, organized assemblage of delegates, or other body representing, or claiming to represent a political party or principle, having voted to secure him his selection or indorsement as its nominee for the office for which he is candidate, or in consideration of any

person aiding him in securing his election or endorsement; or in consideration of any person withdrawing as a candidate for public office or presidential elector; for any purpose in contravention of the act, shall in addition to the punishment prescribed for the offence, in addition, forfeit any office to which he may have been elected and if at the time, he be the incumbent of any office of profit or trust under the laws of the State, shall forfeit his office." A "candidate who procures, aids, assists, counsels, or advises the payment of any money or other valuable thing by or on behalf of a political committee, for a purpose, if expended by the candidate, would work a forfeiture of the office to which he has been elected, it shall be considered as made by the candidate and work forfeiture of office to which he has been elected."

(1) Provision is made for the contesting of

(1) Sects. 12 & 13.

the right of any person declared to be elected to an office to be exercised in any county, city and county, city or any political subdivision of either, by any elector of the same, for any of the causes or offences named in the act and procedure for so doing is laid down, but like the English law, there is a chance that if in the discretion of the court the evidence proves "the offense complained of was not committed by the candidate, or with his knowledge and consent, or was committed without his sanction or connivance, that all reasonable means for preventing the same at such election were taken by and on behalf of the candidate, or that the offences complained of were trivial, unimportant in character, and that in all other respects his participation in the election was free from such offences and illegal acts, or if the act or omission of the candidate arose from inadvertance, or from accidental miscalculation, or

some reasonable cause of like nature and not from any want of good faith, and under the circumstances, it seems to the court to be just that said candidate should not forfeit his office, or be deprived of any office of which he is the incumbent, then the candidate shall not forfeit his office or be removed from his office by reason of such circumstance complained of."

(1) Disfranchisement, is a penalty under the law for any offence punishable by State's Prison which is termed an infamous crime. When convicted of it, besides the punishment prescribed by the law the person is excluded from the right of franchise and it is the duty of the county clerk in which such a conviction is had to transmit a certified copy of the record of conviction to the clerk of each county of the state within ten days thereafter. These are filed by the county clerks where they become public

(1) Sect. 17.

record.

Enforcement of the provisions against Corrupt Practices is the office of the district attorney in the counties. (1) When notified by an officer or other person of any violations of the act, it is his duty to diligently inquire into the facts of such violation, and if there are reasonable grounds for instituting a prosecution, to file a complaint or requisition in writing, before a court of competent jurisdiction, charging the accused of such offence, and to verify the same by an affidavit, to the effect that he believes the facts stated in such complaint to be true. Failure or refusal to fulfill the duty thus imposed by the law upon the district attorney is a misdemeanor and on conviction, works forfeiture of office.

Bribery is one of the corrupt practices punishable by (2) imprisonment in States Prison for not

(1) Sect. 18.

(2) (See Kerr's Cyc. Penal Code § 546)

less than one year nor more than seven years. It covers, ⁽¹⁾ paying, lending, offering, or promising to pay, lend, or contribute, directly or indirectly, any money or valuable consideration, to or for any voter, or other person to induce them to vote or refrain from voting at such election-- or on account of their having voted, or refrained from voting, for any particular person, or having come to or remained away from the polls at such election;- ⁽²⁾ the giving, offering or promising any office, place or employment or promising or endeavoring to procure the same, to or for any voter or other person, to induce them to vote or refrain from voting at any election, or for any particular person or persons; ⁽³⁾ the making any gift, loan, promise, offer, procurement, or agreement, as aforesaid, to, for, or with any person, in order to induce the same to procure, or endeavor to procure, the election of any person, or the vote of any voter

(1) Sect. 19 (1).

(2) Sect. 19 (2).

(3) Sect. 19 (4).

at election; ⁽¹⁾ contributing or causing to be contributed any thing of value to be used in bribery at any election, or to knowingly reimburse in any way any person spending money in bribery; ⁽²⁾ the advancing of money or valuable thing to the use of another, with intent that it shall be used in whole or part in boarding, lodging or maintaining any person in an electoral unit, with the intent to secure or induce such person's vote at the election or for any particular person or persons thereat; ⁽³⁾ furnishing any assistance to aid a person to escape arrest for violating the corrupt practice laws; ⁽⁴⁾ paying money or valuable thing to any convention, organized assembly of delegates, or other body representing a political principle, etc., for the purpose of being endorsed as its candidate, ⁽⁵⁾ or for the purpose of securing the withdrawal of a candidate for a public office.

(1) Sect. 19, (5).

(2) Sect. 19, (6).

(3) Sect. 19, (7).

(4) Sect. 19, (8).

(5) Sect. 19, (8).

(1) A person receiving money or any valuable consideration directly or indirectly for purposes of any kind of bribery mentioned in the preceding section is liable to the same punishment, state imprisonment for not less than one, nor more than seven years.

(2) Whenever a person wilfully causes, procures, or allows himself to be fraudulently registered, knowing himself not entitled to such registration, or causes, procures, or allows any other person to be so registered, knowing that such person is not entitled to be registered, commits a crime punishable by imprisonment in the state prison for not less than one year nor more than three years.

"Fraudulently voting, repeating, or knowingly handing in two or more tickets folded together, changing a ballot once deposited, adding or attempting to add any ballot to those legally polled, either by fraudulently introducing the same into the ballot box

(1) Sect. 20, Kerr's Cyc. Penal Code § 42 a.

(2) Sect. 21, Kerr's Cyc. Penal Code § 42 a.

before or after the ballots have been counted or while they are being counted, or at any other time with intent to change the results of the election, or tampering in any way with ballot boxes or poll list, to invalidate an election, or retaining, mutilating, or destroying any election returns, or interfering with officers in charge of or the voters in freely exercising their right of suffrage at, any election, as to prevent the election or canvass from being fairly and lawfully conducted, is to be punished by not less than two years nor less than seven years imprisonment in state prison."

(1) The testimony of a person who has violated the law, when testifying against another, need not be taken to incriminate the person so testifying in case that, when the judge reads the section regarding the giving of testimony to the witness before he begins to testify, the witness makes any objection to his

(1) Sect. 32.

testimony being so taken.

The clause against treating shows the influence of the English law on the subject providing that ⁽¹⁾"every person who, either before or during an election, directly or indirectly, gives or provides or pays, wholly or in part, the expense of giving or providing any meat, drink, refreshment, entertainment, or provision to or for any person, for the purpose of corruptly influencing that person, or any other person, to give or refrain from giving his vote at an election, or to come to the polls or remain away from the polls, or on account of such person or any other person having voted or refrained from voting, or having come to the polls, or remained away from the polls, or being about to vote or refrain from voting -at such election, is guilty of a misdemeanor."

⁽²⁾Placing any receptacle for the depositing of money or soliciting the giving or depositing of

(1) Sect. 39.

(2) Sect. 40.

any money for the treating of any person in or about the registration of voters, or the polling of votes, or the giving, or providing, such moneys, is a misdemeanor.

(1) After a clause against ordinary direct intimidation of voters by force, violence, restraint inflicting, or threatening to inflict, directly or indirectly, any injury, damage, harm, or loss, etc., the section says, "It shall not be lawful for any employer, on paying his employees the wages due them to enclose their pay in "pay envelopes" upon which there is written or printed the name of any candidate, or any political matters, devices, or arguments containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employees. Nor shall it be lawful for any employer within ninety days of any election, to put up or otherwise exhibit in his factory, work-

(1) Sect. 41

shop, or other establishment, or place where his his employees may be working, any hand-bill, or placard, containing any threat, notice, or information that in case any particular ticket of a political party or organization, or candidate shall be elected, work in his place or establishment will cease, in whole or in part, or his place or establishment be closed up, or the salaries or wages of his workmen or employees be reduced, or other threats, express or implied, intended or calculated to influence the political opinions or actions of his workmen or employees." The section applies to corporations as well as individuals and ⁽¹⁾"any person or corporation violating the provisions of this section is guilty of a misdemeanor and any corporation violating this section shall forfeit its charter."

⁽²⁾The changing of the results of an election in any manner by an officer or clerk of the

(1) Kerr's Cyc. Penal Code § 59.

(2) Sect. 26.

election, is a state's prison offence of imprisonment not less than two or more than seven years and

(1) counterfeiting election returns brings like punishment.

(2) All betting upon the results of an election as to who will be the successful candidate or candidates, number of votes cast, or the vote cast by any particular person is bribery, and is to be punished accordingly.

(3) "Every inspector, judge or clerk of an election who, before depositing a ballot in the box, attempts to find out the name upon it, or who opens or allows to be opened such ballot, previous to depositing the same, or who places a mark or device upon any folded ballot with the view to ascertain the name of any person for whom the elector voted, or who without the consent of the elector, declares the name of any person which such officers have fraudu-

(1) Sect. 26

(2) Sect. 60. Kerr's Cyc. Penal Code.

(3) Sect. 42. Kerr's Cyc. Penal Code, § 49.

lently allowed to be discovered as voted for by any elector is punishable by a fine not less than fifty dollars nor more than five hundred dollars or by imprisonment in the county jail not less than thirty days nor more than six months, or by both such fine and imprisonment."

The California law against Corrupt Practices as it today exists puts a graver penalty upon bribery and intimidation in their various forms, fraudulently voting, etc., than many state laws, since the penalty is punishment in State's Prison not less than a year or two years and not more than three or seven years in nearly every case, a fine being the alternative only in the last provision mentioned, which provides for an offence comparatively slight.

This is an especially good feature of the act, together with the disfranchisement of those persons sentenced to the state prison terms.

Section thirteen, which allows the court to set aside the action of the law as to forfeiture of office, is so drawn as to be possible of abuse in certain cases since so large discretion is allowed the court.

It would be well if in some places the law should expressly say that the word "person" should be construed to mean not only individuals, but outside organizations, corporations and various kinds of associations. By this means, the expenditures of these collections of individuals, in the conduct of an election might be curtailed and indirectly treating in behalf of their candidates. The law also lacks provision against soliciting of contributions from candidates toward different objects, charitable, public, etc., toward various objects, a circumstance which often either places a candidate in an embarrassing position or tends to drive him

to act dishonestly under the law. Soliciting of candidates with regard to making certain appointments in case of his election, is not forbidden.

THE HUNTLEY LAW

The Oregon Corrupt Practices Law was passed by the people, through direct legislation, June 1, 1908, as a part of their reform system and is known as "The Huntley Law", or as printed on the official ballot, "The Huntley Bill for a law for purity of elections, limitation of candidates expenses, and prevention of corrupt practices". The law is probably the most comprehensive and carefully drafted act on the subject yet passed by any State.

The People's Power League of Oregon in an appeal to the people, indorsed by the Secretary of State, F. W. Benson, to support the law at the coming election, conveys the most definite presentation of their attitude toward the law and inkling of its essential nature anywhere to be found. After stating that the bill is patterned after the very suc-

essful British Laws of 1883 and 1895 for the same purpose, the pamphlet goes on to say, that "Reason is the only safe influence in the politics of a free people. Promises by candidates or others to appoint voters to desirable offices, or employment, and the secret use of money to influence elections, are dangerous to liberty, because they are always used for the advantage of individuals or special interests and classes, and never for the common good. The right to spend large sums of money in elections tends to a choice of none but rich men or the tools of wealthy corporations to important offices, and thus deprives the people's government of the services of its poorer citizens, regardless of their ability. The primary purpose of this bill is as nearly as possible, to prevent the use of any means but arguments addressed to the voter's reason, in the nominations and elections of Oregon.

President Roosevelt advocates the enactment of laws on the lines of this bill; it is an effort to give the poor man equal chance with the men who are supported by wealth in aspiring for nomination and election to public office; it aims to prevent the grafting of candidates and public officers for liquors, contributions, cigars, and other forms of corrupting influence; it prohibits a candidate from expending more than one-fourth of one year's salary of the office to which he aspires; it provides for mailing to all registered voters some campaign literature, partly at the expense of the State; it requires from candidates and their agents and party committee, sworn itemized statements of the money received and paid out; prohibits corporation contributions; makes campaign committee books and accounts subject to public examination at reasonable times; and provides a method for casting out fraud-

ulent ballots. It is necessarily long and looks complicated. So were the Australian Ballot and direct primary laws, but they proved simple in operation. This will be as simple as those laws. The members of the People's Power League believe it as necessary as they were and will produce at least as good results."

(1) Both the primary and regular elections are covered by the law and not only candidates for various elective public offices thruout the State, including United States Senators and Representatives in Congress, but candidates for elective office in cities of more than two thousand inhabitants.

A person becomes a candidate from the time he files his petition for nomination with the proper officer,- Secretary of State, if the district to elect the officer is composed of more than one county; with the county clerk, if one county is to

(1) Sen. Doc. 603 61 Congress 2nd Sess.

elect; or in case of a city, with its city clerk, auditor or recorder. To conform to the law, the petition must be filed not less than forty-one days before the nominating convention.

(1) Legitimate campaign expense to be incurred by a candidate in the conduct of his nomination and election, is fifteen per cent of one year's salary of the position sought, altho no candidate whatever is to be limited to less than one hundred dollars. The provision takes the precaution to state at the beginning that, "for the purposes of this law, expenditure, contribution, or liability of a descendant, ascendant, brother, sister, uncle, aunt, nephew, niece, wife, partner, employer, employee, or fellow official or employee of a corporation, shall be deemed that of the candidate himself". This is a unique feature of the law and goes a long way to limit undesirable campaign contributions.

(1) Sect. 1.

(1) After the candidate has filed his nomination petition, he or his friends, unless he has notified the proper officer who refuses them permission, may file with the same officer a portrait cut of himself, and a printed or typewritten statement over his or their signatures of reasons why he should be nominated, not less than thirty-three days before the nominating election. His opponent or opponents, may also file with the officer not less than thirty-nine days before the nominating election, a like statement of reasons why such candidate should not be nominated; every such statement to be accompanied by proof, affidavit or sheriff's returns that they have caused such a statement to be personally served upon the candidate. Candidates and their opponents are both allowed one page of printed matter in the campaign pamphlet. Persons offering statements for printing are considered to be the author of them and nothing

(1) Sect. 2.

in the law frees any man making false, slanderous, or libelous statements from civil, or criminal action or penalty.

(1) The prices charged candidates for one page of space in the campaign publication, range according to the office sought and are paid to the officer who received their nomination petitions, and by them paid into the proper treasury of the state, county or city. For offices whose nomination petitions are filed with the Secretary of State, a charge of one hundred dollars is made for that of United States Senator, Representative, governor, secretary of State, state treasurer and printer. Seventy-five dollars is collected for office of justice of the supreme court, superintendent of public instruction, and attorney general, fifty dollars for circuit judge and district attorney, and ten dollars only for the office of state senator or representative. Candidates for any other

(1) Sect. 3.

office for a district of one or more counties or state office, pay twenty-five dollars, while for ⁽¹⁾municipal pamphlets, twenty-five dollars per page is charged. A candidate is allowed additional space up to three pages.

⁽²⁾Provision is made for a campaign pamphlet for the general election in which each political party is limited to twenty-four pages, and each independent candidate to two pages, at the rate of fifty dollars for each printed page used by said political party or independent candidate. There is fixed by the law a certain time for the delivering of the printed matter properly indexed for printing, together with the portraits, to the state printer, together with estimates of the number required for both nomination and general elections, by the officer with whom they were filed. The printer must finish printing these within a certified time and these must

(1) Sect. 9.

(2) Sect. 7.

be mailed to the registered voters by the proper officers within the time limit fixed.

Definiteness of content and independence of court interpretation, often fatal to the effectiveness of indefinite legislation, is given to the law by its list of definitions a feature not carried out to the same degree by any other State law, and yet essential to a rigid and efficient law on the subject. Section ten states, "Terms used in this act shall be construed as follows, unless other meaning is clearly apparent from the language or context, or unless such construction is inconsistent with the manifest intent of the law."

"Persons" shall apply to any individual male or female, and where consistent with collective capacity, to any committee, firm, partnership, club, organization, association, corporation, or other combination of individuals.

"Candidate" to any person whose name is printed on an official ballot for public office, or whose name is expected to be or has been presented for public office, with his consent, for nomination or election.

"Political agent" shall apply to any person who, upon request or under agreement, receives or disburses money in behalf of a candidate.

"Political committee", is every combination of two or more persons who shall aid or promote the success or defeat of a candidate, or political party or principle, and the provisions of law relating thereto, shall apply to any firms or partnerships, any corporation, and to any club, organization, association, or other combination of persons, whether incorporated or not, with similar purposes, whether primary or incidental.

"Public office", to any national, state,

county or city office to which a salary attaches and which is to be filled by the voters, as well as to the office of presidential elector, United States Senator, or presiding officer of either branch of the legislature.

"Give", "provide", "expend", "contribute", "receive", "ask", solicit" and like terms with their corresponding nouns, shall apply to money, the equivalent, or any other valuable thing; shall include the promise, advance, deposit, borrowing or loan thereof, and shall cover all or any part of a transaction, whether it be made directly or indirectly.

(1) A candidate's legitimate expense in relation to his interests in the regular election is limited to ten per cent of one year's salary of the position sought, over and above the amount paid by him for his political party's or independent statement in the campaign's pamphlet before provided for,

(1) Sect. 8.

except that no candidate is limited to less than one hundred dollars. No sum of money is to be paid or expense authorized or incurred by or on behalf of a political party or organization to promote the success of the principles or candidates of such party or organization contrary to the provisions of this act.

(1) Every candidate for nomination or election to public office, must within fifteen days after the election at which he was candidate, file with his proper officer as before indicated, an itemized sworn statement, which sets forth in detail all the moneys contributed, expended, or promised by him to promote his nomination or election, or both as the case may be, and for the election of his party candidates, and all existing unfulfilled promises of every character and all liabilities remaining uncanceled and in force at the time such statement is made, whether such ex-

(1) Sect. 11.

penditures, promises and liabilities were made or incurred, before, during or after such election." If none of the above expenditures or liabilities before mentioned, have been incurred by the candidate he must file a statement to that effect within the fifteen days. A candidate failing to file such statement, is to be fined twenty-five dollars for each day on which he was in default unless excused by the court. Fifteen days after such election, the proper filing officers "shall notify the district attorney of any failure to file such a statement by a candidate, and within ten days after such notice such prosecuting officer shall proceed to prosecute said candidate for such offence."

(1) Every political committee is required to have a treasurer who is a voter, and shall "cause him to keep detailed accounts of all its receipts, payments and liabilities." "Similar accounts" are re-

(1) Sect. 12.

quired to be "kept by every person who in the aggregate receives or expends money or incurs liabilities to the amount of more than fifty dollars for political purposes and by every political agent and candidate." Such amounts are to cover "all transactions in any way affecting, or connected with the political canvass, campaign, nomination or election concerned." A person receiving or paying out any money or incurring any liability whatever by the authority of or in behalf of, favoring or opposing, a committee, agent, candidate, or other person, or political party, shall either on demand, or within fourteen days thereafter, give such treasurer, agent, candidate or other person, a detailed account of the same, with proper vouchers. All payments except less in the aggregate than five dollars, are to be vouched for by a receipted bill setting forth the particulars of the expense. When filed, these "become a

part of the accounts and files of such treasurer, agent, candidate or other person", who shall keep them for six months after the election. A person not a candidate for any public office, spending money or value over an amount of fifty dollars in any campaign for nomination or election, must file with the proper officer a statement of the same, with vouchers for all sums over five dollars and at the same time, send a duplicate copy of statement and vouchers to the treasurer of the political organization whose success or defeat he sought. . "The books of account of every treasurer of any political party, committee or organization, during an election campaign, shall be open at all reasonable office hours to the inspection of the treasurer and chairman of any opposing party, or organization for the same electoral district." The right of inspection may be enforced by a mandamus of any court of competent jurisdiction.

(1) The officers with whom statements are filed, make examination of them within ten days after they are filed, and if they notice any irregularity whatever, or if complaint is made to them in writing, properly sworn to and containing complaint in detail within sixty days after statement is filed, by a candidate or citizen regarding any irregularity, either that a statement was not filed, or the one filed does not conform to law, or the truth, said officers shall notify the delinquent person in writing, and demand a full itemized account of his disbursements, receipts and liabilities incurred to promote his election or in connection with it. Such a statement has to be accompanied by a sworn oath to the truth of the statement.

(2) Failure to file the demanded statement, or if such statement disclose any violation against laws governing corrupt practices, or election laws

(1) Sect. 14.

(2) Sects. 15 and 16.

of the state, the officers with whom they are filed shall notify the district attorney when the case comes up, and furnish him copies of all papers referring thereto. Within sixty days thereafter, the district attorney examines all such cases and if evidence seems to be sufficient under the provision of the act, he institutes civil or criminal proceedings, whichever is appropriate to the facts. The circuit court of the county in which the statement should be filed has exclusive original jurisdiction, unless otherwise provided, of all such cases and may compel a person not filing a proper statement to do so upon the application of the attorney general, or district attorney, or the petition of a candidate or voter within the prescribed time.

All statements are to be preserved for six months after the election to which they relate, as public records open to inspection and it is the duty

of the officers in charge on demand, to give copies of the same as of other public records. The totals of such filed statements with the name of the person or candidate filing, "shall be published in the next annual report of such officer."

(1) A person is forbidden to make payment of his own or another's money in another name than that of the person really giving it, or cause it to be entered upon his books under a name other than its real contributor, but if received of the treasurer of any political organization, it is enough to state it as received from said treasurer.

(2) Noone shall directly or indirectly in order to promote his nomination or an election, promise to appoint, promise to secure or aid in securing appointment, nomination or election of another person "to any public or private position or employment, or to any position of honor, trust, or emolument, except

(1) Sect. 18.

(2) Sect. 19.

that he may publicly announce his choice or purpose in relation to any election, in which he may be called to take part, if elected, and if a candidate for nomination or election for member of State Legislature, he may pledge himself to vote for the people's choice of United States Senator, or state what his action will be on such vote."

(1) All holders of public position not filled by the voters, are forbidden to pay, or contribute, to aid, or promote, the nomination or election of any person to public office. No one shall accept the same from any such person for campaign purposes.

(2) No holders of public position other than those filled by the voters shall be delegate to a convention for the election district that elects the officer or board under whom he directly or indirectly holds position, nor shall he be a member of a political committee for such district.

(1) Sect. 20.

(2) Sect. 21.

(1) Persons are forbidden to invite, offer, or effect the transfer of any convention credentials, in return for money or valuable thing; nor shall a person pay, or promise, or reward another in any form to induce him to be or refrain from being or cease from being a candidate and "no person shall solicit any payment, promise or reward from another for such a purpose."

(2) It is illegal for any person to solicit contributions for any religious, political, charitable, or other cause or organization supposed to be primarily or principally for the public good from a person who seeks to be or has been nominated or elected to any public office. Nor shall any candidate make such contribution during his candidature for nomination or election. "No payment or contribution for any purpose shall be made a condition precedent to the putting of a name on any caucus, or con-

(1) Sects. 22 & 23.

(2) Sect. 24

vention ballot or nomination paper or petition or to the performance of any duty imposed by law on a political committee." No person shall demand or ask a candidate to subscribe to the support of any club or organization, buy tickets to any entertainment, or ball, or to subscribe for any kind of a publication. If any candidate make any such payment or contribution with apparent hope or intent to influence the result of the election, he shall be guilty of a corrupt practice. This clause does not apply to his regular business advertisements or printing, or to his regular payment to organizations of which he has been a member, or contributor to for more than six months, nor to ordinary contributions at church services.

(1) "No corporation, and no person, trustee, or trustees owning or holding the majority of the stock of a corporation carrying on the business of a

(1) Sect. 25.

bank, savings bank, co-operative bank, trust, trustee, surety, indemnity, safe deposit, insurance, railroad, street railway, telegraph, telephone, gas, electric light, heat, power, dam, aqueduct, water, cemetery, or crematory company, or any company having the right to take or condemn land, or to exercise franchises in public ways granted by the State or by any county, city, or town, shall pay or contribute in order to aid, promote, or prevent the nomination or election of any person, or in order to aid or promote the interests, success, or defeat of any political party or organization. No person shall solicit such payment from the above.

(1) Under this law, "bribery" is expanded to include the giving of meat, drink or other entertainment, or provision, "clothing", "liquors", "cigars" or "tobacco", and every elector who accepts or takes the same is also guilty of treating and such accept-

(1) Sect. 26.

ance is sufficient ground for challenging his vote and rejecting his vote on a contest.

(1) "Undue influence", is also made not only to comprise the ordinary acts covered by force, coercion, violence, restraint, etc., but the action of any person who, "being a minister, preacher, priest, or any officer of any church, religious or other corporation or organization, who otherwise than by public speech or print, shall urge, persuade, or command any voter to vote, etc., for or on account of his religious duty, or in the interests of any corporation, church, or other organization, or who shall by abduction, duress, or any fraudulent contrivance impede, or prevent the free exercise of the franchise by any voter at any election, etc.", is guilty of undue influence, to be punished as for a corrupt practice.

(2) Wagering on the results of any election,

(1) Sect. 28.

(2) Sect. 29.

or furnishing funds for that purpose is to commit a corrupt practice, when committed by a candidate, and when committed by another person, corrupt practice and sufficient ground for challenging his vote.

"Personation", covers that comprised in the English provision of applying for a ballot in the name of another person, etc., and also repeating, and conviction for this offence brings the penalty of imprisonment in penitentiary at hard labor for not less than one nor more than three years.

(1) All newspapers and other periodicals shall not insert either in their advertising or reading columns any paid matter bearing on the election, unless they state definitely that the same is a paid advertisement, giving the name of the chairman or secretary, or other officers of the political committee or other organization, inserting the same, or the individual responsible for it, and violation is

(1) Sect. 33.

corrupt practice. Bribery in any manner of an officer of the newspaper or other periodical, to induce him to editorially advocate some political issue or candidate, or any such officer receiving such payment, commits a corrupt practice.

(1) Circulating any matter relative to the election in the form of bills, placards, etc., not bearing on its face the address of the author and printer thereof, and printing, or writing the same, constitutes an "illegal practice", punishable on conviction by a fine of not less than ten dollars nor more than one thousand dollars. The causing to be printed, or printing, or writing such campaign literature containing false statements regarding the personal character of a candidate, knowingly, constitutes "political criminal libel",- on conviction, punishable by imprisonment in the penitentiary for not less than one, nor more than three years. If

(1) Sect. 35.

the accused can prove that he really believed the truth of the charges printed, and the printer can testify that at least fifteen days before printing the same, they caused a copy thereof to be served on the candidate accused, the falsity of statement is not ground for the charge of "political criminal libel".

(1) It is unlawful to pay another "for loss or damage due to attendance at the polls, or for any personal service rendered on election day in connection therewith except for challengers at the polls and people to watch and count official ballots, nor shall a person buy, sell, give or provide any political badge, button, or other insignia to be worn at, or about the polls, nor shall anyone wear the same."

(2) Receiving money by a candidate in consideration of becoming or not becoming a candidate, "or

(1) Sect. 32.

(2) Sect. 37.

by himself or in combination with other persons to become a candidate for the purposes of defeating the nomination or election of any other person and not with a bona fide intent to obtain the office"- is a corrupt practice, punishable by a fine of not more than one thousand dollars, or imprisonment in the county jail not more than one year.

(1) On the trial of any action or proceeding to contest the right of any person declared nominated or elected to an office, or to annul or set aside the nomination or election, the same discretion is given the court as in the case of the English and California law of excusing the offence if it arise from no want of good faith, etc.

(2) "A candidate nominated or elected to an office, and whose nomination or election has been set aside for any offence mentioned in the act, shall not, during the period fixed by law as the term of

(1) Sect. 38.

(2) Sect. 42.

office, be elected or appointed to fill any office or vacancy in any office of trust, honor, or emolument under the laws of the state of any municipality therein." Any appointment made contrary to the provisions of the law is void.

(1) When notified by any officer, or other person, of the violation of any of the provisions of the law, within his jurisdiction, "it shall be his duty forthwith to inquire into the facts of such violation, and if there is reasonable ground for instituting a prosecution, it shall be the duty of such district attorney to file a complaint or information in writing, before a court of competent jurisdiction, charging the accused person with such offence"; if any district attorney fail to "faithfully perform any duty imposed upon him by this act he is deemed guilty of a misdemeanor, and on conviction, forfeits his office." Further, it is the

(1) Sect. 43.

"duty of the district attorney, under penalty of forfeiture of office, to prosecute any and all persons guilty of any violation of the provision of this act, the penalty of which is fine, or imprisonment, or both, or removal from office."

(1) "Any elector of the State, or of any political or municipal division thereof," has "the right to contest the right of any person to any nomination or office for which he has a right to vote" for three causes:

First, on the ground of "deliberate, serious and material violation of the provisions of this act or any other provision of the law relating to nominations or elections";

Secondly, "when the person whose right is contested was not, at the time of the election, eligible to such office";

Thirdly, "on account of illegal votes or an

(1) Sect. 46

erroneous or fraudulent count or canvass of votes."

(1) Nominations or elections on the ground of illegal votes are only to be set aside, when it is evident that the illegal votes were cast with the knowledge or connivance of the person whose right is contested, or the number of illegal votes cast will reduce the number of votes for the contested person, below the number of votes given another person for the same nomination or office.

(2) When the reception of illegal votes is the cause of a contest, it is sufficient for the complainant to state generally that in one or more specified voting precincts illegal votes were given to the person whose nomination or election is contested, which if lost, would reduce his vote below another's, but no evidence or testimony as to illegal votes will be received unless the party contesting delivers to the opposite party at least three days

(1) Sect. 46.

(2) Sect. 47.

before the trial, a written list containing the number of illegal votes, and by whom given, which he intends to prove on such trial. Evidence in the trial may be given of illegal votes not included in such a statement if the party making statement had no reasonable means of ascertaining the additional illegal votes at that time.

(1) Providing the provisions of the law are carried out, detecting illegal votes should not be such a difficult matter, for whenever a voter is challenged, the chairman of the board of judges writes upon the back of that person's ballot, the number of it so that in any future contest over election returns, such votes may be more easily identified.

(2) The petition contesting the right of any person to a nomination or election, must give the name of every person whose election is contested, and

(1) Sec. 2775 of Bellenger & Calton's Annotated Codes & Statutes of Oregon.

(2) Sect. 48

the grounds of the contest, and is not subject to subsequent amendment except by order of the court. Before any action is taken, the petitioner must give bond to the state to the amount ordered by the court but not exceeding two thousand dollars, with not less than two reliable sureties, conditioned to pay all the costs, disbursements and attorney's fees. If the petitioner wins, he may recover these of the contestee, but costs, disbursements and attorney's fees are in the discretion of the court and in case of loss of suit, "the judgment rendered against the petitioner, shall also be rendered against the sureties in the bond". When the petition is filed, the clerk of the court must notify immediately the judge of the court and issue a citation to the parties in the case to appear and be heard before the court not less than three, nor more than seven days after the date of filing the petition. The court must hear the cause and

such a contest takes precedence over all other business on the court docket. The court is always considered open to such cases.

(1) The parties to the case may appear and produce evidence in hearing but no other persons must be made parties to the proceedings, and no other persons except these parties and their attorneys be heard in the case, except by leave of the court. If there is more than one such case, the court may hear them all together and apportion the costs, disbursements, and fees between them, and finally determine all questions of fact, except that the judge may impanel a jury, in his discretion. In case of a contested nomination, or election for senator or representative in the legislative assembly, or for Senator or Representative in Congress, the court certifies and sends its findings to the presiding officer of the body competent to try the case. If judgment is rendered against the de-

(1) Sect. 49.

fendant, unless in the evidence it is shown that some act has been committed which would justify a similar contest for the person contesting the office is declared to be his, otherwise, the office is by the judgment declared vacant, to be filled by a new election or by appointment, as the law requires.

(1) Under similar procedure, by a petition filed in the circuit court where a corporation organized under the laws, or doing business in the State of Oregon, has its principal office, such corporation may be called into court on the ground of deliberate, serious, and material violation of the provisions of the law. On conviction, the court may fine it not more than ten thousand dollars, or may declare its charter forfeited, if organized under the laws of the State, or forbid by injunction its doing business if it be a foreign corporation, or both such fine and forfeiture, or fine and injunction.

(1) Sect. 50

(1) A petition is not to be dismissed without the consent of the district attorney unless the same shall be dismissed by the court. No person can be excused from testifying or producing papers or documents on the ground of the evidence thus given will tend to incriminate; "but no admission, evidence or paper made or advanced or produced by such a person shall be offered or used against him in any civil or criminal prosecution or any evidence that is the direct result of such evidence or information that he may have so given except as a prosecution for perjury committed in such testimony."

(2) None of the provisions of the act are to be construed as relating to the rendering of services by speakers, writers, publishers, or others, for which no compensation is asked or given; nor does it prohibit expenditure by committees of political parties or organizations for public speakers, music, halls,

(1) Sec. 52.

(2) Sec. 10.

lights, literature, advertising, office rent, printing, postage, clerk hire, challengers or watchers at the polls, traveling expenses, telegraphing, telephoning, or making of poll lists.

From analysis, the Oregon act impresses one as comprehensive and carefully drawn. It is comprehensive in that it covers the ground comprised in the English Corrupt Practice Act of 1883 with the important addition of publicity of campaign expenditures and liabilities incurred not only by the candidate, but by the political party itself and outside organizations of all kinds. It forbids any solicitation of the candidate upon the part of others for different associations and organizations, while it checks not only the printing of false statements regarding a candidate's personal character, but any false state-

ment whatever. The law also attempts to do that which more than all other features of the law put together, in the long run, will check corrupt practices. It provides for a political education of the voters thru printed matter for which the authors are directly responsible, and which referred to from time to time, will appeal to the calm, deliberate, judgment of electors as no amount of stump speaking would ordinarily do. More than that, it should lead to a higher grade of appeal to the electorate from the platform, since such appeals will be weighed in comparison with responsible statements made thru the press.

The greatest omission made in most of the State laws against Corrupt Practices has been a lack of adequate and definite provision for enforcement fixing the responsibility for that, upon some individual as a duty. The provision made for enforcement in

the Huntley Law is one of its strong features and may well become incorporated in so far as possible into future laws or amendments passed in other States.

The law is a model in yet another respect. It attempts to avoid all ambiguity and loopholes for evading responsibility by a clear and accurate definition of the terms most used.

Without doubt, the Oregon law is the high-water mark in Corrupt Practice legislation in force in this country today. People now alive to every possible means of making and retaining the government once more representative of their interests, are impressed by the unique features of the Act, which cannot fail to influence the character of all future State legislation. The verdict of Time upon the act, is now awaited since whatever form a law appears to take theoretically, there is always the possibility of its working "the other way". The responsi-

bility for the effectiveness of this law rests as always with the temper and attitude taken by the people who depending upon "eternal vigilance" through the law, perpetually and not upon a fair law and its penalties enforced by courts, will guarantee its success and the purity of future elections in Oregon.

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* C H A P T E R I V *
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THE MUNSON

SUPERIOR BOND

CORRUPT PRACTICE LEGISLATION IN MINNESOTA

Minnesota, organized as a territory in 1849, began her career as a State, May 11, 1858. All examination of the general laws of the Territory and State up to 1860 reveals no suggestion of legislation on Corrupt Practices. Minnesota was then a part of the great undeveloped West, whose small, adventurous and widely scattered population, impatient of all restraints were not likely to be especially stringent in making laws which should greatly fetter their characteristically, free and easy ways of doing things. And when in the course of time, a sense of decorum and fitness of things in connection with their political activities did begin to shape itself in the consciousness of the people, resulting in provisions

in their election laws against corruption, it is as one would expect, very different from the modern type of such laws. There were then no great fortunes measured by the standards of today and immense corporations so significant a factor in political influence at present, were then unknown. Population was then too small to develop that complexity of form and organization which in and of itself necessitates detailed legislation. That which made the strongest appeal to the shifting factors of an electorate then were materially direct means of all kinds, among them bribery, and in some cases it might even be considered clever to beat an opponent by impersonation or repeating, when possible. One should look in the early laws for provisions against such forms of corruption and not be too surprised after reading them to gain an impression, that they were not intended to be taken too seriously since after all there is

provided little if any adequate machinery for enforcement.

Drawn somewhat upon these lines, are the provisions found in the general election laws of Minnesota for 1860. (1) Wilfully voting in an election district where one was a non-resident, on conviction, was punishable by imprisonment in the county jail not less than one, or more than six months. (2) The penalty fixed for the voting in the State of a non-resident was punishable by imprisonment in the State Prison. (3) Conviction for repeating, on conviction, brought imprisonment in State's Prison with hard labor not less than six months nor more than one year. (4) Voting when for any reason disqualified, imposed imprisonment in the county jail for not less than one nor more than six months. (5) If one procured, aided, assisted, etc., a person disqualified in the State to vote, conviction would bring a fine

(1) Gen. Laws of Minnesota, 1860, 146 Sect. 51.

(2) Sect. 53

(3) Sect. 52

(4) Sect. 54

(5) Sect. 55

of between one hundred or five hundred dollars and imprisonment in the county jail of not less than one, nor more than six months. (1)The securing of a vote of a person disqualified to vote in the county brought imprisonment in the State's Prison from one to six months. Four provisions against voting when disqualified and securing such votes, might have been summed up in two provisions, and no distinction made between the county and State in such respect. The mere fact of the prominence given in these early provisions to disqualified persons voting, indicates that it was one of the forms of Corrupt Practice most prevalent. It is altogether probable that when the population was so very shifting, it was hard to convince many that when away from home at election time they should lose their right of voting, or that when present in a different state or in a place in which they were disqualified, it should be so very heinous

(1) Sect. 56

to take an active part on one side or the other in an exciting election contest.

(1) Bribery was not defined, but there is a provision against it to the effect that, "any person who shall by bribery, attempt to influence any elector of this State in giving his vote or ballot, or shall use any threat to procure any person to vote contrary to the inclination of such elector, or to deter him from giving his vote or ballot, shall on conviction thereof, be fined in any sum not exceeding five hundred dollars, nor less than one hundred dollars, and be imprisoned in the county jail not less than one month nor more than six months."

(2) Section 58 provides, "Any person, who shall furnish an elector who cannot read, with a ticket, informing him that it contains a name, or names different from those which are written or printed thereon, with an intent to induce him to vote con-

(1) Sect. 57.

(2) Sect. 58.

trary to his inclination, or who shall fraudulently, or deceitfully change a ballot of any elector, by which such elector shall be prevented from voting for such candidate or candidates as he intended, shall on conviction thereof, be imprisoned in the state prison and kept at hard labor, not less than six months nor more than one year."

(1) The application of the law covered the elections of the State, district, county, town, city, or township officers, electors of President and Vice-president and practically "any subject which might by law be submitted to the vote of the people."

(2) Provision was also made in this early law for disfranchisement, as follows: "Every person who shall be convicted and sentenced to be punished by imprisonment in the State Prison for any offence specified in the Act, or who shall be convicted and sentenced for bribery under this Act, shall be deemed

(1) Sect. 69.

(2) Sect. 66.

forever after incompetent to be an elector, or hold any office of honor, trust, or profit within this State unless such convict shall receive from the Governor of this State a general pardon under his hand and the seal of the State, in which case said convict shall be restored to his civil rights and privileges."

Campaign expenses or lawful ends for which they may be used, are not in any way referred to, and bribery is not defined, while "intimidation" and "treating", two very natural forms of bribery, are not covered at all under these provisions.

(1) During the same year, "An Act to Provide Against Corrupt Legislation", passed which punished the giver or receiver of a bribe for aiding the passing of a legislative act and made the penalty therefor on conviction, that for felony, i.e. imprisonment in the State's Prison not less than one, nor more than three years or by a fine of one hundred dollars and

(1) Minnesota Laws Ed. 1860, Chap. 7, p. 101.

not exceeding five hundred dollars, or both, at the discretion of the court.

(1) An act entitled, "To Regulate Elections in the State and to reduce the several acts relating to the same to one", changed the provisions of 1860 in only one respect, the addition of the word "deceive" before "induce" in Section 58, providing against deceiving a voter by misinforming him as to the nature of the ballot.

No further legislation on Corrupt Practices appears until 1891, thirty years later. During that time there has been a great development in population, wealth and resources in Minnesota. The problems confronting the State in government as well as along other lines have become modern in every sense of the word and one expects to find a distinct change in the character of the laws against electoral corruption as in others. The general laws concerning

(1) Minnesota Laws Ed. 1861, Chap. 15, p. 95.

the conduct of elections have themselves become more definite and detailed in the meantime and the provisions against corrupt practices are drawn along the same lines.

(1) The scope of the law is much widened since the earlier provisions, "An Act to Regulate Elections" provides that, (2) "any person or persons introducing in any way and any judge or clerk of election drinking in such place, or being intoxicated therein upon election day, shall be deemed guilty of misdemeanor and upon conviction thereof before any court of competent jurisdiction, shall be punished by fine not exceeding one hundred dollars or by imprisonment not exceeding sixty days, or by both fine and imprisonment in the discretion of the court. No saloon or barroom is to be open on election day between 5 A. M. and 8 P. M. The penalty for violating this provision is not less than one hundred dollars

(1) Gen. Laws Minn. 1891, Chap. 4. H. F. No. 129, p.23.

(2) Sec. 107 Gen. Laws Minn. 1891.

nor more than three hundred dollars for each offence. The enforcement is placed with the mayor, sheriff, constable and other officers and magistrates. Failure upon the part of the mayor to issue the proclamation that this be rigidly enforced makes him liable for a fine, not exceeding one thousand dollars or imprisonment in the county jail for sixty days or both, at the discretion of the court.

(1) It is made unlawful for any judge of an election or any person in the polling room or apartments therewith connected, to persuade or endeavor to persuade any person to vote for any particular candidate. violation, is a misdemeanor for each and every person so approached and upon conviction thereof, a person shall be punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding ninety days.

(2) Any person who after the polls are opened,

(1) Sec. 114.

(2) Sec. 115.

and at any time before the vote is fully canvassed, shall wilfully offer to a judge of the election, to be placed in the box or boxes, more than one ballot of the same kind or color, or shall fraudulently put a ballot into any box or boxes, is guilty of a felony, punishable by imprisonment in State Prison, not less than six, nor more than twelve months."

(1) Fraudulently registering in more than one election district; causing one's name to be registered knowing that one is not qualified, or falsely personating any registered voter and causing, aiding or abetting a person to do the same forbidden acts, is made a crime punishable by imprisonment in the State Prison not less than one year.

(2) If any person challenged as unqualified to vote, be guilty of false swearing or affirmation, prescribed in the chapter, he shall be deemed as having committed wilful and corrupt perjury and be punishable

(1) Sec. 116.

(2) Sec. 117.

accordingly.

Like provisions against voting where unqualified, to those found in the 1860 laws are found in this act, but the penalties are made much heavier. Intentional voting when unqualified is made a felony. (1) Aiding, etc., a person to go where unqualified and vote, at the same time knowing the person's disqualifications, is made felony. A candidate being guilty of that offence is liable to imprisonment in the State Prison for not less than six months nor more than one year. "Repeating", has become felony, also punishable by imprisonment in State's Prison for not less than one year nor more than five years.

Practically no improvement is made in the provision against bribery and intimidation, provision 123, being an attempt to cover both in this fashion, (2) "Whoever by threat or bribery attempts to influence any elector in giving his vote for any

(1) Secs. 121 & 122.

(2) Sec. 123

person or measure, or by such means attempts to deter him from voting for any person or measure, is guilty of a misdemeanor and on conviction shall be punished by a fine not less than one hundred dollars, nor more than one thousand dollars and by imprisonment in the county jail not less than one month nor more than six months." The penalty for this offence has only been made heavier with respect to the fine which was "not less than one hundred dollars nor more than five hundred dollars."

Bribery and intimidation are still left undefined and campaign expenditures not even mentioned. No rules are made for holding the authors of any printed matter concerning an election responsible in any way and treating is still unprovided against. However, there is one distinct advance made in this law over the others in its attempt to secure enforcement. It is provided that, it shall be the duty of

the State's Attorney in each county in this State to prosecute any person violating any one of the provisions of this chapter, and sue for and enforce all penalties incurred for a violation of this chapter or any part thereof, upon his own motion, or upon the complaint of his county, accompanied by the requisite proof of such offence or offences. No penalty is provided in case the State's Attorney should fail of his duty, nor is it made clear in what manner his county can make complaint or the complaint is made, is to be proven. Nevertheless, the presence of the provision is a recognition that enforcement is necessary to make such laws effective, and that some one office must be made responsible for that purpose. Time leads to better drafting after experience proves the necessity for changes.

(1) Further additions were made to the laws against Corrupt Practices in 1893. "If any person

(1) Gen. Laws Minn. 1893, Chap. 4, p. 16.
H. F. No. 162. "An Act to Regulate Elections."

employed or authorized to print official ballots, or any person employed in printing the same, shall knowingly permit the abstraction of any of said ballots by a person other than the officer under whose direction, or shall knowingly permit or cause to be misprinted any ballots given to his charge for printing, he is guilty of felony and on conviction shall be punished by imprisonment in State Prison for a term of not less than six months nor more than one year or by fine of not less than five hundred dollars nor more than two thousand dollars, or both in the discretion of the court."

(1) A fine of fifty dollars, or imprisonment in the county jail for a term not exceeding sixty days, or both, is incurred for defacing polling lists posted by any board of registration as provided for in the act.

It is made, (2) "unlawful for the judges of

(1) Sect. 72.

(2) Sect. 108.

election or any one of them, or any person in the polling room or compartments therewith connected, or within twenty-five feet of the entrance to the polling-room to ask, or persuade, or endeavor to persuade any person to vote for any particular candidate or suggest that he do so. A person commits a misdemeanor for each and every person so approached and the penalty is not more than one hundred dollars, or imprisonment not more than ninety days."

(1) There is provision made for giving electors who are employees an opportunity to vote having made due application for such time off, before the election day, or on that morning. It is further given that, "any person or corporation or officer or member thereof, who shall refuse to an employee the privilege hereby conferred or shall subject an employee to a penalty of deduction of wages because of the exercise of such privilege or who shall in any manner attempt

(1) Sect. 109.

to influence or control such voter as to how he shall vote, or shall directly or indirectly, violate the provisions of this section shall be guilty of misdemeanor."

(1)"No judge of an election or other person who may assist a voter in the preparation of his ballot as herein provided, shall in any manner request, persuade, or induce any voter to vote for any particular candidate or candidates, but shall mark the ballot as directed by the elector; and shall not reveal to any other person the name of any candidate for whom the election has voted, or anything that took place while he was assisting such elector in preparing such ballot for voting." Violation of the provision constitutes misdemeanor.

So far no attempt has been made to define various forms of corrupt practices. Campaign expenses are still unregulated, and the provisions for enforcement are still left indefinite. There has been no influence made upon the Minnesota law by the great English

(1) Sec. 103.

Act of 1883.

In 1895 there passed a genuine Corrupt Practice law entitled, ⁽¹⁾"An Act to Prevent Corrupt Practices in Elections, to limit the expenses of candidates and political committees, and provide penalties and remedies for violation of this Act."

Bribery is for the first time defined and since the definition given in this act is substantially the one in force in the State today, it is unnecessary to give it in detail. It is practically the English definition transferred almost verbatim to the Minnesota statute books. The act reads: The following persons shall be deemed guilty of bribery at elections and shall be punished as in this section provided:

⁽²⁾First. "Every person who shall directly or indirectly, by himself, or by any other person in his behalf, give, lend, or agree to give or lend, or

(1) Gen. Laws Minnesota, Chap. 277 p. 660,
S. F. No. 23.

(2) Sect. 1.

shall offer, promise, or promise to procure or endeavor to procure any money or valuable consideration or any place, or employment, public or private, to or for any voter, or to or for any person on behalf of any voter, or to or for any person in order to induce any voter to vote, or refrain from voting, or shall corruptly do any such act as aforesaid, on account of such voter having voted or refrained from voting at an election.

Second. Every person who shall, upon or in consequence of any gift, loan, offer, promise of any place or employment, public or private procurement or agreement, procure or engage, promise or endeavor to procure the election of any person to a public office, or the vote of any voter at any

election. Third. Every person who shall advance or pay, or cause to be paid any money to or for the use of any other person, with the intent that such money, or any part thereof shall be expended in bri-

bery at any election; or who shall knowingly pay or cause to be paid any money, wholly or in part, expended in bribery at any election; any person so offending shall be punished by imprisonment in the penitentiary for a term of not more than five years and for every such offence he shall also forfeit the sum of five hundred dollars for the benefit of the state school fund. Provided that the foregoing enactment shall not extend to or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses bona fide incurred at or concerning any election."

Legal expenses are herein defined to be such as are or may be by reasonable construction included only in the following:

"1. For the personal traveling expenses of the candidate.

2. For the rent of hall or rooms for the

delivery of speeches relative to principles or candidates in any pending election, and for the renting of chairs and other furniture properly necessary to fill such hall, or rooms for use for such purposes.

3. For the payment of public speakers and musicians at public meetings and their necessary traveling expenses.

4. For the printing and distributing of lists of candidates or sample tickets, speeches or addresses, pamphlets, newspapers or circulars, relative to candidates or political issues, or principles, cards, handbills, posters or announcements.

5. For challengers at polls at elections.

6. For copying and classifying of poll lists.

7. For making canvasses of voters.

8. For postage, telegraph, telephone, or other public messenger services.

9. For clerk hire at the headquarters or

offices of such committee.

10. For conveying infirm or disabled voters to and from the polls."

Section 2 continues the definition of bribery, providing that, "Every voter who shall before, during or after any election, directly, etc., demand, receive, agree, or contract for any money, gift, loan, or valuable consideration, office, etc., for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election." Also, "Every person who shall after any election directly or indirectly, etc., demand or receive any money or valuable consideration on account of any person having voted, etc., and any person so offending shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail for not more than three months."

A very noticeable difference, in duplicity, is made between the giver and receiver of a bribe, a

fact that is discreditable in the law.

It is further provided that, ⁽¹⁾"Any candidate for a public office or any person seeking to become the nominee of any party as such candidate who within ten days prior to any primary election, or meeting held for the selection of delegates to a convention to nominate a candidate for the public office he seeks to obtain, or who within sixty days prior to the election whereat an incumbent for the office so sought by him is chosen, corruptly, by himself or by any other person directly or indirectly, gives or provides wholly or in part, or who promises to pay wholly or in part the expense of giving any meat, drink, entertainment or provision, to or for any person for the purpose of corruptly influencing that person or any other person to give, etc., shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined twenty-five dollars for each offense."

(1) Sec. 3.

"Treating" upon the part of the candidate is not made an occasion for rendering his election void nor is it clear whether the twenty-five dollars for each and every offence refers to each person so treated or not. In case it referred only to each offence, the fine is far too small.

(1) "Intimidation" is defined as follows: "Every person directly or indirectly, making use of any force, violence or restraint or inflicts, or threatens to inflict, by himself, etc., any damage, harm, or loss upon or against any person in order to induce, etc., or who shall by duress, or fraudulent device or contrivance, impede and prevent the free exercise of the franchise of any elector, or shall thereby compel, induce, or prevail upon any elector to vote, etc." commits a misdemeanor and on conviction, shall be punished by imprisonment in the county jail not more than three months.

(1) Sect. 4.

The above provision is the English provision almost exactly, but the penalty provided is insignificant.

"Personation", is defined in the exact words of the English law as applying to, ⁽¹⁾"any person who at any election held pursuant to the laws of the state, applies for a ballot in the name of some other person, whether that person be living or dead, or of a fictitious person or who having voted once at any election applies at the same election for a ballot paper in his own name or any other name for his own use." Committing or aiding in committing the offence constituted a felony punishable by a penitentiary term of not more than five years.

Limitation is placed for the first time upon a candidate's expenditures. ⁽²⁾No candidate for Congress or for any public office in this State or in any county, district or municipality thereof, which

(1) Sect. 5.

(2) Sect. 6.

office is to be filled by popular election shall by himself, or by or through any agent or agents, committee or organization, or any person or persons whatsoever, in the aggregate pay out or expend or promise, or agree, or offer to pay, contribute or expend any money or other valuable thing in order to secure or aid in securing his nomination or election or the nomination or election, to any office to be voted for at the same election, or in the aid of any party or measure in excess of a sum to be determined upon the following basis, i.e. For 5000 voters or less, two hundred and fifty dollars; for each 100 voters over 5000 and under 25,000, two dollars; for each 100 voters over 25,000 and under 50,000, one dollar; for each 100 voters over 50,000, fifty cents; the number of voters to be ascertained by the total number of votes cast for such office at the last preceding regular election held to fill the same and any payment,

etc., in excess of such sum, for such objects, or purposes is hereby declared unlawful.

(1) Provision is made, for the candidates for all elective offices covered in the act, within thirty days after the election held to fill such office made out, and to file with officers empowered by the law to issue certificates of election and a duplicate thereof with county auditors for the counties in which such candidates reside, a statement in writing, subscribed and sworn to by such candidate before a proper officer, setting forth in detail all sums of money contributed, disbursed, expended or promised by him, and to the best of his knowledge and belief by any other person or persons on his behalf, wholly or in part endeavoring to procure or in any way in connection with his nomination or election to such office or place, or in connection with the election of any other persons at said election and showing the

(1) Sect. 7.

dates when and the purpose for which, all such sums were paid, etc." No certificate of election is to be sent by the proper officer to any such person until such statement in proper form has been filed with such officer.

Failure to comply with Section 7, makes the person liable, ⁽¹⁾ "to a fine not exceeding one thousand dollars, to be recovered in an action brought in the name of the State by the Attorney General or by the prosecuting attorney of the county of the candidate's residence, the amount of the fine to be fixed by the court within the legal limit and be paid into the school fund of said county, and in default of payment of such fine he may be committed to the county jail until such fine is paid, not to exceed six months."

(2) No person can enter upon the duties of his office or receive any salary of such office until he

(1) Sect. 8.

(2) Sect. 9.

has properly filed his statement.

(1) "At any time after the election of any person to office covered by the terms of this law, the person who at the same election received the next highest number of votes, may at any time during such term of office bring or present an "application in writing and verified by his affidavit to the Attorney General setting forth one or more of the following charges against such public officer:

1. That at the election which elected said public officer, he exceeded his legal limit of expenses.

2. That bribery was committed by him, or with the consent or connivance of his agent or agents, by some committee or organization or some political party of which he was the nominee or which supported him, either to gain, or withhold votes, or that the office was gained otherwise unlawfully by said public officer

(1) Sect. 10.

and further setting forth that the applicant desires the Attorney General to bring an action to have such public office declared vacant, or said violation of the laws concerning elections. The application must be accompanied by a bond to the State of Minnesota in the penalty of one thousand dollars, subscribed by two sureties who shall justify as freeholders of the state and in double the amount of such penalty, exclusive of all their debts and liabilities, and properly exempt by law from levy, and sale under execution, such bond to be conditioned to the state, of all taxable costs and disbursements for which it may become liable for on account of said action."

(1) It is the duty of the Attorney General within ten days after the receipt of the application and bond to begin action against such officer himself or to instruct the prosecuting attorney of the county in which the election took place, to begin such

(1) Sect. 11.

action to have the office declared vacant. The action has to be conducted according to law and it is the duty of the prosecuting attorney to start the action within ten days after receiving notice from the attorney general.

(1) In case the Attorney General or prosecuting attorneys "neglect or refuse to bring such action within the prescribed ten days, it is lawful for the applicant to bring such action in the name of the State but at his own expense and by his attorney or attorneys. In either case, if the court at any time finds that the aforesaid bond is insufficient to meet the necessary cost of the procedure, an extension of the bond may be ordered by it and a failure to comply with the order within the certified time, the said action may be dismissed at the cost of the applicant and his sureties."

(2) "If it is determined in any such action

(1) Sec. 12.

(2) Sec. 13.

that one or more of the charges defined in Section 10 and set forth in the petition has been sustained, judgment shall be rendered ousting and excluding such defendant from such office in favor of the state or plaintiff, as the case may be subject to the next succeeding section and for costs of the action. But if none of the charges are sustained, judgment shall be against the applicant and for the costs of the action."

(1) "In any such action, the applicant upon his own motion or on the motion of the defendant, shall be made a party plaintiff and in any case in which such applicant shall be a party, if the judgment of ouster against the defendant shall be rendered as provided in Section 13, said judgment shall award such office to the applicant unless it be further determines in such action upon appropriate pleading and proof by defendant that some action has

(1) Sec. 14.

been done or committed which would have been ground in a similar action against such plaintiff, had he been declared elected to such office; for a judgment of ouster against him; and if it shall be so determined at the trial, such office shall be in the judgment declared vacant and thereupon be filled by appointment or a new election."

(1) "No person is to be excused from any question on trial of such action relating to acts claimed to have been committed by any party thereto", on the ground that such answer would tend to incriminate or degrade such a witness, but no answer is to be received or used against him in any criminal proceeding."

(2) A political committee is defined as, "Every two or more persons who shall be elected, appointed, chosen, or associated for the purpose, wholly or in part, of raising, collecting, or dis-

(1) Sec. 15.

(2) Sec. 16.

bursing money, or of controlling or directing the raising, collecting, or disbursement of money for election purposes, and any two or more persons who shall co-operate in raising, collection or disbursement of money, used or to be used in the furtherance of the election, or defeat the election to public office of any person, or any class of persons, or in the furtherance of the enactment or to defeat the enactment of any law or ordinance or constitutional provision shall be deemed a Political Committee within the meaning of the Act."

(1)"Every political committee shall appoint and constantly maintain a treasurer to receive, keep and disburse all sums of money which may be collected or received, or disbursed by such committee, or by any of its members for any of the purposes mentioned in Section 16 of this Act;" and unless such treasurer is first appointed and thereafter maintain-

(1) Sec. 17.

ed, it shall be unlawful, and a violation of this Act for a political committee or any of its members to collect, receive, or disburse money for any such purpose." All money collected, or received or disbursed by any political committee or any member or members thereof for any of the above mentioned purposes for which the committee exists, shall be paid over and made to pass through the hands of the treasurer of the committee and be disbursed by him; and it shall be unlawful and a violation of this act for any political committee, to disburse or expend money for any of the objects or purposes mentioned in Section 16, etc., until the money so disbursed or expended, shall have passed through the hands of the treasurer of such political committee."

(1) Every treasurer of a political committee and any person who shall at any time act as such treasurer, shall whenever he receives or disburses any

(1) Sec. 18.

money as such treasurer or for or on account of the objects or purposes mentioned in Section 16, immediately enter and thereupon keep, in a proper book or books to be provided and preserved by him, a full and true and detailed statement and account of each and every sum of money so received or disbursed by him, setting forth in such statement the sum so received, or disbursed, as the case may be, and the date when and the person from whom received, or to whom paid, as the case may be and the object and purpose for which such sum was received or disbursed."

(1)"Every treasurer of a political committee, as defined in this Act and every person who shall act as such treasurer shall, within thirty days after each and every election, whether state, county, city, municipal, township or district election, in or concerning or in connection with which he shall have received or disbursed any money for any of the ob-

(1) Sec. 19.

jects or purposes mentioned in Section 16 of this Act, prepare and file in the office of the county auditor, in which such treasurer resides, a full, true, and detailed account and statement subscribed and sworn to by him before an officer authorized to administer oaths, setting forth each and every sum of money received or disbursed by him, for any of the objects or purposes mentioned in Section 16 of this Act, within the period beginning ninety days before such election, and on the day on which such statement is filed, the date of each receipt and each disbursement, the name of the person from whom received or to whom paid, and the object or purpose for which the same was received and the object or purpose for which it was disbursed. "Such statement shall also set forth, the unpaid debts and obligations if any of such committee with the nature and amount of each, and to whom owing, in detail, and if there are no unpaid debts or obligations

of such committee, such statement shall state such fact."

(1)"A treasurer of a political committee as defined in the Act, "who shall wilfully fail, neglect, or refuse to make out, verify and file with the county auditor, the statement required by law is guilty of a misdemeanor, punishable by a fine of not more than one hundred dollars or by imprisonment not more than three months."

(2)"Every treasurer of a political committee and every person who shall receive any money to be applied to any of the purposes mentioned in Section 16 of this Act who shall either: Neglect or fail to keep a correct book or books and account setting forth all the details required to be set forth in the account and statement contemplated in Sections 18 and 19 of this Act, (except that the book or books must not be subscribed or sworn to) with intent to conceal

(1) Sec. 21.

(2) Sec. 22.

the receipt or disbursement by him, or any other person or the purpose, or object for which the same was received, or disbursed, or to conceal the fact that there is any unpaid debt or obligation of such treasurer of committee or the nature or amount thereof, or to whom owing in detail; or shall mutilate, deface or destroy any such book or books; or fail to file the statement and account contemplated by said Section 19 within five days after he shall receive notice in writing, signed by five resident freeholders of the county in which such treasurer or political committee, or person resides, requesting him to file said statement and account, shall be guilty of a misdemeanor" and liable to imprisonment in the county jail for not more than three months or shall be fined not more than two hundred dollars."

(1)"Every county auditor shall receive and file in his office and there keep, as a part of the

(1) Sec. 20.

records thereof, for four years after they are filed, all statements and accounts required by this Act to be filed with him. Such statements and accounts shall, at all reasonable times, be open to public inspection. After four years succeeding the filing of such statements, they shall be destroyed by such officer or his successor. Copies of such statements verified by such officers under the seal of his office of any such statement or statements, and a copy so certified, shall be admitted as evidence in all suits with like force and effect as the original would have produced."

(1) Any wilful violation of the Act, the penalty for which is not expressly given, constitutes a misdemeanor and is punishable as such.

(2) The Act is not to apply to village, township or school elections.

As the law of 1895 is for the greater part

(1) Sec. 23.

(2) Sec. 25.

identical with the Corrupt Practice law now in force, it is unnecessary here to call attention to its defects, separately.

(1) The general laws for 1897 has the provision now in force that, "every person, except a judge, who during any canvass of votes shall handle, touch or interfere with any of the ballots being canvassed, and every judge permitting the same to be done, shall be guilty of a misdemeanor."

(2) After the introduction of voting machines at the polls, it became necessary to protect them from wilful injury. "Every person who wilfully injures or renders ineffectual any voting machine, or attempts so to do, shall be guilty of felony", is a provision in the laws of 1899.

(3) Later in 1901 a law was passed to secure responsibility for printed matter relative to elections. It is provided, that, "Whosoever writes,

(1) Gen. Laws 1897, c. 242.

(2) Gen. Laws 1899, c. 315 § 6.

(3) Gen. Laws 1901, p. 90, c. 88, § 194.

prints, posts or distributes, or caused to be written, posted, or distributed, a circular, or poster, or other written paper, which is designed or tends to injure or defeat any candidate for nomination or election to any public office, by reflecting upon his personal character, or political actions, unless the same shall be published in a newspaper avowedly responsible therefor, or unless there appear on such circular, etc., in a conspicuous place, either the names of the chairman and secretary, or at least the names of two officers of the political or other organization issuing the same, or the name of some duly registered elector with the description of his election district, as responsible therefor, shall be deemed guilty of a misdemeanor." This provision fails to indicate clearly just what would constitute being "avowedly responsible" for printed matter, found in the columns of a newspaper, a fact which

weakens to a great extent the strength of that part of the law which is otherwise definite enough.

The law now in force against Corrupt Practices in Minnesota, to be found in the Revised Laws of 1905 with an additional provision made in 1907, is substantially the law of 1895 simplified in language for the most part only, together with the laws just quoted of 1897, 1899 and 1901 with but few changes. To avoid unnecessary repetition, for the purposes of this chapter, it is only necessary to indicate the provisions now in force, together with the changes made, if any.

(1) Sections 348 to 351, the first, defining legal campaign expenditures, the second, placing a lawful limit upon such expenditures, and the third, providing for the filing of statements of expenditures by all candidates, are in content those given in the 1895 law. Confusion arose, however, regard-

(1) Rev. Laws Minnesota 1905, p. 65, Secs. 1, 6, 7 & 9 of 1895 Law.

ing their several applications, since^{by} the wording of the first, it is applicable to, every "candidate for nomination to any elective office"; the second, to "candidate for any elective office"; and the third to, "every person who shall be a candidate for nomination or election." Such confusion would result in vagueness of these provisions which must apply to a definite period of candidature, to have meaning.

(1) The opinion was given by the Supreme Court of Minnesota in a case, 1907, in which an election was being contested on the ground that the man elected to office had failed to include in his statement, a payment made prior to the date of his filing, that "the direct primary law defines who is candidate and the corrupt practices act provides certain punishment for a "candidate for nomination," and "Within the meaning of the corrupt practices act (Chap. 277, p. 664 Laws 1895), a political aspirant becomes a candidate at

(1) Minn. Reports Ed. 1908, p. 104, State v. Bates.

the time of filing his affidavit of intention of becoming a candidate for a specified office, in accordance with Section 184, R. L. 1905. The verified statement which he is required by law to file, need not include items of expenses incurred or paid anterior to the time of filing such affidavit." By this decision these provisions are made applicable to definite persons and for a definite period.

The ends for which money may be lawfully expended by a candidate are the usual ones, but since no vouchers are required for all sums paid out by him in amounts over a certain sum, say, five dollars, it would be very possible to expend money unlawfully and assign it in the statement to the various legal items.

Sections 351, 352, 353 and 354 of the Revised Laws which provide that, "No person shall be permitted to hold any elective office procured, with his know-

ledge, connivance, or consent, in violation of any provisions of Sections 348 to 350; and any voter of his constituency, by petition specifying such violation, may require the attorney general to proceed against such person as for usurpation in office", and there laying down the procedure in such contest as provided in Sections (10, 12, 15, 12, 13 of c. 277 1895) have been the occasion of an ⁽¹⁾obiter dictum by Chief Justice Start, July 26, 1907, to the effect that, they are unconstitutional. His opinion covers Sections 348 to 354 inclusive and much weight must be given to it in estimating the present effectiveness of the law. The Chief Justice says, "I concur in the result, on the ground that that so much of the corrupt practices act (Sections 348-354, R. L. 1905) which provides in effect that no person shall be permitted to hold any elective office procured with his knowledge, connivance, or consent, in violation of

(1) Minn. Reports Vol. 102, p. 110, State v. Bates.

any of the provisions of the act, and that all votes cast for him at the election shall be void, and the office awarded to the candidate receiving the next highest number of votes for the same office, is unconstitutional, because it attempts to render a candidate ineligible to hold office who is eligible by virtue of the Constitution of the State.

I am not disposed to blink the sin of corruption in election contests, or to minimize its dire consequences to the state; for he who corrupts the electorate betrays the state, and is guilty of a crime akin to treason. If therefore, the provisions of our statute here under consideration, are constitutional, they must be rigidly enforced, to the end that no man may be rewarded with the emoluments of an office which he has secured by corruption.

The power of the legislature to make corrupt practices in elections a felony, instead of a mere

misdemeanor as it has done, is unquestioned. If a violation of the act had been made a felony, then the person convicted of the offence, until restored to civil rights, would not be entitled to vote or hold office. The provisions of the statute here in question do not provide for the removal of a person from office by reason of his conviction of a felony, or on account of any act done or omitted by him in office. On the contrary, it attempts to make the proof of an act done or omitted by an elector thereof, operate by relation so as to render him not only ineligible to the office at the time of the election, but also to render every ballot cast for him void, when cast. That such is the effect of the statute is apparent from an examination of its provisions. Sections 348 and 349 thereof, forbid any candidate for nomination to any elective office, or a candidate for any elective office, to pay, or promise to pay, more than

the amount therein limited in furtherance of his nomination or candidacy. Section 350 provides that every candidate shall file, within thirty days after the election, his verified statement of each and every sum of money contributed, paid, disbursed, or promised by him or on his behalf to secure his nomination or election. Section 351 declares that no person shall be permitted to hold any elective office procured, with his knowledge, connivance, or consent, in violation of any of the provisions of Sections 348 to 350; that is, a candidate and elector who fails to include in his verified statement any item of election expenses, however small in amount, is disqualified from holding the office. Sections 353 and 354 require the court, upon proof of such failure, or of any other violation of the statute, not only to oust the incumbent from office, but to award it to the candidate receiving the next highest number

of votes."

No case has come up under these provisions to give opportunity for the court to declare definitely their unconstitutionality, but the mere fact that such strong intimation has been given that such would be the result, has had a vital effect upon the way in which they have been enforced. The Minneapolis Tribune for March 31st, 1910, bears witness to one effect of the Bates decision. "It has been noticeable", it says, "that candidates for the legislature and other officers are slow filing this year and the explanation given is the decision of the supreme court, that a person is not a candidate until he has filed and will not have to give account of his campaign expenses before that time. There have been only about one dozen who have filed up to this time with the Secretary of State, Julius Schmahl, and it is not to be expected that there will be any such filing of

fees until late in August."

As to the effect of the obiter dicta it has been intimated by several prominent officials that, after the Bates case, nobody has taken that part of the corrupt practices act seriously. Its influence, together with no legal requirement that the statement of expenditures be accompanied by vouchers as to the sums paid out, may explain the laxity with which statements of expenses are made out and filed at present by candidates and the treasurers of political parties.

The following are as nearly as possible exact copies of several typical statements filed in 1910 with the Secretary of State of Minnesota:

Geo. J. Bradley, being duly sworn, deposes, and says he is a resident of the village of Norwood, County of Carver.

That he was, and is treasurer of the Republican State Committee, during elec-

tion held in the state of Minnesota, year 1910.

That the following schedule is a full, correct and complete statement of all sums of money received, disbursed and used by said committee to the best of his knowledge and belief in endeavoring to secure the election or defeat of the election to public office of any person or persons at said election.

That this affidavit covers the period from the date of the organization of the committee, viz: Aug. 11, 1910, to the date of making affidavit.

Receipts

| | |
|----------------------|-----------------|
| Total contributions, | \$19517.04 |
| " disbursements, | <u>19448.97</u> |
| On hand, | \$68.07 |

Unpaid bills

| | |
|-------------------------|-------------|
| McGill Warner Co., | 681.50 |
| L. F. Dow Co., | 946.19 |
| Jay Brothers Motor Co., | <u>8.00</u> |
| Total unpaid bills, | \$1635.69 |

Expenditures

| | |
|-------------------------------------|-------------------|
| Headquarters rental, | 807.22 |
| Salaries, | 1251.78 |
| Office supplies, | 675.15 |
| Telephone, | 489.30 |
| Postage and express, | 1404.95 |
| Printing and advertising, | 11378.76 |
| Livery, R.R.transfer and hotels, | 1285.77 |
| Copying, | 445.61 |
| Canvassing, | 734.24 |
| Hall rent and meetings, | 976.19 |
| Total disbursements, | <u>\$19448.97</u> |
| Balance in treasury, | 62.07 |

That the foregoing is a schedule and statement showing a total receipt and that this statement is as full and explicit as the affiant is able to make it.

Geo. J. Bradley

Subscribed and sworn to before me this
7th day of Dec. 1910.

Notary Public
My commission expires June 1, 1917.

County of Grant

J. E. Peterson

Primary and General Election.

Cand. for Republican Rep. 57 Legis-
lative District, etc.

Receipts - - - - -

Expenditures

| | |
|-----------------------------|--------|
| Lecture cards for printing, | \$5.00 |
| " " " " | 3.00 |
| " " " " | 5.80 |
| " " " " | 7.50 |

P. Larson, Republican Committee of

| | |
|--------------|--------------|
| Grant Co. | 10.00 |
| Traverse Co. | 25.00 |
| Stevens Co. | 25.00 |
| | <u>81.30</u> |

Louis O. Foss (For what candidate omitted)

Primary election held 20 Sept. 1910

| | |
|---------------------------------|-----------------|
| Expenditure for filing fee, | \$10.00 |
| Printing, etc., lists of names, | 50.00 |
| Announcements, | 75.00 |
| Postage, | 30.00 |
| Cigars, | 10.00 |
| Hotel bills, | 10.00 |
| Incidentals, | 25.00 |
| | <u>\$210.00</u> |

- - - - -

John Doe, Democratic candidate for Representative for the 63rd Leg. Dist. at the primary election held Sept. 20th, 1910, being duly sworn, - - etc., affirms, --- etc., all expense incurred by him in furtherance of his nomination, to the best of his knowledge and belief, in as full and complete statement as - - etc., is the sum of ten dollars paid as filing fee.

One statement was a little more detailed:

W. S. Hammond, Candidate for Congress, Sec.
Dist. Nov. 8, 1910, at general and primary
election, etc. - -

Receipts - - - - -

Expenditures

| | |
|---|---------------|
| Aug. 1910, Filing fee, | \$20.00 |
| Sept. 20th to Oct. 8, personal expense transportation and livery, | 80.00 |
| Sept. 1910, Blue Earth Co. Campaign Committee, | 50.00 |
| Personal expense, hotel, trans- portation, livery, | 140.00 |
| Hall rents for public meetings, | 120.00 |
| Rent of Mankato Opera House for public meeting, | 50.00 |
| Postage, | 130.00 |
| Newspaper and advertising, | <u>110.00</u> |
| Total - - - - - | \$700.00 |

The Corrupt Practices Act R. L. 1905, provides against, and makes felony, ⁽¹⁾"personation", "repeating", "offering duplicate ballots", "direct and indirect bribery", "the receiving of a bribe", "negligence in printing and care of ballots" as hitherto defined and specified in Sections (5, 1, & 4, of c. 277 of 1895 laws). In addition, ⁽²⁾wilful injury to voting machines, is made a felony and it is further provided that, "Every person who shall wilfully take or carry away from the polling place, or deface, mutilate, damage, or add to, any poll book, ballot, list, or register, or any name or figure therein, shall be guilty of a felony." ⁽³⁾Also, "Every election officer or other person required by law to safely keep and produce on election day the ballots intrusted to him, or to perform any other act, who wilfully fails or refuses to do the thing so required, or who is required by law to abstain

(1) Secs. 359, 360, 361, 362, 363, 369 R. L. 1905.

(2) Gen. Laws '99, c. 315, 36; R. L. 367.

(3) R. L. 1905, Sec. 374.

from any act, and wilfully does such act, or who in either of such cases, is guilty of any fraud, corruption, partiality, or misbehavior in conducting or aiding in the conduct of any election, or in canvassing or making returns of votes, or who wrongfully refuses to make, or deliver any certificate of election, or who falsely or corruptly performs any required act, the punishment whereof has not been otherwise expressly provided for by law, shall be guilty of a felony."

(1)"Every messenger appointed by authority of law to receive and carry a report, certificate, or certified copy of any statement relating to the result of any election, who shall wilfully mutilate, tear, deface, obliterate or destroy the same, or do any act which shall prevent the delivery of it as required by law, and any person who shall take away from such messenger any such report, certificate, or copy, with intent to prevent its delivery, or who shall wilfully do any act

(1) Sec. 375, R. L. 1905.

herein specified, shall be guilty of a felony."

(1) Misdemeanors are as follows:

"Every secretary of a delegate convention, who fails or neglects immediately, to deliver to the officer charged with the printing of the ballots upon which the name of a candidate of such convention is to be placed, the certificate of nomination of such candidate, shall be guilty of a misdemeanor." To give definiteness, "immediately, should be made a certain definite period by the law.

(2) The printing of defamatory circulars in an irresponsible way, concerning a candidate's character is made a misdemeanor. (3) "Every person who, as principal or as an official or agent of any other person, shall directly or indirectly, refuse, abridge, or in any manner interfere with any of the peivileges or immunities of any employees, himself or his principal granted by this chapter", is guilty of a misde-

(1) Sec. 368 R. L. 1905

(2) Sec. 370 R. L. 1905.

(3) Sec. 371 R. L. 1905.

meanor."

(1)"Every person, except a judge, who during any canvass of votes shall handle, touch, or interfere with any of the ballots being canvassed, and every judge permitting the same to be done, is guilty of a misdemeanor."

(2)"Every election official or other person who marks the ballot of any voter, except in the cases and in the manner provided by law, or who informs any person other than such voter how any such ballot was marked" is guilty of a gross misdemeanor. A candidate for nomination or election who makes any unlawful expenditure, that is to say, within two days before any primary election, or within sixty days of a regular election, at which primary or regular election he seeks nomination or election (3)"directly or indirectly, gives or provides, or pays, wholly or partly, or promises to pay, wholly or partly, the expense of giving or providing any food,

(1) R. L. 1905, Sec. 372.

(2) R. L. 1905, Sec. 373.

(3) R. L. 1905, Sec. 375.

drink, or entertainment to or for any person with intent to corruptly influence such person to give or refrain from giving his vote," etc., is made guilty of a misdemeanor. (1) Failure of a treasurer to file a proper statement within the time limit, is a misdemeanor. (2) The failure of the treasurer to keep an open and true account according to the details of the law makes him liable for misdemeanor. (3) Failure to file such statement, on the part of a candidate, constitutes a gross misdemeanor.

(1) R. L. 1905, Sec. 377.

(2) R. L. 1905, Sec. 378.

(3) R. L. 1905, Sec. 379.

Setting aside the question of the very doubtful state of constitutionality of a part of the Minnesota Law against Corrupt Practices, considered in a practical way, several features present themselves which arouse grave doubts as to whether its framers ever expected to have it taken seriously either by themselves or others. As a means of coping successfully with modern forms of corruption under existing circumstances, it appears defective in several very vital particulars.

The determinative feature of such a law is its provision for effective enforcement. Ostensibly, under this act the Attorney General is made responsible for its enforcement, for it is his ⁽¹⁾ duty within ten days after receiving an application together with the proper bond for contesting an election, to begin action against said public officer. Suppose that the Attorney General for any reason wishes to ignore

(1) c. 277, 1895, § 11.

such petition what pressure may be brought to bear upon him under the law? It states that (1)"in case the Attorney General shall fail to begin such proceeding within ten days, the petitioner may begin and conduct the same in the name of the State." The law has failed for some unaccountable reason to mention what may lawfully happen to such Attorney General in that case. Moreover, the Attorney General performs his lawful duty under the act when he prosecutes a person in the name of the State upon proper application made to him by any voter. The Attorney is not expressly given the initiative in the matter, although doubtless, he might exercise that right if he so chose. The law should expressly state that it shall be the duty of the Attorney General to enforce all the provisions of the law and to take action for that purpose upon his own initiative and also upon petition made by any qualified voter. For this

(1) R. L. 1905, Sec. 352.

purpose the various States Attorneys should be under the direction of the Attorney General and it be made their duty by law to notify the Attorney General of any cases of corrupt practice coming under their direct observation which they may suspect, or those to which their attention has been directed by a qualified voter of their county. This would be to have corrupt practices treated as is their nature, as serious crimes against the public welfare,- punishable as such in the name of the State.

A further weakness of the law which must naturally be an obstacle to effective enforcement, is that the officers upon whom devolve that duty, are partisan officers, elected by partisan voters for short periods. There should be some check upon their activities in some way, either by appropriating funds, thus giving the grand jury independence of action in case of a failure of a state's attorney to

procedure or by creating a permanent body of, say, three judges appointed by the governor to hold office during good behaviour, who should be ready at all times to take cognizance of reported cases of corrupt practices. The latter plan would involve more expense, but it would create for the purpose a more impartial and experienced tribunal since they might be called upon to judge a case in connection with one political party one week and with the opposite one the next.

There is no object under the present law for anyone but an opposing candidate, looking to the spoils, to bring in a petition on the ground of corrupt practice since adverse judgment will render him and his sureties liable for all costs. The effect of the law is to limit the number of petitions to just this number, which in any case, would be very small in comparison with the actual number of viola-

tions.

The purpose of curtailing campaign expenditures is not only to make possible the securing of election of men of moderate means to public offices but to protect the electorate from those influences which tend to distract the attention of the electorate from following their independent judgments in casting of their votes, by appealing to the innate attraction toward the spectacular and their lower faculties. The problem is how to curtail all expenditures to legitimate purposes. The Minnesota law attempts to control merely the expenses of candidates. It should go much further to be effective, providing that all persons and associations whatsoever expending more than a certain minimum sum shall make itemized statements of the same character, covering the same time, as do the candidates and treasurers of political parties. These should be required

as should candidates and treasurers of political committees to accompany all such statements by vouchers for all amounts spent over a certain sum, say five dollars. All contributions of corporations to campaign funds should be absolutely forbidden. The law should provide also for the presentation of all lawful claims against candidates or committees within a certain specified time, making it a misdemeanor to pay such sums after the expiration of the time limit set. All claims should be required by law also to be paid within a certain time after an election and the statements of expense to be filed after that date.

The clause regarding intimidation should be made to cover any threat, express or implied, made by any employer of labor or his agent in any manner or form to induce his employees to vote for or against a candidate, or candidates, or vote or refrain from voting for any measure before the people.

The several provisions against bribery should be condensed into one or two clear, definite provisions against the same, with additional provisions forbidding solicitation of candidates on the part of organizations for various public, charitable and philanthropic purposes and make such solicitation or payment for that purpose a misdemeanor. It should be made a felony for any candidate to promise any office, place or emolument of any kind or promise or promise to endeavor to procure the same for any person whatsoever as a means of securing votes or causing any one to refrain from voting or for any person to solicit a candidate for such office during the period of candidature.

In order to ensure statements in proper form and at the proper time, it should be made the duty of the officer with whom the statements are lawfully filed, to examine the same and take steps to cause

such statements to be filed.

The law fails to cover the paying of any money or other valuable thing to secure the withdrawal of any person from being a candidate or to induce him to become one. The paying of such money or the receiving of it should constitute a felony.

Betting, as a form of bribery, should be made felony and not only the printing of false statements concerning the character of a candidate, but any false statement wilfully published whatsoever to influence public opinion as to political matters should come under the law.

As the law now stands, it is acknowledged by many authorities to be practically ignored. If the people of Minnesota desire an effective law against Corrupt Practices, it will be necessary to pass an entirely new law or to amend it along the lines laid down in this chapter. Above everything else, it is

necessary to cultivate in every possible way in children, by their public school training, and the electorate by continued agitation upon the subject, the importance of enforcing such a law as a part of their sacred duty as citizens of the United States, and Minnesotans.

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* CHAPTER V *
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ESSENTIAL FEATURES OF CORRUPT PRACTICE LEGISLATION:

A CONCLUSION

Under a Republican form of government where the highest offices of the city, state, and nation, are elective, and upon these comparatively few elected individuals is thrown the responsibility of expressing the people's will in legislation and administration, more than ordinary interests are at stake in their selection. It becomes the duty of the State to protect to the fullest possible extent the purity of elections by passing and enforcing laws for that purpose. The honest voter must be left free to cast his ballot in accordance with the dictates of his independent judgment, while the unscrupulous, is restrained from betraying the state

into the hands of the enemies of clean politics and good government for mere sordid reasons. All influences tending by appeal to the spectacular, convivial and self-seeking tendencies of the electorate, to distract it from the real issues at stake in an election, as well as all actual intimidation, bribery, personation, solicitation, etc., which if allowed free play will soon destroy all semblance of self government, must be strictly prohibited.

It is said that in spite of all laws against electoral corruption that it still continues and the question naturally follows, "Why pass such laws, since there is always some one, or many ways of evading them?" As well question the practicability of passing laws against murder, since men continue to kill each other. While human beings are ignorant, vicious, selfish, and unscrupulous, there will be more or less corrupt practices as other forms of crime.

That fact cannot excuse the government from acknowledging openly by law, the seriousness of such crimes, and by that means setting forth the highest possible standard for shaping public opinion. It should by utmost vigilance and energetic enforcement, impress the electorate by actual contact with the workings of the law, with a keener appreciation of its duty to cast clean ballots and the practical difficulties attendant upon violating corrupt practice laws. Corrupt Practices may not be entirely stopped, yet the character of elections and activities in connection with them, will be put upon a higher plane.

It should be remarked, that the duty of the public toward checking such crime is not fulfilled alone through legislating directly against it and providing heavy penalties for violation. The states owe the youth of their population, who leave

the public schools to assume the duties and responsibilities of citizenship, a preventative training. Probably nine-tenths of the students in public schools today are given no instruction in the basic principles of citizenship other than a bare skeleton of government, studied possibly for one-half year during the senior course. There is an entire absence of instruction in the distinction between private and public rights, the nature of corporations, as distinct from individuals and their relation to the government and the public. The duty of citizens, when public and private interests clash, is not emphasized, or the importance of serving as a witness or juror. This is a reason why so few men have a proper consciousness on such subjects and a very great reason why corrupt machine government and corporate interests have been so long able to control our city and national politics. It is impera-

tive that such a training be made compulsory for all students in the public schools, especially when there is taken into consideration the character of the immigrants now settling in the United States and the more rapid increase in the birthrate among the poorer, more ignorant and entirely foreign classes of society. Such action will stimulate that public sentiment which alone will be the most effective factor in guarding the purity of the ballot and placing electors and candidates above suspicion.

Having reached the conclusion that it is the duty of the government to frame and enforce comprehensive corrupt practice laws, there remains the problem of so framing them that the desired results may be brought about most speedily, effectively, and at the same time, with least expense to the state. Because of the lack of uniformity in the election laws of the various states, due to historical, economic, and social

differences, it is impossible to frame any one law which would operate equally well in all states. However, as the purpose and results to be attained remain the same at all places and at all times, it is possible to suggest in general terms some features which must be incorporated in any law to make it effective, leaving the exact form to the body passing the law.

The factors whose activities are to be controlled under the law are: the candidate and his authorized agents, political parties, election officers and the public, comprising individual citizens, associations of various sorts and corporations. In addition, provision must be made for efficient enforcement.

The scope of all corrupt practice laws must be clearly expressed, leaving no doubt of their application, which should cover primary and general

elections, and all candidates for elective office in cities, counties and state, representatives in Congress, and presidential and vice-presidential electors.

There should be a list of carefully defined terms which are used throughout the law covering, "candidate"; "political party"; "political committee"; which should be so defined as covering all associations of two or more persons united to further or defeat the interests of a political party, candidate, or candidates, or to support or defeat a measure or measures before the people; "person", which should include associations; "contribution", which should include money, securities of various kinds, in fact everything of value; "filing officer".

Legitimate purposes to which campaign funds may be put, should be carefully enumerated. In general, the list would include all items of expense

necessary to acquainting the electorate with candidates personally and placing before them in an effective manner, their principles. Such items include the personal traveling expenses of the candidate and his authorized agents, the hiring of rooms, or places for public meeting, furnishing lights, music, and speakers, the renting and properly furnishing of rooms for political headquarters, communication expenses, the printing of campaign literature, postage, challengers at polls, watchers of the counting of ballots, and the conveyance of infirm voters to the polls. The conveyance of persons who do not bear a certificate properly endorsed by a competent physician as to their physical inability to attend unaided, should be unlawful. Having defined the legitimate expense items for conducting a campaign, the paying of money or contributing in any way, by a candidate or his agents for any other purpose should be made a mis-

demeanor. .

Inasmuch as the candidate is to be limited in the amount of expense he may incur in conducting his campaign, to an amount sufficient to make an effective canvass and presentation of his principles, it would seem fairer to base the maximum amount upon the total number of qualified electors in the district in which the candidate is to be elected rather than the amount of yearly salary attached to the office sought.

Every political committee must be required to have a treasurer through whom all contributions are to be received and made for all purposes. Every member of the committee acting in such capacity, should be required to report the same to its treasurer immediately and in a detailed way. The treasurer's account must state the name of the person making or securing contributions or payment, the date, amount, and purpose of such contribution or payment.

Each candidate should keep a similar account of all contributions or payments, made or received during his candidature for any purpose which furthers his campaign interests. The activities of the public should be curtailed by compelling every "person" making contribution or incurring any expense or liability in furtherance or defeat of a political party, candidate or candidates, measure or measures, before the people, over an amount, say, twenty-five dollars or fifty dollars, to keep a like account.

All claims against a political committee or candidate for campaign purposes must by law be required to be presented to them respectively before a certain specified time after the election. Payment of claims presented later, should be unlawful. All such claims should be paid within a definite time after the election and any payment thereafter be unlawful.

Within a certain specified time the treasurer of "political parties", "candidates", and "persons", covered by the law, should be required to file statements with the proper filing officers, giving the total amounts of the contributions made and received, the name of the person contributing or receiving, the date and purpose for which each item was made or received, accompanied by proper vouchers for all amounts over five dollars received or expended.

It should be the duty of the officers with whom such statements were filed, to examine all of them and the vouchers, within a certain fixed time, noting any failures to file and any irregularities in the statements filed. These officers should be authorized by law to order statements not filed, to be filed and irregular statements, to be made complete. Upon the failure of delinquents to comply to the order of such officers, within a certain specified time,

such officers should be allowed to get a mandamus from a proper court for the purpose.

Failure to file within the time set, the proper statement upon the order of the filing officer, should be sufficient ground for making the candidate elected void his seat.

The statements so filed, should be kept by filing officers as a public record for six months after the officers' elections to which they refer.

The filing officer must be strictly prohibited from issuing any writ of an election to any elected candidate until the candidate has filed the required statement accompanied by the proper vouchers.

Any wilful false statement in the statement of expenses, should be perjury and punishable as such.

The law should provide punishment for registering as a voter where disqualified, and fraudulent

voting. False swearing, when challenged at the polls, should be perjury.

"Impersonation" should cover calling for the ballot in the name of another, whether it be the name of a person living, dead or fictitious, and every person who having voted at an election, votes again at the same election.

"Bribery", should be defined explicitly enough to cover all the forms comprised in the English law of 1883, together with contribution to induce a candidate, or candidates, to withdraw from being candidates, or to run, or not run as candidates at any election. It would include any betting made before or during an election, with the purpose of influencing a person's vote, upon the result of the election, either as to which party will poll, or did poll, the most or least votes, which candidate or candidates will be elected or defeated, etc., and

should be punishable accordingly.

"Treating", could be defined in terms of the English law of 1883.

"Intimidation", would cover any force, violence, threat, and implication, direct and indirect, express or implied, made to induce "a voter to vote or not to vote, etc." at any election.

"Impersonation", bribery, treating and intimidation should by law, be punishable as felony.

Attempting to commit any of these offences would constitute a misdemeanor.

It should be unlawful for a candidate to ask, or seek to induce, or suggest to a political committee, association, or person, to do any act which under the law would be unlawful for him to do, in which case the act should be considered as done by him and work forfeiture of office.

No person should be allowed, under penalty

of misdemeanor, in behalf of an association, charitable, religious, social, or philanthropic in nature, to solicit any contribution from a candidate for such purposes. Any such contribution so made by a candidate, would constitute a misdemeanor, except that a candidate might be allowed lawfully to contribute habitual amounts to such organizations of which he^{ey} has been a member or contributed to at regular intervals for two years preceding the election, providing the books of such an organization show such contributions to have been made.

All printed matter in connection with an election, should be required to so bear upon its face the name and address of the person responsible therefor and the printer, or both, that there may not be the least difficulty in tracing and fixing responsibility for the same.

All false statement of fact concerning a can-

candidate's personal character, or political actions, wilfully made with the purpose of hurting his chances of election, should be a felony. Furthermore, any false statement of political facts, made with a like purpose and wilfully, should also be made perjury.

No polling place should be located in a place where intoxicants are sold or given away. Saloons should be closed from 5 A.M. to 9 P.M. on election day and the responsibility of enforcement, on penalty of forfeiture of office, rest upon the mayor.

Any person, whether candidate or not, being convicted of a felony under the law, should be disfranchised for a certain period that the legislature may determine, preferably three to five years. Immediately upon conviction by a competent court, it should be the duty of its clerk to send the names of all such convicts to every county auditor in the state and the duty of such auditor to enter the name of such

convict as disfranchised upon his books, and the same be a public record.

No person other than the election judges, should be allowed to touch ballots in any way during or after an election, and any election judge permitting the same, should be held guilty of felony.

Most states have the punishments prescribed for felony and misdemeanors under corrupt practice laws, given either as a fine or imprisonment, or both. The California law is an exception, providing imprisonment as punishment in nearly every case. This form of punishment would very surely have a more prohibitory force in curtailing such crimes because money is not hard to obtain and the disgrace attached is not so poignant.

In prohibiting corporations from making campaign contributions, it is necessary to hold both the corporation and the officer making, or authorizing

the making of the contribution, liable, together with the person who solicits it and to place such a penalty upon the violation of the provision, as to make it effective in reaching powerful ones.

The most determinative feature of any law with respect to efficiency are its provisions regarding enforcement and these appear to be the weakest parts in all the American Corrupt Practice laws up to the present.

The enforcement of the laws is left to partisan officers, elected for short terms, and dependent upon the sentiment of their respective electorates for return to office, or for practice later. The trial of contested elections is left to the local courts, reflecting necessarily, consciously or otherwise, the sentiments of the local community. Moreover, although voters are allowed to petition for contesting elections, each petition must be ac-

accompanied by a bond to the state of from one to two thousand dollars, with proper sureties. In case the voter wins the suit, he loses in no way, but so great is the chance of justice miscarrying that the fact is, the voters do not petition.

The petitions filed for contests are then limited to those of opposing candidates, who confident of gaining the office in event of successful suit, sometimes petition. In many cases though, the opposing candidate fears to have the light of judicial inquiry thrown upon his own actions, and fails to file a petition. There is too, in these instances, no hint of that public spirit which would punish corrupt practices for their own sake, so necessary to impressing an electorate with a proper attitude toward them, but only a selfish motive of personal aggrandizement.

In actual practice it is not so simple to

meet these difficulties, since to allow qualified voters to petition without any bond being required, would mean to make possible contesting elections upon mere caprice, a condition equally undesirable.

Two plans suggest themselves. The first, for several reasons, would be preferable, while the second in case the first were not adopted if properly conducted, would at least make enforcement more probable.

The first, suggested by the English plan, is to have the legislature set aside by appropriation a fund to maintain the purity of its elections. Out of this fund would be maintained a Commission of Elections, consisting of three men, belonging to different political parties, appointed by the Governor, for a term of five years. It should be the duty of this commission, when notified by the state's attorney, or by a qualified voter, of the existence of corrupt practices at any election, to make investigation of

all such cases. The commission would be empowered by the law to compel witnesses to appear before them and testify and no evidence could be withheld by such a witness on the ground that it would tend to incriminate him. Upon the report being given that corrupt practices were committed the case or cases would be tried by a rota of three judges, to constitute a Court For The Trial of Contested Elections, appointed by the Governor, during good behaviour, and paid from the fund set aside.

This plan would be to cause such cases to be investigated and tried by impartial men, independent of local influences and above the ordinary electorate in ability and training. No bond need accompany the notice given by a voter of such violations, since every case before reaching the court stage, would be thoroughly investigated by the commission. In case the accused were found guilty, all

the costs of the prosecution could be rendered against him, thus making the system largely pay for itself.

The second plan suggested, is to make the various states' attorneys still responsible for enforcing the law and it be their duty to presecute all cases of its violation, before the local court where the offence occurred. Any qualified voter of the county where the corrupt practice was committed, would be allowed to petition the state's attorney to have any election contested. When the attorney receives such a petition, it is to be his duty to at once turn it over to the Grand Jury for investigation. The jury are to investigate the case and bring in an indictment when the evidence is sufficient. The case would then be prosecuted by the state's attorney before the local court after the usual plan. In such a scheme, the freedom of a voter in initiating investigation, is left unchecked by a necessity for

a bond to the state in any amount.

As a check upon the state's attorney, who for reasons may refuse or fail to prosecute, the local court itself might be given the power to employ any attorney it so chose for prosecuting it, or the county might set aside a small fund for the use of the Grand Jury in this respect. This would be to make the Grand Jury independent of the state's attorney, in case he did not prosecute, or for any reason the Grand Jury felt confident that he would not prosecute the case vigorously.

The weak point in such a plan is obviously the Grand Jury. To make the plan effective, the personnel of the body in so far as possible would have to be raised. The appointment of the body might be put in the hands of the District Attorney rather than the sheriff, which would tend to raise it somewhat. However, the fact would still remain that the investiga-

tion and trial of the contested elections would still be by local bodies, which reflect the local public sentiment and political consciousness, which would always be a feature susceptible of weakness because dependent upon the tone of the Grand Jury against electoral corruption. Under a strong Grand Jury, one of the great difficulties of existing schemes would be obviated, since the proceedings of the body being always secret, no injured party or interests, could make such contests a reason for injuring any parties to the contest afterward.

The first plan is much the better, the second being offered as causing little change in the existing mode of enforcement, and little added expense, as a temporary means of bettering the enforcement of such a law in case the state were not ready to take such a decided step as the first plan suggested. I should by all means advocate the formation of state

commissions of investigation, and a separate court for the trial of contested elections, in every State in the Union as a step proving that the American people are serious in their demands for a true People's Rule System of Government.

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