THE ESSENTIALS OF SELF-GOVERNMENT

[ENGLAND & WALES]:

A Comprehensive Survey, designed as a Critical Introduction to the Detailed Study of the Electoral Mechanism as the Foundation of Political Power, and a Potent Instrument of Intellectual and Social Evolution; with Practical Suggestions for the Increase of its Efficiency.

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Well roars the storm to those that hear
A deeper voice across the storm.

—TENNYSON, "*In Memoriam.*"

In this, as in all other matters, it is well to make our ideal the highest possible. If we aim at the highest mark we shall, in this imperfect world, most likely not hit it, but we shall assuredly come much nearer to it than if we are content to aim at a lower mark.

—*E. A. FREEMAN, "Cathedral Church of Wells," p. 58.*

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The Four Canons of Self-Government.

First Canon:

Governing the Suffrage and the Registration of Electors.

The electoral rights and privileges of citizenship should, as far as possible, be inseparably associated with its obligations, and this without distinction of sex: so that the State shall not proceed to enforce the discharge of the obligations, especially in the shape of rates and taxes, until it has conferred the rights and privileges, or furnished in each individual case a definite and legitimate reason for its refusal so to do.

Second Canon:

Mainly Governing the Distribution of Seats: the Selection of Candidates: the Nomination: the Payment of Members and Election Expenses and Returning Officers' Charges.

The area from which the political organism may select the exponents and instruments of its legislative will must be co-extensive with the mature (i.e., the adult) intellectual faculties of the organism itself, and the selective power must be distributed and uninterruptedly maintained in strict proportion to the respective development of the various constituent elements which make up its political individuality, so that the expression of its desires and aspirations may take place with the maximum of precision and freedom, and the realisation of its resolutions with the maximum of efficacy.

Third Canon:

Mainly Governing the Actual Contest: the Party System: Corrupt and Illegal Practices: the Arrangements for the Poll: the Act and Mode of Voting.

The electoral verdict should be the superior aggregate of the largest attainable collocation of deliberate individual judgments, not the merely mechanical consensus of the majority of the mass. 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.

Fourth Canon:

Mainly Governing Election Petitions and the Dismissal of Members.

The electorate should possess not only the sole right of electing, but also the sole and uninterrupted right of dismissing, a member, subject in each case to carefully defined safeguards: so that the relation between the Government and the electorate may be such as to enable the latter to exert an instant, continuous, and irresistible influence upon the former, by way of stimulus, control, and check.

THE ESSENTIALS OF SELF-GOVERNMENT.

CHAPTER I.
Introduction.

The political thought of the present generation is still profoundly influenced by the great name of John Stuart Mill. There is the less likelihood of any immediate change in this attitude of respect, because we have in political activity among us, and may hope to have for years to come, some at least of those who drew their earliest civic breath in an intellectual atmosphere which Mill himself had diffused. But Mill disliked many of the political expedients which the present generation has come to contemplate with comparative equanimity. He criticised the ballot and distrusted equal suffrage. He greatly feared the tyranny of majorities, and doubted if reason and sound argument could always be relied upon to secure ultimate predominance in the political arena. So far, however, as the great philosopher carried his speculations they still remain the foundation of many of the soundest conceptions in political science, however variable may be the nature of the superstructure which different minds may erect upon their firm support. In other directions, where Mill seems to have had a mistaken, or at least an imperfect, opinion of the real tendency of the political phenomena which he saw around him, we, who have had the opportunity of studying them on a larger scale, may, perhaps, venture to add an appendix to his conclusions, and even to offer the suggestion that the Representative Government which he described, dissected, and criticised, did but exhibit a stage in human progress destined in time to give place to a more advanced development, in the shape of self-government. We are concerned here, then, to consider what self-government, as distinguished from representative government, is, and what are the conditions of its attainment and maintenance in efficiency—that is to say, what are the Essentials of Self-Government.

The Meaning of Self-Government.

The development of the political organism has proceeded at an accelerated pace since Mill quitted this mortal scene, and into the movement there have entered, and will enter, agencies and

processes whose activity doubtless he foresaw, but the operation of which it would have been futile to discuss in detail in his day. Looking out over the political phenomena of our time and nation the question may well be asked whether the hour has not come for a reaffirmation, in the light of the experience of the last thirty years, of Mill's basic principles, with the addition of other conclusions to which our rapidly evolving political experience has conducted us, or caused to loom upon the intellectual horizon. Mill's principles are now, to the utmost verge (given a complete suffrage), capable of continuous application by means of a popular control of representative institutions which shall not slacken for an instant, or ever release the movement of the central governing power from the effective supervision and mastery of those in whose interest it is allowed to possess its authority. Employed in this sense, Mill's principles are the stepping-stones from a lower to a higher form of political activity—from representative government, which involves periodic delegation of power, with only slight control in the intervening periods, to self-government, which rids us of the interregnum of greater or less irresponsibility, and enables the civic body almost instantaneously to check, control, guide, or dismiss the authority which is attempting to employ its delegated powers in a manner that does not commend itself to the national mind. That organism which is capable of the continuous initiation, guidance, and co-ordination of its own actions stands on a much higher plane than that which is only able from time to time to choose some external intelligence to which the direction of its movements shall be entrusted. It is true that we have been accustomed to speak of representative government and self-government as being practically the same thing. Up to the point which our own political development has now attained this is, in effect, true. Representative government is the mode in which in this country self-government acts, the manner of its manifestation. But it is not self-government, any more than the physical man is himself the life and the individuality which find in mind and muscle the more or less supple instruments of their operation. If we can imagine mind and muscle, in their highest and best development, freed from the restraints and vexations of physical inadequacy and terrestrial limitation, we may get some idea what is the difference betweeen merely representative government, however highly developed, and the genuine self-government which transforms the citizens from a temporarily deliberative into a continuously controlling element of the civic organism.

"Representative Government" Does Not Exist.

Tested by Mill's own definition, our system does not even amount to true representative government; for, says the great

exponent of its nature and characteristics, "the meaning of representative government is, that the whole people, or some numerous portion of them, exercise, through deputies periodically elected by themselves, the ultimate controlling power which, in every constitution, must reside somewhere. They must be masters, whenever they please, of all the operations of government." Neither the people, in the widest sense of the word, nor the electors, are in these islands "masters whenever they please of all the operations of government," except in so far as they have the ultimate power to assert their mastery at any time by united physical force. Apart from that last and worst resource of desperate subjects, their only real and continuous power over the Government lies in the manifestation of their sentiments at bye-elections. Except for such notice as it may think fit to take of these phenomena, any Government in this country may, under existing constitutional circumstances, pursue its course in serene indifference to, or defiance of, the wishes of the electorate. It is a striking and perhaps almost a melancholy fact that in the land to which the world looks for its models of representative government, representative government does not exist—at least in a form consistent with Mill's definition.

That this is the fact may, without difficulty, be shown, by considering, with some slight detail, a few of the central and pregnant enunciations of principle which are to be found in Mill's "Considerations on Representative Government." "Everyone is degraded," says Mill ("Representative Government," Chapter VIII.), "whether aware of it or not, when other people, without consulting him, take upon themselves unlimited power to regulate his destiny." He is arguing for the extension of the suffrage; but is not the observation equally true of a nation which, being politically adult, and endowed with an unexampled experience and power, parts with its power of self-control for periods of seven years at a time? Yet, Mill tells us that a form of government may be negatively defective "if it does not sufficiently develop by exercise the active capacities and social feelings of individual citizens." "Sufficiently" is a relative term; but if we interpret it as signifying "up to the full limit of their ability for the time being," we shall immediately realise that our own system is a form of government which is within Mill's definition of those that are negatively defective. Further on in his argument he elaborates his meaning by urging that it is also a negative defect in government if it does not bring "into sufficient exercise the individual faculties, moral, intellectual and active, of the people." "As between one form of popular government and another," he proceeds "the advantage in this respect lies with that which most widely diffuses the exercise of public functions; on the one hand, by excluding fewest from the suffrage; on the other, by opening to all

classes of private citizens, so far as is consistent with other equally important objects, the widest participation in the detail of judicial and administrative business, as by jury trial, admission to municipal offices, and, above all, by the utmost possible publicity and liberty of discussion, whereby, not merely a few individuals in succession, but the whole public, are made, to a certain extent, participants in the government, and sharers in the instruction and mental exercise derived from it." The allusion to jury trial naturally suggests the inquiry whether there is no means by which the constituencies could play as continuous, powerful, and predominant a part in the conduct of public affairs as a jury plays in a court of justice. The idea that a jury would exercise any active control if it were asked to select another jury for the actual function of finding upon the issues of fact, and to place it beyond the reach of public interference for seven years, is so absurd that to formulate it is to destroy it; yet this is the system which, applied to the management of national affairs, we call representative government. And, clearly, when Mill goes on to speak of the whole public being made "to a certain extent" participants in the government, he exposes the weakness of his position, for the determined analyst of the constitutional blend of forces must ask at once, "Why not to the whole extent?"—that is, to the whole extent which their capacity justifies, and which the existing machinery can sustain and perform. Doubtless Mill contemplated the public capacity for receiving and exercising a share of active power, "to a certain extent," as a variable function; but whether that is the case or not, variable it certainly is, and when it pursues a course of constantly increasing potency, we must recognise the change and bring the other functions into line with the modified necessities of the case.

Mill's Ideals of "Representation."

When he considers the effect which would be produced by the larger and closer association of the citizens with the management of public affairs, Mill ("Representative Government," Chapter III.) refers to the effect of the Athenian system upon the intellectual standard of the Athenian citizen, and proceeds to urge that "a benefit of the same kind, though far less in degree, is produced on Englishmen of the lower middle-class by their liability to be placed on juries and to serve parish offices, which, though it does not occur to so many, nor is so continuous, nor introduces them to so great a variety of elevated considerations, so as to admit of comparison with the public education which every citizen of Athens obtained from her democratic institutions, must make them, nevertheless, very different beings, in range of ideas and development of faculties, from those who have done nothing in their lives but drive a quill, or sell goods over a counter." But is there

not in these considerations an overwhelming argument in favour not only of training the faculties of the citizen in the minor public offices, but also of stimulating his interest in the working of the higher and more elaborate mechanism of statesmanship? Certainly the standard of intelligence in the lower middle-class is at this moment infinitely higher than it was when Mill gave to the world his "Thoughts on Representative Government." The administrative and tactical skill displayed by the great trade unions is far above anything exhibited or attained by the lower middle-class with which Mill was acquainted. But, if anything, the actual machinery of government has been moved further away from this section of the community, and not nearer to it, during the last forty years. Yet, when Mill comes to apply these comparatively enlightened principles, we find him arguing that, "since all cannot, in a community exceeding a single small town, participate personally in any but some very minor portions of the public business, it follows," ("Representative Government," Chapter III.) "that the ideal type of a perfect government must be representative." It can hardly be doubted that the conception which had been formed in Mill's mind, and to which expression was given in the word "representative" in this sentence, was that of continuous representation, as distinguished from the intermittent representation which (even assuming it to be representative at all) is the leading characteristic of our present system as we see it in operation in this country. "There are no methods of combining these benefits," Mill asserts, the reference being to the combination of popular control with skilled legislation and administration, "except by separating the functions which guarantee the one from those which essentially require the other, by disjoining the office of control and criticism from the actual conduct of affairs and devolving the former on the representatives of the Many, while securing to the latter, under strict responsibility to the nation, the acquired knowledge and practised intelligence of a specially trained and experienced Few." All this, as an enunciation of general principle, is profoundly true; but if the attainment and maintenance of these conditions be an essential of representative government, we are again brought face to face with the truth that representative government does not exist in England.

Periodical Delegation of Sovereignty.

The truth is that at every point the measure of control exercisable by the nation fails to come up even to the modest standard set by Mill. "Instead of the function of governing, for which it is radically unfit," says he, "the proper office of a representative assembly is to watch and control the Government, to throw the light of publicity on its acts, to compel a full exposition and justification of all of them which anyone considers questionable, to censure

them if found condemnable, and, if the men who compose the Government abuse their trust, or deal with it in a manner which conflicts with the deliberate sense of the nation, to expel them from office, and either expressly or virtually appoint their successors. This is surely ample power and security enough for the liberty of the nation." Yes, if it were capable of being exercised by the nation, or even if the nation could always count upon its representatives to exercise it. But under our present system the nation itself cannot exercise the power of control or dismissal; and the interests of the majority of the nation's representatives are almost always opposed to the power being exercised at all. For we must bear in mind that the present electoral machinery is adapted to a complete delegation of the sovereign power, by the people in whom it ultimately resides, for seven years at a time. Strictly speaking, even this limit is not absolutely final, for the Septennial Act is itself the enactment of a Parliament whose delegated power had been conferred upon it only for a triennial term. The only existing barriers to the indefinite extension of its own life by a Parliament elected under the Septennial Act lie in the House of Lords, or in the veto of the extending measure by the sovereign, or in the sovereign's exercise, in spite of it, of the prerogative of dissolution. Assuming that the sovereign assented to the extending Act, and that he was willing to abstain from the use of his prerogative, the unfaithful and mutinous House of Commons could only be got rid of by the slow process of the infusion of new blood resulting from by-elections, and even these might be prevented by a refusal to issue the writs.

Political Acquiescence.

It was doubtless a realisation of the almost unsuspected existence of these menaces to national freedom which led Mill up to the declaration, early in Chapter IV. of "Representative Government," that "representative institutions necessarily depend for permanence upon the readiness of the people to fight for them in case of their being endangered. If too little valued for this, they seldom obtain a footing at all, and, if they do, are almost sure to be overthrown as soon as the head of the Government, or any party leader who can muster force for a *coup de main*, is willing to run some small risk for absolute power." This may be true; but at the same time no student of political psychology can have failed to note that as a nation advances in its experience of settled existence, and has a greater stake in the uninterrupted exercise of the arts of peace, the prospect of armed resistance to Government becomes more and more remote. As Froude says, in allusion to the impossibility of interference, except by armed force, with the horrors of the Marian persecution, "a successful rebellion is at best a calamity: and the bravest and wisest men would not

hinder an illustrious cause by conduct less than worthy of it, as long as endurance was possible." Nothing but dire necessity, keenly pressing on a vigorous nation, drove England into the great civil war; and, even when its battles were as yet comparatively fresh in the public memory, and many a veteran of the Cromwellian army was still alive to tell their story, the public instinct against rebellion made Monmouth's enterprise a failure, though, as the events of the next few years demonstrated beyond all contradiction, his ideas were in full accord with those of the people, and his *prima facie* title to reign was better than that which had, in earlier cases, supported a successful claim to the throne. In our own days the fear of armed rebellion (in Great Britain, at all events) does not enter into the calculations of British statesmen, and it is largely for this reason that they are prone, and able, to treat with indifference the clearly-expressed opinion of very large sections of the electorate, upon whom the shadow of a seven-years' impotence has fallen. The state of things which Mill contemplated as almost necessarily calling for the armed remonstrance of the governed does but tend to lull them into a deeper torpor of apathetic acquiescence. Within the most recent political memory the electorate received, with hardly a flutter of dissatisfaction, the proposal that, under an Official Secrets Bill, it should be made a punishable offence to communicate to the nation a knowledge of the proceedings of its own servants, in the conduct of its own affairs.

Sidgwick's Opinions Analysed.

If we seek further illustration, all the more forcible because undesigned, of the fact that representative government has ceased to furnish the nation with an instrument adequate to the expression and enforcement of its will and its needs, we may find it in the words of an observer who stands much nearer, even than Mill, to the political phenomena which are actually contemporaneous with ourselves. The late Professor Sidgwick, urging that the electorate should choose skilled men for the skilled work of the Legislature, pointed out that ("Elements of Politics," p. 374) "most men value highly the control that they acquire by the free choice of their physician over the operation of applying drugs to the cure of their diseases, though they know themselves to be wholly unable to prescribe medicines for themselves. We cannot exactly imitate this in the case of government." The fact is that we are at present scarcely trying to imitate it. The free selection of the physician would be made with considerable hesitation if the patient knew that his choice was irrevocable for seven years, during which period he would be compelled to take whatever medicine his adviser chose to send him, and to submit to whatever operations be suggested, even if it had become clear, long before the

expiration of the septennate, that the treatment was doing far more harm than good. This is an unthinkable state of things in relation to a human being. Surely it should be the aim of modern legislative evolution to confer upon the body politic the same power of terminating a course of treatment, and of manifesting its consciousness that the legislative diagnosis is erroneous, as is enjoyed by the body physical, even of the humblest social rank. The necessity for struggling towards the attainment of this ideal will be seen to be all the greater if we remember that a physician is not given the control of his patient's finances, whereas the legislative practitioner not only secures so much, but may, if the control prove insufficient for his purposes, increase it to any extent short of that which would produce armed rebellion among the victims of the process. As Professor Sidgwick himself remarks: "What has just been said of laws applies with especial force to the rules under which taxation is levied. Such compulsory taking of private property for public purposes is a part of governmental interference which Governments not adequately controlled are specially tempted to overdo, and it is a procedure of which the excess is specially formidable to the governed. As we have seen, the liability to be deprived of an unknown portion of one's wealth by the tax-gatherer is an insecurity against which it is impossible to give complete constitutional protection to the individuals governed; but the insecurity is importantly reduced if the body that regulates taxation is periodically elected by the community at large, and is thus effectively responsible to them." That is to say, Professor Sidgwick indicates the "insecurity," but fears that our best mode of insurance against its risks is to be found in the periodic election of the governing body, and in the imposition, which he imagines to be the necessary result, of "effective responsibility" to the electoral authority. The irresponsibility of the interregnum, and the possible obviation of any appeal at all for the approval, or even the toleration, of the sovereign electoral power, are contingencies which do not seem to have been brought home to the mind of this acute critic of men and things.

Electoral Impotence Illustrated.

It will not be difficult to demonstrate by means of concrete instances from recent political history the absence of any real national control of the House of Commons, such as ought to be possessed under any "representative" system worthy of the name, and is essential to the very existence, nay, the very idea, of self-government. A good instance of the kind of political misconduct which the electorate is, under the existing system, powerless to punish can be found in the early days of Mr. Gladstone's last administration. It is recent enough to be illustrative of present conditions, while at the same time the circumstances themselves are out of the arena of current controversy. On the

consideration of the Railway Servants' Hours of Labour Bill, as amended by the Standing Committee on Law, Sir John Gorst moved the insertion of a clause providing that hours exceeding eight for signalmen and ten for other servants were to be deemed *prima facie* excessive. The Government objected, and the motion was rejected. In the majority there were members who had pledged themselves to the principle which the motion embodied. Some of them owed their seats in the House to their election promises of support for the very proposal against which they voted. To the inquiry, from their constituents, why they had flatly violated their campaign professions before the new Parliament was a year old, some of these gentlemen answered that had they voted for the motion they might have defeated the Government. That was not the case, as the figures (257 to 71) clearly showed; but even if it had been, the fact should afford, in the case of a House of Commons properly and effectively controlled by the constituencies, no excuse whatever for a defiance of the electoral authority by the repudiation of solemn engagements entered into as the price of the bestowal of electoral confidence. A self-governing and self-respecting people has the right to expect, and to insist, that under such circumstances as these the Government, and not the representatives, shall yield. If the Government realises that the representatives, by giving, in opposition to it, the votes which they have solemnly pledged themselves to give, will terminate its existence, it must either resign itself to the inevitable, or bring its policy into line with the opinion of the constituencies. The careful observer of political phenomena will easily believe that had there existed a power (the nature and character of which we shall discuss at a later stage) to compel the immediate resignation of a member with whom his constituents had grave cause to be dissatisfied, some, at all events, of the votes cast against Sir John Gorst's motion would have been cast in its favour. As it was, the indignant electors were powerless: and if their recalcitrant representatives had gone on to affirm that not eight but eighteen hours a day constituted the reasonable period of labour for railway workers, they would have been equally incapable of any interference beyond the holding of futile meetings and the issue of impotent protests. That is a state of things which certainly does not amount to "representative" government, properly so called, much less to self-government. It means that the electorate is in such cases "represented" by the expression of an opinion which it does not hold, and by the record of a vote which is given in opposition to its wishes.

Where Modification is Justifiable.

There are, no doubt, rare instances in which the representative must modify his policy in order to meet the requirements of political

conditions which were not contemplated either by himself or his constituents at the time of his election. That is, or should be, the position of every intelligent agent who has *prima facie* exceeded or disregarded his instructions. If he can satisfy his principals that his actions were inspired by pertinent considerations superior to the literal fulfilment of their injunctions, he has justified himself. An illustration which is fairly, though not quite fully, in point is to be found in the debate of January 27, 1902, with reference to the agreement between the Post Office and the National Telephone Company. A hostile amendment, moved by a supporter of the Ministry, found many supporters in the Ministerial ranks. The Government at once warned its supporters that a defeat would be regarded as a vote of censure. The result was that the mover of the amendment voted against it, and many more of the recalcitrant Ministerialists did the same. But in this case we still had the Boer War on our hands, and a consideration of the consequent critical position of public affairs may well have influenced those members of the House who subordinated their opinions as representatives to their duty as Party units. It must be said, however, that even if there had been no Boer War to consider, the threat of resignation would have brought many of the rebels into the Government lobbies; and, again, that is precisely the state of subordination and sequacity which the electorate ought to have the power to visit with its instant and severe displeasure, when, in its opinion, the censure and the punishment have been merited. The Government must yield to the electorate, not the electorate to the Government. Business could not be carried on in the mercantile world if every agent were at liberty to act in flat defiance of his instructions and promises, and at the same time to claim, and insist upon, the power to retain his office, and to embarrass his principal by further irresponsibility and faithlessness. There is no valid reason why that which would be intolerable in the business world should come to be permissible, and even customary, in the political.

A Waste of National Time.

Mr. Gladstone's last Parliament affords another instance of the waste of national time and toil which results from persistence in a course of policy that is unwelcome to the electorate, and is only possible because of the lack of the electoral power to withdraw, as well as to delegate, the exercise of the sovereign authority. Mr. Gladstone came into office in 1892 with a majority of forty, including the Irish vote. His Government proceeded to the introduction, discussion, and passage through the Commons of the Home Rule Bill, though the "predominant partner" was hostile to the Home Rule scheme, and although the House of Lords was certain to reject it. The spectacle of this futile misuse

of Ministerial power over the voice and vote of its following produced the wave of electoral indignation which ended in the disastrous *débacle* of 1895. Doubtless the Ministry knew what it had to expect, and, at all events towards the end, rode for a fall. What is certain is that if there had existed a power to force the resignation of a member of Parliament, its threatened or actual exercise would have stopped the waste of Parliamentary time upon the Home Rule Bill long before it had passed through the Commons, or else would have intervened, after its rejection by the Lords, to compel an appeal to the country. It may be urged that the Liberal Government had no alternative but to proceed with the Home Rule Bill, since any hesitation would have involved the loss of the Irish vote upon which the continued existence of the Ministry absolutely depended. That may be. To say so much is only to indicate that either by the withdrawal of the Irish vote, or by the compulsory resignation of a proportion of the Liberal members elected for English seats, the Ministry must have been compelled to exchange an undignified existence, on sufferance, for the opportunity of obtaining a larger and decisive majority—in which case it could proceed with the programme thus deliberately endorsed by the electorate—or else of suffering defeat and accepting its consequences. A Government which can only retain its position by the constant employment of the arts of the whip and the wirepuller is simply a constitutional abnormality tricked out in the semblance of an authority which it does not possess. Into the merits or demerits of the Home Rule scheme itself there is no need to enter. What is certain is that when the electorate has committed the sovereignty to Parliament, it should be in a position to see that it is actively and intelligently used as tool and weapon, and not as plaything; or, in the alternative, to remove it from hands that will not wield it seriously. A business house whose managers devoted the whole of many months to the discussion and elaboration of schemes which they well knew themselves to be powerless to adopt, while other and more immediate matters were thrust aside, would soon begin to exhibit the unmistakable stamp of neglect, even if it did not cast the shadow of coming bankruptcy. It is difficult to see why the prerogative of threatened or actual dismissal, which would be capable of exercise against these unprofitable servants by the proprietors of the business, should not be possessed also by the civic intelligences who are, in a very real and true sense, the proprietors of the huge business partnership that is managed from the House of Commons.

The Reproach of Impotence.

The simile may lead us naturally to another curious development of this impotence of the electorate to control the exercise of the power which it is compelled to delegate and of which it is

itself the source. From time to time we are told that large sections of the nation fail to impress their political desires or aspirations upon the contemporary movement of legislation. The income-tax payer is reproached because he only grumbles. But that is the extent of his power. At a general election the question of taxation is involved with innumerable other issues, so that the income-tax payer is unable to pick out and emphasise the particular abuse from which he suffers. But if, in the interval between general elections, the income-tax payer were competent to make his displeasure effectively felt, he would not admonish in vain, and Chancellors would less lightly disregard his claims to relief. The case is the same with the more democratic elements of the community. After the Trade Union Congress of 1908 its methods were criticised as those of impotence.* Part of the criticism was directed against the manner of discussion; but the critic proceeded to say: "There is something wrong about it, a sort of paralysis which condemns it to a weary round of stereotyped and worn-out common-places, or fallacies, petty squabbling, and impracticable proposals. . . . There is no life, no freshness, no movement." But how can there be when the trade unions which the Congress represents, like the rest of the electorate, have irrevocably parted with their share of the sovereign power to a Legislature which, when once the transfer has been completed, turns a deaf—or, at least, an inattentive—ear to their appeals? Whether the schemes and proposals of the Trade Union Congress are sound or not, we may well feel assured that if, having pledged itself to some measure of social reform, it were in a position to intimate to the Government that unless the question received immediate legislative attention fifty Government seats would be emptied forthwith, we should hear no more of paralysis or impotence. It is the political system, the effete mechanism, that is at fault, not the Trade Union Congress or the electorate as a whole.

The Aloofness of Government.

The absence of a power to dismiss a disloyal or mutinous representative, which has been brought into prominence in these illustrative instances, is by no means the only, though it is one of the most serious, flaws in the constitutional machinery, as an instrument purporting to be adapted to the contemporary needs of the nation. Not only are the constituencies practically powerless to stimulate, to control, or to check, but the whole machinery of government tends to become more and more aloof from those by whose authority and power it moves, and who are taxed directly and indirectly to provide the expenses of its operation. This seclusion, or perhaps we may say this aloofness, of

* See *The Times*, September 14, 1908.

Parliament is one of the most disquieting features of the present constitutional outlook. It is all the more disturbing because the nation is almost entirely unaware of it. Extended reports of the proceedings in Parliament, and the recurring excitement of by-elections and an occasional general election, keep up the idea that the nation exercises a continuous supervision over the proceedings of Parliament, whereas in truth it is coming to be more in the position of the spectators at a theatre, who may indeed applaud or hiss, but, except by the application of physical violence, cannot stop the performance. The nation is merely the spectator, when it ought to be the manager; and, what is worse, it has not even the powers of a spectator to discourage the play, and end its run, by telling other people that it is not worth seeing. The public may refuse to give any serious attention to what is going on in the legislative theatre, but the play proceeds all the same, at the public expense, and possibly to the public detriment. Modern political conversation turns largely upon the question what "they" are going to do, what "they" will attempt, and where succeed. It does not occur to the speaker that "we," and not "they," is the proper pronoun, and that if he were as politically effective and articulate as he should be, his disapproval or his satisfaction might cease to be a merely academic echo, and become a living voice and influence, instantly heard, felt, and responded to.

Not the least important of the tendencies which are operating in the direction of this greater seclusion of the central executive powers is the formation of a nucleolus within the nucleus which we know as the Cabinet. The Cabinet is a committee of the Government, and within the Cabinet itself a little group of three or four strong men take the lead. Between them and the sentiment of the nation there is a great gulf fixed. A great deal of the data upon which they form their judgments is never communicated to the people, nor even to its representatives, though the fate of the nation, for better or for worse, may be profoundly influenced thereby. With them are the mainsprings of legislative activity, the power to choose which of many embryo statutes shall be placed prominently before the House of Commons and pressed forward into the dignity of an Act of Parliament. The House, as we have already seen, has no effective opinion in the matter. Many of the members dread the appeal to the constituencies which might result from such a resistance to the Government programme as should produce a Ministerial collapse. The country is powerless. So it is that the nucleolus of the Cabinet, the group of three or four men who really wield the supreme power, may employ the time of Parliament in passing measures for which there is no national demand, and the discussion and ultimate enactment of which only awakens the feeblest echo of interest in the constituencies; or

even in the preliminary and prolonged elaboration of measures which, whether intrinsically good or bad, are known to have no chance of passing the House of Lords.

The Menace of the Inner Cabinet.

The existence of the Inner Cabinet places the exercise of the actual governing power at a distance of three "removes" from the electorate in whom the sovereignty technically resides; and the process of seclusion goes on so unobtrusively that even otherwise acute critics of constitutional developments discuss it without, apparently, grasping its real significance. The electorate irrevocably delegates the sovereignty for a period which the Septennial Act (so long as no ambitious Ministry repeals it) has fixed at seven years. The House of Commons becomes in that way the depositary of the sovereignty and exercises, by its means (as Mr. Dicey has shown us), a technical predominance. But the House of Commons is not permitted to retain in its own hands the power entrusted to it by the electorate. In its turn it must delegate to the Cabinet, with whom the power of initiative and restraint at this stage of a process which we may perhaps describe as one of restrictive devolution ultimately rests. The House of Commons, as we shall see—as, in fact, we have already seen—keeps in its own control only the merest remnant of the vast power committed to it by the electorate; and even that exiguous modicum it can generally be debarred from using by a Cabinet threat to treat its action as an expression of want of confidence. The House of Commons, however anxious to strike at an obnoxious measure or an incompetent Minister, will generally stay its hand if it knows that the result of its action will be to send a fair proportion of its members to that bourn from which so many of them will not return. But even the Cabinet, masterful as it appears, can keep no permanent possession of the power which, by the electorate, acting through the House of Commons, has been committed to it. The devolutionary operation proceeds, till the sovereignty rests in the hands of the Inner Cabinet, a body which, among all the multitudinous political phenomena of our age, stands out in single prominence as the most unwelcome, the most disquieting, and the most pregnant with menace to the progress of the nation on the path to complete self-government.

The Destruction of Independence.

In order to assure the uninterrupted exercise, by the Inner Cabinet, of the power which, by repeated processes of delegation, it has secured, it is necessary to keep the House of Commons in the mood of constant compliance with the demands made upon it. Therefore, discussion, both by opposition and by supporters, is suppressed. It is quite true that the legislative mechanism runs

at a pace which tends ever to become slower; that its wheels are clogged by the multiplicity of enactments which the growing complexity of the modern social fabric and the minuter sub-division of party and sectional interests, causes to be thrust into the machine. It is not suggested that the House of Commons has no right to expedite the pace of its own procedure, in order, if possible, to bring the output into coincidence with the national necessities. What is here insisted upon is the utter indifference to national opinion which is manifested in all these efforts to suppress discussion, call them by what name you will. However unpopular, however menacing, the measure, the Government can be certain of the support of its followers, no matter what their personal opinion, or what the unmistakable sentiment of their constituents. The great majority of the members may dread that opinion when they know it to be adverse to them and to the programme which they support; but under existing conditions they are enabled to thrust the fear away into the distance of years. "Support our scheme for the suppression of discussion," says the Government, in effect, "and we will take care that your constituents have no chance of condemning your action by getting rid of your services, however strongly they may resent the policy upon which we have embarked." The result is that the obedient legionaries, convinced that the majority of them will not survive a battle, fall into line for the carrying out of evolutions which may, indeed, save them the necessity of a conflict, though they may be of the most serious import to the country, which has no opportunity of making any effective pronouncement upon them. To some extent our system of party government is itself the source of this invertebrateness in the units of the party. The man who is returned at the head of the poll as Liberal or Conservative conceives that he has done all his duty if he has given continuous and unswerving support to the party leaders; and they, in their turn, having secured their obedient following, are only too apt to fall under the spell of its suggestibility, and to take the sycophancy of the member as an indication of the approval of his constituents. We are, of course, proceeding on the assumption that the suppression of debate and discussion, in the given case, fails to command the approval of the constituencies. Under existing circumstances the silence of the constituencies may mean approval on the one hand, or apathy or a consciousness of impotence on the other. The first is the best authority that a Government can possess; but both the latter are detestable symptoms in a great organism which should be awake, alert, puissant.

Scarcely less disquieting is the system under which the opinion of the nation is quietly ignored, when the Government and the leaders of the Opposition happen to take the same view on a given question. All that the nation knows is that the front

Opposition bench is in harmony with the Government. Certain communications have passed, and there, as far as the national knowledge goes, the matter ends. It may be said that if the nation felt deeply it would manifest its feelings; but perhaps it would be quite as true to reply that the nation refrains from manifesting them because it realises the utter futility of the display. It has delegated its powers, and cannot resume them, however deeply its sentiments may be at variance with the arrangements made between the leaders of its representatives. "But it has confidence in its political leaders," says the objector; "its sentiments should not be at variance with theirs. They know the inner workings, and the nation does not. If the question at issue is critical, they take the opinion of those who are in touch with the constituencies, and are guided by what they hear." But the opinion of those who are "in touch" with the constituencies may not be the opinion of the constituencies themselves. It may be consciously or unconsciously warped in passing through the intermediate mind. And even if this is not actually so, and this constitutional reconnoitring process were conducted with the utmost measure of good faith, it does but yield one form, and that an inferior and imperfect one, of representative government. It certainly does not give the higher product, the self-government which comes of actual contact between the electoral hand and the constitutional mechanism, exhibited in a power over the State machinery as close and constant as that which is established by means of the regulator of a locomotive.

The "Capture" of the Electorate.

There is all the more force in these considerations when we reflect that a Parliamentary majority, even of great magnitude, is not necessarily a majority of the nation. That is a possibility whose nature, as well as the mode of its origination, we shall at a later stage examine in detail. For the present we may accept it as a powerful argument against our present mode of election, and in favour of the adoption of a scheme of proportional representation. The Government which is conscious of representing a minority of the nation might easily be tempted into the adoption of expedients for the improvement of its political prospects and the transformation of temporary into permanent control. The peril is not fanciful. It is only occasionally, when the lair of some great interest is threatened by the advance guard of reform, that the nation wakes up to the realisation of the giant forces which still bestride the dim pathway that leads up the steeps of national aspiration on to the bracing uplands of sound and permanent political liberty. Those interests are too daring, and the struggle is for them too vital, to admit of the existence of any compunction on their side as to the means of defence which they shall employ. In their menacing existence, as they lie encamped across the path

of progress, there is a very strong reason why the electoral processes should be secured from accidental, artificial, and capricious interference. The control of popular government will fall, said Maine, into the hands of him who can unite into a following the greatest number of the units into which political power is minutely divided; and the method of union will be to rally the units to the sound of a sordid party cry, or else to rouse them into passion by some dexterous appeal to antique prejudices, playing upon primeval instincts not yet effaced by centuries of life under law. Periodic outbursts of political inebriation would seem to be the necessary concomitants of the maintenance of government, if this view of the future be a correct, or even a plausible one. The civic organism is to be maddened by the excitation of any nerve that can be made to react to this kind of stimulus, and while it is under the spell it is to be deluded into delegating its inherent powers of self-government, for a lengthened time, to the leader who has had sufficient skill to select precisely that nerve which will give him the reaction that he wants. Plainly, if this be true —and up to a point it may be regarded as fairly representing the dangers of the situation—the electorate is under all the greater necessity to interpose obstacles between him who is desirous of administering these enravishing potions, and the "subjects" who may be flung into frenzy by their flavour. Therein is a strong reason, then, for surrounding the electoral processes in the manner and by the means which we shall in due course discuss, with reserve and restraint, and for shutting out, to the utmost limit which is consistent with the jealous conservation of freedom in its highest and best sense, all that can disguise, distort, and delude.

Let it be remembered, also, that even the rousing of some giant interest from the lair where it has lain for centuries is not necessarily undertaken, by a Government, in the furtherance of the common weal. It would not be difficult to point to forces which are capable of being exerted with tremendous effect in the nation's political life, though their aims are not invariably or essentially inconsistent with the national well-being. A Government on tyranny bent might well desire the preliminary destruction of such a force, but only for the purpose of removing a menace and an obstacle from the track of its own sinister schemes. The nation which had given a majority for the beneficial aim might desire to withdraw its mandate when the real nature of the scheme unfolded itself; but the present working of the electoral system offers no opportunity for the withdrawal, given a compliant House of Lords, and a sovereign who lacked either the desire or else the courage to employ his personal veto. When it is recollected that the House of Lords, as it at present exists, is inclined to regard with more than average favour the legislation of one of the great parties in the State, while there is no guarantee that the

Royal House will maintain in unbroken sequence the consummate political knowledge and ability of Queen Victoria and King Edward, even a mind which is capable of only moderate insight can realise that the successful appeal to the nation to rally for the attack on a great interest may really, in the absence of a continuous check upon Parliament, only leave the national heritage with one less defender, and to that extent render it more helpless to resist the onslaught of some sinister scheme for the plundering of the political treasure-house.

The House of Lords.

The electorate itself may be, unwittingly, an original participant in such a scheme as this. It is always possible that the nation, in a powerful revulsion of feeling, or in consequence of the glittering fascination of some untried policy, may move violently towards an extreme programme. In that way it commits its destinies, for seven years, to the hands of men with whom it early discovers that it has no deep and lasting sympathy. The attempted realisation of the schemes thus momentarily endorsed by the constituencies must in any case involve a huge waste of Parliamentary time, and may possibly, if the House of Lords be compliant, lead to the actual passage of measures which have, upon closer scrutiny, revealed their obnoxious character to an electorate that is by that time thoroughly on the alert. As things stand with us, however (and if it be true that the Royal Veto is obsolete), the House of Lords would be the only hope of the nation in a crisis of that kind, and there can be no doubt that the failure which has always attended any endeavour to stir the nation into anger with the House of Lords* is the consequence of a natural fear of the uncontrolled and uncontrollable proceedings of a single chamber endowed with power under circumstances such as these. The nation realises its own liability to be misled into giving an adventitious but temporarily omnipotent majority, whose acts its better judgment, on reflection, would disapprove, but at a time when it could not withdraw the irrevocably-committed sovereignty, nor yet compel a second appeal to itself. Therefore it declines to be stirred into anger against the one barrier which, under existing conditions, it supposes to stand between itself and a despotism.

This view found confirmation, while the present essay was in active preparation for the press, in some observations of the *Manchester Guardian* on the rejection of the Licensing Bill of 1908. "If we had a referendum," said this newspaper,† "the

* The reader is asked to remember that what is here being discussed is a constitutional question, not the problem whether or not the House of Lords has deserved the national anger, or whether or not "campaigns" against it are profitable.

† *Manchester Guardian*, November 25, 1908.

Government would be able to meet the claims of Unionist peers to represent the will of the people without the risk of a general election which might alter the general policy of the country in a sense directly opposite to the country's wishes. Unfortunately, we have no referendum to check the claims of the House of Lords." Suppose, however, that instead of the referendum we had a carefully defined and safeguarded power entrusted to the individual constituencies of dismissing their members when, in their deliberate judgment, there were circumstances that called for the severity. This potentiality of compliance with the requirements of the Fourth Canon would afford a comparatively simple and readily available mode of demonstrating the power of the lower House to the House of Lords, or to any other chamber, or modified form of the present chamber, which may ultimately take its place. An Opposition which was certain of popular disapproval of a Government measure could strengthen the hands of the House of Lords by forcing by-elections in 20 or 30 constituencies represented by supporters of the Government, and by winning the seats. On the other hand, a Government which had the sentiment of the electorate at its back, but which might not feel justified, nevertheless, in precipitating a general election, might convey a very timely and effective warning to the House of Lords by using the machinery of dismissal to empty 30 or 40 Opposition seats, and by replacing their former holders with Ministerialists. There would, in effect, be a power to bring about a miniature general election, and so to present an unmistakable manifestation of electoral opinion, to act as tonic or caution, to Government, or Opposition, or House of Lords, as the case might be.

The Powerlessness of the Electorate.

This compulsory and irrevocable delegation of the sovereignty by the electorate, to a power which year by year retires into deeper aloofness from the touch and control of the nation, is clearly the weak spot in the wall which the zeal and foresight of many generations has built around a precious and majestic civic inheritance. In what way are we to repair it? Clearly, by giving to the constituents some well-defined and effective means (capable only of use by large bodies of electors, under conditions which compel responsibility and seriousness) of forcing the representative, at any time, either to quit his position finally and altogether, or else to face the ordeal of another election. Under the existing system the representative (who may possibly be the choice of a minority) is placed in a position of impregnable irresponsibility for seven years. Even if, out of an electorate of 10,000, 9,500 meet in solemn conclave to denounce him, they cannot move him. Election promises may have been flung to the winds, and

the most sacred pledges ruthlessly trampled upon; but so long as the dissolution is postponed, the faithless servant is safe from the displeasure of his masters, and may continue to give votes in their name and to assist in guiding national policy into channels which are utterly inimical to their interests and flatly contrary to their desires. It is in circumtances such as these that a member who knows that he can never secure the renewal of his constituents' confidence is tempted to support the existing Government through thick and thin, because their fate is linked with his, and he must sink when they cease to swim. So is it that, where a general election gives a huge (and it may be an utterly disproportionate) majority to one party (and even where the majority in the House represents a minority in the country) a large number of its members know of the imminence and certainty of the recoil, and are fully aware that within a few months they and their whilom supporters will be separated by a gulf which hourly waxes wider. Then are they tempted to cease utterly to be representatives, and to become the mere pawns of party, unwilling under any circumstances to do that which will bring down the Government. Rather would they be requested to rise to any heights of compliance, to practise any sinuosity of accommodation, than to witness the precipitation of that appeal which is the unmistakable token of the approaching end.

The "Frivolous" Spirit.

At the time when these constitutional phenomena are marshalling themselves in unobtrusive menace, we are told by moralists that they detect an increasingly frivolous spirit, a keener craving for unnatural excitement, in the community. They have discovered these disquieting forces at both ends of the nation, so to speak, among the idle rich and among the working men. The one class spends its time and energies in a ceaseless round of gaiety and indulgence; the other seeks artificial excitement in betting and gambling upon the contingencies of sporting and athletics. These diversions are pursued more for the excitement of the bet than for the enjoyment of the event itself. May not the growth of this frivolous spirit, this craving for excitement, for colour in drab lives, and for variety in the story of monotonous days, be also, in part at least, a consequence of that which we have called the aloofness of the administrative power? As a race we are supposed to have a special talent for government. On both sides of the Atlantic, and at the Antipodes, we have raised great communities into being, and provided them with constitutional machinery which outlasts revolution and defies the assaults of time and reckless ambition. We are almost the only race which carries on the royal and the republican experiment simultaneously, so as to offer to the student of government the opportunity of comparative study on a scale of unprecedented and unparalleled magni-

ficence. We are proud of saying that we have tamed kings, that we saved Europe in its day of dire need. Can it be that we have tamed kings merely to enhance the glory of those who shall in turn reduce the king-tamers to helpless and apathetic acquiescence; that we have saved Europe—and lost England? Certain it is that the self-governing vigour, skill, and enterprise of this nation ought to-day to be at its highest, a star of the first magnitude in the political firmament of the world. But we can only hope to assume, and to maintain, that position if political vigilance flourishes unchecked and unhypnotised, and if the deft self-governing hand, which has never yet been allowed to display the full power of its skill and "touch," is kept in training and urged to nobler trials by actual contact with the realities of administration. That cannot be done if the processes of government are withdrawn more and more from public cognisance and supervision. The nation, imperfectly informed, or wholly ignorant of the trend of these things, may seek outlets for its energies in the study of racing odds and in athleticism run mad, leaving its political leaders to employ the constitutional machine for party aggrandisement and personal ambition. But it is surely a plain duty to put the facts before it—to ask if it is really willing to abrogate the position of master and to take up the duties of servant.

Our National Conservatism.

The greatest obstacle to the bringing home of these truths to the mind of the electorate is to be found in the mental trait which is the worst element in our national equipment as a practical and progressive people. Have we not an ineradicable tendency to assume and, unless our dream is rudely broken, to go on assuming that the political phenomena which, just at any given period, we see around us are essential and necessary? That, at all events, has been our habit for nearly a thousand years. When there is forced upon us the conviction that some ancient mode of action is no longer capable of doing that which it is expected to do, we modify or adjust it as slightly as we can, and persuade ourselves that it is still the same. We even resort to elaborate fictions to effect our purpose, and in these late days we have satisfied ourselves of the existence of what we call "conventions of the constitution," under which name we dignify certain elementary necessities of our present constitutional mechanism, the existence of which we are anxious to render as unobtrusive as possible, because they seem almost to offend us with the air of novelty. But although these expedients will serve for a time to disguise from us the fact that even the most ingenious patching will not suffice to make the old constitutional garment cover our large national limbs, there comes at last a time when the seams burst, and then, as has happened not

once nor twice in our rough island story, a new garment has to be hurriedly put together to meet the altered needs, and, like its predecessor, soon displays the imperfections of its texture and structure. Meanwhile, however, the nation has congratulated itself on what it supposes to be finality—has settled down, with a fair amount of satisfaction, to enjoy the prospect of uninterrupted freedom from the anxieties incident to its growth. This appears to be our present mood. We have a constitutional government, which, though it is of fairly recent make, has long ceased to fit us. If the fact be doubted, a perusal of the remarks on Redistribution will resolve incredulity. The age when we thought of our kings as beings of a race apart, and when we seriously discussed their Divine Right, has long since passed away, and with it a system under which we were governed in spite of ourselves. There was, indeed, a period when we shared the government. We made our own choice of men to assist in the work, and we assured ourselves that this was representative government. Nay, we still think so. We have not yet awakened to the fact that the absolute Government of the early Normans, the qualified absolutism of the Angevins, the deferential administration of the Lancastrians, the dexterous manipulation of the constituencies to which the rising power of the Commons had reduced Elizabeth, the premature experiment of the Commonwealth, the comparatively advanced constitutional doctrines of the Revolution, the rise of Cabinet Government, the doctrine of Ministerial responsibility—that all these are steps, gradations of political development, whose end is not the permanent establishment of merely representative government, but the evolution of that which is an infinitely higher form of politically corporate sagacity, to wit, self-government.

It is possible that the reiterated demand for the devolution of some of the work of an overburdened Parliament upon other, and subordinate authorities, is a symptom of the awakening national consciousness of maladjustment. But the remedy for the *malaise* does not lie in devolution. As we have learnt from all the rigid constitutions, as well as from the flexible specimen under which we are governed, there are a multitude of legislative subject-matters with regard to which the interference of no subordinate body could be tolerated by the House of Commons. But if we can reinvigorate the House of Commons itself, by means of the infusion of new and enthusiastic social elements, as well as by means of the unremitting supervision of keenly-interested critics, themselves endowed with no common share of political instinct and alertness; and if we can enable these to exercise such a control as shall exclude the frivolous and sterilise the vain, confronting unworthy ambitions with the stately mien of unanswerable dispraise, and stimulating real political and social prospicience with the assurance of unfailing and invincible support—if we can do this,

who shall set bounds to the puissance of the magnificent Excalibur of self-government, thus flashing in an ancient nation's resolute hand ?

The Attainment of Unintermitted Control.

It remains, then, to attempt our task, to outline, be it ever so dimly, the Essentials of Self-Government. For that purpose the writer has ventured to frame his Four Canons of self-government upon the pattern of the four great canons of taxation laid down by Adam Smith. He has then proceeded to an exhaustive examination of the entire mechanism by which the will of the sovereign people is capable of impressing itself upon the executive. The central purpose of this prolonged scrutiny is the detailed examination, in the light of the soundest modern political ideals, of the whole electoral mechanism as it at present exists ; the criticism of the machinery where it is perverse, inefficient, or effete ; and the suggestion of practical methods for its elaboration into an efficient, adequate, lissom, rapidly adjustable, and continuously operative instrument of control over the executive and legislative elements of the political system, so that the political power of the nation shall only be delegated to the smallest possible extent, and for the shortest possible period, that is compatible with its unimpaired and legitimate activity, and so that every citizen shall feel that he is not only called to exercise his electoral power of decision from time to time, but that the community demands of him a continual intelligent supervision of its affairs, and commits to his hands a means of making his criticism or judgment instantly heard when, in his opinion, there are circumstances which call for its utterance.

Under the system which has now found final acceptance with us, and is established for a period of which the present generation and its children will not see the end, the last test of the soundness of all political sentiment and aspiration in this country is that which is furnished by the ballot box. Thither go the dreams of the idealist, the hopes and experiments of the reformer, the sordid ambitions of the place-hunter. There they are tested : and there they find the acceptance or rejection which seal their fate. Involved with these, and streaming with them towards the same ordeal, are supposed to go the home and foreign policy of the country, and all the time-honoured constitutional doctrines, all the great legislative experiments, all the social dogmas, wherewith each generation plays on the shores of Time, like children with the pebbles on the beach. The main concern of this study is to indicate how the ballot-box test can be rendered adequate, and maintained in adequacy ; how it can be made to express and enforce the opinion of the nation, not intermittently, at intervals of years, but continuously and uninterruptedly, so that an insurgent statesman shall hear the deep

diapason of the national anger at the very moment when he stretches out his hand to touch the ark of the constitutional covenant, and shall find it swell into articulate and majestic harmony if he do not instantly draw back; how the imposition of the test shall be protected from caprice, intimidation, and all the influences that are alien to its spirit and formidable to its healthy activity; how there shall be flung around it more of the antique dignity of a great and hoary nation, conscious that in its political liberties it has received a stately and splendid inheritance; how it shall, in very truth, ever express the unshackled popular will, train the popular mind in habits of public care, preserve, as an unstained and undiminished heirloom, all that our forefathers won, and brace their sons with skill and strength for further conquests, firmer consolidation, a profounder political insight, and an ever nobler ideal of liberty, progress, and zeal for the welfare not merely of the national, but of the cosmic organism. For if the rapid advance in the intellectual and assimilative power of the social organism renders necessary a continual restatement of principles and a constantly repeated effort to materialise them in statute and custom, surely it is obvious that the process and mechanism of materialisation itself stand in need of equally continuous adaptation to the task.

Subject and Method.

In his consideration of the subject the writer has drawn upon a wide, practical experience of the working of the electoral mechanism, reinforced by a collateral scrutiny of all those influences—legal, political, economic, psychological, sociological, and tactical, which play their part in the formation of its product. The inspiration of this attempt at an examination of the very foundations of government has in truth been the belief that, as a real, intelligent, robust, and penetrative interest in national affairs is extending every day to a greater proportion not only of the electorate, but of the whole adult population, and as problems of ever deeper import and complexity confront this great tribunal, a distinct purpose would be served by a close inspection of the means by which its judgments are obtained. The Monarchy, the Constitution, the Cabinet, the Executive, and the Legislature have all been subjected, at the hands of some of the most distinguished of modern students, to this detailed inspection, from every point of view—except that perhaps certain subtle tendencies, plainly visible among the higher constitutional phenomena, have not received due appreciation with regard to their possible menace to the firm establishment and unassailable perpetuation of the sovereignty in the people. But the mode by which the popular sovereignty of the British electorate is exercised in its own domestic sphere; the manner in which its expression is evoked, stimulated, and

directed; how it is sometimes defeated and distorted; how, finally, it is recorded and within what limits it is supreme—this, so far as the present writer is aware, has not formed the subject of any exhaustive treatise. The time is ripe for a first attempt in that direction.

To render the survey in any sense adequate, even as an introduction to the subject, it has been necessary to interpose some brief historical notes, exhibiting the development of the various influences, good and bad, which have from time to time been exerted upon the electoral machinery. In that way, for instance, the early records of bribery and treating have been briefly summarised, so as to bring before the mind of the reader the enormity and shamelessness of these corrupt influences, in quite recent years. Only in that way can he be made to see the necessity for the very severe and sweeping enactments against these offences, which still stand upon the Statute Book, and seem out of all proportion to the actual and palpable evidences of corruption, in this form, that present themselves to an observer of our comparatively austere electoral methods in the twentieth century. Where it could profitably be done, the other elements of the electoral mechanism have been succinctly, but it is hoped lucidly, treated in the same way—as, for instance, canvassing.

An Outline of Election Law.

At every point of the discussion, however, the student of the electoral system is confronted by the various Statutes, and by the decisions of the judges (and occasionally of the old Election Committees) upon them. This aggregate of statute and case law represents the persistent effort of the Legislature to bring the habits and methods of its creators more into line, in the first place, with common decency, as in the abolition of the disgusting orgies of eighteenth century treating; in the second place, with common honesty and with the ordinary ideals of fair play and political freedom, as in the abolition of the pocket borough, and the suppression of bribery, as well as in the establishment of the ballot; and, in the third place, with common sense—a process which is as yet by no means complete. The effect of these efforts has been to surround the electoral mechanism with a perfect maze of technicalities, the broad outlines of which must be understood before the detailed study of the machinery itself can be entered upon with any reasonable hope of intellectual achievement. The distinction between corrupt practices and illegal practices; the precise nature of the noxious psychological element whose presence turns an apparently sympathetic shilling into a bribe; the legal meaning, if it be discernible, of the term "candidate"—all these, and many more problems, face every student of our electoral system who desires to thrust aside the superficial, and to come to handgrips

with the serious and the deep. For these reasons it has been necessary to state the law with some particularity, though not, of course, with the minuteness which characterises the indispensable "Rogers," "Fraser," or "Ward by Lushington." The reader may be assured that these statements of the law have in every case been extended only just so far as will enable them to embody that which is essential to the adequate treatment of the subject from the point of view of the inquirer into the working of a potent mechanism which is capable of smoothing or of obliterating the path of justice, of stimulating the prosperous evolution of the political organism, or of staying its progress and precipitating it upon the fatal slopes of degeneration.

The Minutiæ of Election Work.

But while it has been possible to avoid following the legal definition and description into their remotest ramifications, without sacrificing their substantial accuracy, the very purpose of the present essay must have been jeopardised by any attempt to treat with brevity the social, tactical and mechanical concomitants of the electoral process. These are the special subjects of the study; and to these it is desired to especially direct the eager and penetrative scrutiny of those stalwart, venturous intellects, whom the keen observer of contemporary political life and activity may see rising in grateful plenitude around him. But such direction must largely fail of its purpose if it could only point to an arid waste of uninstructive generalities and repellent technicalities—the thing must be treated in detail, and not in the mass. For that reason even such minutiæ of our electoral system as the provision of conveyances on election day, and the quantity and quality of the campaign bill-posting, have been discussed with fulness and candour. And if the fulness and candour be criticised, the writer avows himself wholly unrepentant in the presence of the vast importance of the various topics, as actively operative parts of a tremendous national mechanism that may make or mar the destiny of a people. There is, in truth, all the greater need for this detailed treatment, because of the amount of ignorance and misconception which prevails with regard to the working of this most vital element of the national life. The electoral process is regarded by many people as nothing more than a kind of political boxing contest. Its colossal issues are obscured by the idea of the "sport." But the element of "sport" as a supposed factor of the electoral mechanism is in the wrong place. The problems which have to be decided by means of the ballot box are too serious in their bearing on the life and growth of the nation for their consideration to be tinctured by the intervention of chance or caprice. When the electorate has discharged its electoral duties, it may legitimately amuse itself (subject to the due care of other in-

terests) in the recreations and trivialities that are in some ways the spice of life. The preservation and enlargement of its leisure for these diversions does, in fact, depend upon the use which it makes of the electoral machinery: but the same frame of mind cannot properly form the intellectual concomitant of both duty and diversion. Again, even when the element of "sport" is not forced into prominence, the great majority even of otherwise competent observers, as a result of a mischievous and misplaced concentration of attention, bestow their entire lively interest upon the ballot box. That, indeed, conveys to the public the final verdict; but it is only an outward and visible sign of what ought to be the aggregate of inward and deeply-pondered individual judgments upon the political affairs of the nation. The whole process, and not merely its results, ought to be studied. Just as a sound geological knowledge is unattainable by a person who devotes his attention merely to the phenomena as they exist, without regard to the history of their origin and development, so no adequate knowledge of the realities and tendencies of political evolution can be obtained merely by watching the breaking of the seals of ballot boxes. Yet the study of the many processes which have their consummation in the ballot box is so difficult, and so surrounded with technicalities, as to daunt all but the most determined of investigators. Certainly its aspect, as of a forest dense with undergrowth, deters the great majority of those whose political interest is keen, and who are infected with the ever-increasing desire to know something of the mainsprings of that political action which is concerned with affairs that are so important, with a national heritage which is so majestic, with an organic destiny whose sublimity breaks at last upon the patient observer like the glories of an Alpine sunrise.

There is no reason why the subject of election organisation and practice, or the still wider study of the working of the electoral mechanism as a whole, should not be accepted as an optional subject for the degrees in Economic and Political Science which are now granted by various Universities. It certainly cannot be said that the study is unimportant or uninteresting, or that it is not valuable as an intellectual exercise, or that it has no bearing on the social and political problems of the day. It is, in truth, one of the questions in which public interest has recently been stimulated to an extraordinary degree, as was shown by the thronging audiences who attended Professor Masterman's lectures on the House of Commons. All that is required to place it in a permanent position as an element in the intellectual equipment of the citizen is the definition of a standard of acquirement in its study as one of the qualifications for

the numerous distinctions towards which modern educational ambition is directed.

It will be understood that the criticism which is here offered of various election methods does not necessarily involve any censure of a candidate or election agent who at present uses them. A candidate or election agent must employ the best weapons that are permissible under the accepted contemporary rules of election warfare and the statutes which enunciate election law. He can no more afford to refrain from employing an objectionable, but prevalent, device than the general of an army can be expected to dispense with high explosives, because he himself considers them a method of barbarism. We censure the system, not the man. We remedy by elevating the general ideal, not by the act of unilateral self-abnegation.

The Psychological Limitation.

The limitation to England and Wales, to which the attention of the reader is called on the title page, is an essential preliminary. The machinery of self-government can only be adequately surveyed if the psychological and sociological aspects of its working are brought within the range of vision; and it were idle for a writer who has no intricate knowledge of Scottish and Irish electoral methods, and no deep acquaintance with the mental characteristics of the Scottish and Irish peoples, to attempt their inclusion within the limits of this essay. "The errors which impede the scientific study of the history of man," said Professor Ridgway at the meeting of the Anthropological Section of the British Association in 1908, "led to our maladministration of alien races and gave rise to blunders fraught with the gravest consequences in our social and educational legislation. As the physical type varied from zone to zone and latitude to latitude, so the institutions and religious ideas also varied, and consequently it was folly to seek to govern our great dependencies on the principles of the English Constitution and English law." For the same reason it would be folly to suppose that the electoral mechanism in Scotland will manifest precisely the same idiosyncrasies (and consequently that it will be susceptible of the same mode of analysis) as it exhibits south of the border. As for Ireland, the impossibility of successfully adapting the same machinery of government to peoples who are psychologically sundered by a gulf far wider than St. George's Channel is the reason why the Irish Question is always with us. The writer is the more anxious to define his position in this respect, lest the omission of Ireland should be interpreted as the evidence of a lack of interest in her struggles, or of want of sympathy with the courageous men who fight her Parliamentary battles.

Venturing, then, upon the exhaustive treatment of a subject that is of transcendent importance for the political welfare of his countrymen, the writer desires to quote the remarks with which the Professor of Sociology in the University of Wisconsin explains his own sense of the responsibility under which he put forth the primary treatise in "Social Psychology," and to add that they are a complete expression of his own diffidence and his own consciousness of many faults, negligences, and ignorances. "It requires some hardihood," says Professor Ross, "to put forth this . . . treatise . . . In spite of infinite pains, . . . I feel sure the book is strewn with errors. The ground is new, and among the hundreds of interpretations, inferences, and generalisations I have ventured on, no doubt scores will turn out to be wrong. Of course, I would strike them out if I knew which they are. But . . . the time has come to hand over the results of my reflection to my fellow-workers, in the hope of provoking discussions which will part the wheat from the chaff and set it to producing a hundredfold."

CHAPTER II.
Registration.

The suffrage itself forms no part of the present study. To discuss it in any detail must have involved the opening up of controversial questions, one of which, at least, has in recent times been the subject of extensive and varied debate. It was thought desirable, therefore, to exclude the suffrage itself, and to commence the analysis and exposition of the electoral problem at the point where, the existing suffrage being before us, we may consider how best it can be made and kept continuously effective up to the limits of its power of expressing the national will. The exclusion is the less to be regretted since the existing suffrage is broad enough to afford a sound basis for the enunciation of all the electoral principles which would be applicable even to a much wider franchise; so that we are enabled to study the political mechanism which has its foundations in the suffrage, not only as it is, but as it will be when those foundations have been extended and strengthened. We begin, then, with the registration system —with the question, How is the *prima facie* title to the exercise of the vote tested and certified, so that the voter may present himself at the polling booth in the full confidence that none can say him nay ?

A detailed examination of the method by which the electorate seeks to form and guide the legislative and executive powers must necessarily begin with an inspection of the machinery by which the composition of the electorate* itself is determined. The process, as we know, is described under the general term "registration." The Overseers, on August 1 in each year, publish a list of qualified householders and occupiers, as the first step in the formation of the new register, which is to come into force on January 1 following. Freeholders, copyholders, and leaseholders will have had to send in to the Overseers, before July 20, their claim to be placed upon the electoral list, but they need not renew their claim when it has once been admitted. Lodgers, however, are compelled to make an annual claim as a condition of remaining on the register. Within a limited period from the publication of the lists any qualified person omitted therefrom may give notice of his claim to be included; and, conversely, objections may be lodged to persons who are wrongfully admitted. These claims and objections will be considered and adjudicated upon by the

* The present essay is concerned with the Parliamentary electorate only, although many of the principles laid down have an equal application to the municipal electorate. The reader is asked to bear in mind the limitation.

Revising Barristers (in the presence of the political party agents, who are the real mainsprings of the majority of the claims and objections) at annual sittings held in the early autumn. Finally, the new list goes into force on January 1 following.

No Really Responsible Authority.

The singular ineffectiveness and imperfection of this process can easily be exhibited to the casual and non-technical observer; but it is brought home with terrible force to all those who, in an official capacity, are concerned with the operation of the electoral mechanism. There is, in the first place, no authority which is subjected to any real and serious responsibility with regard to the continuous accuracy and completeness of the register. Every election reveals to the election agent and his assistants the exclusion from the list of large numbers of persons who are fully qualified for inclusion, but who are, in fact, not included as a result of the carelessness which is ever the result of irresponsibility and the absence of a continuously operative check and stimulus. It will be found that, although the existing machinery of Imperial and local government rapidly and effectively discovers and enforces the liabilities of the citizen, it does not operate with the same celerity and efficiency with regard to his privileges and rights. For instance, the citizen whose income is, or is supposed to be, over £160 per annum, will not escape the vigilance of the income-tax authority at any period of the year. He will be required to furnish particulars of his income. If they are inadequate, he will be asked for further detail; and if he claims "abatement," he must state the grounds of his claim, with facts and figures to support it. If he neglect any of these obligations he will be again and again reminded of them, until at last very drastic measures will be adopted to force them upon his attention. When he has complied with them he will (if liable) receive a demand note for his taxes, which, if it does not gain his early attention, will be followed by peremptory reminders of his indebtedness to the State. Ultimately, if he still remain careless or obdurate, a higher official will take the case in hand, will give him seven days' notice to pay, and will, if payment be not made, proceed to enforce it by distress. The same process will, *mutatis mutandis*, be employed by the rate-collecting authorities. If one-half, or one-fourth, of the vigilance and persistency thus displayed in the compulsion of the citizen to discharge his duties to the State were also utilised in defining and protecting the rights and privileges which the State owes to the citizen, there would be no need to enter upon a criticism of the system of the registration of Parliamentary electors. It is, indeed, quite true that many of the people who are annoyed to find themselves wrongfully excluded from the exercise of the franchise, at a period, it may be, of great political excitement or of national crisis, could have secured their vote by

making a claim at the proper time. In practice, however, it will be found that not only is the machinery cumbrous and difficult to move, but that all the resources of party warfare will often be invoked to keep off the register, by technical objections of the greatest subtlety, a citizen who has every right to be there.

The "Removal" Question.

Another obstacle to the smooth and rapid working of the registration system is to be found in the crudities with which the "removal" question is surrounded. Thus, a registered voter who changes his residence from one side of the road to the other will not lose his vote if both sides of the road are in the same constituency, nor yet if they are in different constituencies, provided that both are a portion of the same borough. But a voter who removes from the east side of the Kilburn High Road (which is in Hampstead) to the west side (which is in Willesden) will, at the end of the current electoral year, lose his vote, and (though his liability for rates and taxes will not cease in the meanwhile) will not regain it until he has resided in Willesden for a period of nearly eighteen months beginning from July 15 in any year. If he entered upon the new occupation on any day previous to July 15, he will (assuming that he is in other respects qualified) be placed upon the register in the autumn of the next year, and will become entitled to exercise the franchise on and after the following New Year's Day, when the new register comes into force. If his new occupation begins on or after July 16 he will lose his vote for nearly two and a half years. Thus, if he changed his residence on July 16, 1908, he cannot claim to go on the register for 1909, nor yet for 1910. His earliest possible appearance on the list as an effective voter will take place on January 1, 1911. The case of a lodger who becomes a householder (and who, since this alteration doubtless implies the assumption of domestic responsibilities, has probably made himself in that way a more valuable member of society) is even harder, for the period during which he was a lodger forms no part of the time which he is entitled to reckon in the establishment of his claim as a householder. He begins all over again, so to speak. These, and the allied instances which must be marshalled were the subject further pursued, are monstrous anomalies—monstrous in that they surround an elementary civic right with the web of bewildering technicality and superfluous delay, and equally monstrous in that they hamper the expression of the electoral opinion of that which is, economically speaking, among the best and most capable elements of the community—the element, that is to say, whose very removal from one place to another marks, in the great majority of cases, that attempt at a better accommodation to environment which is, in all organisms, the signal of advance.

The Partisan Element.

These considerations bring us to what is perhaps the most prominent weakness of the present registration system—the fact that it leaves the adequacy of the register largely dependent upon the party agents, so that the register, such as it is, is never up to date. The word "never" is used advisedly. The register revised in the early autumn does not come into force until the commencement of the following year, when death and the ceaseless flux of the population have already vitiated it to an enormous extent. By the end of its year of validity it is so stale that if an election is held upon it in the December, the task of rectifying its imperfections by tracing deaths and removals becomes gigantic, and the expense of performing it will make serious inroads upon the financial resources which by statute represent the fighting fund of a Parliamentary candidate. This latter complication will be partly the result of the inextricable confusion between registration work and the work of the election. The election agent cannot earmark the registration work even if (as is impossible to suppose) it were done without regard to the election which is contemporaneous with it. He must, therefore, include the whole or part of its costs in his return of election expenses. But, of course, under normal circumstances bona-fide registration work is no part of the election expenses of a candidate, and need not figure in his return. None the less is it undignified on the part of the State to leave the maintenance of the efficiency of the Parliamentary register largely in private and partisan hands. As matters stand, the position is that a man actuated by what is, in the majority of cases, the very laudable ambition of representing his fellow-citizens in the national assembly is not only required to pay the very heavy expenses of operating the machinery by which they may signify their opinion of his offer, but is even required to keep the machinery itself in order. That is an ungracious and reprehensible position of affairs.

By this time we shall easily comprehend how it is that, even if the citizen's claim to vote is legally and morally indefeasible, it does not necessarily follow that his name will appear in the list of voters. If it does not, and he fails to notice its absence within the specified time, he will be excluded from the polling booth for at least a year, and possibly for a longer period. If he notice the absence of his name, he has still to consider ways and means of remedying the omission; and although his claim may be morally and politically quite sound, the slightest technical flaw in its nature or form will be employed by the registration agents of the side opposite to that with which he is politically identified in order to defeat his right to exercise the franchise. Under such circumstances he is at the mercy of a revising barrister, appointed by virtue of an authority which is generally conferred in return for partisan services. So uncertain is the

operation of the tribunal that many electors resort to various dodges—no other word will adequately describe them—to elude the opposition of the party registration agents. A, a Radical, disarms opposition by claiming his vote through the Conservative registration agent. The Radical agent, privately acquainted with the drift of the stratagem, will not oppose the claim. It requires no specially keen political vision to see how undignified those manœuvres are, how utterly unworthy of employment as processes for the formation of the tribunal to which great national problems must be referred. But we have not told the whole miserable story. The Conservative agent was aware of the tactics which were being pursued. He, as a matter of fact, omits to send in the claim which was handed to him, and thus succeeds in disfranchising the citizen for at least twelve months; and of that achievement he may, according to the existing code of party ethics, legitimately boast. In fact, every autumn, as long as the present haphazard system maintains itself, will bring its crop of charges and counter charges. A canvasser, eager to "earn his money," has forged the signatures to a score of claims; another has put forward claims which he well knows to be baseless; a third has obtained information by means of circulars from which all reference to their partisan origin is omitted. All these things, generating mutual recriminations and official censure, tend to envelop this portion of the electoral mechanism in an atmosphere of sterile strife or trumpery triumph, instead of impressing the electorate with the imperishable ideals of dignity and responsibility.

Electorate and Population.

One result of the imperfection and the complication of the system is seen in the low percentage of electorate to population. Another result, not quite so palpable, is the comparatively low percentage of the effective electorate. The following table of the percentage of registered electors who actually cast their votes is taken from Professor Lowell's "Government of England":

	1895.		1900.		1906.
English counties	81.0	...	77.2	...	83.5
Welsh counties	76.5	...	62.8	...	78.4
Scotch counties	79.4	...	75.7	...	79.9
Metropolitan boroughs	70.1	...	65.1	...	77.8
English provincial boroughs	82.6	...	78.8	...	85.2
Welsh boroughs	86.6	...	72.3	...	85.7
Scotch burghs	71.9	...	72.0	...	82.9

The lower percentage at the 1900 election was the consequence of the abstention of many Liberal voters from polling in opposition to the then Conservative Government, owing to the simultaneity of the Boer War. The corresponding German figures, at the Berlin elections, vary between 71.5 and 84.8 in different districts. The present ratio of electors to population is about one in six: whereas, according to Professor Lowell,* the normal

* The Government of England, p. 213.

proportion of males above the age of twenty-one years (making no allowance for paupers, criminals, and other persons disqualified by the laws of all countries) is somewhat less than one in four. Naturally, the ratio of electors to population varies widely in different constituencies, and corresponds to the difference of their character. In London, for instance, it is highest in the Strand division (17.6 per cent.) and in Battersea (17.4); while it sinks to its lowest percentage in Whitechapel (5.0), St. George's in the East (7.0), and Stepney (7.8), as the direct result of the very large alien element in the population of these districts. Among the great provincial cities the highest percentage is attained in Birmingham (16.1) and Leeds (15.8), while it is smallest in Liverpool (12.9). In the County of London electorate (which includes such spinsters and widows as would, if they were males, be entitled to the Parliamentary franchise) the percentage of electorate to population rises as high as 23.1 in the Strand, while Westminster shows 22.5 and Battersea 21.3. In Whitechapel the inclusion of women voters only raises the proportion from 5.0 to 6.5, while in St. George's in the East and Stepney the figures are 8.6 and 9.1 respectively. In the City of London the percentage of electorate to population is no less than 160.9, a paradox which results from the livery vote and from the extreme smallness of the resident population. In the other instances, whether we consider the percentage of electorate to population, or the effective percentage of the electorate itself, we are very far indeed from satisfying the requirements of the First Canon as to effective registration, or the Third Canon in the matter of the largest possible aggregate of individual judgments.

Public Machinery Required.

The most recent attempt to place the registration system on a sound basis was Mr. Asquith's Registration of Electors Bill, introduced in 1893. Some of Mr. Asquith's proposals, such as the three-months qualification and the provision of public registration officials, are embodied in the scheme which we are about to discuss. But, on the one hand, public opinion and electoral requirements have both advanced in a very marked degree since 1893; and, on the other, some of the objects which Mr. Asquith proposed to attain in one way can be quite as adequately attained in another, as we shall see. The magnitude of the registration problem is inevitably exaggerated if it is contemplated as a thing apart. If registration is to be raised to a level of practical perfection and maintained there, by means of a system of public mechanism which is devoted to that and to that alone, it is clear that only a very complicated and expensive organisation will be able to cope with the requirements of the scheme. The existing mechanism, created and worked by and for party interests, is

extremely expensive,* although reinforced to an enormous extent by just that class of enthusiastic voluntary assistance which a public authority would utterly fail to command. If it is going to be taken out of party hands the natural idea is that the expense will be colossal and will show itself very conspicuously in the budget of local or Imperial charges, wherever its weight is made to fall. The two phantoms of complication and expense range over the whole area in which registration reform is the subject of discussion, and have done much to scare away those who realise the grave need which exists for some attempt at the solution of the question, though they are appalled by its vague and vast appearance.

The truth is, that while registration problems can only be solved by the creation of special and public machinery, not a great deal is required. No vast expense is involved. If it were, it would surely be worth the nation's while to face a financial self-sacrifice that would so greatly enlarge the area of political interest, broaden the basis of political power, and stimulate its exercise by means of the consciousness of its possession. In reality, however, the machinery is ready for an immediate start, and the student of our political mechanism who will carefully follow the present argument will be less astonished at the excellence of the implement ready to the reformer's hand than at the blindness which has allowed us to overlook its availability for so many years. There exist in this country two enormous bodies of highly-trained officials, whose duty it is to keep the citizen informed of his liabilities to the State and to see that he discharges them. So close and instantaneous is the supervision of these organised official forces that the citizen will seek in vain for a means of livelihood, valued at more than £160 a year, which will leave him free from the insistence of the income-tax collector, or for a dwelling, however humble in size and position, which he may occupy at liberty from the demands of the rate-collector. So thorough is the scrutiny exercised by the Inland Revenue officials within their various areas of activity that, for instance, a man cannot open a fifth-floor office in the City of London without being "discovered" within a few days by the document which requires a statement of his income, or a claim for exemption or abatement. Given a three months' qualification, a special and permanent registration official or officials in each constituency, and the stimulus of the income-tax and rate-collecting organisations, employed in the manner which is described below, and we shall

* The revising barrister at Bermondsey said that the cost of registration work in London in 1907 for 790,000 voters was £18,000, of which the London County Council paid one-half. But these figures relate only to so much of the cost of registration work as is paid for out of public funds. As the sum provided from private and party sources was probably twice as great as that which came from public funds, the annual cost of London registration must be about £50,000.

have an effective and continuous registration mechanism which will never produce, or even tolerate, a stale register.

The Scheme Outlined.

What is here proposed, then, is that the registration work should in each constituency be placed in charge of a specially-appointed skilled official, devoting his whole time to the work. The salary would vary according to the size of the constituency, but men with the best qualifications, and dealing with the registration work in the largest electoral areas, need not be paid more than £750 a year, while in the constituencies with an electorate of 10,000 to 15,000 a salary of £500 would be ample. In the smaller constituencies (assuming that these are suffered to prolong their abnormal existence) even less than that amount would suffice. It is very desirable—if, indeed, it is not essential—that the public confidence in the registration official should not be destroyed at the outset by his appointment, or the appointment of any of his staff, as a reward for political services. His knowledge of registration law will originally correspond to that of the present revising barristers, though constant practice will soon raise it to a far higher level than they attain. His decisions will be subject to appeal in the same way, and to the same tribunal, as those of a revising barrister; but he will be under a greater pressure to expedite the rendering of the final decision. He will require a staff proportionate to the size of the constituency, but its total cost need never exceed an amount equal to his own salary, seeing that its members require to be endowed with no greater skill and discretion than are involved in making inquiries as to the qualifications for the franchise which are possessed by persons who desire to exercise it, and intelligently reporting their result to the chief official. In a constituency, for instance, where the chief official received £750 a year, five assistants at £150 each, or four at £200 each, would constitute an absolutely sufficient auxiliary staff.

The Registration Officials and their staffs would form a large body of highly-skilled public servants, pledged to carry on their labour regardless of party considerations. The apparent difficulty of discovering so large a number of men qualified to discharge duties so technical and so complicated could doubtless be solved by selecting them originally from the ranks of the party registration agents. It is a mistake to imagine that these men are actuated largely by party zeal so as to bring them within the range of the stipulation already laid down, that the registration officials should not be merely partisans rewarded with place. The registration agents are mainly in the position of counsel or solicitors, doing their utmost to serve the party from whom they receive their brief, but qualified, by the very nature of their task, to see both sides of a case. They possess a unique and

extraordinarily minute acquaintance with the mode of discovering the existence of legitimate claims to a vote and of analysing the subterfuges by means of which illegitimate pretensions to the same privilege are supported. They are, by the rivalry which the present system generates, stimulated into a rapidity of apprehension and a celerity of operation which would start the new national machinery with an unexampled vigour, freshness, and adequacy. They know how to deal with those large classes of citizens who are entitled to the franchise and yet shrink from its possession and responsibility because of the belief that their claims will be made an instrument for the imposition or the extortion of fresh taxation. That such ideas should exist, and that to some extent, even in the twentieth century, our local and Imperial revenue system generates them, are facts that may come home to the public mind with something like a shock. Finally—and this is by no means the least of the considerations—the electorate ought not lightly to deprive of their means of livelihood a class of men who have, for many years, carried on the comparatively thankless work of making the Parliamentary register as perfect as the chaotic legislative provisions would permit it to become—who have, in fact, undertaken, in a private capacity, to discharge a public duty, and should not now be penalised because their sphere of labour will in future be a part of the public system.

Vast and Powerful Machinery.

Up to the limit of the needs of his work, the whole of the Imperial and local machinery would be at the service of the Registration Official and his staff. The Tasmanian Electoral Act contains some excellent provisions with regard to the co-operation of other departments of the public service:

"All officers in the service of the State, and all constables, and all officers in the service of any local governing body, are hereby authorised and required to furnish to the Chief Electoral Officer for the State, or any Electoral Registrar, all such information as he requires to enable him to prepare or revise the rolls.

"All constables are hereby enjoined to assist any Electoral Registrar by making inquiries, collecting information, and otherwise, as he requests."

These provisions might well be adopted into our own system when it is remodelled. The Registration Official's offices would be in, or near, the offices of the local authority, and he would have free access (subject to proper provisions for the safeguarding of confidential matters) to the vast mass of information accumulated by the Inland Revenue officials. He would have the free use of the whole of the postal facilities. This is a very important element. Under the existing mode of operation, a very considerable portion of the privately-incurred registration expenses is spent with the Post Office. The postage of an "objection" to a vote, for instance, costs 3d., for it must

be registered. (The "objector," too, is generally paid, since he usually signs a very large number of objections, and may incur a certain amount of odium.) The Post Office affords the best means of "testing" a register, by means of a communication sent to every elector at his registered address, because the return of the missives through the dead-letter office will indicate the inaccuracies of the register and the starting point of inquiry as to the whereabouts of the voter, if he has "removed." This valuable mode of "test," expensive to a private organisation, would be always available to the Registration Officials as a part of the public service.

The Registration Officials would be in inter-communication with each other throughout the country. The movements, the status, and the existence of a voter could in that way be made the subject of immediate official inquiry, from Haverfordwest to Folkestone and from Penzance to Berwick-upon-Tweed, as an essential part of a system of operations which covered the whole land as completely as the Post Office itself. Under present circumstances the registration agent must rely upon the *esprit de corps* of his party colleague in another and perhaps a distant constituency, or upon the chance of knowing some person who resides there and will make a local inquiry, for information of this kind. Under a public system the information would be required as of public right and rendered as a public duty, and with a much larger sense of responsibility than is now the case.

The Register and Supplements.

The Registration Official and his staff would be provided at the commencement of their work with a ready-made register, the fruit of the labours of the revising barristers, the overseers, and the party agents. The new official would maintain it in continuous efficiency by the issue, each year, of a new register, and of three quarterly supplements, each in two parts, one containing the names of persons whose names had been added to the list, the other composed of the names of those who had ceased to retain their qualification and whose names were to be expunged. By means of these supplements the agents of political organisations could correct their original copies of the register, and from them there would be compiled the registers which would be employed by the returning officer at a Parliamentary election, at whatever period of the year it intervened. The register would be published punctually on the 1st of February, May, August, and November in each year, the February issue being always the entire and complete register of the whole of the electors in the constituency made up by the collation and revision of the previous annual issue and the subsequent supplements. The complete register, or the supplement (as the case might be), would include the names of all persons entitled to be registered as electors up to the last

day of the month next but one preceding the date of issue—the February issue being complete to the end of the previous December, the May issue to the end of the March quarter, the August issue, to the end of the June half year, and the November issue to the end of the September quarter. The period intervening between completion and publication would be required for printing and binding, and for obtaining judgments upon appeals against the Registration Officer's decisions. If these judgments were not obtained in time for any given pending issue of the register or its supplements, the judge would make an order for the insertion or the expunging forthwith of the name of the voter whose claim had been the subject matter of the proceedings, in the same way as if it were the case of a shareholder asking that his name be removed from the register of a company. The Registration Officer would give public notice of the facts and communicate them to the returning officer in case of an election between the date of the judge's order and the issue of the next register or supplement. There would be no other intermediate modification of the register. Except on a judge's order made under such circumstances as this, each register, or supplement, would remain in force until modified by the next. Thus, an elector whose name appeared in the August supplement, but who ceased to be qualified before September 1, could not be objected to as a voter at an election in October, but his name would be expunged from the register by notice in the November supplement. Under the present system he would be a qualified voter up to the end of the next year—that is to say, for thirteen months longer than the present scheme would permit, and for nearly eighteen months after he had ceased to be qualified.

The Proposed New Auxiliaries.

Copies of the register and its supplements would be delivered immediately on their issue to the Inland Revenue authorities and the rate-collecting authorities within the constituency and there would be a provision that:

(a) Every demand note for property tax, land tax, inhabited house duty, or income tax, or for any rate collectable by a local government authority, and every form, issued by such revenue or rate-collecting authority, requiring the recipient to furnish to such authority the particulars upon which claims for taxes or rates are intended to be based (including notices relating to establishment licenses and dog licenses), shall bear upon its face the words:

"(1) You are a registered Parliamentary elector of the borough (or county) of ....., and your registered number is .....;

Or else the words:

"(2) Your name is not on the register of Parliamentary electors for the borough (or county) for the reason ..... specified on the back hereof."

"The Registration Officer for your constituency is Mr. ——, whose office is at ——."

The tax or rate official would, in sending out these notices, strike out either (1) or (2) as the case might be, and would fill

up the uncancelled portion by means of the register and supplements, or by means of other particulars furnished to him by the Registration Officer. Any demand note not bearing one or other of these paragraphs, duly filled up, would be invalid.

The various incapacities would be briefly classified on the back of the notice, each under a separate letter, for instance, thus:

A. On account of your alienage.
B. On account of your minority.
C. On account of your being a peer.
D. On account of your possessing no qualification, or no sufficient qualification.
E. Because you are a joint stock company.*
F. On account of certain matters which will be explained to you on personal application to the Registration Officer.

This last provision (F) is intended to meet the case of a ratepayer or taxpayer who is also a convict on ticket-of-leave, or a person found guilty of corrupt or illegal practices, and is thereby debarred from inclusion in the register of voters. The reason (A) might be treated in the same way if it were thought desirable.

An Effective Automatic Stimulus.

It will have been observed that the notice printed on the demand note, with reference to the inclusion or non-inclusion of the recipient's name in the list of electors, contemplates only two cases—(1) the presence of the name on the register or (2) its absence in consequence of a definable cause. But this classification, it will be said, is not exhaustive. There is a third class, composed of those persons who are not on the register though possessed of an unassailable qualification. Their names, let us assume, have been omitted either as a result of accident, inadvertence, or more or less culpable negligence on the part of the Registration Officer and his staff. What is the consequence? The tax or rate-collecting official, under such circumstances, will not be able to state that the given person is a registered elector, for he is not; nor yet to define the disqualification which excludes him from the register, since none exists. He will, therefore, be unable to issue a valid demand note; and as he himself is the subject of pressure from his superiors with regard to the punctual and effective discharge of his duties, he will begin to cast about for a means of escape from the *impasse* in which he finds himself. He will report to his superiors that he is prevented from serving A B with a demand note for income-tax because, for instance, owing to the inadvertence or negligence of the Registration Officer the name of A B, although he is a fully qualified elector, has been omitted from the current register or quarterly supplement. These representations will necessarily

*Joint stock companies, although they pay rates and taxes, are at present refused any voice in the expenditure of the money. An unsuccessful attempt has been made to confer the franchise upon them.

lead to the calling of the attention of the Registration Officer to the state of affairs for which he is responsible and, as the remonstrances will reach him from authorities who cannot be ignored or trifled with, his prompt and serious activity in the matter will be ensured. In a word, the whole force of the revenue-collecting and rate-collecting organisations throughout the country will be in continuous automatic operation in stimulating and, in fact, compelling the unintermitted vigilance of the Registration Official and his staff, and this without any immediate contact between these organisations and the electoral mechanism itself. To the objection that this scheme would occasionally have for its consequence the bringing of the revenue-collecting machinery to a standstill, the answer is that, if the State will neither give the citizen his vote nor render him a reason for its refusal to do so, its means of enforcing pecuniary claims upon him ought, in very truth, to be brought to a standstill until it arrives at a clearer realisation of its duty.

No Real Obstacle to Revenue Collection.

There is here, indeed, no menace whatever to the rapid and facile collection of the Imperial or local revenue. Every individual who becomes liable to the payment of any of the rates or taxes contemplated in the present scheme must fall into one of three classes.

(1) That composed of registered electors.

(2) That composed of persons who, although liable for rates and/or taxes, are subject to a definable electoral disqualification arising from sex, status, or other cause.

(3) That composed of persons omitted from the register in consequence of accident, or of the inadvertence or negligence of those who are responsible for its maintenance in accuracy and completeness.

What the present scheme contemplates is that the State should take the earliest possible opportunity of removing a person from this third class, whose very existence is a sign of State obligations imperfectly discharged, into the first or the second, and that until it has done so the State should refrain from requiring the citizen to discharge the pecuniary civic claims which it makes upon him. What the State now does is to maintain a mechanism of singular elaboration, persistence, and power for reminding the citizen of his liabilities *to* itself and of compelling practical attention to them; but the citizen's claims to recognition *by* itself, and to the rights and privileges of citizenship, it leaves to be dealt with in haphazard fashion, refusing to allow its own neglect to operate as any excuse whatever for a similarly careless attitude on the part of the citizen. Under the propositions here offered there will be a real reciprocity between State and citizen. On the missive which requires the fulfilment of his duties as a rate-

payer or a taxpayer he will be reminded of his civic powers, or informed, in a precise and definite way, what is the disability which prevents his possession of them. Civic obligation and civic power will be inseparably associated, and the authorities who define and enforce the one will only do so when the other has been called into effective existence and when the citizen can be reminded of it as often as the State requires a pecuniary contribution at his hands.

Check and Counter Check.

After their use by the Inland Revenue and rate-collecting authorities, the registers and the supplements (or duplicates of them) would be returned to the Registration Official, annotated with the results of their employment and scrutiny in the other official departments. In this manner we should bring into activity another check upon the accuracy of the register. There are under the existing system frequent instances of names remaining on the register for years—sometimes for many years—after the death or disqualification of the voter. This is especially the case with distant outvoters, into the continuance of whose claims to the vote once conferred upon them there is no adequate means of inquiry. Inter-communication and inter-responsibility will do much to remedy this, as we have already seen. The return of the annotated lists will do more. The revenue official will have discovered, for instance that, although a certain voter appears to reside at a certain address and to be qualified by his occupation, he pays no taxes and is totally unknown, as a revenue-paying element of the community, to those officials whose duty it is to remind him of his obligations. The removal of the name from the register will follow as a matter of course.

It may be convenient to briefly indicate at this point (though the subject is more fully discussed in the chapter on "Personation") how these obsolete components of the register offer most favourable opportunities for personation. The attention of an enthusiastic, but unscrupulous, partisan is called to the name, and a rapid inquiry shows that the person is quite unknown. Nobody has ever seen him, or can give any information about him. The personation agents hesitate to challenge the applicant for a ballot-paper in the name of this mysterious electoral entity, lest he should prove, after all, to be the right man. Hence arises an abuse of the electoral process which may conceivably change the political complexion of the constituency. The proposed new mechanism would go far to abolish these dangers.

There still remain a number of expedients by which the "sweep" of the registration mechanism might be rendered wider in area and more certain in operation. By their means the actual or potential voter would be continually reminded of the existence of his electoral power, or of his right to have it recognised. For

instance, every applicant for a dog license, game license, gun license, or any other privilege to which the State has attached the requirement of a payment in money, might be required to give on his application form the name of his constituency and his number on the register, or else to state that he is not a registered elector. If he is registered, the fact has in this way been brought to his immediate cognisance. If he is not, the attention of the Registration Official will be called to the fact by means of a return made to him of the names and addresses of persons who have applied for licenses but have stated that they are not registered electors.

Some Difficulties Reviewed.

This is necessarily only the barest outline of a scheme which would require to be carefully elaborated in detail before incorporation in an Act of Parliament. Along these lines, however, and on these basic principles the solution of the registration problem can be worked out. Difficulties may raise themselves or be raised by others; but difficulties only exist to be combated by the energy and skill of strenuous minds. One obstacle, for instance, will no doubt have occurred to the expert reader of these proposals as arising from the fact that the address at which income-tax is demanded is frequently not that at which the voter is qualified, nor is it even in the same constituency. The reference is not to the familiar outvoter, but to the enormous number of persons who throng into the business centres of a large city and are there assessed to income-tax, although their Parliamentary electoral qualification is in the suburbs or neighbouring county constituencies.

In this position are the staffs of the great banks and joint-stock companies in the City of London, whose numbers can only be expressed in tens of thousands. In the application of the proposed registration principles to these, however, no real difficulty arises. Their rate demand notes will be received at the suburban or other house address which confers their electoral qualification. Their inhabited house duty and property tax demand notes will go to the same place; and all that is required to bring the income-tax demand notes into line with the new requirements is the regulation that they shall not be despatched from the City revenue centres, where the assessment takes place, but shall, after preparation there, go down to the various local offices; and then, after being completed by the insertion of the registered number or the assignment of disqualification, shall be returned to the City centre for distribution, or despatched direct from the local revenue offices to the City addresses—through the post, as usual. The income-tax payer is always required to furnish his private address in order that local inquiries may be made with regard to the correspondence of his style of suburban establishment with

the income which he says he receives. All that is necessary, therefore, is that the City income-tax demand notes shall be sorted into sections corresponding with the suburban and county constituencies indicated by the private addresses and sent down to the local revenue officials for completion from the register, the supplements, and the information supplied by the Registration Official. So easily do supposed difficulties vanish when they are subjected to a scrutiny which is at once critical and practical!

The Lodger Vote.

The lodger vote, so far as it consists of persons whose income is within the income-tax limit, will be automatically maintained in completeness by the expedient which has been suggested in connection with the demand notes. This will be the case in a very special degree where a large number of men, employed in the central business districts of great cities, reside in the suburbs as lodgers. Unless they claim registration on their own initiative, or in consequence of the suggestion of the party agents by whom they have been discovered, there is at present no mechanism which will secure the vote for this very large and intelligent class. But although their claims to civic right and privilege will be overlooked, there exists a very efficient mechanism for ensuring their discharge of civic obligations. They will not be forgotten by the income-tax officials: and as, under the scheme here proposed, these gentlemen could not serve a valid demand note till the income-tax paying lodger had either been registered or had been rendered a reason for his non-registration, the completeness of the register of lodger voters would be automatically secured, so long as the individual lodger's income exceeded £160.

There remains the class of lodger voters whose income is not such as to bring them within the observation of the revenue officials. These form by far the greater part of the aggregate. Apart from their numbers, they are worthy of the serious attention of the State, because the lodger is generally undergoing his political and civic apprenticeship, in preparation for the wider responsibilities of marriage and a separate home, and the State will be serving its own highest aims in seeing that he has the fullest opportunity for the exercise of the functions which will train him in the ideals of citizenship. The difficulties of securing a continuously complete register of lodger votes arise from various causes:

(1) Many members of the class are, as young men, just starting in life, politically immature, with no definite knowledge either of the existence or of the value of the vote which rightly belongs to them.

(2) Many belong to a "shifting" class, which, in consequence of the exigencies of changed employment, the ebb and flow of trade, and personal caprice, is constantly moving about. A three

months' qualification will not reach this class, nor is it wholly desirable that it should.

(3) There is no effective machinery for registering the lodger vote. The lodger comes and goes, and there is none whose unmistakable duty it is to see that he is registered. He must either do it himself, or leave it to the party agents, or other external influences.

Except the work of the party agents, the most valuable influence at work upon the lodger vote is the formation of numerous religious, social, and political associations, into many of which (the social and political, perhaps, rather than the religious) the potential lodger voters are drawn, and are made anxious to exercise their political power by the discovery that they can in that way further the purposes of the association which they have joined. But every election agent knows that these influences, stimulated as they are in so many instances by the tireless enthusiasm of the younger men who organise the various societies, only operate partially and spasmodically. At a contested election scores—and in a large constituency hundreds—of men who are fully entitled to registration become aware of the fact that they are politically impotent; and the sentiments of disgust, disappointment, and irresponsibility generated by the discovery are adverse to the universal dissemination of an electoral pride of conscious power, which is of the very essence of self-governing ambition and capacity.

Clearly, then, any sound scheme of registration must provide the means of seriously grappling with the problem presented by the lodger vote. Mr. Asquith's Registration of Electors Bill dealt with this problem in what is really the only effective way, drastic though it appears to be. The Registration Officials were to be empowered to require all persons rated as occupiers to furnish lists of their lodgers, and penalties were to be imposed for failure to furnish the particulars within the requisite time. It is, however, an essential condition of the adoption of any system of compulsory information that the person upon whom the duty is imposed should be furnished with a clear idea what is required of him. The lodger qualification (Franchise Acts of 1867 and 1884) contemplates the occupation of lodgings "of a clear yearly value, if let unfurnished, of £10 or upwards." Perhaps no more vivid idea can be given of the complications grafted, by the various decisions of numerous revising barristers and by the higher courts, upon this provision, than will be conveyed by the assertion that if a judge of the High Court were required to compile a list of the persons in a given dwelling who were qualified to be registered as lodgers, he would have to give a very careful and serious consideration to the task. How, then, is it to be discharged by the ordinary tenant occupier, much less by the uneducated widow-woman whose lodgers are her livelihood,

unless the terms of the qualification are so simplified as to make it capable of comprehension by the simplest of lay minds? Clearly this primary obstacle must be surmounted, unless the lists compulsorily transmitted to the Registration Officials are to be mere replicas of the census paper, only available for registration purposes after they have been subjected to a long process of "sifting" by a huge staff of officials.

The "Service" Franchise.

The so-called "Service" franchise, like the lodger franchise, is so surrounded with technicalities as to be only obtainable under the greatest difficulty. The expression "Service franchise" is in itself misleading and, although the discussion may carry us slightly into the problems of the suffrage (which, in the main, lie outside the scope of this essay), it seems desirable to briefly indicate what are the questions here arising. The "Service" franchise was intended to confer the right to vote upon persons who separately occupied a dwelling-house, not independently on their own account, but by virtue of any office, service, or employment. A grocer's manager, for instance, who occupies the upper part of the building of which the grocer's shop forms the ground floor, and who has the benefit of that accommodation as part of his wages, is such a person as is contemplated by the provision for the "Service" franchise. The "Service" qualification is destroyed if the employer lives on the premises. On the other hand, there is a small army of persons who ought to exercise any "Service" franchise worthy of the name, and who are generally supposed to exercise it, though they are in truth entirely excluded from the electorate. Butlers, footmen, valets, coachmen, and male servants of every description who sleep under the same roof as their employer are not qualified for the "Service" vote. Yet, inasmuch as these men enjoy their accommodation under their employer's roof as part of their remuneration for their service, they are as clearly possessed of a residential qualification as any lodger or tenant occupier, and their exclusion from the franchise is an illogical and unfair state of things. There is no difficulty in the framing of a qualification for this class of potential voters, which shall be consistent alike with the justice of their claim and the purity of the register. The whole class could be brought within the observation of the Registration Official by the provision that all applications for establishment licenses shall not only specify, as at present, the capacity in which the male servant is employed, but shall add his name, age, and the date from which his service began. As every employer of a male servant is at present under an obligation to apply to the Inland Revenue authorities for an establishment license, only a very small additional obligation would be imposed by this requirement; while at the

same time the forms, handed to the Registration Official from the Inland Revenue offices, would automatically supply, without the expenditure of a shilling of public money, all the preliminary particulars which were necessary for the inclusion of this large class of voters in the Parliamentary register.

"Removal" Should Not Disfranchise.

As we have seen, an elector who ceases to have a qualification in a given constituency may be for months, and possibly for years, deprived of his vote, though he will not cease to be liable for rates and taxes. We require some facile and simple mode of transfer, so that an elector who "removes" will rapidly recover his civic status in his new constituency. The three months' qualification and the quarterly supplements will greatly facilitate this process, and by the incorporation, in any new legislation, of the provisions of the Tasmanian Act we shall at once make the transfer easy and guard it against abuse. The Tasmanian Electoral Act provides that:

30. Any elector whose name is on the roll for any Assembly District [i.e., constituency], and who has lived in any other Assembly District for one month, may transfer his name to the roll for the Assembly District in which he lives.

31. Every transfer shall be made by application to transfer in the Form (C) or (D) in Schedule III. (see below).

32. The application to transfer shall be signed by the elector and witnessed by an elector and sent to the Electoral Registrar keeping the Polling-place Roll to which the elector's name is to be transferred.

33. The Electoral Registrar shall—

(i.) Note, on the application to transfer, the date of its receipt, and file it in his office;

(ii.) If it appears that the applicant is entitled to the transfer, register it by placing the elector's name on the roll;

(iii.) Give notice of the transfer to the Electoral Registrar keeping the Polling-place Roll from which the elector's name has been transferred, who shall thereupon remove the elector's name from the roll.

The form of "Application to Transfer" is quite a model of simplicity and directness:

FORM (C).

"The Electoral Act, 1906." Application to Transfer. Assembly Roll.

Surname .....

Christian names at full length.....

Sex .....

Present place of living .....

Occupation .....

formerly living at [here insert place] in the electoral district of [here insert name of district] and enrolled for polling-place having bona fide changed my place of living and lived within the electoral district of [here insert name of district] for not less than one month, do hereby claim to have my name transferred to the Electoral Roll for polling place for the last-mentioned district.

Dated this day of , 19

(Signature.)

I, , an elector enrolled for polling-place, in the electoral district of , certify that I have seen the

above-mentioned applicant sign the above application, and that I am satisfied that the statements contained therein are true.

Witness to Signature .....

Note.—Any person who witnesses the signature of the applicant without being personally acquainted with the facts or satisfying himself by inquiry from the applicant or otherwise that the statements contained in the application are true, is guilty of an offence and liable to a penalty of £50.

Some Difficulties Considered.

There are some classes of qualification which would require special treatment under any scheme of registration reform. The most conspicuous is that which is composed of tenants whose rates are included in their rent and are paid by the landlord. As the law at present stands, default on the part of the landlord has the effect of disfranchising the tenant, although the latter has actually paid to the landlord the money which represents his quota of the rates. It must be added, since a candid treatment of the subject demands it, that there are instances where the default is wilful and calculated. The whole matter requires careful and drastic treatment, since it is intolerable, in a well-ordered State, that a man should be deprived of his electoral rights by the neglect, to say nothing of the corrupt machination, of another. What is required is a provision that all persons to whom rent is paid under an arrangement by which it includes rates (whether they receive it on their own account or on behalf of another) shall, within the first week of every month, furnish to the Registration Official a list of the persons making such payment, with such other particulars as the Registration Official may require; that in all such cases the rates shall be paid to the proper authority within seven days of their receipt, included in the rent, by the person, or persons (including a firm or company), entitled or appointed to receive them, such seven days to run from the date when the tenant parts with the money to the collector or other person acting in the matter; that no person shall, unless personally licensed by the Registration Official, collect rents which include rates; and that where a default in the payment of the rates within the stipulated seven days has of itself prevented the inclusion of the name of the ratepayer in the issue of the register (or supplement, as the case may be) next after such payment was made to the collector, the Registration Official shall initiate a prosecution of the collector, unless satisfied that the collector duly paid the money over to some other person (such as a firm or estate agent, or the landlord himself) entitled to receive it from him, in which case he shall prosecute such firm or landlord. The penalty for the collector should be a fine in the first instance and the cancellation of the license in the second; for the firm or landlord, whose conduct is utterly inexcusable, it should be a fine in the first instance, imprisonment in the first division for the next offence, and with hard labour for the third.

An alternative provision might confer upon the Registration Official a power exercisable upon the written request of the tenant to require the rating authority to apportion the tenant's rent, rates, and taxes; and might give the tenant the right, upon such apportionment, to elect to pay the rates direct to the rating authority, all agreements with the landlord to the contrary notwithstanding. Seven days, it may be argued, is a short time within which to pay the rates to the local authority. The answer is that a short electoral qualification can only be maintained in adequacy if there is the utmost promptitude of action on the part of those agencies upon whose operation the evidence of its existence depends. A perfect register evolved by a sluggish mechanism is unthinkable.

These difficulties were not met in this way in Mr. Asquith's Bill of 1893. It was there proposed to abolish the payment of rates as a qualification for the franchise on account of the instances of hardship and oppression which arise under the existing system. But the principle of insisting upon the payment of rates as a qualification is, after all, only a corollary of the principle of "no taxation without representation." The man who is in default with his contribution to the public funds ought not to be allowed to share in the management of that system of co-operative provision and protection which those funds maintain. His default may be only the consequences of his misfortune, but that is a question into which the financial machinery of a local authority is incompetent to inquire. To distinguish between payment and non-payment is the limit of its capacity and its obligation in matters of this kind. Even in the Socialist State we are told that the Pauline maxim—"If any will not work neither shall he eat"—would be ruthlessly enforced. "He that will not pay, neither should he vote," is surely a reasonable application of that maxim to a system under which civic obligation and civic privilege go hand in hand. The way to meet the difficulty is not to allow the civic privileges to be exercisable by the man who refuses to discharge their concomitant obligations, but, where the co-existence of obligation and privilege is imperilled or destroyed, to strike at those who are responsible for the menace or the loss, and to strike hard.

Application to a Wider Franchise.

Can these principles be applied when, as must inevitably be the case before the world is many years older, the franchise is based upon adult suffrage? There is no reason to doubt it. Adult suffrage would not mean that any and every person who passed the door of the polling booth on election day would be able to enter and record a vote, much less that he should be able to do so at every polling station in the constituency. *Some* qualification other than the mere possession of the aspect and garments

of humanity must be required under the widest and most liberal franchise that it is possible to devise. Whatever that qualification is, it will be capable of association at some point or other with the duties and obligations of citizenship, and at that point the principles here enunciated can be brought into active operation. Incidentally, however, this scheme, working on adult suffrage, would transfer the principle of "no taxation without representation" from the ideal to the practical, at least as far as direct taxation was concerned. If we consider the increased ingenuity of modern Governments in the discovery of new modes of taxation, as well as the constant addition which is made to the burdens of the ratepaying portion of the community, we shall see that this is clearly a consummation worth striving for, whether we regard the increase of public demands as an evil, or take the converse view of it.

Law Reform an Essential Preliminary.

No provision for a three months' qualification can, however, be adopted, in the present antiquated and disorganised condition of the election law, without opening the door to the gravest abuses. It is not too much to assert that if the measure were carried into effect without a preliminary and thorough reform of the election law, on drastic lines, manipulation of the most flagrant character would supervene and could not be counteracted by any of the preventive measures that the existing legislation provides. For instance, where an election could be foreseen a few months ahead (as in the case of a general election known to be pending, or where a member is rapidly declining in health, and the end cannot be long deferred) it would be possible for a powerful outside organisation, at no very great expense, to put 300 or 400 voters on the register in preparation for the contest. All that would be necessary would be to send down, or select in the neighbourhood, that number of persons and to provide them with the qualification for the occupation or lodger franchise. Ostensibly they would be employed in "organisation" and preparation for the election: and when the contest finally took place, there would be no effective means, as the law stands, of preventing their exercise of the franchise. As persons employed, for payment, at the election, they might be disqualified: but the disqualification can only be enforced with anything like real effectiveness as the outcome of a scrutiny, which would take place long after the misleading result of the election had done its work as a psychological influence upon the minds of other electorates, and only then at an enormous cost of money and labour. Even this slender modicum of satisfaction could probably be rendered unattainable by the simple expedient of dispensing with the services of these electoral auxiliaries during the period of three weeks or a month in which the actual fighting was done. It would then be feasible to argue

that whatever they were paid for, it was not election work: and as none of them would be in the employment of any candidate, the legitimacy of their position could only with difficulty be assailed, and with still greater difficulty brought under judicial condemnation. To place 300 persons on the register in this way. and to provide them, pending an election, with a weekly wage for the kind of "organisation" or "inquiries" in which they were ostensibly engaged would cost no more than £25 to £30 a head, or £7,500 to £9,000 for the entire band. Such a sum as that is but as the small dust of the balance in comparison with the immense resources available to some of the gigantic interests with which the electorate, unless it strengthen the constitutional position by new and strong entrenchments, may find itself confronted and borne down.

Official Neglect of Duty.

Mr. Asquith's Bill provided that any person aggrieved by the alleged neglect of the Registration Official could complain to the revising barrister, whose powers extended to the imposition of a 40s. fine for each instance of proved neglect. The money was payable to the complainant by way of reimbursement of his costs. Inasmuch, however, as the revising barrister only sits once a year under the present conditions (and the scheme outlined in this essay contemplates the discharge of his duties by the Registration Official), this remedy would have the fault of extreme slowness. For that reason it seems desirable to confer the power of inquiry and fine in response to complaint upon courts of summary jurisdiction, or at least on county courts. Further, no Registration Official would be effectively punished for neglect if the local authority paid his fines; and therefore a power should be conferred on the court of inquiry (whether it were a court of summary jurisdiction or the county court) to order the Registration Official to pay the fine personally, if, in the opinion of the court, there was personal fault. After a third fine the local authority (assuming that the power of appointing the Registration Officials were conferred on the local bodies, such as the county councils) would presumably arrange to relieve the negligent official of his duties. These provisions, added to the continuous pressure of the Inland Revenue and local taxation authorities, would render impossible an inefficient official, and would transform a stale register into an electoral antique.

An Indexed Register.

Any improvement of the registration system should provide an alphabetical index to the voters, all combined in one local index, and with the reference made to their consecutive number on the register. This would obviate the troublesome search for the name which often results from the present compilation of the register on the "street" system, with separate divisions for the

lodgers and service voters. It might also enable accidental personation, of the kind described in Chapter VIII., to be more easily prevented. The compilation of such an index is almost mechanical labour, and if it were printed in nonpareil or minion type it would, except in the case of the very largest constituencies, only add a few pages to the bulk of the register.

The Register Generally Conclusive.

Broadly speaking, the register is conclusive evidence of the existence of a right to vote. That is to say, the returning officer, or presiding officer, cannot refuse to give a ballot paper to an applicant, on the ground that, although his name is on the register, it ought not to be there. Of course, if the officer in charge of a polling station has reasonable grounds for supposing that the applicant is not, in fact, the voter whom he claims to be, the case is, apparently, one of attempted personation. This is fully dealt with elsewhere (Chapter VIII.). But where the registered voter, although his identity is not challengeable, is really not entitled to be on the register at all, there appears to be one small class of cases to which the register has no conclusive application, and with regard to which the officer in charge of the polling station has not only a discretion, but a duty. These cases arise where a person, although registered as an elector, is subject to an inherent, inalienable, irremovable personal disqualification, which could not possibly have been shaken off so as to remove the obstacle to the right of voting. Stated in the technical terms of logic, the rule is this—that where the possible source of disqualification sounds in a property, the returning officer is competent to inquire into it; but where it sounds in an accident, the register is conclusive.* Such a disqualification, sounding in a property, for instance, is the fact of being a peer or a woman. An eminent constitutional authority has assured us that not even the apparent omnipotence of the Legislature suffices to transform a woman into a man; and hence the presiding officer, knowing that women are at common law incapable of voting,† and being aware also that this incapacity is irremediable, except by the statutory grant of the franchise to women, is empowered (if not required) to refuse a ballot paper, although the applicant is actually on the register. The rule is otherwise where the alleged incapacity is not inherent and irremediable. In such instances, the register is conclusive. The alleged, or even the demonstrated, fact that a registered voter is an alien affords no valid reason for refusing him a ballot paper. But all these

* It is submitted that this is the effect of Stowe v. Joliffe (9 L.R., C.P. 734), and the writer, in so stating it, has the support of the learned editors of the last edition of Ward's "Practice at Elections."

† The writer is here stating a legal fact, not expressing an opinion with regard to the political capacity of women.

questions as to qualification, whether inherent or accidental, can be investigated and determined on a scrutiny, which is the usual mode of challenge. And the percentage of such cases is so small that not one election in a hundred turns upon it. Moreover, in the vast majority of instances a presiding officer is actuated by a desire to maintain a high standard of judicial impartiality, and will take no serious step without consideration, and only then, it may be, after conference with the returning officer. Greater efficiency and care in the preparation of the register must ultimately cause the disappearance of practically the whole of these sources of polling-station disquietude.

Summary of Proposals.

Registration work to be in the hands of a public official, personally punishable for neglect.

The qualification period to be three months.

The register to be issued annually, but to be maintained in continuous completeness by quarterly supplements.

Demand notes for certain Imperial taxes (especially the income-tax) and local rates not to be valid unless they specify either (a) the registered number of the elector upon whom the demand is made, or (b) give a definite and legitimate reason for the absence of his name from the register. Civic duty and civic privilege are thus made inter-dependent, in accordance with the requirements of the First Canon.

Provisions for (1) the rapid transfer of names from the register of one constituency to that of another; (2) compulsory returns of the names of all lodgers, so as to ensure their inclusion in the register; (3) the prompt payment to the local authority of rates which are included in the rent (with severe penalties in case of neglect) so as to prevent the disfranchisement of the elector by the neglect of his landlord, or the landlord's agents.

CHAPTER III.

The Distribution of Seats.

If we assume the existence of an electorate, with its qualifications properly checked and its members exhaustively enumerated, it would seem at first sight as if the simplest way to arrive at its decisions on great questions of national policy would be the ascertainment of the predominant opinion of the mass. This was, in fact, the earliest mode of legislation in Teutonic communities.* In its original form it has ceased to be practicable, but there have been recent endeavours to revert to the principle and to translate it into practice by means of the mechanism known as the Referendum. The scheme which is outlined in the present essay contemplates what is in effect a continuous Referendum as an essential component of the electoral machinery, and explains at a later stage how it might be created and put in operation with a minimum of risk and irresponsibility and a maximum of dignity and precaution. It will be convenient, however, to state briefly what the Referendum is, especially in view of the fact that its adoption as an intermittent factor of our electoral scheme has been more than once proposed in recent years.

The Referendum.

Under the Swiss Constitution there exists what may be called an initiatory referendum, or, more briefly, the Initiative. It confers upon 50,000 citizens, or any greater number, the right to make certain legislative proposals and to require that they shall be submitted to the whole electorate. But if the legislation has not originated in an exercise of the Initiative, there exists a right, which is called the Facultative Referendum, under which 30,000 (not 50,000) may require that the new law, although passed by the Federal Legislature, shall within ninety days be submitted to the political judgment, exercised *ad hoc*, of the entire electorate. Finally, there is an Obligatory Referendum, which secures the reference to the entire electorate, without any auxiliary or preliminary demand, of proposed changes in the Constitution; and unless the suggested alterations are endorsed not only by a majority of the electors, but by a majority of the cantons, they cannot take legal effect. The analogous provisions with regard to the approval of changes in the Constitutions of the United States, Canada, and Australia by specified proportions of the

*An interesting account of an actual instance of its practice in recent years will be found in Freeman's "Growth of the English Constitution," Chapter I.

electorate will readily occur to the reader's mind. In curious contrast to these safeguards in other lands, we may place the possibility of utterly unconstitutional legislation, enacted in our own country by a Parliament which represented, and had been elected by, a minority (and possibly a small minority) of the electorate. The poll at a meeting of shareholders or at a parish meeting, and the test of the electoral opinion, *ad hoc*, under the Free Libraries Act, afford instances of the English operation of the Referendum, though on a modest and limited scale.

The consideration of the advantages and disadvantages of these processes may reinforce our study of the continuous referendum which is an element of the present scheme of self-government as the fruit of electoral efficiency. It will suffice for the present, therefore, to indicate—if, indeed, the reader needs the indication—that whatever may be said in support of the Referendum as a method of occasional test applied to the aggregate electoral opinion, it would be impracticable to have the whole electorate occupied, as it were, in continuous session, and charged with the duty of considering and voting upon every detail of executive business. We must, therefore, entrust the power, and convey the desires, of the electorate to other persons, selected for the purpose, and we must divide the electorate into larger or smaller groups for their exercise of the selective function.

The Problems of Redistribution.

In a community which had a stationary and evenly-distributed population, the most obvious method of providing for the exercise of the selective function would be the division of the country into as many divisions as there were seats in the Legislative Chamber and the allotment to each division of the right to elect one member. But here, on the very threshold of the problem (and ignoring the possibility of the manipulation of the electoral areas for party purposes), we are confronted with the fact that an electorate arranged with this apparently mathematical exactitude might find itself represented by a Legislature which was at variance (and perhaps very wide variance) with its own desires, and might, indeed, discover that it had delegated its own sovereignty to a group of legislators with whose political views and programme a large majority of its own aggregate had no sympathy whatever. Let there be, for instance, four divisions, each of equal superficial area and each with 15,000 electors. Let division A return a Radical member by a majority of 5,000, and let the divisions B, C, and D return Unionists with majorities of 1,000 each. The representatives would then consist of three Unionists and one Radical, and might proceed to legislate right in the teeth of an electorate which, by an aggregate majority of 2,000, had pronounced in favour of Radical measures. If the

reader supposes that he is being conducted into the realm of the imaginary and the theoretical, he may be reminded that the votes recorded at the last general election in the four divisions of the county of Warwickshire were as follows:

Division.	Conservative Votes.	Liberal Votes.	Conservative Majority	Liberal Majority.
Tamworth	7,561	4,842	2,719	—
Nuneaton	5,849	7,677	—	1,828
Rugby	4,9 '7	5,181	—	274
Stratford-on-Avon ...	4,173	4,321	—	148
Total.....	22,490	22,021	469	—

Here the Conservatives constitute a majority of the voters in the county, but only hold one seat against the three which are in the control of the minority.

Equal Electoral Districts Impossible.

Inasmuch as the phantasmagoria of equal electoral districts will exercise their fascinations as long as they are able to elude a rigorous analysis, it may be desirable at this point to show whither they would lead us. We may premise that the House of Commons is quite large enough. If, indeed, the question of its numbers involved no other problem but that of mere physical management and convenience as legislative instruments, the numbers might be advantageously reduced. But the reduction of the numbers would raise a multitude of other problems. It would be more difficult to redistribute a reduced number, and the disproportion between the representation of England and Ireland would become more striking still if the Irish representation were left untouched. Moreover, the difficulty of securing representation, and a voice, for all the multiplicity of interests and sentiments which jostle each other in our modern social and political system would become almost insuperable if the number of representatives tended to equal, or even to fall below, the aggregate of multifarious and varied sentiments and aspirations which must find expression on the floor of the House of Commons if the "safety-valve" principle is to be maintained. Taking the present number of the House of Commons as the basis of investigation, we may find a provision which has a *prima facie* attractiveness in the existing Constitution of the Dominion of Canada. The distribution of the seats in the Lower House in Canada is based upon the continuous representation of the province of Quebec by 65 members. The total population of the province is, after each census, divided by 65, and the quotient gives the number of electors which entitle to one member. That

number, as divisor, applied to the total population of any other province as dividend, yields as quotient the number of electors to which that province is entitled. If the remainder is less than half the divisor, it is disregarded; if more, it entitles to another member.

If we endeavoured to apply this method to England and Wales, as an advance in the direction of equal electoral districts, we should require to obtain a basis of operation by dividing the electoral population by the number of members in the House of Commons, and let the nearest round thousand to the quotient be the number of electors which entitles to one member. Applying this process to England and Wales, to which, for the sake of compactness in the investigation it will be convenient to confine it (especially as Ireland, partly as a result of the provisions of the Act of Union and partly because of its smaller population, would require a differently adapted scheme) we shall see that as the total electorate of England and Wales at the 1906 election was, in thousands, 4,905,000, while the number of seats was 495, the number of electors per seat was 9,909. This is a remarkable and suggestive figure, and will probably induce us to suppose that we might probably pursue the further investigation on a basis of 10,000 electors per seat. The idea, however, is fallacious. For the strict application of that principle of distribution which is mathematically deducible from the number of constituencies, and the aggregate voting strength of the English and Welsh electorate would (if applied on the basis of electorate at the 1906 election) have the effect of "wiping out" an extraordinary array of seats, many of them typical and important. They can be seen, between No. 300 and the end, in the list of constituencies which illustrates this chapter a few pages forward from this point.

Even if we could contemplate with equanimity such sweeping changes as these, and could proceed to the mapping out of mathematically exact electoral fractions, we should still discover that the equal electoral district, whether the equality be in the superficial area or in the electoral numbers, or in both, is an impossible ideal. If it could be realised, at the cost of infinite labour and adjustment, on the 1st of January in a given year, it would have ceased to exist by Midsummer Day; and the equal electoral district would be open to another and far more serious objection—viz., that it ignored those subtle elements of national life and character which are to be found in varying shades of temperament, in local pride and habit, in the conservatism of the bucolic mind and the alertness of the metropolitan intellect, in historical tradition, and even in the very interaction of racial forces, as where Saxon and Celt rub shoulders in South Wales and each is, in a manner, the physical and intellectual complement of

the other. These innumerable variations ought each to exert its influence, great or small, upon the Legislature. They mark the wholesome natural tendency of the organism to accommodate itself to its environment, and this is a propensity whose source and subsistence it were foolish, even if it were feasible, to destroy. They distinguish and help to perpetuate a thousand subtle grades of temperament, character, method, and aim, whose place in the national mosaic is essential to the completeness and distinction of the design, and whose share in the cosmic programme is as important as the first obscure "sport" which opens the way to a specialised function and a higher life.

The Electorate as an Organism.

The illustration employed in the closing words of the previous paragraph may form a fit prelude to the introduction of a striking fact—the fact that the problem which confronts us in the distribution of seats is only to be adequately solved by the application of the central and dominant principle of progress which grants survival and advancement to the organism that adapts itself to its environment and inexorably refuses the benison where the condition is not fulfilled. There is an organism in the realm of politics as truly as in the realm of biology, and it cannot be perfectly adjusted to its environment by a process which is undertaken at irregular periods and on the stimulus of variable motives. This may secure a brief coincidence between the facts and the necessities of the case; but when the coincidence has passed away, the effects of a warping and distorting limitation early show themselves as the organism struggles towards self-adaptation and is remorselessly beaten back by the pressure of the antique shell in which its labouring limbs are confined. The result is one-sided development, unsymmetrical growth, a maddened impatience of the obstruction, mingled with a consciousness of a higher destiny thwarted by an alien sway. If the obstruction is a rigid constitution, the insurgent organism will perhaps burst its bands in a convulsion which may or may not be fatal to its corporate existence; and even where there is no rigid constitution to baulk organic effort and ambition, there may be minor impediments which in their aggregate are almost as fatal as the incubus of a dead constitution overlying a living state.

These considerations gain immensely in force if Gierke is right in the suggestion that the legal creations which we call corporations really possess separate entities—that there actually is an individual existence of that which up to now it has been the fashion to contemplate as nothing more than a convenient legal fiction. "Our German Fellowship" (Genossenschaft), says the distinguished German jurist, "is no fiction, no symbol, no piece of the State's machinery, no collective name for individuals, but a living

organism and a real person with body and members and a will of its own. Itself can will, itself can act; it wills and acts by the men who are its organs, as a man wills and acts by brain, mouth, and hand. It is not a fictitious person: it is a Gesammtperson, and its will is a Gesammtwille: it is a group-person, and its will is a group-will."*

This idea is greatly extended by Mr. Bernard† when he says that "as the specialisation of the eagle is the wings with which he soars over the most inaccessible mountain crags, the specialisation of both human society and of the human unit is the Mind with all its wealth of subtle feeling, expressing itself in so many ways, each more amazing than the other—in Music, Art, Literature, and in all the subtleties of human intercourse. These, like eagles' wings, soar into the mysteries of the Psyche. This energy and development of Mind are to form the essence of the adult life of human societies. . . ." And "for what," he asks later, "will the new adult society organise itself? For that psychic life that we have indicated. All the evidence points to this, and every recognisable human movement is rapidly evolving in this direction." And a vista of even greater depth and beauty is opened out by the speculations and investigations of Wallace, Crookes, Lodge, Gurney, and Myers. If they are right in the belief that communication can be established between this plane of existence and that discarnate world whither the great leaders of humanity have gone; if the psychic entity which animates the political organism on this side can be made to receive, to sustain, and to respond to the promptings of the psychic entity on that side—then, verily, we are in the presence of potentialities whose utmost verge lies far beyond the range of incarnate vision. But these are the unsounded deeps of political speculation—to be measured, indeed, by plummets which the political thinker of the future will have ready to his hand, but for our immediate day, and perhaps for our immediate generation, fathomless. They have been briefly indicated in this survey only in order that the student may be prepared for the wider vision which the future will inevitably bring, and may, in the meanwhile, be saved from the delusion that when he has seen the visible machinery he has seen all.

Thus, almost at the very starting-point of our inquiry, do we find ourselves, as we approach the problem of the distribution of seats, face to face with the inexorable demands of the evolutionary law. For that reason it will be desirable, and, indeed, essential, for us to survey the evolutionary struggles of the political organism which is the subject of our scrutiny, during as long a period as will enable

* The quotation is from Professor Maitland's introduction to his own translation of Gierke's "Political Theories of the Middle Ages" (Cambridge University Press), where (page xxvi.) the references to Gierke's further treatment of the theory will be found in detail.

† "Scientific Basis of Socialism." (New Age Press.)

us thoroughly to grasp the character, and comprehend the scope, of the movement which is going on. For that purpose we must bring all the political, social, and economic tendencies of the electorate, over a period of years, within the limits of a field of view—an electoral microcosm—which is not too large for the intellectual vision of the observer; and in that way we shall enable ourselves to see in what direction the struggles of the organism tend, what are the lines upon which its most potent forces move, in what manner they are thwarted and confined, and, finally, how we may relieve them of the injurious pressure and restraint and confer upon the organism itself the persistent and unintermitted power of self-adjustment.

The Organism in Evolution.

This survey is offered in the statistics which follow. The names of the English and Welsh constituencies appear in the order of the heavy type of column (B), according to the size of their electorate at the General Election of 1906 (the last expression of the opinion of the whole voting strength of the country), the largest (Romford, with an electorate at that time of 45,579) at the top, and the smallest (Durham City, with a total voting strength of 2,580) at the bottom. This arrangement is the basis of comparison. In this heavy type column (B) to the right of the names of the constituencies will be found the number of their 1906 electorates; and in the corresponding column (B) to the left of the names of the constituencies are consecutive figures showing their strict numerical order, when arranged, as in the table, according to the number of their electorate. Thus Romford is No. 1, while the tenth place is occupied by the Cardiff District, and the fifteenth by the Tottenham division. The (A) column exhibits, to the right of the names of the constituencies, their respective electoral strength in 1886, twenty years before the 1906 election, but after the redistribution of seats. In the (A) column, to the left of the names of the constituencies, there is exhibited the position which each constituency would occupy if all were arranged according to their electorates at this period (1886), with the strongest at the top. The contrast between this column and the (B) column is striking and their juxtaposition throws into bold relief the ceaseless, rapid, and extensive changes which are produced by economic forces acting upon the strength and distribution of the electorate. The first position, with the greatest electoral strength, held by Romford in 1906, was in 1886 the distinction of Newcastle-on-Tyne, while the second, attained in 1906 by Newcastle itself, was held twenty years before by the City of London. We said that these changes were rapid. It remains to display evidence of their rapidity. This is furnished by the (C) columns, in which total electorate and the numerical rank which

it confers are again adjusted to the 1908 registers. Two years, it will be noticed, had increased the Romford aggregate by over 4,000, and carried the electorate of this constituency up to nearly 50,000. Newcastle fell to the third place, and the second was assumed by the Walthamstow division, as the result of an augmentation of its electorate due to precisely the same causes as have raised the Romford division from its thirty-ninth place in 1886 to the premier position in 1906 and 1908. With these explanatory observations, the survey is placed before the reader.

The Process of Electoral Evolution.

A (1885)	B (1906)	C (1908)		A (1886)	B (1906)	C (1908)
39	**1**	1	Essex (Romford) -	12,591	**45,579**	49,065
1	**2**	3	Newcastle - on-Tyne (2)	30,314	**36,909**	37,389
78	**3**	2	Essex(Walthamstow)	11,233	**35,321**	39,285
3	**4**	5	Oldham (2) - -	25,600	**32,387**	34,050
145	**5**	4	Wandsworth - -	10,150	**31,398**	35,678
2	**6**	8	London (City) (2) -	29,152	**31,030**	30,982
5	**7**	7	Portsmouth (2) -	20,341	**30,754**	31,894
128	**8**	6	Middlesex (Harrow)-	10,438	**28,627**	32,104
6	**9**	9	Sunderland (2)- -	18,078	**27,650**	29,895
38	**10**	16	Cardiff District -	12,605	**27,057**	28,760
16	**11**	12	Stafford (Handsw'th)	14,908	**26,243**	27,554
4	**12**	17	Leicester (2) - -	21,671	**25,129**	25,281
84	**13**	15	Lancs. (Stretford) -	11,140	**24,326**	25,675
37	**14**	16	Croydon - - -	12,619	**23,858**	25,629
99	**15**	11	Middlesex (Tott'h'm)	10,887	**23,409**	28,243
297	**16**	13	Middlesex (Enfield) -	8,621	**23,386**	26,575
264	**17**	14	West Ham (South) -	8,942	**22,753**	25,700
233	**18**	20	Lewisham - -	9,281	**22,243**	23,897
19	**19**	18	Surrey (Wimbledon)	14,086	**21,899**	24,967
11	**20**	30	Merthyr Tydvil (2) -	15,196	**21,438**	21,934
148	**21**	27	Leeds (North) - -	10,128	**21,196**	22,076
8	**22**	24	Blackburn (2) - -	16,329	**21,127**	22,191
18	**23**	37	Brighton (2) - -	14,848	**20,976**	21,060
58	**24**	28	Durham(Chest.-le-S.)	11,830	**20,910**	22,053
7	**25**	25	Lancashire (Bootle) -	16,663	**20,721**	22,169
382	**26**	32	Fulham - - -	6,500	**20,620**	21,595
33	**27**	33	Lancs. (Clitheroe) -	12,698	**20,613**	21,519
219	**28**	22	Essex (South East) -	9,367	**20,591**	22,732
280	**29**	31	Glamorgan (South) -	8,806	**20,541**	21,762
232	**30**	21	Middlesex (Ealing) -	9,283	**20,436**	23,444
10	**31**	36	Norwich (2) - -	15,323	**20,390**	21,225
9	**32**	40	Bolton (2) - -	16,063	**20,388**	20,907
90	**33**	35	Lancs. (Blackpool) -	11,093	**20,339**	21,377

A (1886)	B (1906)	C (1908)		A (1886)	B (1906)	C (1908)
305	**34**	26	Glamorgan (East) -	8,544	**20,338**	22,086
21	**35**	34	Middlesbrough -	13,864	**20,322**	21,457
63	**36**	39	Hull (West) - -	11,517	**20,192**	20,941
80	**37**	38	Kent (Dartford) -	11,173	**19,741**	21,051
109	**38**	29	Middlesex (Hornsey)	10,648	**19,651**	22,011
93B*	**39**	45	Yorkshire (Barnsley)	11,000	**19,564**	19,572
14	**40**	44	Derby (2) - -	14,925	**19,543**	19,633
179	**41**	42	Cheshire (Wirral) -	9,772	**19,388**	20,729
82	**42**	43	Lancs. (Prestwich) -	11,156	**19,267**	20,575
212	**43**	23	Clapham - - -	9,434	**19,180**	22,248
328	**44**	41	Worcestershire (E.) -	8,187	**18,769**	20,893
28	**45**	46	Yorkshire (Doncaster)	13,157	**18,682**	19,547
17	**46**	47	Preston (2) - -	14,876	**18,626**	19,264
26	**47**	52	Gateshead - -	13,206	**18,614**	18,804
51	**48**	55	Leeds (West) - -	12,058	**18,518**	18,673
107	**49**	48	Yorkshire (Rotherham) - - -	10,730	**18,482**	19,256
56	**50**	19	N'umberland (Tyneside) - - -	11,852	**18,460**	24,358
147	**51**	66	Plymouth (2) - -	10,130	**18,186**	18,113
55	**52**	65	South Shields - -	11,928	**18,106**	18,136
27B	**53**	51	Yorks. (Hallamshire)	13,176	**18,085**	19,040
114	**54**	59	Lancs.(W.Houghton)	10,625	**17,984**	18,470
173	**55**	50	Nottingham (Mansfield)	9,862	**17,931**	19,052
181	**56**	54	Woolwich - -	9,769	**17,870**	18,676
86	**57**	64	Nottingm. (Rushcliff)	11,132	**17,863**	18,164
50	**58**	61	Southampton (2) -	12,061	**17,613**	18,413
12	**59**	62	Huddersfield - -	14,991	**17,568**	18,249
15	**60**	78	Dudley - - -	14,918	**17,564**	17,447
131	**61**	67	N'umbrlnd(Wansb'k)	10,392	**17,529**	18,016
45	**62**	68	Hampshire(Fareh'm)	12,240	**17,398**	17,964
91	**63**	53	Surrey (Kingston) -	11,086	**17,270**	18,707
89	**64**	58	Kent (Sevenoaks) -	11,098	**17,256**	18,474
40	**65**	73	Leicester (Harbro')	12,476	**17,227**	17,611
110	**66**	63	Derby (Ilkeston) -	10,660	**17,216**	18,238
335	**67**	49	Middlesex (Brentf'd)	7,971	**17,153**	19,082
30	**68**	60	Durham (Jarrow) -	12,897	**17,023**	18,466
48	**69**	75	Birkenhead - -	12,115	**17,010**	17,479
138	**70**	74	Yorks. (Osgoldcross)	10,322	**16,935**	17,499
180	**71**	57	Monmouth (West) -	9,770	**16,880**	18,521
189A	**72**	85	Northamptonshire(E)	9,691	**16,862**	17,060
27A	**73**	77	Durham (S.E.) -	13,176	**16,690**	17,464

* See the discussion of the "pairs," which will be found on page 76.

A (1886)	B (1906)	C (1908)		A (1886)	B (1906)	C (1908)
79	**74**	81	Birmingham (Bordesley) -	11,178	**16,653**	17,204
135	**75**	75	Lancashire (Gorton)	10,338	**16,547**	17,495
36	**76**	86	Lancashire (Darwen)	12,629	**16,544**	17,048
13	**77**	87	Nottingham (West) -	14,929	**16,506**	17,008
125	**78**	72	Cheshire(Altrinch'm)	10,497	**16,492**	17,684
198	**79**	79	Durham (N.W.) -	9,543	**16,384**	17,302
176	**80**	70	Lancashire (Eccles) -	9,781	**16,382**	17,781
62	**81**	90	Derby (South) - -	11,575	**16,326**	16,743
20	**82**	100	Yorkshire (Shipley) -	14,066	**16,295**	16,306
260	**83**	71	Glamorgan (Mid) -	8,979	**16,200**	17,767
395	**84**	97	Hanley - - -	10,970	**16,156**	16,461
293	**85**	89	Great Grimsby -	8,659	**16,058**	16,853
191	**86**	91	Burnley - -	9,638	**15,983**	16,734
166	**87**	88	Middlesex (Uxb'dge)	9,902	**15,936**	16,907
256	**88**	70	Surrey (Epsom) -	9,009	**15,933**	17,905
241	**89**	93	Derby (N.E.) - -	9,207	**15,898**	16,647
92	**90**	82	Monmouth (South) -	11,069	**15,858**	17,145
46	**91**	95	Kent (S. Augustine's)	12,157	**15,841**	16,480
143	**92**	98	Leicester (Melton) -	10,190	**15,815**	16,421
117	**93**	83	Worcester (Oldbury)	10,573	**15,732**	17,121
29	**94**	95	Durham (Houghton-le-S.) - - -	12,992	**15,711**	16,463
115	**95**	94	Sussex (Mid.) - -	10,586	**15,560**	16,571
108A	**96**	99	Kent (Tunbridge) -	10,703	**15,500**	16,367
153	**97**	92	Warwick (Tamworth)	10,048	**15,491**	16,713
186	**98**	102	Sheffield (Attercliffe)	9,715	**15,484**	16,261
64	**99**	105	Yorks. (Normanton) -	11,479	**15,474**	15,847
237	**100**	103	Surrey (Chertsey) -	9,220	**15,419**	16,195
25	**101**	109	Staffordshire (N.W.)	13,222	**15,404**	15,700
218	**102**	122	Deptford - - -	9,371	**15,397**	15,269
156	**103**	56	Battersea - - -	10,018	**15,369**	18,524
43	**104**	124	Halifax (2) - -	12,289	**15,316**	15,193
103	**105**	107	Lancs. (Accrington) -	10,797	**15,301**	15,782
262	**106**	80	Camberwell (Dulwich) - - -	8,963	**15,286**	17,254
54	**107**	112	Isle of Wight - -	11,943	**15,193**	15,638
325	**108**	104	Glamorgan(Rhondda)	8,210	**15,181**	16,123
65	**109**	119	Yorkshire (Morley) -	11,467	**15,160**	15,341
259A	**110**	111	Bradford (East) -	8,988	**15,136**	15,642
97	**111**	120	Leeds (South) - -	10,931	**15,119**	15,321
155	**112**	114	West Ham (N.) -	10,026	**15,101**	15,497
298	**113**	121	Derby (Chesterfield)	8,616	**15,077**	15,279
101	**114**	115	Cheshire (Crewe) -	10,815	**15,051**	15,481
75	**115**	115	Bucks (Wycombe) -	11,269	**15,050**	15,420

A (1886)	B (1906)	C (1908)		A (1886)	B (1906)	C (1908)
52	**116**	117	Yorkshire (Pudsey) -	11,989	**15,039**	15,410
152	**117**	101	Warwickshire (Nuneaton)	10,061	**15,021**	16,266
380	**118**	136A	Devonport (2) - -	6,546	**14,978**	14,585
132	**119**	108	Bristol (South)- -	10,385	**14,935**	15,740
349	**120**	110	Liverpool (Walton) -	7,630	**14,889**	15,658
68	**121**	134	Kent (Faversham) -	11,370	**14,860**	14,691
314	**122**	105	Lancs. (Southport) -	8,437	**14,854**	16,014
154	**123**	84	Hertford (Watford) -	10,029	**14,810**	17,072
22	**124**	125	Kent (Mid) - -	13,482	**14,628**	15,153
53	**125**	137	Lincoln (Spalding) -	11,957	**14,617**	14,582
203	**126**	133A	Bristol (East) - -	9,506	**14,543**	14,705
361	**127A**	128	Birmingham (East) -	7,382	**14,469**	14,977
161	**127B**	113	Surrey (Guildford) -	9,978	**14,469**	15,505
49	**128**	118	Bedford (Luton) -	12,106	**14,459**	15,375
254	**129**	127	Wilts. (Cricklade) -	9,031	**14,390**	15,149
59	**130**	130	Lancs. (Middleton) -	11,748	**14,314**	14,924
307	**131**	131	Manchester (South) -	8,534	**14,221**	14,762
93A	**132**	142	Walsall - - -	11,000	**14,127**	14,474
71	**133**	138	Gloster (Thornbury)	11,333	**14,096**	14,561
239	**134**	132	Stoke-upon-Trent -	9,214	**14,091**	14,743
311	**135**	147	Hartlepool - -	8,500	**14,086**	14,296
24	**136A**	161	Bedford (Bigglswd'e)	13,347	**14,085**	13,757
263A	**136B**	141	Lancs (Lancaster) -	8,961	**14,085**	14,497
194	**137**	150	Hammersmith -	9,611	**14,007**	14,220
96	**138**	136B	Suffolk (Lowestoft) -	10,956	**14,002**	14,585
100	**139**	139	Devon (Tavistock) -	10,851	**13,989**	14,560
259B	**140A**	129	Bradford (West) -	8,988	**13,965**	14,807
185	**140A**	123	Coventry - -	9,736	**13,965**	15,230
67	**141**	151	Dewsbury - -	11,439	**13,951**	14,056
44	**142**	157	Stafford (K'swinford)	12,272	**13,912**	13,785
23	**143A**	149	Kent (Ashford) -	13,389	**13,864**	14,230
41	**143B**	159	York (2)- - -	12,415	**13,864**	13,775
222A	**144**	143	Lancashire (Newton)	9,344	**13,867**	14,429
102	**145**	145	Rochdale - -	10,808	**13,831**	14,381
57	**146**	165	Yorkshire (Elland) -	11,851	**13,828**	13,662
206	**147**	125	Surrey (Reigate) -	9,500	**13,817**	15,192
327	**148**	140	Salford (West) -	8,197	**13,814**	14,547
83	**149**	144	Durham (Mid.)- -	11,145	**13,733**	14,428
31	**150**	152	Nottingham (South) -	12,751	**13,656**	13,923
119	**151**	133B	Glamorgan (Gower) -	10,560	**13,624**	14,705
182	**152**	147	Dorset (East) - -	9,758	**13,557**	14,241
73	**153**	156	Northampton (Mid.)	11,306	**13,450**	13,854
371A	**154**	155	Chatham- - -	6,988	**13,432**	13,856
108B	**155**	146	Monmouth (North) -	10,703	**13,411**	14,342

A (1886)	B (1906)	C (1908)		A (1886)	B (1906)	C (1908)
302	**156**	166	Lancashire (Leigh) -	8,572	**13,380**	13,641
170	**157**	163	Lancs. (Chorley) -	9,881	**13,247**	13,701
289	**158**	179	B'ham (Edgbaston) -	8,693	**13,230**	13,322
60B	**159**	172	Gloster (Tewk'sb'ry)	11,665	**13,226**	13,470
42	**160**	209	Cardiganshire - -	12,308	**13,215**	12,502
130	**161**	169	Lancs. (Radcliffe) -	10,433	**13,151**	13,508
146A	**162**	162	Essex (Harwich) -	10,141	**13,144**	13,741
290	**163A**	175	Hackney (South) -	8,684	**13,126**	13,380
227	**163B**	177	Leicester (Loughb'r')	9,313	**13,126**	13,350
151	**164**	188	Yorks. (Keighley) -	10,072	**13,125**	13,043
165	**165**	176	Leicester (Bosw'th) -	9,919	**13,114**	13,370
53	**166**	171	Yorks. (Cleveland) -	11,788	**13,086**	13,473
333	**167**	154	Hull (East) - -	8,053	**13,073**	13,866
257	**168**	187	Bristol (North) -	9,002	**13,061**	13,067
295	**169**	160	Greenwich - -	8,632	**13,049**	13,758
235	**170**	164	Berks. (Wokingham)	9,258	**13,033**	13,693
245	**171**	174	Lancs (Ince) - -	9,157	**12,986**	13,398
341	**172**	167	Sheffield (Hallam) -	7,846	**12,956**	13,622
309	**173**	168	Sussex (Eastbourne)	8,504	**12,913**	13,588
268	**174**	170	Sheffield (Ecclesall) -	8,904	**12,911**	13,489
144	**175**	182	Devon (Barnstaple) -	10,189	**12,908**	13,105
35	**176**	184	Yorkshire (Thirsk) -	12,637	**12,888**	13,091
359	**177**	181B	Lambeth (Norwood)	7,501	**12,867**	13,256
136	**178**	173A	Sussex (Rye) - -	10,304	**12,842**	13,452
174	**179**	158	Durham (B. Auckl'd)	9,858	**12,790**	13,781
66	**180**	191	Lancs. (Rossendale)	11,450	**12,765**	13,004
196	**181**	186	Derby (Mid.) - -	9,571	**12,757**	13,069
177	**182**	193	Manchester (East) -	9,779	**12,724**	12,879
318	**183A**	180	Wolverhampton (W.)	8,391	**12,707**	13,312
104	**183B**	178	Yorks. (Skipton) -	10,796	**12,707**	13,323
167	**184**	190	Yorkshire (Otley) -	9,883	**12,670**	13,035
197	**185**	189	Stockport (2) - -	9,560	**12,645**	13,036
251	**186**	197	Yorkshire (Ripon) -	9,049	**12,635**	12,706
287	**187**	185	Lancs. (Ormskirk) -	8,714	**12,624**	13,087
124	**188**	195	Somerset (Frome) -	10,498	**12,612**	12,836
283	**189**	201	Stockton - - -	8,761	**12,581**	12,640
47	**190**	198B	Suffolk (Woodb'dge)	12,126	**12,528**	12,688
116	**191**	183	Cheshire (N'thwich)	10,577	**12,527**	13,098
299	**192**	152	Camberwell (North)	8,603	**12,519**	13,973
285	**193**	181A	Hertford (S. Albans)	8,741	**12,497**	13,256
69	**194**	206	Yorks. (Sowerby) -	11,364	**12,492**	12,560
136	**195**	204	Birmingham (West)-	10,329	**12,483**	12,579
32	**196**	194	Nottingham (East) -	12,749	**12,451**	12,861
187	**197**	135	Camb'well (Peckh'm)	9,713	**12,401**	14,615
142	**198**	192	Somerset (North) -	10,209	**12,381**	12,899

A (1886)	B (1906)	C 1908)		A (1886)	B (1906)	C (1908)
87	**199**	210	Lincoln (Gainsb.) -	11,107	**12,370**	12,475
72	**200**	202	Bucks (North) - -	11,307	**12,334**	12,635
202	**201**	212	Brecknockshire -	9,520	**12,235**	12,446
105	**202**	211	Yorks (Holmfirth) -	10,770	**12,219**	12,464
322	**203**	199	St. Helens - -	8,291	**12,174**	12,686
303	**204**	221	Aston Manor - -	8,571	**12,149**	12,109
273	**205**	214	Ipswich (2) - -	8,867	**12,146**	12,393
230	**206**	198A	Sheff'd (Brightside)-	9,298	**12,108**	12,688
343	**207**	218	Islington (North) -	7,774	**12,075**	12,150
347	**208**	196	Hampshire (Basing) -	7,720	**12,049**	12,818
195	**209**	225	Northampton - -	9,600	**11,954**	11,931
266	**210**	215	Swansea Distrct -	8,926	**11,908**	12,280
150	**211**	222	Flintshire - -	10,082	**11,892**	12,107
337	**212**	216	Kent (Thanet) - -	7,941	**11,981**	12,279
240	**213**	207	Essex (Mid) - -	9,217	**11,767**	12,539
134	**214**	200	Berkshire (Newbury)	10,377	**11,746**	12,658
137	**215**	208	Lincoln (Brigg) -	10,323	**11,737**	12,507
205	**216**	205	Somerset (Wells) -	9,501	**11,725**	12,574
199	**217**	241	Cumb'l'nd (Cocker-mouth)	9,538	**11,700**	11,612
271	**218**	230	Liverpool (W.Derby)	8,873	**11,692**	11,808
120	**219**	224	Bucks. (Mid) - -	10,535	**11,661**	12,021
160	**220**	228	Durham (B. Castle) -	9,991	**11,617**	11,904
111	**221**	243	Birmingham (South)	10,643	**11,611**	11,539
112	**222**	233	Staffs. (Penkridge) -	10,636	**11,584**	11,784
97	**223**	226	Yorkshire (Colne) -	10,881	**11,563**	11,925
141	**224**	236	Staffs. (Leek) - -	10,234	**11,545**	11,702
88	**225**	217	Chelsea - - -	11,103	**11,536**	12,235
387	**226**	235	Hampstead - -	5,981	**11,467**	11,725
209	**227**	234	Staffs. (Burton) -	9,463	**11,465**	11,770
188	**228**	223	Warwick (Rugby) -	9,700	**11,451**	12,034
139	**229**	231	Derbyshire (W.) -	10,310	**11,443**	11,799
34	**230**	227	Manchester (N.W.) -	12,685	**11,411**	11,914
236	**231**	229	Essex (Epping) -	9,239	**11,374**	11,812
332	**232**	245	Hackney (North) -	8,058	**11,334**	11,492
96	**233**	254	Pembroke - -	10,883	**11,322**	11,331
208	**234**	250	Notts. (Bassetlaw) -	9,479	**11,320**	11,390
225	**235**	232	Cheshire (Hyde) -	9,328	**11,314**	11,791
190	**236**	248	Yorks. (Spen Vall.) -	9,645	**11,300**	11,415
207	**237**	256	Worc'st'r (Dr'itw'ch)	9,484	**11,283**	11,261
70	**238**	264	Yorkshire (Whitby) -	11,350	**11,263**	11,035
81	**239**	251	Norfolk (East) -	11,161	**11,237**	11,372
310	**240**	238	Sussex (Chichester) -	8,502	**11,225**	11,684
383	**241**	219	Monmouth District -	6,485	**11,207**	12,148
321A	**242**	244	Denbigh (East) -	8,297	**11,172**	11,501

A (1886)	B (1906)	C (1908)		A (1886)	B (1906)	C (1908)
216	**243**	239	Derby (High Peak) -	9,414	**11,154**	11,661
226A	**244**	237	Cheshire (Knutsford)	9,314	**11,141**	11,688
127	**245**	252A	Norfolk (N.W.) -	10,444	**11,140**	11,354
278	**246**	246	Herts. (Hertford) -	8,840	**11,124**	11,467
140	**247**	257	N'mb'land (Hexham)	10,237	**11,049**	11,255
358	**248**	261	Reading - - -	7,515	**11,041**	11,144
200	**249**	255	C'mbridge (Wisbech)	9,532	**11,033**	11,317
214	**250A**	240	Hampsh. (N. Forest)	9,431	**11,030**	11,650
357	**250B**	220	Swansea Town -	7,597	**11,030**	12,147
336	**251**	253	Lambeth (Brixton) -	7,963	**11,010**	11,345
324	**252**	249	Lancs. (Widnes) -	8,223	**11,005**	11,408
129	**253**	259	Cheshire (Eddisb.) -	10,436	**10,988**	11,200
111	**254**	266	Suffolk (Stowm'kt.) -	10,587	**10,971**	11,016
139	**255**	262	Notts. (Newark) -	10,214	**10,863**	11,100
363	**256**	258	Dorset (South) -	7,316	**10,845**	11,211
158	**257**	267	Cumb'l'nd (Eskdale)	10,000	**10,811**	10,995
183	**258**	272	Norfolk (North) -	9,742	**10,795**	10,888
331	**259**	283	Islington (East) -	8,092	**10,786**	10,610
113	**260**	275	Shropshire (N'port) -	10,630	**10,777**	10,791
106	**261**	288	Shropshire (L'low) -	10,740	**10,765**	10,513
292	**262**	247	Carmarthen (E.) -	8,669	**10,746**	11,426
244	**263**	242	Cornwall (Bodmin) -	9,158	**10,731**	11,542
352	**264A**	173B	Sussex (Grinstead) -	7,660	**10,726**	13,452
284	**264B**	263	West Bromwich -	8,749	**10,726**	11,080
184B	**265**	280	N'hamptonshire (N.)	9,741	**10,688**	10,667
98	**266**	301	B'ham (Central) -	10,923	**10,670**	10,255
360	**267**	276	Lincoln (City) - -	7,444	**10,645**	10,787
288	**268**	295A	Manchester (N.) -	8,703	**10,624**	10,423
60A	**269**	277	Glostershire (Mid) -	11,665	**10,620**	10,767
213	**270**	203	Southw'k (B'rm'd'sy)	9,433	**10,619**	12,629
171	**271**	260	Essex (Maldon) -	9,869	**10,613**	11,168
319	**272**	285	Liverpool (Kirkdale)	8,346	**10,596**	10,566
281	**273**	213	TowerHamlets(Bow)	8,795	**10,545**	12,418
300	**274**	265	Sussex (Horsham) -	8,582	**10,508**	11,030
149	**275**	298	Shrop.(Oswestry) -	10,083	**10,490**	10,276
234	**276**	270	Lancs. (Heywood) -	9,269	**10,463**	10,941
229	**277**	268	Devon (Ashburton) -	9,300	**10,429**	10,976
243	**278**	269	Hampshire(Andover)	9,183	**10,433**	10,947
126	**279**	284	Camb'dge (Ch'st'rt'n)	10,455	**10,386**	10,567
133	**280**	292A	Hereford (Ross) -	10,380	**10,384**	10,486
320	**281**	319	Lambeth (Ken'ngt'n)	8,313	**10,382**	9,969
345	**282**	274	Warrington - -	7,730	**10,365**	10,831
344	**283**	271	Devon (Torquay) -	7,738	**10,343**	10,932
210	**284**	287	Gloster (Dean) -	9,458	**10,336**	10,540
317	**285**	296	Yorks. (B'rkst'n Ash)	8,411	**10,286**	10,415

A (1886)	B (1906)	C (1908)		A (1886)	B (1906)	C (1908)
321B	**286**	315	Kensington (N.) -	8,297	**10,270**	10,042
274	**287**	286	Cornwall (St. Aust.) -	8,860	**10,235**	10,562
169	**288**	295B	Worcester (Bewdley)	9,833	**10,231**	10,423
168	**289**	290	Som'rs't (Bridgw't'r)	9,861	**10,180**	10,506
193	**290**	281	Warwick (Stratford)-	9,631	**10,173**	10,651
94	**291**	293	Suffolk (Eye) - -	10,993	**10,165**	10,474
250	**292**	292B	Yorks. (Buckrose) -	9,113	**10,151**	10,486
211	**293**	320	Liverpool (Everton)-	9,439	**10,149**	9,946
118	**294**	300	Wilts. (Westbury) -	10,566	**10,130**	10,257
277	**295**	289	Stafford (Lichfield) -	8,842	**10,123**	10,512
121	**296**	304	Suffolk (Sudbury) -	10,522	**10,121**	10,169
246	**297**	278	Yorks. (Holderness)-	9,143	**10,117**	10,676
77	**298**	297	Yorks. (Richmond) -	11,237	**10,112**	10,408
178	**299**	299	Anglesey - - -	9,777	**10,001**	10,264
172	**300**	302	Lincoln (Sleaford) -	9,863	**10,000**	10,251
157	**301**	308	Oxford (Woodstock)	10,012	**9,985**	10,113
326	**302**	279	Hampshire(P't'rsf'ld)	8,202	**9,983**	10,674
74	**303**	325	Bradford (Cent.) -	11,297	**9,978**	9,882
294	**304**	306	Wolverhampton (S.)-	8,636	**9,974**	10,153
306	**305**	321	Somerset (West) -	8,537	**9,960**	9,928
248	**306**	345	Carnarvon (Arfon) -	9,136	**9,948**	9,512
265	**307**	314	Cambs. (Newmarket)	8,936	**9,934**	10,055
204	**308**	303	Yorks. (Howden) -	9,502	**9,893**	10,229
269	**309**	318	Denbigh (West) -	8,899	**9,891**	9,995
231	**310**	329	Cornwall (Launc.) -	9,297	**9,868**	9,770
304	**311**	305	Oxford (Henley) -	8,555	**9,828**	10,164
258	**312**	294	Herts. (Hitchin) -	8,996	**9,820**	10,431
224	**313**	339	Merioneth - -	9,333	**9,805**	9,634
255	**314**	307	Devon (Honiton) -	9,012	**9,797**	10,147
184A	**315**	326	Lincoln (Stamford) -	9,741	**9,782**	9,849
221B	**316**	323	Somerset (S.) - -	9,349	**9,778**	9,923
339	**317A**	313	Wolverhampton (E.)	7,917	**9,756**	10,058
201	**317B**	311	Worcester (E'sham)-	9,522	**9,756**	10,084
238	**318**	334	Lancs. (Lonsdale) -	9,219	**9,738**	9,741
222B	**319**	331	Somerset (E.) - -	9,344	**9,717**	9,754
301	**320**	322	Manchester (N.E.) -	8,579	**9,701**	9,926
122	**321**	333	Gloster (C'cester) -	10,517	**9,673**	9,744
354	**322**	328	Newcastle-under-L.-	7,637	**9,650**	9,788
146B	**323A**	335	Norfolk (South) -	10,141	**9,643**	9,717
192	**323B**	357	Northamptonsh. (S.)	9,636	**9,643**	9,170
163	**324**	316	Lincoln (Hornc.) -	9,941	**9,637**	10,020
334	**325**	340	L'pool (E. Toxt.) -	7,992	**9,629**	9,560
403	**326**	273	Paddington (N.) -	5,345	**9,602**	10,880
374	**327**	309	Exeter - - -	6,963	**9,567**	10,109
407	**328**	291	Christchurch - -	4,626	**9,530**	10,502

A (1886)	B (1906)	C (1908)		A (1886)	B (1906)	C (1908)
346	**329**	337	Salford (North) -	7,728	**9,517**	9,677
279	**330A**	349	Leeds (East) - -	8,831	**9,490**	9,458
159	**330B**	327	Norfolk (Mid) - -	9,992	**9,490**	9,804
385	**331**	312	Barrow-in-Furness -	6,063	**9,426**	10,071
383	**332**	344	Morpeth - - -	6,119	**9,425**	9,515
353	**333**	317	Bristol (West) - -	7,657	**9,423**	10,013
296	**334**	342	Cornwall (Truro) -	8,625	**9,403**	9,546
261	**335**	310	Carnarvon (Eifion) -	8,978	**9,373**	10,087
242	**336**	324	Devon (Totnes) -	9,188	**9,370**	9,888
123	**337**	338	St. George's Han. Sq.	10,500	**9,359**	9,637
226B	**338**	336	Hereford (L'm'ster)-	9,314	**9,328**	9,693
189B	**339**	350	N'umr'rl'nd (Berw.)-	9,691	**9,316**	9,441
221A	**340**	347	Devon (Tiverton) -	9,349	**9,248**	9,485
175	**341**	376	Finsbury (Holborn) -	9,802	**9,242**	8,783
364	**342**	378	Islington (W.) -	7,276	**9,229**	8,759
275	**343**	353	Kensington (S.) -	8,859	**9,223**	9,282
366	**344**	355	Cornwall (Camb.) -	7,139	**9,210**	9,264
375	**345**	352	Great Yarmouth -	6,949	**9,169**	9,309
162	**346**	351	Carmarthen (W.) -	9,969	**9,150**	9,321
164	**347**	360	Sheffield (Central) -	9,923	**9,142**	9,038
252	**348**	361	Cumb'l'nd (Egr'm'nt)	9,043	**9,093**	9,034
253	**349**	252B	Tower H. (Poplar) -	9,041	**9,088**	11,354
390	**350**	341	Darlington - -	5,907	**9,078**	9,547
329	**351**	348	Bury - - -	8,179	**9,068**	9,484
377	**352**	346	Tynemouth - -	6,869	**9,019**	9,459
397	**353**	369	Newington (Wal.) -	5,598	**8,995**	8,929
220	**354**	359	Wilts (Devizes) -	9,357	**8,988**	9,087
215	**355**	368	Birmingham (N.) -	9,427	**8,981**	8,931
355	**356**	356	Cornwall (St. Ives) -	7,606	**8,980**	9,203
217	**357**	373	Norfolk (S.W.) -	9,391	**8,936**	8,884
85	**358**	386	Leeds (Central) -	11,135	**8,893**	8,471
263B	**359**	377	Salop (Wellington) -	8,961	**8,881**	8,782
282	**360**	362	Berks (Abingdon) -	8,791	**8,875**	9,023
61	**361**	390	Hull (Central) - -	11,627	**8,861**	8,284
388	**362**	364	Cambridge - -	6,189	**8,850**	9,002
249	**363**	374	Cumb'rl'nd (Penrith)	9,123	**8,845**	8,854
276	**364**	366	Wilts (Chippenham)	8,853	**8,838**	8,971
371B	**365**	367	Wigan - - -	6,988	**8,804**	8,970
228	**366A**	372	Essex (Saff. Wald'n)	9,306	**8,779**	8,911
352	**366B**	343	Hackney (Central) -	7,381	**8,779**	9,527
394	**367**	379	Hastings - - -	5,672	**8,758**	8,707
315	**368**	282	Southwark (Rother.)	8,455	**8,700**	10,643
286	**369**	380	Salford (South) -	8,717	**8,645**	8,684
365	**370**	363	Chesh. (M'ccl'sfield)	7,211	**8,636**	9,003
291	**371**	371	Wilts (Wilton) -	8,675	**8,632**	8,920

A (1886)	B (1906)	C (1908)		A (1886)	B (1906)	C (1908)
372	**372**	370	Oxford - - -	6,983	**8,615**	8,922
270	**373**	389	Manchester (S.W.) -	8,890	**8,551**	8,422
223	**374**	383	Devon (S. Molton) -	9,343	**8,542**	8,495
308	**375**	385	Dorset (North) -	8,522	**8,490**	8,489
379	**376**	387	Worcester - -	6,714	**8,412**	8,460
350	**377**	382	Marylebone (W.) -	7,677	**8,365**	8,580
370	**378**	396	Islington (S.) - -	7,024	**8,361**	8,002
348	**379**	375	L'pool (W. Toxteth)	7,684	**8,347**	8,807
356	**380**	392	Finsbury (Central) -	7,600	**8,279**	8,200
381	**381**	384	Ashton-under-Lyne -	6,553	**8,248**	8,491
315	**382**	393	Cheltenham - -	8,464	**8,114**	8,094
76	**383**	399	Strand - - -	11,264	**8,109**	7,970
408	**384**	391	Gloucester - -	4,547	**8,043**	8,229
396	**385**	395	Bath (2) - - -	5,637	**7,968**	8,024
289	**386**	365	St. Pancras (E.) -	5,913	**7,961**	8,982
387	**387**	401	Chester - - -	6,296	**7,918**	7,888
272	**388**	398	Montgomeryshire -	8,870	**7,843**	7,978
312	**389**	354	Shoreditch (H'xt'n) -	8,494	**7,754**	9,270
313	**390**	402	Oxford (Banbury) -	8,478	**7,748**	7,847
368	**391**	358	Bethnal Grn. (N.E.)-	7,102	**7,730**	9,140
385	**392**	400	Stalybridge - -	6,424	**7,691**	7,931
400	**393**	330	St. Pancras (N.) -	5,447	**7,582**	9,762
351	**394**	403	Westminster - -	7,670	**7,539**	7,750
393	**395**	405	Carlisle - - -	5,726	**7,513**	7,383
247	**396**	406	L'pool (Ab'rcromby)	9,137	**7,418**	7,249
340	**397**	404	Dorset (West) - -	7,914	**7,413**	7,501
367	**398**	381	St. Pancras (W.) -	7,103	**7,282**	8,669
323	**399**	397	Bethnal Grn. (S.W.)	8,265	**7,262**	7,999
399	**400**	409	Pemb.&H'v'rf'rdw'st	5,474	**7,150**	6,904
386	**401**	332	Newington (W.) -	6,377	**7,147**	9,752
342	**402**	394	Southwark (W.) -	7,776	**7,066**	8,041
338	**403**	411	Lambeth (North) -	7,939	**6,903**	6,808
384	**404**	407	Cambridge Univ. (2)	6,482	**6,838**	7,143
267	**405**	410	Hunts (Ramsey) -	8,917	**6,751**	6,863
410	**406**	420	Dover - - -	4,537	**6,593**	6,423
373	**407**	416	Marylebone (E.) -	6,978	**6,588**	6,573
416	**408**	412	Gravesend - -	4,200	**6,568**	6,727
391	**409**	413A	Oxford Univ. - -	5,875	**6,528**	6,670
386	**410**	415	W'stm'l'nd(Appleby)	6,022	**6,528**	6,597
421	**411**	419	Hythe - - -	3,749	**6,520**	6,540
381	**412**	413B	Westm'l'nd (Kendal)	6,149	**6,477**	6,670
415	**413**	414	Colchester - -	4,241	**6,426**	6,667
378	**414**	388	Sh'r'ditch (H'gg'st'n)	6,752	**6,403**	8,457
405	**415**	422	Wakefield - -	4,801	**6,326**	6,334
398	**416**	417	Warwick and L. -	5,491	**6,296**	6,554

A (1886)	B (1906)	C (1908)		A (1886)	B (1906)	C (1908)
401	**417**	418	Carmarthen (Dist.) -	5,399	**6,258**	6,521
406	**418**	424	Scarborough - -	4,668	**6,250**	6,139
388	**419**	408	Tower H. (L'm'ho'se)	5,954	**6,234**	6,910
404	**420**	421	Paddington (S.) -	5,193	**6,143**	6,388
419	**421**	423	Peterborough - -	3,790	**6,025**	6,196
330	**422**	428	Liverpool (Exch.) -	8,171	**5,891**	5,675
414	**423**	425	Maidstone - -	4,273	**5,870**	5,918
424	**424**	427A	Rochester - -	3,304	**5,763**	5,713
369	**425**	429	Liverpool (Scotl.) -	7,076	**5,767**	5,641
412	**426**	431	Carnarvon Dist. -	4,476	**5,668**	5,628
426	**427**	426	Bedford - - -	3,134	**5,535**	5,808
409	**428**	433	Radnorshire - -	4,539	**5,466**	5,318
392	**429**	427B	Tow'r H. (Mile End)	5,804	**5,419**	5,713
402	**430**	430	St. Pancras (S.) -	5,370	**5,329**	5,640
384	**431**	436	Finsbury (East) -	6,105	**5,326**	5,130
395	**432**	435	Hunts. (Huntingdon)	5,655	**5,272**	5,226
376	**433**	434	Tower H. (Stepney)	6,926	**5,176**	5,280
422	**434**	437	Denbigh Dist. - -	3,407	**4,755**	4,878
418	**435**	438	Shrewsbury - -	4,131	**4,709**	4,819
411	**436**	439	Kidderminster- -	4,506	**4,691**	4,494
435	**437**	432	London Univ. -	2,579	**4,403**	5,613
382	**438**	440	Tower H. (W'chpl)	6,140	**4,279**	4,136
417	**439**	441	Rutlandshire - -	4,166	**4,042**	4,012
432	**440**	443A	Boston - - -	2,718	**3,896**	3,931
425	**441**	444	Stafford - - -	3,264	**3,885**	3,889
423	**442**	443B	Canterbury - -	3,371	**3,868**	3,931
429	**443**	442	Hereford - -	3,002	**3,852**	3,950
428	**444**	448	King's Lynn - -	3,094	**3,692**	3,688
420	**445**	445	Flint District - -	3,773	**3,659**	3,882
437	**446**	446	Taunton - - -	2,541	**3,590**	3,799
439	**447**	449	Salisbury - - -	2,336	**3,396**	3,464
431	**448**	450	Grantham - -	2,883	**3,383**	3,457
430	**449**	452	Montgomery Dist. -	2,999	**3,313**	3,360
438	**450**	451	Pontefract - -	2,465	**3,288**	3,387
413	**451**	447	Tower H. (St. Geo.)	4,322	**3,246**	3,798
434	**452**	453	Windsor - - -	2,612	**3,210**	3,295
440	**453**	454	Winchester - -	2,326	**2,982**	3,054
433	**454**	456	Whitehaven - -	2,687	**2,945**	2,970
436	**455**	455	Penryn (Falmouth) -	2,562	**2,926**	3,049
442	**456**	457	Bury St. Edmunds -	2,292	**2,788**	2,728
441	**457**	458	Durham (City) -	2,302	**2,580**	2,610

Economic Aspects of Seat Distribution.

The ebb and flow of electoral strength, exhibited in this way, offers a new, exact, and constant standard of national prosperity.

Studied in conjunction with the other and more familiar standard—that of population—the electoral standard provides us with an extremely valuable addition to the instruments of economic and sociological investigation. Macaulay has remarked that "one of the first objects of an inquirer who wishes to form a correct notion of the state of the community at a given time must be to ascertain of how many persons that community then consisted." The knowledge, however, will be of infinitely greater value if it is supplemented, by means of the introduction of the electoral factor, by concise information with regard to the number, distribution, and movement of so much of the population as reaches a certain level of comfort and social advantage. But there is, perhaps, no science in which the state of things at a given moment, however accurately delineated, is of less value than in economics, unless it be accompanied by a knowledge of the earlier conditions out of which that state of things has developed. To be informed that the population of a given country consists of 10,000,000 is of little value to the student of economics, unless he is provided with corresponding figures relating to earlier dates in the case of the country immediately concerned, so that he may form estimates of its progress or retrogression, as the case may be. If these comparative particulars are available with regard merely to population, they cannot convey any very clear idea of the relative prosperity at the different periods, and, unless the population figures are fairly recent, they will only be more or less exact estimates, formed in the absence of any compulsory and exhaustive system of enumeration. But the figures of electoral strength and distribution are the result of a close and constant scrutiny of a very large proportion—probably 90 per cent.—of the individual cases, by partisan observers who bring all the resources of knowledge and all the stimuli of emulation to the task of investigation. The result is to provide us (at all events, for the period within which detailed comparison of individual constituencies is possible—that is to say, since the Redistribution Act) with a standard of national prosperity which, in the main, is not susceptible of mistake or distortion, and is therefore of great value in days when there is keen controversy concerning our real position as a factor of the living world—when on the one hand we are assured of abounding prosperity, and on the other are warned that we are living on our capital. The various qualifications for the franchise constitute a standard—modest, but real—of social wellbeing, and, inasmuch as we have seen that they are the subject of critical test before they are admitted as valid, it may be accepted as true that in the vast majority of cases the standard represented by the qualification has actually been attained. If it can be shown (and these figures show it) that the number of adults who are able to live up to a certain level of personal comfort and civic consequence is rapidly increasing, then we may fairly

feel assured that our old nation is sound at the heart, a sturdy nurse of vigorous offspring.

Individual Instances Considered.

It will now be worth while to examine a few individual instances of the flux of electoral strength in individual constituencies, and to offer some conjectures with regard to the operative forces which are producing the changes. The first name, that of the Romford division of Essex, introduces us to an array of constituencies which have been developed into unexpected magnitude by the growth of suburban London. Other instances of the same tendency will be observed in the cases of (3) the Walthamstow Division, (5) Wandsworth, (8) the Harrow Division, (14) Croydon, (15) Tottenham, (16) Enfield, (17) West Ham (South), and (18) Lewisham. A comparison of the figures in the first column to the right of the names (showing the aggregate numbers of the respective electorates) with those in the second and third will show at what speed and with what strides the change has taken place since 1886. To a great extent it is the result of an increased population, which is again, in its turn, a consequence of the growth of the metropolis as a gigantic centre of political, financial, commercial, industrial, and social activity. In part, however, this immense growth of "London over the border" has been produced by the draining of the more central constituencies. In (451) St. George's-in-the-East, (433) Stepney, and (438) Whitechapel the electorate has either fallen off in number or is with difficulty maintained at its former strength. In these instances there is a special factor at work. The electors of 1886 have gone to swell the registers of Romford and Walthamstow largely because of the pressure of the alien refugee, who, in the mass, offers a good example of a dense population with practically no articulate political voice. The struggle towards articulation, however, by means of Naturalisation Societies on a co-operative basis, is probably one of the forces which have caused the electoral strength of St. George's-in-the-East (the centre of a dense alien population) to show an increase since 1906.

Clearly, then, the rapid advance of the Romford division to the first place in the ranks of English and Welsh constituencies is a remarkable electoral phenomenon; but the covering of the agricultural lands of Essex with a teeming industrial population, of which nearly 50,000 has attained to the social standard represented by the electoral qualification, is also an economic event of considerable importance. In such instances as are afforded by Romford itself, as well as by Walthamstow, Wandsworth, Harrow, Tottenham, Enfield, Lewisham, and Fulham, the change marks the growth not only of new areas and centres of population, but of a new class of electors, of whom a considerable proportion are within,

or only just outside, the social realm which is tersely described as "villadom." The phenomenon, it must be remembered, is an increased extension of the area covered by the electoral units, as distinguished from a greater density of qualification over a superficial area previously absorbed. For instance, (103) Battersea, (163B) South Hackney, (192) North Camberwell stand for greater density rather than wider area; while in (315) the Stamford division, (338) the Leominster division, (445) the Flint district, (335) St. George's, Hanover Square, (225) Chelsea, (411) North Lambeth, and (377) West Marylebone, the density remains almost as unaltered as the superficies, and exhibits either the unchanged complexion of agricultural areas, or else the conservative character of one type of suburban life, which marks the inner ring of metropolitan constituencies, and upon which, as the older lives fall off, the waves of transformation will soon begin to dash.

Of course, these urban electoral phenomena are not confined to the Metropolis and its district. In (158) the Edgbaston division of Birmingham we have an instance of the spatial extension of the electoral area, by means of rapid building in the most attractive quarter of the Midland metropolis; while in (195) West Birmingham and (74) Bordesley the large accession to the electorate is the consequence of a greater density, with its concomitant in the shape of a more general ability to comply with the requirements of the electoral standard. An intermediate type is presented by such constituencies as (115) the Wycombe division, (100) the Chertsey division, and (87) the Uxbridge division. These exhibit the increased electorate which is partly the result of the residential settlement of a population that lives its business life in the metropolis and fills the morning and evening trains; and partly also the consequence of the springing up of a trading community ministering to the needs of the other class. In this way we get a greater density of the electorate, as well as a greater extension of the physical area which it effectively occupies; but neither portion of the phenomena is quite the same thing as we have witnessed in Romford and Walthamstow. More on the surface of the survey, of course, lies the comparatively stationary character of such electorates as that of (457) Durham City, (455) Penryn, and (448) the Montgomery district at the end of the lists; while at the other verge of the field of view the same permanence of magnitude shows itself in (6) the City of London. Between these extremes are instances like (341) Finsbury (Holborn) and (431) Finsbury (East), where the extension of the central City area of offices and warehouses is destroying previous residential qualifications and reducing the number of the electors.

The singular stability as regards their relative magnitude of the electorates in the lower levels of the statistics, from No. 434 to the end, will not escape the observant eye. There are none of

those cataclysmic alterations such as we see near the top, where the Romford division leaps from the thirty-ninth place to the first, or the Wandsworth division comes up at a bound from its position as No. 145 to the dignity of No. 5, and now No. 4. In these lower levels of the statistics, in fact, we find numerous instances where the consecutive number attached to a given constituency varies only very slightly from 1886 to 1908. It has kept its place in the panorama of national life, while others have leaped to the front or fallen back in the race.

The Significance of the "Pairs."

The arrangement of the constituencies in order of their magnitude has necessarily revealed a number of "pairs." These are enumerated below, in the three groups of the years 1886, 1906, and 1908 respectively. The first group (1886) shows the constituencies which were electorally equal in 1886, but are now, in the majority of cases, sundered widely in electoral rank as the result of economic or socio-economic changes. These comparisons, as we shall see, often reveal the differing "drift" of constituencies—where one, for instance (as in the ninth pair below), has risen rapidly in electoral rank since 1886, while the other has moved in the reverse direction. The "A" and "B" of each pair represent mere alphabetical sequence.

Equal in 1886.	1906.	1908.
27A Durham (S.E.)	73	77
27B Yorkshire (Hallamshire)	53	51
60A Gloucester (Mid)	269	277
60B Gloucester (Tewkesbury)	159	172
93A Walsall	132	142
93B Yorkshire (Barnsley)	39	45
108A Kent (Tunbridge)	96	99
108B Monmouth (N.)	155	146
146A Essex (Harwich)	162	162
146B Norfolk (South)	323A	335
184A Lincoln (Stamford)	315	326
184B Northamptonshire (N.)	265	280
189A Northamptonshire (E.)	72	85
189B Northumberland (Berwick)	339	350
221A Devon (Tiverton)	340	347
221B Somerset (S.)	316	323
222A Lancs. (Newton)	144	143
222B Somerset (E.)	319	331
226A Cheshire (Knutsford)	244	237
226B Hereford (Leominster)	338	336
259A Bradford (E.)	110	111
259B Bradford (W.)	140A	129
263A Lancs. (Lancaster)	136B	141
263B Salop (Wellington)	359	377

Equal in 1885.		1906.	1908.
321A	Denbigh (E.)	242	244
321B	Kensington (N.)	286	315
371A	Chatham	154	155
371B	Wigan	365	367

The "pairs" in 1906 and 1908 are in the following tables subjected to the same system of comparison:

1886.	1906.	Equal in 1906.	1908.
24	136A	Bedford (Biggleswade)	161
263A	136B	Lancs. (Lancaster)	141
23	143A	Kent (Ashford)	149
41	143B	York (City)	159
318	183A	Wolverhampton (W.)	180
104	183B	York. (Skipton)	178
214	250A	Hampshire (New Forest)	240
357	250B	Swansea Town	220
352	264A	Sussex (Grinstead)	173B
284	264B	West Bromwich)	263
339	317A	Wolverhampton (E.)	313
201	317B	Worcester (Evesham)	311
146B	323A	Norfolk (S.)	335
192	323B	Northamptonshire (S.)	357
279	330A	Leeds (East)	349
159	330B	Norfolk (Mid)	327
228	366A	Essex (Saffron Walden)	372
352	366B	Hackney (Central)	343

The constituencies which, as a result of twenty-two years of flux, ultimately became "pairs" in 1908 are these:

1886.	1906.	Equal in 1908.	
203	126	Bristol (East)	133A
119	151	Glamorgan (Gower)	133B
380	118	Devonport	136A
96	138	Suffolk (Lowestoft)	136B
136	178	Sussex (Rye)	173A
352	264A	Sussex (Grinstead)	173B
285	193	Hertford (St. Albans)	181A
359	177	Lambeth (Norwood)	181B
230	206	Sheffield (Brightside)	198A
47	190	Suffolk (Woodbridge)	198B
127	245	Norfolk (N.W.)	252A
253	349	Tower Hamlets (Poplar)	252B
133	280	Hereford (Ross)	292A
250	292	Yorks (Buckrose)	292B
288	268	Manchester (N.)	295A
169	288	Worcester (Bewdley)	295B
391	409	Oxford University	413A
381	412	Westmorland (Kendal)	413B
424	424	Rochester	427A
392	429	Tower Hamlets (Mile End)	427B
432	440	Boston	443A
423	442	Canterbury	443B

The most interesting "pairs" for comparative consideration are, among those equal in 1886, Lancashire (Newton) and Somerset (E.); Bradford (E.) and Bradford (W.); Denbigh and North Kensington; Chatham and Wigan. Among those equal in 1906 the economic suggestion is greatest in such "pairs" as Kent (Ashford) and York; in the reversal of the position which is shown, between 1886 and 1908, between Hampshire (New Forest) and Swansea Town, where 1906 saw the intersection of the respective upward and downward curves; in Leeds (E.) and Norfolk (Mid), where the sharp downward curve of Norfolk does not intersect the downward curve of Leeds, but turns upward again. The "equal in 1908" "pairs" offer similarly interesting studies, not the least suggestive of which is presented by the last "pair" of all (Boston and Canterbury), with their evident history of an almost changeless position in the roll of the constituencies.

These phenomena have all been treated rather as economic symptoms than as economic influences. They are, in fact, the result of economic influences, though they tend to react upon, and to perpetuate, the operation of the forces which produced them. The electoral power of the towns has increased to a much greater extent than is apparent in their representation. The change and the tendency can, in fact, only be fully appreciated by means of an examination of the magnitude of the electorates at the different dates, rather than by means of any consideration of the electoral "weight" of the constituencies in the House of Commons. Doubtless this increased power of the towns, which must be still further augmented by any scientific scheme of redistribution, is an economic phenomenon that is not wholly welcome. Apart from moral forces, however, there exists no mode of checking it. The electoral power tends to mass itself in the towns, and there is no method capable of commending itself to advocates of scientific representation by which political power can be refused to these larger aggregations, so as to diminish the relative importance to which they are numerically entitled. For these reasons our concern has been with the growth and distribution of electoral power as an economic symptom and standard, rather than as an economic influence.

Vote-Value Abnormalities.

The enormous differences in the political value of a single vote (and therefore in the political influence accorded to the single citizen) in different parts of the country exhibit themselves in every part of the survey. If we assume that the political value of a vote in (1) the Romford division is 1, then we get:—

	Constituency.	Political value of one vote.
(1)	Romford division	1
(2)	Newcastle-on-Tyne (2)	2·6
(182)	Manchester (E.)	3·8

Constituency.	Political value of one vote.
(204) Aston Manor	4·9
(40) Derby (2)	4·9
(350) Darlington	5·1
(205) Ipswich (2)	7·9
(427) Bedford	8·4
(446) Taunton	13·1
(457) Durham City	18·7

What kind of growth is likely to be fostered in an organism whose powers of self-adaptation to environment are made to vary, in absolute prodigality of caprice, in a ratio which bears no determinate and consistent proportion whatsoever to the amount of intelligent effort that directs them? The natural alertness of a suburban population, which has within a few years covered the Essex fields with the materials of social well-being, is to count but as a single unit of force in its efforts to direct the political organism upon the path of evolutionary movement, speculation, and venture, while the antique traditions which keep the life of Durham City steady in its ancient path are to count for more than eighteen units of force. A new school of political thought, offering elements of the greatest power and promise for the organic good (and being, in effect, the same as a "sport" in the realm of biology, and therefore of potentially vast significance for the process of development and progress), may make itself effectively heard at Durham, and may secure the Parliamentary representation if it command 1,300 votes; but opinions of equal political value would be almost wholly impotent as regards the making of any impression on the vast electoral aggregate of Romford. Newcastle and Romford, which in 1886 occupied respectively the first and second places in the range of electoral strength, themselves afford a striking instance of these abnormalities, in that the larger constituency possesses the smaller political representation. But, in truth, the disproportion of the numbers is the least dangerous feature of these capriciously distributed obstacles to clear political expression. The smaller constituencies, as we said, pursue the changeless tenor of their way from year to year as inheritors of an ancient moral tradition by which they shape their political ideals. The moral and political judgment which they exercise is almost wholly imitative. Yet to these judgments, which, comparatively speaking, are the least valuable elements of the national aggregate of politically diagnostic capacity, we attach an infinitely greater weight than to the suggestive and deliberative aid which the organism receives from such of its perceptual organs as are refreshed from the most invigorating springs of modern thought and collective experience, and which are able, by means of their own achievements within the limits of their special functions exercised for their local benefit, to justify every claim to the respectful sympathy of the whole organic consciousness. If we endeavour to

express the significance of the present erratic apportionment of electoral power by saying that the political intelligence of the average Durham voter is eighteen times greater than that which is possessed by his brother Englishman at Romford, we have enunciated a proposition which is self-destructive. Yet "laws in the widest sense of the term," said Montesquieu in a definition which dimly foreshadows the Darwinian theory, "are the necessary relations derived from the nature of things." So far as they are positive, how can they possibly attain their highest expression and potency if the power to evoke their utterance is capriciously distributed, in such a manner as largely to defeat all intelligent effort at co-ordination? Compliance with the requirements of the Second and Third Canons is, in truth, rendered almost impossible by these triumphs of maladjustment.

Old Principles of Distribution.

In startling contrast with the widening economic, jurisprudential, politico-biological, and socio-psychological horizon which is opening out before us as we proceed we may place the exiguous baldness of the memorandum which accompanied the Redistribution Bill of 1884. After briefly premising that there were 645 seats to be disposed of, the memorandum proceeded:

It is proposed to redistribute these 645 members first, according to the estimated population in 1885 of England, Wales, Scotland, and Ireland respectively; secondly, by giving to each county, with its boroughs, its proportion of members according to population; and thirdly, to distribute that proportion again within the limits of each county, according to the population of the rural districts and of the towns respectively.

The population of the United Kingdom is about 36,200,000 and, omitting the Channel Islands and the Isle of Man, which enjoy their own institutions and have never sought representation in the Imperial Parliament, may be taken as 36,000,000. Deducting from this number the average number of persons convicted of crime and the average number who are receiving poor relief—together 1,160,000—the number to be dealt with in this Bill may be stated as 34,840,000, and are distributed thus: England, 28,870,000 (number increasing); Wales, 1,370,000 (number stationary); Scotland, 3,900,000 (number increasing); and Ireland, 4,700,000 (number decreasing).

The Bill proposes the following general distribution:

——	England.	Wales.	Scotland.	Ireland.
Counties, boroughs, and groups of boroughs	460	25	73	87
City of London	4	—	—	—
Universities	5	—	2	2
	469	25	75	89
	658			

The Bill proposes to disfranchise no borough, but in the case of a borough now represented which has a small population it proposes to associate other boroughs with it, so as to form a group having joint representation.

It adds to the borough constituencies in England and Wales all towns at present unrepresented having each a population of over 10,000.

. . . . . .

Each county in the United Kingdom has been considered separately, and the boroughs within it, so far as they are not of such size as to claim individual representation, have been grouped together, so that the whole of a group of boroughs may, as far as possible, be within the same county.

The present number of constituencies in which a third member is returned to represent the minority is eleven in England and one in Scotland. Under this Bill it is proposed that the number having three members shall be fifty-nine in England, three in Scotland, and ten in Ireland.

So far as it takes population as the primary basis of distribution and seeks to avoid the sterilisation of old electoral individualities (as in the grouping of boroughs), this scheme proceeds upon sound lines. But it will be noticed that the scheme is professedly based upon population, whereas there is no essential and constant connection between population and electorate. The electorate may be a large proportion (as in the Strand) or a small proportion (as in some East London constituencies) of the population itself. It is true that, so long as we have a restricted and highly technical suffrage, we cannot be said to make any real attempt to create a permanent proportional relationship between electorate and population; but that is all the greater reason why we should avoid the endeavour to persuade ourselves, or to create the appearance, that such a proportion does in fact exist. The vital defect of the 1884 scheme, however, is that it makes no provision for the maintenance in operation even of those basic principles upon which it professes to be founded, with the result that the whole scheme ran rapidly out of adjustment with the objects for which it purported to be designed. It is now hopelessly inoperative as a scientific expedient and tends to attain deeper depths of maladjustment every year.

It will be remembered that the scheme did not ultimately give a greater representation than two members to any single constituency. Where the claim to larger representation is undeniable the object has been attained by breaking up the area into separate constituencies, as is the case with the seven units of Birmingham and of the old borough of the Tower Hamlets. To this wide distribution of single seats, concurrently with a mere handful of double and no triple constituencies, it was once objected* that there is danger from (1) the probable election and permanent retention of seats by men of inferior and unparliamentary calibre who happen to be

* See *The Times*, October 21, 1884.

popular in particular neighbourhoods, and (2) the comparative ignoring, in consequence, even at General Elections naturally critical, of great issues.

There is, however, no means, consistently with democratic ideals, by which a popular man, however unparliamentary his calibre, can be excluded from the House of Commons. Popularity is, in the main, the standard of fitness, for he who is popular with the largest number of electors will secure the greatest number of votes; and as long as the popularity subsists the member will enjoy what his friends will affectionately call a "freehold." Further—and this is really the sinister element—a member who has secured his seat by means of an evanescent popularity and who proceeds to abuse, in the most flagrant way, the confidence which his election involves, is, under our existing system, safe from the righteous indignation of his constituents—at all events, for a time—which may extend to a period of six or seven years. For this the scheme outlined in the present essay offers a remedy (see Chapter XIII.); but for the election of a popular but utterly incompetent man our now existing electoral method does not, and in fact cannot, provide any antidote at all. If, by means of political reasoning, you can destroy the popularity, you may change the representation; but as long as the popularity subsists, even the philosophic weapons of a Socrates or an Aristotle would be wielded in vain. For the same reasons it is clear that a man who was confident of his popularity in his own constituency could afford to fly in the face of the national sentiment, and even of the national interest, while at the same time bidding defiance to all pretenders to his own electoral throne. These objections to the single-member seat are, then, objections arising from the very fundamentals of our political system—the rule of the majority, as enforced in the ballot-box. But there are other objections, which take a different form and open up totally dissimilar aspects of our theme.

Accidental Minority Predominance.

A single constituency, which is asked to give its judgment upon the claims of two candidates, can only (unless there is a tie) pronounce a verdict which will be unmistakably that of the majority of the voters who went to the poll. Even in this primary case the appearance of a third candidate* may result in the representative being the nominee of a minority. But what is more important is the fact that as soon as the verdict ceases to be that of one constituency, and becomes that of many, we are in the

* At this point, as elsewhere in this chapter, we approach such questions as the mode of voting, the second ballot, and the transferable vote. These are discussed at a later stage. At present we are concerned with the larger electoral units (the constituencies) and not the smaller (the voters).

presence of the possibility which we encountered above—the aggregate selection may evolve a majority, perhaps a large majority, of members, who represent a minority, perhaps a small minority, of electors. This was actually the case in this country (excluding Ireland) after the General Election of 1895. According to figures which were quoted by Lord Courtney in an address at Stockport, the Liberal vote in Great Britain was about 1,800,000, and the Unionist vote about 1,775,000; but the Unionists obtained the majority of seats (279) against only 202 held by their opponents. The single constituency has no constant value, so that no reliable calculation of political strength can be made upon its basis. If, in the expressions 4x and 3x the x have the same value, 4x must be the greater; but if the x in the expression 4x be valued at 5, while the x in the expression 3x be valued at 10, the *prima facie* aspect of the values is altogether falsified. This is the essential fault of the single-member system. As we shall see at a slightly later stage of the argument, it offers no guarantee that the aggregate of representatives shall bear a correct proportion, or any proportion at all, to the aggregate opinion of the electorate. The control of the majority by the minority would remain a permanent possibility, developing into a peril if the subjugated majority were determined to put an end by violent means (there being no others) to such an abnormality of so-called representative institutions.

So far, then, a brief consideration of the Memorandum of 1884 and of the abnormalities which we have seen produced by the Redistribution Bill which it accompanied has brought us to the conclusion that as a means of securing any constant correspondence between the composition of Parliament and the opinion of the electorate, the present scheme of (mainly) single-member constituencies has broken down. It is utterly unscientific—an antiquated mechanism striving in vain to turn out a product which shall attain the high standard of excellence that modern conditions, aspirations, and necessities demand. It will, as we have already seen, become more hopelessly out of "touch" as the years roll on, and especially as the existing two-party system comes under the disruptive influence of new political combinations and a higher power of civic authority, responsibility, and judgment than is involved in the old method of choosing between two men, with neither of whom the chooser may be in intimate sympathy or any real sympathy at all. In what direction, then, shall we turn in our search for sound, practical principles capable of continuous and effective application?

Proportional Representation.

They are to be found in what is known as Proportional Representation. The constituencies must be large, sending three, five, or seven members to Parliament, while the elector must be

restricted from giving more than one vote. As Lord Courtney said at Stockport,* in a brilliant exposition of the whole subject:

"Let Manchester, say, be treated as one community. Let Salford also be treated as one community. Enlarge Stockport if necessary so as to form a constituency of three members. In this way you might have constituencies of three, five or seven members. Fasten your minds on a constituency returning five members. What we want would be realised if the electors separated themselves into fifths, each fifth agreeing to choose one man. The five members chosen would really represent the whole constituency. The number agreeing together need not, however, be so great as a fifth. Any combination exceeding a sixth† could have a member by agreeing upon one man. Just follow that for a moment. There are five to be elected. If more than one-sixth of the electors are agreed upon A, he is elected. If more than one-sixth are agreed upon B, he also is elected; and so with C, D, and E. Thus you would have five men sent up to Parliament, representing more than five-sixths of the constituency, leaving something under a sixth over, and therefore you have something over five-sixths of the constituency speaking through the five men they sent up. You have got the wants of the five-sixths expressed by the five men you sent up. You have five-sixths working, acting, and participating in the political life of the men they sent up. Realise that thought. You are one of a thousand, let me say, in Stockport who sent up a man. You know you voted for him. He is your man. He is in a measure part of yourself. The whole community with the exception of that little surplus gets represented in the Central Assembly. The whole community, its thinking, its feeling, is voiced. There is co-operation there; whether Liberal or Labour, workman, employer, capitalist, Free Trader, Tariff Reformer, Churchman, Dissenter, teetotaller, publican, you are represented. Whatever your wants or ideas you find them expressed by people who share your views, who know your demands, whose action is your own, reflecting your own, speaking your own, speaking for you and working as you yourself would work if you were present there."

The only plausible objection to these large constituencies returning six or seven members en masse (and not as individual representatives of separate divisions) is the tendency of their electorates to become utterly unwieldy in the matter of facile and rapid communication. Twenty years ago it was no doubt true that such electorates were more easily swayed than smaller bodies by sudden storms of passion and prejudice. Personal responsibility would decrease as the aggregate electorate grew in size. But this is not so true to-day, and tends to become less true as we are able to set in motion and maintain in activity the forces that check or neutralise the various springs of suggestibility acting on large masses of humanity. Plumping (in the sense of giving the whole number of votes to one candidate, as used to be done at School Board elections) is a thing of the past. Moreover, plumping itself,

* March 22, 1907. The whole speech may be obtained from the Proportional Representation Society, of which the hon. sec. is Mr. John H. Humphreys, 107, Algernon-road, Lewisham, S.E., a gentleman possessed of an inexhaustible fund of information, which he courteously and lucidly imparts to all inquirers.

† The exact process will be explained when we come to deal with the mode of voting.

though it occasionally led to a colossal waste of voting power, worked well, on the whole, to secure representation for all shades of opinion, and to check the tyranny of small majorities. Certainly it is the best testimonial to the large constituency that it is disliked by the party managers, who find that it encourages the voters to break away from the party "ticket" by means of cross-voting and to insist on giving support to the "best man"—the man well known and thoroughly trusted in the place—be he of what political colour he may, and whether he is a party nominee or not. The selection of the best man, in contradistinction to the party man, is so eminently to be desired in our political life, that if large electoral nuclei had no other recommendation than their tendency to initiate this process, they would have a unique claim upon our careful consideration. What is necessary, however, is to guard against (1) the swamping of the minority, who may, in a large constituency of five or seven members, represent traditions, ideals, or aspirations that are of value to the organic growth of the State, though incapable of maintaining themselves under the existing system of voting; and (2) the grouping of interests which are wholly and essentially different in character, temperament, and aim within the limits of one constituency. What is required is not only to map out the interests and temperaments of the electoral body, but to give free play and articulate expression to the various shades of colour which characterise the interests and temperaments themselves. We ought to show both the escutcheon and the inescutcheon quite clearly—or, to use an illustration which will perhaps strike a more familiar note, we ought to be able to display upon the electoral map not only the various colours of the districts, but the heights and depths within them, just as the shading of a modern physical map exhibits the varying contour of the land.

A Detailed Illustration.

The attainment of these ideals by means of the method of Proportional Representation offers no real difficulty. In a system of large constituencies the great centres of population like Leeds, Birmingham, Manchester, and Bristol would, as Lord Courtney suggested at Stockport, have their own group of representatives—standing, in the first place, for the general local sentiment; and distinguished, in the second, by the shades into which it was marked off. Of greater magnitude than these constituencies would be the metropolis itself; but there, again, its main divisions (like the boroughs of the Tower Hamlets, Lambeth, Marylebone, and Paddington) would each (subject, perhaps, to some re-grouping and absorption in the case of the smaller boroughs like Paddington, Shoreditch, and Marylebone) have their own characteristic cluster of representatives tinted by the hands of the electorate itself, into accord with the prevailing coloration of local

sentiment. At the other extreme, and of less magnitude, would be the smaller provincial boroughs, many of them already incorporated into borough groups or county divisions, and the others, up to a population of 10,000, to be dealt with in the same manner under any scientific scheme of distribution. These towns are always in general unity of sentiment with the districts around them, so that there would be no unequal yoking of necessarily antagonistic interests. For instance, there are four county divisions of Shropshire, while Shrewsbury (with an electorate in 1908 of 4,819) is separately represented. Ludlow is at the head of the division of the county which bears its name. It has ceased to have separate representation, but there is an almost complete unity of interest between the town and the division, such as would not exist if (for instance) Ludlow were a large and busy manufacturing centre like Northampton.

We shall see the position more clearly if we place the results of the 1906 election before our eyes:

	U.	L.	Majority.
Shrewsbury	2,395	1,955	U.440
Shropshire (Wellington) .	3,114	4,806	L.1,692
Shropshire (N.)	4,853	4,677	U.176
Shropshire (S.)	4,978	4,218	U.760
Shropshire (W.)	5,011	4,508	U.503
	20,351	20,164	

Clearly, Shropshire, instead of being represented by four Unionists and a single Liberal, ought, on a strictly numerical basis, to be represented by 2½ Unionists and 2½ Liberals. At any rate, it should be clear to the most imperfect political vision that the highest civic and politically-educational aims would be better served by making Shropshire one large constituency, and requiring each elector to express an individual preference, which would necessitate a careful balancing of the respective claims and programmes, than by compelling the electors in five separate constituencies to choose, in each constituency, between two men, with the result that not only is the electoral judgment narrowed and warped by the limited issue to which it is confined, but the political sentiment of the county, on a numerical basis, is utterly misrepresented in the House of Commons. Save, perhaps, in the Wellington division (where there is a large industrial, as distinguished from an agricultural, electorate), Shropshire is not likely to endorse any advanced political programme. Its traditions are those of the deliberate, the cautious, the distrustful in the presence of novelty. That is to say, there is a prevailing unity of sentiment which is of that stamp. But there are many shades of colour. The industrial workers of the Wellington division are probably more aggressive, in the political sense, than the Liberals of Shrewsbury; and these, in their turn, are politically keener than the Liberals of

Ludlow and of the small industrial centres (like the Clee Hill Dhu stone community) around it. But all these various shades of Liberal opinion could * by combining upon two candidates out of five in a unified county constituency, ensure their return; for the Liberal vote in the Wellington division would be strong enough, independently of the rest, to return one, and the combined Liberal vote elsewhere would certainly return another. In that way we should have two Unionists and two Liberals; and the final struggle would fall where it ought to fall—around the fifth seat, which would be quite likely to go into the hands of a non-party man, to the dismay of the party managers and the strengthening of the House of Commons. If that were so, and this outcome of the system were repeated (as it almost certainly would be) in other constituencies, we should find the whole tone of the Legislature raised by the presence of these capable men, the subjects of personal, as distinct from party, choice, and the possessors of personal, as distinct from party, qualifications. Fifty or sixty such men, oblivious to the official claims of the party whips, absolutely refusing to be herded like sheep into the party lobby, serenely careless of a party anger which could not deprive them of their seats, would exercise an almost inconceivably salutary influence upon the Government of the day—supporting it against illegitimate pressure, forcing it to move where official inertia prompted it to stand still, and, generally, driving the wedge of common sense and common interest into the very centre of the party system. In this abandonment of the effete single member method, and in the offer to the electorate of a mode of expression at once more supple and more subtle, we shall, in truth, endanger the very existence of party machinery and place party managers in a position of keen embarrassment. These, however, are contingencies which the earnest citizen, who desires success and prosperity for the State itself, and not merely for the temporary and perhaps adventitious custodians and instruments of its will, can afford to regard with absolute equanimity.

The Mischief of Misrepresentation.

The alternative, then, is Proportional Representation. If we pursue a little further the consideration of the illustrative instance already adduced, the disadvantages of the present single member constituencies, and the commanding claims of a system of larger electoral areas, will exhibit themselves still more conspicuously. The transfer of 850 Liberal votes in the Wellington (Mid-Shropshire) division would have the effect of causing the loss of the seat, and Shropshire would in that case become wholly Unionist in its Parliamentary complexion. We should have a majority of 21,201 represented by five members and a minority of 19,314 represented

* We shall see precisely why this is so when we come to discuss the mode of voting.

by no members at all. Thus, if a Liberal Government were in power its proposals would be liable to the opposition, possibly the successful opposition, of a Unionist minority, which might, as in the case of the Shropshire members, wield a Parliamentary power out of all proportion to the political opinions prevalent in the electoral areas where it originated; or, if a Unionist Government were in power, its hands might be strengthened by such apparent unity of sentiment as had caused Shropshire to be seemingly unanimous in its support, when, in fact, Shropshire was nothing of the kind. These abnormalities, hindrances, and distortions would be impossible if the Liberal minority, in such cases as this, had the power to combine upon, say, two members, and so to ensure its own possession of a fair share of the Parliamentary representation of the county.

But the beneficial results of the larger electoral area go much further than this. As we are now content to work the electoral machine the county of Shropshire (which the writer is using merely as a convenient illustration) is not only politically misrepresented, but every Liberal elector in the four Unionist constituencies is rendered politically impotent. He has, and can have, no effective share in the choice of representatives of the national will. It is useless for him to aspire to an intelligent interest in the political life of the county, for power, which is the stimulus of interest, lies hopelessly out of his reach. Political perception is weakened, for the projectiles of political life and thought cannot impinge upon the civic faculties with the same force when scattered over an area of impersonal responsibility as when they strike the more compact target of the individual mind and awaken the individual capacity into conscious and robust action. In that way the political alertness of the electorate is dulled, relaxed, or deadened altogether, and instead of the consciousness of individual share in the collective sovereignty and the realisation of a living, actual, personal potency in the corporate life of the nation, we get a sullen, effortless acquiescence in the things that are—a political depressant whose existence is fatal to all those finer elements of aspiration, judgment, struggle towards the light, social enthusiasm, and civic ambition, which alone can raise the national organism to the higher levels of life and achievement and maintain it there in progressive and unsullied excellence.

Question of By-Elections.

The critical reader will by this time, no doubt, have seen that if Proportional Representation, on the foundation of larger constituencies, be adopted, the by-elections will present problems of some delicacy and difficulty. For instance, a five-member constituency might be representated by two Unionists, two Liberals, and a Labour member, and the representation might be in perfect consistency with the electoral strength of the respective parties.

But if the Labour member were to resign, or die, the single Labour seat, which was perfectly safe at a General Election, could not be held, in the case of a poll of the entire constituency, against the united vote of one of the other parties. It would be useless to "run" a Labour candidate; and the Labour party would, consequently, cease to be represented until another General Election enabled them to assert, as a proportion of the electorate, the strength which could, under those circumstances, depend upon being able to realise its objects. So that Proportional Representation, without a provision for by-elections, cannot prevent the same falsification of electoral opinion as prevails under the present system. In the case before us a by-election would create, in the mind of an observer who was not closely acquainted with the facts of the case, the idea that the Labour party was an entirely impotent element in a constituency whose representation was wholly divided, in one proportion or another, between Unionist and Liberal members. As it is not feasible, even at a by-election which is concerned only with one-fifth of the aggregate representation of the constituency, to exclude any class of electors from the poll, it becomes essential to grapple with the problem in some other way.

In all the Continental list systems supplementary candidates are elected at the time of the general election, and these, in the order of their election, take the place of any member who may die or resign.* Another suggested method of dealing with the difficulty is the total abolition of by-elections, accompanied by the grant, to each group within the Parliament, of the power to co-opt a new member on the death or retirement of a member of the group. With this solution the complexion of Parliament would, as in Belgium, remain the same from one general election to another, and it has been urged that this would be of little consequence were the duration of Parliaments shortened. With shorter Parliaments it is said that by-elections would lose a great deal of their present significance, and much more regard would be paid to the number of votes polled than to the loss of the seat. Still another scheme (adopted in Tasmania—a small electoral area) contemplates the polling of the whole constituency whenever a vacancy occurs.

The present writer would regard the establishment of shorter Parliaments as a matter of quite subordinate importance in comparison with the acquisition and exercise by the electorate of an uninterrupted power (scrupulously guarded, however, from the possibility of abuse) to dismiss an incompetent, unfaithful, or recalcitrant member at any time. A safe, cautious, and practical scheme for the creation and maintenance of this power, as well as

* The precise method is explained in an article "Proportional Representation in Belgium," which appeared in the October, 1908, issue of the *Contemporary Review*.

the reasons for considering it one of the primary essentials of self-government, will be outlined and discussed in Chapter XIII. If the desirability of the existence of the prerogative of dismissal be admitted, it will be evident that we cannot consistently accept any plan which contemplates the co-option of members to fill casual vacancies by the party group to which the deceased member belonged, nor yet any scheme of provisionally electing superfluous candidates who should succeed to the vacant places as death, resignation, or other cause renders them available. Both expedients tend to perpetuate the compulsory and, for a time, irrevocable delegation of that sovereign power which should properly be continuously resident in the electorate. This delegation is, in the present essay, regarded as a distinct menace to the sovereignty itself. Against any abuses to which the ambition or recklessness of minister or monarch, arising under this existing system of delegation, the by-elections are (short of rebellion) the only protection. To abolish them, either by specific provision or, in effect, by the giving of the power of co-option to Parliamentary groups would be to render the electorate totally incapable of manifesting its disapproval of a Government programme or of ministerial methods. A huge majority, elected by the nation under the impulse of some gust of passion, or because of electoral inability to penetrate beneath the whirling verbiage of partisans, could then pursue its mischievous career in sheer defiance of the changed sentiment of a people brought to a better mind by reflection and by the closer scrutiny of the effigy which the misguiding jugglery of election eloquence had tricked out in delusive beauty. It is, then, essential that in adopting the scheme of larger constituencies we preserve for the electorate a power to pick out any one of the three, five, or seven members and to intimate to him, with an authority that brooks no denial, that he is dismissed. On the other hand, if this is to involve a poll of the whole electorate, we are in the presence of a needlessly large public or private expense, and also, as we have already noticed, of a menace—a serious menace—to the principle of Proportional Representation itself.

The Allocation of Constituencies.

Mr. Joseph King (almost by way of an obiter dictum) offers* a solution of this question which we may adopt with the greater satisfaction because it would automatically add another safeguard against abuse to the operation of the machinery for the dismissal of a member. Mr. King suggests that after the poll the whole of the members returned for the large three, five, or seven member constituency should choose (making the choice in the order of their position in the poll, the first choice being that of the man at the head) to which of the electoral divisions they will be allocated.

* "Electoral Reform," page 99.

Then, in the event of the death or resignation of any member, the by-election takes place in the electoral division to which he had allocated himself. That is to say, that if the Shropshire polls resulted in the return of three Unionists and two Liberals, they would allocate themselves to the five constituencies in the order in which they, as candidates, stood at the poll. This would operate with perfect fairness. None of the Unionist candidates would be likely, even if the first three selections fell into their hands, to choose the Wellington division, which is the Liberal stronghold. Nor would either of the Liberals, if the first choice were theirs, be disposed to choose a centre of Unionist strength for the purpose of self-allocation to it. Each member would, in fact, make his choice with the deliberate and perfectly legitimate aim of securing for his supporters the maximum opportunity of perpetuating the representation of the views which they had selected him to enforce, when the course of time or circumstance compelled him to relinquish the responsibility. This plan would only fail to work practical justice where the election of the candidate to whom there fell the choice of the last allocation was the result of the efforts of a united and concentrated minority recruited from all parts of the constituency. There might then be no single division in which the views of the minority member would have any chance of perpetuation in the event of a by-election. But it would be well to recollect that, inasmuch as the other members would choose the divisions most favourable to the opinions of which they were the exponents, the minority member might well be allocated to the division which was relatively the most favourable to the opinions of his supporters; and we must also bear in mind that this scheme confers real representation, subject only to the changes and chances of our mortal life, upon a minority which, under the existing system, would not have the remotest chance of securing any voice whatever in the National Assembly.

Three, Five, or Seven Members.

At the commencement, then, of the working of a system of Proportional Representation we should have an arrangement under which all constituencies entitled, on a numerical basis, to fewer than three members (that being the minimum size of the electoral group), would be merged into some larger entity—either the county in which they stood (and not any other) or else a cluster consisting of themselves and other municipal factors. The numerical basis of distribution should be founded rather upon electorate than population. There is, as we have seen, no constant, much less essential, ratio between the two, so that the attempt to adjust electoral representation to a partly non-electoral population is bound to introduce an element of variability in vote values, which is precisely the evil that any sound plan of self-government must, up to the very limit of practicability, struggle to exclude

altogether. The desirability of employing the electorate rather than the population for this purpose would not be minimised by adult suffrage. However liberal the scheme under which adult suffrage is conferred, there must always be *some* qualification required and, whatever it might be, the ratio between the total of those who possessed it and the aggregate population must vary, and vary widely, in different parts of the country. Constituencies would be allotted three, five, or seven members in accordance with their electorates, the numerical qualification being fixed at the figure which would yield a House of Commons about as large as the present assembly. The selection of an odd number of members would prevent the self-stultification which occasionally results in a two-member constituency from the return of two men pledged to opposite political programmes—a state of things which is undesirable in the extreme—unless one, or both of them, has sufficient strength of character to have commended himself to the electorate by his known ability to act, on occasion, without reference to party claims or exigencies. More than that, it would confer upon the minority, in every case, the opportunity of concentrating on its own man, with results which we have already foreseen. Constituencies entitled to more than seven, or at the utmost to more than nine, members (if such there were), would be best divided into separate moieties with five members each.

Continuous Redistribution.

It remains to consider by what means this process can be rendered continuously automatic and adequate, since it is clear that the flux and reflux of population will from time to time bring about such changes as would destroy the harmony between the scheme as originally elaborated and its attempted realisation in the distribution of seats. The position of affairs should therefore be reconsidered at stated intervals. The census, while on the one hand it furnishes the means of reconsideration, on the other hand offers the appropriate intervals. The lapse of ten years would be a sufficient period for the operation of such changes in the density and distribution of the electorate as would create the necessity for readjustment, while, at the same time, it is not so short as to introduce an element of instability. Moreover, this period has actually been selected in Canada as that which should elapse after each change in the distribution of seats. As the census takes place in the spring of the first year of each decade, there would be time for the amended distribution to be elaborated and defined so as to go into force on the 1st of January in the next year but one—the third year of each decade. Constituencies no longer entitled to their five or seven members would fall to the next lower class. Those originally entitled to three members, but whose electorate had fallen below the qualifying aggregate, would be absorbed

either (1) into such other constituency, being actually contiguous to it, and in the same county, as a joint plebiscite of the contiguous constituencies and of the transferred constituency might determine (this method is objectionable as opening the way to the influence of party considerations upon distribution); or (2) into that contiguous constituency, being a division of the same (but not of another) county with which the transferred constituency was in greatest lineal contact, according to the ordnance map. In either of these cases the aggregate number of members to which the amplified constituency was entitled would be adjusted to the new conditions. Or (3) where two actually contiguous three-member constituencies both ceased to possess their numerical electoral qualification as such, they might be joined (if their united electorate justified it) into a new five-member constituency. This process would probably lead to the "falling in" of such a sufficiency of lost seats as would permit of the grant of larger representation to constituencies whose augmented electorates qualified them for an increase in the number of their members. But if that process failed to answer the purpose, or if the constant numerical growth of the electorate rendered it impracticable (consistently with the maintenance of the present numbers of the House of Commons), the numerical qualification would have to be raised, so as to adjust it to the new conditions. It is unnecessary that the numbers of the House of Commons be absolutely constant. A variation of ten or even twenty, as a consequence of changes in the distribution of the seats, need create no uneasiness. If it were greater, the qualification could be adjusted to the altered conditions of the electorate. The work of elaboration and adjustment could be done under the authority of the original Act which had set the process going, though it might be desirable, from the constitutional point of view, that the scheme, when finally arranged, should receive the ad hoc sanction of an Act of Parliament. But as the process would be as automatic and non-controversial as the payment of interest on the National Debt, when once initiated and adjusted, it should progress without the necessity of interference. It has the additional recommendation of depending upon operations which are almost purely mathematical, so that there is no room for recrimination with regard to alleged partisan manipulation of the redistribution process. Any redistribution carried out by a commission must contain the elements of greater or less constitutional danger. It may not be true that there was ever an instance of a constituency being carved out to suit a personal interest, and to be employed as the foundation of a personal ambition. What is required is not only that such allegations shall be untrue, but that they shall be so ludicrous and absurd that it is not worth the while of sane men to utter them.

Some Abnormal Instances.

A few difficulties would, no doubt, present themselves in the strict adjustment of this scheme to the counties. Rutland, for instance, has but one member and an electorate (1908) of only 4,012. But it is contiguous to Leicestershire, Lincolnshire, and Northamptonshire, with any of which it might be incorporated for the purposes of proportional representation. It is quite true that under such circumstances Rutland would cease to have its own member, but the extreme smallness of the county electorate renders this inevitable in any proportional scheme. The same remarks apply very largely to Huntingdon, which, with a southern division of 5,226 electors and a northern of 6,863 electors, could not stand as a separate electoral entity in any plan based on proportional principles. The Welsh counties (except Glamorgan, which offers a "ready-made" five-member constituency) would have to be grouped. But these are mere difficulties of detail. It is not their existence, but their insignificance in comparison with the great purposes which their obviation would subserve that need excite our astonishment.

It would be quite feasible to elaborate a scheme of continuous redistribution which should be applicable to our existing system of single member constituencies. It has not, however, been considered worth while to set it forth. Any serious attempt to grapple with the abnormalities of the present antique system can only proceed upon the lines of proportionate representation, and to that, accordingly, we have confined our investigation.

So far, then, we have considered the processes of registration—the identification and mobilisation of the electorate; and distribution—their marshalling in orderly and scientifically proportional array. The next stage of our investigation will bring us to the commencement of the electoral evolutions which are the prelude of the conflict at the polls.

Summary of Proposals.

The distribution of seats to be scientifically proportioned and adjusted, and maintained in proportion and adjustment, to the growth and needs of the political organism.

The necessary periodical readjustment to take place after each census.

Existing constituencies to be re-constituted in naturally allied groups of three, five, seven, or (possibly) nine, so as to conform to the proposals known as Proportional Representation, which should be adopted and applied to them.

Accidental minority predominance, as well as the absolute non-representation of the minority, to be in that way abolished up to the utmost limit of practicability.

Vote values, therefore, to be rendered as nearly equal as is practicable, and maintained in that state.

CHAPTER IV.

Candidate and Candidature.

At the outset of a critical examination of the mode of selecting candidates, and of making their opinions and pretensions known to the electorate, it will be well to remember that in this power of selection, when properly and capably exercised, we have the means of working our way back to the ancient Teutonic ideal and practice. The political units do not nowadays assemble at the deliberations of the legislative body and signify assent or dissent by the clashing of spears or by audible indication of their will. But they ought to move, and it is one of the purposes of this essay to move them, in the direction of resuming the exercise of that immediate influence upon the legislative body which, in an infinitely smaller political community and under conditions immeasurably less ambitious, was wielded by their Teutonic ancestry in days that lie far off across the gulf of centuries. The intermediate period has been one of steady diminution in the direct power to guide the legislative instrument. The community early became too large to personally surround the man who had the control of the national helm. It was only imperfectly replaced by the locally-recruited demonstrators who formed the legislative environment of William I. at Gloucester, or made up the impatient and clamorous mob which excited the anger and dread of William de St. Calais. What is meant is that the gap between that which purported to be the representative opinion of the nation and its true sentiment was widened in this sense, that there was no mutual and necessary interaction between them. To take quite a recent and striking illustration of this fact—the representatives of rotten boroughs were, of course, not so hopelessly out of touch with, or reckless of, national ideas as to essay the abolition of the marriage laws or in some other way to outrage the age-long habits and ideals of the people. To attempt so much, as they well knew, must at least have been to stultify themselves and might possibly have wrought the nation up to the pitch of rebellion. Therefore it sufficed them to maintain a kind of rough and ready touch with the great mass of the people, and they were only careful to establish and preserve a really intimate and close community of interest with so much of the nation as had the power to speak with a politically articulate voice. As this vocal section was not merely a minority, but was able in some cases to secure as a representative one who did not actually represent any person except such as had no right to any representation whatever, the system ceased to be entitled to be called representation at all. The old method had vanished, and the new political conditions had yielded nothing better than a non-responsible or, at all events, inadequately

responsible, oligarchy, only susceptible of a slight measure of control from the hardly more extensive oligarchy whose delegate it was. With political impotence there came political stagnation and, so far as the great unrepresented mass of the nation was concerned, political apathy. From time to time, indeed, some spark of independent sentiment was blown for a moment into a flame of political independence, promising the glow of warmth and energy to the entire body politic. Too often, as in the case of the Lollards, the Pilgrimage of Grace, and the episode which ended at Sedgmoor, the spark was quenched in blood, and the voice of aspiration, almost inarticulate as it was at best, died away in the silence of a brooding despair. Advanced political theories are useless when those who shape them, and who desire to see them discussed, elaborated, and tested, have no means whatever of impressing their opinions upon the authority which is alone capable of providing publicity for the discussion and of initiating the experiment.

The Process of "Selection."

The conscious and deliberate resumption of the power of actually selecting representatives has not, however, proceeded very far as yet. In the majority of instances the original selection, which the electorate is only asked to ratify, and not to make, is the work of a small clique of party leaders. In truth the system (if system it can be called) by means of which candidates are at present selected is crude in the extreme. There is, perhaps, a local man sufficiently influential and wealthy to be marked out as the successor (or the opponent) of the sitting member. Failing a local man of influence and ambition, the party officials will, as a rule, be asked to send a list of suitable men for consideration by the leaders of the local organisation. The latter will interview the candidate, and obtain from him the expression of such opinions on current political questions as he imagines will best accord with the sentiments of his visitors and their allies. This limitation of opinion is a necessary consequence of our two-party system, under which, unless the proposed candidate be a man of exceptional strength and independence, he must swallow the whole of the party programme, and strain at no item which it contains. If he pass the ordeal successfully, he will probably be asked to address the local association. Then, if he is again successful in the enunciation of the views of those whom he hopes to make his constituents he may be adopted as candidate, or, perhaps, in accordance with the more cautious policy which the uncertainty of the law has forced upon the party leaders, he will receive an intimation that he may safely consider himself the "proposed candidate." In exceptional circumstances a prominent man who has lost his seat elsewhere may be practically "rushed" upon a constituency. But this is only likely to be attempted where the seat is safe, so

that no local sentiment is outraged by the sudden selection of the constituency as a harbour for one whom the storms of political fate have rendered temporarily homeless.

The Question of Money.

But in whatever way the advent of the potential candidate originally takes place, the first questions asked will have reference to his pecuniary means. What sums will he contribute to the local funds for the purposes of registration and organisation? How much, by the way, did he give to the central fund of the party, whose administrators furnished him with his credentials to the local leaders? Can he pay his own election expenses? More important than all, can he make himself popular with a certain class in the constituency by means of liberal donations to local charities, philanthropic agencies, and other similar agglomerations of local sentiment and influence? We shall examine this matter more in detail at a slightly later stage of the argument. At the moment it will suffice to say that no man who has any accurate knowledge of the workings of our electoral system will be likely to deny that these are, in the great majority of cases, the primary considerations when the merits of a potential candidate, or the respective claims of competitors for adoption, are discussed by the local leaders. Some cases, of course, there are where the expenses are paid from the "central fund" because the candidate is not a wealthy man. But these do not afford the dominant type. Where such circumstances admittedly exist, indeed, it has been affirmed (and denied) that the subjection of the member to the party whips is enforced more absolutely because of his financial dependence upon the central authorities But the subjection could hardly be more absolute than that which is also enforced (as we have already seen, in the course of the Introduction) even upon those members who are financially self-supporting in their chosen political sphere, and who have satisfied the very strictest canons of probationary generosity. The conspicuous feature of the entire system is its primary dependence upon the pecuniary power, either of the party or the individual candidate, and it is only fair to add that occasionally the pernicious character of the whole *modus operandi* forms the subject of the stern criticism of independent men, and newspapers, of all shades of opinion, who are unanimous in its condemnation and yet confess their impotence to suggest any effective remedy for its evils.

Even for the achievement of the purposes of the humblest type of rough and ready representation, these processes are clearly imperfect. They leave to the electorate only the power of ratification, not the power of choice. They offer to the intelligent elector the opportunity of voting for one of two men, or else of staying away from the poll altogether. Worst of all, the system

is based upon money, not upon capacity; on party interests, not public considerations. But when it is remembered that these crude processes, distorted at every point of their operation by influences which ought never to be allowed to affect them at all, are the only means by which a great and complicated organism is permitted to find articulate expression for its needs and to promote its own self-adaptation to its environment, astonishment is the mildest sentiment with which we can tinge our contemplation of them. If ability to comply with the pecuniary amenities of a political campaign were verily the necessary and essential concomitant of civic capacity and disinterestedness, then indeed we might desire to perpetuate the system under which its all but universal predominance is established. But inasmuch as there is no necessary connection between large means and political capacity, critical scrutiny must be fatal to a mode of operation which assumes its existence and is, in every phase of its activity, adjusted to that assumption. A giant organism requires the widest, and not the most limited, power of selecting its means of articulate expression, its faculties for what must under the most favourable circumstances be the slow and laborious struggle towards self-adjustment. To say that the voice must always speak with one of two tones, that the vision must ever be restricted to one of two prospects, that the vehemence of the struggling organism may only shape its course in one of two ways, is simply to condemn the structure to something which may easily become political paralysis, under whose deadly influence voice, vision, and vehemence alike will perish altogether. The enunciation of these essentials of political evolution, combined with the consideration of the scientific principles of distribution which we have already discussed, lead us inevitably to the Second Canon of self-government:

"The area from which the political organism may select the exponents and instruments of its legislative will must be co-extensive with the mature (i.e., the adult) intellectual faculties of the organism itself, and the selective power must be distributed and uninterruptedly maintained in strict proportion to the respective development of the various constituent elements which make up its political individuality, so that the expression of its desires and aspirations may take place with the maximum of precision and freedom, and the realisation of its resolutions with the maximum of efficacy."

What is a "Candidate"?

We may now proceed to study the questions of candidature in the light of these principles, to consider where present methods fall short of an attainable ideal, and to suggest adjustments and reforms which shall bring us appreciably nearer to its attainment. So far our use of the word "candidate" has not necessitated any

endeavour to discover its precise meaning. That, indeed, is no easy task. It is true that the expression "candidate" is, by section 63 of 46 and 47 Vict., c. 51, defined as meaning (unless the context otherwise requires) any person who is elected or nominated, or who is "declared by himself or by others to be a candidate on or after the day of the issue of the writ for such election, or after the dissolution or vacancy in consequence of which such writ has been issued." This definition affords us no certain means of deciding whether a political probationer, who is by general consent intended to oppose the sitting member at the next election, is or is not a "candidate." He has not been elected; he has not been nominated; he has sufficient political prudence to have avoided declaring himself a candidate, even under the painful irritation of reports that he has forsaken the path of political ambition altogether; and the "others," who have officiously declared him to be a candidate, have no valid title to speak with authority in that behalf. Yet when all these negative conditions are satisfied, a skilled election agent will inform the political apprentice that possibly he is a candidate after all and that the expenses he is incurring may have to figure in his return of election expenses; for candidature is a fearful and wonderful enigma, the key to which lies concealed afar in the unexplored recesses of the judicial mind and has never yet been clutched by mortal hand.

The earnest inquirer who turns to the heading "Candidate—when person begins to be," in the inexhaustible pages of Rogers, may imagine that he has a clue to the mystery. A brief perusal of the cases cited will disabuse his mind of the pleasant delusion. It was unsuccessfully contended at Montgomery* and Walsall that a person could not become a candidate (at a general election, of course) till the dissolution. In Stepney expenses incurred several weeks before the dissolution (when the respondent was still the sitting member in an existent Parliament) were held to be election expenses. In Rochester the expenses of two conversaziones, which took place two months before the election, were held (assuming the functions to be legitimate) to be election expenses. In Lichfield the principle that the election campaign may really, for the purposes of a return of expenses, extend back a considerable time before the election, was applied to the expenses of a meeting held four months before the dissolution. In Cockermouth (1901) it was held that the candidature began six months before the election, while in Haggerston the period was extended to three years. In Elgin and Nairn the judges thought that the question was in every case one of fact. Finally in Monmouth (1901) we are told in the last edition of Rogers (ex. rel. ed.†) that it was suggested by Kennedy, J.,

* The exact references can be found in Rogers on Elections. Vol. II. (Stevens and Sons).

† Mr. C. Willoughby Williams.

but not decided, that after a candidate was selected there might be expenses of candidature, apart from election expenses, which need not be returned. With something of the same breadth of sentiment Darling, J., had held in Cockermouth (1901), where the candidate had been selected on April 2 and the election took place on October 14, that the expenses of a tea meeting on September 20 (but not given by the respondent) were not incurred in respect of the conduct and management of the election. These examples will show what a wide difference of judicial opinion there is, even with regard to the apparently simple preliminary question—the first that faces a candidate and his election agent when they proceed to compile the return of election expenses. So it is that the candidate (as the present writer said in an article which he contributed to *The Times** on the eve of the general election of 1906) "is warned that a given sum is all that he will be allowed to spend on 'election expenses,' and that if he exceeds it his election will be void. But he is not told when the 'election' legally begins, and he is left entirely to his own judgment in deciding when it ends. An expense incurred three months before an election may not be an election expense, whereas the judges may take the opposite view of one incurred three years previously. The result of this state of things is that a candidate or his election agent must construct his return of election expenses more or less at haphazard." Very natural under the circumstances is the suggestion that the candidate and his election agent should take the opinion of counsel and be absolutely guided thereby. That is the course which would be pursued if the problem for counsel's consideration were other than one arising out of the perplexities of election law. And the fact that the opinion had been properly taken and honestly acted upon would in all other cases be accepted as the best evidence of bona-fides. Mistaken judgment in a matter of election law can, however, only fail of its disastrous effects upon the candidate if there is a successful application for relief†; and relief can only be granted where the error is the result of accidental miscalculation or inadvertence, not where it has followed from honest opinion formed in anxious and bona-fide deliberations. It cannot be pleaded that the technical breach of the law was committed by inadvertence, when it was the consequence of counsel's opinion obtained for the express purpose of forming a decision on that very matter. For example, let us suppose that there was a political meeting held in the constituency six months before the election and at a time when no contest was expected or even contemplated. It never occurs to the election agent that the "candidature" has already commenced, and that therefore the expenses

* December 20, 1905.

† The meaning of this term is explained early in Chapter VIII.

of the meeting should appear in the return of election expenses, so he omits them. On petition the judges will give him relief if they are satisfied that the omission was the result of inadvertence and if the conduct of the election agent has in other respects been free from reproach. It will probably be otherwise if he omitted the expenses of the doubtful meeting as the result of counsel's opinion. The element of inadvertence is gone and relief will be refused.

Statutory Period of Candidature.

All these difficulties as to the period of a candidature, with their resultant complication of questions that ought to be perfectly plain and simple, would be obviated by an enactment that the return of a candidate's election expenses* shall include all expenditure incurred by him, or on his behalf, in the furtherance of his political interests, within three calendar months previously to the day on which the poll takes place. Three months is believed by the present writer to be a fair and reasonable period, but no injustice would be inflicted if the time were extended up to six months. Beyond that an extension would be unreasonable, as tending to difficulty and complexity; while a shorter period would not effect the objects which are here aimed at, and might, in fact, where political developments could be foreseen, tend to defeat them. It is, however, a matter of the extremest rarity (except where a Parliament has run its full septennate) for a general election to be foreseen three months ahead of its date, and it is still more unusual for a by-election to be contemplated at a distance which enables its approximate date to be determined, while there is yet time for the expenditure of money which can be safely omitted from the return of election expenses. For these reasons a candidate would be deterred from large expenditure (at any period when it would be politically effective) by the fear that the advent of an election would necessitate the inclusion of the possibly excessive amount, and possibly dangerous items, in his sworn return. The effect of large expenditure for political purposes is only sustained if the expenditure itself is continuous. Political propagandism can only take the form of meetings, the issue of "literature," and the placarding of walls and hoardings. The enthusiasm which these may generate is quite ephemeral. A candidate whose rare and keen political foresight enables him to see that an election will take place in January, at which he will be entitled to expend a statutory maximum of £1,010, might imagine that he had very cleverly evaded the Act by spending £700 on a political propaganda in the previous May. But 99 per cent. of the effect of these operations would have

* The question of election expenses enters incidentally at this point. At a later stage we shall consider it in detail. The reader will understand that it is impossible to keep in water-tight compartments the multitudinous aspects of a huge central subject.

passed away before the candidates finally descended into the arena for the actual battle; and, moreover (with a six months' limit), the unexpected advent of the election in September or October would involve the candidate in a limitation to £300 as his maximum supply of pecuniary ammunition (since he would, as we have supposed, have spent £700 out of his £1,010 in the previous May). This would be a very serious handicap, not greatly minimised in its discouraging influence by the scanty survivals of the propagandist work which, even after the lapse of these few months, would alone remain as the harvest of the original expenditure.

The Process of "Nursing."

At this point of our argument it will be desirable to introduce and consider in detail the question to which our attention has already been directed as we passed it in the distance. The reference is to one of the most difficult and delicate problems with which, in the whole course of the present study, we are likely to be confronted—that is to say the contributions made by a candidate, or an intending candidate, to charitable, social, and public or quasi-public purposes. Any man who is known to have political aspirations in a given constituency, whether they have taken the form of definite presentation of his claims to the electorate or not, is bombarded—no other word will completely describe the process—by appeals to contribute money to charities of all kinds, as well as to football, cricket, tennis, and other clubs, "outings" for tradesmen's servants, friendly leads, teas for old people, mothers' meetings, church and chapel funds, flower shows, and, in fact, every conceivable form of the activity of that ubiquitous instinct of benevolence whose only adequate name is Legion. If the candidate's means permit of a favourable response to these invitations, he is said to be engaged in "nursing" the constituency in which the gifts are distributed. A great proportion of these appeals relate to funds which are for public, or quasi-public, purposes, such as those of hospitals; and there is no suggestion that any direct political influence is exercised in consequence of donations or contributions made to these institutions. But what is certain is that a section of the electorate—a diminishing but still potent section—is favourably influenced by the fact that Mr. A has given £100 to the funds of the hospital, whereas Mr. B has given £5 5s. or nothing at all. Candidates and their agents are perfectly well aware of this, and are even known to delay the announcement of their contributions in order to ascertain their respective amounts, and so to guard themselves against giving less than others have done. Mr. A is inclined to give £20, but waits to see if Mr. B gives £25, in which case he will raise his intended £20 to £30. These tactics are adopted, not

because either of the candidates desires to be lavish or ostentatious in his gifts, and still less from any vulgar desire of notoriety in itself. They are simply an element, almost vital under existing conditions, of a successful appeal to the electorate. They may be said to be of the psychological rather than the political order, introducing into the electoral arena forces which have no business to be there, and whose activity is wholly vicious; but forces which, nevertheless, no politician can ignore, unless he wishes to postpone his realisation of their exact potency until the declaration of the poll places it before his eyes in large and unmistakable characters.

Yet another class of benevolence for whose aid appeal is made to candidates consists of the provision of meat, drink, and entertainment in such a manner that if it were carried out by the candidate himself, and not through the intermediary of supposedly independent third parties, his election would not stand for a moment against a charge of bribery or treating. As matters are, however, the election judges will not pronounce against this kind of thing unless (1) they are satisfied of the existence of a corrupt motive, or (2) the gifts are made so near to the time of a contest, or actually during its progress, as to exercise an immediate and direct influence upon the voters; or (3) unless (as in the Rochester case) that which purports to be entertainment supplied at the mutual cost of the members of an organisation is really supplied at less than cost price, the balance being paid for, in part, by the candidate which it supports. Corrupt in the coarse and criminal sense of the word these gifts certainly are not, in the majority of cases at all events: but when it is known that candidates regard them as a nuisance and a tax, and yet that they feel themselves compelled to submit, and to assume an interest and a pleasure in paying the money for which they are asked, one may be sure that they are aware that in this mode of benevolence there is a subtle influence that must be conciliated, and that he who most thoroughly understands the work of dexterous conciliation will have the best chance of seeing the abundant fruit of his generosity falling in gratifying plenitude out of the opened ballot boxes.

A Pernicious System.

The writer was once consulted by a gentleman who, from motives which were truly laudable, desired to represent a London constituency. The path was clear to his selection as a candidate: the only open question was that of expense. The writer, after noting the number of electors, informed him of the maximum sum which he might expend at a contest, but at the same time warned him that unless he were prepared to spend from £1,500 to £2,000 a year from that time until the General Election (of which there was no immediate prospect) he might regard his

ambition as a hopeless one. The constituency was one where money *must* be spent. The other candidate would spend it, and his opponent must do at least as much, while his chance at the poll would be increased if he did a little more. When his opponent gave 10s. to a local cricket club, he could give no less. If he gave a guinea it might make a difference in his poll. The advice was not given with regard to electoral conditions as they ought to be, but as they are. The writer gave it with regret, and felt that he was playing almost a cynical part when he uttered the words. Yet it was in complete accord with the necessities of the existing system. The inquirer consulted one or two other authorities, and, finding that their opinion was the same as that originally given to him by the present writer, abandoned the ambition in disgust as one which he could not afford.

A state of affairs which justifies, and even necessitates, the giving of such advice as this is contrary to all sound canons of representation. It may even be said that the results of this vicious method form a poison that runs through the whole electoral system. It prevents a man of moderate or small means, however eager and able to serve his fellow citizens in a political capacity, from entering into prolonged, painful and sordid rivalry with a wealthy opponent. In that way, as we have seen, it limits the field of choice which is open to the aspiring organism, and violates the principle enunciated in the Second Canon of self-government. A courageous man, it will be said, should at once make it clear that he will give no contributions whatever—that he offers his services, not his money, to the constituency. Were our political sentiment what it ought to be such a manly declaration would immensely strengthen the declarant's political position. Even now the growth of a healthy appreciation of political realities has gone far enough to make this repudiation of pecuniary sop-giving a safe card to play in many constituencies. But in others the declaration would be distorted. The alleged meanness of the candidate, and his lack of any interest in the benevolent activities of his constituents, would be used by canvassers and street-corner propagandists as a very deadly weapon against him. His supporters might, indeed, reply by appealing to the electorate not to be "bought," and by hinting (as definitely as the Corrupt and Illegal Practices Prevention Act of 1895 allows) that the contributions of the other candidate are made for the deliberate purpose of corrupting the electorate, which is too honest and straightforward to be "got at" in that way. But in any case the real issues of the contest would be obscured, and an unedifying pseudo-critical inspection of alleged motives would come in to prevent, or at least to thwart or distort, the exercise of a keen and wholesome civic judgment.

Absolute Prohibition is Impossible.

There is one method, simple in its conception and sweeping in its scope, which, if it were only practicable, would commend itself at once to all who desire to see the political arena swept clean of extraneous and irregular influences. An absolute prohibition of the gift of money or money's worth to any institution, society, organisation, or individual whatsoever, by any candidate, or any near relative of any candidate, would (that is to say, if it were practicable) put poor and rich candidate in this respect on terms of equality, relieve the election judges of the necessity of pondering upon the precise significance of corruption and the exact psychological phenomena which indicate a tendency thereto, and force the electorate, to a large extent at all events, to consider candidates upon their merits and not upon their money. But the only effect of the enactment (supposing it to be otherwise practicable) would be to defer the declaration or manifestation of candidature to the latest possible moment, so as to enable the intending candidate to continue his gifts, while at the same time putting it in his power to answer any challenge of their character by the plea that at the time when he made them he was not a candidate. And this might, at times, be perfectly true. A sudden death or an unforeseen political emergency may bring into the arena, as candidate, a man who, twenty-four hours earlier, had no more idea of fighting the seat than of departing upon an expedition for the exploration of the moon. To the success of such a candidate his gifts to local institutions and charities, made at a time when a Parliamentary candidature had not entered his remotest contemplation, would, under the proposed scheme, be fatal. Clearly, as we said at the outset, the path of prudence does not, in this matter, pass through absolute prohibition.

The Prohibition of Gifts.

But in saying so much it is desirable to add that the absolute prohibition of gifts is regarded as feasible in the Colonies. The Tasmanian Electoral Act of 1906* contained these provisions:

184.—(1.) Any person, having announced himself for election, who, within six months prior to the declaration of the poll, offers, promises, or gives, directly or indirectly, to or for any club or other association, any gift, donation, or prize, shall be guilty of an offence against this section.

Penalty: £5, in addition to any other penalty provided by law.

(2.) No proceedings shall be taken for a contravention of this section, except within three months after the act complained of.

These stringent stipulations are re-enforced by a modification of the candidate's declaration with regard to the accuracy of the return of election expenses, which does credit to the psychological

* Printed in full in the "Proportional Representation" Blue Book (No. 3 of 1907) (Wyman and Sons, 1s. 3d.).

insight, and the knowledge of human nature, possessed by the draftsman of the Act. It is further provided that:

> Every member returned to serve in the Parliament of Tasmania shall, before he takes his seat in the Legislative Council or House of Assembly, as the case may be, make and subscribe before the Governor, or some person authorised by the Governor to receive such declaration, the declaration upon honour contained in the Form N, Schedule III.
>
> [FORM N, SCHEDULE III.]
>
> I, A.B., do hereby declare, upon my honour, that I have not paid, nor will I pay, nor have I authorised, nor will I authorise any person to pay for me or on my behalf, any other moneys than such as are allowed by "The Electoral Act, 1906," in reference to my election as a Member of this House [or Council] for the electoral district of ; and I do also declare upon my honour, that I have done no act unduly to influence any elector in the vote which he has given at such election.
>
> A. B.

In this country the law requires a sworn declaration, the wilful falsity of which exposes the candidate to the penalties of perjury (46 and 47 Vic. C. 51, S. 33 (7)). That is to say, that while in England we bring the declarant into the presence of the law, in Tasmania he is made accountable to his honour and his conscience: tribunals which, in their irresistible appeal to the highest instincts of the mind, are clothed with a transcendent brightness that outshines the law.

A Practical Method Suggested.

With us, any attempt merely to strengthen the law as it stands, by revivifying the existing provisions, is futile. It throws the ultimate decision upon the judges—and this with regard not to concrete facts, but to those most elusive of political phenomena, motives. To suggest that in a matter which may involve an interference with the choice of the electorate the question of the motives of a politician shall be determined, irrevocably, by men who are themselves (in the majority of instances) ex-politicians, and in whom political fervour still burns brightly (though perhaps unconsciously) is, it is true, merely to enunciate a politico-judicial theorem which has found acceptance with us, though it can never commend itself to a sober and vigilant civic thinker as the last word on the subject. What we require to do is not to check bona-fide benevolence, but to curb the ostentatious lavishness which is dictated only by political considerations: to provide, moreover, that where a candidate benefits, in the political sense, even by generosity which is absolutely bona fide, he shall suffer such an automatic disadvantage in other ways as shall keep the balance even between him and the opponent who does not, or cannot, imitate his programme of benevolence. The present writer believes that this could be done by the provision that all gifts of money, or money's worth, made by a candidate (or his wife) to any institution, society, club, organisation (permanent or temporary), or individual, within a certain period (six months or three, in accordance

with the principles enunciated above) shall fall into his return of election expenses (their omission, or the omission of any of them, being made an illegal practice, challengeable in the usual way), and be treated in every respect as if they had been incurred in the conduct and management of the elections; except that where the money or money's worth has been employed by the recipients in a manner, or for purposes which would, in the case of the candidate, at or during an election, constitute corrupt or illegal practices, or illegal payments, such employment of the charitable funds shall not, *of itself*, be deemed to be a breach of the provisions of the various statutes dealing with corrupt and illegal practices and illegal payments. The object of this proviso may be briefly explained forthwith, in order that the argument may be free from further interruption. Let the candidate give £5, as a matter of sheer generosity, to a children's treat in June, and let there be an election in October. Given a six months' limit, this £5 would, under the scheme now proposed, form a portion of his election expenses, and appear in his return thereof. But inasmuch as the money would have been used as part of a fund for the provision of food, drink, and entertainment, and probably for bands of music and for flags and banners, the candidate who included it in his return would be in danger of challenge for providing money for treating as regards the food and drink, and for prohibited purposes as regards the music and the banners. The fact that the children of electors, and not the electors themselves, had benefited by the expenditure would not lessen the gravity of the charge. For this reason it is suggested that the expenditure of the money in this way shall not, of itself (and in the absence of a lack of good faith or other sinister indications), be deemed to be an offence against the Acts. It is perhaps superfluous to add that the original provisions, and the suggested exception, would offer an opportunity for the highest skill and foresight in the draftsman of the clauses.

An Automatic Compensation Balance.

These propositions are feasible as well as bold. The adoption of the scheme here proposed must put an end to all lavish expenditure that is likely to be politically effective, and this whether the present, or a revised and lower, scale of election expenditure be permanently adopted. Fifties and hundreds, to say nothing of any larger sums, cannot be flung into a constituency in bountiful profusion by a candidate who may, as the result of the sudden precipitation of a contest, discover that his generosity has eaten away 50 per cent. of his statutory maximum of expenses, or has even exceeded it (and so disqualified him) before the campaign opens in earnest. This might actually be the case under the circumstances to which allusion is made, where a person of lavish habits suddenly found himself face to face with a potential

candidature. But the contingency may be regarded without alarm if we bear in mind that members should be chosen by the exercise of political judgment, not under the influence of social gratitude. Supposing there to be lavish expenditure which falls outside the limit of time, it would have lost its political effect, and might be disregarded: if, indeed, it had not, by its prompt cessation as the election loomed in sight, set up a countervailing influence, resulting from electoral reflections induced by its sudden stoppage. But as a matter of fact the writer believes that the English political calendar is so uncertain that, with this enactment in front of him, no candidate would attempt any prodigal expenditure of the kind which is now so objectionable in character and influence. Anyhow, the advantage gained by such charitable expenditure as the candidate felt it prudent to embark upon would be balanced in the case of his adversary by the benefit arising from fighting with his maximum intact. At least, this would be so if the adversary had refused to hear the voice of the charity-mongering charmer. If he had not refused, both candidates would be in the position of fighting with depleted funds. It will be seen that under this scheme the poor man is given a compensatory advantage, working on a sliding scale, as against a rich opponent, and, what is more important, the exact amount and nature of the charitable or quasi-charitable contributions are brought under public survey, by being compulsorily included in the return of election expenses.

Checking the Flow of "Generosity."

To this scheme it may be objected, in the first place, that it tends to check the stream of kindness, the flow of generosity, which is one of the most pleasant of our social phenomena. If a man lives in a given constituency, or has large business or other interests in it, he may be quite honestly anxious to contribute, on a generous scale, to its public and quasi-public institutions, as well as to the relief of individual misfortune and the gladdening of individual lives. There may be instances, too, where the candidate is the head of some great industry upon which the constituency largely depends. But in that case it is easy to draw the line between the payment of wages and the bestowal of gifts. Such a candidate will, of course, have great local influence, unassailable by any legislative provision; but that is no menace to Self Government, since political acceptance must always have its root in popularity in any land where national verdicts are delivered in the ballot box. Influence of that kind, however, will be considerably moderated under a scheme of Proportional Representation. But when all this is urged and accepted it remains a fact that in this policy of kindness the advantage of only one class of the community is contemplated, whereas the exercise

of the franchise is a corporate trust for the benefit of all. If, then, a mode of action, however commendable, which may gratify a part, comes to exercise a warping, distorting, and even destructive influence upon a process which ought to operate for the good of the whole community, clearly the partial gratification must be sacrificed for the general good. There is as yet enough of our prehistoric ancestors left in us (under the thin veneer of civilisation) to prompt us to sacrifice the future good, or the corporate benefit, for present individual gratification. Any device which tempts us to follow the promptings of that unworthy spirit must, in the interest of organic progress on the upward path, be sternly removed or rendered innocuous. The habit and practice of public generosity, in Parliamentary candidates, unquestionably constitutes a peril of this kind, inasmuch as it exposes the healthy exercise of political judgment, which is a public trust, to the checking, stunting, warping, lowering influence of private gain. The man who offers himself to the citizens as their representative in the national assembly must be chosen because of their sympathy with the political opinions which he holds and the political programme which he represents; or, better still, as a result of their willingness, based upon a knowledge of his capacity and character, to entrust their interests to his hands and to allow him to be called by their political name, in the full assurance that he will neither betray the one nor besmirch the other. On these inspirations they should act in their choice of their member, and not, assuredly, because he has thrown them gifts. Throughout this examination of our electoral system the twin characteristics of dignity and deliberation have been and will be urged as its worthiest and most decorous embellishments. Both are tarnished by the slightest shower of backshish. Neither can keep its brilliance in an atmosphere which reeks of donative and is heavy with largess. More and more as the political intelligence of the nation rises to higher levels and greater triumphs are its acquirements likely to be assailed by the reactionary forces which have been trampled down, but not destroyed, in its advance; and if their sinister activity is to be anticipated and rendered incapable of harm, one of the first expedients must be the stern exclusion of any attempt to employ the sedative power of private generosity in lulling the public spirit of the nation into the sleep of the faithless sentinel. The scheme which is here proposed may seem at first sight stern to the verge of austerity. If it is examined more closely, in comparison with the precious and majestic national heritage which it is designed to protect, and with the healthy and profluent political aspiration which it is intended to encourage, the observer will be astonished at its moderation.

The proposition before us is, then, that there shall be a strict time limit, from beyond which no expenses need be brought

into the return of election expenditure made by the candidate or his agent; but that, on the other hand, all expenditure on charitable, social, and quasi-public objects, which takes the form of subscriptions or donations, shall, subject to the provisions already outlined, be deemed a part of the statutory maximum. That portion of the proposals which refers to the time limit will, the writer confidently believes, generally commend itself to those who are familiar with the facts and necessities of the case. The remainder of the scheme he offers for criticism, in the full personal belief that it affords a solution of one of the most troublesome of election problems and an antidote for one of the most dangerous and insidious of political poisons; but, nevertheless, in the full realisation that this is difficult and delicate ground, where it behoves us to act warily, lest in seeking to protect we hamper, and in struggling to set free we injure, the fluttering pinions of liberty.

Public Payment of Election Expenses.

Whatever may be the opinion which we adopt with regard to the topics which have so far been examined in this chapter, we shall have to admit that the requirements of the Second Canon of self-government are not, and cannot be, fulfilled as long as the possession of wealth and leisure are the necessary qualifications for active political work in the House of Commons. Even when we have excluded the means of bestowing largess, and the funds out of which a local organisation is to be maintained and the election expenses provided, there still remains the imperative necessity that the representative shall possess the power to furnish himself, and perhaps his family, with daily bread. If he has not that, physical necessity will dominate political aspirations, and the would-be representative, however capable and worthy, and however unassailably secure in the confidence of his fellow-citizens, cannot serve them in a Parliament which sits (as far as the majority of representatives are concerned) in a distant city not famous for the cheapness of the accommodation which it offers to visitors. Let us, however, consider the campaign expenses first of all. The organisation expenses may, as we have seen, be reducible to a minimum by the transference of the work of registration to public officials. The election expenses may, as we shall discover, be susceptible of a minimising process which shall in no wise impair the thoroughness and soundness of the electoral judgment. But even at their minimum the election expenses will be large; and private generosity, howsoever praiseworthy, is not the fit support of energy devoted to the public service.

There is only one solution of the enigma. It is the payment out of the public funds of the election expenses of any bona-fide candidate, standing with a reasonable chance of success, and the payment of a moderate salary to any elected member who applies for it. The analysis of these proposals will reveal nothing that

is startling, and much that is reasonable and irrefutable. With regard to the payment of election expenses, it would be necessary to proceed with great circumspection in the arrangement of the provisions. However low the figure to which the expenses might be reducible, the public assumption of responsibility for them in all cases is unthinkable. We shall see that this is so if we reflect that the unrestricted public financing of candidatures would enable every printer to "run" one of his own workmen as candidate and to secure, in that way, orders for hundreds of pounds' worth of superfluous printing. Similarly, every bill-poster might be at work, at the public expense, carrying out the orders of a candidate whom he had himself covertly brought into the field; while the unemployed problem might be temporarily solved by a selection of candidates recruited from the ranks of the workless and provided with the wages of "clerks and messengers" out of the public exchequer. What is required, then, is a provision, not that responsibility for the expenses of all candidates shall be publicly assumed in advance, but that the legitimate expenses of any candidate who fought with a reasonable chance of success shall be a public charge, provided that within seven days of the election he apply for the public aid in the matter and furnish a certificate from the returning officer that he actually was a candidate and polled the 15 per cent. of the electorate which can alone justify his claims. A minimum of 15 per cent., as we shall see, is fair and reasonable under our present system. Under Proportional Representation, the minimum might be fixed at one-half (or perhaps one-third) of the "quota."

An Easily Workable Scheme.

The effect of these provisions would be to remove the financial difficulties from the path of any candidate who was standing with any numerically substantial support, such as that of a strong political organisation, or a great trade union. Such financial necessities as were immediate and pressing (like the wages of clerks and messengers) could be met out of the advances which the organisation or the trade union* would readily furnish, confident of its own ability to poll the minimum that would entitle it to the repayment of the money. Printers and other tradesmen, relying upon their own judgment in the matter of the candidate's prospects, would readily do work for a man who, for all practical purposes, might be said to have the public credit behind him. Their unwillingness to do so, as a result of misgivings about a candidate's chances, would be the best of checks upon political and financial irresponsibility. After all, the tradesman who was offered the printing orders from a candidate would have to exercise, with regard to their acceptance, only a rather higher form of the same judgment which he would apply to the proffered patronage of any other customer. It comes to this, that the present system is an

* By private subscription, if corporate provision remained illegal.

impossible one, if the political organism is to have, as the conditions of healthy and progressive existence require, an unrestricted choice of voices to define its needs, and of brains and hands to translate the definition from the abstract into the concrete, for the furtherance of the process of self-adaptation to environment. The other extreme is equally impossible. No State could bear the burden of allowing any and every political adventurer to incur large liabilities in its name. To limit the assistance of the public credit to the nominees of recognised organisations is in the highest degree undesirable. The essentials of "recognition" could not be defined in a manner which would be free from the taint of menace to absolute freedom of choice. The limitation would, in truth, help to perpetuate much that is pernicious in the present system. The only soberly practicable method is, then, to pay the expenses; but to pay them subject to a guarantee of the seriousness of the candidature, as evidenced in the fruits of the ballot-box. There will be the less objection to the public assumption of financial responsibility in this matter if it is borne in mind that the present scale of returning officers' charges is extravagant to the last degree. The value of the various items is estimated on a liberal, not to say occasionally lavish, scale, in accordance, it may be, with the legal traditions of amplitude and generosity in the matter of fees, of which the returning officer is generally a personal exponent.

The Discouragement of Irresponsibility.

Provision is already made in the election law, by the requirement of a preliminary deposit of £1,000, for the prevention of election petitions started merely under the impulse of the chagrin of defeat; and, by the insistence on the making of a deposit towards the returning officer's expenses, for the discouragement of the nomination of candidates who are of no influence or substance in themselves, and have no influential or responsible organisation, or no substantial degree of public confidence and support, behind them. These provisions create a precedent which might well be followed in the imposition of an effective disability upon the candidate who is a mere adventurer, or who comes into the field only to force a contest or to inflict annoyance. The writer is well aware that a candidate who is known to have no chance whatever is occasionally put up against a powerful and popular man in order to divert the latter's attention, and to prevent him from employing his power and popularity for the assistance of other candidates on his own side. This may be all very well as a piece of election tactics, but the scheme is utterly inconsistent with the dignity, the deliberation, and the absence of accidental, capricious, and superfluous influences, which are the essentials of a sound electoral mechanism. It is impossible to absolutely prohibit the running of a second candidate under such circumstances; but there might well be a provision that, where a

second candidate polls less than 20 per cent. of his opponent's aggregate, he shall be required to pay not half, but the whole of the returning officer's expenses, and shall be incapable of election to Parliament, for the same or any other constituency, until they are paid in full—which payment in full shall not be deemed to be satisfied by any amount, recovered in bankruptcy proceedings, which falls short of 20s. in the £. In the event of the liability for election expenses being transferred to the public shoulders, such candidate should be required, subject to the same penalties and safeguards (and in addition to the payment of his own expenses), to repay to the public funds such extra expense as had been involved by his rash and unjustifiable tactics.

The running of a third, or possibly a fourth, candidate in single-member constituencies is not so great an abuse, because to some extent it automatically rights itself. The returning officer's expenses, as apportioned between two candidates, will be materially lightened, for those two, by the appearance of a third. If there are two candidates, and the returning officer's expenses are £240, the effective nomination of a third candidate reduces their quota by £40 each. But if, instead of four candidates, there are six, the greater complication of the proceedings will necessitate considerable extra expense on the part of the returning officer, and for this those candidates should be liable who fail to poll 20 per cent. of the aggregate of the successful candidate. The persons who force their vain political ambitions upon the notice of the electorate in this way should be penalised, as already suggested, by the provision that they shall not be nominated as candidates in that or any constituency until these extra expenses have been paid in full. And similarly, if the expenditure comes from public sources, repayment of superfluous expenses which were the result of unjustifiable third or fourth candidatures (as well as the expenses of the candidates themselves) should be made a condition of the capability to become a candidate again. All these provisions could be extended so as to meet the necessities of the larger constituencies which would be formed under a national scheme of Proportional Representation.

No Menace to Minorities.

There is nothing unreasonable or oppressive in these suggestions. Clearly it is the right of every citizen to invite the support of his fellow-citizens for the furtherance of the political programme which he chooses to formulate, or with which he prefers to identify himself. But clearly, also, he has not the right to carry that invitation up to the point of involving the constituency, or his fellow-citizens, in heavy expense, unless there is a reasonable prospect that his personality and his opinions will commend themselves to the electorate. To say that a candidate can judge exactly what measure of support he will receive would be to ignore

all the lessons of political uncertainty which the ballot box has taught us; but that is quite a different thing from affirming that a candidate is unable to say whether he has a reasonable chance or not. A "reasonable chance," under the conditions here suggested, only involves the polling of 15 per cent. of the total electorate of a single-member constituency, or half (or possibly one-third) the "quota"* under a scheme of Proportional Representation. Suppose the figures (in a single-member or two-member constituency) are these:

Jones	5,000
Smith	4,000
Robinson	3,000
Jenkins	2,000
Brown	800

There cannot be the least doubt that in this case Brown knew from the start that his candidature was hopeless. He may think that his views are excellent and praiseworthy—and they may, indeed, be so; but as they have failed to commend themselves, in the required proportion, to the judgment of the electorate, he must pay the penalty of a premature attempt to secure the constituency's approval for them. It may be argued that this mode of procedure would prevent the voicing of the opinions of minorities and stifle at their birth the aspirations of many noble causes. That is not the case. With our system of almost absolute freedom of speech no minority need be voiceless; and if it be a strong and well disciplined minority it may, by the threatened transfer of its support from one side to the other, compel attention to its views. Even under our present imperfect electoral system, it has many opportunities of making itself heard or felt, and under Proportional Representation its powers would be greatly augmented. It has no right, however, to involve the public in expense, and the electoral mechanism in needless complication, merely in the furtherance of the opinions which find no such general support as to secure for them any considerable proportion of the contents of the ballot box. In truth, it is doubtful whether a sound, but prematurely propagated, cause is not injured, rather than advanced, by these early and futile appeals to the electorate. The small minority is taken as representing the real strength of the movement, and discouragement ensues; whereas the facts are that the very novelty of the appeal has deterred many voters, by its apparent hopelessness, from rendering it assistance, and has incited them to limit their selection to the traditional aspirants who represent the predominant partisan divisions of current political thought and action. That policy which patiently waits in gathering strength, and then bursts into the electoral arena in overwhelming force, is far more likely to progress in power and authority than that which can only

* This term is explained in the discussion on the Act of Voting.

record a series of petty attempts and petty defeats, the result of an untimely endeavour to secure that which might have been won by waiting. Such accidents of political warfare, the result of mistaken strategy, may, indeed, check and discourage, but can never stifle, a truly noble cause, endowed with the attributes of genuine adaptation to the needs of the body politic.

National Training in Political Judgment.

There is, again, another and a wider aspect of this problem, to which, at the present epoch in the electoral life of the nation, no small importance attaches. Above and beyond the victories of political parties in the direction of the national policy, there lies the training of the people in the exercise of political judgment, the working of the political instinct into the very texture of the nation, as a part—a vital part—of the cosmic process in which the nation's life may be a potent or a pitiful element in precise proportion to its appreciation of its share in this evolutionary development. The habit of restraint, the capacity for self-possession, are as important in the life of the nation as in the life of the individual; and the untimely ebullitions of immature aspirations are irregularities inconsistent with restraint and fatal to self-possession. If those who engineer these premature displays are made to pay the penalty of their rashness and impatience we shall but put a premium on political responsibility; we shall but encourage the exercise of a deliberate, cautious, restrained, and sober scrutiny of the operative forces whose close study is a necessity of political advance. And perhaps there is nothing more gratifying to the careful observer of the present trend of political life in this country (who is also a believer in the evolution of the political organism) than the evident growth of the spirit of political vigilance and responsibility as exhibited, *mirabile dictu*, in the politically youngest class of the nation—that which is composed of organised labour. Patience, self-subordination, the restraint which springs from foresight, and the discipline which comes of the corporate, as distinguished from the individual, conception of political duty, are here displayed with a brilliance which is phenomenal in the political firmament of our islands. We are a serious nation, inheritors of a destiny which holds the future of the whole race, to make or mar, within its grasp. If we can breed political seriousness without impairing political freedom; and if we can stifle political frivolity for the benefit of political insight and foresight, we shall have helped to establish that destiny on foundations that will not shake even under the pressure of accumulated centuries.

If, as is likely to be the case in the near future, the election expenses of candidates who had a reasonable chance of success should be paid out of public funds, the necessity for the restriction of lavish expenditure upon public and quasi-public institutions will still remain, and might still be dealt with in the manner

outlined above. The candidate whose authorised expenditure was £1,010 would, if he were shown to have had a "reasonable chance of success," be entitled to be reimbursed, up to that amount, for his authorised payments, duly vouched for; but if he had, within the statutory period before the election, spent £500 in gifts to public or quasi-public objects, then he would only be entitled to call upon the public funds for the balance (£510), and that balance would represent the limit of his election expenditure.

The Payment of Members.

The provision of absolute and untrammelled freedom of choice as regards the exponents and operators of its will, by the developing political organism, does not, however, entirely fulfil the requirements of the Second Canon of self-government. The successful candidate, the chosen co-interpreter and co-organiser of national aspiration, may indeed have been relieved of the burden of the election expenses; but the gain will not be great if he is prevented, by the necessity of daily seeking sustenance for himself and his family, from devoting himself to the discharge of those functions for which his fellow-citizens have selected him. Yet surely he who is the organic voice and vision should have a secured and sufficient share of the organic dividend as a means of support and protection in his work. The very beginnings of self-government require that the organism which selects shall also sustain, as long as its selection stands the test of its judgment. This is no new principle. It has been discovered and adopted by the political insight of many peoples that payment of members is an absolute necessity of complete liberty of selection for legislative work. Those sturdy offspring of their hardy Northern mother, the British Colonies, have adopted the system and found it to raise the level of political morality, in addition to serving the purpose which is the main centre of our contemplation here—the unrestricted freedom of organic choice. In fact, the House of Commons, on March 7, 1906, passed a resolution, which the late Sir Henry Campbell-Bannerman supported in words of weight and eloquence, in favour of the payment of members. To the objection that the system will generate the professional politician the answer is that the professional politician is already with us, that he survives because healthier civic individualities are precluded, by our present limitation of their activity, from getting into an effective "struggle for existence" with the parasitical interloper, and that he will vanish as soon as the limitation is removed, so that the vehement instruments of the organic will can come within striking distance of him. As for the idea that it is a pity to pay for that which can be had for nothing, the argument is unanswerable. But to the facts before us it has no application, for that which is required (absolute freedom of organic choice) cannot,

under any circumstances conceivably co-existent with our present economic environment, be had for nothing. The objection, therefore, does not touch the case which is under consideration.

Not Only Labour or Socialist Members.

It is a common mistake to imagine that the necessity for paying the member will arise only in the case of the Labour or Socialist representative. It is true that there are instances (one of them, at least, that of a distinguished man) by means of which the public has been familiarised with the representation which has its support in corporate effort and co-operative self-denial. But there is, we shall be told, another class of men who will give gratuitous labour and will take care that the different quality and stimulus of their service is publicly known. If it were attainable, no doubt, this ostentation of civic devotion would bring its congenial reward in abundant advertisement; and for that reason it might be desirable to pay in secret, or to make the receipt of payment an essential condition of membership of Parliament, with the Chiltern Hundreds as the automatic and inexorable penalty of refusal. True it is, of course, that the Labour or Socialist member will in the majority of cases (and apart from public payment) possess no financial resources save those which he derives from the persons who have selected him to be the representative and exponent of their interests. True it is also that at the other end of the social scale will be the member who is entirely independent, in the financial sense, of his constituents—if, indeed, they are not, in some measure, financially dependent upon him, as they may be if he is the head of a vast business or industry from which their livelihood is derived. But it is in neither of these directions that the payment of members is destined to work the greatest social and political advancement. Its most welcome and significant results will be found in the advent into the field of political and administrative activity of the most capable representatives of an immense class that year by year comes within the influence of higher education and obtains a technical or professional equipment which, added to an experience of life under the healthy stimulus of ambition and to the enthusiasm generated by the more ample and more satisfying activities that the whole educational process has opened up to brain and hand, makes of these aspirants the very finest material for the selection and use of the political organism. These are the resources of life and courage, labour and insight, upon which the nation has scarcely drawn at all, and will not draw, till it can assure its servants that they shall not be reduced to penury by their devotion to its interests. From this class, let it be candidly said, come those seekers for Parliamentary honours who receive the sinister munificence that has its source in central funds, and who are alleged (though the allegation is denied) to

jeopardise their independence by the acceptance of this stealthy and ambiguous bounty. If the only gain by the payment of members were the placing of these enthusiastic (or at least ambitious) souls in a position of freedom from an uncongenial clientship, it would be worth all that it cost the commonweal. And when we may well feel assured that not only would it invigorate these, but bring many others, of equal capacity and greater unconstraint, into the arena of political activity, thereby adding at once to the sum total of its intellectual power and heightening the flush of its civic enthusiasm, surely we need not hesitate to rank the appropriate reward of public service, rendered at the public request and on the public selection, among the Essentials of Self-Government.

The Requirement of "New Blood."

But there is another, and an even more important consideration that must not be overlooked. The general standard of administrative ability and political insight that characterises a modern British Government is not a high one. It is for that reason, no doubt, that we have witnessed the menacing growth of the Inner Cabinet, composed of the mere handful of really capable men who dominate all the rest, and, through them, reduce Parliament itself to an invertebrate congeries of harnessed partisans. The Inner Cabinet, as we have seen, is itself a pernicious development of our constitutional system, but the invertebracy of the mass which it leads, whithersoever it chooses, is more pernicious still. The freshening breeze of younger opinion, the unconventional and insuppressible daring of minds that refuse to be subjected to the paralysing discipline of the party whips, can be brought into the House of Commons in greater measure only as a result of attracting a constantly widening range of talent into the field of political endeavour. The work to which we seek to attract such men is neither light nor grateful. For that reason it is all the more essential to remove every discouragement from the path of those who would be likely to undertake it, and whose willingness would be likely to obtain the acceptance and endorsement of their fellow-citizens. A reasonable sum is all that is required—a general £300 a year, paid to all members; or an optional £300 a year, paid to those who privately signify to the Chancellor of the Exchequer their desire to receive it (no names being ever published) would meet all the necessities of the case and would confer upon the civic organism a practically illimitable choice of the weapons of its will, the interpreters of its hopes, its aims, its dreams.

Weaken the Conventional Ideal.

Finally, let us again widen the area under survey and consider these problems in their bearing on the morale of the political organism. We saw, in the very brief survey which we were able to take of the principles deducible from, and continuously

operative in, the development of the political organism by means of the evolutionary process, that there is a hampering of the best forces of each generation by the "cake of custom" which has been inherited from its predecessors. That a given generation should be uniquely adapted to the highest ideals of existence and the most trenchant modes of thought that are within the range of its own social and intellectual achievements is, under these circumstances, impossible, owing to the myriad ideals and modes which it inherits, shrouded with a more or less venerable antiquity, from former generations to whom these ideals and modes were, indeed, the summit level of progress at the time, but in our day only hold their own by means of roots that cling in tradition, or by virtue of an unassailability which sounds in statute law. These conventional ideals tend to hamper freedom of choice in the matter of the representative by forcing into prominence those persons whose claim to be employed as interpreters and instruments of the organic will is based upon inherited prestige and not upon personal power, capacity, and enthusiasm. The prestige derived from personal achievement in fields of worthy endeavour is, of course, precisely that which should influence the organism in its choice of the voice and vision best qualified for use in the corporate interest. But the prestige that consists only in the inheritance of a name or an estate is of altogether different civic calibre and value, and should be, and must be made to become, a wholly subordinate force, susceptible only by the very lowest type of political instinct. That prestige may, indeed, be the inheritance of the fruits of a personal achievement which, in its generation, marked the activity of an advanced contemporary type in the physical or intellectual world. The heir of its antique glory may be among the worthiest of the citizens. But his claim to selection and employment as the chosen instrument of the organic will can never be justified by his heirship, and only by his worth in just the proportion that it rises above the average of his fellow-citizens, and therefore exhibits that advancement of the type which alone, and in conjunction with no other characteristic, entitles him to the corporate confidence, if the choice should fall upon him. Precisely to the extent that we widen the potentialities of selection shall we eradicate the pernicious power of non-personal prestige, both in its fascination for party organisers and in its charm for the electorate. No method offers so fair a promise of success as that which would increase the number of possible competitors, so that the political organism shall first be startled by the discovery of its own native wealth in civic eagerness and capacity, and then utterly shamed out of its habit of allowing the glamour of an escutcheon (reminiscent only of the more or less adventitious pre-eminence of the past) to paralyse or pervert an electoral trenchancy that should rejoice in its firm grip of the present and

stretch out strong hands towards a future brighter with promise than any which has hitherto dawned upon the yearning vision of the sons of men.

Summary of Proposals.

Candidature to be a fixed, not an uncertain, period as at present, so that expenses incurred in the "conduct and management of the election" shall date back three months (or perhaps six months) from the poll.

All expenses incurred in "nursing" a constituency (that is to say, gifts and donations of all kinds made in the constituency, as well as the subscriptions of the candidate to local political associations) to be included, so far as they fall into the period of candidature, in the return of election expenses.

Public payment of the election expenses and returning officers' charges in the case of all candidates who had a reasonable chance of success, provided they apply for the payment, and furnish accounts and vouchers, within a stipulated time.

Candidates forcing an utterly hopeless and frivolous contest to be penalised by the compulsion to reimburse the expense (if any) thus unnecessarily thrown on the other candidate (or candidates) or the constituency.

Payment of members.

CHAPTER V.

The Election Agent and His Staff.

Only one question of serious importance to the salutary regulation and healthy working of the electoral mechanism will confront us in our consideration of the election agent and his staff. But inasmuch as the onerous character of the duties of an election agent is but little understood, it seems desirable to preface the discussion of the more weighty portion of the theme with some brief explanation of the work which the election agent is required to do, as well as with some attempt at the characterisation of the kind of man who should be selected to do it. By means of that introduction to the actual duties and the ideal personality of the election agent we shall better comprehend the rather intricate analysis which we are attempting to make of the electoral forces that he plays so large a part in organising and directing.

The Corrupt and Illegal Practices Prevention Act, 1883 (S. 24 (1)), enacts that on or before the day of nomination a person must be named by, or on behalf of, each candidate as his election agent. A candidate may, however, name himself as election agent. The provision needs to be modified by the addition of the words "and such person shall not be a minor." The absence of this provision is no imaginary blemish. The object of requiring an election agent, either identical with, or distinct from, the candidate, is to have some person who can be looked to for an explanation of any official malpractices, who can, if necessary, be sued, and who shall be endowed with sufficient authority to enable him to act up to the measure of his responsibility. A minor who is made election agent will probably not fulfil these requirements. He will be very unlikely to possess the intricate and detailed knowledge of election law and practice which is an absolute necessity for the successful discharge of his duties and the safe piloting of the candidate and the organisation through an almost unexampled maze of technicalities. The absence of these qualifications, added to his youth, will make it difficult to place upon him the full weight of responsibility if the election procedure is challenged. In a fairly recent election these very important considerations were overlooked by a candidate, in spite of his possession of large political and commercial experience, and he appointed his son, a minor, as election agent. The young man possessed all the capacity for the position, but although a large share of political work had cured his otherwise natural lack of knowledge of election law and practice, it would not cure his infancy. When the attention of the father was called to the position of affairs, he determined the appointment in the middle of the campaign, and named himself as his own election agent. The consequence was, a large and perplexing addition to the labour and

intricacy of the contest. In this instance there was no suggestion whatever of bad faith, but inasmuch as the Act, as it stands, renders it possible to appoint an election agent who does not meet the tacit stipulations of the law, it is extremely desirable that the flaw should be cured by the requirement of full age in the person appointed.

The responsibilities of the election agent are second in importance only to those of the candidate himself. By the provisions of the Corrupt and Illegal Practices Prevention Act of 1895 (the "False Statements" Act), for instance, the election agent is united with the candidate in a responsibility the weight of which falls with the same pressure on no other persons. The acts of these two, and of these two alone, will void the election under this statute of 1895. But the point need not be insisted upon. Modern candidates are, in the great majority of instances, fully alive to the hugeness of the power and responsibility which are vested in the election agent, and are proportionately careful in their choice of a functionary in whose hands, to such a wide extent, the success or failure of the electoral campaign must lie.

The Sphere of the Election Agent.

The considerations of precaution and convenience of which the election agent is the statutory outcome may be briefly described. The candidate is too fully occupied to bestow anything like close supervision upon the multitudinous adjustments and arrangements which form the inseparable environment of a modern election campaign. The mastery of the legal technicalities alone is a prolonged and tedious labour, and when their practical application to the management of the contest is added to the strain involved in the organisation of meetings, conferences, canvassing, advertising, and circularising, as well as to the issue of the replies that must follow attacks and the construction of the countermines that (under the present system) constantly become a strategic necessity, and all this has to be carried on simultaneously with an unremitting all-round vigilance as regards the petty details of the working of what may be a very large organisation, it can be readily understood that the addition to this burden of the candidate's own special and inalienable activities in the preparation of speeches, the work of personal calls on electors, and personal correspondence with them and with political organisations, would be utterly intolerable for any but Atlantean shoulders. Hence, therefore, the legislative genesis of the election agent, to whom the technical, managerial, and administrative details of the campaign are committed, together with a statutory power and responsibility commensurate with their extreme delicacy and importance. The election agent, then, should have an exact and exhaustive knowledge of election law and practice;

some experience, the larger the better, of dealing with men of all classes and of every variety of temper, together with the ability to recognise each variety at sight; courage, authority, and the power of rapid decision under all circumstances, and in most cases without conference with, or reliance upon, any judgment but his own; finally, a philosophic imperturbability of such calibre that, as an achievement in self-control, it yields precedence only to the patience of Job, upon which (except, perhaps, in the matter of the patriarch's habit of seeking relief for his feelings in extended speech) it should be faithfully modelled.

Relations with the Other Side.

It is desirable that, as far as possible, the election agent should play the part of a solicitor who is conducting a case that is on trial before a civil court. The latter, for example, should closely watch the proceedings; should be ready to intervene, so far as is permissible, of course, with a quiet word to counsel, or the handing to him of a timely document where the affair threatens to take a turn adverse to his client; should adopt every expedient in his client's interest that the rules of procedure and the canons of honourable conduct permit; but, nevertheless, he should maintain courteous relations with the corresponding functionary on the other side, so that necessary communication between the parties may pass without delay and without constraint. He should identify himself with his client's interests up to the point, but not beyond the point, where professional ardour ends and personal feeling begins, remembering always that in the great majority of cases he wages forensic warfare with honourable foes, whose title to the ear of the court and to their own opinions is exactly equal to that which his own side possesses. To present the case with vigour and amplitude, and even with a slight tincture of finesse, is permitted by the rules of the game; but deception and trickery are, according to their magnitude and degree, censurable, reprehensible, or criminal. With their legal flavour slightly neutralised, these are the canons of conduct that should guide an election agent. He is to stand at the point of official contact between the contending forces, and to be the medium of communication where arrangement or agreement are desirable in the interests of order and discipline. His duties in this respect necessitate the maintenance of courteous relations and facile communications with the agent, or agents, opposed to him, so that there shall be frankness in the interchange and confidence that understandings, when once arrived at, will be loyally observed. It is, for instance, often agreed between election agents that they will take no technical objections to each other's nomination papers. But the maintenance of these courteous relations is inconsistent with violent partisanship, and for that reason it is better that the election agent should not appear on platforms as the public exponent and

advocate of his candidate's views*; and still more desirable is it that he should abstain from constituting himself the personal, as distinguished from the official, mouthpiece of his candidate. Between him and the candidate, however, there must be an absolute confidence, unclouded by the lightest breath of suspicion. No agent can conduct a campaign if some of the facts and incidents are concealed from him. He is the one person who should know all that takes place—"the one," because there is no other who is entitled to the same fulness of information. Even from the candidate himself the election agent should conceal, if he can, the untoward incidents of the campaign, the desertions, the revolts, the mutterings of "disgruntled" persons, and the anonymous letters. These last of the hostile elements of a campaign have very different effects on different temperaments, but, on the whole, they are better intercepted. Upon the desirability of the election agent's ubiquity, up to the limits of human ability in that regard, it would be superfluous to dwell. Misdirected enthusiasm on the part of persons whom the law may choose (in accordance with the peculiar doctrine of election "agency," which we shall shortly examine) to consider agents of the candidate has possibilities replete with danger, as the election agent may discover to his cost if he relax for one moment his personal supervision of all that is going on. This is particularly the case in a county election, where a sub-agent, to whom a certain portion of the statutory maximum has been allotted for local expenditure, may proceed to imperil the whole candidature by opening a committee room in a public-house, engaging a band to enliven a meeting, or hiring conveyances to take apathetic electors to the poll. On the whole, the eager but undisciplined and legally-ignorant sub-agent is the most dangerous person with whom an election agent is likely to have to deal. But throughout all the perils, worries, political thunderclaps and electoral earthquakes that surround him and his candidate, the election agent should maintain his imperturbability and good humour with all the crowd of workers (and all the host of busybodies) up to the last—heartening his colleagues even in the counting room, if the first glimpses of the ballot papers should indicate a visual predominance of votes for the other side.

Paid Employment at Elections.

Subject to any special directions which he may receive from his candidate, the election agent will have the duty of selecting the persons who are to be employed for payment during the campaign. The question of paid employment during an election contest needs to be discussed with more than ordinary candour. It

* There is possibly a legal objection to this in the case of a paid election agent, but it is so highly technical that we need only make passing allusion to it.

is the serious question to which reference was made at the beginning of this chapter. A candidate, by the very circumstances of his position, is precluded from discussing the question without fear and without favour; and even when he has become a member the prospect of another contest forces him into silence. The facts are, however, that there is no department of the electoral mechanism which is so open to grave and dangerous abuse as this, while at the same time there are few or no election problems which present such difficulties alike to the investigator and the reformer. The candidate is permitted to employ (1) an election agent, (2) sub-agents in a county division, (3) polling agents—in this book called by their older and more convenient name of personation agents, (4) clerks, and (5) messengers. Whatever the size of the constituency there will be only one election agent, but the number of other functionaries who may be employed will vary, in the case of (2) according to the number of divisions, in the case of (3) according to the number of polling stations, and in the cases of (4) and (5) according to the number of electors on the register. The number of clerks and messengers which is prescribed by the Act 46 and 47 Vict., c. 51, s. 17 (and Part I. to Schedule I.), is not, however, an absolute restriction of their number, but only of their number at any one time. The significance of the statutory provisions was considerably widened by the decision in the Walsall petition, where it was assumed without question (Day, Election Cases, 73) 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. Thus, if the maximum be eight, then A, B, C, D, E, F, G, and H may be employed on Monday, B, C, D, E, F, G, H, and J on Tuesday, C, D, E, F, G, H, J, and K on Wednesday, and so on. Whether this principle could be extended so far as to permit of a complete change of clerks and messengers every day, so that A, B, C, D, E, F, and G should be employed on Monday and J, K, L, M, N, O, and P on Tuesday, with another similar alteration for Wednesday, is, perhaps, open to doubt. If it were attempted the election judges would, on a petition, examine the proceedings with a very jealous scrutiny. But whether that be so or not, we shall see as our investigation proceeds how eminently desirable it is that the maximum number of persons employed should be required to consist of the same (and not different) people throughout the election, unless a change is rendered necessary by illness or other absolutely unforeseen occurrence, which shall immediately be made the subject of written notice to the returning officer.

The Employment of Electors.

As soon as it is known that an election is pending a candidate, as well as his election agent and all those prominent supporters

who are supposed to have "influence" at headquarters, will be assailed with requests for employment. If there is an election agent (as there will be unless the candidate is his own election agent) the applicants will be referred to him, and if he has had no extensive experience he will be likely to delude himself with the idea that the Legislature has provided him with a simple and easy means of dealing with the many and persistent claims that will be pressed upon him. He will remind the applicants that if they are employed they lose their vote. But he will discover that even a single day's employment at substantial remuneration will console many persons for their disfranchisement, while others will make it clear that the fact of their employment at the election is not going to destroy their vote, which will be cast for the man who employs them and against the candidate who refuses their request for work and money. Here, then, at the outset is a defect in the law. It is idle to provide that a voter who is employed for payment at an election shall lose his vote when no really effective method is readily available, except in the case of a prominent and well-known persons like the election agent or the sub-agents, for enforcing the provision. Long after the election, when the return of election expenses has been filed with the returning officer, the names of the persons employed at the election become available for public information; but even if there is an opponent, or an elector, with sufficient public spirit to pursue the inquiry whether such persons voted or not,* there is no simple and effective remedy if it is discovered that they did.

There can be no question of their knowledge of the illegality and criminality of their act, for every election agent will either have taken care that no voters are employed, or will, if the employment of a voter (such as the chief registration agent) is inevitable, have warned him, by the service of a printed or written notice, that he must not vote. The present writer has made a practice of inserting in the receipt forms to be signed by clerks and messengers when they receive their daily or weekly payment the words, "I am aware that, if I am a voter, I may not vote at this election." Even with this or a similar precaution, however, the existing provisions, then, which purport to attach disfranchisement to employment at a given election, are inadequate. A conspicuous instance of their inadequacy will be examined when we come to consider the "Outside Organisations." But, with regard more immediately to the election agent and his staff, what is required is not only the provision that paid employment shall vitiate the vote, but that no voter shall (with certain necessary exceptions specified below) be employed at all; and, further, that the returning officer shall prosecute any

* The Clerk of the Crown in Chancery will, for a small fee, supply a "marked register," showing which electors actually voted at an election.

person who, being a voter (and not one of the persons excepted from the operation of these provisions), has been employed for payment, in any capacity, by any candidate or "outside organisation" at an election. Let us consider for a moment why this stern policy is necessary and whither it would lead.

We shall shortly see (page 138) that the provision of employment, on a large scale, as a means of corruption, is perfectly feasible and almost entirely safe under the existing law, so long as an outside organisation, which is not the agent of the candidate, carries out the operations. By the provision that no voter shall be employed in any paid capacity at an election, either by candidate or outside organisation, we strike at the root of this potentiality of evil. For since the scheme outlined in this essay contemplates the imposition upon the "outside organisations" of the obligation to file a sworn return of expenses in the same way as the candidates, the employment of electors must become known as soon as the return was filed and the prosecution of employer and employed would at once supervene. The attainment of this end is one purpose of the apparently stern prohibition of the employment of voters. The other is the prevention of intimidation—not the intimidation *of* the voter, but intimidation *by* the voter. The truth is that, dangerous and insidious as is intimidation, of the voter, there is an equally pernicious form of intimidation occasionally, and not so rarely as the public supposes, practised by the voter himself. This latter has all the chameleonic characteristics of the other type and needs quite as much moral courage to grapple with it, especially if the contest threatens to be extremely close, so that the transfer of a dozen votes may turn the scale. The father who insists that his son shall be employed, or the son who requires that his father shall be added to the list of clerks or messengers (or shall, at least, get the traditional guinea of the personation agent), and who makes it quite clear that if his wishes are not complied with he will vote the other way, is the more usual type of this class of undue influence. On a larger scale it may be seen, for instance, in the case of the estate agent, or solicitor's rent collector, who may exert considerable influence on eighty or a hundred votes and will exercise it in the interests of the candidate who "finds him a job" in the evenings for a week or fortnight before the election. What proceedings feasible under the existing law* can touch the case of such a man? To prosecute (assuming that threats of this kind are an offence) is almost certainly to fail, for this class of person is much too cunning to conduct his negotiations in such a form as to leave anything of evidential value behind him. If, against all probability, a prosecution were successful, it means the loss of

* Merely asking for a bribe is not an offence under the modern statute, though it probably is at common law.

scores if not hundreds of the votes of persons who would resent the invocation of the criminal law as a cowardly and unsportsmanlike expedient. This psychological aspect of these problems is discussed in greater detail at a later stage.

The Proposals Defined.

What is here proposed, then, is that (subject to the exceptions discussed below):

No elector shall be employed at any election for payment in the capacity of clerk, messenger, or polling agent by any candidate or outside organisation. Any contravention of this provision shall be an illegal practice and in any proceedings arising out of such employment, or alleged employment, the onus shall be on the candidate or his election agent (as the case may be) to show that he did not know, and had no reasonable grounds for supposing, that the person so employed was an elector.

No person shall be employed as polling agent, clerk, or messenger by any candidate or "outside organisation" at any election unless such person has, previously to his (or her) engagement, made written application for such employment, to the candidate or election agent or outside organisation.

Such written applications shall state that the applicant for employment is not an elector for the constituency (or any division thereof) where the election is taking place. Any false statement shall be a misdemeanour. The presentation of a declaration shall not exonerate the election agent from the duty of careful inquiry into the matter.

The employer shall preserve such applications until the expiration of fifty days from the date of the announcement of the result of the election (*i.e.*, for fifteen days after the filing of the return of election expenses, which will contain the names of the persons employed for payment at the election). Failure to preserve and produce, on application from the returning officer, shall be an illegal practice.

The returning officer shall, on his attention being called, not later than fifty days after the declaration of the poll, to the employment of a voter by any candidate or outside organisation, forthwith require from the election agent, or from the secretary of such outside organisation (see page 142), the production of the written application for employment by such voter and shall then initiate a prosecution for making the false declaration therein contained. On the hearing of the charge the returning officer, and any person giving evidence either for the prosecution or defence, or professionally engaged in the case, shall not state, and shall not be asked to state, by whom the attention of the returning officer was called to the matter.

These provisions (which are, of course, only outlined in a brief and concise fashion) provide an automatic antidote for the employment peril. A, a candidate, by inspecting the return of election expenses filed by or on behalf of B, his opponent, discovers that C D, a voter, was employed as a clerk at the election. B, on his attention being called to the matter, states that he had written application for employment in the statutory form from C D. The returning officer is then acquainted with the circumstances and a prosecution follows, on his initiative, not on that of the ex-candidate or ex-election agent. Some share of odium would no doubt be incurred by the side in whose

apparent interest the prosecution was initiated, but as the election would be over, and rumour would be the best available authority for the statements as to the ultimate origin of the prosecution, no harm would be done in that way and, on the other hand, a real advance would have been achieved in the work of destroying the elusive and illicit influences which hover like a will-o'-the-wisp around an election contest.

A Few Necessary Exceptions.

These provisions must be relaxed in the case of a few of the prominent or permanent officials of a party organisation. The election agent, if he is paid and is a voter, is not in the least likely to vote, since by so doing he would vitiate the election (as far as his own candidate was concerned, that is to say), and no relief would be obtainable. He should be excepted from the prohibition of the employment of voters and he is omitted from the rough draft above. The chief registration agent* and in a large constituency the other paid and permanent members of the party organisation (not exceeding one-fourth of the total election staff) should also be excepted from the provisions, the words "permanent members" being defined to mean persons who have, for a period of not less than six months preceding the day of their appointment by the election agent, been in the regular employment of a party organisation. The necessity for these exceptions arises from the fact that the chief registration agent and the leading permanently-paid officials of the party organisation are absolutely essential to the proper working of the electoral machinery, and to exclude the election agent from retaining their services because they happened to be voters would, from the point of view of efficiency, be a distinctly retrograde step. On the other hand, if it be contended that these provisions verge upon excessive stringency, the answer is that if ruthless sterilisation, or absolute asepsis, constitutes an essential accompaniment of the surgical amelioration of the ills of the body physical, so is an equal ruthlessness the necessary and inevitable concomitant of the destruction of the insidious social bacilli which threaten the welfare of the body politic.

The Employment of Sandwichmen.

With regard to the employment of sandwichmen, it would be desirable to prohibit them specifically. They are not now, as a rule, employed directly by an election agent, lest they should be held to be messengers, and form the basis of a charge of illegal employment, on account of their number being in excess of the statutory maximum. The usual method is for the election agent to agree with a "contractor" for the "advertising" of certain facts. The "contractor" (on his own initiative, as far as the election agent

* Until his functions are assumed by a public official.

officially knows) proceeds to effect the desired purpose by means of sandwichmen. The net result is that the election agent has succeeded in doing indirectly what he fears to do otherwise—that is, he has employed a number of persons whose employment is probably prohibited. The undignified and evasive character of the subterfuge would alone go far to justify the express prohibition of the election device which tempts its adoption; and when to that reason there is added the very strong objection (based on considerations of social self-respect) to the employment of human beings as ambulatory hoardings, especially as an addition to other media of untimely and undesirable display, it is believed that the case has been made for specific prohibition.

Payments for Committee-Rooms.

So far as any payment to voters is concerned, the provisions in the existing legislation with regard to committee-rooms might well be left as they stand. Theoretically, no doubt, it would be desirable to enact that where a candidate hires a committee-room from a voter that voter shall not vote. But as a matter of fact committee-rooms are just as frequently hired from opponents as from supporters; and, moreover, the necessity of hiring committee-rooms from non-voters would considerably limit the area of selection in a matter where the provision of suitable accommodation is essential to the proper conduct of the election. In this respect the existing law is quite in accord with the necessities of the case.

The Election Sense of "Agency."

Before we leave the subject of the election agent and his staff it will be requisite that we briefly consider the doctrine of agency in the special election sense. We shall not do this for the sake of the legal principles involved. They are far better studied in Rogers or Lushington than by means of the mere epitome which is all that is necessary for our purpose here. What we are concerned with is the fact that the doctrine of agency, in the election sense, remains in a highly nebulous condition and in that way constitutes a distinct menace to the absolute freedom of choice which is contemplated in the Second Canon of self-government, as well as to the sole rights of election and dismissal which are postulated in the Fourth Canon. By means of a concise synopsis of the two doctrines of agency, we shall see what this menace is.

Within the scope of his authority, which is co-terminous with the area and activity of the campaign itself, the election agent is the plenipotentiary of the candidate. The repudiation of his agency, therefore, in the event of his being guilty of corrupt or illegal practices, is quite out of the question. The repudiation would be almost equally difficult in the case of one joint candidate

by the other, or of any of the paid election staff, as well as the prominent and responsible leaders of the party organisation, although their services are quite honorary. With regard to the other active combatants (and, of course, to a slight extent in the case of those already mentioned) there arise the most complex questions with reference to the candidate's responsibility for their actions—questions which, if determined adversely to the candidate on the hearing of a petition, may cost him a hard-won seat. There is a special doctrine of election agency applicable to these cases, which differs very widely from the ordinary legal doctrine of agency. It is, in fact, a survival from the attempts of the old election petition committees to evolve a principle which should be elastic enough to reach instances where a candidate sought to profit by the wrong-doing of others, while strongly protesting that he was in way responsible for, or capable of controlling, their actions. No man was likely to deliberately and openly authorise the commission of an act which would, if brought home to himself, be fatal to his election. But if such acts were, in fact, performed, and if they benefited him, then the question arose, not whether there was agency in the ordinary legal sense (since the precautions of the parties would prevent the existence of any evidence cogent enough to establish it), but whether the political relations between the persons concerned were such, in length of period and degree of intimacy, as to establish agency in the election sense of the term. Agency in the legal sense can be defined. Of agency in the harsh and stringent election sense no definition exists. Even the most acute intellects which have adorned the bench on the trial of famous election petitions have shrunk from the attempt to bring this elusive phenomenon within the limits of logical comprehension.

The ordinary legal agency may be created in four ways:* (1) By express contract, (2) by implication, (3) from necessity, and (4) by ratification. Of these the first is the kind of agency which exists in the case of the election agent and his staff where there is an explicit and specific engagement. The third has no application to election work, so that the special doctrine of agency, as applied to elections, is a modification, by way of extension, of the second and fourth modes in which agency may originate. For instance, assuming for the moment that an action would lie for the recovery of money laid out in bribery at the alleged request of defendant, a candidate, the main question would be whether, in fact, the defendant had authorised the laying out of the money. And if it could be shown that the person who had paid the bribes,

* The reader will understand that what he is here offered is a brief general summary only, such as will enable him to appreciate the contrast between ordinary agency and the agency that embarrasses the respondents to election petitions. Ordinary legal agency treated in detail requires a volume to itself.

though, in fact, he was an agent of the defendant, had in this instance been expressly prohibited from laying out money in that way (and especially if the persons who received it were well aware of the prohibition), his action to recover it from the candidate would fail. But as regards the agency in the election sense, the question would be totally different. The proof of general agency (*i.e.*, of agency in the ordinary legal sense) would render abortive any protection that was sought from the express prohibition of the corrupt acts, however honest that prohibition might have been. The corrupt acts of the agent, though forbidden by the candidate, would, if within the very liberally defined scope of the agent's authority as a political co-operator with the candidate, be fatal to the candidature. The truth is that, while, in the ordinary sense of the word, a man cannot easily make another his agent without being aware of it and, in the great majority of cases, without having his eyes fully open to what he is doing, he may create an agent in the election sense of the word without being conscious of what is being done and, in fact, in such a manner that when the person is ultimately decided to be his agent nobody is more astonished than himself. Lest the reader should imagine that he is being edified with something in the nature of picturesque exaggeration he may be reminded that Mr. Justice Channell, in the junior judgment in the Great Yarmouth case (5 O'M. and H., 178), said that the "substance of the principle of agency is that if a man is employed at the election to get you votes, or if, without being employed, he is authorised to get you votes, or if, although neither employed nor authorised, he does to your knowledge get you votes, and you accept what he has done and adopt it, then he becomes a person for whose acts you are responsible in the sense that, if his acts have been of an illegal character, you cannot retain the benefit which those illegal acts have helped to procure for you. . . . That is, as I apprehend, clearly established law. It is hard upon candidates in one sense, because it makes them responsible for acts which are not only not in accordance with their wish, but which are directly contrary to it." The reason for this wide difference between common law agency and agency in the election sense was stated in the Gloucester petition (1873) to be that where any corruption is intended the candidate is most carefully kept in intentional ignorance of it. The somewhat cryptic purport of this observation may be illustrated by the decision in the Wigan case (4 O'M. and H., 11), where it was said that the position of principal (*i.e.*, candidate) in the election sense was analogous to that of a man who buys a yacht to race in his name and finds a captain and crew on board. The fact that he consents to sail with them makes them his agents for the purpose of sailing the race in accordance with

the laws of the course. The position is, therefore, that while in the ordinary relations of life a man has very large powers of control over his agents and knows, or can with reasonable diligence discover, who they are, in the conduct of an election his political fate may be jeopardised by persons over whose actions he has little or no control (*e.g.*, those of the tradesman who canvassed a street with him and then proceeded to the nearest public-house and called for "drinks round and the health of the candidate"); who act in defiance of his orders, where he has power to give them; who do the wrongful act maliciously, with the intention of injuring him; or who are almost totally unknown to him, not only as agents, but at all.

The Menace of Nebulosity.

This question, whether A is or is not the agent of B at a certain election, is of no great moment while the contest proceeds. But when the contest is over and the electors have delivered their verdict it may become of very great consequence indeed. For then it becomes possible for an appeal to be made from the electorate to an alien tribunal, whose judgment, possibly setting aside that of the electorate, may be very largely based upon the individual opinions of two judges with regard to the nebulous doctrine of agency in the election sense. A criminal statute, which enacted a penalty of six months' hard labour for "discreditable conduct," but gave no definition of the new offence other than that supplied by the two words in which it was described, would naturally excite the lively apprehension of every citizen, whose dread of the operation of the new law would be quickened into genuine alarm if he were told that it was for the magistrate in each case to determine whether the "conduct" charged against the defendant was "discreditable" or not. But this would be a mild state of affairs compared with the actualities of the election law of agency. The candidate, who is presumably the chosen exponent of his constituents' wishes, is, in company with them, exposed to the risk of the very severest penalties, not because he himself has done anything wrong, but because, in the opinion of the judges at the trial of an election petition, some person over whom neither candidate nor constituents had any control has been guilty of a breach of the election law. Clearly, the determination of questions of such gravity as this ought not to be left to the absolute personal discretion and the irrevocable judgment of any two men whatsoever, and certainly not (and the observation does not involve the least savour of disrespect to the bench) of two men who are themselves, in all probability, ex-politicians, whose solitary safeguard from the unilateral malformation of partisanship has been the legal capacity to see both sides. Clearly, in a matter which may involve post-election interference with the verdict of the ballot box, such

interference ought to take place only in accordance with principles that have been defined with the sharpest precision, so as to take away from the electorate, and transfer to the judges, the veriest minimum of discretion. It is suggested, therefore, that in any reform of the law with regard to election petitions * it should be enacted (1) that no candidate shall be penalised for the act of an alleged agent unless his relation to such alleged agent has been shown to be of such a character as must, in a civil action, render him liable for the agent's acts; and (2) that any principle which might be evoked to rebut the alleged existence of agency in a civil case shall be capable of employment in the same way, and to the same effect, where it is sought to make a respondent liable for the acts of an alleged agent; and especially (3) that a bona-fide prohibition or limitation, which would be effective, in a civil action, to defeat the allegation or presumption of agency, shall have the same force on the trial of an election petition with regard to any alleged agent of the respondent. If the reader will reflect how easily the electoral selection may be assailed before an election petition court, how great are the retrogressive forces whose interest it is to invoke the use of this weapon against it, and how absolute is the judicial discretion in the matter, he will not quarrel with the earlier description of this subtle peril as a menace to the absolute freedom of electoral choice.

Finally, a mere passing allusion will dispose of the political societies and organisations which exist in nearly every constituency. Nobody doubts their right to exist and to act, or the excellent effect of their work in stimulating political thought and activity. But nowadays they are generally careful to support a policy rather than a person; and, furthermore, when the election is imminent they are generally dissolved, lest they and every member of them should be engulfed in the quagmire of agency. As regards the expenses incurred by these associations, however, we shall have to say something at a later stage.

Summary of Suggestions.

Election agent not to be a minor.

Election employés to be the same throughout, not changed from day to day.

The employment of electors as clerks, messengers, or polling agents, by any candidate or organisation, to be absolutely prohibited, with a few defined exceptions.

Employment of sandwichmen to be specifically prohibited.

The doctrine of agency, in the election sense, to be approximated to the ordinary doctrine, so as to save candidates from suffering for the misdoings of persons over whom they have no control.

* These are treated in greater detail, as well as from other points of view, in Chapter XII.

CHAPTER VI.

The "Outside Organisations."

As both the candidate and the election agent have now been subjected to critical scrutiny, it will be desirable at this point to complete the examination of the foci of electoral activity by an inspection of the character and methods of the so-called "outside organisations." The law provides a statutory maximum of election expenses, beyond which a candidate goes at his dire peril. When this legislation was called into being there was no idea that any considerable expenditure was likely to be incurred by any persons other than the candidates and their agents. The change that has taken place in this respect offers a good illustration of the rapid and unforeseen developments which occur in our political system. Every by-election affords specimens of the new mode of action. To begin with, the great political parties have each a huge central organisation, consisting in the main of highly-trained and skilled organisers. As soon as a by-election appears on the political horizon the heads of the central office put themselves in communication with the party candidate, or with the chief of his organisation, and offer the services of a number of the agents in various constituencies, who are attached to, or under the control of, the central office. The candidate or his election agent will be considered a man of moderate aspirations if he limits his request to the services of half a dozen of these auxiliaries, the majority of whom are among the most loyal, efficient, and hard-working colleagues that are ever likely to fall within ordinary mortal experience. They are worth a guinea per day per man, if they are worth anything at all; so that if the agent confines his request to the services of half a dozen their value to him in a three weeks' campaign will be 108 gs. But this amount, substantial as it is, will not be found in the candidate's return of election expenses; and if the vigilant agent on the other side should happen to ignore party amenities and endeavour to discover it there, he will be told that, as a result of an understanding which has been found extremely convenient, these expenses are never included in it. The election agent has certainly made no payment to these welcome auxiliaries, and as far as his official knowledge is supposed to extend, they have not been paid at all. They have apparently come down at their own expense, rendered valuable technical assistance at the cost of a considerable expenditure of time and trouble, and gone away without even asking for any remuneration. Inasmuch, however, as both sides avail themselves of the services of these irregular troops, their employment has now become as much a convention of electioneering as the obligation to resign after a vote of want of confidence in the House of Commons is a convention of the

constitution. The only objection to the system is that it is a defiance of the law, tolerated because it is supposed to meet an admitted need, and fair because both sides benefit by it.

The Germ of Civic Disorganisation.

These party auxiliaries, however, form by no means the whole of the irregular troops which take the field in a modern election campaign. The old idea of concentrating on the candidate all the problems, hostilities, and activities of the fight has long ceased to receive any wide acceptance as a principle of action. Under that ancient system, indeed, a candidate might reasonably be held in a large degree responsible for the conduct of the campaign, and the doctrine of agency received a special interpretation in order that it might be adapted to the necessities of election work. That state of things, however, has long ceased to be anything but a part of election antiquities. In a modern election, as far as active control of the proceedings goes, the candidates and their organisations, so far from being the controlling centres of activity, are only single elements in a multiplicity of forces, some of them of considerable magnitude, and all of them (except those of the candidates) working with complete irresponsibility as regards the expenses they incur, and with very little check on the methods they employ. The expenses of each candidate are restricted to a given sum—say, £1,010; and even within the limits of that amount the candidate is restricted in the number of his committee-rooms, clerks and messengers. No such restrictions hamper the various "outside organisations" which transfer their activity to the constituency. Each organisation may spend £20,000 if it chooses; may open committee-rooms in every street, and may employ hundreds (or if it prefers, thousands) of voters on so-called election work. By means of the election expenditure of the candidate, joined to his personal efforts as propagandist, and to the labours of his organisation, the whole contemporaneous political programme has to be dealt with in every phase which is likely to touch the interests of the electorate. But the outside organisations are, as a rule, only concerned with individual items of the policy which is before the country. The liquor trade and the temperance party; the Unionists and the Home Rulers; the Protestants and their opponents; free traders and tariff reformers; societies which support, and societies which oppose, additional expenditure on certain specified portions of the national establishment, such as the navy; and societies called into instant, and apparently prosperous, existence by the latest attempted legislation—all these, and more, as political exigencies, party tactics, and individual interests require, enter upon the electoral scene, spend huge sums of money, whose real source is frequently unknown, indulge in methods of campaigning from which the boldest

candidate would shrink as long as the Corrupt and Illegal Practices Prevention Acts remain unrepealed, and are accountable to no public authority either as regards their money or their methods. Plainly, we have here the germ, already sprouting vigorously, of downright civic disorganisation in a shape which is full of menace to those twin elements of dignity and deliberation that are essential to the adequate and responsible exercise of the citizen's choice in a Parliamentary contest. A belief that the law should interfere with the work of selecting representatives as little as is consistent with the maintenance of order, decency, and freedom of choice may well be the immovably-rooted conviction of an intelligent observer of our electoral system; and yet he may see in the existing state of things a very near approach to electoral anarchy. The law has lost its grip upon the very process for which it depends for its own continued and progressive existence.

No Limit to "Outside" Expenditure.

The extremely mischievous tendency of this kind of thing, under its present uncontrolled and irresponsible conditions, must be evident to the most casual observer of the drift of political affairs. It is unfair and embarrassing to the candidates, and it flaunts before the eyes of the elector all those phantasmagoria of subsidised activity and display which only distract his sober judgment from the mature consideration of his duty and his trust. The result is that the comparatively reasonable amount of officially known and recognised election expenses, which was originally intended to be, practically speaking, the whole of the money expended on the electoral process, now forms merely an infinitesimal part of it, whose proportion to the whole grows less at every election. We may with advantage consider these aspects of the problem in somewhat greater detail. As regards the candidate, his position under existing circumstances is that of a man who is called upon to fight a multitude of skilful and well-equipped opponents with one hand tied behind his back. He is limited to a certain maximum expenditure, which might easily be reduced were our elections conducted on saner principles, but which is none too much as long as they continue unreformed. Any expenditure in excess of that amount is fatal to his candidature. But at the same time he finds in the field against him numerous powerful organisations which are at liberty to spend as much as they choose, and to do it in what manner they please. Their supply of "literature" is unlimited. His is not. They may, at the last minute, flood the constituency with misleading or even absolutely false statements with regard to his political principles and programme, while he, on the other hand, may be reminded by his election agent that the funds still in hand are totally inadequate to deal with this last thrust in the only effective way—by

an immediate postal communication sent to every individual elector. Some of the organisations, in truth, may have no real political basis at all, but may merely be the stalking-horses of powerful personal interests, or even of nothing better than personal malice. There is nothing to prevent the expenditure of £20,000 by the Anti-Astronomy League, which has been formed and is operated solely for the purpose of annoying and defeating a candidate who happens to be a distinguished exponent of the Nebular Theory and therefore obnoxious to its organisers. Provided that the league makes no false statement with reference to the personal character and conduct of the candidate, he has no remedy and no protection against this illicit campaigning. It is true that if the league's expenditure is of such a kind as to amount to general corruption, the constituency may be disfranchised; but that would be small comfort to an honourable man who, in a straightforward way, had sought the honour of representing it in Parliament, and who was in no sense responsible for the civic misconduct which had brought down the penalty upon it.

In the case of responsible organisations, it is true that the candidate knows what he is fighting; but in the case of some at least of the irregular forces which make their appearance at an election, the unfairness of their operations is aggravated by the mystery of their origin. Nobody knows who or what they are, or whence their supplies of money (often very ample) are derived. Inquiry has been known to reveal the fact that the "headquarters" of the organisation was an empty room at the top of four flights of stairs, although the resources which did not extend to the employment of a clerk in charge of the "headquarters" were equal to the strain of paying for £500 worth of printing, and the provision of numerous paid speakers.

The Theatrical and the Gregarious.

As they affect the elector individually and the constituency at large, the influences arising from the advent of these organisations are in the highest degree reprehensible. They deal in the theatrical and the gregarious, twin weapons of political warfare of which the former is wholly, and the latter very largely, foreign to the true electoral spirit. Their acres of pictorial display, and their numerous meetings addressed by paid speakers, only serve in the main to distract and perplex the electorate. They employ large numbers of electors who consider that the money which they receive does not interfere with their right to vote, which it would do if their wages came from the actual candidates. Committee-rooms are engaged at "fancy" prices, and local tradesmen (especially owners of halls) are "placated" by lavish patronage. The large permanent staffs of the outside organisations are frequently brought down, at what must be enormous expense, for

weeks at a time. They are employed at canvassing, which, as they are paid, is a defiance of the law; and their extensive patronage of hotels and boarding-house keepers introduces yet another alien and disquieting element into the contest. In lavish expenditure, in artificial excitement, in garish display, in absolute irresponsibility of method, these organisations are, speaking generally, modern representatives of the civic excrescences and abnormalities at which the Corrupt and Illegal Practices Prevention Acts were intended to strike, but at which in a modern election, if they strike at all, it is with an almost palsied arm.

"Speaking generally," was the expression employed in the last sentence. The writer is perfectly well aware that any all round condemnation of these organisations, or of the system which, when working legally and honestly, they represent, would go far beyond the mark. People who have a genuine interest, be it pecuniary or only sentimental, in a certain political question, have a perfect right to urge their opinions upon their fellow-citizens, and even to spend money in securing the wider dissemination of their views. To seriously check, much less to suppress, such manifestations of political activity would be to loosen the very foundations of self-government. But any individual or organisation acting in this way should be (1) identifiable and (2) responsible both as to the source and as to the employment of the money which he or it expends.

(1) The identity of the organisation and its agents is so closely connected with the question of canvassing that it will be convenient to treat the two subjects together. At the outset, we must not forget that canvassing, as a part of the electoral machinery, is subject to precisely the same evolutionary influences as the other parts. There was a time when it was quite consistent with English* political progress, as then understood, that the civic interest of the voter should be aroused by the solicitations of the persons who desired his support. Those were the days when political knowledge had permeated only to a slight extent through the various strata of the population. At a period which was, historically speaking, not very much earlier, the constituencies would gladly have been excused from sending representatives at all. Of these crude conditions and methods the theory and practice of canvassing are survivals. They are based upon the idea that the voter has a favour to confer upon the candidate by giving his support, whereas, in truth, it is the candidate who has a favour to confer upon the voter, by consenting to receive it. So much a glance at the essentials of the process will tell us in language that cannot be gainsaid. The election of a representative has ceased to be the feeble response of an apathetic organism to unwelcome stimulus

* Canvassing is not a native institution, of course.

from a solitary personal centre of political knowledge and power chiefly anxious, not so much for conference with the chosen knight or burgess, as for his consent to the levying of a pecuniary demand upon those who chose him. This was the master, claiming, and in the early days not reluctant to compel, the assent of his servants. But as the character of the process changed, and as the great mass of popular sentiment became less and less able to impress itself upon a House of Commons whose origins were oligarchic, the so-called representative was placed in a position where he was subject to only a small degree of control by those for whom, technically, he had the power to speak; whom, theoretically, he had authority to bind. Hence it was that he, and not they, became the primary object of conciliation by the powers at the centre; and he who had favours to receive, he whose price could often be estimated in coin, cockade, or coronet, turned naturally to seek, by corruption and by canvassing, for the continued tenure of a position so fruitful of benefit to himself. For that he begged; for that he intrigued, struggled, complied or paid. And still, when all these ideas and modes of action are known by political thinkers of the most ordinary type to be as extinct as the clerkship of the petty-bag, the theory and practice of canvassing survives, as the part of a "cake of custom" which is hardest to dislodge from the position where it has clung for centuries.

Objectionable Aspects of Canvassing.

But with political conditions changed, it is not the candidate who should in these days ask that he may be allowed to render service to the political fellowship of which he is a member. The relative positions of the old political forces are, in truth, entirely transposed; and the citizen ought not to expect (as, holding fast to traditional ideals, he often does expect) that he shall be sought out and requested to confer as a favour that of which he should dispose as a trust. His duty demands that he confer the honour of representation, not because another has asked him for it, but because that other is regarded by him (in the exercise of serious civic judgment) as the most excellent instrument of corporate organic activity. Of course, so far as canvassing consists of an explanation to individual electors of elements in a candidate's programme which they do not understand, or with which, in the absence of exposition, they might not be in sympathy, it is outside the scope of criticism from the point of view which we have lately occupied. But for one call which is made upon an elector by the candidate for the purpose of exposition, discussion, and the removal of misapprehensions, there are a hundred made by professional and non-professional canvassers, with the object of begging or extorting a favour, not of furnishing the materials of political

judgment. And it is no small reproach to a large section of the electorate that it demands this sycophancy. "Mr. A has not been called on, and therefore he will not vote," is a common answer on election day to the question whether Mr. A has polled or not. As if the exercise of a civic trust depended upon the titillation of personal vanity, upon the realisation by the candidate that, for once at least, the elector can compel the attitude of subserviency and will only consent to fling his gift into hands outstretched in fulsome appeal. The manner and method of modern canvassing are alike unworthy of the proud dignity which should characterise these electoral processes from beginning to end. In another fifty years it should be utterly obsolete. Meanwhile, as we have grasped its true significance as a survival from the lower stage of political progress, and as it would be premature and futile to suggest its absolute prohibition at the moment (though its prevention has been attempted in the Colonies), we may profitably occupy ourselves with the question of its regulation as a means of pruning away its all too obvious excrescences.

The Abolition of Anonymity.

The elector, surely, has a clear and indisputable right to know who and what the persons are who enter the constituency to talk politics with him, and to essay his conversion to their own opinions. The phrase "enter the constituency" is used advisedly, for there is no intention of suggesting that an elector in the constituency has not an absolute right to carry on the work of genuinely canvassing his brother-electors and discussing the mutual interests of all (provided he is not paid); and none of the remarks which follow are intended to apply to a person so qualified. Clearly, then, persons who take the trouble to come into the constituency, sometimes from considerable distances and at large expense, should be compelled to provide themselves with credentials, in order that the voter may scrutinise the origins of their political enthusiasm and accurately estimate their claims upon his confidence. These considerations lead us to the first of the expedients which are necessary for clearing the electoral area from its present tangle of irresponsibility and mystery and bringing its conditions into line with the requirements of the Third Canon.*

(A) No person, other than a registered elector of the constituency where the election is taking place and a candidate who is actually "standing" for such constituency, shall systematically canvass therein during the twenty days preceding an election unless his name and address shall have been correctly registered with the head postmaster of the constituency; and no club, society, or other organisation, whether permanent or temporary, shall, by itself or its agents,

* The suggestions about to be outlined were originally put forth by the present writer in *Reynolds's Newspaper*, April 26, 1908.

canvass, or otherwise occupy itself, in the election by the opening of committee-rooms, the issue of bills or pamphlets, the holding of meetings, or in any other manner, during the period of candidature, unless it has been registered in the same way. A fee of 6d. shall be charged for the registration, and the register shall be called the Register of Canvassers, and shall be open to public inspection on payment of a fee of 3d. for each such inspection. On payment, by post, of a fee of 1s., the postmaster shall search the register for a specified name and state in writing if he finds it or not.

No club, society, or other organisation, whether permanent or temporary, and whether composed of electors or not; and no person, whether an elector or not, shall incur any expense whatever, in excess of the sum of £1 (except the travelling and lodging expenses of a registered canvasser, when bona fide paid by himself in connection with any election), unless such club, society, organisation or person has been registered as above; and in the case of a club, society or other organisation the registered particulars shall include the name and address of the person who registers it, and the name and address of the secretary, without both of which the registration shall not take place; and the names and addresses of the managers, committee, directors, or other controlling body (if any) of such club, society, or association. The registration of a name without authority, or the furnishing of a false name and address, shall be a misdemeanour.

These suggestions are, of course, in the rough form which suffices for their discussion at the present stage. They are, it is submitted, in no sense a menace to political freedom, independence, and activity. It is essential to the proper working of the Corrupt and Illegal Practices Prevention Acts that outsiders entering the constituency to canvass shall truthfully state whence they come and who they are. The information will enable inquiry to be made as to the probability of their coming, at their own expense, to canvass—for paid canvassing is illegal. There are cases—many have fallen within the experience of the present writer—where enthusiasm for a given cause or candidate brings men and women, from far and near, at great expense and self-sacrifice, to canvass for him. Still, let us know who they are, even if they are bona-fide volunteers. And as regards clubs and persons, the necessity of registration and the payment of a trifling fee imposes no check whatever upon legitimate political enthusiasm. The trouble imposed is less than that which is involved in taking out a dog license. What the provisions do strike at is not honest political eagerness whose origin can bear critical scrutiny, but the illegal, the corrupt, the lavish, and the mysterious; and if the blow is fatal, so much the better.

The Destruction of Irresponsibility.

By means of these provisions we have disposed of the element of anonymity in election work. So far as regards organisation and propaganda, the effect will be to bring into the open any person whose desire to impress his views upon the citizens at a time when they are deliberating upon an irrevocable verdict is such as to

lead him to the expenditure of time, trouble, money, or money's worth. Supplied with the outline of an expedient for discovering identity, we pass to the method of imposing responsibility.

(B) Within seven days of the day of election, the head postmaster of the electoral area in which the election took place, shall transmit to the returning officer a certified copy of the list of all persons and of all clubs, societies, and organisations registered at the election in accordance with the foregoing provisions. Every person, whether an elector or not, and every club, society, or association, whether temporary or permanent, and whether composed of electors or not, shall, within twenty-one days of the election, pay all expenses in excess of the total sum of £1 incurred by him—or it—in connection with such election, and the payment of such expenses shall thereafter be statute barred, as is now the case with the expenses of a candidate; and shall, further, within thirty-five days of the election, transmit to the returning officer an account of such expenses, duly sworn, together with vouchers and receipts for all amounts over £1. Such accounts shall include the names and addresses of all persons to whom payment was made for work and labour done (the nature and character of such work being clearly specified), and for materials supplied, as well as for the hire of committee-rooms, and halls for meetings. Postages, telegrams, and miscellaneous expenses shall also be detailed and vouched for. The accounts shall, as nearly as circumstances admit, be in the form specified by the Corrupt and Illegal Practices Prevention Acts for the return of the election expenses of a candidate, and shall extend over the same period as if the person, or organisation, had been a candidate. It shall be made, signed, and sworn to (1) by the person himself, if returning his own expenditure; or (2) by the person registered as secretary, or by one of the persons registered as the controlling body, and by no other person, in the case of a club, society, or organisation, and such person shall be responsible for its completeness and accuracy in the same manner and to the same extent as a candidate or election agent.

Any person may inspect such returns, and obtain copies thereof, on the same terms and in the same manner as if they were the returns made by a candidate.

The returning officer shall compare the returns received with the list of registered persons and societies furnished to him by the head postmaster of the constituency, and in case any registered person or organisation shall have failed to make the return, or if the return, though made, is not of the form and character required by the Act, the returning officer shall forthwith notify such person or organisation, by registered letter, to the person making the return, if one has been made, or to the person himself, in the case of a person, and to the secretary, in the case of an organisation, if the return has not been made; and shall require such person to file such return, or such amended return, within seven days, after which interval, if his requirements have not been complied with, he shall report the facts to the Public Prosecutor, who shall, if satisfied of wilful default, concealment, or misstatement, initiate a prosecution of the offender.

It need hardly be said that if any person or organisation can be shown to be an agent of the candidate, his or its expenses must be included in his return, and the omission so to include them would be fatal on petition.

The Lavish and the Mysterious Disappear.

These provisions secure responsibility. They do not check political activity. Any person, or any organisation, may spend

money on propagandist work, but must reveal, on oath, when and where and how it was spent. In this way we get an automatic check upon the *amount* of expenditure, for no person or society is likely to lay out money on such a lavish scale as shall, when the return reveals the facts, call immediate attention to its magnitude. The certainty of this scrutiny by critical eyes will keep the expenditure strictly within legitimate limits as to its objects; will enable the tracing of payments to electors for services as clerks, messengers, or speakers; will show, in brief, the precise extent and character of the pecuniary influence brought to bear upon the constituency by the person or organisation who, or which, is the subject of the return. The mysterious, the lavish, and the illegal will disappear under the wholesome light of publicity and responsibility, without endangering the healthy exercise of a single legitimate aspiration or enthusiasm. The requirements are quite modest in comparison with those which are applicable to a registered company. In that case, even if the capital be only £10, and the object merely the acquisition of a business of the most unimportant character, the law requires disclosure of the names and addresses of the shareholders, and of the amount paid up on their shares, and of various other particulars, and all these are open to the inspection of any person who applies at Somerset House, while the list of shareholders must also be exhibited to any applicant who pays 1s. at the company's office. Surely an individual, and much more an organisation, possessed by the ambition to guide and influence the political judgment and to assist in shaping the destiny of the electoral organism should not object to submit to some slight measure of the kind of publicity that is enforced even upon the humble joint-stock organisation which, in the interests of a handful of obscure persons, purchases and owns a chandler's shop. The writer would personally favour the compulsory disclosure, on oath, of the *source* of the funds whose expenditure is set forth in these returns. So much he has indicated above, but he feels that this is so drastic a proposal that it is best left, for the present, in the form of a suggestion. There are honest causes which may quite legitimately desire to keep secret the source of their supplies.

No Restriction on Amount.

It will have been observed that this scheme contemplates the imposition of no restriction on the amount of money expended at an election by persons and organisations other than the candidates and their official agencies. As the candidate's expenses are strictly limited (and it is elsewhere in this essay proposed to subject them to a still further limitation), it would seem at first sight desirable also to limit those of the unofficial agencies. But the only scheme which is apparently feasible is the limitation of the expenditure of each person and each organisation to a given

proportion (say 5 or 10 per cent.) of that permitted to the candidate. Thus, in a constituency where the total statutory expenditure of a candidate was £1,010, no individual or organisation external to the candidate and his own agencies would be permitted to expend more than £101. But this would only lead to evasion. Instead of a single temperance organisation spending £404, there would be four such organisations spending £101 each and playing into one another's hands. The endeavour to prevent this kind of evasion would be utterly futile. Apparently, then, it may be argued, we do not abolish the unfairness of the present system, under which the limited expenditure of the candidate is opposed to the unlimited expenditure of the opposing organisations. But, in fact, this object is indirectly attained by the ensuring of identity and responsibility, which will, the writer believes, operate with complete efficiency, and save us from the necessity, on the one hand, of attempting to suppress what may be the bona-fide expression of political zeal, and, on the other, of endeavouring by legislative means to attain the unattainable.

The Party Organisations.

It will be seen that under these provisions the party organisations will be required to make a return of their expenditure, and any legislation which seriously assails the difficulties and complexities of this question will be imperfect if it does not provide specifically that the central party funds shall be subject to the same obligation with regard to the publication of exact details, possibly of the source, and certainly with regard to the expenditure of their supplies. To say that there are at least two giant organisations controlling large sums of money of mysterious or at least undisclosed origin, and carrying on the work of political finance on a colossal scale, while at the same time enjoying absolute freedom from the publicity which attends the expenditure of every Parliamentary candidate, is simply to indicate the existence of an intolerable state of affairs, ripe for the limbo which holds the Star Chamber and the pocket borough. Against a central party organisation, and against the funds necessary for its support, nothing need be said; but inasmuch as it is a powerful influence affecting the very mainsprings of national action, the nation has the clearest right to know whence its energy is derived and precisely how it is expended.

Very closely allied with these problems are the considerations which arise with regard to the expenses incurred by local and permanent political associations in support of a given candidate. These differ from the "outside organisations" in that their work is of local, not general, scope; of permanent character, not confined to the few weeks of the actual contest. It would be contrary to all sound principles of political liberty to suggest that persons

who desire to energise and assist a certain political programme should not be at liberty to organise themselves for the purpose, and to carry on a united propaganda. Even if the work is designed to secure the return of a certain candidate, the expenses will not form part of the statutory maximum unless the alliance between candidate and association is so close as to create agency. All that is necessary to bring such an organisation into line with the Third Canon of self-government is a provision that if it spends money within the period of candidature it shall make a sworn return thereof. But this ideal association, working for the realisation of its own political aims in absolute independence of the interests of an individual candidature, seldom exists in permanent reality, though some conspicuous instances have fallen within the experience of the present writer. But as a rule the candidate finds most of the money, and it is generally under his personal superintendence that it is expended. It is true that as soon as the election comes in sight the association is formally dissolved, in order that neither it, nor any of its members, may engulf the candidate in the quagmire of agency. But when the election is over, it is reconstituted, and once again becomes the obsequious shadow of the candidate. From the point of view of the present essay this state of things is open to serious objection. Under the provisions which have been already submitted, however, the association would be compelled to make a sworn return of its expenditure within the period of candidature. It would be desirable to deduct from such expenditure any contributions by the candidate, in order that they might be included in the amount of his own election expenses, subject to the exception that the association might set aside any agreed proportion of its entire income (without distinction of source) for registration work (so long as registration is not a public charge), and that so much of the candidate's contributions as forms part of that proportion, and is bona fide expended in registration work, need not be included in the candidate's return of election expenses. If the candidate gives an annual, or otherwise periodical, sum, such proportion of that sum as corresponds to the period of candidature would have to be included in the return, the amount being deemed to accrue from week to week. Thus, a candidate who subscribes £200 a year to an association will have to include £100 of that expense in his election return, under a six months' limit of candidature, or £50 under a three months' limit. These suggestions seem stringent, but inasmuch as the only effect of the present system is to facilitate the evasion, as regards money contributed to associations, of the provisions of the Corrupt and Illegal Practices Prevention Act of 1883, there is clear need for reform. As we are not prepared to repeal the Act, we may as well make it effective, even at the cost of some apparent severity.

Present Provision as to "Small" Expenses.

There is a proviso attached to Section 28 (1) of the Corrupt and Illegal Practices Prevention Act of 1883 which would have to be modified in order to render these proposed provisions effective. This proviso excepts from the election expenses which are payable through the "election agent" any sum disbursed by any person out of his own money for any small expense legally incurred by himself, if such sum is not repaid to him. It is clear from the existence of this proviso that the Legislature could not have contemplated the existence of either persons or organisations free to spend on election work whatever amounts they chose and in whatever way. For it will be seen that the proviso postulates that the permissible expenses shall be (1) small—which the expenses of a huge "outside organisation" certainly are not; (2) legally incurred, which is not the case with enormous expenditure on paid canvassers; (3) paid out of his own money—that is to say, out of his personal resources, not out of huge sums whose origin is uncertain; and (4) not repaid to him. In the Norwich petition (4 O'M. and H., 89), Mr. Justice Cave said that these provisions were certainly never intended to apply to the expenditure of such a sum as £20 in the posting and distribution of placards. They might, he thought, legitimise the purchase of "half a crown's worth of cartoons" by a person who was not the election agent. Clearly, if this is sound law, every one of the "outside organisations" could be successfully assailed even under the existing statutory provisions. Their expenditure, so far from being limited to half a crown's worth of cartoons, or even £20 worth of bill posting, expands to £200, and even to £2,000, if their own inclination (for they are subject to no other authority) should lead them in that direction.

Summary of Proposals.

All persons (other than electors) coming into a constituency to canvass are to be registered in the manner described.

All organisations, 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 organisations, spending more than £1 in connection with the propagandist work of the election, must make a return in the same form, with the same completeness, and subject to the same penalties, as if they had been candidates.

CHAPTER VII.
The Election Expenses.

Modern ethical standards and ideals have rendered the public conscience intolerant of the open and shameless personal bribery which, almost within the memory of living men, characterised an election contest. The voter does not now receive large sums of money from one side or the other, or from both, in return for a vote which perhaps after all he did not trouble to record at the "open" hustings—for these were the pre-ballot days. But even where lavish and wholesale personal bribery had been abolished (or, at least, rendered too dangerous to be worth while) there remained the possibility of prodigal election expenditure, which was capable of exercising a direct influence upon those who profited by it, and of casting an almost equally potent spell over those who saw its results in liberal "employment," garish display, the braying of brass, and the flaunting of favours. This in turn has been struck at by the Legislature, and there is now an absolute maximum of election expenditure, beyond which the candidate is a trespasser upon forbidden ground. The total aggregate election expenses incurred by candidates throughout the United Kingdom at the election of 1880 (the last before the Corrupt and Illegal Practices Prevention Act of 1883) was £1,736,781. At the 1885 election it was £1,026,645; in 1900, £777,429; and in 1906 £958,921, out of an aggregate statutory maximum of £1,215,630. In order that these maxima shall not be exceeded it is enacted that within thirty-five days of the election the candidate (or his election agent) must make a sworn return, showing what he spent and how he spent it, and furnishing vouchers and receipts for all the items over £2. The making of a false return is a corrupt practice, punishable as wilful and corrupt perjury. Scarcely, however, has there been time for the realisation of the greater purity and dignity of the elections by means of the abolition of direct bribery and of its indirect concomitant, lavish expenditure, before a third and even more insidious source of prodigality has sprung into being, in the shape of the "outside organisations" which we have already discussed, with what was, it is hoped, an unrestrained candour of expression.

The law, then, as we have already seen, defines the maximum number of persons who should be employed for payment at an election. It also fixes maxima of expenses, differing according to the character of the constituency, county or borough. In a county (or division thereof) the maximum is £650 for the first 2,000 electors and £60 for every complete 1,000 electors above the original 2,000. Upon 3,999 electors the candidate may therefore expend £710, and upon 4,000 £770. The addition of a

single elector to the register augments the candidate's statutory potentialities of expenditure by no less than £60. In boroughs the candidate is permitted to expend £350 on the first 2,000 electors and £30 extra for every complete 1,000 electors above that aggregate. There are provisions for a slight reduction of these amounts in the case of joint candidates—that is to say, that where, in a double-member constituency, the candidates "hunt in couples," publishing a joint address, or joint circular, hiring or using the same committee-rooms, and employing or using the same sub-agents, clerks, messengers, and personation agents (except where the joint use is "accidental, casual, trivial, or unimportant"), the respective pairs of candidates are to be deemed "joint candidates." Inasmuch as this alliance will considerably reduce the necessities of expense, the statutory maximum is, for two joint candidates, to be reduced by one-fourth, and for more than two* joint candidates by one-third. At Newcastle-on-Tyne, for instance, two candidates who choose to fight separately (though belonging to the same party and supporting the same programme) would be entitled to spend £1,400 each. If they became joint candidates their joint statutory maximum would be £2,100, instead of £2,800, the sum of the separate maxima.

"Joint" and Separate Candidates.

The reader will note the distinction between a pair of candidates, contending, as a pair, for a double seat, and two separate candidates, representing the same political programme, fighting for a single seat. In this latter case each candidate is permitted to expend the full statutory maximum. The only weakness here is the opening left for hopeless candidatures which enable a second, or even a third, statutory maximum to be expended *against* the candidate on the other side, though there is not the least prospect of the election of the candidate who expends it, and the only result (and occasionally the only purpose) of the process is to assist the candidate who is benefited by the diversion of votes from the opponent against whom the scheme is directed. For instance, let A, a Unionist, and B, a Liberal, be the candidates in a contest (with fairly even chances) where the maximum statutory expenditure is £1,010. According to the accepted canons of election forecast, the appearance of a Labour candidate will weaken the position of B, the Liberal, and improve the prospects of A, the Unionist. But even if the Labour candidate is only put up maliciously, in order to cause the loss of the seat (or, less creditably still, to glut a personal grudge), he will be entitled to spend the £1,010, not in furthering his own chances, but in assailing B for the benefit of A. B, however, will

* As there is now no triple-member constituency, this provision has ceased to be effective.

have no right to spend more than the statutory maximum, though he is in fact fighting two opponents. He fights £2,020 with £1,010. But in these rare cases an election agent may perhaps discover that it is quite possible to collect evidence of such a close connection between the hopeless candidate and one of his apparent opponents (between the Labour candidate and A in the instance given) as shall, on petition, sustain a charge of agency, so as to involve the inclusion of some of the items of the hopeless expenditure in the return of the candidate whom they really assisted. As this would carry the expenses of the latter candidate over the statutory maximum, it might involve the loss of the seat. Inasmuch as this is the only weapon available to a candidate whose interests are threatened by a hopeless candidature of this kind, the collection of evidence for the establishment of agency will naturally engage his close attention. The risk is one which is not (and, consistently with sound ideals of electoral freedom of choice, cannot be) capable of being provided for in any other way.

Some Illustrative Maxima.

A few instances of the maximum expenditure in various constituencies, together with the amounts actually spent (shillings and pence omitted) by the respective candidates at the election of 1906, will help to elucidate the questions before us:

	Maximum expenses.	Actual expenses.	"Personal" expenses.
Birmingham, West*	£680	£631 (U.)	—
Do.	£680	£628 (L.)	£51
Blackburn	£1,425†	£1,170 (U.)	£90
Do.	£950	£339 (Lab.)	£31
Do.	£950	£640 (L.)	—
Manchester (N.W.) ‡	£650	£612 (L.)	£75
Do.	£650	£647 (U.)	£89
Lincolnshire (Sleaford)	£1,190	£1,066 (L.)	£411
Do.	£1,190	£1,165	£118

The amounts appearing under the head of "personal expenses" are the result of the legislative provision that externally to the sums incurred in the "conduct and management" of the election, a candidate may spend an unlimited aggregate of money on "personal expenses." These are his reasonable travelling expenses and his reasonable expenses of living at hotels or elsewhere for the purposes of and in relation to the election. As long as they do not exceed £100 the candidate pays them himself and merely informs his election agent (for the purposes of the return of election expenses) what was their aggregate. If they exceed £100 they must be paid through the election agent. They form no part of the statutory maximum, however large they may be. A candidate

* Mr. Joseph Chamberlain was the successful candidate.
† Two joint candidates.
‡ Mr. Winston Churchill was the successful candidate.

who has his permanent residence in, or near, the constituency which he is contesting will (as in the case of Mr. Joseph Chamberlain in the statistics above) return his "personal expenses" as nil. A candidate who has one residence in the constituency and others elsewhere will be well advised to return in his personal expenses the extra cost incurred by him at his local residence by reason of his continuous use thereof during the contest. The maximum of personal expense, however, is likely to be incurred by a candidate who has neither a permanent nor an occasional residence in the constituency. In such a case the personal expenses (as they may include the renting of an entire domestic establishment for the campaign period) may rise to a rather high figure. And, of course, if the personal expenses, though they are technically unlimited, were to amount to thousands of pounds, their exact nature and purpose would be liable to be severely scrutinised in an election petition. A candidate may, for instance, entertain at his own house the various social equals who are assisting him in the campaign. They do not assist him merely in order to get dinner, bed, and breakfast in return. But the entertainment of large numbers of electors, who were not the social equals of the candidate, and the inclusion of the cost thereof as "personal expenses," would place the candidate in dire peril of a successful charge of treating.

By far the most perplexing and pregnant question connected with the election expenses is that of discovering the precise period over which they should extend. At some point or another the election agent must draw the line and say that a meeting (for instance) which was held previously to that time is not an election item and therefore should not appear in the return of election expenses. The whole of the difficulties and dangers arising in this way have already, however, forced themselves upon our attention and been discussed in detail. The period of candidature is also the period of election expenses. The settlement of the one is the settlement of the other. As we have seen, in the chapter on "Candidate and Candidature," that there is a simple solution of the difficulty, the problem of the period (as distinguished from the amount and the purposes) of the election expenses, need not here detain us. The reader will, however, bear in mind that, as regards those contributions to charitable and other purposes, which are known as the laying down of "ground bait" or the "nursing" of the constituency, it was suggested in Chapter IV. that they should form part of the statutory maximum, so as to act as a kind of compensating balance between a lavish and an austere, or between a rich and a poor, candidate. We may now proceed, therefore, to the consideration of election expenses as such, without reference to the allied question of candidature, or any other collateral problem.

Banish the Tradition of Lavishness.

The first essential of an intelligent and effective solution of the election expenses problem is the banishment, from the mind, of the existing system, so far as it is likely to fetter a vigorous and unbiassed consideration of this vitally important subject. The tradition of large and lavish expenditure at election time is wholly arbitrary: and yet even sound and adventurous political thinkers seem unable to shake themselves free from it. Although election expenditure on a large scale is a relic of the days when the political spirit was sluggish and uninformed, and when communication was difficult, expensive, and slow, there still survives the idea that the prodigal scattering of money is an essential concomitant of a contest. If we bring ourselves to realise modern conditions of rapid and almost instantaneous political information, if we consider for a moment through what a multitude of channels political opinions, experience and knowledge rush, in torrent fashion, even to the remotest hamlets of the land, we shall see that an enlightened and educated democracy does not need the expensive educational and stimulative mechanism by which it was necessary to stir their forefathers into some interest in national affairs. Again, lavish expenditure, especially of the theatrical sort, which is associated with modern election work, does not coalesce with the atmosphere of dignity, intellectual quietude, and serious deliberation by which, as the present writer believes, the exercise of the electoral function should be surrounded. If the problem of election expenses is regarded from this standpoint, and if the undergrowth of unessential and misleading tradition be ruthlessly swept away, it will present itself in such a clear and unmistakable aspect as almost to offer its own solution.

Gratuitous Publicity.

We must not overlook the very much increased amount of gratuitous publicity received by a modern candidate, as compared with that which was at his disposal even at a period of time so politically recent as twenty or thirty years ago. Political knowledge, interest, and enthusiasm are much more widespread, partly owing to the more extended suffrage, partly to the higher level of general intelligence to which the operation of the various Education Acts has lifted the entire nation. There are very few constituencies in England, and comparatively few in Scotland and Wales, that are out of the reach of the unremitting vigilance of party evening newspapers; and these are, if anything, too "keen" to publish the very latest items and pronouncements. Anything of an important official character will always be printed as a matter of news, not only by the newspapers which support the candidate responsible for it, but also by those on the other side. These instruments of rapid and effective publicity are reinforced

by the great London and provincial morning newspapers, which, as a rule, devote a very large space to election news and enjoy a circulation that penetrates to every house in the country. This newspaper publicity, which often extends to the interviewing of the candidate, the printing of his election address as a matter of news, the publication of long and even verbatim reports of his meetings, and the general rousing and encouragement of his supporters (together with the application of the reverse process to the other side) is almost entirely gratuitous. The local papers will generally expect an "order" for the insertion of the election address of the candidate whom they support, but beyond that the whole of the newspaper publicity costs nothing at all, though in value and thoroughness of permeation to the inmost recesses of the constituency it probably surpasses all other agencies. So far, indeed, have we travelled on this road that many candidates now possess their own newspaper or, at all events, are in political control of a local organ: although a candid writer is bound to add that a search of the election return, with a view to the discovery of the precise amount and exact nature of the expenses incurred in this manner, will not invariably be successful. This is a matter to which we must return at a later stage. Finally, above and beyond all these trumpet tongues of the Press, there is the far-flung publicity which is almost the necessary consequence of the discussion of political topics in every workshop, on every doorstep, at every street corner, and in every bar, refreshment house, railway carriage, or other place where human beings congregate and exchange opinion. A good meeting sends a thousand missionaries on propagandist work throughout the constituency, telling what they heard, and—more important—what they saw and what they thought.

The Essentials of Publicity.

Provided with all these multifarious agencies for the gratuitous dissemination of his sentiments and the extension of his propaganda, it may at first blush be asked what more a candidate requires. Why should he spend any money at all, except a mere trifle on postages, clerks, and a few handbills? In the first place, then, it is clearly desirable that a candidate should place a considered and deliberate statement of his views, in black and white, before each individual constituent. To that pronouncement, which is now universally made and called the election address, he can be "pinned." By it his claims upon the constituency can be weighed with an exactness and precision which would be out of the question if the excited atmosphere of public meetings were the essential and unalterable locus of any attempt to obtain information with regard to his principles and programme. This document he will require to send to every elector, and it will in the great majority of cases pay him best to send it by post. As he

will probably enclose with it a bundle of leaflets with regard to the achievements or promises of his party (and possibly of himself as well), together with some special literary exposition of those problems of national policy upon which he lays particular stress, we may assume that penny postage will be required. If we allow another penny postage to every elector for the middle of the campaign, and a third penny postage for another despatch at its close (by way of a last appeal), we shall have provided for all the postal necessities. So far as postages are concerned, therefore, three separate penny communications to each elector (or six halfpenny postages, if the candidate prefers) will be ample for all purposes; and their amount, with a small additional sum for general postages, might well be made a statutory postal maximum.

Restriction of Bill-Posting.

The next step is the resolute and severe restriction of bill-posting. Under the existing system, a candidate will frequently spend a third or a half, and occasionally a greater proportion, of the statutory maximum upon the purchase of more or less ornate placards and the payment of bill-posters, who cover every available inch of space—for which an exorbitant rent is often charged—with this superfluous display. Present conditions of electioneering work often leave a candidate no alternative but acquiescence in this mischievous custom. The double-crown, though it is a large poster (20 in. by. 30 in.), forms only a puny element of the bill-posting arrangements at a modern (especially a county) election. Posters have become so large and elaborate that positions capable of accommodating them are scarce and dear. If they are among the "protected stations" belonging to a professional bill-poster a huge rent is charged for their use. If they belong to a private elector no payment can legally be made for permission to post bills, though, as a matter of fact, many an elector has received substantial sums for the exclusive use of a prominent corner or a conspicuous gable-end. In recent elections use has been made (generally just at the close of the fight, the rent of the positions being prohibitive as a continuous expense throughout the contest) of giant posters with the legend "Vote for Brown" in characters so huge that each letter is composed of several sheets and is sometimes 9 ft. or 10 ft. high.

The truth of the matter is that the gorgeous exhibitions which adorn the official and unofficial committee-rooms at modern elections and the lavish pictorial decoration of expensive "protected stations" could not, as a rule, be paid for, in addition to other and more necessary items, out of the funds which fall within the statutory maximum. These brilliant arrays of the products of modern colour printing art are often paid for by the various societies and associations who busy themselves in every election contest, and who not only carry on extensive bill-posting campaigns on

their own account, but often send thousands of posters, as a gift, to the candidate whom they favour. (The legal position of these societies, their methods of work, and the necessity for their regulation, are discussed in detail in Chapter VI.) The purchase of these myriad placards, the employment of a small army of bill-posters (working, at the close of the contest, under great pressure and at high wages for all-night labour) to affix them to their positions, and the rent of the "stations" constitute an enormous expense, for which the return is at best ephemeral and at worst pernicious.

Misleading Election Placards.

At the outset, it must be confessed that many of the assertions made, or inferences suggested, by election posters are wholly false. Specific instances might easily be given, but are omitted lest any element of partisanship should be supposed to tinge the present discussion. Let it suffice to say that (except as regards any false statement of fact with regard to the personal conduct or character of a candidate) no penalty attaches to false, or even to deliberately false, statements made (with all the consideration and realisation of the consequences involved in putting them into the form of posters) in the course of an election. For instance, let it be said on an officially-issued poster that, during a certain Administration, our foreign trade fell off at the rate of £100,000,000 a year, the fact (well known to the publisher of the poster) being that it actually increased at that rate during the period purported to be reviewed. There is no penalty for this falsity,* even if it can be shown, on the clearest evidence, to have influenced the result of the election. (The question of false statements is further discussed in general in Chapter IX.) Similarly there is (with the exception mentioned above) no penalty for wilfully misleading the electorate by supplying, with intent to deceive, the premisses of an inference which, indeed, follows from them, but is false because they themselves are false. This kind of election trickery is mainly carried out by means of caricatures, which purport to be figurative, but are, by many voters, accepted as the representation of realities. Probably the limit of current practice is reached when a speaker points to the poster and asks if "that" is what the electors are prepared to support. He means (or would, if challenged, profess that he meant) to inquire if they favour those things which, in exaggerated or distorted form, the poster satirically pictures; but the ignorant voter knows naught of satire, conceives that he sees the reproduction of an actual episode, and votes accordingly. Of this class of misrepresentation and illicit influence it may be said that its potency, in the form in which it is now effected, weakens every year, though unless it is dealt with by means of

* Unless, indeed, the placard were held to be a "fraudulent device or contrivance" within the meaning of 46 and 47 Vict., c. 51, s. 2.

some such enactment as is here suggested it will develop into forms of greater insidiousness, capable of outwitting a more highly educated electorate, and will continue in that way to warp and distort the political judgment of the country.

The Abuses of Bill-Posting.

The bill-posting element of a campaign develops in an excited contest (especially a by-election) into a system of sheer waste. Bill-posters consume the bills by hundreds and thousands merely to "make good for trade," and thereby perpetuate the tradition that an election is an opportunity of making money and not a time of national deliberation. Opponents tear the bills down or cover them with paint and mud, or efface them with the placards issued by their own side, and it becomes necessary to replace them. Towards the end of an excited contest there are very frequently two well-organised forces at work on the pictorial and literary display of each candidate—one, composed of his opponents, tearing down, defacing, "covering out"; the other, of his own bill-posters, replacing them in order that his "show" shall retain its imposing beauty unimpaired until the close of the poll. It is almost inconceivable that such methods as this should be the customary (and, from the strategic point of view, the necessary) concomitants of a process whose primary purpose is to elicit a civic judgment and not to offer opportunities for the display of skill in the work of defacement and replacement.

No candidate, however, can afford to disregard his bill-posting. Any slackening of his efforts is at once read as an indication that he is conscious of weakness, or that support is falling off, or that (worst of all) the "money is giving out." The current index of a candidate's position is often furnished by the hoardings and the "fly-posting." This, if favourable, is not only the consequence of the greater vigour and audacity of his work, but often results from the fact that a popular candidate has many supporters who offer him free posting facilities which the other candidate cannot obtain. So far does this influence extend that in a close contest a falling off of the bill-posting during the last day or two would probably turn the battle against the slackening side. The change would be instantly noted by supporters and opponents—spreading a kind of disheartening infection through the ranks of the one and a corresponding enthusiasm through the files of the other. The side which could adorn the walls and hoardings with the simple injunction, "Vote for Brown," repeated 10,000 times would have an appreciable and probably decisive advantage over the party whose "Vote for Jones" could count only 4,000 points of 'vantage. Yet is there, in such an empty appeal as this to the gregarious instincts (or the utter intellectual apathy) of the electorate, a single element of civic value, a single force whose operation is worth protecting and preserving?

The Necessity for Restriction.

The answer can only be an emphatic negative. These things tend to obscurity and not to clearness in the formation and expression of the electoral will. The maximum size of an election poster might well be fixed at that which is known as a double-crown (20 in. by 30 in.), with the proviso that each poster shall be complete in itself and shall not be designed to form part of any scheme of display on a larger scale. There is nothing that requires to be said to an electorate which cannot be put within the ample limits of a double-crown poster; and the restriction as to size is the first step towards sweeping away the extravagance and the appeals to passion and prejudice, and the occasional vulgarity —to say nothing of the wasted time and energy—which now characterise the bill-posting arrangements of an election contest. No elector will be rendered less well-informed, and no legitimate struggle for publicity will be stifled, by the adoption of the double-crown as the maximum area of ink and information which a candidate or his supporters or opponents may place before the electors in the shape of a single poster. The proposed restriction is fatal to displays of colour and exhortation which occupy the whole side of a house or the entire area of a posting station with a single picture or scheme; and it is remedial at the same time with regard to the expense which these things involve, to the unquiet and politically unfit frame of mind which craves for such stimulus, and to the futile competition among candidates and their bill-posters which is thereby generated. The number of posters also requires restriction. If the maximum were fixed at 10 per cent. of the total number of electors on the register (fractions of 100 to count as a complete 100) no injustice would be done and no element of political education imperilled. In a constituency consisting of 10,000 electors this proportion represents 1,000 double-crown bills, or over 4,000 square feet of printed appeal to an electorate which (as we have seen) is being aroused and stimulated in numerous other ways.

Instead, however, of such a drastic suggestion as this, let us consider what would be the effect on the election expenses if the candidates were limited to one double-crown poster for each elector, counting them in round thousands. We should include in this number any posters which were presented to the candidate by societies or individuals. Thus, in a constituency of 8,500 the candidate would be entitled to 9,000 double crown bills. In the statistics which follow (and which represent, as far as the selection of the constituencies goes, a page taken haphazard from the Government Blue-book of election expenses, 1906 election) some actual figures are shown in comparison with the suggested expenditure.

		Maximum.	Printing, Advertising, &c. (Actual.)	Registered Electors.	Printing, Advertising, &c. (Suggested.)	Three Postages.	Amount Saved.
		£	£		£	£	£
East Marylebone	A	500	239	6,848	42	85	112
	B	500	262				135
West Marylebone	A	650	268	8,799	54	109	105
	B	560	270				107
Middlesbrough	A	920	441	20,938	126	261	54
	B	920	495				108
	C	920	365				*22
Monmouth District	A	650	382	11,987	72	150	160
	B	650	454				230
	C	650	215				*7
Morpeth	A	590	211	9,453	60	119	32
	B	590	181				*2
Newcastle-on-Tyne (2)	A	1,400	671	37,417	228	468	*15
	B	1,400	602				*94
	C, D	2,100	913				217
Newcastle-under-Lyme	A	590	222	9,653	60	121	153
	B	590	324				51
Northampton (2)	A, B	975	452	12,047	78	151	221
	C, D	975	692				463
	E, F	975	124				*115
Norwich (2)	A	920	296	20,903	126	261	*91
	B	920	414				27
	C	920	547				260
Nottingham (West)	A	800	374	16,533	102	206	66
	B	800	334				26
Do. (East)	A	680	327	12,588	78	157	92
	B	680	380				145
Do. (South)	A	710	362	13,848	84	173	105
	B	710	431				174

Some Cogent Examples.

These constituencies include metropolitan divisions of typical character, like East and West Marylebone, strongholds of democracy like Middlesbrough, Newcastle-on-Tyne, Northampton, and the three divisions of Nottingham, as well as a cathedral city like Norwich, and county divisions like Morpeth and Monmouth. The successful and unsuccessful candidates are representative men of widely different schools of political thought,

* In these cases the proposed expenditure is greater, not less, than that actually incurred. The reason for these apparent exceptions, and some discussion of their significance, will be found in the text.

such as the Right Hon. Thomas Burt, Lord Robert Cecil, Mr. J. Havelock Wilson, Sir Harry Johnston, Lord Henry Cavendish-Bentinck, and Mr. J. H. Yoxall. The table shows, however, that in appealing to all these varied electorates these candidates found it essential to spend a very large proportion of their statutory maximum of expenditure upon what the Parliamentary Return describes as "Printing, Advertising, Stationery, Postage, and Telegrams." There are a few cases, indeed, where the amount is either absolutely or comparatively very small; but the explanation is that the contest where this occurs was not what can be called a serious struggle. The third candidate in the Monmouth District spent £215, as compared with the £454 of the second and the £352 of his successful rival; but he polled only 1,678 votes, against 3,939 and 4,531 respectively recorded for the other candidates. These figures offer an instance of a candidature which is not prosecuted with all the instruments whose use the statutory expenditure would permit. The converse case was presented, for instance, in West Newington (not included in the table) where the successful candidate, secure in an impregnability shown by his poll of 4,446, against 2,425 obtained by his opponent, spent only £220 in all, out of a statutory maximum of £560. If proof were wanted that there is no necessary proportion between the lavish display of electoral posters and the abundant distribution of election literature, on the one hand, and the evocation of the political opinon of the electorate on the other, we should have it to our hand in these figures.

What alteration would have been made in these expenses if the candidate had been restricted in each case to (1) the equivalent of such a number of double-crown bills as equalled the number of the electorate in round thousands; (2) a reasonable allowance for the expense of posting 20 per cent. of these bills on "protected stations"—the remainder being dealt with by means of "fly posting" and distributed for display in windows, etc.; and (3) three separate penny postages to each elector? The figures are worked out in the table already set forth. Thus, in the first constituency whose name appears on the page, a supply of 7,000 posters (one for each elector, counted in round thousands), at £2 a thousand, will cost £14. The posting of 20 per cent. (1,400) of these, at £1 per hundred, will cost another £14. A third £14 is added for miscellaneous printing, and the total is £42. So in Norwich we get 21,000 posters, cost £42; posting 4,200, cost £42; and miscellaneous printing, £42; total, £126.

The double-crown bills have been charged at £2 a thousand, at which high figure an extremely ornate two-colour poster could

be obtained.* The bill-posting has been charged at £1 per hundred for 20 per cent. of the total number, which will provide handsomely not only for the actual posting, but for a three weeks' display of the bills on protected stations. As many of them, such as announcements of meetings, replies to attacks, and the like, will not be posted until the later periods of the contest, the cost will actually be much less; but an extravagant figure has been purposely taken.

The "Giant" Poster Not Required.

Doubtless, it will be objected that the double-crown bill employed as a single unit, complete in itself, is not capable of displaying those huge studies in colour and caricature whose production on an enormous scale has now become a recognised part of election enterprise. These posters, it will be urged, are often produced in the highest style of the art of modern colour printing. They educate the electorate, it will be said, because they put a political point more vividly than hours of explanation or columns of newspaper argument, and because the proper appreciation of their satirical suggestion is in itself a valuable training for the electoral mind. All this, and more, may be conceded; and yet the objection to the huge pictorial poster will still outweigh all the sentiment in its favour which can be evoked by the enumeration of its advantages. The primary objection is the expense. If the large coloured poster is allowed at all, without restriction as to size and, therefore, as to costliness, candidates will be compelled to vie with each other in these by-products of the contest, and the fruit of the rivalry, like the rivalry itself, is an alien and altogether undesirable element of political deliberation. Even if the candidates could be induced to refrain from these pictorial prodigalities the "outside organisations," whose presence and activity make the most tawdry features of a modern election, would (with or without the cognisance and approval of their respective protégés) employ the giant poster for the awakening of just those unruly

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* In anticipation of a challenge of these figures, the writer asked the Argus Printing Company, of Temple Avenue, E.C. (the printers of this book), to estimate for double-crown election posters. Their figures are:—

1,000, in plain matter, set right across, all black	£1	7	6
1,000 in plain matter, set right across, all one colour	1	10	0
1,000, in plain matter, set right across, black and one colour	1	17	6
1,000, in plain matter, set right across, two colours	2	0	0

Tabular matter 10s. per 1,000 extra.

It will be observed that on every thousand black and single colour non-tabular posters there would be a considerable saving on the £2 per thousand, which is the basis of the present discussion. Moreover, the estimate is for a single thousand—the first—which has to bear the cost of composition and "making ready" for the entire order, however large. After the first thousand there would be a large reduction in further copies of the same poster.

faculties of the electoral mind which show their best side in silence and oblivion. The only way, therefore, is to fix the maximum at a poster of given size, like the double-crown, and to prohibit all that are larger.

With One Single Exception.

To this prohibition there might well be one single exception. A candidate should be entitled to expend a sum not exceeding 5 per cent. of his total statutory expenditure in the provision of posters larger than double-crown, and showing (1) portraits of any deceased (but not living) person (other than a person mentioned in the Bible), to whose character, principles, or aims the candidate desired to call attention in the furtherance of his candidature, and (2) correct (but not adapted) reproductions of pictures, in public or private galleries (other than those representing persons mentioned in the Bible); but no such reproduction shall be used for election purposes if the event occurred less than twenty years before the first day of the year in which the election takes place, or shall contain any printed matter other than words briefly descriptive of the person or event which it represents, any acknowledgment of copyright or of permission to reproduce, and a single request (printed in letters not deeper than one-tenth of the total depth of the poster, and in any case not more than 8 in. deep) to support the candidate exhibiting the reproduction. The object of the first of these provisions is to exclude the representation of current or recent political events, which might defeat the educational by admitting the controversial purpose of the exhibition,* and the object of the second is to prevent an unscrupulous candidate from employing the artistic poster merely as a means of displaying his own name in letters of extravagant size.

The comparative moderation of the pictorial and literary displays which would be permissible under these provisions offers an automatic solution of the election problem which is presented by the "covering out" process. Where each candidate is allowed to display as much as he pleases of the produce of the printer's art, the temptation will always exist to "cover out" the opponent's bills, in the manner, and for the purpose, already described. But where the supply of placards is strictly limited a check will be given to these illicit ambitions by the reflection that if the opponent's supply should be the more carefully administered, his bills may be finally posted up after that of the opposite side has reached its statutory limit and been exhausted. At the same time, the defacing of bills by the posting of other bills over them, or in any other way, should be made an illegal practice (with proper exceptions for the protection of persons who carry on the business of displaying posters in return for payment, and who should, of

* See also the remarks on False Statements in Chapter IX.

course, be entitled to remove or deface political posters where the period of paid display had expired). There is no hardship in these suggestions, for the moderate display of posters which is contemplated under the present scheme could be provided for without difficulty by means of the wall space available, freely or otherwise, in every constituency, especially as the statutory limit of display would cause a sharp fall in the price asked for the use of "protected stations." It is, perhaps, almost superfluous to add that the obligation to file a sworn return of the election expenses, together with the actual receipted accounts of the various persons paid, supplies a ready and effective means of enforcing the observance of the limit in the amount of election posters provided by a candidate. Those which are presented to him should be compulsorily included, at a fair valuation, in the return of election expenses.

The Candidate's Newspaper.

In Kennington (1886, 4 O'M. and H., 93) it was specifically held that the expense of publishing a newspaper in furtherance of the candidate's interests was not an election expense. Yet Mr. Justice Field, in so deciding, said that he had "no doubt whatever that the respondent would not have published the paper at all unless he had thought it would assist him." This decision leaves the law in a very unsatisfactory state. It is quite a common practice for candidates to own, to support, or to control newspapers, and any serious attempt to deal with the problem of election expenses will be vitiated by a failure to grapple with this practice. What is required is a provision (1) that the expenses of purchasing a newspaper circulating in the constituency, if incurred within the period of candidature, shall be an election expense; (2) that if the newspaper be not purchased within the period, all matter published in its columns* in furtherance of the candidature of its owner, shall appear in the return of election expenses charged at the current local rate, per column, for election addresses, such rate being as nearly as can be calculated, the average price charged by the newspapers published in the constituency; (3) where a candidate owns or acquires the control of, or any smaller interest in, a newspaper he shall charge in his election expenses either (a) the price paid for the control or other interest if incurred within the period contemplated in (1); or (b) the price per column, as if he were sole proprietor, as in (b); (4) payments returnable under these provisions should include the price of debentures (whether registered or to bearer) acquired by the candidate; the amount of mortgages and charges created in favour of the candidate; and all other payments made to the newspaper or newspapers by the candidate

* Under the Tasmanian Act all reports of election meetings, for the insertion of which a payment is made, must bear the word "advertisement" at the head of each column.

or by any person acting on his behalf. Newspapers should be the subject of specific provision, as well as of a special clause, in the candidate's declaration of election expenses—which latter should not be sworn to, as at present, but, for the sake of more scrupulous accuracy, made upon the honour of the candidate.

Time Limit for Payment.

There are time limits with reference to the payment of election expenses. Within fourteen days of the poll all persons having any claim against the election agent must send in their accounts. Those which fail to arrive within the statutory period are barred, and can only be paid by the leave of the court. These provisions secure a rapid, and yet not too rapid, statement, of the election claims, while their origin and nature yet remain fresh in the agent's mind, and susceptible of check. The provisions, however, need to be amended by the enactment that in the case of all accounts over the sum of £1, the claimant *must* send with the account the written order of the election agent for the goods, and that no account shall be a valid claim unless so accompanied. This provision would serve two purposes. In the first place it would compel an election agent to give contemporaneous orders for all election goods, so that there could never be any doubt of the character and extent of his expenditure. In the second place (and this is by far the more important consideration) it would put a preremptory end to the pernicious idea, now so widely entertained, that any person is at liberty to consider himself ordered to render services or to supply goods, and to send in an account for them, after the election, in the full assurance that he will receive payment out of the ample resources which the occasion has called into welcome existence. One man will send in an account for £2, being payment due to him for a week's canvassing. The fact that he was never asked to canvass, and that no sane election agent would ask him (since paid canvassing is illegal) does not weigh with such a person, or with his neighbours. Their view is that he worked, and that the candidate for whom he laboured now refuses to pay him, out of sheer meanness, no doubt. Another man will have supplied 5,000 posters, which the election agent never saw, much less ordered. But they were ordered by Mr A B, who happens to be a prominent supporter of the candidate whose agent receives the claim for payment. The election agent must therefore either adopt Mr. A B's order (a course fraught with peril, both as affording evidence of Mr. A B's agency, and as adding a previously unknown factor to his aggregate of election expenditure) or else stand upon his strict legal rights and repudiate the order. In that case great damage will be done by the circulation of the news that after having supplied election printing

to the order of Mr. A B, the printer has been "done out of his money." These perils and complications would be swept away by the enactment suggested that no claim for a greater sum than £1 be valid unless accompanied by the election agent's written order. Any person who worked without being engaged, or supplied goods on irresponsible instructions, would then only have himself to blame for the consequences. The provision would become known as easily and as widely as the statutory necessity for a receipt stamp. The Tasmanian Act, as a matter of fact, contains the very excellent provision that:

160. Any person incurring or authorising any electoral expense on behalf of a candidate without the written authority of the candidate or of his agent authorised in writing, shall be guilty of a contravention of this Act.

After the receipt of the claims, the election agent has fourteen days in which to pay them and get in the receipts. After that he has another seven days within which to arrange all the documents in the form of a return of election expenses, which must be sent, within thirty-five days of the election, to the Returning Officer. This must be sworn to by the election agent and by the candidate. In this respect the colonial plan of a declaration upon honour, instead of a sworn declaration, is much the better. The form is given on page 106. If either candidate or agent should knowingly swear to the accuracy of what he knows to be a false return, he commits perjury. The offence is also a corrupt practice, and therefore entails serious consequences in rendering the guilty person incapable of voting, or of sitting in Parliament. Legal means are provided for the payment, after the time limit, of claims which are bona fide disputed, as between claimant and election agent, for instance. The non-transmission of the return is also penalised. The provisions of Section 33 (1) of 46 and 47 Vict., c. 51, contemplate the inclusion in this return of the names of any persons (whether the candidate or others) from whom money, securities, or the equivalent of money was or were received for the purpose of the election expenditure. But these provisions are frequently ignored as regards the other persons, so that a return will seldom (if ever) disclose that the candidate's expenses were paid out of the central party fund. This absence of information would be unobjectionable if the party funds themselves were subject to public scrutiny and a responsible audit. A candidate whose claims to public confidence are real and substantial may quite probably find it impossible to pay the heavy penalties (in the shape of election expenses) to which the attempted realisation of his aspirations will expose him. Pending the assumption of these expenses by the public, there is no valid reason why they should not be paid by a political organisation. But the public is entitled, in the case of the organisation, to know

how the funds originated, and what aggregate proportion of them was used in the furtherance of candidatures—the specific candidatures themselves not being necessarily enumerated.

Where, as a result of inadvertence, accidental miscalculation, or some other reasonable cause of a like nature,* expenses have been incurred in excess of the statutory maximum, the High Court, or an election court, may, on application made (and notice given in the constituency and to the opposite side), grant "relief." The precise nature of this antidote is explained in Chapter VIII.

Returning Officer's Charges.

Beyond the expenses incurred by the election agent, and the "personal expenses" of the candidate, there are the expenses of the Returning Officer, which are chargeable to the candidates —each paying half if there are two, a third if there are three, and so on. These expenses, as we have seen, ought to be assumed by the public, subject to certain restrictions which were outlined in the chapter on Candidature; and there is, as was previously said, the less objection to this because they are at present calculated on a lavish scale. To exhibit the excessive charges in detail would take us far from the main path of the argument. One small example, therefore, may suffice. By 46 and 47 Vict., c. 51, s. 35 (1), it is provided that the Returning Officer must, within ten days after he receives a return of election expenses from the election agent of a candidate, publish a summary thereof in no fewer than two newspapers circulating in the county or borough for which the election was held, accompanied by a notice of the time and place at which the return, declaration, and accompanying documents may be inspected. In respect of this publication the Returning Officer may charge the candidate two guineas for a county or district borough and one guinea for a borough other than a district borough election. This expenditure is simply waste. The persons who take a critical interest in the return are perfectly well aware of the time and place where they may inspect it, and are not likely to be satisfied with a perusal of the summary; while those who take no critical interest either do not know, or do not care, what the summary signifies. The provision appears to be intended as an automatic check on a candidate who has exceeded his statutory maximum, but for this purpose it is absolutely futile. A candidate, successful or unsuccessful, who has transgressed in that manner is fully alive to the perils of the situation without the necessity of notice given, in a technical matter, to a non-technical public; and even if he were not, he can fully rely upon the gratuitous assistance of his opponents in a post-election process of whose nature and necessity they

* 46 and 47 Vict., c. 51, s. 23 (b).

are excellent judges. The provision should be repealed, and election expenses reduced by shearing off a small but utterly wasteful item.

Broadly speaking, the working of the various provisions with regard to election expenses is the least open to criticism of any of the multifarious operations which take place under the election law. Except in the development of the "outside organisations" (unforeseen when the various Corrupt and Illegal Practices Prevention Acts were passed), they deal, in fairly adequate fashion, with the necessities which they were designed to meet. If they contemplate the movement of the political machinery at private, rather than public, expense; if they permit lavish expenditure upon pernicious, or at least objectionable, elements of the election campaign; and if they are so vague with regard to the announcement of candidature as to leave too much to judicial discretion—still, they secure to a very real extent the record of identities, the fixation of responsibilities, and the circumscription of political zeal within legal limits which only expand on good cause shown to a wary and competent tribunal. They were well up to the standard of the day which witnessed their enactment, and time has perhaps vitiated them to a less extent than is the case with any other of the contemporary provisions created to regulate election procedure.

Summary of Suggestions.

Banish the old and pernicious tradition of lavish election expenditure.

Restrict the bill-posting, both in character and amount; reduce the postages to three penny-stamp despatches (or their equivalent) to each elector.

The election agent's written order for the goods or services *must* accompany every election account amounting to more than £1.

Expenses of newspapers, owned or controlled by candidates, to fall into the statutory aggregate and be included in the return.

Other suggestions have been made in the earlier treatment of cognate topics.

CHAPTER VIII.
Corrupt Practices.

The expression "corrupt and illegal" as a part of the title of the various Corrupt and Illegal Practices Prevention Acts is the reverse of felicitous. The species (and not the genus) is made to occupy the premier position, for every corrupt practice (in the election sense) is illegal, as being opposed to the law; but every illegal practice is not corrupt. The public and its advisers constantly confuse the two classes of offence, so that A B is said to be charged with "corrupt practices" when the alleged act, at worst, is only an illegal practice. The corrupt practices, in the election sense, are bribery, treating, undue influence (i.e., intimidation, threats, or menaces, for instance), personation, and the making of a false declaration with regard to the return of election expenses. This list is exhaustive. The illegal practices are the minor offences, such, for instance, as providing bands and banners, paying for the hire of conveyances to take voters to the poll, or exceeding the statutory maximum of election expenses.

Many attempts have been made to define these two classes of offence so as to bring the essential difference into logical prominence. For instance, Mr. Justice Field, whose remarks are most frequently quoted when the distinction between the two classes is sought to be described, said in the Barrow petition (4 O'M. and H., 77), that "a corrupt practice is a thing the mind goes with. An illegal practice is a thing the Legislature is determined to prevent, whether it is done honestly or dishonestly. Therefore the question here is not one of intention, but whether in point of fact the Act has been contravened." This explanation is not wholly satisfactory, or entirely lucid. It may be amplified and illuminated by pointing out to the reader that a corrupt practice is such that no man of ordinary intelligence could commit it without being fully conscious that he was doing wrong. There can be no corrupt practice without a corrupt intention. That which lawyers call the *mens rea*—the corrupt or vicious mind, consciously bent upon the performance of an act known to be wicked—*must* be present and actively operative in the case of a man who bribes, or (generally speaking) treats a voter: or (with one slight limitation in the case of each offence, which will be explained in the proper place) personates or intimidates him. But it is otherwise with an illegal practice. A man of the highest character might hire a trap to take voters to the poll without doing anything that was morally wrong, and without the slightest idea that he was committing an offence against the law. Again, A B prepares, with his own hands, a placard containing certain statements which he is anxious to bring to the notice of the electors on the

day of the poll, and pays a voter to display the placard on the wall of his house. There is nothing ethically wrong here. In fact, the proceedings may have their origin in a high degree of moral enthusiasm. But (unless the voter so paid carries on the regular business of displaying advertisements for payment) an illegal practice has been committed; and if A. B. is the election agent of the candidate, "relief" will have to be obtained.

The Meaning of "Relief."

The expression "relief" has already confronted us more than once, and perhaps it will be convenient at this stage to explain its meaning. "Relief" is a rather happily-selected term in election law. That law is itself so highly technical, and its bristling technicalities are capable of such diverse interpretation and application according to the temperamental bent of the judicial mind, that in the absence of some mitigating expedient there is scarcely one election in a hundred that would stand against critical attack in an election petition court. The general election of 1906, for instance, provided us with a case where an important election document had been accidentally issued without the name and address of the printer and publisher; and with another case where a sub-agent had paid for the hire of a conveyance to take voters to the poll. In both these cases, but for the provision of "relief," the respective candidates must have retired from the field as soon as the error was discovered, or, if it had not been discovered till after the election, must have vacated the seat if it had been won. "Relief," then, is a power conferred upon an election petition court (and upon one of the judges where the matter arises by way of application, and not upon petition) to excuse a candidate or other person liable from the consequence of a technical breach of, or non-compliance with, the myriad requirements and provisions of the Corrupt and Illegal Practices Prevention Acts, so far as they are concerned with "illegal" practices. There is (with the slight exceptions defined in 46 and 47 Vict., c. 51, sect. 22, for the benefit of a candidate reported by an election court to be guilty, by his agents, but not personally, of treating or undue influence) no relief for corrupt practices; and it will only be granted for illegal practices if the court is satisfied that the error arose from accidental inadvertence or accidental miscalculation, and that in other respects there has been an honest and bona-fide endeavour to comply with the law. For example, a candidate who accidentally publishes a poster without the name and address of the printer will be relieved; but if he had done it deliberately, as an election stratagem, and then, having been discovered, sought relief from the consequences of his wrong-doing, he would not get it. And so, probably, a candidate who had frequently been present in public-houses while his health was drunk (though no charge of

actual treating was made against him or his agents) would probably be refused relief for an illegal practice by way of punishment for his extreme indiscretion and failure to adjust his conduct not only actually to the letter, but loyally to the spirit, of the election law. Whenever the law relating to election procedure is overhauled and reformed, a power to grant relief for corrupt practices (where committed entirely without the knowledge of the candidate or the election agent) ought to be conferred on the judges. With this explanation of the nature of "relief" we may resume the consideration of the larger subject, treating the various corrupt practices under separate heads.

SECTION I.—Bribery and Treating.

Roughly speaking, bribery is the deliberate purchase or sale of votes for money or money's worth. The legislative definition, originally given in the Corrupt Practices Prevention Act of 1854 (17 and 18 Vict., c. 102) and adopted by 46 and 47 Vict., c. 51, is extremely wide, and the breadth of its scope can best be understood by exhibiting the whole of the provisions in a kind of bird's eye view. Every person is guilty of bribery who directly or indirectly—

Gives Lends Procures	any money or valuable consideration :	to or for any voter	to induce any voter to vote or refrain from voting ;
Agrees to give Agrees to lend Agrees to procure Offers		to or for any person on behalf of any voter	or to induce such voter to vote or refrain from voting :
Promises Promises to procure Promises to endeavour to procure	any office, place or employment	to or for any other person	or to induce such person to procure or endeavour to procure the return of any person, or vote of any person.

The offence is also committed by the voter or other person who, either on his own account or for another, receives, or agrees or contracts to receive, the gifts, loans, offers, promises, procurements or agreements, either before, during, or after an election; any person who provides money with intent that it, or any part of it, shall be expended in bribery; and any person who pays money in discharge or repayment of money so expended. The reason for the enormous scope of the definition is to be found in the extremely elusive character of the offence, which, generated in secrecy, and perhaps agreed upon merely as the result of a nod or a wink, offers one of the profoundest legal and ethical problems for the solution of the Legislature. To some extent, indeed, the definition overreaches itself, in that it penalises both briber and bribee for what is a serious criminal offence, and therefore makes it impossible to charge one without the other. For instance, if A, a clergyman

of the highest character, is given £1 by the candidate, in order that he may employ it for the relief of an indigent voter, and the money is subsequently alleged to have been a bribe, it will be necessary, in the technical sense, to charge A with bribery. But in the main the definitions are excellent attempts to define the almost indefinable, and to grasp in the legal hand the psychologically impalpable and intangible. The reader will observe that at the root of all the many instances enumerated there is the element of individual bargaining directed to control an individual vote. This is the essential distinction between bribery and treating. Bribery is performed in individual cases, treating in the mass. Bribery is directed to incite or control the vote; treating, in the main, to confirm its existing tendency and to enthuse, or at least to excite, the voter. Voters known to be favourable are not bribed, for the act would be superfluous, but they are occasionally treated. The giving of meat, drink, and entertainment to large numbers of persons can be made to "square" with recognised social conventions, so as to be explainable, if challenged, in that way. This is not the case with money bribery, since it is not the custom to distribute pecuniary gifts. There may, of course, be such a thing as wholesale bribery on such a scale that the election could not possibly be regarded as the free expression of political opinion or allowed to stand. This state of things is known as general bribery and voids the election at common law, quite apart from statute.

The History of Bribery.

Early bribery, from the middle of the seventeenth century down to the time of the first Reform Bill, seems to have taken the form which we should now describe rather as treating than as bribery. The supply of meat and drink on a lavish scale was its distinguishing feature. Bribery in the true sense of the word—i.e., money bribery, was probably always an offence at common law. Lord Glenbervie defined it in that sense when he said (2 Doug., 400): "Wherever a person is bound by law to act without any view to his private emolument, and another, by a corrupt contract, engages such person, on condition of the payment or promise of money or other lucrative consideration, to act in a manner which *he* shall prescribe, both parties are by such contract guilty of bribery." Bribery in this form was known and had been punished by the House of Commons as early as 1571 in the Westbury case. The truth probably is that the same circumstances which called canvassing into being (see page 139) were responsible for the generation of bribery. The voter had it in his power to confer a means of obtaining the funds or honours which might be the reward of the member's active service or of his passive subserviency to an ambitious interest; and the member paid in advance for the

commodity which was to be so useful to him. Whitelocke (1605-1675) was long the standard authority both for the illegitimate character of bribery and the permissibility of treating. As late as the second Southwark petition (1796, Clifford, 156-232) the petitioner quotes Whitelocke as having spoken of the tenderness of the law of Parliament, "as it permits no exemptions or restraints against the freedom" of elections, "so it forbids solicitations, bribings, or gratifyings of sheriffs, head officers, or others, by any persons, or giving money or rewards (it were well if it extended to drink and entertainments) to freeholders or inhabitants, to obtain their suffrages." To this the respondent replies that he is in this quotation armed with an authority supplied by the petitioner himself "that at the time when Whitelocke wrote, treating was not an offence punishable by any known law, or which created any incapacity." But, in any case, the gross abuses to which treating led very soon induced the House of Commons to give serious attention to them. In 1677, in consequence of a report from the Committee of Election and Privileges, to whom it was referred "to consider of a paper containing a vote against drinking and bribery," the House passed the famous Treating Resolution:

> Resolved, etc., that if any person, hereafter to be elected into a place, for to sit and serve in the House of Commons, after the teste or the issuing out of the writ or writs of election . . . shall, by himself or by any other 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 the true value about ten pounds 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, make any other present, gift, or reward, or any promise, obligation, or engagement to do the same, . . . every such entertainment, present, gift, reward, promise, obligation, or engagement is by this House declared to be bribery, and such entertainment, present, gift, reward, promise, obligation, or engagement, 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 sit in Parliament by such election.
>
> Resolved, that the said order against excessive drinking at elections be a further instruction to the Committee of Elections.

Legislation Against Bribery.

This was followed by further endeavours to grapple with this troublesome question. On November 22, 1680, there is a bill "to prevent the offences of bribery and debauchery"; and on October 23, 1689, a bill "to prevent abuses occasioned by excessive expenditure at elections . . ." was read a first time. Ultimately the Act of 7 William III., c. 4, provided that no person, within certain limited periods, should give to any elector, or elective body, any entertainment, or money or promise thereof, "in order to be elected, or for being elected." In the next session of Parliament

the election of Henry Fairfax for Aldborough (Yorks) was declared void, he having, "contrary to the Act made in the last session, spent great sums of money in treating the electors." The mere record of these facts, however, is misleading if we fail to bear in mind that not only were the political ideals of the period adjusted to totally different ethical standards, but that treating was often an essential weapon, which the candidate, even in the popular cause, could by no means afford to discard. At the Buckinghamshire election of 1685 an attempt was made by the Court party to defeat Wharton, because he was one of the members who had carried the Exclusion Bill up to the Bar of the Lords. It was originally announced that the poll would take place at Aylesbury, but it was shifted, at a moment's notice, to Newport Pagnell, where, meanwhile, Wharton's opponents had engaged every available inn and lodging. The result was that the Whig freeholders who supported Wharton had to sleep in the meadows under the open sky, and they and their horses must have starved but for the £1,500—a huge sum—which Wharton spent in the provision of meat and drink. All this is very foreign to modern modes, but, looking at all the circumstances, censure would verge upon the hypercritical.

From this point down to the passing of the first Reform Bill corruption, as an element of, or an excrescence upon, the electoral mechanism develops along two distinct but parallel lines. By means of bribery and treating the voter is corrupted personally and individually. By means of the pocket borough system he is bought and sold in the aggregate, as the political property of various parties who make a profit out of the infamous traffic. Bribery becomes more open and more lavish until the recognised quotation of a vote ranges from one to twenty guineas, but in some cases (as at Grampound) rises to £300.* Treating expands in the same shameless fashion. The "Annual Register" for 1761 asserts (page 101), apparently in all seriousness, that the provisions consumed "by the voters of a small borough on the day of electing their members" (and, of course, at the expense of the members) included 980 stone of beef, 315 dozen of wine, 72 pipes of ale, and 365 gallons of spirits. These were the main items of a dinner, which included veal, mutton, poultry, and pastry as well, and followed upon a breakfast supplied to the same concourse of gluttons at an expense of £750. Even allowing for a good deal of exaggeration, these are terrible figures—alike in their exhibition of the low ideals of a comparatively recent past, and in their warning against the power and insidiousness which still survive in these appeals to the primeval instincts of humanity. As

* "Dictionary of English History." As recently as 1819, according to the report of a trial in the "Annual Register" for that year, £35 per vote was recognised as a reasonable quotation.

late as the Herefordshire petition (1803, 1 Peck, 184), it was sought to be established, on 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 corrupt intent or with a view to influence the election, is not an offence within the Statute of William III." In the second Southwark case (1796), it was possible to quote Smith v. Rose* and Ridler v. Moore,† to show that publicans had been allowed to recover the amount of their bills for drink supplied, which could not have been the case had the mere act, without the collateral evil motive, been considered as a crime; though an exactly opposite view was taken in Ribbans v. Crickett (35 Geo. III., 1 Peck, 215), where it was said that such a contract was "bottomed in malum prohibitum, of a very serious nature in the opinion of the legislature, as appears by the preamble of 7 and 8 William III., c. 4." Language used in this second Southwark case clearly indicates that the distinction between bribery and treating, now clearly recognised (see speech for the defence in Clifford's Report, page 228), was that bribery was the giving of money, and treating the giving of meat and drink. All legislative attempts to deal with the evil had proved practically futile. The Bribery Oath—the voter's sworn declaration that he had not been bribed—was not asked for lest he should add perjury to bribery by a sworn denial (Bribery Committee, 1835, Question 1294). As we shall see when we come to consider the character and tendency of corrupt practices in their influence upon the electoral machinery, there are obvious psychological reasons why legislation is almost powerless to deal with an evil of this kind, as long as the law is considerably in advance of general public sentiment. This is the explanation why the legislation, real or attempted, of 1729, 1762, 1768, 1782, 1786, and 1809 was ineffectual to restrain the growth of what had become a frightful civic excrescence. But the Reform Act of 1832 introduced new elements into the Legislature. The study of the evidence submitted to the Select Committee appointed in 1835 to consider the most effectual means of preventing bribery, corruption, and intimidation at elections, indicates, indeed, a regrettable state of affairs, but exhibits with equal clearness the growth of more wholesome opinions. Thus it happened that the sterner legislation of 1841, followed by the Act of 1852 (which conferred extended powers of inquiry into election offences upon Royal Commissioners), and that of 1854 (which made bribery a misdemeanour) was able to operate amid a healthier public sentiment. Of course, there were sporadic revulsions, such as offended the public eye after the General Election of 1880. But it was this outbreak which caused the

* Cliff, 103. † Cliff, 371.

enactment of the Corrupt and Illegal Practices Prevention Act of 1883 and thus fitly crowned the edifice of sound and salutary enactment in a matter vital to the wholesome political evolution of the nation.

The Pocket Boroughs.

So far, then, of corruption applied to the individual elector, either as an individual, or collectively with others of the same low civic ideals as himself. The root of the other species of corruption (the purchase and sale of aggregates of electors) was to be found in the economic changes that were passing over the country. The towns that had been important in the Middle Ages still retained their control of the representative system, such as it was. But very many of them were becoming of less and less importance in the economic life of the country, while the newer centres of population and activity had no constitutional means of impressing their fresher ideals of civic life and duty upon Parliament. In the older centres, as the number of burgesses fell away the remainder became the easier to control, partly because of the intellectual stagnation which follows hard upon civic decay, and partly because of the greater economic dependence which was a consequence of dying trade and vanishing population in cities whose long streets had once roared with the traffic of a mediæval fair, but were now little more than villages and perhaps mere groups of mounds. The two sources of weakness, by their combined influence, threw these old constituencies bodily into the hands of landlords and speculators. Boroughs were bought and sold quite openly at prices which seemed to have reached their superior limit in the sum of £100,000 paid for Gatton, a place containing twenty-five houses and rather more than 100 inhabitants. One of these transactions took place by order of the Court of Chancery. But these pocket-borough values fell heavily as it became evident that the reforming spirit must soon sweep away the whole obnoxious system. About the time of the Reform Act eight seats went for £4,000 the lot, and long before the political advent of the present electoral generation the only relic of the older mode was (and perhaps is) the persistence of a tendency to keep certain seats in the hands of certain families. But inasmuch as in these instances the voters have not outgrown the idea that territorial amplitude confers political capacity and an undeniable claim to their suffrages, the state of things is not so much an abuse as an antique.

Some Instances of Bribery.

The learned editors of "Rogers" adopt the general view that bribery at Parliamentary elections must always have been a crime at common law; but they account for the absence of prosecutions at a time when the offence was committed with

striking frequency and conspicuous flagrancy by the hypothesis that the House of Commons strictly conserved its own judicial power over matters concerning elections and took the punishment into its own hands. The result was to make bribery charges into questions of privilege and consequently to render extremely rash the pretensions of any individual to appeal to any other tribunal in a matter of which the House of Commons took a peculiarly intimate and authoritative cognisance. This power of the House of Commons still exists unaltered. The judges who try an election petition do so on behalf of the House of Commons and report their decision to the Speaker as the chairman of the assembly whence their own authority proceeds. It is clear, however, that bribery in those early days must have been a much more gross and objectionable electoral phenomenon than anything which we have witnessed in our own age, or are apt to associate with the idea. The validity of an election, for instance, was vainly assailed where 214 persons (of whom seventy-eight were voters and actually voted) were employed as clerks, messengers, bill-posters, and the like. (Salisbury, 4 O'M. and H., 22.) Similarly, at Tamworth (1 O'M. and H., 78), the employment of 130 men "to keep the peace" did not avoid the election; though in the Oxford case (W. and D., 106), where 198 messengers (152 being voters) were employed, it did. The other Oxford case (3 O'M. and H., 155) was an excessively flagrant one. No fewer than 744 persons were employed as messengers, of whom 600 were voters and actually voted. The fact that there was ever any doubt about the illegality of such flagrant corruption as this, and that in some cases its existence did not avail to avoid the election, is sufficient of itself to show how immensely more healthy our political ethics have become and how monstrous must have been the corrupt practices in the period from which these cases date.

The Touchstone of the Offence.

In our own day, given the legal proof of the act or acts alleged to constitute bribery, the whole question resolves itself into one of motive. Was there a corrupt intent? That question is most difficult to answer where the alleged bribery consists of donations and subscriptions to charitable and other quasi-public institutions, and the judges have displayed a marked reluctance to treat as corruption this ambiguous generosity on the part of a candidate. Of course, if it began on a lavish scale on the very eve of the election, there would be no doubt of its character. Much more frequently, however, it takes the form of long-continued and ostentatious gifts, such as we discussed very fully in considering the period of candidature. It is submitted that the solution there offered (the compulsory inclusion of all these gifts during a certain period before the election in the statutory maximum of election

expenses) is the best way of dealing with the matter. Flagrant and lavish expenditure is in that way rendered impossible during the period when it would be politically effective; the public is enabled to know what was given, and how; the generous candidate suffers a counterbalancing disadvantage as against the poor candidate, who cannot bestow lavish gifts; and the judges are, to a great extent, relieved of the onerous and odious obligation of scrutinising and classifying motives.

Whatever be the view taken of these quasi-public donations, the fact that they take place in the public eye, and that their amount is known, deprives them of much of their otherwise mischievous and sinister character. The really difficult problems of bribery arise, and the dangerous assault upon electoral freedom and responsibility is most insidiously made, where it is the mind of the individual voter that is sought to be corrupted. This class of corruption, however, let us say frankly at the beginning, is now of little menace as a present force in English politics. The writer may, perhaps, justifiably reinforce his own opinion by the quotation of an eminent American critic. "Bribery in England," says Professor Lowell,* "is disappearing. In by far the greater part of the constituencies it does not exist, and the elections are, on the whole, pure; but in a few places the old traditions still persist." Even this apparent persistence, moreover, is in some degree due to the practice of alleging that an opponent's victory is due to "bribery" or to "beer." Those who make these allegations are always scrupulously careful to put them in such a shape as shall not give any individual the chance of taking proceedings for libel. But as long as it is the occasional custom for a defeated candidate and his friends to denounce as corrupt the constituency which a day or two before the candidate would have "deemed it an honour to represent," we must be prepared for the assumption, even by experienced foreign observers of our electoral mechanism, that corruption still survives among us. In the form of intimidation, it certainly does. In the form of bribery, treating, and personation, on anything like an extensive, or even moderate, scale, it certainly does not. As a matter of fact, voting by ballot is itself one of the most valuable antidotes to bribery. It deprives the briber of any guarantee that he will get value for his money. If he discovers that he has been tricked—if the bribee has not voted at all, or else has voted against the party which provided the bribe—there is no remedy but in vituperation; and even that, being of necessity indulged in private, loses half its charm. Bribery is so extremely dangerous and is so utterly opposed to the sentiments of the vast majority of the electors, even of the very poorest, that it becomes more rare and more abnormal at every election. A candidate who is so foolish as to

* "Government of England," p. 237.

commit it, or who would not instantly repudiate its commission by others and expel the guilty persons from the entourage of his party and organisation, would be quite a rara avis in English politics. But when allusion is made to the comparative unimportance of bribery as a "present force," what is meant is that both this offence, and the allied guilt of treating, are alike appeals to the primeval instincts of individual acquisitiveness and indulgence, though because these are checked by the social conventions, it must not be imagined that they have lost their resilience. The crushing pressure of the law may not safely be removed for an instant. At the moment, however, we may well believe as regards bribery in its special characteristics of secrecy and individual commission, that its chief danger lies, not as a menace to the freedom of the elector, but to the position of the candidate. Nothing is easier than for a man to swear that the candidate gave him a sovereign, accompanying the gift with a significant wink. If the alleged act is corroborated by other evidence and if the court believes that the candidate might have been rash enough to commit bribery in the presence of witnesses, he will probably have only his own oath between himself and disaster. A vivid and actual instance, much to the point, may be briefly detailed. The voter swore that the candidate gave him a sovereign, with a hint that it was the purchase price of his vote. Cross-examined, the voter remembered the occasion perfectly well. Asked what the weather was, he replied that it was a bitterly cold day and the ground was covered with snow. As the election had taken place in the height of the summer, this answer was fatal to the charge. Another voter, giving evidence in support of a similar charge, remembered the occasion because he was selling a certain kind of fish from a barrow when the money was given him. But that kind of fish, it appears, was not in season at the time, nor could be for some months afterwards. In each case the skill of the cross-examiner brings about the collapse of the charge, but it is nevertheless permissible to reflect upon what might have happened with an equally unscrupulous but more skilful witness, able to cast an air of verisimilitude around the whole alleged transaction.

The Difficult Problem of Motive.

Given the alleged act, however, the question of motive immediately arises. The difficulties of the interpretation of the law may perhaps be made clearer by an actual case, slightly disguised. On the evening before what was expected to be a very close poll the adult daughter of one of the candidates (who was a prominent and successful worker on his behalf, and undoubtedly his agent) visited a voter, and presented him with a small sum of money (about 2s. 6d.) and with the contents of a basket which held a jug

of cream, a dozen eggs, and a pound of fresh butter. The man was a widower, with two or three young children. He was a semi-invalid, living in squalid circumstances, in a miserable by-street. His political views were doubtful, if indeed they existed in definite shape at all. The facts were not disputed, but the voter himself was not called. He feared that his evidence must in any case antagonise some of his friends, and frankly stated that if he were compelled to enter the witness-box he would say that he had forgotten all the circumstances. In support of the contention that this was an act of bribery it was urged that the lady had not been similarly kind to any other voter and that she had never before, and never since, bestowed any benevolence on this man. The reply was that the lady was actuated simply by natural womanly kindness and sympathy. Her attention had been called to the man's desolate position and squalid circumstances, as well as to the impaired health which made active exertion impossible. It was the consideration of these facts, and not any idea of securing a vote for her father, which took her to the wretched home, with her basket of dairy produce, on the night before the poll. There was some reason to believe that the recipient of the gift did, in fact, vote for the lady's father, but this was not certainly known. Was this bribery? There was only one person who could have given anything approaching a positive answer, and that was the lady herself. If (which was denied by herself) she gave the bounty with the intent that it should influence the vote, she was guilty of bribery. If she acted in natural womanly sympathy with human misery, she was not. It is probable that if the circumstances of this case were detailed to an average audience (and they were kept in ignorance of the lady's political views) there would be a sharp division of opinion. The audience would suffer from the disadvantage of not having seen the lady, but otherwise it would be in a position to appreciate the difficult problems which the law of bribery may present for the consideration of an election court, as well as for those who have to draft the charges in an election petition. In this instance, however, the court declined to listen to the suggestion of a corrupt motive. But the untechnical reader must not therefore imagine that baskets of dairy produce may be freely distributed by a candidate's daughter on the eve of the poll. Five baskets might, and ten baskets almost certainly would, assume a sinister aspect when viewed with the jealous eyes of an election petition court. It is wholly a question of motive: and this, seeing that the only source of positive information is but imperfectly available (even if it is available at all) brings us face to face with a psychological problem of the most abstruse and perplexing kind.

Further Typical Instances.

Equally complex psychological problems are presented in the following cases, which the reader may profitably consider, as a means of educating his judgment into acquaintance with the more subtle workings of the election law:

(1) A, a voter, receives £5 from an agent of the candidate. The money is paid to secure A's vote, and also to obtain his influence with certain other voters. With these latter, however, A, acting under the stimulus of the £5 bribe, successfully uses his best powers of persuasion, but makes no attempt whatever to bribe them. A's vote is unquestionably bad. What is the position of the votes of the persons persuaded by him? Are they bad also?

(2) A candidate guarantees for B, a non-voter (but who has relatives on the register) the sum of £5, for solicitor's costs, in order that he may take certain legal proceedings which otherwise he could not initiate. The proceedings are successful, and the solicitor's costs are paid by the defendants, so that the candidate is never called upon under the guarantee. Is this bribery on the part of the candidate?

(3) The son of C, a voter, has failed in mathematics at the London University Matriculation examination in June. The candidate, D, a first-class honours man in mathematics, gives him some hours' coaching during August, with the result that, when he goes up again at the September examination, he passes in the First Division, and is enabled to accept an appointment offered to him conditionally upon his passing. At the election in October C, who was formerly an opponent of D, votes and works for him. Is D guilty of bribery?

In case (1) it was judicially held that the votes of the other voters were bad. The soundness of this decision is open to serious challenge. In case (2) it was held that there was no bribery. Case (3) is imaginary, and is offered for the consideration of readers and critics.

It may be desirable to add at this point that a wager, if designed to corrupt a voter, will vitiate the vote. Suppose the candidates to be A and B. A voter, C, who is in necessitous circumstances, is a supporter of A, and intends to vote for him. D, the secret agent of B, bets C £100 to £1 that B will not be returned. C has now a large interest in the return of B, for whom he ultimately votes, in the desire to win the bet. Clearly this vote cannot stand.

A few other instances of acts which have been held to be bribery will be of material illustrative assistance:

Taking shares off a voter's hands, so as to relieve him of the liability thereon. (Bewdley, 1880.)

Paying a substitute for the voter, in order that the latter might be relieved from duty and be able to vote, without any loss of earnings. (Plymouth, 1880.) Of the same class is the direct payment of wages lost through coming to vote. (Stalybridge, 1869.)

Agent of the respondent giving a voter a pair of boots. (Tewkesbury, 1880.)

Permission given by candidate to his tenants, being voters, to kill rabbits (which their leases prohibited). (Launceston, 1874.)

Gifts of coal, sent to voters with the candidate's compliments. (He was also the sitting member.) (Boston, 1874.)

The Psychological Element.

The reader will by now have begun to realise how difficult is the examination and interpretation of circumstances which are alleged to be the environment of a corrupt act. The election judges, though as a rule they are not profound psychologists, have seen the real import of these problems quite clearly, and have even, from time to time, endeavoured to expound the scientific mode of their solution. There is a singularly happy and lucid passage in the judgment of Mr. Justice Grove (Boston, 1874, 2 O'M. and H., 164-165), where he says: "It is as well that the public should know that when a judge pronounces an opinion upon a certain state of facts he takes into consideration the existing state of knowledge, and the existing circumstances: but when upon a second occasion persons seek to avail themselves of that ruling, and think they can do a wrong act, simply trying to keep within the particular facts which upon the former occasion were held not to be corrupt, they frequently do acts which must be held to be corrupt. It may be that, upon precisely the same apparent state of facts, an act which is not held corrupt at one time may be held corrupt at another time: because knowledge goes on, and if the second act is a mode of effecting a corrupt purpose, merely getting out of a judicial decision upon the previous state of circumstances, then that which in the first instance is not corrupt would in the second instance become corrupt. It is well that persons should know that these matters must depend upon the circumstances, and that people cannot successfully evade the law by simply, as they think, getting out of the terms which the judges use in their explanation of the law." So, again, Mr. Justice Wills in Montgomery (1892, Day's Election Cases, page 150) said: "The law deals with substance, not with shadows. The law allows those trivial matters which occur from time to time and cannot be prevented, which really do no mischief except in the minds of the suspicious, and no inference is to be drawn against a person who simply eats and drinks in the way of moderate refreshment . . . . That which might present attractions to one man which he could not resist may to another be possible to avoid. A hungry creature will go into the trap for a bait at which the well-fed one will turn up his nose with disdain. But it must be obvious (I have said enough and I meant no more by what I said than to introduce what really is

at the bottom of the decision in all these cases) that the judge must satisfy his mind whether that which was done was really done in so unusual and suspicious a way that he ought to impute to the person who has done it a criminal intention in doing it, or whether the circumstances are such that it may fairly be imputed to the man's generosity, or his profusion, or his desire to express his goodwill to those who honestly help his cause, without resorting to the illegal means of attracting voters by means of an appeal to their appetite." For, as Mr. Justice Willes (Coventry, 1869, 1 O'M. and H., 106-107) remarked: "Eating and drinking must go on, notwithstanding electioneering, in the ordinary and usual course. When eating and drinking takes the form of enticing people for the purpose of inducing them to change their minds, and to vote for the party to which they do not belong, then it becomes corrupt, and is forbidden by the statute. Until that arrives the mere fact of eating and drinking, even with the connection which the supper had with politics, is not sufficient to make out corrupt treating." This aspect of treating was analysed more at length by Mr. (afterwards Lord Justice) Bowen, who said with regard to the Wigan (1881) election petition (where the question of the provision of breakfasts on polling day was discussed): "Can one close one's eyes to this fact in connection with the last Wigan election, that it took place at a time of great distress in the town, when large numbers of colliers were on strike and where the gift of a breakfast to a starving man was worth as much to him on that morning as the gift of a pound would have been perhaps, at a more prosperous time? In answer to the suggestion that a cup of coffee and a piece of bread and cheese is not such a pampering of the appetite as constitutes electoral treatment, I desire to point out that a cup of water to a soldier who is perishing for water on the battlefield would be worth all the weight of the cup in gold and more. You must not measure the treat by the actual thing which is given. Water or bread in itself may appear a little matter; but you must take into consideration the time at which and the circumstances in which it is given. Now on this day hunger was abroad in the streets of Wigan."

General Corruption.

Having indicated the perplexing nature of the profound problems underlying the expressions "bribery" and "treating," which are so glibly employed in mutual recrimination by the more ardent partisans at nearly every election, it will be desirable to add a few notes for the purpose of completing, as far as the necessities of our present purpose go, the survey of the legal elements. It is important to bear in mind, therefore, that the general prevalence of any of the corrupt practices at an election will avoid it, although no specific charge has been brought home to the

candidates or their agents. This proposition as to generality, however, though entirely true as regards bribery, treating, or undue influence, is limited in its application to the corrupt practice of personation by the improbability, not to say the impossibility, of anything like general personation at a modern election.* There exists, however, a not uncommon practice of providing what is euphemistically called "refreshment for the workers" on election day. The practice ought not to be tolerated for a moment by a careful candidate or a capable election agent. The provision of meat and drink in this way is excessively dangerous, even if it is bona fide intended only for the convenience (and not for the stimulus, much less the exhilaration) of the candidate's avowed and whole-hearted supporters. In the first place, they may introduce persons who are not whole-hearted supporters, in order that the latter may share the bounteous provision which has been made. In such circumstances the materials for a good *prima-facie* case of treating are instantly created. But even if there is the most severe and real restriction of the benefit to the avowed and whole-hearted supporters of the candidate, it only needs proof that the meat and drink were provided as a reward for services rendered (and not, with absolute gratuitousness, merely for their convenience) to transform the whole transaction into a case of illegal payment if the service rendered were (for instance) canvassing (which may not be paid for); or of illegal employment if the persons did the work of clerks and messengers, though their number were external to the statutory aggregate of such assistants. As the law stands, no such refreshment should be provided. When the law is amended, its provision should be in terms prohibited.

"Time to Vote," for Workmen.

The question whether an employer might give his workmen a holiday on the day of the poll, without risking the suggestion that he was thereby bribing them, and consequently, if he were an agent of the candidate, imperilling the whole election, was for some time the subject of considerable perplexity. The doubts are now set at rest by 48 and 49 Vict., c. 56, which legalises the giving of a holiday under these circumstances, provided (1) it is given to all alike; (2) is not given as an inducement to vote for any particular candidate; and (3) is not refused to any person in order to prevent him voting for a particular candidate. The grant of these facilities is not only permissible, but mildly compulsory, under the Tasmanian Act:

157.—(1.) If an employee who is an elector notifies his employer before the polling day that he desires leave of absence to enable him to vote at any election, the employer shall, if the absence desired is

* There is a dictum to the contrary in Belfast (4 O'M. and H., 108), where thirteen cases of personation were proved.

necessary to enable the employee to vote at the election, allow him leave of absence without any penalty for such reasonable period, not exceeding two working hours, as is necessary to enable the employee to vote at the election.

(2.) No employee shall under pretence that he intends to vote at the election, but without the intention of doing so, obtain leave of absence under this section.

(3.) This section shall not apply to any elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged.

Penalty: £5.

Such legislative provisions are not only unobjectionable, but praiseworthy. Their working requires, however, to be facilitated by the holding of all elections on one day (all public-houses being closed during the whole twenty-four hours, and all grocers' licenses suspended for the same period). This provision would secure the minimum of interference with business as a result of leave given for the purpose of voting. In another few years it will be desirable to make the polling-day a national and compulsory holiday throughout the country. That proposal, and the objections to its present adoption, are discussed in the proper place (post, Chapter XI.).

Paying Another Candidate's Expenses.

It seems clear that, in a double-member constituency, one candidate may agree to pay the expenses of the other who stands with him, although, in fact, this comes fairly near to the purchase of the political influence of the second candidate. Such an agreement, if challenged before an election court, would be liable to be very jealously analysed and examined. As there have been several recent cases where, in double-member constituencies, one joint candidate was understood to "find the money," and the other to "find the brains," it may be that a case precisely in point will ultimately engage the attention of an election court.

SECTION II.—Undue Influence.

If it is possible to claim with some degree of confidence that the potency of bribery and treating is steadily on the decline among us, mainly because of the healthier public opinion which offers an equal resentment to both, unfortunately it is not possible to say the same of a yet more impalpable, pernicious and dangerous force, the various manifestations of which are described in the single term "undue influence." This is powerfully operative everywhere—more powerfully, perhaps, in county than in borough elections, but in both cases far too widespread to be regarded with equanimity by any serious observer of the electoral system.

Like bribery and treating, intimidation was originally practised upon the aggregate of the citizens, as well as upon the individuals separately. This was always contrary to the common law, as is shown by the declaratory statute 3 Edw. I., c. 5, which forbids the

disturbance of the right of free election by means of arms, as well as by "malice and menacing." The maintenance of a standing army by the King, and the interference of peers in elections, were also regarded as dangerous to electoral freedom. The former danger has been removed by the placing of the army under the control of Parliament. The latter forms the subject of spasmodic discussion in the House of Commons. The protests, however, are invariably directed to alleged pre-election interference with the freedom of election, although, as we shall see, there is an equally objectionable and much more subtle form of interference by means of attempts, subsequent to the poll, to quash the electoral verdict by means of an appeal to another tribunal. Ministers of the Crown, by the use of the powers of office, and the police, are other sources from which the undue influence of the mass of the electors has been supposed to come, or to be likely to emanate: and various attempts have been made to neutralise or to destroy it, both by resolution of the House of Commons and by statute. Undue influence, as exercised upon the individual, must have been fairly frequent during the period when bribery and treating flourished in unchecked profusion. Any elector who had sufficient independence of mind to seek the inspiration of his action in his political judgment rather than in his pocket or his appetite, probably found himself in no enviable position. This would naturally be the case with the pocket boroughs. If even the member himself was compelled to follow the owner of the borough to the hunting field, as part of his entourage, the danger of an individual repudiation of the obligations of clientship can be easily imagined.

Undue Influence Defined.

The modern definition of undue influence was attempted for the first time in Sect. 5 of 17 and 18 Vict., c. 102, and this section, repealed and substantially re-enacted by Sect. 2 of 46 and 47 Vict., c. 51, is now the statutory authority on the subject. The section provides that "every person who shall directly or indirectly, by himself, or by any other person on 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, 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." By section 3 of the same Act undue influence

is made a corrupt practice, and so becomes capable (if committed by a candidate or his agents) of avoiding an election, subject to precisely the same considerations with regard to motive as bribery and treating. It is, however, a much more impalpable and insidious influence than either of the other two of these triplets of corruption. The use of brute force or violence is not a common form of undue influence than either of the other two of these triplets of corruption. difficult of excuse or explanation, for it to be a safe weapon to use. It is in its other two forms—the open, disguised, or understood threat of pecuniary, or else of social, injury, damage, harm, or loss, that undue influence is exercised at present.

Illustrations of Undue Influence.

A tradesman is not told in so many words that he will lose custom if he votes for a certain candidate or identifies himself with a specified civic cause. But he is "given to understand" that such will be the case, and the hint is conveyed in manner so impalpable to the law—perhaps even by a grimace or a gesture—that a prosecution for intimidation is out of the question. More subtle still is the silent, unthreatened, withdrawal of custom. The tradesman finds that his business increases if he is thought to be supporting this side and that customers fall away when he identifies himself with the other. He has not studied Mill's theory of concomitant variations, but his mother wit enables him to apply it to his own affairs. The result is frequently to make him into a civic hypocrite, exhibiting the placards, cheering the name, and attending the meetings of the candidate against whom, in the secrecy of the polling-booth, he casts his vote. No electoral system can be regarded as satisfactory which fosters, or even tolerates, a furtive and cunning spirit as the accompaniment and inspiration of a political duty.

But there are more insidious forms of intimidation. The candidate for an almshouse or a cottage provided out of the funds of some society is made to understand that unless his own political colouring harmonises wtih that of the local committee his hopes will be in vain. The workman, again, is not often told in plain English that if he votes for A, or seeks to aid him by canvassing or the expression of opinion, he will be discharged. The threat is more likely to take the form of a hint that if A gets in all the men on the estate, for instance, will be discharged. If one of the men does, in fact, receive his dismissal, before the poll, as a warning to the others, a prosecution is hopeless. At the best it will not put the man back in the place that he has lost; at the worst, if the contest is close, it may lose the battle for the candidate from whose side the prosecution comes, or in whose interest it appears to be initiated. Moreover, the dismissal may, from the point of view of the present discussion, be perfectly innocent. As

Mr. Justice Willes said in Blackburn (1869, 1 O'M. and H., 204-5): "Where an employer has a mixed motive for dismissing his man, where he has a reason for getting rid of him apart from his politics, is the employer bound, in point of law, to abstain from getting rid of him merely because of the general election coming on? Well, I think that in point of law, as an abstract question, he is not bound to abstain. But I think any sensible man or sound lawyer advising him would say, 'You may do so; but take care how you do so, because, unless you prove clearly that you have a good ground for discharging your servant apart from the political one, it is inevitable that your discharge of him will be imputed to your dislike, not of the man himself, but of his politics.'" Occasionally this species of undue influence takes a curious form. In the Northallerton case (1869, 1 O'M. and H., 168) a person threatened to give up his pew in a Nonconformist chapel unless the minister voted in a certain way. This was held to be intimidation. The difficulty in all these cases, of course, lies in the undeniable fact that where a man possesses the power of legally conferring benefits, and where he has the legal right to confer them on such persons as he may in his absolute discretion select, it is a matter of the extremest nicety, if not of utter impossibility, to determine whether, in a given case, his choice was the result of discretion alone, or of discretion tinctured by a political purpose. An even more subtle (and, it is to be feared, not uncommon) form of intimidation consists in telling the nervous voter that there is a means of discovering how he votes, and that therefore he had better be careful. Unfortunately, there *is* a method of finding out how some of the voters voted, which will be discussed in full when we come to consider the supposed secrecy of the ballot. The flaw is only slight, but it is potent for evil among a class of voters who are (sometimes not without reason) fearful of the discovery of their exercise of the politically independent judgment which the Third Canon requires, and which it should be the highest aim of the electoral system to stimulate and foster. It is very desirable—if not, indeed, essential—that this flaw should be repaired. At a later stage of the discussion a mode of repair will be suggested.

Spiritual Intimidation.

Direct spiritual intimidation, the actual threat of divine displeasure if the vote is cast in a certain way, is extremely rare in England, simply because it would be ineffective. Men who are humblest in the realm of mystery, and docile in the hands of those who purport to be the guides of its trackless labyrinths, are prone to be among the most intractable amid the realities of civil strife, resenting almost with fierceness the suggestion even of advice, to say nothing of control or compulsion enforced by penalty. Of what are called the spiritual or intellectual terrors the only potent

one is the appeal to the gregarious instinct of mankind, enforced by the intimation that every decent man, or every religious man, or every educated man, is opposed to a certain candidate. Many a voter who would be impervious to all other weapons goes down before this pricking of his imitative faculties, this rousing of his instinct, even far too keen and potent, to go with the crowd. It has elsewhere been pointed out, in dealing with the question of the desirability of having all elections on one day, what a tremendous impulse is given to the fortunes of the party which draws first blood by the desire of undecided or immature political thinkers to be on the winning side.

Trickery as an Undue Influence.

There are a few other methods of undue influence which must be mentioned in order to complete our survey of the subject. Forcible abduction is not likely to occur in our day. It would not be worth while, and it is altogether too full of risk for the perpetrators. Abduction, by a trick, and for a time only, is not an uncommon election device. The voter is got out of the constituency on the day of the poll, and kept away till the ballot boxes close. This kind of thing, whether carried out by an employer who deliberately sends a workman on a distant "job" on the day of the poll, or by the workman who punctures the tyres of his employer's motor-car, or by the eager partisan who takes one or more voters to the seaside on the poll-day (see an instance described in detail in Chapter XI.) is extremely pernicious, but very difficult to strike at. The proof of the evil motive generally fails. The master has the legal right to send the workman where he will, and the partisan cannot be prevented from taking a friend for a day at the seaside. In both cases the inspection of the mind, which would alone reveal the motive, is impracticable by a human tribunal: and in the absence of that channel of investigation, it is generally useless to attempt to bring the offence home.

Another of the more obscure forms of undue influence is now practically non-existent. It consisted in the attempt to mislead the voter, by means of some fraudulent device or suggestion. For instance, the voter receives a specimen poll card with the "X" marked opposite the name of a certain candidate, and a printed intimation that unless he marks his ballot paper in that way, his vote will be lost. Those who sent the missive would claim that their meaning was that the voter must signify his wishes by the "X," and in no other way, and that if he failed to carry out these instructions, his vote would certainly be lost. If that were really what was intended, the intimation would have been quite legitimate guidance. But what the voter frequently understood (and what, it was alleged, he was intended to understand) in these cases was that unless he placed his "X" opposite the name of the

candidate in whose interest the misleading missive had been sent to him, his vote would be lost (see Stepney, 4 O'M. and H., 55). With an electorate whose educational standard rises higher every year the opportunities for devices of this kind are fast fading away. More subtle modes of procedure have been discovered, some of which, elsewhere in this essay (see, for instance, the discussion of False Statements at Elections), are treated in detail.

Another very curious device, which is probably fraudulent within the meaning of the section (see Northallerton, 1 O'M. and H., 169), is worked by means of "pairing." A and B, voters on opposite sides, agree to pair. B, in pursuance of a fraudulent intent, breaks his tacit pledge, and votes, thereby destroying A's vote by a discreditable trick. This device, however, can never have been very prevalent, and like others which depend for their success upon a low educational or ethical standard, is now so rare as to be negligible as an electoral influence.

General Intimidation.

Finally, while individual intimidation will avoid an election only if committed by a candidate or his agents, the election may also be avoided if there is such general violence and intimidation (such, for instance, as the presence of mobs of roughs in the streets, assaulting voters) that men of ordinary nerve and courage are deterred from going to the poll. But even where these disorderly elements are present, a modern election court would probably require some proof, or, at all events, the grounds of some presumption, that the result of the poll would have been different if there had been no intimidation. Clearly, if the intimidation were exercised against the supporters of the candidate who was, nevertheless, successful, it would be absurd and unfair in the extreme to avoid the election because of it. Election rioting, which was rampant as recently as 1880, is now becoming rather the exception than the rule. Its place is taken by a systematic besetting of the voter, which we shall examine when we come to discuss the mode and circumstances of the poll, and which requires to be sternly dealt with by means of legislation.

Legitimate Anger is not Intimidation.

While, however, the elimination of all these undesirable influences from the electoral arena represents a consummation towards which sound political emprise must be steadily directed if it is to invigorate the civic organism with some breath of a higher and purer atmosphere, it were wise not to lose sight of certain difficulties which are inherent in the existing social and business system. This is a competitive age. Business is conducted by means of a series of competitive organisations, progressively arranged as to size and power, and each grouped round some central

figure to which it looks for impulse and guidance, and under whose orders it acts for the preservation of the corporate interest. The central inspiration of the great wholesale business is its manager, whether he is chief proprietor or not; and thence, downwards in descending scale of power and responsibility, we see departmental managers, larger and smaller retail traders, their staffs and their dependents. Loyal co-operation is the first condition of efficiency in an intricate organisation like this. Nobody would argue that the hopelessly incapable man should be allowed to retain his place in it, since he could only do so at the cost of a severe check upon the active operation of all the other elements. And it is surely also true that he whose political instincts or principles are such as to bring him into conflict with the interests of the general body may be expelled therefrom, and that the process of expulsion shall not be called intimidation. A brewer's traveller who develops into a prohibitionist, and becomes conspicuously identified with the prohibitionist propaganda, might well be removed from his position without any infringement of the principles of political freedom. The same fate would assuredly overtake the member of a trade union who, while enjoying the benefits of corporate protection and collective bargaining, advocated the passage of laws under which trade unionism should be a criminal offence. The prohibitionist propaganda may be all that its advocates claim, but its interests can by no means be reconciled with those of a brewer; and in a competitive age the man who earns his living by assisting in the conduct of a traffic which he denounces and endeavours to suppress cannot complain if he is compelled to abandon a position distinguished only by its inconsistency. Freedom to denounce what is believed to be a hurtful traffic is one thing; freedom to simultaneously share in its gains is quite another. The fault is not with the brewer who seeks to protect himself from wounds at the hands of those whom he has a right to consider friends, but with the competitive system, under which men are split up into quasi-military and mutually hostile bands. For that system the brewer is not responsible; but as long as it subsists he has a right, within legitimate civic limits, to square his conduct with its needs and demands, which he does, for instance, when he rids himself of a hostile servant, whose actions are a hindrance to him in the competitive battle that society forces him to wage. In answer to the argument that the instinct of self-preservation would justify the assailant in maintaining, as long as he could, his pecuniarily advantageous connection with that which he assailed, the reply would be that the same instinct of self-preservation would justify his co-operators in getting rid of so dangerous an associate: The same reasoning is equally applicable where any propaganda, hostile to the corporate

interests of any trade or similar organisation, is carried on by those who at the same time share in the benefits derived from the operation of that which they oppose. He who essays the dual rôle cannot be politically honest; and to strike at political dishonesty is not intimidation.

SECTION III.—Personation.

Before the extension of the franchise, and under the old system of open voting (as distinguished from the ballot), the opportunities for personation must have been practically non-existent. When the whole electorate of a constituency could sometimes be numbered on the fingers of one hand, and in many cases did not exceed 100 persons, the voter who came up to the hustings to prove his title to vote must be personally known to every witness of the proceedings. Voting on a registered qualification at once opens the door to the practice of personation; and the opening becomes wider as the register increases in bulk, and the attainment of personal acquaintance with all the individual voters becomes proportionately more difficult. The earliest English Act striking at this offence is 60 George III. and 1 George IV., c. 11, s. 36—a comparatively recent statute, evidencing the quite modern character of the offence. Personation is now defined by 35 and 36 Vict., c. 33, s. 24, which provides that a person shall be deemed guilty of personation at an election who "applies for a ballot paper in the name of some other person, whether that name be that of 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." Opportunity for self-personation arises where the same voter has more than one qualification in the same county or borough, and is on the register for each. The divisions which we call constituencies are only created for convenience, and therefore a person who is on the register in two divisions is, in fact, given the opportunity (in the absence of the provision against self-personation) of voting twice over. For instance, let the voter reside in Mile End, and have a shop in Whitechapel. He will be on the register in both constituencies; but as they are themselves only divisions of the old borough of the Tower Hamlets, the voter would, if he voted on both qualifications at a general election, have given two votes in what is, in fact, only one constituency. Hence, as soon as he has voted on one qualification, he is guilty of self-personation if he attempts to vote on the other, at the same election.

The Prevention of Personation.

The established machinery for the prevention and detection of personation consists of the professional vigilance of the returning

officer or the presiding officer* and his assistants, supplemented by the partisan activity of the personation agents. If the presiding officer has doubts about the identity of an applicant for a ballot paper, he must, if required to do so by one (or both) of the personation agents, "put the question"—that is, he (generally) administers an oath†, and then asks, "Are you the same person whose name appears as A B on the register of voters now in force for [the constituency, described with technical exactness]"? (6 and 7 Vict., c. 18, s. 81.) The form of this question should be carefully noted. It is not an inquiry whether the voter's name *is* A B, but whether he is the person represented on the register as A B. Thus, if the person on the register appears by mistake as "C. B." it will be quite proper for A B (who is really the elector to whom the entry "C B" refers) to take the oath and proceed to vote. If the question is not directed against the identity of the voter, on the suggestion that he is personating some other person, it may take the other form allowed by the same section, and directed against self-personation: "Have you already voted either‡ here or elsewhere at this election for [the constituency, described with technical exactness]?"

The offence of personation is complete as soon as the ballot paper has been applied for, even if in consequence of challenge the applicant does not take the oath or proceed further. He is liable to immediate arrest on the initiative either of the presiding officer or of the personation agents. But if he takes the oath he must be allowed to vote, and the entry "protested against for personation" is then made against his name on the presiding officer's marked register.

Where a voter, on applying for his ballot paper, discovers that an application has already been made for it in his name (*i.e.*, that he has been either accidentally or corruptly personated) he may, upon answering the question and taking the oath, vote upon a "tendered paper." This is a ballot paper in the same form as the ordinary paper (except that it is pink, while the others are white), but it is not counted by the returning officer in ascertaining the result of the poll.

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* The returning officer is the responsible head of the whole official machinery at an election. A presiding officer is the responsible head of a single polling station only, and of course acts under the instructions of the returning officer. The returning officer may himself, if he choose, be the presiding officer at one of the stations.

† The form is given in 6 and 7 Vict., c. 18, s. 81.

‡ This word applies to counties only. For some reason or other it is omitted from the corresponding borough formula given in 48 and 49 Vict., c. 23, s. 13 (4).

The Machinery Criticised.

The existing machinery for the detection of personation (provided that it includes skilled agents acting in the interests of the contending parties) is quite adequate, if properly and intelligently worked, even for dealing with an electorate based upon the principle of universal suffrage. It would, no doubt, be somewhat strengthened if returning officers made it an invariable practice to employ such persons as rate and tax collectors in the capacity of presiding officers. These men have a very extensive personal knowledge of the electorate, and their known presence in the polling booth acts as a wholesome check on the ambitions of the would-be personator. They are, in effect, public personation agents, and the addition of the party personation agents, as auxiliaries, creates a barrier which only the most reckless of would-be personators is likely to endeavour to pass. Agreement between the contending parties not to employ personation agents (which is understood to have taken place, for instance, at the Wolverhampton by-election in 1908*) is a most reprehensible arrangement, the general adoption of which would lead to endless confusion and impropriety, especially in town constituencies where there is a "rush" to the polling booth between six and eight p.m. Its first symptom would be an appreciable increase in the percentage of the total electorate which had apparently gone to the poll; but no purpose would be served by discussing its further effects, since it is inconceivable that an arrangement so alien to sound electoral principles should secure general acceptance.

The entire absence of arrangements for the prevention of personation being unthinkable, and the presiding officer's efforts, useful as they are, being limited by the fact that the detection of personation is only a single, and to some extent an incidental, department of his duties, there must either be party agents or a public official specially appointed for the detection of personation. But a public official, even if the political circumstances of his appointment were ineffective to deflect his watchfulness, would never be likely to display the zeal of party agents, especially as the position, offering at best the reward of a few guineas at intervals of years, would not attract men of the same ability and eagerness as an election agent can always secure. For the party agents, it should be said, are provided with "marked copies" of

* As the majority was only 8, the absence of personation agents rendered the result quite inconclusive as a test of political strength, though, of course, quite valid from the legal point of view. The opinion here expressed with regard to the serious inadvisability of dispensing with personation agents is confirmed by the fact, not generally known, that preparations were made (under distinguished legal auspices) for challenging the Wolverhampton election, largely on the ground of alleged personations.

the current electoral register, which show clearly all the persons whose application for a ballot paper should be watched for and challenged. As the cases will exhibit the extreme complication even of this minor department of the electoral mechanism, it will be worth while to set out in detail the circumstances which may give rise to wilful or accidental personation, both of which are, from the electoral point of view, equally undesirable.

Detailed Sources of Personation.

VOTER DEAD.

VOTER ABROAD (and either certain not to come to the poll, if in a distant land, or his appearance very doubtful and to be carefully observed, with the "question put" if necessary).

VOTER IN PRISON.

VOTER TOO ILL OR TOO INFIRM TO ATTEND.

VOTER NEVER VOTES (there is a large class of such persons known to the registration agents. The public would be astonished, in the absence of personation agents, by the number of attempts which would be made to take advantage of the despised and unused electoral privilege of these habitual absentees).

VOTER LIVES SO FAR AWAY (i.e., he is a distant out-voter) that he is unlikely to attend. This class of voter is occasionally (and more frequently than the public imagine) subjected to a personating process which spoils his vote and may sometimes add a vote to the other side. If the distant out-voter is successfully personated before he actually arrives at the polling station, he will be compelled to record his own actual vote on "a tendered paper," which does not go into the ballot box. Thus his own vote has been spoiled, and it is quite possible that the vote recorded in his name has been given for the candidate to whom he is opposed. This is another of the comparatively obscure processes which occasionally operate, in a close contest, to change the political complexion of a constituency.

VOTER IS ON THE REGISTER FOR ANOTHER DIVISION of the same borough (for instance), and must be asked, should he attempt to vote, if he has already voted in the other division.

VOTER'S HOURS OF LABOUR ARE SUCH THAT HE IS UNLIKELY TO VOTE.

VOTER IS KNOWN TO BE AWAY FROM HOME, and is not likely to vote.

VOTER IS LIABLE TO BE UNINTENTIONALLY PERSONATED, as where father and son, of the same name, live in the same house, the one as lodger, the other as occupier. If the lodger applies for a ballot paper first, not stating that he is the lodger, he may receive the occupier's ballot paper. The latter will then, on attempting to vote, be required to do so on a "tendered paper"

(which is not counted when the result of the poll is ascertained), and therefore his vote will be temporarily lost. The result of such occurrences might be to apparently change the political colour of the constituency, and the matter would require a petition to adjust it. There was an actual case in 1895, where the majority was only four at the count. It would have been five, but for an unintentional personation, as the involuntary personator voted for the successful candidate. If the poll of the latter had been four votes less, the unintentional personation would have produced a tie, where otherwise there would have been a majority of one. Such are the curious and unforeseen circumstances which operate to accelerate, or retard, our political evolution.

VOTER MAY BE CONSCIOUSLY, BUT NOT QUITE FELONIOUSLY, PERSONATED. This will occur where father and son, of the same name, live at the same address, but only one of them is a voter. To bring home the guilt of personation to the non-voter would be a task of some difficulty, since he would say that he saw what he believed to be his own name on the register. An intelligent election agent, therefore, sees that the personation agent is provided with a rough description of the real voter (e.g., "man about 70 years of age") which will enable him to baulk the inadvertence, or the misplaced electoral enthusiasm, of the wrong man.

Popular Views of Personation.

It would be a mistake to imagine that the establishment of universal adult suffrage is likely to do away with personation. As far as the accidental species is concerned (and especially in the case of adult sons living with their fathers on a qualification which is not at present sufficient to give the franchise to all) there would be a large increase, which would necessitate a corresponding reinforcement, or at least stimulation, of the means for preventing it. And with regard to wilful personation, as adult suffrage would increase the absolute number of involuntary absentees who were ill, or in prison, or otherwise debarred from physical attendance at the polling booth, there would also be an augmentation of the aggregate of attempts at personation. The idea that the franchise was an essential right of each adult, which would be created by the grant of adult suffrage, would foster the determination, in a certain class of mind, that it should not be lost as the result of accident. If the voter could not vote himself, somebody would be provided (in the euphemistic phrase which is generally used of this class of election enterprise) to "vote *for* him." Here, again, we are among the problems of electoral psychology, for a resolution to personate a voter does not necessarily involve moral turpitude, though it must, if attempted or carried out, involve legal guilt (except in such cases

as that of the father—occupier, and the son-lodger, as given in the list above). If A, an eager but infirm politician, anxious that his vote should not be lost, sends B to personate him, with instructions how to mark the ballot paper, B may quite honestly perform his mission as between himself and A, but he will none the less be guilty of the full offence. Of his wickedness, or even his legal guilt, however, you will vainly try to persuade the ordinary voter. To him the fact of the instructions having been given is an all sufficient answer to the charge; and, what is more, personation carried out merely for the gratification of party zeal, or even to "dish" an out-voter by "voting for him" before he reaches the poll himself, is regarded by a large and intelligent section of the electorate as legitimate sport, very much in the same light as poaching in a rural district.

Personation, and the aiding, abetting, counselling, and procuring of personation are not only corrupt practices, but felonies. In this case, however, as in that of the other corrupt practices, the corrupt mind is essential to the offence. A voter whose name is William Smith, but who appears on the register as John Smith, may properly apply for a ballot paper in the name of John Smith, for he is the person signified by that name on the register. But if the voter actually is John Smith, and William Smith seek to obtain the ballot paper by giving the name of John Smith, it will be very difficult to save him from a conviction for personation.

SECTION IV.—False Return of Expenses.

The last of the Corrupt Practices is committed by a candidate or election agent who knowingly makes a false declaration (before a justice of the peace) verifying the accuracy and completeness of the return of election expenses. This offence is wilful and corrupt perjury, and is (by Section 33 (7) of 46 and 47 Vict., c. 51) also made a corrupt practice, so as to entail the disabilities for a corrupt practice, which are not attached to the ordinary offence of perjury. Mere failure to make the return (as distinguished from making it falsely) is only an illegal practice. These provisions with reference to falsity of the return are properly drastic, but no charge of wilful falsity has ever arisen under them in connection with the return of the expenses of a Parliamentary candidate. The charge of omitting various items from the return, which almost always forms part of the petitioner's case on an election petition, has to do with technical, not corrupt, omissions. That is to say, it is concerned with expenses which the election agent, in the bona-fide exercise of his discretion, did not consider to be election expenses (see page 100), and therefore omitted: not with those which, well knowing that they were election expenses, he corruptly endeavoured to conceal. In one of the colonial election

schemes, as we have seen, the declaration of the accuracy of the return is made on the candidate's honour, not upon his oath.

"Corruptly" Procuring Withdrawal.

The payment, or promise of payment, of money to induce or procure the withdrawal of any person from being a candidate is, if done "corruptly," only an *illegal* payment. This provision, which is one of the paradoxes of the election law, will be discussed in full among the illegal payments themselves. It is mentioned here only to make it clear that, in spite of the use of the word "corruptly," the offence is not a corrupt practice.

SECTION V.—General Considerations.

The questions which arise out of the alleged commission of corrupt practices form by far the most difficult problem of all those which present themselves to the student, or the reformer, of our electoral machinery. It is concerned with the very subtlest and most impalpable of forces, operating in a manner at once potent and mysterious; and its complexity is increased by the mixed sentiments of the electorate with regard to it, so that a candidate or an election agent, acting upon the clearest and most unmistakable evidence, might initiate a successful prosecution for corrupt practices, only to disover that this public-spirited action had caused such a transfer of the votes as had lost the battle for his own side. The truth is that with regard to this class of election offence, as also with regard to so many others, no adequate steps can be taken without an appeal to the law; and the law, in election matters, is considered by many voters to be a biassed outsider, whose entrance to the arena is an unsportsmanlike interference with the progress of the game.

At this point, then, we approach some of the greatest psychological difficulties of the electoral system. It is a mere political proverb that the petitioning candidate is always unpopular. The idea is that he is not a man who can take his beating with good humour, but goes behind the backs of the electorate to get their verdict reversed. The electorate regards these tactics as unsportsmanlike, and as savouring of censure upon and appeal against itself. Hence it is that the party leaders who resolve upon a petition must always be prepared to see their position worsened, even if they win. Precisely the same considerations will be found applicable in the case of a prosecution for an election offence. The writer does not hesitate to say that unless he had been sure of a majority of not less than 600 in a constituency of average size, he would not, as election agent, sanction a prosecution for any election offence, however grave, because of its disastrous effect, if successful, on the poll of his own candidate. If on an electorate of 10,000 he had come to the deliberate judgment that a majority of 600 might be obtained, he would expect

to see it reduced to 200 at most as the result of a prosecution of any member of the opposite party, even on the clearest evidence, for an offence against election law. The reproach of "unsportsmanlike" conduct, the odium of appeal to an alien tribunal, the certainty that the offender will have friends in the party which prosecutes him, and that they will show their resentment to the utmost of their power, are all factors which must be taken into the survey made by an election agent when he is called upon to pronounce on the question of prosecution or no prosecution. From the ethical point of view there is much to be said in favour of putting the law in motion: from the tactical point of view nothing at all. The words are written with the deepest regret that it should be so, but they are words of truth.

The Psychological Perplexity.

We are now indeed in the presence of one of the *leges damnatæ*, the hopeless problems of election law—hopeless, that is to say, under existing circumstances and with current prejudices as the necessary subject matter of an election agent's anxiety. It may well be said that the agent ought not to be studious to conciliate the unworthy prejudices which are aroused by an effort to suppress breaches of the law. The answer is that, according to our present electoral lights, an election agent is judged by the results of his tactics, and that he, in plotting his plan of campaign, has to consider the electors as they are rather than as he, however nobly and disinterestedly, would strive to make them. To the suggestion that there should be a Government official at every election, as there is a representative of the Public Prosecutor at the trial of every election petition, in order that every suspicion may be noted and followed up, the answer is (1) that even were such an official present, he would be regarded, in his activities, as inspired by the opponents of the party against which those activities were directed, and the result would be much the same as in the case of a direct prosecution by the opponents themselves; (2) that as long as political services are the qualification, or one of the qualifications, for promotion in the national service, a man who owes his position, as potential State prosecutor, to a given party, cannot dispassionately consider that party's shortcomings in the electoral arena; and (3) that the less the influence of officialism upon the methods by which the citizen conveys his opinions to his representatives at the helm of the State the better for the citizen and for the State as well. Even with a State official as prosecutor, it is certain that the warped and stunted kind of public opinion which resents such prosecutions, being unable to revenge itself upon the prosecuting authorities, would seek satisfaction in striking at the candidate in whose interest, as this section of the electorate would suppose, the proceedings had been instituted.

The Larger Tribunal.

There is only one tribunal, vast and irresistible, as well as perpetual in its deliberations, that is competent to deal adequately with these troublesome and perplexing questions. We are concerned with an electoral generation which is immeasurably superior to its immediate ancestry, even in the mere intellectual qualification for the exercise of the franchise, to say nothing of the political experience which is as potent a factor in the equipment of a people as it is in that of an individual. We can, subject to one condition, instil into the electorate a realisation of the essential social and political turpitude of offences against the election law, and in that way remove from the path of a candidate or his election agent the temptations to pander to the "sporting" ideas of a constituency. Since these are no more the characteristics of real and manly sport than are the proclivities of the ordinary pigeon-shooter, there need be no hesitation in sweeping them away, no fear that the healthy manliness of the race will be sapped by their absence. We can in the same way instil into the would-be intimidator (howsoever he works) a wholesome fear of public displeasure, even if he is secure from appearance at the bar of a judicial tribunal. Contemporaneously with this wholesomely minatory process we may encourage the development of the individual electoral judgment by enabling it more fully to realise at once its privilege and its power; and by removing the existing slight flaws in the secrecy of the ballot, we may secure the maximum independence of judgment, and consciousness of freedom from external interference. While we are doing this we are raising the morale of the entire electoral organism, so that the very methods by which we seek to protect it will of themselves generate the means and the capacity for self-protection on a higher plane of political hardihood. The one condition necessary to the vigorous prosecution of this programme is that the election law shall be up to the standard of reasonableness which is current among the people who are asked to co-operate in its enforcement; and the present electoral law of England, being out of date and out of consistency with the needs of an electorate which is every day becoming more intelligent and thoughful, does not meet the necessities of that stipulation. But only in that way can we avoid the almost repulsive conclusion that, except in its coarser physical manifestations, corruption is an evil with which legislation is incompetent, if not, indeed, wholly impotent, to deal. The vicious thing must be destroyed by means of the only weapon against which it is not invulnerable—the growth of a sound and vigorous public opinion, hostile to corruption alike in its coarse and in its subtle manifestations, and capable of inflicting upon those who employ it the same social and political ostracism, the same exclusion from the pale of decent-minded citizens, as forms the penalty of any

other disgraceful offence against the recognised canons of a decent life. There are offences which break no law, but which expose the offender to a surer and more terrible penalty than that which commences with the dock. The candidate, the citizen, or the body of citizens, to whom the guilt of bribery, corrupt treating, or intimidation has been brought home by moral, though not necessarily by legal, proofs, may come in this way to be visited with a civic displeasure as severe as those social penalties meted out to him who, under the hospitable shelter of his friend's roof, seduces his friend's daughter.

The Elevation of Public Sentiment.

That these elevating influences can really be brought to bear, and are actually working in our midst, will be evident to any observer of the drift of public sentiment who will compare its tone with regard to election offences, say, in 1880 (the last general election before the Corrupt and Illegal Practices Prevention Act of 1883), with that which now prevails. The advance is immeasurable, and there is every reason to believe that it will proceed at an accelerated pace, and yet with confidence, and dignity, and certainty. Meanwhile, the existing modes of punishment for corrupt practices must be maintained in operation, up to the limit of their effectiveness, as non-psychological weapons employed against an enemy wrapped in psychological intangibility. These existing modes of punishment are not quite ideal. Throughout the consideration of corrupt practices the attention of the reader has been drawn to the "corrupt" element as the essential of their existence. Self-personation, in the honest belief that the second vote was as much a constitutional right as the first, and in ignorance of the law, is not a "corrupt" practice. But when we remember that the power of ultimate decision in these impalpable matters of motive, in subtle questions of knowledge and intention, is ultimately committed to the two judges who form an election petition court, and who are both of them, in all probability, ex-politicians, we cannot regard the *modus operandi*, in these delicate questions, as altogether unobjectionable. The power in this way committed to the judiciary of confirming or nullifying an electoral judgment is open to the same objection which was urged against the corresponding power to decide upon length of candidature. But in that case there is a simple remedy available, in the shape of the fixation of the period of candidature at a definite time. With regard to bribery and the allied corrupt practices, the Gordian knot is far from being so easily cut. If the political opinions of the parties could be kept from the jury's knowledge, a special jury would be the ideal tribunal. As it is, the jury would fall into two well-defined political sections as soon as, in a charge of corrupt practices, the politics of the respective

parties became known to the jurymen. Unsatisfactory and imperfect as it is, the present tribunal of two judges is the best that the circumstances permit, and we must perforce be content with it.

The Corrupt Practices are Crimes.

The corrupt practices (the existence of the corrupt element being demonstrated) are all crimes. Personation is a felony, punishable on indictment by imprisonment, with hard labour, for a term not exceeding two years. The other corrupt practices are misdemeanours, punishable on indictment by imprisonment, with or without hard labour, for a term not exceeding one year, or by a fine not exceeding £200. A person may (provided he does not elect to be tried by a jury) be found guilty of corrupt practices by an election court. In that case the maximum penalty is six months' imprisonment, with or without hard labour, or a fine not exceeding £200. A witness on the trial of an election petition is not permitted to refuse to answer a question on the ground that the answer may criminate, or tend to criminate, himself, or on the ground of privilege. But if he answers truly he is entitled to a certificate of indemnity from the court, which bars a prosecution in the event of his evidence having revealed, or suggested, his guilt. In this way the facts are elicited, while the witness is not (provided he answer truly) forced to criminate himself. The Public Prosecutor is represented by counsel at the trial of every election petition, in order that his attention may be called to any offences which are disclosed in the course of the proceedings.

In addition to the penalties under the criminal law there are grave disabilities. The report of an election court that a corrupt practice (other than treating or undue influence) has been committed by, or with the knowledge and consent of any candidate, or that treating or undue influence has been committed by such candidate, renders him incapable for ever of being elected for the county or borough in respect of which the offence was committed, and if he has been elected, his election is void. If the candidate is guilty by his agents (and not personally) the incapacity lasts for seven years from the date of the report of the election court to the Speaker, and if the candidate has been elected, his election is void. A person convicted on indictment of any corrupt practice is incapable, for seven years from the date of the conviction, of being registered as an elector, or of voting at any election, or of holding any public or judicial office, and if he holds it, it is *ipso facto* vacated. Treating at an earlier election may imperil the validity of a later one.

Summary of Suggestions.

The section devoted to General Considerations will be found to incorporate such suggestions as are reasonable and feasible with regard to this most difficult portion of the elective process.

CHAPTER IX.
Illegal Practices.

The distinction between corrupt and illegal practices has already been explained (Chapter VIII.). Many of the illegal practices have also been discussed as to their nature, and suggestions offered, where necessary, for their better repression or more facile avoidance. Some of them are what Professor Lowell calls "practices tending to lower the tone of elections." With the exception of "false statements" (see Section 1 of this chapter, infra) the various illegal practices have been brought within the limits of more or less adequate definition, and prohibited, in consequence of the inquiries into the working of the electoral system which took place after the general election of 1880. It became evident at the time that, besides the old-fashioned election offences, such as bribery, treating, and undue influence, there had sprung into existence a new class, which found their origin and sustenance either in excessive, but colourable, expenditure on objects which were *prima-facie* legal, or else in the lavish provision of the most mischievous stimuli, such as bands of music, flags, banners, and cockades. As recently as 1880 the election expenses of a distinguished modern statesman, a member of Mr. Asquith's Government, included £967 for the conveyance of voters to the poll. This was at the time a legitimate, or at all events a lawful, expenditure, though now, of course, it has been made an illegal practice.

The enactments against illegal practices define, then, in a more or less adequate fashion the acts prohibited by the rules of the electoral contest. Except in the case of "false statements" (where the legislation dates from 1895) they represent current opinion a quarter of a century ago on the subject of undesirable factors in the fight. Naturally the ruthless test and criticism which came with the lapse of years have brought many flaws to light. The "false statements" legislation does not go far enough. The absolute prohibition of payment for the conveyance of electors to the poll goes too far. Much of the statute law, and of the resulting case law, is vague, and therefore violates the Fourth Canon of self-government by leaving an undue control of the electoral power in the unfettered discretion of an election court. But when all is said and done, the fact remains that the provisions against illegal practices represent the rules made by the organism for its own protection against the illicit influences which, almost in our own generation, took the place of the coarseness and shamelessness of the older election régime. They are a sound basis for the noble fabric of self-protection which the political experience of the race, adding its store to the wisdom

of the ages, will ultimately erect upon them. And, whether we regard them merely as the existing rules for the conduct of an election contest, or contemplate them from a mere elevated point of view as almost the first elaborate effort to encourage and protect the process of political evolution, and to keep it on the upward path, we shall find it necessary to subject them to such an examination as will be effective for our present purpose, while at the same time it does not sacrifice the legal accuracy of statement that is absolutely essential. The reader is asked to bear in mind that, as he is studying the noblest organism in the world, the mastery of its self-enunciated laws for the guidance of its own evolution is worthy of all his intellectual intrepidity and strenuousness, and will repay it in the finer, clearer, and more distant vision that comes, as surely as the astronomer's "telescopic eye," with patient labour and steady gaze.

Strictly speaking, those acts which are generally known as illegal practices fall into two groups: (1) illegal practices, technically so described, and (2) illegal payments, employment, and hiring, which are only illegal practices if committed by the candidate, his election agent, or a sub-agent.* The two classes of offence will be clearly distinguished in the course of the discussion. All, or nearly all, the illegal practices exhibit the characteristic of extreme technicality, just as most of the corrupt practices are distinguished by psychological subtlety. In fact, the extremely technical character of the law relating to illegal practices has long been patent to every close observer, to say nothing of those who have been brought as candidates or election agents into actual personal contact with its difficulties. This department of the law of elections combines the most extreme vagueness in its prohibitions with the most severe penalties for their breach, and with an absolute restriction upon the seeking, by a perplexed candidate or election agent, of professional advice or assistance. Inasmuch, however, as no purpose would be served by a prolonged disquisition upon the technical quagmires of the law with regard to illegal practices, it is proposed here to treat them with sufficient fulness for their nature as elements of the electoral mechanism to be intelligently comprehended, and for that purpose to examine each of them separately in the order of their importance. Where, as in the case with many of them, they have already occupied our attention as parts of some topic which has been dissected at an earlier stage of the present dissertation, it will suffice to refer the reader to the earlier treatment of the subject without a repetition.

* A sub-agent (who can only be appointed in county elections) is a minor agent in charge of the interests of a candidate in a certain district, acting under the instructions of the chief election agent. He is, so to speak, the local election agent.

(1)—False Statements (Illegal Practice).

The most important of the illegal practices is the offence which was first created by the Corrupt and Illegal Practices Prevention Act of 1895, prohibiting the making or publishing of a false statement with reference to the personal character or conduct of a candidate for the purpose of affecting his return. The offence is not committed if the person charged can show that he had reasonable grounds for believing and did believe that the statement was true. The candidate is not liable, and the election cannot be avoided, unless the false statement was made by the candidate himself or by the election agent, or unless the candidate or the election agent authorised, or consented to, or paid for, the circulation of the false statement, or unless an election court reports that the election of the candidate was in fact procured, or materially assisted, by the false statement. The Act of 1895 was passed in consequence of the outrageous growth of the practice of slanderous personal attack at elections. Of one candidate it was falsely stated that he had sent a man to hard labour for stealing two pennyworth of oats, after having, as a military officer, had the man flogged in India many years before. Of another it was alleged that he had made his fortune by scuttling ships; of a third that he had been guilty of bribery at the previous election. The only remedy for these attacks, prior to the passage of the Act, was an action at law, which would not have been heard till long after the successful dissemination of the libel had, perhaps, cost the victim his seat. Damages he might get, but there was no process short of waiting for the next election by which the seat wrested from him in this grossly unfair manner could be recovered.

The cases decided under this Act up to the present time are not numerous. A false statement that the candidate was guilty of lying, cowardice, and bribery was held within the Act (St. George's, 5 O'M. and H., 104). So also was a statement that there was a "dark passage" in the life of the candidate, the reference being to a family tragedy for which the candidate was in no way responsible. (1896, 12 T.L.R., 199). The Court of Appeal took the same view of a false statement that a candidate had locked out his pitmen for six weeks till stocks were cleared out and coal reached fabulous prices. After that it was alleged that the candidate found "that his 'conscience' would not allow him to starve the poor miner any longer." (1905, 11 T.L.R., 537.) But where the gravamen of the charge was that the candidate's private conduct, as an employer of labour, was inconsistent with his public professions as a politician, Baron Pollock held that these were not statements of fact with regard to the "personal character and conduct" in the sense contemplated by the Act. (5 O'M and H., 53.) Similarly Lord Justice (then Mr. Justice) Buckley declined to regard as within the Act a statement that

the candidate was a "Radical traitor, always found on the side of Britain's enemies," and one of a band of persons who "were, during the summer of 1899, in correspondence with the Boers" (*The Times*, October 3, 1900.) Finally, the Court of Appeal declined to consider as within the Act the statement that a candidate had obtained the support of a prominent politician by "false pretences," or the suggestion that, as the Lord Chancellor put it, he "feigned political opinions in order to obtain support." (Goodhart v. Marks, *Daily Telegraph*, January 19, 1906.) The Act charged upon the candidate in the alleged false statement need not be necessarily an unlawful one. Baron Pollock pointed out that such a charge as that of shooting foxes, brought against a candidate in a hunting constituency, or of drinking a glass of sherry, made with reference to a temperance advocate who is a candidate, are calculated to bring these persons into social odium, and are within the Act. But this dictum is limited by the local character of the social odium in the case of the candidate who is said to have shot foxes. That allegation would not be within the Act if made against the candidate for Whitechapel, where the shooting of a fox excites no indignation.

The Checks on False Statement.

Including this excellent piece of legislation, we shall note that the accuracy of statements made, verbally or otherwise, during an election, is subject to three checks: (1) The Act of 1895 itself, which, as we have seen, penalises any false statement of fact with regard to the personal character or conduct of a candidate, and renders it, indeed, fatal to the election if brought home to the candidate himself or his election agent; (2) the general law as to libel and slander; and (3) the common sense of the constituency, which varies in different parts of the country and in different places within the same electoral area. The Western peasantry might accept a story which it were futile to offer to the shrewd artisans of the North or the Midlands, and a candidate's political professions will often be found to undergo an appreciable modification according as he is addressing a critical audience in a town or a group of agricultural labourers in a rural centre of his constituency. This observation, however, is merely introduced for the purpose of making it clear that in the adaptation of his arguments to the temper and mental standpoint of his audience a candidate is strictly within his rights. But although he may mould his arguments to suit his tactics, sound principles of political responsibility require that neither he nor his supporters shall apply the same plastic arts to the facts themselves. The Act passed in 1895, in merely penalising false statements in regard to the personal character and conduct of a candidate, does not go far enough. What is wanted is, that any false statement of fact whatsoever, deliberately made by a person who knew, or with

reasonable diligence might have known, that it was untrue, shall bring down upon him the penalties attaching to an illegal practice. Not one-fiftieth part of the assertions circulated, verbally and otherwise, during an election have reference to the personal character and conduct of the candidate. Not one-hundredth part of them is such as to be susceptible of forming the basis of an action for libel or slander, so as to bring them, and those responsible for their circulation, to the touchstone of an oath. Yet an election is, more than any other time in the political history of a community, the period during which its verdicts are rendered, as a result of deliberations based upon the public dissemination and discussion of political topics and political opinions, and the judgments built up from this material may have the most momentous consequences in the life and history of the nation, and for the happiness, progress, and prosperity of its people. A person who deliberately contrived to mislead a court of justice would expose himself to severe punishment, even if the question at issue did not involve more than the affairs of a single individual and a less sum than £100. Clearly, where the nation is deliberating on national affairs, and where the balance of opinion may turn for the happiness or the misery of untold millions, the penalty for deliberate untruth should be swift, severe, and certain. The electoral tribunal, in truth, ought to be more and more assimilated in character and method to the procedure of a court of justice. The same dignity of movement, the same absence of appeal to base passion and vulgar prejudice, the same responsibility of statement and conduct in the parties who ask for a verdict, the same accountableness and truthfulness in those who are brought in to aid the respective parties by their testimony, ought to characterise an election as characterises a court of justice.

Instances of Unshackled Mendacity.

Let us take a few statements, such as are likely to be widely disseminated on placard and platform during an election contest:

(1) During the last Government by the party which A (a candidate) supports, our foreign trade fell off at the rate of £30,000,000 a year (the fact being that it steadily increased).

(2) The party to which A belongs is financed by capitalists and sweaters, the enemies of the working classes (this being totally untrue, as the party is able to demonstrate from its audited accounts).

(3) On the last occasion when a certain measure was before the House of Commons, A and his party all voted against it (the fact being that both A and his party voted in its favour).

(4) In a neighbouring and influential constituency B has been returned by a majority of 1,000 (the fact being that B has been defeated by that majority). This falsehood would only avail if its circulation could be brought about (before the public knew the real facts) during the last hour or two of the poll in the constituency where it was circulated. In that way, acting through mass-suggestibility, it would gain scores of votes for B's party.

These are four samples, from an array which might be extended to dozens, of the kind of assertions which form the stock-in-trade of many an active politician at election times. There is no check upon this kind of thing. If the majority in the constituency where these falsehoods were circulated should be 100, and 200 electors were willing to swear that they voted for the successful candidate in the belief that one of these mendacious allegations was true, and that they would otherwise have voted for his opponent, nothing could be done. The election petition machinery, wide as is its sweep, does not touch (save at the one point of the candidate's personal character and conduct) the gigantic evil of mendacity.

Mere expressions of such opinion as a reasonable man may hold and express, however extravagant, may not be suppressed, or even threatened, without a sacrifice of political freedom, which is altogether out of the question. A reasonable man might even allege that A, a candidate, is unfit to represent the constituency because he is a Quaker, and the writer knows of no sound political principle which would justify any interference with his liberty to give public expression to his views, eccentric as they are. But if A is not a Quaker, and the speaker knows it (or could with reasonable diligence have discovered it), he ought to be within reach of the law as a person guilty of an attempt to poison the springs of civic deliberation. Still more clearly should he be legally responsible is he alleges that the ground of A's unfitness, as a Quaker, is that Quakers worship the Virgin Mary.* That is a definite proposition, capable of facile and instant test, which no man has any business to utter, even in the heat of an election, when the means of inquiry lie ready to his hand in countless profusion. Finally, the summit level of mendacity, or of the carelessness which is its docile agent, is reached in such expressions of alleged political fact as have been set forth above. No election should stand which can be shown to have been brought about by such assertions, and in order to put a summary stop to their perversion of the electoral judgment, no responsible individual or society which gives utterance or publication to them ought to escape the penalty.

False Statements in Support of Candidate.

It must not be supposed that the whole of this evil arises in the course of attacks upon a candidate. It may, and frequently does, operate the other way. A candidate is stated to be identified with a certain group of social propagandists. The statement is calculated, let us say, to jeopardise his chances in a close and exciting

* It is just possible that this latter assertion might be held to be a false statement of fact with regard to the personal character or conduct of the candidate. It should be noted, however, that such a charge imputes nothing that is really discreditable, though it might awaken religious hostility to a tremendous extent.

contest. His reply to it, then, is that it is untrue and that he is not, and never has been, a member of the group in question. The denial saves him from his peril and he gains the contest, but it subsequently appears that the denial was untrue and that the original assertion was strictly accurate. As the charge did not relate to his personal (as distinguished from his political) conduct and character, there is no means of bringing him to account, or of setting aside an election obtained by palpable falsehood. The man who is capable of uttering a deliberate lie from a public platform is the representative, for seven years, of the people whom he deceived, and there is no means by which they can get rid of him. There is, indeed, one obscure method by which he might be attacked, supposing that he were not adroit enough to have foreseen the risk and protected himself, by the form of his reply to the charge, from incurring the danger of an inquiry. If the original statement was made by his opponent, and if he states that it is untrue, that is an inferential charge of mendacity against the opponent, which might enable the latter to sustain proceedings under the "False Statements" Act. But the man who is equal to the utterance of deliberate falsehood is not likely to charge it upon his opponent, and this means of challenge is for all practical purposes inefficient and, indeed, worthless.

Penalise All False Statements of Fact.

The way to deal with these evils is to extend the Corrupt and Illegal Practices Prevention Act of 1895, so that it shall prohibit not only false statements of fact as to the personal character and conduct of a candidate, but *all false statements of fact* whatsoever, as well as any disguised assertion of the kind which, if made with regard to a person, and proved to have been generally understood to apply to him, and to be false, would support proceedings for libel or slander, although not made in direct terms. The Act, as it stands, contains a provision protecting a person who honestly and on reasonable grounds believed the false statement to be true, and this must, of course, apply equally to the much larger class of assertions which it is here proposed to bring within its scope. With this limitation by way of protection for honest belief the widened sweep of the Act would inflict no hardship. However eccentric or extravagant the beliefs upon matters of fact (as distinguished from matters of opinion) which a man may entertain in his mind, and which may guide his own conduct in the discharge of the electoral function, no legislation can touch them. But as soon as they are to be employed to influence the electorate they must be applied to the touchstone of truth, and he who fails to make the test must put them into circulation at his own peril of penalty in case they are found to be counterfeit. It is submitted that the whole course of policy which is here

outlined would have for its results the addition of dignity, certainty, and caution to the conduct of an electoral propaganda, and these are elements which are wholly desirable, both in their influence upon the action of the individual elector and upon the character of the electorate as a corporate whole.

The recklessness of statement to which the present system gives rise is well illustrated by the familiar "last minute" placard or handbill, for which every candidate has to be prepared, if, indeed, he is not compelled by strategic necessities to issue "last minute" literature of his own. The "last minute" appeals (generally made to the passions and prejudices of the electorate, and not to its sober and reasoned judgment) fall like snowflakes all over the constituency on the eve of the poll, or are delivered through the post on the morning of the election; or—and this is the perfection of election art—are handed to voters at the doors of the polling booth during the last two hours of the poll, when there is no time for the opposite side to make any effective reply to the falsities thus employed to divert the votes of the electorate rapidly and irrevocably from one candidate to another. The "last minute" placard is not unknown, but does not admit of being "worked" so rapidly as the handbill, either as regards its number or its locus on the very steps of the polling booth. However false the assertions (unless they are within the Corrupt and Illegal Practices Prevention Act of 1895), and however censurable and odious the appeal to the lowest passions and the basest and most ignorant prejudices of the electorate, there is no remedy available to the candidate who has been defeated by this contrivance, nor yet to the constituency which has been fooled by a vile trick into giving a verdict contrary to its genuine and sober judgment and into supporting a cause with which it is not really in sympathy. If we are going to raise the exercise of the electoral judgment into a higher and serener atmosphere, this kind of thing must be peremptorily put an end to. In what manner it might be done, without the least danger to electoral freedom, and with the best of results for the discharge of the electoral function, amid surroundings of greater dignity and responsibility, we shall see when we come to consider the day of the poll.

(2)—Improper Payment of Election Expenses (Illegal Practice).

The question of election expenses has already been treated at length in a special chapter, and it would be superfluous to retraverse the ground. All that need be said here is that the Acts prohibit (1) any incurring of expense or any payment in excess of the statutory maximum of election expenses (46 and 47 Vict., c. 51, s. 8 and 25); (2) any payment otherwise than by or through the election agent (except the small payments mentioned on page

147) (sec. 28); (3) any payment of accounts sent in after the expiration of the statutory period for their receipt (14 days after the declaration of the election) (sec. 29 (3)); (4) any payment whatsoever (unless it be made by leave of the court) after 28 days from the declaration of the election (sec. 29 (5)); and (5) 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 (sec. 29 (1)).

(3)—Payments for Conveyances (Illegal Practice).*

Section 7 (*a*) of 46 and 47 Vict., c. 51, enacts that no payment shall, for the purpose of promoting or procuring the election of a candidate at any election, be made on account of the conveyance of electors to or from the poll, whether for the hiring of horses or carriages (which includes payments for the stabling and baiting of horses, gratuitously sent from a distance for the purpose of conveying electors to the poll—Lichfield, 5 O'M. and H., 30) or for railway fares, or otherwise. In the case of the person making or receiving the payment (whether candidate, election agent, or any other person) it is an illegal practice. The lending of any public, stage, or hackney carriage for the conveyance of electors to the poll is prohibited by s. 14 of 46 and 47 Vict., c. 51. In the lender a breach of this section is an illegal hiring. This is an offence which, like the allied offences of illegal payment and illegal employment, subjects the offender to penalties (a fine not exceeding £100—46 and 47 Vict., c. 51, s. 21).

The prohibition of payments for the conveyance of voters to the poll is subject to two exceptions: (1) A voter may pay for such a vehicle to carry him to or from the poll. If, however, on his way thither he gives a "lift" to a fellow elector, he has been guilty of a technical breach of the law, unless his companion share the expense, as well as the luxury, of the ride. (2) The other exception is a special statutory provision—that is to say, payment is permissible (46 and 47 Vict., c. 51, s. 48) for the conveyance of voters across "the sea or a branch or arm thereof" (if they cannot reach the poll otherwise), and such payment forms no part of the statutory maximum. This is a fair and reasonable provision, inadequate only in that it permits conveyance "to" the poll, but gives none for the re-conveyance of the voter to his home. It needs, therefore, a slight modification in order to cure this obvious flaw, and also a slight extension to meet the needs of another small but highly intelligent section of the electorate. There is now a fairly large class of men employed in the public service in lightships and lighthouses, many of whom are electors. It is very

* The reader will note that in the lender of the vehicle the offence is only an illegal hiring; but the receipt of payment makes it an illegal practice.

desirable that these men should be enabled to vote, though the best opinion is that the needs of their case are not met by the permissive section to which reference is made above, so that the candidate who paid for a vessel to convey them to the poll would not be protected from the consequence of the illegal payment. The public authorities who control the lightships and lighthouses might therefore be required (weather permitting) to make the necessary arrangements for relieving these men of their duty for such time as is necessary for them to vote, and to allow them to be conveyed ashore for that purpose, on receiving not less than four days' notice from the candidates or their agents that arrangements will be made to bring them ashore. Accounts of the money expended for this purpose, with vouchers, should be filed with the return of election expenses, but should form no part of the statutory maximum. What is contemplated here is the making of arrangements at the joint expense of the candidates, but if one candidate refuses to join, the other or others should be entitled to proceed with the arrangements on their own account. There is no doubt that the great majority of men of this class belong to one political party, so that the candidate on the other side might well be disinclined to assist, out of his own pocket, in the augmentation of his opponents' poll. The adaptation of the postal vote (see Chapter XI.) to such cases as these would render the special arrangements superfluous.

The Purpose of the Prohibitions.

The wide scope of the Act, therefore, makes it impossible, not only for the candidate to pay for the conveyance of voters to the poll, but also for him to accept, or for jobmasters to give, the gratuitous use of vehicles which are on other occasions let out for hire. An enthusiastic jobmaster, who closes his yard to business on the day of the poll, and bona fide gives the use of all the vehicles for the purpose of bringing voters to the poll, would, consequently, commit a grave breach of the law (46 and 47 Vict., c. 51, s. 14). These seem at first sight to be extremely drastic provisions. They have been considered, however, to be the only means of preventing the improper employment of voters as drivers, and the illicit corruption of jobmasters and other proprietors of vehicles by the wholesale hire of their plant on election day. As early as 1679 it was remarked that "horses were hired at a great charge for the conveyance of electors." The charges must have been great indeed if in an age when paid conveyance to the poll was almost a necessity it attracted attention. But the fact that the payment for the conveyance of voters to the poll was the subject of statutory authorisation as late as 21 and 22 Vict., c. 87, s. 1, will show how rapid has been the supersession of the necessity, as a result of economic changes.

When we know that in a single constituency (Middlesex) in 1880 a sum of nearly £1,000 was paid for the conveyance of electors to the poll, we shall realise that the abuse died hard, and survived well into our own generation.

The Statute Goes Too Far.

Unfortunately, the statutory remedy has proved inadequate in one respect, and mischievous in another. The state of things which now exists with regard to the use of vehicles on election day is such as to border upon chaos. Each candidate worries his friends for the loan of all their available vehicles, with a present preference for motor cars. When the vehicles are secured, every effort is made to display their number and character in such a manner as to create a contrast disadvantageous to the other side. The result is to add another element of confusion, noise, and more or less vulgar display to what is already, in the best of circumstances, an appalling aggregate, exhibited on precisely the one day when it is pernicious and baneful in the extreme. The annoyance to the friends of the candidate who are asked (and expected) to lend their vehicles is a minor element of objection. The inauspicious factor is the appeal to the gregarious instinct of the electorate by means of the mass-suggestibility which prompts them to vote for that which appears, judging from the greater amount of its vehicular accommodation, to be the "winning side," and also the utter prostitution of the electoral judgment which is involved in the peremptory requirement to be taken to the poll in a private victoria or a motor car, as a condition of voting for the candidate who provides the conveyance. At the last General Election one of the Labour candidates, who happened to have the use of a motor car, secured seven votes by conveying to the poll a group of men who stipulated for a ride in the car as the condition of voting. The Labour candidate only did that which is, under the present circumstances, quite legitimate, in order to secure these votes. The blame of such a transaction applies not to him, but to the voters whose ideal of electoral duty was consistent with the bartering of their judgment in return for the novelty of a ride in a motor car. The need for the prohibition of any pandering to these sorry proclivities of a section of the electorate, however, must not blind us to the real necessities of another class of elector. The invalid, the infirm, and the aged, may well be conveyed to the poll (in the absence of the postal vote, as to which see Chapter XI.) in order that their ballots may (in compliance with the requirements of the Third Canon) swell the proportion of the aggregate electoral judgment which actually finds its way into the ballot boxes; but except for these classes conveyance to the polls by means of facilities provided by the candidate needs to be sternly and absolutely prohibited. By extending the hours during which the poll is open

we shall remedy the admittedly hard case of the workman who cannot vote unless hurriedly conveyed to the poll in his dinner hour. By the rapid and general increase in cheap transit facilities we are every year making it easier for people to get from place to place, and therefore to the poll. By the provision of more polling stations in county elections we ought to remove the necessity for the voter to go outside the boundary of his own village in order to exercise the franchise. With all these improvements, is it not possible to abolish the abuses of the conveyance system, while yet retaining it for the use of the aged, the invalid, and the infirm? This can undoubtedly be done, and in the following way:

(1) Absolutely prohibit the lending or borrowing of vehicles of any kind for the conveyance of voters to the poll, except that an employer of labour may permit the use of his own conveyances to take his own employees (but no others) to or from the polls (and may, of course, use his own carriage for his own conveyance to the poll): but so that, nevertheless—

(2) A candidate may use his own carriages (having been his own property, or his wife's, for a period of not less than three months before the election), to a number not exceeding five, for the conveyance of voters to the poll; but he shall include in his return of the election expenses the estimated value of the use of such carriages, with horses and drivers, on election day, such value being the price at which he could have hired them, had they not been his own.

(3) A candidate who does not use his own carriages may, if he choose, hire them, to a number not exceeding five, and the cost of such carriages shall appear in his return of election expenses. There is probably no necessity to put a limit upon the seating capacity of the vehicles, for the reason given in (5).

(4) The fact that a vehicle is commonly let out on hire shall impose upon its owner no obligation to lend it to a candidate for the conveyance of electors to the poll, if he does not desire to do so. (This is a necessary provision, not only because the owner of the vehicle may desire to save his vote—if the vote is to be sacrificed by the lending of the vehicle, which we shall discuss later—but also because the loan of vehicles for the purpose of conveying voters to the poll is a transaction not altogether unattended, especially as regards the tyres of motor cars, with risk to the vehicles.)

(5) No person other than a voter who is an invalid, or aged, or infirm, may be conveyed to or from the poll in such conveyances.

(6) The fact that a voter is aged, or infirm, or an invalid, shall be sufficiently evidenced by the written certificate of two persons, being electors, to the effect that: "We certify that A B, of —— Street, is in our opinion [being aged, or infirm, or an invalid, as the case may be] not able to go to the poll without the assistance of a vehicle." No voter shall be conveyed to the poll unless such certificate has been produced to the driver or other person in charge of the conveyance, who shall hand all such certificates to the election agent.

(7) Penalties, by means of summary jurisdiction, for (a) lending or borrowing, in breach of provisions; (b) giving a wilfully false certificate with regard to a voter's incapacity to go to the poll without a conveyance; (c) conveying voters to the poll without the production and receipt of the certificate.

The carriages may not, in accordance with these provisions, be lent gratuitously. They must, therefore, be paid for. There is, however, no real need to disfranchise the lender. This is not done with the billposter or the printer who, in the ordinary course of his business, receives large sums from the candidate. The necessities of the case might be met by the stipulation that, unless a candidate uses his own carriages, they shall only be hired from a person whose business it is to lend vehicles for payment, and who has no fewer than three such vehicles in his yard. In no case ought the driver, even if paid, to be disfranchised. If the actual lender were threatened with a resulting disfranchisement he could, if he chose, decline to lend his conveyances, and so preserve his vote; but the driver has not the same option, and therefore it would be unfair to disfranchise him because he happened to be selected on election day to drive a vehicle hired by a candidate.

Practical and Effective Provision.

Let us consider for a moment how these provisions will work. The candidate and the election agent will be relieved of the trouble of appealing to all their friends and supporters for the loan of vehicles on election day. The friends and supporters themselves will be saved the necessity of acceding to these requests, or of framing more or less veracious excuses. The ambitions of the lazy, childish, novelty-hunting, and supercilious voter will be sterilised, and the sick, infirm, and aged will be provided for in a candid, legal, and responsible fashion by means of the certificate system. All that will be necessary for the working of the plan will be lists of such voters as require to be fetched to the poll, and the preparation of certificates of their inability to proceed thither unless provided with a conveyance. Under the gentle restraint of these regulations all the vulgar ostentation, the almost lethiferous excitement, and the appeals to the gregarious instinct, now so lamentably conspicuous among the vehicular phenomena of poll-day, will disappear. Finally (and perhaps this would be the happiest of all the consequences of the adoption of these proposals), the poor and the rich candidate are placed upon precisely equal terms. The rich man who has the services of a dozen carriages of his own and a hundred which are lent to him (sometimes exhaling the aroma of aristocratic names, to operate as a political narcotic upon a certain type of elector) is no longer given a huge advantage over an opponent with limited means, who has no carriage of his own and but few friends capable of lending them. Rich and poor candidates are in this respect placed upon precisely equal terms. To the objection that the power to hire vehicles is a retrograde step, the writer would answer that the absolute prohibition of hiring has shown itself to be a remedy almost worse than the disease. It gives an enormous and intolerable advantage to the wealthy candidate. On the other hand, the absolute prohibition of the lending

of vehicles must exclude from the ballot-box aggregate the experience of the aged voter, as well as the political judgment (often rendered all the keener by physical weakness) of the invalid and the infirm. This involves a violation of the Third Canon of self-government. The only solution of the problem lies in the *via media*—permit the use of carriages; limit their number; allow the less wealthy, or the poor, candidate to hire them if he choose, up to the limit; and bring their cost, whether actual or only constructive, into the return of election expenses. In that way we have at once recognised the necessities of the case, and yet kept the whole arrangement within the firm and comprehensive grip of the law.

The limit to five carriages is, perhaps, too small for large constituencies. If that view were adopted, it is suggested that five carriages should be the limit for constituencies with an electorate of 10,000 or less. When the electorate is larger, one carriage in every borough (or division thereof), and two carriages in every county (or division thereof) might be added to the permissible maximum for every 2,500 electors, or part thereof, above the first 10,000.

(4) Payments for Exhibiting Bills (Illegal Practice).

Section 7 of 46 and 47 Vict., c. 51, makes it an illegal practice to pay, or contract to pay, money to any *elector* on account of the use of any house, land, building, or premises for the exhibition of addresses, bills, or notices. The person who pays and the person who receives are alike guilty. But payment may be made to, and received by, an elector whose regular business it is to exhibit bills for payment. The restriction of this prohibition to the case of any elector is quite unnecessary. The provision ought to be widened, so as to forbid the payment of any person, other than a person whose ordinary avocation as an advertising agent is to exhibit bills and advertisements for profit, and whose business was established not less than six months before the date of the nomination.

(5) Committee-Rooms in Excess (Illegal Practice).

A payment or contract for payment for committee-rooms in excess of the number allowed in the First Schedule of the Act (46 and 47 Vict., c. 51) is made an illegal practice by sec. 7 (1) (c). (For the number, see the schedule itself.) There is nothing in these provisions as to committee-rooms which (from the point of view of the present essay) calls for any further comment than that already offered on page 130.

(6) Voting by Prohibited Persons (Illegal Practice).

Voting by any person who knows that he is prohibited by statute from voting, or knowingly inducing such person to vote, are offences

which, by Section 9 of the Act 47 and 47 Vict., c. 51, are made illegal practices. This provision, the breach of which is in some cases (see 30 and 31 Vict., c. 102, s. 11) a misdemeanour, must not be confused with the prohibitions directed against personation, which is a felony. Section 9 is intended to meet such cases as that of the voter who, being employed (or having been employed—see 30 and 31 Vict., c. 102., above) for payment at the election, nevertheless votes thereat. The enactment also reaches the election agent or other person who, knowing of their incapacity, procures these employees to vote. In Stepney (Day's Election Cases, 117) it was shown that such persons did in fact vote, and that the election agent did not take sufficient trouble to prevent their doing so; but this was held insufficient to sustain a charge of "procuring" them to vote. At page 128, where this subject has already been mentioned, it was suggested that the employment of voters at elections should be altogether prohibited, with a few necessary exceptions which were specified. In the absence of such a prohibition Section 9 is, and seems likely to remain, very much a dead letter, because there is no effective machinery for enforcing its provisions.

(7) False Statement of Withdrawal (Illegal Practice).

Publishing a false statement of the withdrawal of any candidate for the purpose of promoting or procuring the election of another candidate is an illegal practice (46 and 47 Vict., c. 51, s. 9 (2)). The publication of a deliberately false statement of the withdrawal of a candidate was, of course, a potent and dangerous weapon in days of slow and infrequent communication. In our own times it would be as futile as foolish. The section might well stand, however, as a kind of cautionary notice; but it is not likely to be infringed. The game would certainly not be worth the candle.

(7a) Disturbing a Public Meeting (Illegal Practice).

The Public Meeting Act, passed in the closing days of the session of 1908, creates a new illegal practice. The operative clause runs 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 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 meaning of the Corrupt and Illegal Practices (Prevention) Act, 1883, and in any other case shall on summary conviction be liable to a fine not exceeding £5, or to imprisonment not exceeding one month.

The whole of these provisions turn upon the exact meaning which will be attached to the word "disorderly." Doubtless there will soon be decisions to guide the inquirer. In their absence, it

is not possible to determine whether an amendment or a counter-resolution, carried, in the teeth of the promoters of a meeting, by 900 persons out of an audience of 1,000, would be held to amount to acting "in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together."

(8) Banners, Music, Marks of Distinction (Illegal Payments).

The offences so far defined and discussed exhaust the list of acts which are illegal practices in any person, whether candidate or election agent, or not. *The remaining offences are illegal practices only if committed by the candidate or the election agent.*

The difference is important. An illegal practice, committed by or with the knowledge and consent of any candidate, renders him incapable (unless he obtain "relief," as to which see Chapter VIII.) for *seven* years of being elected to, or of sitting in, the House of Commons for the particular county or borough in respect of which the offence was committed. If elected, his election is void. In other persons the offences which we are now about to examine only amount to illegal payment, employment, or hiring, as the case may be. The punishment is a fine not exceeding £100, and a *five* years' incapacity for voting, or being registered as an elector. Only two of these offences will require any lengthened consideration, from the point of view here assumed.

The first class of illegal payments includes the spending of money upon the means of garish display and irrational excitement. Section 13 of 46 and 47 Vict., c. 51, enacts that a person who knowingly provides money for purposes contrary to the Act shall be guilty of an illegal payment. Reference has already been made (ante, page 208) to the provision of such money in excess of the legal maximum, or to replace money already so expended. Section 16 goes on to provide that no payment or contract for payment shall be made, for the purpose of promoting or procuring the election of any candidate, on account of bands of music, torches, flags, banners, cockades, ribbons, or other marks of distinction. To illustrate the difficulties with which the section encompasses a candidate it may be recorded that in a recent petition it was held that printed portraits of the candidate, about 2 feet by 1 foot in size, mounted on linen and strengthened by a lath at the top and bottom, were "banners." Again, what is a "mark of distinction"? At Walsall a number of hat cards, provided by the election agent at a cost of £2 18s., and simply containing a vignette portrait of the candidate and some ordinary injunctions to "play up" and "vote for" the candidate, were held to be marks of distinction. Relief was refused, and the candidate lost his seat. Yet if these cards were "marks of distinction," what shall be said of the myriad portraits of candidates with the

exhortation to "Vote for ——," and provided with a string for hanging them up, which are scattered abroad at every election? It is the earnest effort of the canvassers to get these things displayed in windows, so as to indicate, if possible, the predominance of their candidate's supporters, by making their number so obvious that even he who runs may read. Many millions of such cards have been printed, distributed, and displayed during the last two or three general elections, and at innumerable by-elections, so far without legal challenge. Are these "marks of distinction"? Clearly, the very object of their distribution is that they shall be made to become so, even if that is not their original character.

No similar difficulties of interpretation arise in regard to the bands of music, torches, cockades, or ribbons. These are commonly employed at elections, and as their provision is in itself no offence, it is in election practice only necessary to take care that neither the candidate nor his election agent makes any payment, or any contract for payment, in respect of their supply. This is the flaw in the Act. The candidate or the agent will not pay, or contract to pay. Other persons, however, provide the forbidden commodities out of their own resources, and the result is that the prohibition is reduced to a dead letter. At every election the streets are garnished with banners, though the Act forbids payment for them, and processions march in torchlight though the Act prohibits payment for torches. The present writer has seen the daughters of a candidate, attired in frocks exhibiting his colours, driving with an equipage which was adorned with at least fifty yards of bi-colour ribbon, also showing the candidate's colours. As it was no person's duty to say anything or do anything in the matter, the episode was merely remarked by experts as a bold defiance of the law, and passed unheeded into oblivion. If the section struck at an imaginary evil, its desuetude might be regarded with equanimity. But inasmuch as it is intended to suppress an abuse of very real menace to electoral quietude and deliberation (such as the Third Canon contemplates), the time has come for this section to be made effective. There is already a provision enabling £2 to be recovered from any person in respect of a breach of the older prohibition on the same subject (17 and 18 Vict., c. 102, s. 7), and this might well be brought up to date and rendered effective so as to deter any person from supplying, providing, or using flags, banners, ribbons, cockades, rosettes, or any mark of distinction the wearing of which is designed to show that the wearer is the supporter of a certain candidate or party; but the prohibition ought not to extend so far as to penalise a candidate for the improper use of any part of the election equipment which was originally intended for a legitimate purpose, and was not naturally and obviously capable of abuse. The hat cards which brought disaster at Walsall *were* "naturally

capable of abuse," and avoided the election. But the cutting of the candidate's name and portrait from the front page of the election address, where they are quite properly displayed, ought not to penalise him, unless he personally suggested and approved it. The distinction here suggested was that actually drawn by the late Mr. Justice Hawkins in Pontefract (4 O'M. and H., 200). The learned judge took the view that the mere use of a card as a "mark of distinction" did not necessarily make the provision of the card an infringement of the Act, unless, as at Walsall (supra) the cards were ordered, used, and paid for with the full knowledge of the electorally improper purpose for which they were designed, or for which, at least, they might be employed. The term "banner" needs careful legislative definition if the Act is to be stringently enforced.

(9) Bills Without Printer's Name (Illegal Practice).*

The printing, publishing or posting of any bill having reference to the election, without the name and address of the printer and publisher on the face thereof, is an illegal practice in candidate or agent (46 and 47 Vict., c. 51, s. 18). No election has ever been avoided for non-compliance with these provisions. Doubtless a case of deliberate omission of the printer's and publisher's names from a virulent leaflet issued by a candidate or his election agent will have serious consequences for the offenders when it occurs; but so far all the cases under the Act have had their origin in bona-fide inadvertence. Relief, under those circumstances, is granted as a matter of course. A prudent election agent, who is aware that the expression "bill" in the Act is very wide and vague, will have the name of the printer and publisher even on his note-heads. For the rest, an intelligent electorate knows the minus value of the anonymous bill or pamphlet, and its issue is generally time and money wasted.

The severe but salutary regulation of bill-posting has already been discussed in detail (ante, page 154), and the question need not be further pursued.

(10) Procuring Withdrawal of Candidate (Illegal Payment).

The payment, or promise of payment, of money to induce or procure the withdrawal of any person from being a candidate is, if done "corruptly," an illegal payment (46 and 47 Vict., c. 51, s. 15). No case under these provisions has ever arisen, so that it is impossible to say with any authoritative precision what meaning attaches to the word "corruptly." Instances may be imagined where a breach of the provisions of this section would be so "corrupt" as to transcend in turpitude almost any imaginable

* In the candidate or election agent (or sub-agent) only. In other persons it is an offence with a maximum penalty of £100.

offence among those which are corrupt practices by statute. But for the possibly appalling consequences of these the section provides no antidote. It is, in fact, vitiated by a serious flaw, which should be repaired whenever the law comes up for legislative reconsideration.

It will be convenient to consider some possible instances of the operation of the section. A and B are candidates, and the contest is far advanced. Before the nomination, however, A pays B £1,000 to withdraw. The result of B's action is to seriously embarrass his party, who are unable, at that stage of the contest, to sustain themselves against the consequences of introducing a new candidate. A therefore wins the election. Was this money "corruptly" paid by A? Disreputable in the extreme the transaction certainly is, but it might be argued that if one candidate can improve his own chances by buying another off he has a right to do so. Anyhow, if the money were paid at a late stage of the contest, as was in this instance suggested, the successful candidate could probably be unseated on petition by the charge that he had omitted the £1,000 from his return of election expenses.

There are, however, far worse potentialities than this. Let the contest have proceeded as far as the nomination. Let B then omit to have himself nominated, in consideration of £1,000 paid by a person who is neither A nor A's election agent. That person will be guilty of illegal payment, and can be fined £100. Meanwhile A will have enjoyed the luxury of an unopposed return, and, as he has himself done nothing illegal, his election cannot be assailed by the constituency, which would perhaps have rejected him by an enormous majority at the poll. He is safe, possibly for seven years if the life of Parliament has just commenced. It may be that the House of Commons would, in such a flagrant case, exercise its inherent power and jurisdiction over its own body, and expel a member whose election was the consequence of so odious a fraud upon the electorate. If it did not do so (and always assuming that guilty knowledge could not be brought home to A) the present section, which seems to have been designed to meet some such case as this, utterly fails of its purpose. It needs strengthening by the provision that where the election of a candidate is shown to have been brought about by the corruptly procured withdrawal of another candidate, the election shall for that reason be avoided, although the candidate who was actually elected was guiltless in the matter; provided that this enactment shall not apply if the alleged corrupt withdrawal took place more than one month before the day fixed for the nomination.

Doubtless it will be said that no case under the section is ever likely to arise. A very slight reflection upon some of the features of the present political outlook will dissipate the optimism which colours such a forecast. The nation has still to grapple with more

than one giant interest before it enters upon the full enjoyment of its own. If its will can be thwarted, and its electoral judgment baulked, at the cost of £100 to the offender, it is a fairly safe assumption that as the fight grows keener the attempt will be made. A seat won or lost in this corrupt fashion might mean the survival, or the defeat, of a Government whose existence, or destruction, was of vital moment to the life of the nation. Is it not worth while, then, to attempt the slight amendment which would go far to remove the risk?

(11) Employment in Excess of Permitted Number (Illegal Employment).

The question of paid employment at elections has already engaged our attention (supra, page 128) and has there been fully explained and discussed.

(12) Lending or Employing Carriages or Horses (Illegal Hiring).

This matter has already been considered at length in the present chapter. The reader is therefore referred to the earlier paragraphs.

(13) Committee-Rooms on Licensed Premises (Illegal Hiring).

By Section 20 of 46 and 47 Vict., c. 51, it is forbidden to hire or use, for the purposes of promoting or procuring the election of any candidate, a committee-room on any premises—

(a) Licensed for the sale of intoxicating liquor.

(b) Ordinarily used for the sale of intoxicating liquor, or where liquor is supplied to members of a club, society, or association, other than a permanent political club.

(c) Where refreshment of any kind, whether food or drink, is ordinarily sold for consumption on the premises (e.g., a committee-room, opening into a baker's or confectioner's shop, where tea and rolls are supplied).

(d) Which are a public elementary school, in receipt of an annual Parliamentary grant.

General Considerations.

At the present stage in our political evolution as a nation none of these provisions can safely be relaxed, and some, as we have seen, require to be made more stringent. They bridge the gap which separates the older age of coarse and shameless corruption from the newer era of a trained electorate, whose well-equipped and politically judicial mind will be proof against the arts of the trickster. Seeing that nearly forty years have elapsed since the passage of the Elementary Education Act, we might well suppose that our electorate was beyond the reach of misguidance by means of flags, banners, and torches. And, truth to tell, it battles steadily on towards the elevated uplands of political thought, where these

trumpery absurdities will be out of its sight and ken. But it has not reached them yet; and while the upward struggle goes on, the illegitimate influences must be ruthlessly excluded. But although, for the present, we seek their jealous exclusion, let us recognise that their potentiality for mischief is only a consequence of a temporary, and rapidly disappearing, liability to apathy on the one hand, and to aberration on the other, in the electoral mind. In course of time we may contemplate the almost total absence of election expenses, whether public or private; for the eager political intelligence, brought once more into active touch with the realities of government, and conscious of its power, will crave no such artificial stimulus. In time the false statement will become innocuous, because its falsity will be patent to every electoral eye. Into the same limbo of harmlessness and oblivion will vanish the necessity for committee rooms and the rules which regulate their provision. The whole mass of technicalities does but serve as swaddling clothes, rapidly to be outgrown and thrust aside—at one stage protective; at another obsolete and cast away. To the present student of the development of the political organism a knowledge of the nature and the purpose of the various provisions with regard to illegal practices is an absolutely indispensable portion of his intellectual munition. To his successor, some generations hence, it will take rank with the doctrines dear to Bracton and to Littleton, as marking a stage in the development of an organism, as destined for many years to influence its course and bent, but as forming no essential and permanent part of its equipment for the higher destiny towards which its ceaseless struggles urge it in resistless movement.

Summary of Suggestions.

All deliberately false statements, made in the course of and for the purposes of an election campaign, to be punishable, and not only those relating to the personal character and conduct of a candidate (Corrupt and Illegal Practices Prevention Act, 1895).

Hire of conveyances to take voters to the poll to be made permissible, within certain defined limits, so as to place rich and poor candidates on a level.

Payment for conveying lighthouse and lightship men to the poll to be permissible (until the postal vote is established).

Provisions against the corrupt payment of money for the withdrawal of a candidate to be remedied where they fail in effectiveness (for reasons given where the subject is discussed).

Other suggestions in these matters have been made at earlier stages of the present essay.

CHAPTER X.

The Close of the Contest.

When the writ has been issued and the nomination takes place the end of the contest will be well within sight. The study of the closing incidents of the electoral warfare may best begin, therefore, with the writ itself, and with a brief explanation of the purpose and statutory regulation of the nomination.

The "Nomination."

The official activity of the returning officer begins with the receipt of the writ. The unofficial vehemence of the contending parties will no doubt have manifested itself long before. The writ (which represents the ancient summons to confer with the King on the business of the Realm) instructs the returning officer to "cause election to be made according to law of ..... members [or a member] to serve in Parliament for the said county [or the ..... division of the said county, or the borough, as the case may be] of ....., [here, unless the writ is issued at a general election, it states the cause of the vacancy, i.e., 'in the place of A B, deceased,' for example], and that you do cause the names of such members [or member] when so elected, whether they [or he] be present or absent, to be certified to us, in our Chancery, without delay." (See the full form in the Second Schedule to 35 and 36 Vict., c. 33.) The student may advantageously compare this form with the earlier writs of the late Queen's reign, in order to realise, as Sir William Anson says, how near we still are to the constitutional forms of the Middle Ages.* The writ is issued by the Clerk of the Crown in Chancery, on the Speaker's warrant; and the Speaker's warrant is signed in consequence of motion made in the House of Commons for the writ. In the ordinary case of death or resignation while Parliament is sitting, the writ is issued on the motion of the whip of the party to which the late member belonged. As a rule, there is no opposition. At Worcester, however,

* Below is an example of the earlier and striking form of such a writ, dated as recently as July 17, 1837 (Anson, Vol. 1, p. 57):

Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, to the Sheriff of the County of Middlesex, Greeting. Whereas, by the advice and assent of Our Council, for certain arduous and urgent affairs concerning Us, the State and defence of Our said United Kingdom and the Church, We have ordered a certain Parliament to be holden at Our city of Westminster on the 4th Day of September next ensuing. And *there to treat and have conference with the Prelates, Great Men, and Peers of our Realm*, We command and strictly enjoin you (Proclamation hereof, and of the time and place of election being first duly made) for the said County *two Knights of the most fit and discreet, girt with swords*, and for the City of Westminster, in the same County, *two Citizens*, and for each of the Boroughs of the Tower Hamlets, Finsbury, and Marylebone, in the same County, *two Burgesses* of the most sufficient and discreet, etc., etc.

after the petition which followed the election of 1906, and resulted in the unseating of the Conservative member, the extreme unpopularity of the petitioning party led the Liberal Government to oppose the issue of the writ, because the result of the election must have been a foregone conclusion. During a Parliamentary recess the circumstances which create a vacancy may be certified to the Speaker under the hand of two members of the House, and the Speaker, six days after the publication of notice to that effect in the *London Gazette*, issues his warrant for the writ. Except in the cases of writs addressed to the Sheriffs of London and Middlesex, the writs must be delivered by the Messenger of the Great Seal or his deputy at the General Post Office; thence to be despatched, free of charge, by post, to the returning officer. This device, according to Sir William Anson, prevents a returning officer from sending for the writ in order to accelerate the nomination and the poll. To avoid the reduction of this machinery to a state of impotence, as a result of the death, incapacity, or absence of the Speaker, he is required at the commencement of each Parliament to appoint not more than seven nor less than three members to exercise these powers, if one of those contingencies should arise.

The returning officer is, in counties, divisions of counties, and counties of cities and towns, the sheriff of the county or of the city or town, as the case may be. The sheriff may, in certain circumstances (35 and 36 Vict., c. 33, s. 8), appoint a fit person to be his deputy for all or any of the purposes of the election. In boroughs other than cities and towns, being counties of themselves, the mayor is to be the returning officer. At the English universities the vice-chancellor is the returning officer.

Purpose of the Nomination.

So far we have used the expressions "election day" or "day of the election" in their ordinary sense, as signifying the day of the poll. Strictly speaking, however, the function called the "nomination" is the election. If there are no more candidates than vacancies the proceedings are there and then completed, and the member is declared elected. But if, as is usually the case, there are more candidates than vacancies, the election is adjourned, in order that a poll may be taken; and it is this latter occasion which we generally mean when we refer to the "election." It will be convenient to retain the ordinary usage here, with this preliminary reminder, that there is a slight technical inaccuracy in doing so.

The function of the nomination is to clear the ground and define the personal issue. The question whether A or B or C is actually going to the poll is finally set at rest, for even if a candidate announce, after having been nominated, that he does not desire to be elected, there is no power to remove his name from

the ballot paper, and, if elected, his only way of escape from the resulting obligation would be by way of an application for the Stewardship of the Chiltern Hundreds or some other office of profit under the Crown. The date of the nomination must, by statute, fall within a certain period from the issue of the writ. The writ sets the official electoral mechanism in motion, and must produce either an unopposed return, or a poll, within certain statutory limits of time. Within two days of the receipt of the writ in the case of counties, and on the day on which he receives it, or the following day, in the case of boroughs, the returning officer is to give public notice (formerly called the "Proclamation") of the day and hour on which he will proceed to the election [i.e., in the strict sense of the words, to what we call the nomination], and of the time and place at which forms of nomination papers may be (gratuitously) obtained, as well as of the day on which the poll will be taken if the election is contested. The fixation of the date of the poll is a source of considerable mystification even to people otherwise well informed about the electoral processes. The simplest explanation will be offered by supposing the writ to be received on the first day of a month—say March—and then setting forth the incidence of the other events, in accordance with the statutory provisions. Sundays, Christmas Day, Good Friday, and public fast and thanksgiving days do not count; and any stage of the process which falls on a Sunday is postponed to the following day, with a corresponding postponement of all the subsequent stages.

COUNTY ELECTIONS.

March 1.—Receipt of writ.
March 2.—
March 3.—Last possible day for Public Notice.
March 4.—
March 5.—First possible day for Nomination.
March 6.—
March 7.—
March 8.—First possible day for Poll.
March 9.—
March 10.—Last possible day for Nomination.
March 11, 12, 13, 14, 15, 16.
March 17.—Last possible day for Poll.

BOROUGH ELECTIONS.

March 1.—Receipt of writ.
March 2.—Last possible day for Public Notice.
March 3.—
March 4.—First possible day for Nomination.
March 5.—Last possible day for Nomination.
March 6.—First possible day for Poll in ordinary boroughs.
March 7.—First possible day for Poll in District boroughs.
March 8.—
March 9.—Last possible day for Poll in ordinary boroughs.
March 10.—
March 11.—
March 12.—Last possible day for Poll in District boroughs.

Are There Party Influences?

The returning officer has the right to determine (of course, within statutory limits) how many days shall elapse between the receipt of the writ and the nomination (which is really the election) and what further period shall elapse between the nomination and poll. This is said to confer upon him a power to select the day for the poll in the manner which is most consistent with the interests of his own party, if he is a party man, or accessible by party influences. There is no suggestion that this is done systematically, but one of the most distinguished of recent students of our constitutional system* tells his readers that it is "said to be done . . . in particular places." Probably there are isolated instances—abuses that even the best of machinery cannot altogether suppress. It must not be forgotten, however, that the fixation of the poll on a Saturday will always be said to be a deliberate attempt to favour the Radical or Labour candidate, by increasing the working class polls and disfranchising the small shopkeeper, who usually votes for a Conservative, but will not leave his shop on a busy day to do so. In the same way a Wednesday poll will be branded as an endeavour to stifle the working class vote and to favour the other social elements.

In modern times the nomination has become a strictly formal, and withal a very dull, function. Only where there is a doubt about the real seriousness of a third candidature, or a chance of the late and sudden advent of some new aspirant for electoral favour, does the nomination add appreciably, or at all, to the excitement of the contest. It was otherwise in former days, when the adjournment of the election (i.e., the nomination) in consequence of riot, or its sudden transference to some unexpected place (see an instance on page 172), were not excluded from the possibilities of the occasion. The modern practice is for the candidates to attend and hand their nomination papers to the returning officer. At the same time each candidate pays to the returning officer his share of the official charges in connection with the election, or, if he choses, gives security (to the satisfaction of the returning officer) for their payment. The maxima of the authorised official charges (as we have seen in discussing the election expenses) are the subject of statutory provision, and include the returning officer's own fees, the payments to presiding officers and clerks, the fitting up of the polling booths, and the provision of ballot boxes. Unless a candidate's share of the returning officer's charges is duly paid, or approved security given, he is to be deemed withdrawn; and, on the other hand, the appearance of a third or fourth candidate, able and willing to pay his share of these expenses, will have the effect of materially reducing the quota payable by the others. If,

* Professor Lowell, "The Government of England," p. 220.

for instance, the charges are £250, the sum of £125 each, payable by two candidates, is reduced to £62 10s. each if there are four. We have already, in considering the question of the public payment of election expenses, come to the conclusion that the returning officer's charges, in the case of all candidates who had a "reasonable chance of success," should be paid out of public funds.

The Nomination Paper.

The nomination paper (copies of which are supplied gratuitously to any elector by the returning officer) must be in the form set out in the Second Schedule of 35 and 36 Vic., c. 33 (the Ballot Act), thus:

We, the undersigned, A B, of ....., in the ..... of ....., and C D, of ....., in the ..... of ....., do hereby nominate the following person as a proper person to serve as a member for the said ..... in Parliament.

This must be signed by two registered electors of the county or borough as proposer and seconder, and by eight other registered electors as assenting to the nomination. The names of the signatories and assentors, together with their registered numbers, must be set forth with the most scrupulous accuracy. In one case, for instance, the signature of the correct name, "Charles Arthur Burman," led to the rejection of the nomination paper, because the burgess appeared on the roll as "Charles Burman" (Moorhouse v. Linney, 15 Q.B.D., 273). At the present time the election agents frequently agree to take no objection to each other's nomination papers. A single valid paper is, of course, sufficient, but it is generally advisable to have more, in case of the discovery of some unforeseen flaw. Sometimes a great multitude of nomination papers is provided, for the purpose of demonstrating the large extent of the public support accorded to the candidate in whose interest they are signed. Tactical considerations generally lead to the presentation of nomination papers signed by different electoral groups—one wholly by trade unionists, another by the clergy, another by railway employees, and a fourth by prominent temperance advocates, for instance. These bring into relief the fact that the candidate nominated in them has the support of the various classes who have signed them, but otherwise they have no more legal efficacy than the rest of the papers. If objection is made to the validity of a nomination paper the returning officer's decision, if he disallows the objection, is final. If he sustains it, and rejects the paper, his decision is subject to reversal on petition questioning the election. If, at the expiration of one hour after the time appointed for the election, no more candidates stand nominated than there are vacancies, the returning officer is forthwith to declare the candidates elected and to return their names to the Clerk of the Crown in Chancery. If there are more candidates than vacancies,

he adjourns the election to the date already fixed, in the "Proclamation," for the poll.

The Polling Districts.

The arrangement of the polling districts is vested in certain local authorities (30 and 31 Vic., c. 102, s. 34; 35 and 36 Vic., c. 33, s. 18). In counties the division must be made so that every elector may have his polling place not more than three miles, and in boroughs not more than one mile, from his residence. At every polling place the returning officer must provide a sufficient number of polling stations or booths. Not more than 500 electors can conveniently poll at one station, so that if the electors voting at that place exceed 500 further accommodation, proportionate to their number, is provided. The poll may not be taken in places of public worship, nor in any inn, hotel, or public-house (unless by consent of all the candidates in writing, for which few returning officers would nowadays venture to ask). The voters are allotted, by number, to their respective polling stations, and no voter may vote at any other than his own, except a police constable who is on duty, at a distance from his proper polling place, and is therefore entitled to vote at any polling station, so that his vote may not be forfeited. As public notice is given of the respective allotments, and as every voter receives a "poll card" from the candidates, telling him his number and polling station, there is the maximum of guidance and the minimum risk of mistake.

The Repression of Untimely Excitement.

The liveliness of the contest will naturally reach its height in the period between the nomination and the poll, during which the contending parties are drawn up, as it were, in readiness for the imminent onset. There is really no more need for this state of things than there is that a jury should fall into paroxysms of excitement as the moment approaches when it is bidden to consider its verdict. Throughout our analysis of the electoral phenomena we have kept in mind the desirability of minimising, as far as is consistent with the freedom of action and discussion, all the accidental and unessential forces which influence the working of the electoral mechanism; and the equal necessity of maximising the realisation of individual responsibility and the cautious deliberation of individual judgment, in acordance with the requirements of the Third Canon of self-government. But since electoral excitement is a social tradition, regarded by some as almost a social privilege, no attempt at its entire suppression would, at the present stage of our political evolution, have the slightest chance of success. But we need not hesitate to consider whether the external stimuli of election excitement might not be subjected to a statutory sedative, so as to reduce in a marked degree the power of the more or less illicit influences which, in the closing hours of the contest, are brought to bear upon the voters and tell, with fatal

effect, upon the judgment of the more unstable minds. This might be done by setting back, to the extent of about forty-eight hours, the hour which marks the present limit of the effective issue of election "literature." At present the candidate, or any person or organisation which is taking part in the contest, may issue placards and handbills right up to the close of the poll, so that the last man who enters the polling booth may have a misleading appeal thrust into his hand or a dexterously mendacious placard flaunted in his face. There is no real need for this prolonged propagandism. All that it is necessary for the electorate to know can be communicated to it by eight o'clock on the evening of the second day before the poll, and after the clock has struck that hour the issue of election literature, or the posting of election bills, should be prohibited as an illegal practice. So far as the powers of the human voice are concerned, each candidate and each party might be at liberty to proceed until the clamour is lost in the clang of the closing doors of the polling booth; but, as regards the "literature" and the placard, there should break upon the contending elements a period analogous to that "truce of God" which quelled even the military ardour of the turbulent Norman, and might well surround with solemn dignity and leisured deliberation the final hours of the electoral contest. It should be the duty of the election agent, at the appointed hour, to take charge of all undistributed literature and to see that none of it was circulated in contravention of the law; and the head postmaster of the district should be required to give not less than three days' notice of the last hour up to which he can receive postal communications so as to deliver them not later than the last delivery on the evening of the second day before the poll.

Political Newspapers.

The position of political newspapers appears at first sight to present some slight difficulty with regard to the application of these provisions. On closer inspection, however, we shall see that not only is the difficulty simple of solution, but that, incidentally, it solves an allied problem. Obviously, in a world where events move at a constantly accelerated speed, there might be occurrences of the highest political importance between the compulsory cessation of the distribution of "literature" and the close of the poll. Any idea of keeping the electorate in ignorance of them would be as futile as its principle would be foreign to all sound canons of political activity and enlightenment. And yet, if we allow candidates to break in upon the compulsory forty-eight hours absention from "literary" effort by issuing printed matter with reference to any "important" political developments, the faintest zephyr that stirs the political atmosphere will be made the excuse for a deluge. The solution of the apparent difficulty lies in the newspapers. Every party, and indeed every shade of opinion, is now

represented by organs of publicity which (as we have seen) convey political news and personal pronouncements, with unexampled rapidity and fulness, to the remotest corners of the land. These methods of publicity (added to the right of public speech, which should be unrestricted, save in its access to the near neighbourhood of the polling booth, right up to the close of the poll) afford ample means of the most effective and widespread publicity for any political development which ought to be brought within range of electoral perception during the forty-eight hours immediately preceding the close of the poll. The exercise of unlimited newspaper publicity needs only to be guarded by a slight modification of the existing law of libel, partly on the lines already suggested, and partly designed to meet the special circumstances; that is to say:

Any false statement of fact whatsoever made in a newspaper with reference to a candidate during an election campaign (and not only a false statement of fact with regard to the personal character or conduct of the candidate) shall be actionable without proof of special damage by such candidate, provided:

(a) That he satisfy the court that such statement was intended to apply to him, or to his candidature; but it shall not suffice to show that it only applied generally to the political party to which he belongs;

(b) It shall be a competent defence to such action that the defendant newspaper had reasonable ground for believing, and did believe, that the alleged false statement was in fact true;

(c) A person shall not be deemed to be a candidate within the meaning of these provisions unless he was actually and validly nominated.

(d) Security for costs shall be ordered, to an amount not exceeding £200, on the application of the defendant newspaper.

The kind of false statement here contemplated, for which the present law affords no remedy, may be briefly illustrated. For instance, these:

A B (the candidate) voted against the Miners' Eight Hours Bill (the fact being that he voted in favour of it).

A B (the candidate) affects to oppose Chinese Labour, but is a shareholder in many mines which employ it* (the fact being that he holds no mining shares at all).

A B (the candidate) only voted in ten divisions in the House last session (the fact being that he voted in many hundreds).

The proposed provisions (which are, of course, only in rough draft form) will be said to impose a serious responsibility. They are intended to do so. A witness who testifies in a court of justice is subjected to very serious responsibility and to extremely severe punishment if, in contempt of court and conscience, he swears to that which he knows to be false. No less responsibility should weigh upon those who are responsible for an endeavour to mislead, or deceive, the majestic tribunal from which the authority of all the courts is ultimately drawn. If it be punishable to assail the interests of an individual litigant by the public assertion of a known falsity during the trial of his case, why should it not be

* This statement is possibly actionable in the ordinary way; but as the case would not come on for months after the election, it is true to say that the law affords no electorally effective remedy.

equally perilous to employ the same weapon against the interests of a vast political organism? The argument is all the more forcible if we bear in mind that the verdict of the court is the subject of appeal and revision, while the verdict of the electorate, although obtained by wilful and deliberate falsity, is (with only slight exception) irrevocable on that ground.

Close Time for "Outside Organisations."

For the "outside organisations" the "close time" should commence twenty-four hours earlier. These organisations are subject to no such responsibility for their assertions as that which presses continuously upon the candidates. A false statement with respect to the personal character and conduct of his opponent means the loss of the seat in the case of a successful candidate. In the case of an outside organisation it means a fine or, at most, damages for libel or slander; and if, instead of being a personal attack, it is merely a political or statistical falsity, however mischievous and deliberate, there is, as we have seen, no penalty at all. If we are going to fix a time limit for the issue of election literature, there ought surely to be a means of preventing the irresponsible "outside organisation" from issuing, at the last minute, some utterly false postal circular, to which the time limit would preclude a reply by the candidate whose chances it jeopardised. For these reasons the issue of "literature" by any "outside organisation" should compulsorily cease twenty-four hours before the equivalent cessation of activity is enforced upon the candidates. With this last provision we have completed an edifice of suggestion whose erection into concrete legislation would exclude from the electoral arena the pernicious influence of falsehood and wilful misrepresentation and surround the final struggle with some aspect of the conciliar restraint and quietude amid which public judgments should be formed and pronounced.

Summary of Suggestions.

The closing days of the struggle to be approximated, in their temper and aspect, more nearly to a judicial tribunal by:

(a) The compulsory cessation of the issue of all "literature" and posters by "outside organisations" at eight o'clock on the evening of the third day before the poll.

(b) The same restriction to come into force, as regards the candidates, at eight o'clock on the evening of the second day before the poll.

(c) False statements in party or other newspapers to be actionable by candidates attacked in that way, without proof of special damage. At present, unless the false statement refers to the "personal" character or conduct, no immediate (and, in the great majority of cases, no ultimate) remedy is provided for an injured candidate or a deceived electorate. (See also Sec. I. of Chap. IX.)

CHAPTER XI.
The Poll: The Act and Mode of Voting.

The "poll" was, of course, originally the counting of "polls"—of heads. There was formerly no limit to the duration of the process; and its condition—the "state of the poll"—was announced from time to time, to the encouragement, it may be, of one party and the dismay of the other. The prolongation of the poll at last became an intolerable abuse, and by the Act 25, George III., c. 84, it was ordered that the proceedings should not extend over a greater period than fifteen days. Nowadays the poll occupies exactly twelve hours (8 a.m. to 8 p.m.); and, since the counting of the "polls"—in the Romford division, for instance—would be a physical impossibility within that space of time, it is taken by means of the simple mechanism of the ballot, except at the Universities, where it is done orally, or by proxy. A perusal of Chapter XIII. of the "Pickwick Papers" will convey to the mind of the reader an excellent, if somewhat humorously embroidered, idea of the scenes of violence and disorder, by which, almost within living memory, the proceedings at the poll were characterised.

All Elections on One Day.

The statutory regulations for the fixation of polling day have already been explained. Their upshot, as far as a general election is concerned, is that the act of national judgment, which ought to be focussed into a united and simultaneous pronouncement, is allowed to straggle over several weeks. Instead of forcing each elector, as far as possible, to rely upon his individual intellect, we allow him to be influenced, through the pernicious medium of mass-suggestibility, by the opinions of other people. The earliest elections sometimes do, and sometimes do not, indicate the real opinion of the nation; but if they happen to coincide with its predominant drift at the moment, they gain a cumulative force by bringing over thousands of electors to what is supposed to be the "winning side." Let us assume, for instance, a general election at which there is no trustworthy indication of the probable nature of the national choice of policy. Let Manchester, Birmingham, Leeds, and Glasgow poll first, and let them decide, with practical unanimity, in favour of a certain party. The odds in favour of that party's success are at once increased to an enormous extent, so that doubtless many scores of constituencies will render that which is not, in fact, their own verdict, but a mere echo from the great centres of population. As it does not always and necessarily follow that the great centres of population pronounce the judgment which is politically sound, the whole electoral process

is vitiated and thrown out of consonance with the requirements of the Third Canon of self-government by this acceptance of a national verdict rendered by instalments. From this point of view, as well as to secure the minimum of interference with trade, the shortest period of uncertainty, and the ultimate transformation of the polling day into a national holiday, the polls should all be taken on one day.

It has, indeed, been objected that the holding of all the elections on one day would, by lengthening the electoral period in the boroughs, increase the fatigue and cost to borough candidates, and "in view of the rate at which labour and money are expended on such occasions," says Professor Lowell, "the objection is not altogether without foundation." There is, however, no necessity for the postponement of the borough elections so as to adjust them to the later date which is permissible in the case of county elections. The county elections should be accelerated, not the borough elections delayed. Moreover, so far as "labour and money" are concerned, the present essay will have failed of its purpose if the reader has not already come to the conclusion that both are lavished to a superfluous, not to say mischievous, extent, upon an election campaign conducted under the accepted contemporary conditions. The objection which impressed Professor Lowell has, in truth, no force at all.

Poll Should be Open for a Longer Time.

The present hours of polling at a Parliamentary election are certainly not long enough. In large towns, especially, the voter frequently has to leave his home (in the district where the polling station is situated) at a very early hour in order to proceed to his daily work at a distance. He goes before the poll is open; and when he returns, he may either be so tired as to be disinclined to visit the polling booth, or else he may be delayed, and find that it has closed before he can reach it. Where inability to poll is the result of time, and not of weariness, the arrangements which are responsible for it exhibit their own condemnation. An elector who is busy with his contribution to the social output of labour ought not to be excluded thereby from what are civic duties as between himself and the community, and civic privileges with regard to himself. And weariness begets a frame of mind which is not only unfavourable to the exercise of the faculty of judgment, but lays the elector open to those influences of accident, caprice, misrepresentation and (in a mild form) duress, which are contrary to the provisions of the Third Canon, and which it should be the aim of every electoral system to exclude from operation altogether. The opening of the poll at an earlier hour—say, 5 a.m. or 6 a.m.—does not altogether remedy this defect (except in so far as it would enable the elector to vote on

his way to his work), for it only amounts to offering the opportunity of getting up earlier to a man who already rises quite early enough. On the other hand the postponement of the close of the poll to a very late hour is objected to, mainly because it leads to the assemblage around the polling booths of the rowdy element of the community, but also because it prolongs the strain upon the party staff, of workers and incidentally stimulates drinking. Still, the fact remains that a function which purports to offer an opportunity for the expression of the corporate judgment of the community is in fact so timed as always to exclude an appreciable and very intelligent percentage of the tribunal from exerting their influence upon the proceedings. The result, of course, is that occasionally the political complexion of a constituency is misrepresented, because of the exclusion from the polling booths, by the ruthless hands of time, of a number of its electorate. What is wanted is a "double shift" of the returning officer's staff, and the opening of the polling booths at 4 a.m., to close at 10 p.m. The earlier hour will permit of the exercise of the electoral trust with the freshness and clearness of a morning mind by all that multitude who, though vitally interested in the process, are at present excluded by their very early hours of labour from taking part in it. To the latter hour two objections may be urged. In the first place it may be said that it will prolong the election excitement, and so encourage drinking. But no serious reformer of our electoral system now doubts that the compulsory closing of all public-houses and the compulsory suspension of all grocers' licenses on election day are essential factors in any well-considered scheme of improvement. In the second place it may be argued that if the poll closed at 10 p.m. the result of the election could not, in any but the smallest constituencies, be declared that night, or in the early hours of the following morning. This is no great evil. In county elections the final process is almost invariably postponed till the next day, and, except for a prolongation of the excitement at a time when excitement cannot affect results, the delay has no injurious effects. It is true that the longer polling hours might inflict some hardship upon the official staffs of the contending parties; but this can be obviated by the employment of "shifts" where the work is really necessary; and, if the truth must be bluntly told, a good deal of the work which is done on election day is decidedly not necessary, so that any factor which tends to discourage its performance may be regarded not only with equanimity, but with warm approval. When we have brought ourselves to see that quietude, and not turmoil, is the best environment of a calm and dispassionate judgment, we shall strive not only to discourage, but to suppress, the agitation and turbulence which, in our present stage of political education, we seem to consider the almost inseparable accessories of an election contest.

Prohibit the "Besetting" of the Voter.

That calmness and quietude which are here contemplated are seldom, if ever, realised at a modern election. The truth is that the clamour and disorder which prevail outside a polling booth are no fit environment for the discharge of the electoral duty. The verbal requests for the voter's poll card (in order that canvassers may be informed that he has cast his vote and is therefore no fit subject for further persuasive efforts) were, and are, comparatively innocuous elements of the electoral struggle; but in recent years they have been reinforced by a method which can only be described as the systematic besetting of the voter up to the very instant when he vanishes in the shades of the polling booth. No doubt this kind of thing effects an appreciable proportion of the electorate—the portion, that is to say, whose judgment is always poised upon the thin razor edge of vacillation, and finally forms what it calls its opinion upon the most recent, and not upon the most weighty, evidence presented to it. Such haphazard judgments, it may be said, are worthless; but the answer is that, worthless as they are, they frequently determine results, and are trumpeted forth as indicating the trend of public opinion, or the deliberate verdict of the electorate upon some hotly-debated element of a party programme. It is impossible to eliminate from the ballot box the votes of persons whose determination of the locus of their "X" was the result of a frantically uttered appeal from a canvasser at the very moment when they entered the polling booth. The next best thing, however, can be achieved, and that is to shut off these extraneous, clamorous, mischievous, capricious, and delusive influences altogether. No persons whatever should be allowed to congregate within a certain distance—say fifty yards—of the entrance to the polling booth, and the distribution of "literature" to persons about to enter it should be made an illegal practice. Elsewhere a "time limit" for the publication of election literature has been proposed (page 228), which would automatically stop this pernicious mode of operation, and, as the reader will recollect, the limitation of the amount of bill-posting and of the number of carriages, as well as the prohibition of the employment of sandwich-men, have already been suggested as means for the better attainment of judicial quietude for the discharge of a public duty. The fixation of all the polls on one day would, moreover, render the "outside organisations" practically impotent, since no independent machinery of less dimensions than the colossal could distribute its effective activity and interference over the whole electoral area of the nation.

The systematic besetting of the voter has already formed the subject of legislative attack in Tasmania. The Tasmanian Electoral Act of 1906 prohibits all canvassing and besetting. The provisions with regard to canvassing are too far in advance of

current public opinion in England to be prudently recommended for adoption in any early legislation. Moreover, canvassing has been dealt with (ante, page 141) in another way, quite adequate for its efficient regulation. But the provisions as to besetting in the Tasmanian Act might well be adopted here. The whole clause (Electoral Act, 1906) stands thus:

154. The following Acts, namely:
(i.) Canvassing for votes; or
(ii.) Soliciting the vote of any elector; or
(iii.) Inducing any elector not to vote for any particular candidate; or
(iv.) Inducing any elector not to vote at the election—
are prohibited: (*a*) At or about the entrance of or within a polling-booth, on polling-day, or on any day to which the polling is adjourned. (*b*) (Except in the case of a candidate himself) at the residence, or place of business or employment of any elector. Penalty, £25.

These are sound and essential expedients for the exclusion of the importunate and otherwise irrepressible activity of political mendicants. What would be thought of the dignity of a judicial tribunal which permitted its jurymen, as they retired to their solemn duty, to be beset by clamorous and gesticulating demands that a verdict be found for the plaintiff, or for the defendant, as the interest or fancy of the interloper might dictate? What measure of serenity, of placidity, would the jurymen be likely to carry with them out of that disorderly environment into the atmosphere of their deliberations? Such ideas prove irreconcilable when we attempt to associate them with the grave and serious procedure of our law courts, though they are contemplated without amazement, and with hardly the faintest sense of their incongruity, as among the accustomed, if not the essential, surroundings of the process from which the authority even of the law courts themselves is ultimately derived.

All Public-houses Should be Closed.

It is absolutely essential that all liquor licenses (including grocers' licenses) be suspended during the hours when the poll is open. The supply of liquor in all clubs should also be limited strictly to members, with no right to introduce guests, and with severe penalties for serving non-members with liquor. To complete the scope of the enactment the supply of liquor even to guests in hotels on the day of the poll should be carefully safeguarded. Provisions for the closing of public-houses on election day were, in fact, included in the Licensing Bill of 1908, and a very brief experience of elections without liquor would have so completely convinced the electorate of the entire wisdom of the expedient, as to render it difficult to understand why a regulation so pregnant with good results had not been adopted at an earlier stage of our political history. When we have had experience of

elections conducted under conditions representing the utmost attainable sobriety and quietude, we shall probably be able to go on to make the polling day a national holiday. At present a large section of our electorate is not habituated to the intelligent use of leisure, and would not be likely to spend in serious political discussion, or in enthusiastic political labour, the hours of freedom from the trivial round which came with the declaration of a national holiday. Still less would there be any profitable employment of the time if every public-house displayed its open doors. Charges of treating must, however, become less frequent when all facilities for the commission of the offence are compulsorily and absolutely withdrawn on the day of the poll. There is no desire whatever to speak of the public-house in terms of censure, still less of reproach. All that the writer desires to urge is that the public-house offers that which is, to a large section of the electorate, at its present stage of political evolution and education, a peculiarly fascinating and potent counter-attraction to the serious, deliberate, responsible, thoughtful performance of the electoral duty; and since there can be no two opinions as to the identity of the predominant interest, the subordinate interest must be reduced to temporary inactivity. The day of the poll is the retirement of the jury as the preliminary to the rendering of the most momentous of verdicts, whose good or evil effects may outlast time itself. It is the period when the giant national organism pauses for a moment to consider where it is, and what it is; to take stock of the past, to brace itself for the future, and to render what may be an irrevocable present judgment. Within the circle of that majestic tribunal, in whose hands are balanced the destinies of the race, it does not consort with the national dignity that any alien influence should come.

Ennoble the Act of Voting.

There is in none of these proposals any menace to electoral freedom, or to the fulness of electoral information. The bill-posting, the newspapers, the canvassing, the meetings, the public and private discussion of all political topics, will have carried the process of disseminating knowledge and opinion up to the very summit level of completeness, so that the voter is armed with everything that his perceptive faculties can acquire, or the machinery of a far-flung and ceaseless publicity bestow. Least of all could the candidate complain of the restrictions, since upon him there is conferred a position of almost panoramic conspicuousness, by the very fact of his candidature. When every other influence has been removed from the environment of the voter the candidate's name still confronts him, at the moment of final judgment, on the ballot paper. Elsewhere (see page 228) the suggestion has been made that this final period

of retirement and quietude, during which, so to speak, the elector is alone with his conscience and the candidates, should be prolonged by the elimination of those elements of passion, caprice, and prejudice which are now allowed to congregate at the door of the polling station and to distract and beset the voter. In truth, any exalted conception of the electoral function as the discharge of a responsible corporate duty must contemplate not only a freedom from interference and distraction, but the surrounding of the voter with those influences which are best calculated to emphasise and enhance the dignity and deliberation of the act. Mr. Cecil Rhodes placed an ancient Phœnician stone eagle in the Council Chamber of the Cape Cabinet in order that, as he expressed it, the emblem of Time might preside over their deliberations. For a similar reason the voter might well be surrounded, in the polling booth, by reproductions of great pictures representing striking national (and, as far as possible, non-military) episodes. The faces of the departed* leaders of all schools of national thought and activity might look down upon him from the walls as he contributed his share of gravid discernment to the perpetuation of the noble fabric which age-long struggles have brought to its present stage of pre-eminence and grandeur. In this manner we should not only exclude the distracting and mischievous influences, but we should adduce the most invigorating stimuli of deliberation and responsibility. The polling booth, as we know it, is a singularly uninspiring locus for the record, and sometimes for the belated formation, of electoral judgment. Our public worship, our constitutional functions, and our courts of law are exalted by a touch of pageantry which brings home to the mind of the beholder the fact that behind the phenomena that are palpable to his senses there lives and moves the ageless and sublime. There is no valid reason why the interior of the polling-booth should not be distinguished by the same indefinable air of majesty, the same breath of antiquity, generating the same deep self-conscious responsibility. As the popular resources of knowledge (and especially the power of historic appreciation) are augmented, the profundity of feeling which would be evocable by these simple means would rapidly approach those unfathomable depths of personality whence come all the finest impulses of humanity. Even now there are few voters whose entire mental pose would not be instantly altered for the better in even a momentary glance at that countenance which flamed with passionate indignation as the tremendous eloquence of Chatham reverberated around the commission of a national crime; or at the physical presentment of Chatham's greater son, whose noble soul passed to the eternal peace amid

* Living leaders should be excluded, for reasons so obvious that they do not need definition.

the crash of a collapsing continent; or with the contemplation of the sculptured thought that speaks from Darwin's face, the etherealised tranquillity that breathed on Avon's bank; of King Alfred and Milton, de Montfort and Peel. Far above and far beyond the petty triumphs of a day are the eternal verities with whose persistence such faces and memories must instantly confront the reflective mind. As if some of these great souls had descended from the unimaginable brightness in response to the splendid apostrophe—

> O thou, who once didst guide
> Our Britain's loyal will
> Invisible at her side
> Aid thou her still !—

As if, indeed, there fell athwart the ballot paper some gleam of their presence, with its silent admonition that a nation's destiny is in the elector's hands, and that he is answerable not only to the candidate of the hour, but at the dread tribunal of the centuries.

The Excitements of the Polling Booth.

The resources of public order are in our day capable of maintaining the public peace in all circumstances, so that the old necessity of postponing the poll, on account of general rioting, no longer delays the electoral decision. The polling booths are opened and closed to the exact time—as, indeed, they must be if the validity of the whole proceedings is not to be imperilled. The poll proceeds in regular fashion throughout the day, with a rush, and a consequent rise in the percentage of personations, during the last couple of hours. With personation itself, and the modes of checking it, the reader has been rendered quite familiar. With the exception of an attempted personation the only source of transient excitement inside the polling booth is probably the advent of an illiterate elector, or a Jew (if the election is on a Saturday) or a blind or otherwise physically incapacitated person. In such contingency the presiding officer must, after certain formalities, mark the voter's paper for him, in the presence of the respective personation agents. It used to be alleged that sham illiterates were occasionally sent into a polling station in the hours of "rush," in order to waste the time of the presiding officer and thereby to obstruct the voting of persons who were polling heavily, at that time, against the candidate in whose interest this discreditable device was worked. But this kind of thing is not often attempted nowadays, perhaps because presiding officers are less gullible, and perhaps because partisans are more scrupulous.

The "Official Mark."

At the commencement of the poll the presiding officer is required (by Rule 23) in Appendix II. of the Ballot Act to exhibit the empty ballot box to such persons as may be present—probably

only the personation agents and one or two eager voters. This is not a superfluous precaution, for as late as 1880 the forgery of ballot papers was among the gentle arts which still flourished among us. It is in order to provide an antidote to this risk that each ballot paper must bear an official mark, generally impressed by means of a stamping machine, and consisting of some device or arbitrary arrangement of letters, the exact nature of which is kept secret by the returning officer. The same device or mark may not be used more than once in seven years. The absence of the official mark invalidates the ballot paper.

This fact deserves a little candid comment. It is provided (by Rule 34 in Appendix II. of the Ballot Act) that after the ballot papers out of the respective boxes have been counted and recorded all the ballot papers are to be mixed. This is not altogether desirable, though as long as it is the law the rule must of course be obeyed. The only purpose that is served by the mixing of the ballot papers is the concealment of the real political complexion of the various districts of a constituency. Even this is not entirely attained, for a watchful agent, working on no better basis than the law of average, can often obtain material for the confirmation or revision of the local estimates by a rapid glance at the papers which reveal themselves as they fall out of the box, or as their numerical aggregate is checked. There is no adequate reason why a candidate and his agent should not be allowed to check their opinion of the locus of the party weakness and strength respectively by means of the exact information available from the ballot box. The operation does not imperil the secrecy of a single vote, nor is it in any way inconsistent with the principle of the ballot. What is more important, too, is this—that the process of closely inspecting the ballot papers from a given station is a valuable check upon any irregularities on the part of the presiding officer. No reflection is made upon presiding officers as a class. On the contrary, the writer is convinced that in discretion, patience, good sense, and absolute honesty the average presiding officer is the model of a zealous and competent official. Here and there, however, political partizanship (which, if known and palpable, should disqualify him for the position) leads the presiding officer into "tinkering" with the votes. The writer was once consulted with reference to a case where the presiding officer at a station for 400 voters was a strong opponent of candidate A. A very close fight was expected. About 330 electors voted, of whom twelve were found to have wasted their time owing to the absence of the official mark from the ballot paper. Such a percentage of spoilt papers was itself a proof of the grossest negligence by the presiding officer; but when it appeared that the whole of the twelve papers were in favour of candidate A, it became evident that not negligence, but another influence altogether, had been at work. What had happened was that the presiding officer, employing

his local knowledge of the persons who were likely to vote for candidate A, had invalidated their votes (and attempted to influence the result of the election) by deliberately omitting the official mark from their ballot papers. On a very close poll his device would have changed the political complexion of the constituency, and would naturally and inevitably have led to his own prosecution. Only the watchfulness of an agent stimulated by party zeal, and able to survey the unmixed ballot papers, can be an effective check on insidious trickery of this kind.

Shall Voters be Forced to Vote?

When the suffrage has been conferred upon the individual, shall he be forced to exercise it—subject always to the existence of such a valid excuse as would be furnished by absolute physical or mental incapacity to do so? If the electoral judgment is to be really as well as theoretically an expression of a corporate judgment upon the political and social problems presented to the electorate, shall all the effective units be compelled to combine in pronouncing it? Shall the voter be no more excused from his contribution to the aggregate of intelligence that is to guide the policy of the country than from the monetary payment which, in the shape of rates and taxes, he makes towards the necessary funds for translating that policy from the abstract into the concrete? The answer in Belgium is in the affirmative, and the recording of the vote is enforced by means of a penalty. For us the reply to the questions is in the negative. In the stage of development at which our electoral machinery has at present arrived the sentiment which stimulates the electoral function, as well as the surroundings amid which it is discharged, are neither of them capable of justifying any measure of compulsion, even if it were deemed desirable. That it is not desirable is clear from the consideration that the vote is the expression of a judgment, and while we can compel a man to mark his ballot paper with the "X," we cannot by any conceivable enactment provide that the "X" shall be the outward and visible sign of an inward intellectual verdict. "Those acts only," says T. H. Green ("Principles of Political Obligation," p. 38), "should be matter of legal injunction or prohibition, of which the performance or omission, irrespectively of the motive from which it proceeds, is so necessary to the existence of a society in which the moral end stated can be realised, that it is better for them to be done or omitted from that unworthy motive which consists in fear or hope of legal consequences than not to be done at all. . . . For since the end consists in action," like that of recording a vote, "proceeding from a certain disposition, and since action done from apprehension of legal consequences does not proceed from that disposition," it is useless to compel men to vote, when we cannot also compel in them that state of deliberation and civic duty which alone can give any political value to the act.

Voters are Sometimes Abducted.

Nevertheless, the result of the present state of affairs is that while occasionally the exceptional interest of a contest causes the percentage of effective electors to rise to a very high figure, the average contest does not place in the ballot anything like the full measure of its potentialities, especially if the contest is fought on a "stale" register. That which purports to be the record of the electorate is, in truth, only the judgment of a greater or less proportion of the aggregate. So low does the standard of electoral duty occasionally fall that in certain constituencies it has been a common election campaign device to get voters away to the seaside or other distant pleasure resort on the day of the poll. A discreet non-voter is provided with money for the purpose. He lets it be known to the voters whom it is desired to "remove" that he is "flush," and invites their company to the seaside, at his expense, for a day, which happens to be the day of the poll. A train before the opening of the poll is selected and the return is timed to take place after the poll is closed. Two or three dozen electors, dexterously "removed" in this way, mean a corresponding loss of votes to the other side, and the device has on more than one occasion changed the political complexion of a constituency, so far as it is indicated by the party allegiance of its representative in the House of Commons. It may be said that no value attaches to the judgment of a citizen who is open to the operation of a device like this. The fact is, however, that if another election takes place in the same constituency on the same register, the vote of the careless absentee at the previous contest is of precisely the same ballot-box value as that of the greatest of scientists or statesmen who happens to be his fellow elector. Under a system of compulsory voting the absentee would be called upon to explain his absence, and as his explanation must reveal his choice of a day at the seaside in preference to the discharge of his electoral duty, his name might be removed from the register. The trouble is one, however, which to a great extent is its own remedy. Worthless voters of this stamp are as a rule too idle, or too drunk, to go to the poll, even if they have not fallen a prey to the political abductor. They disfranchise themselves, without the law being concerned to take any active part in the process of sterilisation.

But while it is perfectly true that no legislative coercion can create or induce the judicial and deliberative frame of mind which is requisite for the pronouncing of an individual share of the electoral judgment, it is extremely desirable that (except in the case of illness, infirmity, or age) neglect or refusal to discharge the electoral function, in spite of ample opportunity, should be the object of social displeasure. Under existing conditions the "ample opportunity" is not constituted by the doubtful privilege

of voting for one of two party men, with neither of whom the elector may have the slightest sympathy. But, given a system of larger constituencies and proportional representation, there would no longer be any excuse for apathy. An elector would almost of necessity be in sympathy with one or other of the many aspirants who, in wholesome disregard of party interests and caucus dictates, were willing to serve their fellow citizens. Under such circumstances there is a New York State statute that might well be brought into application to our own electoral system. This statute provides that the lists from which juries are drawn shall be made up as far as possible of the names of voters who failed to vote at the last preceding election. The theory is that a man who will not discharge his social duty in one way should be compelled to discharge it in another, and it is difficult to imagine how any but beneficial results could follow the adoption of this scheme into our own statutory provisions with regard to elections.

The Mode of Voting.

The ballot paper itself scarcely needs description. It contains the names of the candidates in alphabetical order, the surnames in large type, and the other names and descriptions in small characters. In the early days of the ballot, and still to a slight extent among uninstructed electorates, the top position on the paper has a slight advantage. That is to say, as between Adams, Jones, and Williams, the candidate Adams will probably gain slightly from voters who mark their cross opposite the first name on the paper. To a less extent, but for a similar reason, the last name has an advantage, scarcely appreciable, but nevertheless quite real. The problems of electoral psychology probably include no more curious phenomenon than this.

The voter is required to make a X in a space provided for that purpose opposite the name of the candidate or candidates for whom he desires to vote. The X must, technically speaking, be within (or, as some of the colonial statutes have it, "substantially within") the space. But as a matter of fact the returning officer at a "count," and the judges on a scrutiny, will now allow any vote which clearly exhibits the workings of the elector's mind, and does not (1) want the official mark, (2) exhibit more votes than the voter is entitled to give (e.g., there being three candidates for one seat, the voter votes for two of them), (3) contain any writing or other mark (such as initials, or an address) by which the voter can be identified, or (4) lack any mark at all or contain only unintelligible marks. Where the X extends out of one name space into another the vote will usually be credited to that candidate in whose name space the intersection of the lines of the X has fallen. The reader who desires to see specimens of doubtful papers and to study the decisions upon them will find an assortment

in Rogers, as well as in Ward by Lushington. The most curious instance in the writer's experience was that of a ballot marked with the X, in lead pencil, on the wrong side of the paper, so that it showed clearly as an embossed (or relief) cross against the name of one of the candidates. The absence of the official mark has already furnished us with the material for some criticism of the procedure at the "count." The other classes of vitiation become smaller every year with the advance of education, save that in recent polls returning officers are becoming accustomed to discover numbers of ballot papers upon which the voter has written "Socialism" or "Anarchy," as the indication of opinions which will not permit the exhibition of a definite preference, by means of the X, from among the rivals for his electoral favour.

Clearly the ballot paper is one of the crudest elements of electoral mechanism. It merely enables the voter to indicate his discrimination between A and B, which is doubtless all that the vast majority of electors could be expected to do when first the ballot system came into force. The advance to political power of a generation which remembers no other mode of effective political judgment than that which is delivered through the ballot box is calculated to obscure the essentially elementary nature of the process, and to conceal the undoubted possibility that an educated electorate may enable the ballot paper to be elaborated as a means of political expression to at least as great an extent as the modern organ in comparison with the clumsy instruments which are illustrated in early musical MSS. This is a matter which, at a slightly later stage of the discussion, we shall treat in detail and with freedom.

Is the Ballot Secret?

There are two slight flaws in the secrecy of the ballot. Neither of them is of very great importance, though the one is capable of fairly safe and easy employment for discovering in what way a certain elector voted, and the other is not infrequently used as an instrument of intimidation.

(1) It is quite possible for a presiding officer, who makes a mental note of the denominating numbers of the ballot papers given out to certain individuals (two, or, at the outside, three figures would be all that need be memorised), to ascertain, if he should be engaged at the count, which way those votes were cast. There are odds that the presiding officer might not be employed in checking and counting the votes from his own polling station, and there are also odds that, even if he were so employed, his hands might not pick out the ballot papers in which he is interested. But if he has memorised six numbers, and can get to the proper box, he would probably satisfy his craving for illicit

knowledge in the matter of three papers. The writer, if appointed as presiding officer at a polling station, and subsequently allowed to attend the count and to check the ballot papers from that station, would undertake (assuming that he were relieved of the obligation of his oath of secrecy) to discover how ten electors at least had voted, and would, with good luck, extend the process to twenty. It is not suggested that this state of things is a serious menace to the secrecy of the ballot. It can only operate where fate throws an unscrupulous man into a position which, in the great majority of cases, is occupied by an honourable and upright official. But anything like an exhaustive survey of the electoral system requires the indication of this flaw. If it should ever be thought desirable to remedy it, the exclusion, from the counting of the votes, of the whole of the presiding officers and their staffs would be for all practical purposes effective. Consistently with the requirements of identity, and the provision of a means of such subsequent investigation as is involved in a scrutiny, the ballot cannot be rendered absolutely secret; but this device would bring its secrecy up to the summit level of possibility.

(2) The other flaw lies in the procedure at a scrutiny. In that case it is sometimes necessary to turn up the voting paper which has been declared void, with the result of disclosing how the vote was cast. The fact that the badness of the vote is determined before it is "turned up" does not in the least minimise the objection to a mode of procedure which may reveal to an employer how a servant voted, or indicate that a tradesman, who was, at the election, driven by the consensus of opinion among his customers into displaying the legend "Vote for A," actually cast his own vote for A's opponent. This is no imaginary peril. Many a voter could tell how he has been reminded, by those who had the power of inflicting severe injury, that he had "better be careful. We are going to have a scrutiny, so that we shall find out how you voted." If the alarmed elector applies to some well-informed person in order to ascertain if this violation of the secrecy of the ballot is possible, he will be told that although distant and difficult of attainment, possible it certainly is. What is wanted is an enactment providing that even on the trial of an election petition the secrecy of the ballot shall not be violated. That object could be attained by directing the judges to keep a private account of the political colour of the votes dealt with, and to announce the result only in the aggregate, at the end of the proceedings. They do not now give their decision on each illegal practice or other alleged offence, but (as a rule) hear the petition out and then deal seriatim with all the charges. They might well do the same on a scrutiny; and although the giving of their decision, even in this manner, would not be an absolute bar to efforts to discover the political colour of a certain vote, it would go far

enough in that direction to considerably reassure a threatened voter to whom the process was explained by way of antidote to threats. Entirely absolute secrecy would not be attained, even if the scrutiny were heard in camera. Perhaps it is desirable to add that, to the natural question why, when threatening of electors is reported, there is (and generally can be) no prosecution for intimidation, the answer will be found in Chapter VIII.

The Postal Vote.

In the endeavour to raise the effective proportion of the electorate to its highest possible percentage, we saw that it was desirable to permit the use even of hired conveyances (within a statutory limit as to number) in order to enable the invalid, infirm, and aged to record their votes. This concession, however, need not remain after the adoption of the postal vote. At present we have only one statutory exception to the provision that every elector who desires to vote must do so in person at the polling station allotted to him by the returning officer. If the polling station is at Penzance and the voter is in the Orkney Islands, he must, nevertheless, journey to Penzance to vote, for he cannot exercise the right by proxy. The one exception is made for the policeman (see the Police Disabilities Removal Act, 50 Vic., c. 9), who, being a voter, and likely to be on duty at a distance from the polling station to which he is allotted, is permitted to vote at any convenient polling station within the constituency of which he is an elector. There is no valid reason why an analogous privilege should not be extended to the ordinary voter, provided he can show good reason for his inability to reach the polling-station, and provided also that the postal vote is surrounded with adequate safeguards against abuse and trickery. The subject will be better understood if it is introduced by a specimen of the application for a postal ballot paper, which forms one of the schedules to the Tasmanian Electoral Act of 1906:

Application for a Postal Vote Certificate.

To the Returning Officer, electoral district of [here insert name of district].

I [here state Christian names, surname, residence, and occupation] hereby apply for a postal vote certificate.

1. I am an elector on the Electoral Roll for the [here state Council or Assembly, as the case may be] district of [here insert name of district] to vote at [here insert name of polling place].

2. The ground on which I apply for the certificate is—

(a) That I have reason to believe that I will not, on polling day, be within seven miles of the above polling place. My reasons for this belief are—

.....

.....

(b) That, being a woman, I will, on account of ill-health, be unable, on polling day, to attend the polling place to vote.

(c) That I will be prevented, by serious illness or infirmity, from attending the polling place on polling day.

Note.—The elector will rule out any two of the above grounds which do not apply to his or her particular case, as only one ground is necessary for the application.

3. I request that a postal vote certificate and a postal ballot paper may be forwarded to me at [here state address to which the papers are to be forwarded].

Dated this day of 19 .

(Signature.)

Signed in the presence of

[Authorised witness to sign here and insert his title.]

No authorised witness shall—

(a) Witness the signature of any elector to an application for a postal certificate unless the elector is personally known to him; or

(b) Witness the signature of any elector to any application or form of application for a postal vote certificate, unless he has seen the elector sign the application or form of application in his own handwriting.

The person witnessing any application for a postal vote certificate under this Act shall, if he is not personally acquainted with the facts, satisfy himself, by inquiry from the applicant, that the statements contained in the application are true.

The following persons, not being candidates, are authorised witnesses within the meaning of this Act:

(i) The Chief Electoral Officer or his Deputy, all Returning Officers, all Electoral Registrars, all Postmasters or Postmistresses or persons in charge of post offices, all Police Magistrates of the State, all Justices of the Peace, all Head Teachers of State Schools, all members of the police force of the State, all legally qualified medical practitioners, all officers in charge of quarantine stations; and

(ii.) All persons or classes of persons, employed in the public service of the State, who are declared by Proclamation to be authorised witnesses within the meaning of this Act.

On receipt of this application, if it appears to be duly signed and witnessed, the returning officer is to satisfy himself that no postal vote for the same election has been already issued to the same elector. He then delivers or posts to the applicant a postal ballot paper, with counterfoil, and a return envelope, addressed to himself as returning officer. After the voter has marked the paper, in the presence of the authorised witness (but in such manner that the latter does not see how the paper is marked), and signed the counterfoil with his name, he hands it to the authorised witness for posting. At the count, all the postal votes are produced, unopened, by the returning officer, who, in the presence of the scrutineers, compares the signatures on the counterfoils with those on the applications originally made for postal votes, and, if he and the scrutineers are satisfied, tears off the counterfoil and drops the ballot paper, uninspected, into the ballot box. There are various other regulations, none of them essential to the comprehension of the nature of the process, which is at least as certain, in the matters of correct identity and regularity, as the ordinary mode of voting at a polling station. The only serious objection offered to the adoption of the scheme in this country is that it would

facilitate the operations of out-voters. This resolves itself into a suffrage question and therefore falls outside the permissible limits of the present essay. The objection may vanish if the principle of "one man, one vote" should find legislative acceptance with us. On the other hand, it might be surmounted by the provision that the postal vote shall not be available to enable an elector to exercise the franchise in any constituency other than that in which he ordinarily resides and in which he has, in fact, resided for not less than three months previous to the election at which he seeks the privilege of a postal vote.

Abnormalities in Ballot Results.

Where there is only a single constituency, and the choice of the electors is limited to one of two persons, the present system is, for all practical purposes, infallible. Let the constituency have an electorate of 10,000, and let the candidates be Asquith* and Balfour. The result of the poll, ascertained in the manner to which we are accustomed in this country, cannot fail (save in the event of a tie, against which the odds are tremendous) to give a result which represents the opinion of the constituency. But as soon as a third candidate appears obscurity and misrepresentation begin, even in the one single constituency. For let the result of the poll be—

Asquith (Free Trade)	4,000
Balfour (Tariff Reform)	3,000
Cecil (Unionist Free Trade)	2,200

in this instance, under our present system, Asquith would be returned. But he would represent in any case a minority of the voters on the poll as it stands, and possibly a minority of the constituency in any case. If the lowest candidate were excluded, and another poll taken, the Unionist Free Trade votes already given for Cecil would fall into two sections:

1. Those electors who put Free Trade first, and consequently prefer Asquith to Balfour.

2. Those electors who, when their choice is limited to Asquith or Balfour, put Conservatism first, and therefore prefer Balfour to Asquith.

If Class 2 contains 1,601 persons, or any greater number (and assuming that the same persons will vote on the second occasion as voted on the first), Balfour will be elected on the second ballot: for

Balfour	3,000 + 1,601	4,601
Asquith	4,000 + 599	4,599
Majority for Balfour		2

* The names of prominent politicians are employed because they are easily recognisable, and because the familiarity of the reader with their political opinions enables him the more readily to follow the argument without looking for the party labels which would have to be put upon A, B, and C, or upon Smith, Brown, and Jones.

This, under our existing system, would be regarded as a conclusive, though narrow, result. Yet we may notice in passing that it gives the whole of the representation to 4,601 electors, and deprives 4,599 electors of any representation whatever. In the true sense of the word, therefore, a system which works in this way cannot properly be described as "representation" at all. Still less is it capable of accurate description as self-government, seeing that half the organism (within a minute fraction) objects to the policy which the other half has determined to pursue. Utterly imperfect and inadequate as it is, however, it has been sought to finally cure its deficiencies by the alternative adoption of a system which is, in most of its manifestations, open to equally powerful objections. A more searching examination of the second ballot will indicate its inherent and irremediable weaknesses as a mode by which the political organism may select voice, vision, and vehemence as the means of scientific self-adaptation to its environment. Consider the four following election results:

A.		B.	
Liberal.....	4,000	Labour	4,000
Conservative	2,500	Conservative.....	2,800
Socialist	1,400	Liberal	2,000
C.		**D.**	
Labour.....	4 000	Conservative.....	4,000
Socialist	2,500	Labour	3,000
Conservative	2,300	Liberal	2,500

In case A no demand for a second ballot can properly arise, for the Liberal has an absolute majority. The transfer of the whole Socialist vote to the Conservative, or of the whole Conservative vote to the Socialist, would not affect the result. Case B is that which gives pause to the demand by the Labour Party for the establishment of the second ballot. In this instance, under our present electoral system, the Labour member would be elected; but under a second ballot, the Liberal being excluded, it is fairly obvious that the Conservatives and Liberals might unite against the Labour candidate, with the result that the Conservative would be successful at the second poll. Case C exhibits an instance where the Conservative voter, if he polls on the second ballot, may control the result, but only at the expense of voting for one or other of two candidates with neither of whom he has any sympathy. Case D offers a real problem. If, when the Liberal is excluded on the second ballot, 1,000 Liberals vote for the Conservative and the rest for the Labour candidate, the Conservative will retain his lead; but if 1,751 or any greater number of the Liberals vote for the Labour candidate, the latter will be elected. In this case, again, however, the representative efficacy of the process is vitiated by the compulsion of the Liberal voter to poll for a candidate with whom, as against his own party, he is not wholly in sympathy. But the second ballot has been practically

abandoned, even by its own former supporters. It is a clumsy mode of procedure, entailing the expense of a second poll, the funds for which would have to be provided out of private or public resources. The Labour and Socialist parties have already realised that the second ballot is worthless to them, since, as is shown above, it would only enable the two historic parties in the State to combine at the second ballot, against the Labour or Socialist candidate.

So far, our investigation has been limited to the case of a single constituency, for which it is sought to secure a political utterance corresponding to the predominant opinion and aspiration of the constituent electoral units. If we now proceed to scrutinise the working of the present crude mechanism, as applied to the ascertainment and expression of the opinions of a number of constituencies, we shall find an almost appalling state of affairs. Take, first, four constituencies where the system yields a roughly representative result:

A.		B.	
Conservative	4,000	Conservative.....	4,000
Liberal	3,000	Liberal	2,000
Majority	1,000	Majority.....	2,000
C.		**D.**	
Liberal	4,000	Conservative	4,000
Conservative	2,000	Liberal	2,000
Majority	2,000	Majority.....	2,000

In these four constituencies the total vote of the Conservatives is 14,000, and that of the Liberals 11,000. Mathematically accurate division of the four members is therefore a physical impossibility, and the result—three Conservatives and one Liberal—is, as we said, roughly representative. But let us poll the four constituencies again, and come into the presence of facts which evolve themselves at every stage of the process which we vainly seek to dignify as "representative government":

A.		B.	
Conservative	6,000	Liberal	3,100
Liberal	1,000	Conservative	2,900
Majority	5,000	Majority	200
C.		**D.**	
Liberal	3,050	Liberal	3,010
Conservative	2,950	Conservative	2,990
Majority	100	Majority	20

The total poll of the Conservatives, in this instance, is 14,840, and that of the Liberals (4,680 less) is 10,160. But the result is to give the Liberals three members (and to place a Liberal Government in power, if these were all the constituencies concerned), though the Conservatives have a very large majority. Of course,

the hypothetical returns are slightly exaggerated, in order to impress their purport more vividly on the reader's mind. But Warwickshire, at the 1906 election, displayed an actual instance of this kind of minority predominance, as may be seen from the figures on page 57. That which is called representative government has in such instances as this evolved itself into minority government, against the wishes of the majority altogether. It is in such circumstances as these that the device known as "gerrymandering" finds opportunity. If there were a Conservative agent with a minute knowledge of the locus of the respective party strongholds in these four constituencies (assuming that they are physically contiguous) he could without difficulty readjust the electoral boundaries so as to exclude Liberal representation altogether. At the one extreme, accident confers upon the Liberals a majority of seats for a minority of voters; at the other, a little dexterous manipulation is capable of excluding them altogether from the exercise of any influence upon public affairs.

The reader may imagine, however, that he is being furnished with carefully-selected instances, which do, indeed, illustrate the argument, but are in practice never realised. That illusion can be easily dispelled by means of the approximate figures (for England and Wales*) of recent general elections:

	Total Liberal and Labour Votes and Members.	Total Unionist Votes and Members.	Majority.
1892	1,845,932† (225)	1,915,931 (270)	(Unionist) 69,999
1895	1,765,064 (138)	2,034,534 (357)	(Unionist) 259,470
1900	1,665,702 (152)	2,013,456 (343)	(Unionist) 347,754
1906	3,061,000 (368)	2,365,000 (127)	(Liberal) 696,000

Lack of Sustained Proportion.

If we now make the comparison in another way, the confusion and misrepresentation will become still more manifest. In the following table there is exhibited the majority in votes, the majority in members, and the political complexion of the resulting government. The reader must bear in mind, however, that he is here presented, in accordance with the plan of the book, with the figures for England and Wales only. The inclusion of Ireland and Scotland explains the apparent anomaly of 1892, where a Unionist majority of votes and members gives rise to a Liberal Government. But although there was a Liberal majority in Scotland, it did not avail to neutralise the Unionist majority in

* The Unionists, after the 1906 election, held no Welsh seat. The 167,000 Liberal and Labour electors of Wales were represented by thirty members, while the 86,000 Unionist voters were, in effect, disfranchised.

† This total includes, at each election, the Nationalist vote in the Scotland Division of Liverpool. The Unionist vote in the same constituency is included in the other aggregate.

England and Wales, speaking of these two as a single political entity. The total Unionist members in Great Britain numbered 292, against 274 Liberals and one Irish Home Ruler (the member for the Scotland Division of Liverpool): and it was only the introduction of the Irish vote which created the Liberal majority.*

	Majority in Votes	Majority in Members.	In favour of the	Resulting Government.
1892 ...	69,999 ...	45 ...	Unionists ...	Liberal
1895 ...	259,470 ...	219 ...	Unionists ...	Unionist
1900 ...	347,754 ...	191 ...	Unionists ...	Unionist
1906 ...	696,000 ...	241 ...	Liberals ...	Liberal

So (omitting the abnormality of 1892) a majority in votes of 259,470 gives a majority in members of 219. But a greater majority in votes, in 1900, gave a smaller majority in members. Finally, if a majority of 347,754 properly gave a Unionist majority of 191 in 1900, then a Liberal majority of 696,000 (more than double the number) should have given a Liberal majority of nearly 400 in 1906. But it only conferred a majority of 241. Clearly, there is no necessary proportion between the preponderance of votes and the magnitude of the majority of members; nor does a preponderance of votes, in fact, guarantee a majority of members at all. Are there, then, any systems of voting, other than our own, which are able to secure a closer correspondence between the actual electoral sentiment of the electorate, and its expression in the central assembly? We will examine the most familiar systems.

"Scrutin de Liste" System.

There is another method known as the Scrutin de Liste, a foreign-looking appellation which in reality signifies nothing more than a rather large-scale reproduction of our own system of voting in constituencies returning more than one member. Thus, at Bath, which is a two-member constituency, a voter has two votes, one for each of any two candidates that he chooses. He cannot "plump," in the old sense of the word, by giving both votes to one candidate. But he may "plump," in the modern sense, by giving a single vote to one candidate, and abstaining altogether from the bestowal of the other vote, so as to give his single favourite the whole and undivided advantage of his support. Extend this principle to large constituencies, of seven or nine or more members, and you have Scrutin de Liste. Each voter may give as many votes as there are vacancies, but may only give a single vote, and no more, to one candidate. Take, for instance, a seven-member constituency, of 30,000 electors, voting on the system known as Scrutin de Liste. Assume that there are seven

* The reader is asked to bear in mind that these statements are not intended to convey the slightest reproach to either Liberals or Irish members. They are simply rehearsals of fact, necessary to the progress of the argument.

Liberals and seven Conservative candidates, and that all the electors go to the poll and none spoil their votes. If each man votes "straight" for the party ticket, the following is a possible result:

Seven Liberal candidates, each 15,001 votes.

Seven Unionist candidates, each 14,999 votes.

The result is that 15,001 Liberal electors have seven representatives, while 14,999 Unionist electors are to all intents and purposes disfranchised. Viewed in its Parliamentary aspect, from the benches of the House of Commons, the constituency is wholly Liberal. By those who are familiar with the facts it is known to be as nearly as possible half-and-half, and the representation ought, of course, to be divided, in that proportion. In the Belgian elections of 1884, conducted on this principle, 27,930 electors secured fifty representatives, leaving 22,117 electors to be as content as they could with the other two.

And even with the Scrutin de Liste method in operation, as soon as a third party appears on the scene, we shall commence to witness some of the distortion and minority preponderance with which our own system renders us familiar. This, for instance, will be a possible and probable result:

Seven Conservative candidates, each 12,000 votes.

Seven Liberal candidates, each 10,000 votes.

Seven Labour candidates, each 8,000 votes.

—where the minority of 12,000 voters secures the whole representation and renders the other 18,000 voters politically voiceless altogether. In practice, of course, these extremely clean-cut results would never be actually reached, on account of the cross-voting that always takes place under such circumstances; but the slight modification of the figures produced in this way would not substantially affect the ultimate outcome of the poll. And even if they would, we should, in looking for their presence and operation, be relying upon chance and personal caprice to remedy imperfections which ought to be dealt with in another way, and should therefore be violating the Third Canon. The business of the electoral reformer is not to meet potential abnormality with a reliance upon the chance advent of an antidote, but with a slammed and bolted door.

The Cumulative Vote.

Still another method is the cumulative vote, which was in operation until quite recently in the School Board elections. Each elector has as many votes as there are candidates, but may, if he choose, give all the votes to a single candidate. Then, if there are twelve candidates for seven seats, the voter may give all his seven votes to one candidate, or distribute them in 5 and 2, or 4 and 3, or 6 and 1, if he so choose. This system certainly secures the representation of minorities, since a comparatively small

number of electors, by "plumping" for one candidate, can almost certainly secure his return. But it leads to enormous waste of power. In the first Marylebone election under the Elementary Education Act, in 1870 (as Lord Avebury has pointed out), Miss Garrett, as a result of wholesale plumping, stood at the head of the poll with 47,858 votes. Since the highest vote recorded for an unsuccessful candidate was 7,927, it is clear that 7,928 votes, instead of 47,858, would have secured the election of Miss Garrett. All the rest were wasted, as far as the interests of their donors were concerned.

The Limited Vote.

The limited vote is another device for securing the representation of minorities. In a three-member constituency, for instance (the system is not applicable to smaller electoral units), each elector has two votes, but may not give more than one to a single candidate. This system, if left to itself, works fairly well. It was adopted for thirteen constituencies, returning a total of forty members, by the Reform Bill of 1867. But the malign influence of caucus control soon displayed itself, with the result that, at Birmingham, for example, the strictest party discipline and the most far-reaching organisation* was able to make arrangements which resulted in the securing of all three seats and the disfranchisement of the minority.

The Single Transferable Vote.

Is there, then, no process which will always yield a result as scientifically accurate as the necessary subordination of some minority, large or small, permits, and which is not subject to such aberrations and abnormalities as may occasionally throw the opinion of the electorate, and that Government which purports to represent it, into glaring contrast? The answer is that the system of a single transferable vote, operated under the system of Proportional Representation,† meets the requirements of the case. It offers, up to the limit of possibility, real and indefeasible representation for all electoral interests which rise up to, or exceed, a certain standard of strength, while it necessarily excludes (and not like the present system, occasionally admits as unwarranted interlopers) all those which fall below. That standard is called the quota. The quota is that number of votes which, in an election taking place upon the principles of Proportional Representation, must necessarily ensure the election of the member to whom they are given. It is really nothing more than an extended application of the principle of an absolute majority. Suppose that at the

* See Ostrogorski's "Democracy and the Organization of Political Parties" (Macmillan). Vol. I.

† See first note on page 84.

counting of the votes at the election in a constituency of 5,000 electors (at which there are numerous candidates for a single seat) the result of the first sorting of the ballots is to show that one of the candidates has 2,501 votes, all of them undoubtedly valid. This candidate may be at once declared elected, for by no conceivable combination of circumstances can his majority be displaced. If it be found that the whole of the remaining 2,499 electors have polled to a man, and that they have concentrated on one only of the other candidates, to the total exclusion of the rest, this second candidate must nevertheless be defeated by an absolute majority of 2. In this instance, 2,501 valid votes represent an unassailably absolute majority. They also represent the quota, *i.e.*, where there are only two candidates for one seat, the quota and an absolute majority are identical. To ascertain the quota it is only necessary to divide the total number of valid ballot papers by a number which is made up by adding one to the number of seats which are to be filled, and then (disregarding fractions) adding one to the quotient. Expressed in a simple and comprehensive formula, the rule stands thus:

$$\left(\frac{\text{Total number of valid ballot papers}}{\text{Number of seats to be filled} + 1}\right) + 1 = \text{Quota}$$

Applying this formula to the case of the constituency of 5,000 electors, proceeding to the election of one member (and assuming that the whole of the electorate validly polls) we get:

$$\left(\frac{(\text{Ballot papers}) \quad 5000}{(\text{Seats}) \; 1 + 1}\right) + 1 = 2501 \text{ (Quota)}$$

Let the constituency consist of 10,000, electing two members, and let the number of valid ballot papers be 9,000. Then:

$$\left(\frac{9000}{2 + 1}\right) + 1 = 3001 \text{ (Quota)}$$

Therefore, in this two-member constituency, any candidate who is found, upon the first scrutiny of the votes, to have secured the quota of 3,001, or any greater figure, must be elected. The student of proportional representation who doubts this preliminary fact may resolve his dubiety if he will endeavour, by means of the 5,999 votes which remain out of the full poll of 9,000, to place the other two candidates ahead of the holder of the quota. One (*i.e.*, the other of the two who are to be elected) he may easily exalt to the higher position; but by no conceivable process can he effect that purpose with both. The attainment of the quota is the infallible indication of the electoral choice of the candidate who secures it.

An Illustrative Instance.

With this illustration of the real character of the quota fresh in our minds, we may advantageously apply to existing party

conditions the principles so far deduced. Let the result of the election, in the two-member constituency just employed as an illustration (where each elector has but one vote), be thus:

Asquith (L)	5,000
Balfour (C)	2,500
Churchill (L)	1,500

If this election were held in compliance with our existing modes of procedure, Asquith and Balfour would be declared elected to the two seats. The representation of the constituency would therefore be divided equally, though there are 6,500 Liberal voters and only 2,500 Conservative voters. What has happened is that in their anxiety to secure the return of Asquith a very large majority of Liberal electors have ignored the claims of the other Liberal candidate. Had the 6,500 Liberal electors been divided into equal portions and had 3,250 voted for Asquith and 3,250 for Churchill, two Liberals would have been returned, and the predominant political opinion of the constituency would have been properly expressed in the House of Commons. But there exists no machinery (short of the absolutism of a caucus) by which voters can be drilled into compliance with the mathematical necessities of the situation, if they are to be prevented from throwing away their votes. To remedy this anomaly we must proceed to deal with the ballot in another way. Can we, by means of a post-election, as distinguished from a pre-election, device, secure the electoral opinion from misrepresentation, without interfering with its absolute liberty of expression? This we can effect by Proportional Representation in the shape of the single transferable vote so as to secure our precise object. Under that system, at this election, each voter would have been invited to place the figure 1 against the name of the candidate who was his first choice; the figure 2 against his second choice; and the figure 3 against his third choice, if he desired to exercise it. Inasmuch as there were 5,000 electors who, though Liberals, voted for Asquith to the exclusion of Churchill, we may assume 5,000 first choices for Asquith. The second-choices will necessarily be divided, as regards these papers, between Balfour and Churchill, thus:

Asquith	1	Asquith	1
Balfour	2	Balfour	3
Churchil	3	Churchill	2

What we have to do, therefore, in order to allot the second seat in accordance with the wishes of a real majority of the electorate, is to set aside, out of the 5,000 ballot papers which exhibit first choices for Asquith, the 3,001 papers which form his quota.*

* The expert reader will notice that the argument is being carried forward without regard to the various adjustments which, in the actual process on true scientific lines, would have to be considered. But this is done advisedly, in order that the inexpert reader may be able to grasp the essentials of the process, before being invited to grapple with the collateral problems.

There will remain 1,999 papers to be inspected for second choices. Let the result be—

Churchill	1,800
Balfour	199

Then, proceeding to rectify the original figures in accordance with the results of this further scrutiny, we shall obtain:

Asquith (first choices)	3,001
Churchill (1,500 first choices, + 1,800 second choices)	3,300
Balfour (2,500 first choices, + 199 second choices)	2,699

Two candidates have now obtained the quota, and therefore it is impossible that the third (Balfour) can have been successful. The election is therefore at an end. The result, as amended and ultimately controlled by means of the transferable vote, has been to bring the representation of this imaginary constituency into accord with its predominant political sentiment. Strict mathematical accuracy may perhaps require the rejection, from the calculation of exact political strength, of the 199 voters whose first choice was a Liberal (Asquith) and their second a Conservative (Balfour). But as these must be persons whose originally predominant sentiments (as evidenced by their first choice of Asquith) were Liberal, their inclusion as such will not vitiate the soundness of the proposition that in this final result, instead of a great majority, composed of 6,500 Liberals, being represented by one member, and a minority of 2,500 Unionists by the other, we have the two members allotted, as they should be, to the dominant party. That is to say, there is real representation instead of a lay figure painted to look like it.

A Closer Survey.

Concurrently with the election which we have just been considering, let us suppose another, of which the preliminary count yields, roughly, the same figures as those of the first, and of which the final result, after the transference of the votes has been completed, appears thus:

Burns	3,001
Lloyd George	3,200
Chamberlain	2,799

The effective electorate of these two constituencies will then be composed of 12,701 Liberals and 5,299 Conservatives. Their representatives will consist of four Liberals and no Conservative. That is to say, the aggregate minority of the two constituencies, which consists of over 5,000 voters, is, in effect, disfranchised. Let us therefore adopt the expedient which will adjust the conditions to those which we found prevailing (ante, page 85) in Shropshire, amalgamating the two constituencies, and adding another member so as to bring the total up to five, and let us also increase the number of candidates, so as to examine the scheme on a larger

scale. Inasmuch as the reader is by this time familiar with the general nature, operation, and significance of the process, we may now subject it to a critical scrutiny at each stage.* The constituency, then (which may be a county, or a large town like Bristol or Leeds), has an electorate of 20,000 and elects five members. Every elector has one vote, but may indicate his preferences as far as he pleases—that is, he may not only exhibit his second and third preferences, but his fourth, fifth, sixth, and seventh, as far as the length of the list of candidates will carry him. The total poll we will assume to have been 18,020, but as there are twenty spoilt papers the valid aggregate is 18,000, and the quota is therefore 3,001. The first count, for first choices, yields this result:

Balfour (C.)	3,200
Asquith (L.)	3,001
Crooks (Lab.)	2,816
Churchill (L.)	2 700
Burns (L.)	2,600
Chamberlain (C.)	2,500
Whittaker (Prohibition)	1,183
Total	18,000

A Suggestive Analysis.

Consider for a moment how these figures would probably have appeared if the electors had employed the current form of the limited vote. Each elector would have had fives votes; but inasmuch as he could only give a single vote to a single candidate, he would not, in all cases, have exercised his full power. Many Conservative voters would have restricted their support to Balfour and Chamberlain. An equally important section of Liberal opinion would probably have refused assistance to a typical Labour candidate, such as Crooks, and possibly to the Prohibition candidate as well. To commence with, Balfour's poll would probably have been substantially the same as in our own hypothetical result. The Conservative voters would all have given him one of their votes. All, too, would probably have given one of their remaining votes to Chamberlain; while the 230 voters whose first choice (as we shall see at a slightly later stage of the argument) was Whittaker, and their second Chamberlain, would doubtless, all of them, have given their third vote to Whittaker. Their two remaining votes would, in the majority of cases, have been useless, since their support of any of the remaining candidates might have neutralised one of the votes already given. For example, each of the seventy-four Conservative voters who, as we shall see when we examine the second choices, would like to give a vote to Asquith, may reflect that, in a close contest between that candidate and

* For this reason, in order to keep the analysis within a compact area, only seven candidates are "run."

Balfour or Chamberlain, his vote for Asquith may help to turn the scale against his earlier vote for Balfour or Chamberlain. Under a scheme of Proportional Representation he may secure the premier vote to Balfour or Chamberlain, in the full assurance that only in the event of his favourite having a superfluity of support, or else no chance at all, would the vote be transferred to his second or third choice—Asquith. But under the existing system there is no such transfer; and the Conservative voter, having given two, or at most three votes, will probably refrain from conferring the others at all. The poll at this stage stands thus, therefore:

Balfour	3,200
Chamberlain	3,200

In the case of the Liberal voters, the same considerations apply. They will probably vote their full strength for Asquith, Burns, and Churchill, and a section of them may give a fourth vote to Whittaker. But in this last instance, as well as in deciding whether to give the fifth vote to Crooks (in order to secure his return, if possible, as against Balfour or Chamberlain), the Liberal voter will be faced with the same problem as his Conservative fellow elector—is his vote for a minor favourite, like Whittaker or Crooks, going to turn the scale against one of the major favourites, like Asquith or Burns? He cannot give the vote conditionally upon the safety of his major favourites, as he could under a system of Proportional Representation. Therefore he will probably not give it at all. The poll at this stage, then, will stand something like this:

SUCCESSFUL.

Balfour	3,200
Chamberlain	3,200
Asquith	3,001
Burns	3,001
Churchill	3,001

UNSUCCESSFUL.

Crooks	2,816
Whittaker	1,183 (at least)

Subject to the problem presented by the purely Labour vote, the election is complete. Its result differs from that obtained by the inspection of the "first choices" under Proportional Representation, in the fact that Churchill occupies a position in advance of Crooks. Yet what is the actual situation of affairs? The Labour party in this constituency has a minimum strength of 2,816, for that number of voters made Crooks their first choice. Had these voters polled under existing electoral conditions they could, indeed, have exercised no second choice, because even the gift of the second of their

five votes to Burns might have imperilled the chances of their major favourite, Crooks, as against Burns. A few Labour voters, rather than witness the sterilisation of four out of five votes, may distribute them among the other candidates, thereby assisting to defeat their own primary purpose. By far the greater portion of the Labour electorate, however, is restricted to the use of a single vote as against two conferred upon the Conservative and three upon the Liberal. It may be argued that the Labour electorate could exercise its powers to the full if it ran five candidates. That is so; but in the present instance all five would "run" in vain. The full Labour vote of 2,816, given to each of five Labour candidates, must only have placed the whole five in a minority. Besides, the "running" of five candidates would be as expensive as futile. The Labour party, or any party, ought to be able to secure its proper representation without resort to such expedients as that.

Its "proper" representation was the expression used in the last sentence. But what is its "proper" representation? Clearly, that to which its numbers entitle it. The real political elements of the constituency before us can be ascertained without difficulty by adding together the first choices of the voters belonging to the three principal parties (i.e., ignoring the Prohibitionist vote):

Liberal (Asquith + Burns + Churchill) ...	8,301
Unionist (Balfour + Chamberlain)	5,700
Labour (Crooks).....	2,816

If we distribute the five seats in strict numerical proportion to the respective divisions of the electorate, we shall at first find ourselves in the presence of a physical impossibility:

Liberal (8,301 out of 16,817) =	2.468 seats
Unionist (5,700 out of 16,817) =	1.694 seats
Labour (2,816 out of 16,817) =	.837 seats
	4.999

As the members cannot be divided into fractions, we must apportion as nearly as we can within integral limits. The Liberal proportion is nearer to 2 than to 3. The Unionist proportion is nearer to 2 than 1. The Labour proportion is far too near 1 for it to be disregarded. Therefore we may fairly allot the members in precisely the manner in which the Proportional Representation poll will place them, as we shall ultimately see; that is to say, two Liberals, two Unionists, and one Labour. If the constituency had been larger, the allotment of members could have been brought more nearly to the limit of accuracy, so as to eliminate the slight under-representation of the Liberals, and the somewhat slighter over-representation of the Unionists, which this apportionment exhibits. If the process were carried out over 100

five-member constituencies the slight discrepancy would no doubt be redressed by the operation of the law of average.

The Proportional Representation Process.

With this instructive study in contrasts completed, we proceed with the examination and elucidation of the poll in accordance with the principles of Proportional Representation. Balfour and Asquith, having both secured the quota, are declared elected. In the case of Balfour there are 199 superfluous votes to be inspected for second choices. If there had been other candidates with a surplus, we should proceed to deal with the largest surplus first. In the case of Asquith, who has polled the exact quota, his ballot papers are put aside as of no further use. The 3,001 electors who polled for him as their first choice have got the man they wanted, and therefore have no right to exercise any further influence upon the election. But this, it will be said, is also the case with Balfour. At all events 3,001 of his supporters have got the man they wanted. Only 199 have to be consulted for their second choice; and, except for these 199, the Balfour votes have no title to exert further influence upon the poll. The question is, therefore, *which* 199 ballot papers we are going to inspect for second choices. For instance, if from the Balfourian aggregate we take four bundles of 199 votes each, they may yield such results as these in the matter of the second choices:

A.		B.		C.		D.	
Chamberlain.	190	Chamberlain	191	Chamberlain	190	Chamberlain	189
Burns	5	Asquith	6	Crooks	2	Asquith	5
Asquith	3	Burns	1	Asquith	2	Burns	2
No second choice	1	Churchill ...	1	Burns	2	Churchill ...	2
				Churchill ...	2	Crooks	1
				Whittaker...	1		
	199		199		199		199

These hypothetical distributions of the respective bundles of 199 second choices represent the state of things which we should discover, under similar circumstances, at a real contest. With two, and only two, Conservative candidates, both of acknowledged eminence in the party, we may be certain that the vast majority of Conservative electors who gave their first, and predominant, choice to the one, would give their second choice to the other. In a few cases personal and other considerations would determine the second choice otherwise, as in the examples; and in very rare instances, no second choice may be shown, as in the case with one vote in the "A" bundle. In the present circumstances it is clearly quite immaterial which bundle we select, in order to distribute the second choices among candidates who have not yet obtained the quota. But for the sake of mathematical exactness, let us resume the inspection of the whole of Balfour's papers, in order to

ascertain, not what is the second choice in 199 cases, but what is the exact second choice throughout. The result will be something like this.

SECOND CHOICES WHERE BALFOUR WAS FIRST CHOICE.

Chamberlain	3,056
Asquith	74
Burns	38
Churchill	15
Crooks	15
Whittaker	1
No second choice	1
	3,200

This exhaustive enumeration has given us the means of an exact calculation of the value of any number of Balfourian second choices. If, out of 3,200 Balfourian ballots, Chamberlain is the second choice in 3,056 instances, then, as we shall discover by means of a simple proportion sum, out of 199 average Balfourian ballots, Chamberlain will be the second choice in—

As 3200 : 3056 :: 199 : **190.45**

This is practically the figure at which we arrived by means of the inspection of the four bundles of 199 Balfour ballots. Advocates of Proportional Representation believe that if the ballot papers are properly mixed in the first instance the necessities of accuracy, as well as of fair play, will be satisfied by taking, as the surplus votes to be counted for second choices, those which were last filed, and therefore lie on the top of the heap of ballot papers showing first choice for the candidate whose aggregate furnishes the surplus. Practical experience and mathematical principles support this view. Those who desire to see the question followed into its minutest ramifications will find in Lord Avebury's little book on "Representation" (Swan Sonnenschein, 1s.), the correspondence between himself and Professor Stokes with regard to a supposed case where A has 10,000 votes, 6,000 being the quota. Therefore 4,000 are to be transferred for second-place votes to the other two candidates, B and C. Assuming a proper shuffling of the ballot papers, the average difference between the distribution of the transferred votes (a) by exhaustive enumeration and (b) by average based on the second places marked on the 6,000 first-place papers, will, in a constituency of 24,000 electors, be about sixteen. The odds against it rising as high as 100 are about 44,000 to one. Lord Avebury calculates, on this basis, that the element of chance which is introduced by the employment of the average, instead of exhaustive enumeration, for ascertaining the distribution of second places, would not affect the actual return more than once in 10,000 years, if, during the whole of that period, elections took place about as often as is the rule in our own time. Exact enumeration, however, only necessitates the employment of a larger staff of

counters, so that there is no valid reason why we should allow absolute accuracy to run even the excessively remote risks contemplated by Lord Avebury.

The result of the addition of the 199 second choices on the Balfour papers (calculating the distribution, by means of proportion, in exact accordance with the average shown by the exhaustive enumeration, but ignoring fractions of votes, as in the case of Crooks)* is to place the candidates thus:

Balfour	(3,200 less surplus of 199).....	3,001
Asquith	(3,001 + 4·6 second choices)...	3,005
Crooks	(2,816 + 0·9 second choices) ...	2,816
Churchill	(2,700 + 0·9 second choices)...	2,700
Burns	(2,600 + 2·0 second choices) ...	2,602
Chamberlain	(2,500 + 190·4 second choices)	2,690
Whittaker	(1,183 + 0·05 second choices)	1,183
	18,000	17,997

The result is that we have redistributed, on the basis of the second choices, the 199 votes which formed Balfour's surplus, and we have lost fractions equal to three votes in the operation. If we treat as 1 vote the .9 in Crooks's and Churchill's totals, we shall only have lost one vote in the whole process. We will assume that the single Balfour paper which has no second choice is included in Mr. Balfour's quota. If this were not so, the available surplus would really be only 198, since there is no second choice on this single paper. But the mode of dealing with this paper, whatever it be, makes no appreciable difference to the calculation.

So far, only two candidates have obtained the quota. The votes of these candidates have been denuded of their surplusage (i.e., as far as was possible, since Asquith polled the exact quota, and therefore had no surplus) in order to avoid wasting the redundant votes given to them. Inasmuch, however, as this operation has not brought about the election of any other candidate, and as, moreover, no more surplus is available, we take the lowest candidate on the poll (Whittaker) and redistribute his votes according to the second choices, unless the second choice happens to be Balfour or Asquith, neither of whom needs them. In either of those cases we take the third choice. This distribution of Whittaker's votes results (let us say) in this way:

ORIGINAL SECOND CHOICES SHOWN IN WHITTAKER'S PAPERS.

100	Churchill
200	Crooks
100	Burns
230	Chamberlain
1,183	

* Thus, for the Asquith second choices we proceed as in the case of the Chamberlain second choices above:

As 3200 : 76 :: 199 : **4.6**

ULTIMATE THIRD CHOICES WHERE WHITTAKER WAS FIRST CHOICE.

Asquith (second), 500 [third choices	100	Churchill
	200	Burns
	50	Crooks
	30	Balfour
	120	Chamberlain]
Balfour (second), 53 [third choices	50	Chamberlain
	3	Asquith]

We are now in a position to ascertain if the result of this distribution of Whittaker's votes has brought any other candidate or candidates up to the level of the quota. To sum up, then:

CROOKS, original poll	2,816
Second choices from Balfour	0
Second choices from Whittaker	200
Third choices from Whittaker-Asquith	50
	3,066

This is more than the quota (3,001), and Crooks is therefore elected. And, again:

CHURCHILL, original poll	2,700
Second choices from Balfour	0
Second choices from Whittaker	100
Third choices from Whittaker-Asquith	100
	2,900

This falls short of the quota, and we proceed to:

BURNS, original poll	2,600
Second choices from Balfour	2
Second choices from Whittaker	100
Third choices from Whittaker-Asquith	200
	2,902

This, again, is short of the quota, and we therefore go on to:

CHAMBERLAIN, original poll	2,500
Second choices from Balfour	190
Second choices from Whittaker	230
Third choices from Whittaker-Asquith	120
Third choices from Whittaker-Balfour	50
	3,090

This is in excess of the quota and Chamberlain is therefore declared elected. It follows that, at the point at which we have now arrived, there are four candidates (Asquith, Balfour, Crooks, and Chamberlain) returned, while Whittaker's votes, as those of the candidate lowest on the poll, have been redistributed in accordance with the second or third choices. There remain only two candidates (Burns and Churchill) for the fifth seat. How are we going to ascertain which of them is entitled to it? Clearly that candidate who is lowest on the poll at this stage must be excluded. Inasmuch, therefore, as Burns has 2,902 votes, against 2,900 obtained by Churchill, Burns is declared elected. As a matter of academic interest we might inspect the second and other preferences on

Churchill's papers, in order to ascertain if Burns had polled the quota; but whether he has or not, he is, on the exclusion of Churchill, the only candidate left, and therefore must be elected. It may occasionally happen, as in this instance, that the process of redistribution of the lowest aggregates of first choices brings us to the point where there are left no more candidates than seats, though some of the candidates have not polled the quota. In such circumstances these candidates are declared elected.

The reader will no doubt have noticed the extreme nearness of the figures in the case of Burns and Churchill (2,902 and 2,900 respectively), and may desire to know what would have happened if Burns had had one less vote and Churchill one more, so that they were equal with 2,901 votes each. The rule for dealing with this contingency is laid down thus in the Tasmanian Act:

11. Where at any time it becomes necessary to exclude a candidate, and two or more candidates have the same number of votes and are lowest on the poll, then whichever of such candidates was the lowest on the poll at the last count or transfer at which they had an unequal number of votes shall be first excluded, and if such candidates have had an equal number of votes at all preceding counts or transfers the Returning Officer shall decide which candidate shall be first excluded.

In the case before us the "last count or transfer" was the transfer of Balfour's surplus. At that time Churchill was ahead, so that in the event of equality of votes at the later stage, Burns would have been excluded, and not Churchill. And this is perfectly fair and reasonable, since up to that stage the majority of primary, or, as we may call them, senior, choices, would have been in favour of Churchill. But at the later stage, when we have redistributed the votes of the candidate who occupies a lower position than either of these two, the locus of the predominance of senior choices has changed, and Burns has moved slightly to the front. Therefore, he remains, and Churchill is excluded.

The Transfer Value.

It will be remembered that in redistributing Balfour's surplus of 199 votes we ascertained, by exhaustive enumeration, what was the exact average of second preferences over the whole original poll, and then applied it, by calculation, to the apportionment of the surplus only. The Victorian Electoral Act contemplates another mode of procedure, according to which, Balfour being elected, the whole of his votes (and not only the surplus) would have been redistributed according to the second choices. But this, as the reader sees at once, would give the Balfourian electors a second vote. They have already elected Balfour, and now they are all going to employ their second choices in the election of another member. This, however, does not turn out to be the case. When the transfer is made the subject of the second choice does not get the whole of the votes thus given to him, but only his personal share of their value, calculated on the basis of the proportion

which the surplus bears to the whole. Thus, in redistributing the whole of the Balfour votes, we should have found (see the table of "Second Choices," where Balfour was first choice) that Chamberlain was second choice in 3,056 cases. But Chamberlain is not therefore credited with 3,056 votes. He gets such proportion of them as Balfour's surplus bears to the whole of Balfour's votes. That is to say:

As 3200 (Balfour's total) : 199 (his surplus) :: 3056 : **190.04**

which is, within a minute fraction, exactly the same figure at which we arrived when we proceeded according to the other method. Where this latter mode is adopted the value of the vote thus transferred is called its "transfer value." In the case of Chamberlain above, the transfer value of each of the Balfour votes is $\frac{199}{3200}$, which, multiplied by 3056, will be found to give 190.04, the resulting figure obtained by the other process.

As the aggregate of 100 five-member constituencies, such as we have been considering, would return 500 members, and would therefore, give us nearly the same number (495) as actually represent England and Wales in the House of Commons, we may advantageously contrast the results according (1) to the system which we at present employ, and (2) to Proportional Representation, as shown in the examples worked out above:

The Present System.		Proportional Representation.	
Liberals	300	Liberals	246
Unionists	200	Unionists	169
Labour	nil	Labour	83
	500		498*

These are, approximately, the results which would be obtained in actual practice. In the one case the Labour vote is entirely excluded from representation. In the other it receives what is its fair proportion of the membership of the National Assembly.

The Minimum Waste of Votes.

These facts and figures may show how large a proportion of the total electoral strength will, under a system of Proportional Representation, make itself felt in the ballot boxes. By means of Proportional Representation, as it was worked out above, we may say that if we except the votes of the inevitable unrepresented minority that must exist in every elective system, not a vote has been wasted. The 199 electors who formed Balfour's excess over the quota would, indeed, in his election, have secured what they desired; but had they known that he was safe, they would not have thrown away their votes upon him, but would have used their strength to forward the interests of another candidate. There exists, and can

* The odd fractions, of course, account for the loss of two in the total.

exist, no means of conveying a hint to superfluous voters at the moment when their favourite candidate is safe; but in this scheme we have a sound and feasible expedient which serves the same purpose. So it is that the 1,183 votes recorded for Whittaker, which would, under our present system, have been utterly thrown away, and their possessors rendered voiceless and impotent, are made effective, and every one of these voters wields his share of the electoral influence, and see the man of his choice (though not, in this case, his first choice) returned to Parliament. Tentative support of what may prove a weak cause does not mean the irretrievable loss of the vote if the cause is really found to lack electorally effective support; and, if the cause be really stronger than was imagined, it may triumph. At any rate, it may be aided without imperilling the vote altogether, which is impossible under the existing familiar conditions.

In this way, too, we have complied, up to the extreme limits attainable under any elective system, with the requirements of the Third Canon. We have secured articulate voice for more than five out of every six electors. Only three-twentieths of the electors have ultimately been disappointed. That is to say, the proportion of the total electorate which may (and must, if it vote) secure its chosen representative in the House of Commons has risen in this instance to 85 per cent. of the electorate, as against the 50, 40, or even 30 per cent. which is capable, under our present system, of monopolising all the means of civic-utterance in the National Assembly. The existing method may, if there is a huge preponderance of one type of opinion in a given constituency, exhibit it in true proportion and perspective. In the absence of that condition, the factors that make for distortion and suppression commence to exercise their mischievous energy. But with Proportional Representation, whether there is a huge preponderance of adherence to the tenets of one school of political thought, or a variable distribution of civic opinion, it will find real representation, actual elective voice and vision, on the council of the nation. At the present stage of political evolution, therefore, Proportional Representation,* as the best contemporaneously available means to an end, is one of the Essentials of Self Government.

It may be well, perhaps, to anticipate criticism by the admission that the illustrative figures have been here and there manipulated to suit their explanatory purpose. The giving of a surplus to Balfour, and the exact "quota" to Asquith, as well as the bringing of Burns and Churchill within two of each other at the end, were among deliberate adjustments designed to raise questions which

* The reader will bear in mind that the present essay is an "Introduction" to the study of electoral mechanism. If he desires to pursue the subject of the Act and Mode of Voting in its remotest and most intricate ramifications, he should obtain the Blue-Book on Proportional Representation (Wyman and Sons, or Eyre and Spottiswoode. 1s. 3d.).

must otherwise have been arbitrarily intromitted. The reader, after the study of the system of the single transferable vote, cannot do better than apply it, hypothetically, to actual electoral instances. At the moment, too, he will watch the proceedings of the Royal Commission.

Summary of Suggestions.

All elections on one day (at a general election).

The poll to be open for a longer time.

"Besetting" of the voter to be prohibited.

All public-houses to be closed on election day and all grocers' licenses suspended.

The aspect of the polling booth to be rendered more inspiring by portraits of the great leaders of the race and by pictures of the great constitutional episodes.

Some penalty, perhaps, to be imposed on electors who will not take the trouble to vote.

The secrecy of the ballot to be brought as near to perfection as possible.

Voting to be by the single transferable vote, so as to comply with the requirements of the Third Canon up to the utmost verge of possibility.

CHAPTER XII.
Election Petitions.

As long as our present electoral mechanism, or anything resembling it, remains the instrument for the expression of the national will, there must be kept in reserve some such appeal as is now represented by an election petition. It is possible to imagine an election where all expenditure was paid, at the request of the candidates, by Government officials, empowered to prevent the issue of a libellous handbill, and to refuse countenance and sanction to an act which, in their opinion, amounted to an illegal practice. If to this effective censorship we add the prohibition of canvassing, and the suppression of all "last minute" trickery, many of the avenues which lead towards an election petition would be closed. There is, however, not the least present prospect of the adoption of a contemporaneous and continuous Government censorship of election expenses and election tactics. It would lead to such gigantic official abuses, and its effect upon the free and fresh formation and utterance of political opinion would be so stifling, and, indeed, so fatal, that no serious politician would put forward the proposal, and no sane voter listen to him if he ventured upon such a propaganda.

The History of Election Petitions.

When the votes have been counted, and the return has been duly made, there still remains one power, and only one, which can review the result, and if necessary set the election aside. That power is possessed by Parliament itself. But we have done away with the ancient system under which Parliament actually sat in judgment on the delicate questions of law and fact that arise on an election petition. The objections to this course of procedure, and the abuses arising under it, are familiar to the constitutional historian. In the earliest days the member of Parliament was merely an agent empowered to consent to the taxation of his principals for the benefit of the King's revenue. As the learned Douglas has it, "there were seldom competitors for an office which was rather a burthen imposed than a distinction conferred." Such disputes as there were, with regard to elections, found settlement either in Westminster Hall at the hands of the judges, or by the Lords in Parliament. But the Commons ultimately grew intolerant alike of Lords and of judges, in spite of the Chancellor's fiction that the Parliamentary writ issued out of Chancery, and was returnable thither: so that at the beginning of the reign of James I., although efforts were made to confer upon Chancery an authority in the matter of controverted elections, the Commons were able to

establish and maintain their exclusive jurisdiction. It was soon after this—at all events, by the reign of Charles II., as we saw when we discussed the early attempt to suppress bribery—that the Commons began to strike at the abuses which had grown up around the process of Parliamentary elections. But the trial of election petitions at the bar of the House soon led to the establishment of what was practically a rule, that the decision should be in favour of the voters who had returned the Ministerial candidate. The Act 10 Geo. III., c. 16, therefore, transferred the trial to the hands of committees, chosen under that statute; and Douglas (who is one of the earliest of our election case reporters) tells us that he "resolved to attend those committees very regularly." He and others of equal assiduity have left us records of the decisions of these committees which, where the modern statutes have not defined the law afresh or otherwise, or created new requirements, still remain authoritative. This mode of trial, again, was ultimately found unsatisfactory. Since 1868 the duty of trying election petitions has devolved upon one, and since 1879 upon two, judges, chosen from a rota selected annually by the other judges. The judges report their findings to the House of Commons, which in that way preserves and makes manifest its own jurisdiction in the mattter of its own membership. As, however, the reports of the judges are never challenged (the nearest approach to a challenge was the brief debate on one of the 1906 petitions), their determinations are, in effect, as final and as authoritative as if they were rendered in pursuance of their own proper and ordinary judicial functions—in fact, they have a greater degree of finality than an ordinary judgment, since there is no appeal from the decision on the petition (on a question of fact, though there is on a question of law) to any superior court, other than Parliament itself, and an appeal thither is unprecedented.

The Election Petition Court.

The fact that the judges sit as delegates of the House of Commons furnishes the reason why legal etiquette does not permit a member of the Bar who is also a member of the House to appear as an advocate on the trial of an election petition. Were he to do so he must be acting in a professional capacity before a court whose powers are derived from a body of which he is himself a member. He would be advocate before delegates technically appointed by, and acting on behalf of, himself.

The existing rule at present, therefore, is that if the judges agree in finding the respondent guilty of any charge of a corrupt or illegal practice, or if, in certain cases they find his election agent, or, in certain other cases, any agent, guilty, the election is upset. If no charge is sustained, or the judges differ, the election stands.

The tribunal is probably the best that could be found for the purpose. A jury is out of the question. It would reveal its political complexion at a very early stage, and unanimity would be unattainable. Three judges or four would not strengthen the court, while the possible illness of one, the adjustment of their engagements so as to permit of the joint sitting of so many, and the anxiety of each to impress himself upon the history of the case, would add to the complications of the proceedings.

At the same time it would be idle, in a survey which is intended to be at once detailed and frank, to ignore the palpable fact that even if the tribunal is the best that can be found, it is very far from being ideal. As long as the Bench is recruited largely as a reward for political services it will be impossible to exclude the political sympathies of its occupants from having an influence upon their consideration of the facts of an election petition. The influence is very subtle, and those who are moved by it are not only unconscious of their bias, but would be very much disturbed if they thought they were biassed at all. A judge who has once been an ardent and active politician is asked to impute corrupt motives to a candidate who did that which, on the face of it, may possibly bear a perfectly innocent construction. To his mind the suggestion of corruption appears preposterous. He cannot imagine that any sane man would take it seriously. To his learned brother, who has seen this stratagem employed against himself not once nor twice, the charge seems well founded, and the attempted answer to it thin and flimsy in the extreme. It is impossible, he thinks, that any properly trained and constituted mind can fail to penetrate the real significance of such a transparent artifice as has been here adopted to facilitate the evasion of the statute. In both cases there is the absolute honesty which is an ineradicable and inseparable tradition of the English Bench. Yet in both cases there is unconscious political bias. If one judge is strong and the other pliable, the latter may give way. If not, they will differ and the election will stand.

The courts quite understand their own fallibility and their own limitations. In the case of an injunction under the "False Statements Act" (see page 203) they might, for instance, interfere to prevent the doing of some *prima-facie* illegal act only to realise, on reconsideration, that the act was not illegal, and that its performance was essential to the proper comprehension, by the electorate, of the questions which it was asked to answer through the medium of the ballot box. But in the meantime, before the opportunity of reconsideration has come, the electorate has pronounced its judgment—has given a verdict, let us say, which it would not have given had not the courts, by their mistaken action, prevented the complete display of all the factors of the

problem to the electoral mind. The mere fact, however, that obedience to the mistaken orders of the courts had vitiated the verdict would afford no ground for setting the election aside. The courts would have no power to order a new election. The mischief would have been done. From such considerations as these arises the reluctance of the courts to interfere, on behalf of either party, while the election is in actual progress. Nothing but the very clearest and most unmistakable evidence will set the machinery in motion.

Should Petitions be Facilitated?

Nearly all recent criticism of the election petition, however, takes the shape of an argument that there ought to be greater facilities for lodging it. The evidence of many distinguished witnesses in 1897 and 1898, before the Royal Commission on Election Petitions, by laying stress upon the enormous expense and the tiresome delays which are the chief characteristics of election petitions, has helped to foster this entirely mistaken view. If the primary and sovereign tribunal is apt to return mistaken or distorted verdicts, true reform is surely not to be sought so much in a greater frequency of appeal to another judgment-seat as in the increase of the analytical and judicial skill, and the reform of the procedure, in the original court, so as to purge its pronouncements of the error and misguidance which are their bane. Not one of our legal tribunals, for instance, would continue to command the respect of the nation for a single week after it had come to tolerate the presence in the witness box of persons who were there for the express purpose of misleading the court, and who had again and again been shown to have uttered what they knew to be false. Yet this impotence in the presence of carefully-elaborated falsehood is only one of the many weaknesses of our electoral judgment-seat, as the reader is by this time fully aware. When these imperfections have been remedied, and when the requirements of the Third Canon have been fulfilled up to the utmost verge of human foresight and capacity, then, indeed, an appeal from the electoral judgment may well be rendered difficult in the extreme, for it will be an appeal from the higher to the lower tribunal. Till that time comes, the existing facilities for the lodgment of election petitions might well be rendered more adequate to their work, and protected from the abuses which are at the moment only too conspicuous. The only change required as regards the preliminary deposit of £1,000 is (a) that the petition shall not be filed without its actual payment in cash (at present a petitioner has three days in which to find money or recognisances); and (b) that where only a re-count is asked for, the deposit shall be reduced to a maximum of £100.

The demand for facility and irresponsibility in the filing of election petitions is of course only one of the natural utterances

of defeated candidates and partisans, who may, and do in many cases, believe in the truth of the charges of bribery, treating, and wholesale violation of the law, which they fling about in wild profusion. But the critical auditor of these passionate denunciations is apt to ask himself why, if the constituency be hopelessly corrupt, he who denounces its corruption should ever have sought that which he called the honour of representing it; and why, if a petition be actually lodged, those who are responsible for it will, in nine cases out of ten, seek to evade inquiry into their own procedure by a careful abstention from claiming the seat. The plain truth is that an election petition is occasionally utilised, with absolute impunity, as a cloke of maliciousness. The employment of an election petition as a necessary and honest remedy for the constituency or for the defeated candidate is the legitimate limit of its availability. That it should be used, as it now occasionally is, merely as a means of annoying the successful candidate, is a state of things which no highly developed political community ought to tolerate for a moment. There is, however (as students of the inside history of the election petitions of the last twenty years know perfectly well), nothing in the present state of the law to prevent a single enemy, or a syndicate of enemies, of a successful candidate from presenting an election petition against his return. "Many petitions, to my knowledge," said Mr. E. C. Cooke (then the "prescribed officer" for election petitions), "have been presented, to use as mild an expression as I can, *causa ulciscendi*." (Minutes of Evidence before the Royal Commission, 1897. Q. 264.) In accordance with practice, the petition itself (with which, in the first instance, no security for costs need be lodged) will allege every election offence known to the law. The newspapers, in announcing the presentation, will mention that the successful candidate is charged with bribery, treating, personation, undue influence, illegal payments, and illegal hiring; and the public, which is not yet learned in the technique of election law, rapidly arrives at the conclusion that as the presence of smoke is *prima-facie* evidence of the activity of fire, so those charges would not have been made if there were no basis for them. In some cases, as no security will ever be provided, the petition will fall to the ground, leaving the candidate as the impotent and remediless sufferer from the libels thus freely circulated in the shape of charges framed in falsity and embroidered with spite. If the security is provided, and the petition proceeds, a great proportion of the allegations, it is true, will vanish as the result of an order for "particulars," but of this the public, to whom the original charges were announced as with the blare of trumpets, never knows. The petition may or may not go to trial; but if the end of it is failure, the ultimate safety of his seat is small consolation to the respondent when he discovers that

the proceedings from first to last have been financed by personal enemies, simply for the purpose of annoying him. There is no other case in English law in which criminal charges may, with absolute impunity, be wilfully made for the gratification of personal or party malice, without any inquiry as to their truth, and in absolute carelessness and recklessness whether they are true or not.

Check the Malicious Petitioner.

What is necessary, then, is to impose some check on the malicious petitioner, and for that purpose we might fall back on the simple method of the disclosure of identities. The person, or persons, who presents the petition should be required to file an affidavit, not later than the morning upon which the trial of the petition begins (and, if it is not proceeded with, the filing of the affidavit should be a condition of permission to withdraw), setting forth either (1) that the petitioner or petitioners is or are from his or their own resources prosecuting the petition and paying all the costs thereof; or (2) giving the name and address of every person, and every club, society, or association who or which has contributed any funds to the cost of initiating or conducting the petition, and stating the amount of such contribution. Such affidavit should be read in court, so as to afford publicity to its contents. The petitioner or petitioners should be made, by statute, the first witness (or witnesses) in support of the petition; not because it is certain that they will have any evidence to give, but in order that counsel for the respondent may cross-examine them upon the affidavit, if he think it desirable. Falsity in the affidavit should be severely punished; and, on the other hand, so as to keep the information complete, there should be an obligation to file a supplementary affidavit, containing, *mutatis mutandis*, similar particulars, not less than twenty-one nor more than twenty-eight days after the delivery of judgment. Finally, all persons, clubs, societies, and associations providing funds should be deemed co-petitioners, and be made subject to every liability arising from that fact. There is surely nothing very unreasonable in requiring the disclosure of identity, and the assumption of responsibility, by persons who put forward criminal charges against a man who is, *prima facie*, the choice of his fellow-citizens as their representative in Parliament. Even these suggested provisions, drastic as they are, do not, in the penal sense, seriously affect the petition financed by a rich man indulging himself from a safe position in the background, for the obligation to pay costs would of itself be no check upon him; but the compulsory disclosure of his identity would probably offer a very serious obstacle to misplaced ambition of this kind, and bring the "malicious petition" system to an end. Whether or not

the financing of election petitions, by persons who have no bona-fide interest in the affairs of the affected constituency, is maintenance (and therefore a criminal offence), the dread of a wide publicity, with the resulting exposure of motives, would be an all-sufficient deterrent to an illegitimate and merely malicious movement. while it would offer no obstacle to the honest and bona-fide employment of the election petition courts. Those who have been behind the scenes of election petitions (on both sides) of the last twenty years will have no difficulty in understanding the importance of these suggestions and the necessity of the adoption of some such measures as have been briefly outlined.

Claim of the Seat Should be Implied.

Another very obvious (and to the present writer's mind, very mischievous) flaw in the law relating to election petitions is the power conferred upon a defeated candidate who presents a petition, or upon the persons who petition in his interest, to evade the submission of his own electoral methods to the scrutiny of the election petition court. A B, a defeated candidate, petitions against the return of C D, and sets forth the usual array of charges of corrupt and illegal practices. If A B also claims the seat C D may retaliate with a cross-petition, or as it is technically called, a recriminatory petition. He will in this way allege in effect that even if he, C D, has been guilty of such offences as to forfeit the seat, A B cannot take it, for he, too, has been guilty of offences which C D proceeds to specify by means of particulars. These charges A B will have to answer, as if he were the successful candidate, and C D the petitioner. More probably, however, A B will refrain from claiming the seat, in order to evade meeting the recriminatory charges. Then, if C D is unseated, A B may stand as candidate. His return, in view of the invariable unpopularity of the petitioning party, is extremely improbable; but, till he is returned, C D is practically impotent to strike. If, however, A B is successful, C D may then petition in turn, basing his action, if he chooses, on alleged illegal and corrupt practices committed at the original election, as well as at the more recent. Clearly, we require a provision that the election shall not be challenged by, on or behalf of, a man who is unwilling to subject his methods and procedure to the same critical judicial scrutiny that he invokes against his opponent. What is wanted is the right for every respondent to challenge the election tactics of a petitioner (if he was a candidate), or of the ex-candidate in whose behalf the petitioners are acting (if the ex-candidate himself does not petition), whether the seat is claimed or not. In a peculiarly hard case, where the seat was not claimed because the recriminatory case must have been instantly fatal to the petitioner, the writer once suggested that a collusive petition,

together with a claim to the seat for the petitioner, be presented by friends of the respondent. This would have entitled the respondent to make recriminatory charges, but the real nature and purpose of the second petition would have had to be explained to the judges at the very outset of the proceedings, and it was open to grave doubt if the court would have permitted it to go on. The proper remedy is the enactment which has been suggested, that a petition shall, *ipso facto*, confer the right to present a recriminatory case, whether the seat is claimed or not; or, that a petitioner shall be deemed to claim the seat either for himself (if he was a candidate) or for the candidate (if the candidate himself does not petition). Of course, there are many cases where a respondent would not desire to make recriminatory charges. But where he does not he should have the opportunity secured to him. It is as much in the public interest that the petitioner's conduct should be scrutinised as it is that the respondent should answer the charges against him or his agents. Incidentally, this provision would check the sinister activity of the malicious petitioner, who would think twice before he did that which must expose his own *protégé* to attack.

Petitions "Financed" by Peers.

The financing of election petitions by Peers is perhaps not a common occurrence, but there have been one or two rather flagrant instances. Inasmuch as the pre-election interference of Peers in a Parliamentary contest is resented by the House of Commons as a breach of privilege, their post-election endeavour to set aside the verdict of the electorate by the interposition of another tribunal appears to be open to grave objection. The intrusion of the influence of Peers, in an attempt to upset an election after the poll has been declared, may be just as potent for mischief as their interference with the freedom of the electorate before the poll is taken. It might, perhaps, be conceded that where a Peer has large and real interests in the welfare of a given constituency, and it appears to him that its electoral judgment has been obtained or vitiated by corrupt or illegal practices, he has some semblance of a right to finance an election petition. But it must not be forgotten that even in a case of this kind the interposition of a Peer is not wholly free from menace to the unrestrained constitutional expression of the popular will, for who, except the Peer himself, is to judge whether the circumstances are such as to justify him? Strictly speaking, the fact that he is himself (not being an elector) incapable of presenting a petition, ought to debar him from entering the arena at all, in an effort to set aside that which is *prima facie* the verdict of a class whose deliberations he is, or should be, precluded from sharing or influencing. And where the interference has its origin in personal

motives it amounts to a grave constitutional danger, which might easily grow into a great abuse. Seldom as it occurs, an indication of its potentialities could not be omitted from a study which is intended to be, within its limits, exhaustive.

Election Commissioners.

Where the election judges on the trial of an election petition report that corrupt practices have extensively prevailed at the election to which the petition related, or that there is reason to believe in their extensive prevalence at such election; or where two or more electors make allegations of general corrupt practices, in a petition to the House of Commons, presented within twenty-one days of the return of a member, Election Commissioners will be appointed by the Crown, on a joint address from both Houses of Parliament. The Commissioners must be barristers of not less than seven years standing, not members of Parliament, and not (except as recorders of any city or borough) in the employment of the Crown. After their appointment they hold an inquiry in the constituency to which their appointment relates, for the purposes of which they have extensive powers of summoning witnesses and granting indemnities, which protect a truthful witness from punishment for offences which, in giving evidence, he has been compelled to admit; and they subsequently report the result of their inquiries. The reader will note that they have not the same power as an election court composed of two judges, in that they cannot unseat the member. Their efforts are directed to an inspection of the acts and exploits of the minor actors in the campaign.

Summary of Suggestions.

The malicious, or syndicate, petition to be suppressed by the compulsory disclosure of the real identity of the petitioner, or petitioners, and of those who are "financing" him or them.

Petitioner or petitioners to be deemed to claim the seat, so that respondent may always subject his opponent's electoral conduct to judicial scrutiny.

"Financing" of petitions by Peers to be especially discouraged where it occurs.

Security for costs (£1,000) to be paid in cash when petition is lodged, and not subsequently.

In the case where only a re-count is sought, the security for costs to be £100 only.

CHAPTER XIII.

The Dismissal of Members.

Up to the point which we have now attained the writer has not hesitated to put his opinions in the categorical form, with a preliminary reminder that none is so conscious as himself of the difficulties which embarrass, and the imperfections which must consequently characterise, a primary treatise. But in proceeding to consider the desirability of establishing a department of the constitutional mechanism which shall enable a constituency to dismiss its member at any time, the mental attitude of the categorical must be abandoned, though the mode of expression be unchanged. The question is one of the profoundest gravity, only to be approached with such an intellectual environment as constitutes an appropriate blend of the circumspection that is not reckless of peril with the firmness that is not daunted by novelty, even in its application to one of the oldest and noblest of our national institutions. What follows, therefore, is offered for consideration and criticism, not laid down in absolute confidence of its soundness, as political principle ripe for immediate acceptance.

The perusal of the Introduction will have shown the reader that it is very difficult, while at the same time very essential, to provide that there should be a more effective and continuous check upon Parliament and upon the Ministry (especially the "Inner Cabinet") than is at present available in the shape of by-elections and in such more or less spontaneous manifestations of electoral displeasure as meetings and demonstrations. The best of authorities, wielding a power which is almost absolute, for periods which may extend to seven years at a time (and which are capable, according to the precedent of the Septennial Act, of expansion without the consent of the constituencies), might become irresponsible, if not dangerous. Such an authority controls the impulses of the constitutional mechanism, and can bring into action all the instruments of coercion by which its will is capable of enforcement upon the citizens. Advanced as we are on the path of political progress, and secure as our ancient and majestic heritage appears to be, it would be within the power of a single Parliament, with the assistance of a compliant House of Lords, and on the inspiration of an ambitious sovereign, or with the connivance of a weak one, to put back the clock of progress for a hundred years, while the nation looked on in impotent dismay. Eternal vigilance is the price that must be paid for liberty; but vigilance is able to act but ineffectively upon a system under which the furthest outposts of civic liberty are abandoned, for seven years at a time, to guardians whose fidelity can be subjected to no continuous, inexorable, and irresistible check.

Relation Between Member and Constituency.

The truth is that the modern member of Parliament is compelled to yield a divided allegiance. The result is that he is tempted to render the more obsequious service to the power which has an instant capacity to reward complaisance and to punish insubordination, rather than to the superior authority whose punitive capacities are for the time compulsorily suspended. The party whip is near, and powerful; the constituency far away, and, for the present, impotent. In that way there occasionally arises a disregard of the opinion of the constituency which, in other spheres than the political, would be stamped as mutiny, or something very like it. The illustrations cited in the Introduction will doubtless be fresh in the reader's mind; and he may easily reinforce them by a brief consideration of modern instances of the pursuance (by both of the older political parties) of a legislative policy which was not in consonance with the immediate needs of the country, to the neglect of weightier matters that were of urgent import and paramount interest.

At the basis of the whole problem, however, lies the question of the exact nature of the relationship subsisting between the member and his constituents. As Professor Lowell says, "The question whether a member of Parliament is the agent of his constituents, morally bound to carry out their wishes, or whether he is to act solely according to his own opinion of the interest of the Kingdom, is as old as Burke's famous discussion with the electors of Bristol. The latter view always has been, and still is, the prevailing one in theory; but the charge that representatives have become mere delegates has been constantly cropping up." Burke's opinion has been very recently quoted, and supported, by the Court of Appeal* (Cozens Hardy, M.R., Farwell and Fletcher Moulton, L.JJ.), so that we are fortunately furnished with a distinguished and quite contemporaneous statement of his views, illustrated from other authoritative sources, which we may well examine in some detail.

It will be necessary to bear in mind, however, that the question which was before the Court of Appeal is not the same as that with which we are here concerned. The Court of Appeal was considering the constitutional aspect of the action of a trade union which supports Parliamentary representation by means of its funds, and requires its members, irrespective of their political opinions, to contribute thereto. We are concerned with the right (if it exist and if it ought to be in terms declared) of a constituency to insist that its member shall act according to the pledges which secured its confidence, and without regard to the merely party interests of the Government that happens to be in

* Osborne v. The Amalgamated Society of Railway Servants of England, Ireland, Scotland, and Wales. *The Times*, November 30, 1908.

power; and with the further question whether, if he neglect or refuse, the constituency ought to have the right, possessed by all other authorities in similar circumstances, of dismissing an unprofitable and mutinous servant; and, finally, with the still further question whether, by means of this or some similar method, the constituencies as a whole should have the instant and irresistible power of stimulating, controlling, and checking the Government which exists by their will and acts by their authority.

The Opinions of Burke Examined.

The famous views of Burke on the subject of the nature of the relationship between the member and his constituents were quoted in the Court of Appeal from one of his Bristol speeches, in Volume III. of his collected works, at page 19. He says:

> To deliver an opinion is the right of all men. That of constituents is a weighty and respectable opinion which a representative ought always to rejoice to hear and which he ought always most seriously to consider. But authoritative instructions, mandates issued which the member is bound blindly and implicitly to obey, to vote, and to argue for, although contrary to the clearest conviction of his judgment and conscience, these are things utterly unknown to the laws of this land, and which arise from a fundamental mistake of the whole order and tenor of our Constitution. Parliament is not a congress of Ambassadors from different and hostile interests, which interests each must maintain as an agent and advocate against other agents and advocates, but Parliament is a deliberative Assembly of one nation, with one interest, that of the whole, where not local purposes, not local prejudices, ought to guide, but the general good resulting from the general reason of the whole. You choose a member, indeed, but when you have chosen him he is not member for Bristol, but he is a member of Parliament. If the local constituent should have an interest or should form a hasty opinion evidently opposite to the real good of the rest of the community, the member for that place ought to be as far as any other from any endeavour to give it effect.

Let us for a moment consider an analogous case. A large body of private citizens determines to send a medical man to take part in a congress for the advancement of medical science to be held in a foreign land. As none of the citizens possesses expert knowledge, the instructions given to their representative are simply general. He is to consider the various schemes and suggestions, and to give support where he thinks it is deserved. That is the extent of his instructions, and constitutes the utmost feasible control exercisable over him by the non-technical body for whose interests and ideals he stands. For them to give him definite instructions to support this theory or that, without any knowledge of its nature and scope or of the other proposals that are to be put forward, were simply to stultify him. He takes the expert equipment with him, and adds to it from the information submitted to the congress; and, using his best judgment, he acts in a certain way, subsequently reporting what he has done to those who sent him. That is the position of the representative in Burke's day.

He stood for the single proprietor of a pocket borough, or else for a small, non-representative body of citizens; certainly not for the whole, or any considerable proportion of it. He went to a distant city, with which communication was slow and difficult. He took with him, doubtless, some experience of the working of such local administrative machinery as we then possessed; some traditional opinions, heirlooms, it may be, of a long family devotion to the service of the State; and possibly, though by no means probably, some tincture of the ancient philosophies of government, slightly infused, perhaps, with the more advanced dogmas of Hobbes, or the soaring ideals of Milton. By means of his attendance at the National Assembly, reinforced by his consequent introduction to the social life and gossip of the capital, he was brought into contact with a world of which the majority of his constituents knew little or nothing. He became more or less adequately acquainted with the drift of the latest political intrigue; with the story of the last development of our compulsory eighteenth-century study of the contents of the Continental melting-pot. On the information so obtained, and occasionally on the prompting of other and more insidious influences, he formed his judgment—formed it, that is to say, on material to which his comparatively few constituents had no access, and which, if it had been presented to their intellectual vision, they were incapable of effectively scrutinising. They, like the non-technical citizens who sent their representative to a distant congress, had, indeed, no valid title to interfere in a technical discussion. They must be satisfied, as Burke declared, to give that which the representative might choose to accept as a "weighty and respectable opinion," but not as a mandate. As the enunciation of a political principle of contemporary application, Burke's utterance is unassailable.

The Member as the Delegate of Experts.

But now let us suppose our body of citizens to be themselves experts, selecting one of their number to sit in the distant congress. Let us imagine that day by day, and hour by hour, there reach them the reports of its deliberations. These reveal that their representative is pursuing an erratic course, which does not, and cannot, commend itself to their keenly discriminating criticism. He purports to offer their delegated assent to propositions which their judgment utterly repudiates, to schemes that are impracticable and wild; or else is content to acquiesce in the abasement of the proceedings to the level of mere trifling, unworthy of the strenuous men for whom he stands. Must they be silent at the advent of this unduteous policy? Nay, must their power be limited to the issue of unavailing protest? Is it not self-evident that they must either withdraw the authority of the unfaithful servant, or else confess themselves the paralysed beholders of his misconduct?

Burke spoke of the inexpert minority which must perforce commit its destiny to expert hands. Our concern is with the expert majority which, simply for convenience, entrusts the corporate voice and vision to an individual agent; though its judgment is equal to his, and its means of information (as being less coloured by passage through an ever-existent partisan medium, such as that created by subordination to the whips) is generally better. The constituents of a modern member of Parliament frequently—nay, generally—include men of political and intellectual calibre at least equal, if not superior, to his own. They are kept, day by day, and hour by hour, in touch with the problems whose solution he must in their political name attempt. If he is apathetic or acquiescent, are they to have no means of stimulus ? If he is mutinous, is there to be with them no prerogative of effective admonition ? It is difficult to imagine that weighty questions such as these can be answered in the affirmative by a nation which has achieved high distinction in the political history of the world, and has before it prouder conquests still. The truth is that the principle which Burke was attempting to enunciate cannot maintain its applicability to a totally different state of political affairs. Burke had no experience of representative government in England and Wales. The great mass of people who might have been represented had, in the first place, no representation; and, in the second, no capacity to understand its nature, or employ it with intelligence, if they had possessed it. And if Burke had no experience of representative government in the exact sense of the expression, still less had he either experience or even conception of self-government, properly so called. How could he have it, in days when the free expression of opinion was difficult and dangerous, when education was rare, and the means of communication limited and slow, and when nearly all that vast realm of scientific daring and discovery, whose frontiers are in our time hourly pushed further into the vast unknown, lay all but still and silent in the darkness ? The science of politics advances like the other great departments of human intellectual achievement; and Burke's opinion counts for no more, as against a principle of which he did not dream, than would that of Galileo in opposition to spectrum analysis, or that of Columbus in condemnation of the twin-screws of a great ocean liner. Where a political principle depends for its soundness upon some essential and unchangeable truth—as, for instance, that the free State must be superior to the slave State in vigour, insight, and civic ideal—even such ancient authorities as Aristotle and Cicero may, if the opportunity offers, be cited in its support, and their utterances may ring clear and unchallengeable across the gulf of centuries. But none, even of these giant minds, is a safe guide in the study of great ideals which were not only outside their experience, but utterly foreign to their

conceptions. When the onward march of political discovery takes us into the presence of the questions which these newer principles are alone competent to solve, we are thrown back upon the solemn responsibility of our own judgment. The contemporary mind must grapple with its own peculiar problem, and it is a beggarly citizenship that is not eager for the onset.

A Passing Glance at Blackstone.

There is a quoted dictum of Blackstone which exhibits the utter want of application, to twentieth-century needs, of eighteenth-century principles. Blackstone says that "Every member, though chosen by one particular district, when elected and returned, serves for the whole realm. For the end of his coming thither is not particular but general, not barely to advantage his constituents, but the commonwealth. Therefore, he is not bound like a deputy in the United Provinces to consult with or take the advice of his constituents upon any particular point unless he himself thinks it proper or prudent so to do." But, seeing that his constituents are, at least once in every seven years, the sole judges of his behaviour, whether as regards themselves or the realm, their competence to form a verdict is admitted. Is their competence, then, a variable and periodical function, or is it continuous ? And if continuous, why restrict its exercise at any time, if, in the opinion of those who possess it, the occasion demands its use ?

The Scheme Outlined.

Without further preface than these brief considerations, therefore, we proceed to the enunciation of the tentative scheme which is offered for consideration and criticism. The detail has only been inserted so far as it is necessary to the argument. The minute regulation of the process, by legal safeguards controlling it at every point, presents no difficulty if the general principles commend themselves.

Process of Dismissal—First Stage.

(1) Not less than 10 per cent. of the registered electors in any constituency may by signed requisition (which shall be called the Primary Requisition), addressed to the returning officer, and lodged with him, not earlier than one month from the declaration of the poll at any election in such constituency, accompanied by the deposit equal to half of the maximum statutory election expenditure of a single candidate (or of joint candidates in a two-member constituency, if it is intended to seek the resignations of both members), require the returning officer to permit a test of the opinion of the electorate on the question whether the member (or members) for such constituency be required to resign.

Such Primary Requisition might be in the form following, which should be printed, in full, at the head of every sheet:

TO THE RETURNING OFFICER FOR THE BOROUGH (OR OTHERWISE), ETC.

We, the undersigned, all being registered electors of the Borough (or otherwise) of Durberville, to the number of 1,510 (being more than 10

per cent. of the registered electors of the said Borough) do hereby require you to take such steps as the law directs for ascertaining whether Mr. John Smith, member of Parliament for the said Borough, shall be required to resign his seat, and we appoint (or assent to the appointment of) Henry Williams, of 114, High Street, in the said Borough, chartered accountant (an elector of the said Borough, his number on the Parliamentary Register being 14,289), as agent to us, the Requisitioners: and we appoint (or assent to the appointment of) the following ten persons, all being electors of the said Borough, as the Supervisory Committee of the said Requisitioners—that is to say:

	Number on Register.
Peter Johnson, 120, South Street, Durberville	7216
William Bell, 15, West Street, Durberville	722
Henry Abbot, 22, East Street, Durberville	442
Etc., Etc.	

The returning officer shall forthwith give public notice of the receipt of the Primary Requisition, which may be inspected (at a place within the constituency to be fixed by the returning officer) by the sitting member and by any registered elector free of charge, and by any other person on payment of a shilling. Copies shall be supplied at 6d. per 100 words transcribed.

(2) Within seven days of the publication of the said public notice of the receipt of the Primary Requisition the sitting member or any elector may, in writing, give notice to the returning officer that he alleges, and undertakes to prove, that

(*a*) the purported signatures to the Primary Requisition, or some of them, are forgeries, or—

(*b*) That the persons signing the Primary Requisition, or some of them, are, in fact, not registered electors, or—

(*c*) That the persons signing the Primary Requisition, or some of them, are under the disqualification contemplated in 3 (*e*) below.

But no individual elector shall object to more than five signatures.

(3) If such allegations are duly made, the returning officer shall forthwith hold a public inquiry into their truth, and

(*a*) if he finds that some or any of the signatures are in fact forged, shall exclude the forged names from the total aggregate of signatures to the Primary Requisition, and report the circumstances to the Public Prosecutor, who shall take such action as he deems advisable;

(*b*) shall expunge from the Primary Requisition the names of any persons who are not in fact registered electors;

(*c*) if the result of (*a*) and (*b*) is to reduce the total valid signatures by 5 per cent., or any greater proportion of their aggregate, he shall forthwith declare the Primary Requisition null and void; and

(*d*) the deposit paid (as above provided) shall be forfeited to the local authority (or the Crown); and

(*e*) all electors who signed the said Primary Requisition shall be incapable, for two years, of signing any further Primary Requisition, or any Final Declaration (see below). The same disqualification shall attach to any elector who shall, without reasonable and probable cause, have lodged an objection to the validity of any signature in the Primary Requisition. What is a "reasonable and probable cause" is a question of fact for the determination of the returning officer, but any elector may in this matter appeal from the decision of the returning officer to one of the judges on the election petition rota for the time being.

(4) If no signatures are objected to within the specified period, or if the inquiry shows that the sustained objections do not invalidate 5 per cent. of the signatures, or bring their aggregate below 10 per cent. of the registered electors, the returning officer shall forthwith report to the Speaker of the House of Commons, and to the member for the constituency, that the provisions of the Primary Requisition have been complied with, and he shall then after an interval of seven days proceed to the arrangements for the Final Declaration.

(5) In the inquiry held under the provisions of (3) the register of electors shall be conclusive evidence of its own accuracy, and no question as to the absence of a qualification or the existence of a disqualification, in the case of a registered elector (other than that contemplated in 3 (*e*)) shall be entertained by the returning officer.

Objections and Explanations.

The suggestion that a Primary Requisition should be deliverable at any time after the expiration of a month from the declaration of the poll may seem almost revolutionary. As the electorate has just pronounced its verdict, the objector may argue that it is futile and superfluous, and possibly mischievous, to offer such an immediate opportunity of reconsideration as almost places a premium upon fickleness and upon an absence of finality and responsibility. But the responsibility of the member is quite as important as the responsibility of his constituents. The principle upon which these provisions are based is that of a continuously enforceable control of the representative by those who selected him. An interval of six months or more after the election, during which no Primary Requisition could be made, would defeat the operation of this principle. There may, for instance, be amendments to the address at a very early stage in the history of a new Parliament, and a member's constituents may desire to make it quite clear to him that electoral opinions and interests, and not the preservation of the Government from peril or defeat, must be his first consideration. But this can only be brought home to him by the knowledge of their power of immediate action if he betrays his trust. If the power were suspended for six months the member might well count upon some softening, by time, of the resentment naturally aroused by his faithlessness, so as to relieve him of its consequences. And, if we extend the survey from the single member to the whole body of the House of Commons, we shall see that a suspension for six months or more of the power of lodging a Primary Requisition will involve the non-responsibility of the House to the electorate for that period. That is a contingency which is quite inconsistent with such a continuously effective control, and such an instantly applicable restraint or stimulus, as the Fourth Canon postulates.

But clearly the power to lodge the Primary Requisition must be guarded by such restraints as shall compel full realisation of its seriousness, and enforce upon the persons who lodge it, or who are consenting parties to its lodgment, a consideration of the

consequences to themselves which may result from its being premature or irregular. For this reason provision is made for the deposit of a substantial sum of money, which would, in some of the more extensive constituencies, be very large indeed, though it will be reduced to easily manageable magnitude by a scheme of Proportional Representation; for the public inspection of the signatures, so that there shall be no fighting in the dark; for the receipt of objections to the validity of the signatures; and for the punishment of wilful forgery by means of the criminal law, and of carelessness in the preparation of the Primary Requisition by means of the deprivation of power to join in any further movement of the same kind for two years. At first sight the two years suspension for *all* the signatories may strike the observer as unduly drastic. But it is intended to enforce seriousness and deliberation on all who join in the Primary Requisition—to ensure that no elector shall sign it without inquiry as to the political accountability of the persons who are promoting it, nor yet without a full realisation of the fact that his own heedlessness or rashness in the matter may involve him in the loss of a valuable political privilege. It might well be provided that within twenty-four hours of the public notice given by the returning officer of the receipt of the Primary Requisition, any signatory may, by written notice to the returning officer, withdraw his signature; and that if the result of such withdrawals is to reduce the number of signatures below the effective limit, the Primary Requisition shall become null and void, and (so far as they are applicable) the provisions of (3) (above) shall come into effect. This would ensure that the promoters of a Primary Requisition would only select for its signatories such electors as knew their own mind: and also that they would add to its own minimum content of signatories a sufficient number to counteract the operation of any illicit influences which might be successfully brought to bear, in isolated cases, for the purpose of securing withdrawals and so of rendering abortive the whole movement.

The Meaning of the Proposals.

These provisions mean that in a borough constituency of 12,500 electors, with a maximum election expenditure of £680, the Primary Requisition could be delivered by 1,250 electors, who were prepared to deposit £340 with it. In view of the checks, safeguards, and penalties with which, as will be seen, the proposed process is surrounded, the 10 per cent. proportion is probably sufficient. In great constituencies like Romford, Newcastle, Walthamstow, Oldham, Wandsworth, the City of London, and Portsmouth, the Primary Requisition would require more than 3,000 signatures, every one of which must be undeniably valid.

The deposit might be a larger proportion of the maximum were it not that in huge constituencies of 30,000 to 50,000 electors its magnitude would in that case be a serious handicap (if, indeed, it is not so under existing circumstances) to what might be a perfectly bona-fide movement. To require a deposit equivalent to the maximum itself would involve, in the Romford division, the payment of more than £3,000, and the requirement might well stifle the movement at its birth. On the other hand, the deposit must be kept at a substantial figure, partly because the need for the money would act as a check upon restless and turbulent irresponsibles, and partly because, if the Primary Requisition is filed, the returning officer will be compelled to incur expenses which, at this stage of the proceedings in any case, ought not to fall upon the public. The adoption of a system of Proportional Representation and a more reasonable scale of election expenses, will modify, in the proper direction, the conditions under which a Primary Requisition can be lodged. The purpose of the appointment of an Agent to the Requisitioners and of the Supervisory Committee, is, in the first place, to provide a responsible official of the movement with whom the returning officer and other persons can communicate in the same manner as is now done with an election agent: and, in the second, to secure an equally responsible official for the exercise, in company with the Supervisory Committee, of a power whose nature will appear when we come to the question of the Final Declaration. The further provisions for the working of the scheme may now be proceeded with:

(6) Not less than seven nor more than ten days after the date of the report of the valid completion of the Primary Requisition made to the Speaker, the Agent of the Requisitioners and the Supervisory Committee shall, by notice under their own hands (such notice being *prima facie* invalid unless signed by all of them; but the returning officer, upon proof of the death or physical or mental incapacity of not more than two, shall accept a notice signed by a number which may in no case be less than nine) give notice either—

(a) that they do not desire to proceed to the Final Declaration, or

(b) that they do desire to proceed to the Final Declaration.

If at the end of the ten days no notice has been received, the notice contemplated in (a) shall be deemed to have been given and the proceedings shall be at an end.

If notice (a) is given, or deemed to be given, the whole of the persons signing the Primary Requisition shall be incapable, for a period of one year, of signing any further Primary Requisition, or any Final Declaration; and the deposit, less the expenses incurred by the returning officer, shall be forfeited to the local authority (or the Crown).

The penalty of one year's loss of the right of joining in a Primary Requisition or a Final Declaration is an indispensable means of enforcing due seriousness in the initiation of such movements as are here contemplated. A *two* years' deprivation has been suggested above, in the case where the Primary Requisition collapses on account of forged or otherwise invalid signatures. Without such

provisions the same persons might be encouraged, possibly by sinister influences, to present a series of Primary Requisitions, dropping one and starting another, so as to keep a member in a state of continual uneasiness and uncertainty. The controlling power of the constituency over the member is not imperilled by the imposition of this discouragement upon irresponsibility, for there still remain 90 per cent. of the electorate who are capable of initiating a movement for the dismissal of their representative.

(7) Where a member resigns, or dies, or is expelled the House, at any time after the lodging of the Primary Requisition and before the report of the returning officer to the Speaker that the Final Declaration has been validly emitted, all proceedings initiated under a Primary Requisition, at whatever stage they may have arrived, shall be *ipso facto* determined and the unexpended balance of the deposit made with the Primary Requisition shall be returned to the Agent to the Requisitioners, on their behalf, and his receipt shall be a good discharge to the returning officer.

A Period of Serious Deliberation.

After the provisions of the Primary Requisition have been complied with, and the report to that effect has been made by the returning officer to the Speaker, it will be noticed that there is provided an interval of seven days. For many reasons it seems desirable at this point of the proceedings that there should be a compulsory pause, in order that all parties may be forced to take a sober and deliberate view of the position of affairs. The member, for instance, may be able, even at this stage of the procedure, to convince the promoters of the Primary Requisition that they are mistaken; or he may be willing to give, and they to accept, such pledges as shall render any further action unnecessary. The member has an undoubted strategic advantage over his critics. They possess, as will be seen, only a qualified, while he has an absolute, power of precipitating a final appeal to the electors. He may force their hand by resigning, at any moment, and fighting the seat again: while they, on their side, can only compel him to do so if they can obtain the very extensive electoral support (detailed below) which is necessary for the valid emission of the Final Declaration. There are considerations which would, indeed, give preliminary pause even to the organisers of a Primary Requisition, since a popular member, assured of the confidence of a majority of his constituents, might expose the movement to ridicule by at once precipitating the actual conflict at the polls; or he might, if he had the same assurance of continued popularity, leave the promoters to complete the Primary Requisition and to make what would, under the circumstances, be a futile attempt at the emission of the Final Declaration. We proceed to the means of emitting the Final Declaration:

(8) Upon receipt of the notice (6) (b) the returning officer shall forthwith issue to the Agent to the Requisitioners, and the Supervisory

Committee (no fewer than five of such persons being present to give a written receipt) such a number of official Final Declaration forms as equals the number of signatories to the Primary Requisition.

[Thus, in a constituency of 15,500, there will have been 1,550 Primary Requisitioners at least. The returning officer will therefore issue 1,550 Final Declaration forms, at least.]

Such Final Declaration forms shall each contain space for ten signatures and no more, and shall be in the following form:

WE, THE UNDERSIGNED, being electors of the Borough [or otherwise] of ....., do hereby solemnly and sincerely declare that we require ....., Member of Parliament for the said constituency, to resign his seat as such member.

Signature.*	Address.	No. on Register.	Witness's Initials
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....

And I ....., being one of the signatories to the Primary Requisition delivered on the ..... day of ..... in the year ..... do hereby also solemnly and sincerely declare that (a) the first signature in the above Final Declaration List is my own: (b) that each of the other signatures to the said list has been affixed in my presence; (c) that the person affixing such signature is in each case personally known to me as the registered elector of that name, residence, and number on the register.

Signed.....

No elector may sign more than one List.

* The signature must be in ink. Pencil, or copying ink pencil, signatures, or signatures affixed with a rubber stamp, are invalid. A voter who is unable to write may sign with a "X," but in that case his signature must be specially attested by an additional witness, who must be an elector.

An Elector's Battle.

It will be noticed that each of these units of the Final Declaration has to be filled up by ten electors, of whom one witnesses the signatures of all the rest. They must, therefore, be persons known to him, and upon whom he can exercise his powers of persuasion; and he, on his part, must have such a genuine interest in the endeavour to remove the obnoxious member as will sustain him in the canvassing of ten electors for that purpose. Inasmuch as no single elector can witness the signatures of more than one unit of the Final Declaration, a peremptory stay is imposed upon the activity of a small body of persistently canvassing enthusiasts. All, or nearly all, of those electors who were responsible for the Primary Requisition are required to carry on the movement, by means of their own energy, up to the Final Declaration. And,

inasmuch as the power to witness signatures is limited to electors (and payment would be forbidden) the misplaced activity of the "outside organisations" or of any maliciously inspired group of wire-pullers is excluded from the arena. This is an elector's battle. If the elector does not want to fight, the conflict dies, and political peace resumes her interrupted sway. With this explanatory interlude, we resume the description of the procedure:

(9) At any time within seven days from the issue of the official forms for the Final Declaration the Committee of the Requisitioners, or not less than eight of their number, may

(*a*) give written notice to the returning officer that they do not intend to proceed further in the matter; or

(*b*) give written notice, not being less than 24 hours, that they intend to hand to the returning officer the completed forms, making up the statutory minimum of signatures for the Final Declaration. Such notice shall not be given to expire at a later hour than 8 o'clock on the evening of the seventh day, at which hour, if the said forms have not been presented, the proceedings for the Final Declaration shall be deemed abandoned.

The forms signed for the purposes of any Final Declaration, whether ultimately presented or not, shall not be available for use in support of any other Final Declaration.

(10) At 9 o'clock in the morning on the day after the receipt of the forms purporting to constitute the statutory minimum of signatures (55 per cent. of the total electorate) for a Final Declaration, the returning officer shall proceed to check and count the signatures in the presence of—

(*a*) the member, if he choose to be present, and ten other persons, nominated in writing to him, and sworn to secrecy as in the case of a count of votes [In a constituency of over 20,000 electors a larger number of scrutineers might be permissible];

(*b*) the Secretary to the Requisitioners, and the Committee to the Requisitioners, sworn to secrecy as in (*a*) [see (*a*) as to large constituencies].

The signatures shall be checked in the same manner as is the case with the nomination papers at an election [i.e., a nomination], and the returning officer shall provide a sufficient staff (based upon the number of forms actually lodged) to ensure the performance of the work by six o'clock p.m.

This, if we exclude two hours for meals, gives seven hours for the work. Allowing thirty names per hour per checker, this means five checkers for every 1,000 electors of the number required to make up the statutory minimum for the valid Final Declaration. Thus, in a constituency of 20,000 electors, a minimum of 11,000 will be required for a valid Final Declaration. Therefore, the returning officer will require at least fifty-five checkers familiar with the register, and would be wise to provide more, in case of the number of signatures rising far above the statutory minimum.

(11) The member, or any scrutineer on his behalf, may object that any signature, purporting to be that of an elector, is not in fact that of such elector, and the returning officer shall thereupon set aside the unit list in which such signature appears, but shall include in the total of signatures to the Final Declaration the other signatures, to which objection is

not taken, in such unit list: unless the signature objected to shall be that of the elector-witness, in which case none of the signatures in such form shall be counted in arriving at the total.

Any objection must be in writing, signed by the person making it.

If the number of signatures shall be reduced, by means of objections, below the statutory minimum of 55 per cent., the returning officer shall forthwith hold an inquiry into the validity of the objections.

If, in the opinion of the returning officer, any objection shall, upon inquiry, be found to have been made without reasonable and probable cause, the person making it shall be fined a sum not exceeding £5 and shall be incapable, for two years, of voting at a Parliamentary election.

If any signatures shall be found to be forged, or to be those of persons who are not electors, or who, being electors, are under the disqualification arising from their taking part in previous Primary Requisitions, the returning officer shall report the facts to the Public Prosecutor.

If, at the conclusion of the counting, the signatures to which objection has not been taken shall amount to not less than 55 per cent. of the total number of electors on the register, the returning officer shall report such result to the speaker of the House of Commons.

The provisions as to the finality of the Register of Electors (5, supra) shall apply at the counting of votes for the Final Declaration.

Is 55 per Cent. Too Low?

To the objection that 55 per cent. is too low a percentage of the electorate to be entrusted with the tremendous power of dismissal the answer is that as the right of election is wielded by 50.002 per cent. of the registered voters, a sensibly larger proportion may reasonably exercise the converse authority. In an electorate of 10,000, 55 per cent. of the electorate consists of 5,500 voters, or a clear majority of 1,000 on a poll of the total register. If at an actual contest a majority of 1,000 were recorded, it would be generally accepted as a definite electoral pronouncement upon the question at issue. But, in fact, as all campaigners know, 55 per cent. of the total electorate would represent between 60 and 70 per cent. of the effective voting strength of the constituency, which varies with the current "pitch" of political feeling. The whole electorate would never poll at a contest which took place on the new register, even if it were arranged for the day after the revising barrister concluded his revision. As a matter of fact the register has actually undergone considerable deterioration as an effective record of the electorate before it goes into force at the commencement of the year which follows its last autumnal revision, and throughout its year of validity the process of degeneration goes on, until by the end of December in that year it is utterly out of date. The result of the operation of the influences which vitiate it, combined with the apathy of a variable, but always existent, proportion of the electorate, is as a rule to keep down the effective voting strength, even on a new register and in a time of excited political feeling, to a total far below its nominal aggregate. The problem is one which admits of facile test. The general election of 1906 was fought, at a period marked by a great deal

of political excitement, on the new register for that year. The following are the effective percentages of the electorate as exhibited in the first five single-member contests in the boroughs, and the same number in the counties:

	Votes recorded.	Total electorate.	Per-centage.
Newington (Walworth)	5,605	8,995	62
Newington (West)	6,871	7,147	96
Ashton-under-Lyne	7,652	8,248	92
Boston	3,495	3,896	89
Bradford (Central)	8,568	9,978	85
Middlesex (Ealing)	15,243	20,436	74
Yorkshire (Elland)	11,571	13,828	86
Lancashire (Middleton)	12,503	14,314	87
Hunts. (South)	4,383	5,272	85
Leicestershire (East)	13,833	15,815	87
Average percentage			84.3.

If, therefore, the effective electorate be 84.3 per cent. of the total electorate, then 55 per cent. of the total electorate is equal to no less than 65.2 per cent. of the effective electorate—a fact which may compel us to ask ourselves if the fixation of the minimum at 55 per cent. is not a step in advance of prudence and necessity.

Completion of the Process.

By the seventh day the process will be either practically complete or manifestly abortive. The details of a failure need not be dwelt upon; unless, indeed, we pause to consider that the fact of frustration, on the part of the Requisitioners, must immensely strengthen the position of the member whom they assailed. In the event of the success of the Requisition, however, the member would probably not wait for the completion of the technical details. His precise mode of action, or inaction, would be immaterial. The central fact would be this—that out of a constituency of, say, 10,000 electors, 5,500 were willing to come out into the open and say that they did not desire a continuance of his services. So unmistakable an intimation, involving the existence of an adverse majority of at least 1,000 votes, ought to leave a self-respecting man no recourse but immediate voluntary application for the Chiltern Hundreds, as his instant acquiescence in the results of the technical completion of the process. Or, to put it in another way, will it be seriously maintained that if a majority of 1,000, in a constituency of 10,000, declares its desire to be rid of a member, he should still be permitted to force his personality upon them, and to bear their political name in the National Assembly? At present he may do so if the whole 10,000 express their intolerance of his membership. That, however, is not representative government, much less self-government.

If the result of the proceedings is the emission of a valid Final

Declaration, and a report to the Speaker to that effect, the Committee of the Requisitioners ought (if the public payment of the election expenses of candidates with a reasonable chance of success should be adopted as a system) to be entitled to receive an amount equal to their duly incurred and certified expenses from the authority which would, in the case of a candidate, pay such expenses. This is only reasonable, seeing that the Requisitioners have correctly interpreted public sentiment with regard to the ex-member, and have enabled it to find expression in his dismissal. It would be necessary to provide that the time for receiving claims, paying them, and lodging the return of expenses, should be the same as in the case of a candidate: that the return shall be in the same form, as far as the circumstances admit: that no payment shall have been made to any signatory of the Primary Requisition, or the Final Declaration, for any services or otherwise: that the return shall be verified by the Secretary to the Requisitioners, on his oath (or, what is better, on his honour): and that, after the lapse of fourteen days from its receipt by the returning officer, its amount shall be paid to the Secretary to the Requisitioners.

(12 Within three days of the receipt of the report by the Speaker the member may give notice in writing to the Speaker that he disputes the validity of the proceedings: or that he alleges the commission of corrupt or illegal, or corrupt and illegal, practices, in connection with such proceedings. If at the time of such notice, or within three days of the delivery thereof, the member deposit £1,000 with the prescribed officer for election petitions, the operation of Final Declaration shall be suspended, and the case shall be tried as if it were an election petition. [As nearly as possible, that is to say; of course, certain special provisions and rules would be necessary to meet the somewhat different circumstances.] If such notice be not given within three days, or if, when the notice has been given, the security be not deposited within the period specified, the member shall be deemed to have applied for the Chiltern Hundreds.

May the Old Member Try Again?

Is the old member to be a competent candidate at the election which results from his dismissal by means of a Final Declaration? There is no sound reason to the contrary. It would be foreign to our national traditions of fair play and free discussion to refuse the ex-member, even at that late stage of the episode, the opportunity of rehabilitating himself, if he can. His chances, under all ordinary circumstances, would be remote, if, within a few weeks before this new election, 65 per cent. of the effective electorate had deliberately expressed a desire to get rid of him. But there can be little doubt that, if the power of dismissal should come to be exercised by the electorate, our future political history will provide us with instances of a commanding personality rising superior to all the handicaps and disadvantages originating in its subjection to the consequences of a Final Declaration, and securing a vote of confidence, in the shape of a triumphant return, from constituents

who have only just exhibited their grave displeasure. Clearly, however, a member who is dismissed by means of a Final Declaration, and then re-elected by the constituency, should have the right to require the payment of his election expenses, and of a reasonable sum (not exceeding £50, the items to be vouched for) to meet his necessary personal expenses. If 65 per cent. of an effective electorate chooses to approbate and reprobate almost in the same breath, it ought to pay the expenses which, as a consequence of its vacillation, its member has been compelled to incur. The claim of the other candidates upon the pecuniary consideration of the constituency does not rank quite so high. The one serious objection to allowing the old member to stand again is to be found in his consequent power, under our existing system, of throwing the representation into the hands of a minority by causing a three-cornered fight. That power would not avail him under a system of Proportional Representation.

Some Minor Adjustments.

Among the subordinate questions which must arise in the working of this or any analogous scheme are these:

(1) As to a maximum of expenses. This might probably be settled by allowing to the Committee of the Requisitioners, and to the member, a maximum expenditure of £5 per 1,000 electors (i.e., one penny postage, or two halfpenny postages, together with the cost of printing and despatching the communication).

(2) When the Primary Requisition is lodged, it seems *prima facie* desirable that the *source* of the deposit money should be disclosed on oath. On the one hand, the disclosure might tend to hamper and discourage a perfectly legitimate movement: but on the other it would check the malicious financing of Primary Requisitions, just as the correspondng provision in the case of Election Petitions would put an end to petitions that have their origin in personal spite rather than in an enthusiasm for electoral purity.

(3) At first sight it seems desirable that, after a Primary Requisition has proved abortive (at any stage), there should be no further movement of the same kind for a given period—say, twelve months. If this were feasible, it might be desirable. But one consequence of the provision might be that in some cases the member would put up "dummy" Requisitioners, designed and constructed to collapse at his orders, so as to block the path of legitimate protest for the next twelve months.

The Requirement of Re-election.

Incidentally, it may be pointed out that this scheme solves the problem presented by our present system of requiring a member of Parliament, who is promoted to certain offices of profit under the Crown, to present himself to his constituents for re-election. In many ways the requirement is an anachronism, and it has been frequently suggested that it should be abolished. But as it is, there are sufficiently few opportunities for the expression of national disagreement with a policy carried on in the nation's name, and this

abolition of the requirement of re-election would remove one of the scanty sources from which such opportunities arise. Under the scheme here proposed, however, a Minister, like all other members, would be liable to be called upon, by a voice whose behests could not be gainsaid, to resign; and if his appointment to ministerial office did not meet with the approval of his constituents, they could at once give him notice of it. On the other hand, if it did, money and time would not be wasted on what would, under such circumstances, be a superfluous by-election.

The Objection of "Instability."

The most obvious *prima-facie* objection to the scheme here proposed is that it might make for instability in the Government. But that objection may be met by pointing out that what is here sought to be created is a system of conscious self-government, not the perpetuation of an external rule. And if the external rule, as we know it, be fairly stable, though based upon compulsory and irrevocable selections of the ruler by the subjects, made at considerable intervals of time, may we not look for a higher degree of stability when the Government is itself the continuous corporate expression of the will of the governed? The most dangerous of anti-social tendencies is that which is produced by a lack of fellow feeling between Government and subjects; when the subjection is the result of a realisation of the presence of an irresistible compelling force, and not the willing acquiescence and co-operation of common assent, common conviction, and common purpose. Discontent and even disgust may subsist where the subject is helpless to alter the political conditions under which he suffers: but if the means of change lie ready to his hand, his is the blame if he refuse to avail himself of them. Under such circumstances there is a real and conscious acquiescence, not the irremediable impotence which is created and maintained by our present system. As things are with us, it is in the power of no class of the community to offer effective resistance to the incompetence or even the oppression of a Government. That is one reason why, for instance, Chancellors of the Exchequer are so prone to turn their unwelcome attention to the income-tax payer. But given the power, in the hands of every class of the community, of offering immediate resistance to hostile legislation, and the art of government must perforce rise at once to a higher level. It will no longer consist in the cheap device of uniting five of the citizens against the sixth, but in welding the whole six together in common predetermined purpose.

A Constitutional Guarantee Fund.

In course of time (and perhaps earlier than we suppose) the question may arise whether any legislative provisions for the

definition and protection of the processes of self-government can be considered complete unless there is joined to them something which goes further than a mere convention of the constitution, with regard to their non-repeal. The enactments of the Legislature are only accepted as final in our own day, when they relate to non-contentious subjects, or are confined, in their practical operation, to the interests of a small and politically impotent class. If they touch a large section of the nation, and especially if they are of such unmistakable character as to be obnoxious to the charge of assailing one body of the electorate, at the behest of another, there comes the almost inevitable hint of their non-finality, the reminder that they are susceptible of repeal, and that if the Opposition be placed in power they shall be repealed. It would be easy to demonstrate that if this kind of thing becomes a recognised political device our experiences of the see-saw are not likely to cease with our childhood. Nay, the same facility of repeal might be used by a reckless or ambitious Ministry as the pretext for destroying, at a blow, some of the most valuable elements, if not the entire laboriously-erected structure, of self-government itself. What we shall ultimately have to consider, as a nation, is whether, above and beyond all the protection that is afforded by the ballot box, and can be strengthened by dignified expedients, there shall be created (so far as it is politically possible) an unassailable reserve fund of constitutional guarantees placed where the sacrilegious ambitions of no single Parliament can reach them, and where, indeed, they cannot be touched at all, save by the assent of the nation, deliberately sought and obtained on that, and on no other, pretext.

More Elevated Ideals of Statesmanship.

With regard, however, to the more immediate outlook, and especially to the current modes of maintaining a majority, no close observer of our system of government will be likely to deny that it is largely carried on by means of the union of temporarily ascendant political factors which have nothing whatever in common except their momentary designs on what is, thanks to an adventitiously created combination, a helpless minority. If the minority be permanent, indeed, no contrivance of "checks and balances" can protect it: but if, as is far more often the case with us, the minority which failed to impress its views at a general election has been rapidly reinforced by auxiliaries whom reflection has brought to a better mind, its arm would, by means of the "dismissal" machinery, instantly be raised to strike, and the menace of the cabal would shrink away. A minority reinforced by reflection argues at least a mind that is turned to scan the national problems, and to form some judgment, be it sound, distorted, or erroneous,

upon them. The act of judgment marks its members out from other and probably diminishing minorities, which, in heedlessness or else in ignorance of the gathering anger of serious men and women at frivolity and waste in the presence of social problems that are at once critical in aspect and lustrous with the promise of better things, go reckless on their way.

> They see, they hear, with soul unstirred,
> And lift no hand, and speak no word,
> But vaunt a brow like theirs who deem
> Men's wrongs a phrase, men's rights a dream.

But with the active, reflective, and productive social elements there may be mistake, but there is not callousness: and it is upon these, aroused to keener and deeper civic interest, in conjunction with those who have already borne the burden and heat of the political day, that the most excellent arts of government must be employed. In this way the application of the principles of the Fourth Canon is believed to offer a means by which a Government shall be compelled to attain its purpose by convincing, and maintaining in conviction, a majority of the entire electorate, rather than by the dexterous jugglery which we vainly strive to dignify by calling it "party tactics." The difference corresponds to that which exists between an appeal to the prejudices of a jury, and a soundly and soberly reasoned evocation of their best powers of unbiassed judgment. The one is exercisable by any tongue that can lash itself into vituperation. The other requires the firm intellectual grasp, the judicial temper, the elevation and placidity that come with breadth of view and lofty purpose, the absolute self-control that scorns to make sport with prejudice and passion, even if they seem at first sight to offer the means of victory. These are the ideals of statesmanship, these the instruments of sound and permanent social amelioration and advance; and if, by the possession of a constant power over the machinery of Government, or by any other method which has been dimly outlined in the present essay, we can secure the exercise of the arts of administration in permanent consistency with these supereminent standards, the Essentials of Self-Government will be firmly established in our midst, and this strong British* people shall march to its magnificent destiny proudly, steadfastly, and unmolestedly.

* The term "British" is employed here with the mental inclusion of Ireland. With a similar freedom of expression the writer has (where convenience required, as on page 95) used the word "Teutonic" in a sense which is, strictly speaking, too wide for the present essay, since the Welsh are not Teutons. So also, in the closing paragraphs of the essay, the expression "England" is used with the tacit inclusion of Wales in its significance, though the writer is perfectly well aware that this is not ethnologically precise.

CHAPTER XIV.

Conclusion.

In that last pregnant word "unmolestedly" (the word with which one of the first of the historians of one of the most potent of the world-forces lays down his pen and quits his task*) there is enshrined the central and predominant ideal of the conditions under which the machinery of self-government should work. It must go forward unmolestedly, no man forbidding or obstructing its eager and enthusiastic units as they move in their individual orbits around the corporate centre of political activity and progress. To this final pronouncement on the immediate subject of the essay that has now reached its close the author desires to add a few words of more general import.

The inexorable judgment of time must soon decide how far the principles dimly outlined in the "Essentials of Self-Government" are really capable of adaptation to the needs of the great political organism whose electoral machinery we have attempted to describe and analyse. Each reader will, in truth, have formed his own judgment long before his eyes fall upon these lines. And if that judgment be personal, independent, unconstrained; if it represent the real wrestling of the individual brain with these great problems of our race and hour; if the reader has been content to fling away the fetters of tradition from his intellect, especially that last infirmity of our national mind, the persuasion that contemporary political phenomena are essential, ultimate, and changeless—then, even if he yield no assent to the theories offered in the "Essentials of Self-Government," he will have exercised his virile discernment upon them, and may be the more invigorate for his few hours in the palæstra of civic ideality. More than all, he may have been prompted to turn his own consideration in the direction of the potent mechanism that we have analysed, and to realise how magnificent an instrument of national advancement it is, how strong for the consolidation of this ancient nation into one giant political personality, streaming the banner of progress across the political sky. The image of Rome at her proudest is expressed in the person of Augustus; of England, at her noblest, in her own self-governing Self.

One pregnant and incontrovertible fact is this—that whatever form may be ultimately assumed by our own nation, or by all the nations collectively, as corporate political entities, and however

* It is, in the original, the last word of the Acts of the Apostles: rendered by our translators by means of the paraphrase "no man forbidding [him]."

largely the doctrines of modern social altruism may be adopted, progress must in the last resort rely upon the individual mind, acting upon other minds, and impinging, in company with them, upon the common voice, vision, and vehemence at the centre. The centre, the government, may occasionally seem to lead, when the scaling of the heights of progress is essayed. But the facts are not really so—it only follows. For that reason human advance depends upon the vigorous, fearless, untrammelled working of the individual intellect, under the conditions which, so far as the intellectual conclusions are to find expression in the ballot box (or in some other more advanced mode of delivering the corporate verdict), the Third Canon defines. And if we ask ourselves if we are sure of the possession of those qualities which are to make us, as a people, the fit and capable arbiters of a vast destiny, the competent pioneers into the great unknown that fronts the race, we may find the answer in the burning words of one of the greatest of all Englishmen, whose heroic spirit dared to launch itself into the abyss where float the universes, and to tell, in the glorious tongue that Shakespeare spake, the matchless story of a fearless quest:

"Lords and Commons of England, consider what Nation it is whereof ye are and whereof ye are the governors: a Nation not slow and dull, but of a quick, ingenious, and piercing spirit, acute to invent, subtle and sinewy to discourse, not beneath the reach of any point the highest that human capacity can soar to. . . . Behold now this vast City: a city of refuge, the mansion-house of liberty, encompassed and surrounded with his protection; the shop of war hath not there more anvils and hammers working, to fashion out the plates and instruments of armed justice in defence of beleaguered truth, than there be pens and heads there, sitting by their studious lamps, musing, searching, revolving new notions and ideas wherewith to present as with their homage and their fealty the approaching Reformation, others as fast reading, trying all things, assenting to the force of reason and convincement. What could a man require more from a Nation so pliant and so prone to seek after knowledge? . . . And when every stone is laid artfully together it cannot be united into a continuity, it can but be contiguous in this world; neither can every piece of the building be of one form; nay, rather the perfection consists in this, that out of many moderate varieties and brotherly dissimilitudes that are not vastly disproportional, arises the goodly and graceful symmetry that commends the whole pile and structure. . . . It betokens us not degenerated, not drooping to a fatal decay, but casting off the old and wrinkled skin of corruption, to outlive these pangs and wax young again, entering the glorious ways of truth and prosperous virtue, destined to become great and honourable in these latter ages. Methinks I see in my mind a noble and puissant Nation rousing herself like a strong man after

sleep and shaking her invincible locks. Methinks I see her as an Eagle mewing her mighty youth, and kindling her undazzled eyes at the full midday beam, purging and unscaling her long-abused sight at the fountain itself of heavenly radiance, while the whole noise of timorous and flocking birds, with those also that love the twilight, flutter about, amazed at what she means."

[THE END.]

Where lies the land to which the ship would go?
Far, far, ahead, is all her seamen know.
And where the land she travels from? Away,
Far, far, behind, is all that they can say.
—A. H. Clough.

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