

**SUFFRAGE AND ITS MECHANISM IN GREAT BRITAIN
AND THE UNITED STATES.***

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As communities outgrow the possibility of personal conference in matters of common interest, the form of their representative system becomes important. In great aggregations of people the ratio of representation becomes more and more insignificant, as in the United States, where, with a five-fold increase of the representatives in Congress, the basis of representation is also five-fold greater than at the organization of the government. As the physical limits of assemblies of representatives are reached, serious questions arise as to the best modes of securing a true representation of the community.

The legislation of Great Britain for the past sixty years has been active on the subject and has resulted in great changes. The Reform Bill of 1832 enlarged the franchise but left modes of election mainly undisturbed. Scattered property gave multiplicity of votes. Candidates were proposed by responsible friends, and, if not opposed, nominees were declared elected on a show of hands by their supporters on election day. In case of opposition, a later day was set for a tally of the *viva voce* preferences of the electors. Constituencies varied greatly in size. The use of the ballot in England dates from the Ballot Act of 1872.

The views of James Lorimer, Thomas Hare, and John Stuart Mill, given in outline, may serve as a basis of comparison in the discussion and legislation on the subject. Prof. Lorimer (Constitutionalism of the Future, etc.) objects to a scheme based merely upon education or upon property, and pleads for a "dynamic system" that would combine the qualifications that make a man ordinarily influential in the community, giving each man a varying number of votes according to the measure of his tangible qualifications. Mr. Mill (Some Thoughts on Representative Government) would extend suffrage to each mature person without regard to sex, excepting those dependent on public care or not availing themselves of opportunity to learn to read, write, and make simple computa-

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tions. He would give additional votes to those of recognized superiority of training, and would give the property qualification greater prominence in municipal elections as the chief function of the local bodies is financial. He would have only tax-payers vote on questions of raising money. Mr. Thomas Hare (The Election of Representatives, Parliamentary and Municipal) favors the selection of representatives without regard to residence, as is customary for Parliament. He would ascertain the quota of votes necessary to elect a representative and declare all who received this number elected, providing also for distributing the superfluous votes of the higher candidates according to the wishes of the electors, who would express more than their first choice. Simon Sterne has prepared an explanation of the Hare plan with special reference to the United States. Mrs. Millicent Fawcett (Essays) approves Mr. Hare's views. Mr. Mill and Mr. Hare disapprove the English custom of charging all election expenses to the candidates, as in Parliamentary cases, but would call for a deposit of, say, £50 from each candidate to guard against the use of names for mere notoriety.

These writers point out that in the customary modes of election not only is the minority likely to have no representation, but it may occur that a majority of a majority will enact laws that are not supported by a majority. (Two-thirds of two-thirds is four-ninths, or less than one-half.)

Personal, proportional, minority, equal, and individual representation are some of the terms used in the discussions referred to. Mr. Mill would have an open ballot.

A territorial basis for representation is objected to by writers named as liable to stifle a minority of importance. Mr. Sterne instances the Legislature of Maryland in 1878 as wholly composed of one party, though the other had cast almost a third of the votes in the State at the antecedent election, and names Maine as furnishing a little less marked illustration of one-sided representation in the session of 1879. In the *Nineteenth Century* (Feb., 1885) it is stated that the minority party in Ohio sent nineteen representatives to Congress, when the majority sent but five.

By the English Reform Bill of 1854 a voter in a district returning three members could vote for only two, making it possible for a minority of two-fifths to secure representation.

Cumulative voting, as some have termed it, is incorporated in the Educational Acts (England, 1870, and Scotland, 1872) to give

representation to minorities. Each voter has as many votes as there are vacancies, and may concentrate or scatter them as he likes. This can also be done in municipal elections.

The principal acts governing present English elections, in addition to those already referred to, are: The Municipal Elections Act, 1882; the Representation of the People Act, 1884; the Registration Act, 1884, and the Redistribution Act, 1885.

Parliamentary constituencies are now usually territorial. Boundaries have been varied in an effort to include those of kindred interests and the University franchises are retained. Candidates are selected without reference to residence. The expenses are assessed almost wholly upon candidates. In school and municipal elections the charges are paid mainly from public funds. The personal expenses of Parliamentary candidates are limited and are published by the authorities. On receipt of the government writ, the returning officer appoints two hours of a day from two to nine days later for an election. Nominations are filed on the appointed day, each signed by a proposer, a second, and eight others. At the end of a third hour from the opening of the election, the nominees are declared elected if there are no more nominated than there are vacancies. In case of a contest a day is appointed for a future decision by ballot. Contests as to the returns go to the courts.

The voter, registration, the ballot, and the ballot-box are convenient points for comparative examination.

Omitting details, the voter in Great Britain is a male owner or occupier or lodger of one year's standing, registered, and with all rates paid. Current registration is based on previous lists. Inquiry is annually made in April and May as to who besides occupiers are entitled to vote. The record is made up for the last of July. Women vote in school and municipal elections.

The ballot is a white paper with the names of all candidates in the alphabetical order of their surnames, with titles, addresses, and business for full identification. The ballot has a counter-foil on which, as well as on the face and on the back of the ballot, is an official stamp, the device of which is not known beforehand, and cannot again be used for seven years. The voter steps aside into a prepared booth, secretly marks a cross against the name of his choice, folds the ballot, and, after holding it so that the returning officer can see that it has the proper stamp, deposits it in a box.

In elections to which the cumulative plan applies the details are modified without changing the general methods. A very popular candidate may receive many votes more than are necessary for his election, and it is conceivable that a strong majority would find itself weakened by the absorption of its votes, so that the successive candidates on the list might be chosen by small numbers of votes. Mr. Hare's plan contemplates such a contingency and the distribution of superfluous votes in harmony with the wishes of electors.

No ballots are carried out of the polling-station. The ballot-box must be so constructed that ballot-papers can be introduced, but not taken out, without unlocking it.

The general practice in Canada is based on usage in England, but under special laws. Those of most direct importance are the Dominion Election Act of 1874 and the Electoral Franchise Act of 1885. The voter is a male British subject, twenty-one years of age, with a small property or occupier's qualification. Women have the suffrage in school and municipal elections in some of the provinces. Judges of all courts, election officers, or candidates' agents, and Indians not possessed of \$150.00 in severalty are disqualified for voting for Parliamentary candidates.

For registration the Governor-General appoints a revising officer for a unit of territory varying in extent. Local assessment-rolls form the basis for a registry, which is revised after prescribed publication of preliminary lists, with a final appeal to prescribed courts. Successive lists are purchasable for a stated fee.

The ballot is like the English ballot. The ballot-box is to be of some durable material, with lock and key and with a slit in the top. The ballot-boxes, ballot-papers, and envelopes in which voters put their ballots before handing them to the officer to put in the box are property vested in Her Majesty. Certain allowable election expenses, including cost of ballots and boxes, are paid mainly from the consolidated revenue fund. Fifty dollars is collected from each candidate and applied on the public expense of election. No expense by a candidate on behalf of a voter is allowed. A recognized agent may be employed, who may be present through the polling. The personal expenses of candidates are restricted, and are published by items, as in Great Britain.

The day of election is uniform, except for certain provinces. In case of a contest the balloting is at a fixed number of days from election day (usually seven).

In the preparation of this outline every secretary of state in the United States was addressed at least once, and the editions of election laws were collected, as far as practicable, in addition to examination of the laws in the Congressional Library. So many provisions are buried in special school and municipal laws, and so much depends on old laws and on customs not formulated in law, and such difficulty in securing prompt information in official form exists, that, in a country comprising over forty separate legislative bodies, of which many have annual sessions, it is almost impossible to prepare a statement that shall be rigidly correct at any given date. Whatever errors may seem to occur when this reaches print will, however, be too insignificant to affect the range of variation in custom and requirement under our boasted so-called universal suffrage.

At one extreme are the District of Columbia and Alaska, without any representative form of government or any suffrage.

At the first election in a Territory the provisions of the national laws prevail. Local laws modify these in later elections.

The United States law defines citizenship thus: All persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States. In addition, children born abroad of citizen fathers and wives of citizen husbands, who might themselves be naturalized, are declared citizens. Provision is made for extending citizenship to foreigners who adopt the country for a home. Treason and a series of other offenses disqualify one for holding office for a longer or shorter time, but no general statute seems to provide forfeiture of the ballot, except that certain deserters forfeit citizenship.

National laws apply to incipient Territories and, in a limited degree, to the States in elections affecting representatives in Congress and presidential electors. By the national law every male citizen above the age of twenty-one, including those who have declared their intention to become citizens, being actual residents, may vote and hold office. No one belonging to the national Army or Navy shall hold office or vote, except if resident. The qualification of electors for national representatives was left by the Constitution to be determined by the States as laid down for the most numerous branch of the local Legislature.

Under an amendment, there is to be no restriction by reason of race, color, or previous condition of servitude.

There is no national registration, but supervisors of elections are authorized for cities of twenty thousand inhabitants, among whose duties are the enforcement of local registration laws.

The use of the ballot is prescribed by national law for representatives and presidential electors, but there is no legal provision for ballots. In a local election of interest to a small group, who can easily indicate their wishes with pencils and bits of paper, the provision of ballots is insignificant; but when large numbers are interested and the individual can no longer be sure of accuracy in spelling names it becomes necessary to have ballots furnished in quantities involving large cost. In Great Britain and in Canada the waste of ballots is small. In the United States the waste is great, making a marked difference in the aggregate expense and failing to secure ballots to unorganized voters beyond the reach of sympathizing committees. Not only do local minorities suffer thus, but it sometimes occurs that a party strong in numbers, but weak in arrangement at some point, will there be left in a minority through the want of ballots among its friends. This is conspicuous in the early stages of new issues. The scattered friends of such movements cannot place themselves on record at the polls till local organization gives them opportunity, which goes to explain some remarkable changes in successive footings, as neophytes and old friends have by force of circumstances been reckoned together as a gain to an advancing cause.

The influence upon candidates and upon the public service of the mode of providing ballots prevalent in the United States deserves more attention from sociologists. It seems like a failure to adapt customs and laws to the conditions of national growth that the community in choosing its servants leaves itself dependent for an essential instrument for expressing its choice upon those with special or private interests, and continues to prescribe methods fitted only to a town-meeting of a score or two spending the day in deliberation. Massachusetts lately required a written ballot, using printed ones only under exceptions, and Utah requires the elector to provide himself with a ballot, although in each electors have depended on printed ballots furnished by organized political committees.¹

There is, no national provision for a ballot-box, not even for the use of presidential electors.

¹ Recently changed in Massachusetts.

In Great Britain and in Canada pains is taken to keep the polling quietly free from any pressure by others upon the individual voter, while in some of the United States it seems as if it was the intent to depend on the freest publicity for security against improper practices.

Under State laws voters in near a score of States are male citizens of the United States twenty-one years of age. Several, besides territories, extend the franchise to those who have declared their intention to become citizens. The restriction "white male" has not wholly disappeared from State constitutions. West Virginia limits suffrage to citizens of the State. Women have general suffrage in Utah and Wyoming and limited suffrage, as in school elections, in some dozen States or Territories additional. They can also hold school offices in others. Rhode Island requires a property qualification.¹ Massachusetts requires ability to read and write. Connecticut requires ability to read. Delaware, Pennsylvania, Georgia, Massachusetts, and Rhode Island¹ require prepayment of a tax, with exceptions.

In the regions acquired from Mexico those who were Mexican citizens at the time of acquisition have the suffrage right.

The required residence in the State varies from three months to two years; in the county, from ten days to one year; in the town, from ten days to six months; in the precinct, from one day to three months.

The limitations of suffrage as regards the dependent and criminal classes vary greatly. One State cuts off paupers; some others cut off infamous criminals; others, infamous criminals, idiots, and lunatics; still more, infamous criminals, idiots, insane, and paupers. In some instances bribery or betting at elections is a disqualification, and duelling is a specific disqualification in a few cases. The disqualification for crime is permanent in Maryland; only while imprisoned therefor in Indiana. The case of students is specially noted in the laws of several States, they not gaining residence by attendance at institutions. Indians who have assumed civilized habits and abandoned the tribal relation have the franchise by the laws of Michigan, Minnesota, and Wisconsin.

In Tennessee, voters in whose precincts no polls are opened, those detained by business at court, and candidates absent from

¹ Changed by constitutional amendment, 1888.

home may vote in other precincts than those of their residences, but within their counties. In Texas, only tax-payers can vote in municipal elections on assumption of debt or expenditure of money. Similar restrictions apply to voting at school elections in some States.

Registration laws are prohibited by the constitution of West Virginia. Six other States are without such laws. The assessors' lists, in some cases, form the basis of registration. In several States registration laws apply only to cities. In some instances there is opportunity for registration on any business day; in others, only at certain limited times. Personal application is sometimes required; sometimes it is only necessary that the proper officer shall be cognizant of the facts. The opportunity for correction varies widely. The importance of a careful adjustment of such laws to the respective constitutions has been exemplified by a judicial condemnation of the Ohio law, made to apply to Cincinnati and Cleveland, on account of unconstitutional limitations.¹

Ballots are only incidentally recognized in the laws of a few States. Generally, marking on the back is prohibited, but in some cases a number is made by the officer who receives it, and in New York the class of the ticket is printed on the back. Some States prescribe the size of ballots, and California and Louisiana furnish the paper for ballots, through their secretaries of state, at a slight advance on cost, to secure uniformity of paper. Errors in initials or spelling of names invalidate a vote in one case, while in others there is express provision that any such error as does not produce a doubt as to the intent of the voter shall not be noticed. In a dozen States separate ballots are used at the same poll. Their use varies from a special case, as when a vote is taken at a Minnesota town-meeting as to stock running at large, to the fixed use of separate ballots for each class of officers.

The ballot-box is furnished by the State in Massachusetts. In more than half the States the boxes are mainly a county charge; in most others, a town charge, and, in nearly all, cities and incorporated towns furnish them. School districts also provide them in New York. In a small number of States no definite provision for ballot-boxes is evident. A multiplicity of boxes is usual where a

¹This was the law of May 4, 1885. A law framed to meet the objections was passed May 19, 1886.

multiplicity of ballots is cast, but in Rhode Island the voter puts his various ballots in an envelope furnished at town expense by the State. The character of the box varies from an entire lack of prescribed qualities, through the demand of a key in one case, a lock and key in another, a lock and key and a hole in the lid in others, till we come to a small number that are very explicitly defined. New Jersey and Louisiana have each special provisions for a strong box. Colorado calls for a circular box of glass enclosed in a wooden frame, with a lid fastened with three unlike locks, a key in the custody of each judge of election. Massachusetts furnishes a box with devices for receiving, registering, and cancelling ballots at a maximum cost of \$50. Ohio requires a box that will stamp each ballot with the name of the precinct, indicate the number of stamped tickets, ring a bell to indicate the deposit of a ticket, having two unlike keys and a crank necessary to open the box or to deposit a vote, at a maximum cost of \$25. Other boxes are tolerated if these are not available.

Missouri uses two boxes at a poll in a unique way. One box is used for an hour, when the canvassing board takes it, substituting then the other box and changing thereafter as often as the convenience of counting requires. Delaware and Texas use each a second box to send returns to the county-seat.

The voter usually hands his ballot to an officer, who deposits it in the box, but not in every case; as, for example, in Massachusetts, South Carolina, and Texas.

Illinois recognizes official ticket-holders to supply tickets in the interest of their respective candidates, and New York recognizes official watchers of each party through the proceedings.

Indiana makes provision for meals to election officers during the election and the canvass of votes. Massachusetts furnishes envelopes, at State expense, for each voter to use, in his option, for depositing his ballot.

Nevada limits sharply the legal expense for candidates.

Pluralities usually suffice to elect, but some officials in Maine, New Hampshire, Vermont, and Connecticut are elected by majorities, receiving more votes than all competitors.

Primary elections by party organizations have a legal status in a few States, as Illinois, New York, Ohio, and Pennsylvania.

No plan for conducting elections or for the adjustment of representation yet proposed can properly be condemned as impracticable

so long as we can find traces of almost every plan suggested in modern discussion in actual use in this country, especially if we include the proceedings of various corporate bodies.

Custom rather than law makes it imperative that a Congressional representative shall reside in the district represented. Such representatives have been chosen in various ways, and the present prevalence of the district system rests on a law passed in 1842.

It has occurred, first in Illinois, in the apportionment following the census of 1870, that one representative or more has been assigned to a State in addition to a number distributed by districts. On at least one occasion the proposition to introduce cumulative voting for such members at large was strongly supported in Congress. Mr. Marshall of Illinois, Mr. S. S. Cox, Mr. Haldeman, and Mr. James A. Garfield supported a bill to that effect in 1870.

In Connecticut representatives in the State Legislature are sent by the towns. In New Hampshire the town is the basis of representation, but very small towns are combined and choose representatives in rotation. A minimum population of one hundred and fifty is required as a basis for one representative. In Delaware representatives are sent by the counties.

In New Jersey and in South Carolina representation in the senate is based on the county.

In Illinois since 1870 cumulative voting has been used to aid in minority representation. Each senatorial district elects three representatives and each voter can cast three votes for one candidate, or divide them integrally or fractionally between two.

In New York a plan is in use in the election of the Court of Appeals to prevent the majority from absorbing the whole bench. There is a chief judge, with six associates. A voter can cast a ballot for the chief judge and only four associates.

Harvard University uses the Hare plan in the election of trustees.

In our financial institutions administration is largely upon the property basis, votes resting more upon the shares than on the persons owning them.

Discussion and experiment are active. A bill was drawn in the name of a temperance movement to allow every temporary or permanent male adult who should have been six months in the District of Columbia, when such an election might be ordered, to vote on local option, so called, without distinction of citizenship indicated. A bill is on the Senate calendar to provide a ballot-box

by the National Government for the Congressional elections with peculiar adjustment against fraud. The leading political clubs of Chicago have selected a box with a like purpose of guarding against fraud. A committee in Massachusetts is discussing plans for more effective protection of the independence of the individual voter.¹

Great diversity of provision will continue in different parts of the United States upon the leading features of representation and the conduct of elections, as no uniform legislation is practicable. Only for national elections and in Territories or by restrictions in enabling acts for new States can the General Government properly legislate as to local adjustments. The inevitable diversity will serve to keep on trial a great variety of plans that find local favor, and may help toward a better solution of the problems of representative government.

DISCUSSION.

In the debate which followed Col. GARRICK MALLERY said that in the election of officials in Philadelphia to take charge of a consequent election a voter could vote for only two out of three to be chosen, in order that they should not be chosen wholly from one political party.

Col. F. A. SEELEY thought that check-marks on the back of ballots, as he had seen in Missouri, afforded an opportunity to determine afterward how individuals voted, and failed to secure a secret ballot. He also called attention to the peculiar legislation by which, during the war of the Rebellion, provision was made for using the votes of absent soldiers in the home elections.

Dr. ROBERT FLETCHER stated that when offering a vote at Nashville, Tenn., he was asked where he had his washing done, and found, when about to resent the inquiry as impertinent, that it was the legal test of residence.

Col. F. A. SEELEY gave instances in which the residence of canal boatmen, whose place of occupation was movable, was sometimes determined by the question where their washing was done.

Col. GARRICK MALLERY instanced an important suit in which the plaintiff, suing as a citizen of New Jersey, was non-suited because the jury determined that as his washing was done on the west bank

¹ An elaborate election law, approved May 29, 1888, provides for ballots at public expense after November 1, 1889.

of the Delaware, or in Pennsylvania, his residence was in the latter State.

Mr. CHARLES FREDERICK ADAMS stated that early legislation was probable for the clearer definition of residence. In the civil-service examinations it was found that there was a strong effort to claim residence in States whose quota of appointments was not full, some innocently inquiring to what State they had better belong.

Mr. DAVID HUTCHESON explained "plumping" as it was understood in Great Britain at the time of his residence there. Where two or more members were to be elected from one district, the voter had as many votes as there were members to be chosen. He could vote for one whom he especially preferred without voting for others, the effect being to increase the relative vote of his friend as compared with one for whom he might also have voted, but who, being thus left off, dropped one vote behind by every such vote. The use of the term was then different from that in which "plumping" is now used as applied to the concentration of several optional votes by the voter on one candidate.

Prof. OTIS MASON remarked that in the study of warfare it was found that every weapon suggested some device of defense, and devices of defense in turn suggested new weapons of attack. The parallel of this truth in physical contests was traceable in the history of representative systems. Different elements in society were in busy contest attacking usage or abuse or defending rights or privileges. The laws for facilitating popular expression, or for preventing frauds, or for checking unjust domination of special interests had a deep significance to the anthropologist as illustrating on a higher plane what was to be seen in material contests.