THE CONDUCT OF PARLIAMENTARY ELECTIONS IN ENGLAND

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TO

MY FATHER AND MOTHER
PREFACE

This monograph is the result of the extension of a Master's thesis which was submitted to the Department of Political Science of the University of Wisconsin on 1925.

The present work is divided into three parts. The first four chapters which deal with the legal procedure of Parliamentary elections in England embody the corresponding part of the original essay with some changes. The next four chapters which describe the working of the electoral system are entirely new additions and they were written after the author had spent one year in England in personal investigations. The last three chapters which treat the corrupt and illegal practices and the election petitions are the result of reconstruction from that part of the old dissertation which covers the same ground.

For the first part of this book, the writer depends chiefly upon Statutes and Orders for his source materials. At the same time, he acknowledges that he has made an extensive use of works in the same field by such authorities as Sir Hugh Fraser and Mr. F. R. Parker. For the second and the third parts, the writer wishes to confess that the observations upon which he has based his discussions and conclusions were limited to a few by-elections. An opportunity to watch some general elections may modify his present opinion somewhat. He hopes that in the future he will be able to avail himself of such a privilege to complete this interesting study.

Thanks of the author are due to Professor Frederic A. Ogg, Chairman of the Department of Political Science in the University of Wisconsin, under whose guidance the Master's thesis was written; to Professor Harold J. Laski, Professor of Political Science in the University of London, through whose good effort the writer was able to make connections with different party organizations in England to conduct his personal investigations;
New York, May 10, 1928.

Kind that may be in this book, the writer alone is responsible. Indeed, it is unnecessary to say that for errors of whatever

of proofreading. Years and a close friend, who has helped in the most tedious job

to Dr. Eugene Shenn, a class mate in Trinity, Hua College, for nine
have taken the trouble in reading the manuscript! And finally
both of whom are professors in Columbia University and Paul

To Professor Lindsey Rogers and Professor Howard L. McKean.
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CHAPTER I

FROM DISSOLUTION TO ELECTION DAY

Parliament means, in the mouth of an English lawyer, the King, the House of Lords, and the House of Commons.¹ To a student of political science, the term generally denotes the bi-cameral legislature, composed of the two Houses only. In ordinary language, however, Parliament in England is nothing more than the House of Commons.²

The House of Commons is, in point of fact, the keynote of parliamentary history of England.³ Simultaneously with the application of the name ‘parliament’ to the political organ known as the ‘Witenagemot’ at the Anglo-Saxon time and as the ‘Great Council’ in the Norman period, occurred the summoning of the ‘commoners’—knights of the shire, citizens of the city, and burgheers of the borough.⁴ Furthermore, ‘As early as the fourteenth century, the official handbook to Parliament lays down that the King can hold a Parliament with the ‘community’ of the realm although no bishop, earl, or baron attends; but that without the ‘community’ no parliament can be held though bishops, earls, and barons, and all their peers are present with the King.’⁵

From the etymological point of view, the term ‘parliament’ is again a more appropriate designation for the House of Commons

² S. Walpole, The Electorale and the Legislature, Ch. III, p. 48. “The Parliament is, in ordinary language, the House of Commons; When a minister consults Parliament, he consults the House of Commons; When the Queen dissolves Parliament, She dissolves the House of Commons. A new Parliament is a new House of Commons.”
⁴ J. H. Breasted, Outlines of European History, Part I, Ch. XVII, p. 421.
than for the bi-cameral legislature including the House of Lords. Several meanings have been suggested for the word "parliament." To Ilbert it means "to talk"; and it is Latin in origin. To Graham it means "parler le ment"; it is either French or Italian in origin. To still others, it may mean "speaking abundantly"; and it is Celtic in origin. Whatever may be the case, there is little ground for the House of Lords to be included. If it is the first meaning that is correct, it is the House of Commons that is doing all the talking for Great Britain; if the second, it is the Commons that enjoys the privilege of "speaking their mind" and finally, if the third, it is the Commons that is really garrulous. From all these points of view it may be concluded that the House of Lords is the remnant of the "Witenagemot" and the "Great Council," and that the House of Commons is the real English Parliament.

This conclusion is especially true when we come to the study of parliamentary elections in England.

Parliamentary election in England was originally defined as an election of a member or members to serve in Parliament; and in acts passed after January 1st, 1890, it meant an election of a member or members to serve in Parliament for a county or division of a county, or for a parliamentary borough or a division of a parliamentary borough, or for a university or combination of universities.

Evidently, the term "Parliament", in these definitions, means the House of Commons.

First of all, the House of Lords is not a representative body. There exist no such distinctions as Lords from a county, Lords from a borough, and Lords from a university. Therefore, the definition of parliamentary election quoted above cannot be applied to the House of Lords. Secondly, parliamentary election,

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8 ibid.
9 17 & 18 Vict. c. 102. s. 38.
10 52 & 53 Vict. c. 63. s. 17.
since the introduction of the system, has meant the election of the ""Commons,"" not of the Lords. We need not go back to the time of Saxon monarchy or of Norman kings, when there was no Parliament. In the Magna Charta we note some approach to later Parliament in the mode and object of summons of the Commons.\textsuperscript{11} The Charter provided in its fourteenth section that the archbishops, bishops, abbots, earls, and greater barons were to be summoned individually, ""sigillatin per literas nostras,"" and that the lesser tenants-in-chief were to be summoned ""in generali"" by writs addressed to sheriffs. It is certainly an exaggeration to assert that this formulated the existing election practice, but this at least exhibited the germ of the distinction between the Lords and Commons and the distinction between the methods of their summons. Gradually the king found out the impracticability of meeting the entirety of the tenants-in-chief, and the representative system was adopted. In the reign of Edward I there was the Model Parliament of 1295. To this Parliament the archbishops, bishops, and abbots were summoned by individual name and special writ. At the same time writs were directed to the sheriffs bidding them to cause to be elected two knights of each shire, two citizens of each city, and two burgesses of each borough. Evidently in this Model Parliament only the Commons were elected.

Though the English Parliament has undergone many changes in the last six hundred years, the principle that election is limited to the House of Commons still remains. It is true that when the Crown issues writs calling for a general election, it also summons the Scottish peers to meet at Holyrood to perform the ancient and picturesque little ceremony of choosing the sixteen representative peers for the House if Lords. This by no means implies that the Second Chamber in England is an elective body, and still less does it imply that a parliamentary election can mean an election for


\textsuperscript{12} ibid.

\textsuperscript{13} ibid.
both the House of Commons and the House of Lords. The great majority of the Lords are non-elective. Of the small minority who are nominally elected Lords, a greater number are life members; in other words, election of them can take place only when a vacancy occurs either by death or by attainder.

The only members in the House of Lords who are in a sense elective are the sixteen Scottish peers. About this, several points are worth noticing. The system was not introduced until 1707 and, from many aspects, it may be taken as a temporary feature. The acquisition of the United Kingdom peerages by Scottish peers is not infrequent, and the acceptance of such a title deprives by law the right of a Scottish representative peer to remain any longer in the House of Lords as a Scottish representative peer. At the same time, the Crown is expressly prohibited by the Act of Union from creating new Scottish peerages. For this reason the result will be, as Professor Jenks has rightly pointed out, that "at no very distant date the sixteen Scottish peers will elect one and another, in default of other electors or even be unable to keep up their full members." We may go one step further and assume that the day will soon come when by death or for other reasons all the Scottish peers will be eliminated, which will put an end to the Holyrood dramatic ceremony forever. Even if this practice should continue for some time, the election is only one in which a group of noblemen choose from among themselves a handful of delegates to represent the class interest of their particular group. There is no competition. Indeed, there is nothing which can be genuinely called an election.

So much for definitions of parliament and parliamentary elections. The term "conduct" in our present subject will include the following three phrases of election activities: (1) legal procedure of an election; (2) campaign of an election; and (3) corrupt and illegal practices of an election. The first is the "conduct" of an election from the point of view of governmental officers represented

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14 Act of Union of 1707.
chiefly by the returning officers; the second, from the point of view of those who compete for the election, or of the different candidates represented by their election agents; and the third, from the point of view of the electoral courts and judges. Following the above order, the writer divides this dissertation into three parts.

Before we proceed to these topics, we shall consider the different causes of elections. In England there are two types of elections—the general and the bye-elections. A general election may be caused by a dissolution of parliament, which may take place either after the lapse of the five years' term\(^\text{16}\) or before that time by the exercise of the royal perogative, by and with the advice of the privy council in name, and on the request of the prime minister in fact. A bye-election may be caused by (a) a member accepting an office of profit from the crown;\(^\text{17}\) (b) his elevation or succession to the peerage;\(^\text{18}\) (c) his death;\(^\text{19}\) (d) his disqualification when elected;\(^\text{20}\) (e) his return for more than one constituency;\(^\text{21}\) (f) his being unseated on petition;\(^\text{22}\) (g) his expulsion;\(^\text{23}\) and (h) his adjudication as a bankrupt.\(^\text{24}\)

In this connection, a few points regarding the causations of a bye-election may be mentioned. According to law a member once elected cannot resign from the House of Commons. At the same time, it is not infrequent that bye-elections are caused by resignations. The legal prohibition of resignation is usually evaded by seeking another legal shelter. In section 25 of the statute 6 Anne, c. 41, it is provided that if any person who has been chosen a member of the House of Commons shall accept an office of profit from the Crown during such time as he continues a member, his

\(^{16}\) The Parliament Act 1911.
\(^{17}\) 6 Anne, c. 41, s. 28 (b) and 41 G3, c. 52, s. 2.
\(^{18}\) ibid.
\(^{19}\) 39-40 G III, c. 67, s. 2.
\(^{21}\) ibid.
\(^{22}\) ibid.
\(^{23}\) ibid.
\(^{24}\) 52-3 G3, c. 144, s. 2 & 3.
election shall be void and "a new writ shall issue for a new election, as if such person so accepting was naturally dead." The same section grants the privilege to such "naturally dead person" to be capable of re-election if he so desires. Today any member of the House of Commons who for some reason or other desires to retire may apply for a certain old office of nominal value. Such offices that still survive and may be applied for are the stewardship of the Chiltern Hundreds and the manor of Northstead. They operate to vacate a seat of the House and can be held at pleasure.

A general election, as we have pointed out already, can be called only by the dissolution of Parliament either by efflux of time or by the exercise of the prerogative of the Crown. Since the election of 1837 there has never been a single dissolution by efflux of time, with the exception of that which occurred November 25, 1918. On this occasion Parliament had lasted for seven years and nine months and the dissolution was due to the expiration of the five years' term. But this unusual extension was to be explained by the fact of the great war, which made a general election inconvenient. Generally speaking, the average life of a Parliament is about four years, the shortest being that of 1886, when the interval between the meeting and the dissolution was five months and fourteen days (from January 12, 1886 to June 26, 1886). In contrast to this, Charles II once retained his parliament for seventeen years. Such a case, however, could take place only before the Triennial Act was passed.

Before 1867 the existence of a Parliament was also affected by the demise of the Crown. Since that date the life of a Parliament has been independent of the life of the Crown. In cases when a demise occurs subsequent to a dissolution, yet before the day that has been fixed by the writs of summons for assembling a new Parliament, the old Parliament, according to law, is to convene and to sit for six months unless sooner prorogued or dissolved by the succeeding Crown. If the demise occurs after the day

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25 It appears that the existing Parliament is going to last for the five year term.

26 37 G. III. c. 127, s. 4.
appointed for the meeting of the Parliament, the ordinary law of efflux and dissolution applies and the new Parliament is to sit without the six months’ limit.

It is worth while noticing again that a curious situation might result if the law of 37 George IV, c. 127, s.4. is ever brought into application. If a king dies, as we have pointed out, after the dissolution and yet before the day appointed for meeting, the right action is to reconvene the old Parliament. In such a case, if the Parliament has been dissolved for a reason other than efflux, then the reconvening of the old Parliament may mean actually the restoration of a defeated party into power. Consequently, such an event, if it ever unfortunately happens, may mean embarrassment and inconvenience. In order to avoid such speculative inconvenience and embarrassment in the future, the writer would suggest that laws of such an out-of-date nature be struck out of the statute book and that the life of Parliament be made independent of the life of the king in all respects. Such a gap as that described may be filled by a provision that after the dissolution of Parliament the new Parliament should convene, irrespective of what happens to the king.

When the government, or more exactly, the party in powers meets or anticipates defeat in the House of Commons, or when the party thinks it wise to go to the country for political reasons, then the prime minister asks the Crown for an order of dissolution. The request is always granted. The next step is the royal prorogation of the parliament.

In order to give more reality to the story, the writer will take the last dissolution, that of October 9, 1924, as an illustration.

On October 8 the MacDonald government was defeated in the House of Commons. As a result the ruling ministry decided to ask for dissolution of the existing Parliament.

At 10:00 a.m. October 9, Mr. MacDonald had an audience with King George V and presented his request for dissolution. At 11:00 the Prime Minister hurried to attend a cabinet meeting. At 1:45 p.m. of the same day, Mr. MacDonald attended the mass meeting of the Labour Party, where he announced the consent
given by the King for the dissolution and urged the Party to get ready for the new fight. At 2:45 p.m., October 9, the House of Commons met. During the meeting the following short scene took place.27

"At the close of the meeting Mr. Baldwin, the leader of the opposing party, rose up and addressed the chair in these words:

'I desire to ask the Prime Minister whether he has any statement to make?"

Mr. MacDonald replied: 'I regret that the action taken by the two opposing parties yesterday renders an election inevitable. I, therefore, have had an audience of His Majesty this morning and asked for a dissolution. His Majesty empowers me to announce that he has consented.'"

After the questioning and answering in the House of Commons the meeting adjourned. At 4:15 the House of Lords held a meeting to wind up the unfinished business and gave a final touch to the Irish Bill. At 6:00 p.m., October 9, the two Houses met at the House of Lords where the royal assent was given by commission to the Irish Free State Act and the existing Parliament was prorogued.

After the royal assent, the Lord Chancellor read the King's speech, which was, as usual, very antique in form. It started with the address: 'My Lords and the Members of the House of Commons,' and then it went on to thank the House of Commons for the "service you have made for........." and finally bade farewell to the Houses in a tradionally solemn tone in these words:

"In bidding you farewell, I pray that the blessing of Almighty God may rest upon your labour."

Following this formal farewell speech, the Lord Chancellor, in his Majesty's name and in obedience to his Command, prorogued Parliament. The next day, October 10, the proclamation was issued and published in the London Gazette to dissolve the old and to summon a new Parliament.

The proclamation is, in the main, divided into two parts. The

27 London Times, October 10, 1924.
first part declares the dissolution of the Parliament and that "the knights, citizens, burgesses, and the commissioners for shires and boroughs of the House of Commons are discharged from their meeting and attendance." The second part further declares "that, by and with the advice of our Privy Council" the Crown has given orders that the Chancellor of the United Kingdom called Great Britain and the Governor of Ireland do "respectively upon the notice thereof, forthwith issue out writs in due form and according to law, for calling a new Parliament."

The next thing is, of course, the issuing of writs. Historically speaking, summons by writs is a practice coeval with the Parliament itself. When Henry Elynges, clerk to the House of Commons, discussed the ancient form of writ in his "The Ancient Method and Manner of Holding Parliament," he pointed out that "the first writ of summons upon record is that of 49 H. III." Evidently its origin goes back as early as the thirteenth century.

Warrants for the issuing of such writs come from different sources, according to the nature of different elections. For a general election, until very recent times, it was the practice for the warrant under the sign manual to be given by the Crown to the Chancellor to issue the necessary writs. Now an Order in Council saying "His Majesty having been this day pleased by his royal proclamation to dissolve the present parliament and to declare the calling of another" is being used instead. For bye-elections all warrants come from the Speaker of the House. If the particular vacancy occurs during the session, the speaker will issue a warrant on an order made on motion in the House, provided that no election petition is pending for the vacancy involved. If the vacancy occurs during a recess, either by prorogation or by adjournment, the speaker's warrant issues on a certificate which is submitted to the speaker according to legal procedure, as the different cases

30 Stephen's Law of Election, p. 46.
may require. In case of the death or absence of the Speaker, the power that is vested in his hands may be exercised by members previously appointed by him for this purpose.

The forms of writs that are in use at present are prescribed by the Act of 1872. Altogether there are four in number: (1) the writ of summons to a temporal peer of England, (2) the writ of summons to a Spiritual peer, (3) the writ of attendance addressed to the Judges, and (4) the writs addressed to the sheriff and returning officer of a county or borough. It is obvious that the first three are for the election of the House of Lords and only the last one for the House of Commons.

The writs that summon both the temporal and spiritual peers are about the same except that the latter are summoned for their "faith and love" and the former for "faith and allegiance." The judges, the Attorney- and the Solicitor-general are not invited to be present with the said Prelates, Peers, and the Great men, but, as the writs indicate, are invited "with us and with the rest of our council to treat and give our advice." Here lies the difference between the writ of summons and the writ of attendance. In spite of the passing of centuries, the main parts of these writs still preserve their medieval phraseology and mode. It is specially true in the case of writs for summoning the spiritual and temporal peers.

The form of writs to the sheriff or returning officer of a county or borough is greatly modernized and shortened. The old form stated that those who were summoned "were two knights of the most fit and discreet, girt with swords," and two citizens and two burgesses of "the most sufficient and discreet." These men, according to the writs, were supposed to be elected "freely and independently" by the electors according to the form of statutory provisions, and should be entrusted with "full and sufficient power to do and consent to those things which then and there by the Common Council of our said United Kingdom (by the blessing of God) shall happen to be ordained upon the aforesaid affairs."

These men were elected "to treat and have conference with the Prolates, Great men and the Peers of our Realm." These quoted phrases do not any longer appear in the modernized and shortened form of writ. The new form states the date of the meeting of the new Parliament; directs returning officers to cause election to be made according to law; and lastly orders the officers concerned to certify the elected candidates without delay. It says nothing about the object of summons. It omits such phrases as "to treat and have conference with the Prelates, Great men, and Peers." Quoted below is the text of a modern writ:

"George the fifth by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the seas King, defender of the Faith, to

Greeting.

Whereas by the device of our Council we have ordered a Parliament to be hold at Westminster or on day of next, we command you that, notice of the time and place of election being first duly given, you do cause election to be made according to law (no. of members) to serve in Parliament for (the name of the constituency), And that you do cause the name of such member when he is so elected, whether he be present or absent, to be certified to us in Our Chancery, without delay.

Witness Ourselves at Westminster the day of in the year of our Reign and in the year of Our Lord one thousand nine hundred and . A writ of a new election of members for the said "32

Great care has to be taken in delivering the writs. If one is sent improperly, the election held on its basis may be void. Thus if a writ for the second election is issued where the first election has not been declared void and the seat declared vacated, the proceeding taken under the second writ has no legal effect. Then again all these writs should be "directed to the officers to whom the execution thereof doth belong or appertain, and to no other person

32 35-6 V. c. 33, s. 28.
whatevery.\textsuperscript{33} These writs, except the ones for the constituencies inside of London and Middlesex, or where the returning officers have offices in London, Westminster, or Southwark, or within five miles thereof, are sent to the London General post office, to be delivered by the first post under cover to the respectively nearby post offices to be forwarded to the proper returning officers. For constituencies inside of London and Middlesex and those whose returning officers are nearby, the messenger or the pursuivant of the Great Seal or his deputy carries the writs to the returning officers in person.\textsuperscript{34} The person carrying out this duty, whoever he may be, is prohibited from accepting any fee, reward, or gratuity for the work.\textsuperscript{35} In return, he must secure a proper acknowledgment for the delivery from the receivers.\textsuperscript{36} While the different postmasters forward the writs to local returning officers, they must in the same way secure written receipts setting forth the date and the hour at which the same is delivered. The postmaster general is required to file all their acknowledgments for record and inspection. Penalties for neglecting any of the legal duties either on the part of the deliverer or of the recipient will be treated later on.

After the returning officers have been informed and directed to hold a new election, it is their duty to publish this royal message. That is what is called the election notice. Prior to 1872 there was no law regulating these matters, partly due to the fact that seats were monopolized by a few nobles who deemed it wise and advantageous to have the transactions settled in secret, and partly due to the indifferent attitude of the general electors, who cared little when and where the elections were to be held. As time went on, the electorates became more keenly interested in these matters than before, and consequently a demand for fair and open handling of elections was made. As a result the Ballot Act provided that "the returning officer shall, in the case of a county election, within two days after the day on which he re-

\textsuperscript{33} 7-8 W. III, c. 25, s. 1.
\textsuperscript{34} 53 G. III, c. 89, s. 1.
\textsuperscript{35} ibid, s. 5.
\textsuperscript{36} ibid, s. 1.
ceived the writ, or on the following day, give election notice."\textsuperscript{37} To prevent a recurrence of the trick that happened in 1793, when an election notice was given between eleven and twelve at night, the same Act also provided that the notice should be given between the hours of 9 a.m. and 4 p.m. The question has been raised whether a notice can be given on Sunday. Before the Ballot Act, it was clear that it could be done.\textsuperscript{38} The Ballot Act, however, was silent on this point.

The notice, furthermore, must be in such forms as advertisements, placards, handbills, or be given through such other means as the returning officer thinks "best calculated to afford information to the electors."\textsuperscript{39} And in the case of a county election, he "shall send one of such notices by post, under cover, to the postmaster of the principal post office of each polling place in the county and the same shall be forwarded free of charge; and the postmaster receiving the same shall publish the same in the manner in which post office notices are usually published."\textsuperscript{40} The notice is required to give (1) the day of election; (2) the time of election; (3) the place of election; (4) the days, times, and places at which nomination papers may be obtained; (5) directions by which a nomination paper may be filled up and be delivered.\textsuperscript{41} At the same time, the returning officers are expected to publish general warnings or information about corrupt and illegal practices.

As the power of deciding the date, time, and place for an election was, in the past, quite often utilized abusively for party politics, and as the statutory provisions in this connection have been greatly changed and improved, it is worth while to say something about the present arrangement of the matter, in this introductory chapter. Prior to the Ballot Act, the power of choosing the date, the time, and the place was entirely in the hands

\textsuperscript{37} Ballot Act 1872.
\textsuperscript{38} Parker, Ch. XI, p. 224.
\textsuperscript{39} Ballot Act 1872, R 46.
\textsuperscript{40} Ibid, R 1.
\textsuperscript{41} Ballot Act 1872.
of the returning officer. The only limitation was that the returning officer had to return the writ within forty days, as was provided by the Magna Charta. This maximum limitation was extended after the union with Scotland to fifty days. Thus the famous Westminster case in 1784, of which the poll was protracted over six weeks, was entirely legal. An act in 1796 brought back the limitation to forty days. It was reduced to thirty-five days in 1852. In view of the improved system of communication that facilitates both the issuing and returning of writs, the maximum time limit was later reduced to twenty days.

In addition to this shortening of the maximum time limit for the return of writs, the returning officers are at present deprived of the right of fixing the date and time for both nomination and election. In general elections it can be said indeed that returning officers are entirely powerless in these matters, although in bye-elections they still have a limited discretion power. The Act of 1918 provided that in a general election the date fixed for a nomination "shall in all cases be the eighth day after the date of his Majesty's gracious proclamation declaring the calling of the new Parliament," and the date for the poll "shall be in all cases the ninth day after the day fixed for the election." In bye-elections in a county the returning officer cannot fix the nomination day later than the ninth day after he receives the writ and cannot fix the day for the poll, if there is one, later than eight clear days after nomination. The same situation exists in the case of borough and university bye-elections, although the number of days for intervals may vary somewhat. Therefore, both in general and bye-elections, what the officers must do, in the matter of fixing the date and time is practically to follow the dictations of the writs.

Besides these legal provisions, there are conventional and practical considerations that should be faced in fixing the election

42 S. Walpole, The Electorale and the Legislature, Ch. IV.
43 7-8 G V, c. 64, s. 21 (3).
44 7-8 G. V, e. 64, s. 21.
45 ibid.
hour. In order to allow the longest possible time for the transmission and return of the absent voter’s ballot papers, it is desirable, for all bye-elections, to take the poll on the latest practical day. Then again Friday is undesirable for Jewish electors, because their religion prohibits them from marking the ballots. At the same time, if they are not illiterates, they are not allowed to have anyone else mark their ballots for them. Saturday, also, is undesirable for two reasons. First, the presiding officer is authorized to mark ballots for Jews on that day, and consequently the presiding officers may find themselves so busy in doing this that they have no time to attend to the other election duties, which they are expected to dispose of properly. Second, Saturday night is undesirable for the counting of ballots. If the counting is not complete before midnight, and usually it is not, the declaration of the poll will be made on Sunday morning. In such a case, should the counting agent refuse to work during the prohibited hours of Sunday, the count must be discontinued and be postponed to the following Monday. Consequently it will delay the result and suspend the interest of the poll. All these are practical considerations, indirectly influencing the choice of hour and date of an election.

Regarding the hour for polling and nomination, the returning officers now enjoy no more free power than they do in the matter of elections dates. According to law the hour for nomination is limited to between 10 a.m. and 2 p.m. on the election day, while the hour of poll, subject to extensions made in accordance with law is fixed from 8 a.m. to 8 p.m.\textsuperscript{46} In university constituencies due to the scattered electorates, times both for nomination and election last much longer than in other cases.

As for the choice of places of nomination and polling, the power is still in the hands of the returning officers. Detailed regulations on these matters will be taken up in the next chapter.

\textsuperscript{46} Ballot Act 1872.
CHAPTER II

THE ELECTION DAY

Very often the expression "election day" is mistaken for the polling day; in fact, it is only a legal term for the nomination day. What is actually done on the election day is the presentation of nomination papers of the different candidates to the returning officer and nothing more. Unless it is an uncontested election,—that is to say, unless not more than one candidate is nominated for a vacancy, in which case the result of the election may be announced after the nomination,—nothing carried out on the so-called "election day" has any serious effect on the result of the election.

In the past there was indeed little difference between nomination and election. The Crown issued writs to sheriffs and bailiffs to summon a new election, and the latter in turn approached the nobles and landlords for orders as to whom they should send to Parliament. The little ceremony, first held at judicial courts and afterwards at public hustings, at which the nobles announced their nominees, was historically known as the nomination. In view of its significance to the result of the election, nomination might, to all intents and purposes, have been as well called the election.

Such a queer situation in the past is quite easy to explain. Prior to 1832, boroughs and counties, so far as their electoral rights were concerned, were nothing more than private properties of a few rich aristocrats and could be disposed of at the wish of their respective possessors. "Electoral magnates" and patrons were openly recognized throughout practically the whole country and their influence in such matters was seldom challenged by other classes of people. Consequently, in elections the words of the "magnates" and patrons were final. Occasionally rival candidates might have been put
up to contest for these monopolized seats, and polls were demanded for the electorates to register their will. This was done in a form of a "show of hands," which would in no case affect the predeter-
minded election results. Therefore, it is not inconceivable that in the past the nomination day was properly called the election day.

The evolution of the nomination system is, in many respects, a very interesting story. First of all, as the right of representation was monopolized by a few nobles, nomination was quite often conducted in a farcical manner. It was said that once a peer, on being asked by his agent who should be elected for a certain borough, named a waiter of a "fashionable White Club," but as he did not know the man's exact name, the election was declared void. A new election was held when the name of the waiter had been ascertained, and the servant of the White Club was duly returned.1 There is a twofold explanation for such a queer situation. To some of the aristocrats it was only a matter of fashion to be an election patron to control nominations. "A wealthy commoner who controlled the nomination to several seats could generally obtain a peerage if he could assure the government of his support." As the ambition was the right to nominate rather than to be nominated, the patrons, being unwilling themselves to sit in Parliament, sent whatever personalities were available to Westminster. On the other hand, the general electors were indifferent to such matters. Voting in many cases was taken as a political nuisance rather than as a privilege, and few were interested in it. For those who were poor, to sit in the Parliament meant a burden rather than an honor. Therefore, seats in the House of Commons were not eagerly sought for by those who were otherwise worthy of the position. For these reasons, nomination at its early stage was an uninteresting affair.

Gradually the political attitude of the general mass changed. After a series of reform movements, the franchise was extended and the influence of electoral patrons was more or less reduced. Nomination, which was formerly simple and quiet, became ex-

citing and dramatic. Up to the middle of the nineteenth century hustings, at which all nominations were made, were indeed as lively and picturesque as circuses and sports in modern times. "It was," as one member of the House put it in 1872, "too often nothing but an expensive, a mischievous, and a useless fuss which tends to bring the constitution of the country and representative institutions generally, into contempt, and which tends also to disgust the most peaceable and the intelligent portion of the constituency with everything connected with election."\(^2\)

The question of reform was brought up in the House in 1870. The result was the passage of the Ballot Act of 1872. It was this statute that did away with the old system. In spite of the fact that "the performance on the hustings was frequently gone through in dumb show, amid howls, cat-calls, and the flight of missiles even more odorous and harmful than rabbit skin"\(^3\) the old system was done away with only after a strong effort was made for its retention. While the House was discussing the Ballot Act the following debate occurred:

Mr. B. Osborne said: "In my opinion, one of the most valuable clauses in the bill is that which proposes to abolish nomination. The Honorable gentleman talked about the voice of the electors as if the individual voice of an election were ever heard at a nomination, and as if there were not a general agreement to roar, to hiss, and to become debased with drink. The true born Englishman is said to delight in that day. Now who are the true born Englishmen who take part in the proceedings at nominations? Why the representatives of musecular Christianity, prize-fighters, and people of the sort. I have spent as much money in retaining the service of those gentlemen as anybody in this House. One of my most efficient supporters in Nottingham was a gentleman who was always clothed as a clergyman of the church of England, but who was really an ex-


champion of England, Bendigo by name. Immortal
custom indeed!"  

On the other hand, Mr. Bouverie, the defender of the
custom, said: "If the House accepted this clause, a nomi-
nation would become so like a funeral that they might as
well have the parish church bell tolled during the pro-
ceeding."  

In addition to this sentimental argument of Mr. Bouverie,
several other reasons were advanced for the retention of the hust-
ings. As a result of a decision of the House of Common, a selected
committee for the reformation of the electoral system was set up
in 1870. The report of the said committee defended the old system
on the following grounds: (1) the abolition tends to fetter the
free choice of the electors; (2) it deprives the candidate of the
opportunity to set himself right in case of being misrepresented
by an opponent; (3) it encourages nomination for purposes of
annoyance or fraudulent withdrawal of other candidates. As a
matter of fact, none of these points raised by the Committee
proved true after the abolition of the system. On the contrary,
the new system provided by the Act of 1872 was more economical,
efficient, and most important of all, peaceful and orderly. To
illustrate the point, the writer proposes to quote reports of two
nominations of a same constituency, one taking place before the
date of 1872 and one after it.

In 1868, four years before the passage of the Ballot Act, the
nomination at Blackburn was reported by the Times thus:

"Nearly 80,000 persons were assembled in the front of
the husting, in Canterbury Street. Strong barriers, eight
feet high, divided the respective partisans. Forty of the
Ennis-Killers Dragons and eighty infantry arrived in the
town on Sunday, and were billeted in the town hall.

"The mayor appealed to the assembly to conduct the election
without bloodshed, without personation, and to go to
the poll like Englishmen.

4 J. H. Jennings, Anecdotal History of the British Parliament, Ch. III.
5 ibid.
While this was being done, a number of lads commenced throwing clinkers from the ashes spread over the group and the fight was soon taken up in good earnest by both sides despite the remonstrance of the mayor and gentlemen on the platform. Owing to the threatening appearance of the affairs, one of the magistrates fetched the cavalries and a number of soldiers soon galloped to the spot. The mayor had a riot act on hand and assured the people he would read it if another stone was thrown.’’

The report goes on to say that the fighting, due to the appearance of the military force, was put to a stop. Proceedings of nomination were resumed, in which all candidates were proposed and seconded, each with a lengthy speech, amidst shouting and yelling. After all these speeches the high bailiff called for a show of hands. Vote for the Conservative was taken first, and a numerous and compact body on the right raised their hands on his behalf. The same group, with others in the wider circle, responded to the appeal that was made for the Liberal candidate. The Bailiff accordingly announced that the decision was in favour of the Conservatives. A poll was demanded on behalf of the Liberals. Thus the nominations were completed.

Four years later, in the general election of 1874, the Times gave another report on the nomination of the same constituency in the following words:

‘‘The candidates for the city were nominated on Saturday last, ostensibly between the hours of twelve and two, but the proceedings were so short and so purely formal in nature that the entire ceremony was over before one o’clock.’’

By reading these two reports one will find how big a contrast there was between the two nominations which took place in the same constituency at different dates. Nothing serves as a better evidence that the modern system is a great improvement on the old.

6 London Times, Nov. 17, 1868.
7 London Times, 1874.
This leads us to the study of the modern system. The most important change that was brought about by the Ballot Act of 1872 was that "a candidate for election to serve in Parliament for a county or borough shall be nominated in writing." Hitherto as we have described, nomination was by *viva voce* and candidates were proposed and seconded in commendatory speeches "addressed for the most part to a casual crowd, chiefly composed of persons who were not entitled to vote." Furthermore, the Act provided that the nominee must be a qualified and registered voter. Thus the "White Club waiter," as we have cited above, unless he is a *bona fide* voter, cannot be nominated, however "fashionable" he may be. At the same time, no "John Doe" may propose, second, and sign a nomination paper. The law requires that "the nomination paper should be subscribed by two registered electors of such county or borough as proposer and seconder." In addition, the paper must be signed by "eight other registered electors of the same county or borough as assenting to the nomination." The returning officer is not authorized by law to supply a form of such paper to any one "who is not a qualified and registered elector."

The form of such paper is also prescribed by the Ballot Act. The printed form begins with blank spaces for the proposer and seconder to fill in their respective names and addresses and to declare that they "do hereby nominate the following person as a proper person to serve as a member for the said county or borough in Parliament." Then the surname, the given name, the abode, and the rank and profession of the candidate must be filled in clearly. Below the proposer and the seconder are the signatures of the eight assenters.

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8 35-36, c. 33, s. 1.
10 35-36, V., c. 33, s. 1.
11 35-36 V., c. 33, s. 1.
12 35-36 V., c. 33, s. 3 (3).
13 35-36 V., c. 33, sch. 1, part 2.
The Ballot Act requires that "each candidate should be nominated by a separate paper" and the candidate shall be described in such a manner "as in the opinion of the returning officer is calculated to sufficiently identify such candidate." In satisfying the above requirement, the list of the candidate's names given in the nomination paper must be a full list of his true present names. Where there is any doubt as to any of his names, his supposed legal name and his reputed name are usually given. A contraction of a Christian name not well known may invalidate a nomination paper, except in such cases where the contraction is in common and ordinary usage, as "Wm." for "William." A title of dignity is counted as a part of a man's name.

By abode the law means the place where the person nominated lives with his family and "sleeps at night," not the place or places where he does his business. The law requires that it be fully stated with the details of the name or the number of the house, the name of the street, and the name of the town; if a wrong place is given, the election is void.

"Rank" here means the degree of dignity; "profession" the calling, vocation, or known employment; and "occupation" the trade, proper station, or the employment. In filling up a nomination paper, all these should be differentiated and properly written out.\(^{15}\)

Such a paper cannot be altered or added to after the signatures have been attached to it, unless it is to correct a mere insignificant clerical error. Any mistake due to the overlooking of these technicalities may make the paper void. For instance, at the general election of 1918, the Times reported that the nomination papers of the Silver Badge candidate in the Central Division of the Portsmouth were not properly filled up and were not accepted. To mitigate such technical difficulties, the same Act provided that "no election should be declared invalid by reason of a non-com-

\(^{14}\) 35-36 V., c. 33. First schedule, Part 1, r. 5, and r. 6.
Fraser, Representative of the People Act, p. 212.

\(^{15}\) F. R. Parker, The Powers, Duties, and Liabilities of An Election Agent and of a Returning Officer, Passim.
pliance with the rules" contained in the said Act "if it appears
to the tribunal having cognizance of the question that the election
was conducted within the principles" laid down in the body of
Act.\textsuperscript{16}

So much for the form and the filling in of the nomination paper. The number of nomination papers each candidate sends
in is also a matter worthy of our notice. According to law, each
candidate must be nominated, as we have pointed out already,
by a separate paper. Legally, one paper for every candidate is
enough.\textsuperscript{17} But for various reasons in practice none will run the
risk of sending one paper only. In the few cases of elections at
which the present writer was present as an outside observer, the
least number of nomination papers for a candidate was ten and
the highest one hundred. "For tactical reasons," writes Mr. H.
J. Houston, "I advise at least four nomination papers from each
polling district in the division, however numerous they may be;
two from forms being signed by men and two by women should
be prepared."\textsuperscript{18} In interviewing different election agents, the writer
was told that papers should be signed by the men and women
separately. Forms of nomination papers signed by representatives
of different organizations are said to be psychologically very effec-
tive. In a communication from the central committee room to the
clerk of a subcommittee room in a recent election, the writer
noticed the following advice: "You should at your earliest time
obtain one nomination paper signed by Union leaders, one by
publicians and their wives, one by prominent church leaders, one
by ex-service men, and others by such organized bodies as you
think necessary." The letter ended with an emphasis upon the
fact that the above duty should be carefully and promptly per-
formed, and with an explanation that the object of this is to
create in the "public mind at the earliest possible moment a con-

\textsuperscript{16} 35-36 V. c. 33, s. 13.
\textsuperscript{17} 35-36 V. c. 33, First schedule r. 5.
\textsuperscript{18} Henry James Houston and Lionel Valdar, Modern Electioneering
Practiced, Ch. 4, p. 26.
viction that our candidate is firmly and strongly in the support throughout the constituency.”

After these papers are duly prepared and signed, the next thing is the delivery of them. In this connection four legal points are involved. They are: (1) who delivers them; (2) who receives them; (3) when shall they be delivered; and (4) where shall they be delivered. According to law, nomination papers shall be delivered to the returning officer at the place of election during the time appointed for election, by the candidate himself or by the proposer or seconder. Regarding the time, all papers should be delivered during the hours named in the election notice, and no later. The returning officer has no right to extend the time limit. On one occasion, as reported by Mr. Parker, a candidate and his proposer and seconder entered the nomination office on the moment that the clock was striking. The returning officer declared the nomination closed and rejected the last nomination. The candidate entered a protest. He was at last advised to leave the office and missed the chance for nomination simply through being one minute too late.

Instead of holding an open air mass meeting, modern nomination is done in a small office room, to which only the candidates nominated by each nomination paper, their proposers and seconders, and one other “person selected” by each candidate are allowed to enter. The “selected person” here, of course, means the election agent. At the appointed hours the candidates, the agents, occasionally some proposers or seconders, get together at the election place. They hand in their papers. The officers check them. As a matter of courtesy, either the returning officer or his clerk will introduce the candidates to each other. There is no speechmaking, except

19 35-36 V., c. 33. Sch. I, r. 1-6, r. 7.
20 ibid.
21 F. R. Parker, Powers, Duties, and Liabilities of an Election Agent and of a Returning Officer.
22 35 & 36 Vict. c. 33. First schedule, R. 8.
an exchange of greetings, and no "show of hands" except the "shake of hands" among the rival candidates. A noisy and riotous affair that had to be held under the protection of cavalry and infantry, becomes today a quiet and peaceful transaction. A detailed description of a recent nomination at a bye-election is quoted below to show how modern nomination is: 23

"The Mayor attended at the Council House this morning to receive the nomination of candidates. The time fixed for the interesting procedure was from 10 a.m. to 12 a.m. Mr. M. was the first to arrive. He posed on the step for the inevitable photograph. Mr. P. arrived when the snapshot was being taken. He was accompanied by his agent and two other friends, two of his proposers. Mr. B. was accompanied by Mr. Belcher (the agent) and his wife.

Mr. P. handed in fifty papers, Mr. B. ten papers, and Mr. M. had a whole budget and more to follow. The Unionist papers were signed by a number of local publicans and eight papers were signed by women. A novelty in Labour papers was one signed by young people who had never voted before; another by ex-service men; and one by labour councillors and their wives. Mr. B. had papers signed by ex-service men, by women, and by church people of various denominations.

The three candidates met for the first time during the campaign. They were introduced to each other by the Town clerk. The checking of the papers and the deposits lasted until 11:20. Then all the papers were received by the mayor. Press photographers took a photograph of the mayor and the Town clerk and the three candidates around the civic chair."

The fact that nomination papers of a candidate have been duly delivered and received by no means guarantees the validity of a nomination. The law provides that a nomination may be rejected through legal process. 24

24 35-6 V., c. 33, Sch. 1, r. 12.
the returning officer should remain in the place for an hour after
the close of the nomination to receive objections, if there are any,
to the nomination papers. Question of the validity of a nomination
paper may be raised by a returning officer himself, by any of the
rival candidates or his “selected man,” or by anyone who is a
registered and qualified voter. One important fact is that objec-
tions to the form of the nomination paper should be made within
the time limit, because a person is considered properly nominated
unless “objection is made to his paper before the expiration of
the time appointed for the election or within one hour after
wards.”25 Objections other than to the form of the nomination
paper may be raised at any time. But they should be made to
the election court and not to the returning officer.

The main grounds upon which nomination may be objected to
are: (1) that the description on the nomination form is not
sufficient; (2) that the candidate is an alien; (3) that the can-
didate is not twenty-one years of age; (4) that the candidate is
in Holy Orders; (5) that he is a disqualified office-holder; (6)
that he is a contractor of the Crown; (7) that he has been con-
victed for felony or corrupt practice; (8) that he is a discharged
bankrupt; (9) that he is a peer of the realm.26

The returning officer has the power to decide on objections to
nomination, but his power is limited to questions pertaining to
the technicalities of the nomination papers. For instance, if A.
objects to B.’s nomination paper on the ground that B’s address
thereon is filled in wrongly, the dispute is within the jurisdiction
of the returning officer. If the returning officer decides in favor
of the objecter, his decision thereon is final; if in favor of the
one objected to, the decision is subject to reversal on petition
questioning the election or return. Questions on other than the
form of the paper, as, for instance, an objection to the qualifica-
tion of a candidate, are outside the jurisdiction of a returning officer;
consequently, he has no right to decide anything.27

25 35-6 V., c. 33, Sch. 1, r. 12.
26 H. J. Houston, Modern Electioneering Practice, Ch. IV, p. 31.
27 35-36 V., c. 33. Sch. 1, r. 13.
In addition to the right to object to a nomination, there is another legal provision to check frivolous practice in modern election. This it the candidate’s deposit at nomination. According to the Representation of the People Act of 1918, a candidate is required to deposit £150 as a nomination fee. After the poll the same amount will be duly returned to the candidate; but he may lose it if he polls less than a certain legally required percentage of votes. The deposit, as the Act provides, may be made by the candidate himself or by some one on his behalf. It must, however, be handed in to the returning officer together with the nomination paper at the appointed hour of nomination.\(^{28}\) The deposit must be in legal tender except in the case of special permission of the election authority, when other money can be used instead.\(^{29}\) Failing to hand in the right money at the required moment makes the nomination invalid. One case in the general election of 1918 showed how mischievous this law can be if one is careless in such a matter. "Mrs. Hope failed," according to a Times report, "to be nominated for the East Fife, owing to the fact that she presented a cheque instead of a banknote for the 150 pounds deposit."\(^{30}\)

The deposit will be returned under the following four circumstances: (1) if the candidate is withdrawn in pursuance of the provisions of the Ballot Act of 1872;\(^{31}\) (2) if the candidate dies after the deposit is made and before the poll has commenced;\(^{32}\) (3) if a candidate is elected; (4) if a candidate is defeated but receives more than one eighth of the total polled votes. In the case of a successful candidate, the deposit will be returned to him as soon as he takes the oath of sitting in Parliament. If the votes polled by a candidate fall below the percentage of one eighth, the deposit will be forfeited to His Majesty, except in a University constituency, where the forfeiture will be retained by the Uni-

\(^{28}\) 7-8 G. 5, c. 64, s. 26.

\(^{29}\) ibid.

\(^{30}\) London Times, December 5, 1918.

\(^{31}\) 7-8, G. 5, c. 64, s. 26.

\(^{32}\) ibid.
versity. In case one is nominated in more than one constituency, the candidate shall in no case receive the deposit more than once, and in such case the extra deposit shall be forfeited to His Majesty, unless the Treasury directs that it shall be returned to the candidate. In calculating the percentage of votes to find out whether deposits shall be returned, the number of ballot papers other than spoiled ones are deemed as the number of votes. Where the election is held under the system of transferrable vote, the number of votes polled by the candidate shall be the number of votes polled as first preference.

In the foregoing passage we have already pointed out that a candidate, after being duly nominated, may withdraw his candidacy. Here we shall speak of the subject in some detail. A nominated candidate may, if he so wishes, withdraw from the election by giving a notice signed by himself, if he is present, to that effect, provided that the action is taken during the time appointed for the election and not afterwards. In case the man is nominated in his absence from the United Kingdom and his nomination has been made by his proposer and seconder, he may also withdraw from the candidacy "by a written notice signed by him and delivered to the returning officer together with a written declaration of such absence of the candidate." If after the adjournment of an election, one of the candidates shall die before the poll has commenced, the case is also considered as a withdrawal. In such a case, the returning officer, upon being satisfied of the fact of such death, shall commence the election afresh in all respects. When a candidate fails to make the deposit prescribed by law this is also deemed a case of withdrawal within the provision of the Ballot Act of 1872. In all these cases, the returning officer shall give public notice of the withdrawal of such candidate and the names of persons who have subscribed to the nomination paper. The same regulations are applicable to university constituencies except that in the latter case the time limit

33 35-36 V., c. 33, s. 1.
34 ibid.
35 ibid.
for withdrawals is fixed as "at any time of the day fixed for nomination" instead of "during the time appointed for election.""  

In this connection a few words on the closure of nomination is necessary, as it is such an important part of the whole election system. In the past, the election day was fixed by the returning officer. Consequently, all the arrangements of the different constituencies differed from one another. The parties would arrange that some of their constituencies should have elections earlier than other places, so as to show "how the wind was blowing" and to influence the later elections. Ever since 1918 the law requires "that the day for receiving nomination shall be the same in all constituencies," and that the "day fixed by the returning officer for election, i.e. the day for receiving nomination, shall in all cases be the eighth day after the day of His Majesty's Gracious proclamation declaring the calling of Parliament." For bye-elections, the date, as we have pointed out, is also fixed within a certain limit although in such cases the returning officer has a little more discretionary powers. The law goes on to provide that "the time appointed for the election shall be "two such hours between the hours of ten in the forenoon and three in the afternoon, as may be appointed by the returning officer." It is evident then that the latest time for the closing of a nomination in a general election is three o'clock in the afternoon of the eighth day after the date of His Majesty's Gracious Proclamation declaring the calling of the Parliament. After that hour, everything, as far as nomination is concerned, is settled and there is no provision whatsoever for the extension of a nomination time.

A nomination may be closed or adjourned before the time appointed if circumstance requires. This is a power granted to the returning officer back in the year 1832. The main provision

36 7-8 G. 5, c. 64, s. 26.
37 The University Election Order, 1918, Regulation 3.
38 ibid.
39 7-8 G. 5, c. 64, s. 21.
40 ibid.
41 35-6 V., c. 33, Sch. i, p. i, r. 4.
of the Act was that "where the proceedings at any election shall be interrupted or obstructed by any riot or open violence, whether such proceedings shall consist of the nomination of candidates or of the taking of the poll, the sheriff or other returning officer, or the lawful deputy of any returning officer shall not for such cause terminate the business of such nomination nor finally close the poll, but shall adjourn the nomination or taking of the poll at the particular place or places at which such interruption or obstruction shall have happened until the following day, and if necessary shall further adjourn such nomination or poll, as the case may be, until such interruption or obstruction shall have ceased." The scope of this power was extended by a later law to include interruption or obstruction of nomination "by any riot or open violence taking place elsewhere to prevent the voters coming to this election." This power has indeed small chance of being applied in modern elections, especially since the Ballot Act has abolished the hustling and brought the modern nomination system to such a quiet and peaceful stage.

When a nomination has been legally made, the next duty of a returning officer is either to issue notice to call for a poll, or to declare the result of the election final, as the case may be. The second case is known as "uncontested election."

There is no law to limit the number of candidates to be nominated for a constituency. On the average the number in modern times is two and a half times the number of seats to be filled. In the election of 1918, when the size of the House was then the largest throughout the parliamentary history of this country, the ratio between the number of seats and the number of candidates nominated for that election was 1 : 2½. In the election of 1922, the number of seats was reduced to six hundred and fifteen; the number of candidates nominated was also proportionally reduced. The ratio was the same as in 1918. The last two elections held

42 5-6 W. 4, c. 36, s. 8.
43 13-14 V., c. 68, s. 8.
after 1922 showed the same mathematical relation between the number of seats of the House and that of nominated candidates.

One noticeable change in this connection is the proportional increase of three-cornered fights and the decrease of uncontested elections. In the past, most of the constituencies were duel fights between the Conservative and the Liberal parties. When the Labour Party gradually increased its strength, particularly in the past twenty years, the number of uncontested elections went down rapidly. In the election of 1918, there were 108 uncontested election cases; in 1922, there were 67; in 1923, 50; in 1924, only 30. So long as England keeps a multiple party system, as the situation is now, it is safe to assume that the number of such uncontested elections will be few.

Regarding legal provisions for declaring uncontested elections, the law provided that "if at the expiration of one hour after the time appointed for the election, no more candidates stand nominated than there are vacancies to be filled, the returning officer shall forthwith declare the candidates who may stand nominated to be elected and return their names to the clerk of the Crown in Chancery."\(^{44}\) In all such cases, the returning officer shall as soon as possible give public notice of the names of the candidates elected.\(^{45}\)

On the other hand, if more candidates than there are vacancies are nominated, the nomination shall be adjourned accordingly, and poll shall be taken in a manner prescribed by law. As for the proceedings of polling, we shall discuss them in the following chapter.

\(^{44}\) 35-6 V., c. 33, s. 1.

\(^{45}\) ibid. sch. i, r. 45.
CHAPTER III

THE POLLING

In the preceding chapter we have carried the story to the stage where candidates are duly and properly nominated, and we have dealt in a very brief way with the cases of uncontested election. Now we come to the polling, which takes place subsequently in all constituencies where there are more candidates nominated than there are vacancies.

Prior to the Ballot Act, polling was done in a more open but less deliberative way. Candidates, as we have seen, were nominated and seconded in commentary speeches at hustings. As a matter of formality, it was followed by a "show of hands" from the crowd gathered there, chiefly composed of non-electors and employed supporters of rival candidates. This voting had no effect on the final result of the election whatsoever. Afterwards a poll was demanded on behalf of the defeated candidate or candidates, for whom fewer hands had been raised. Date and places were consequently fixed by the returning officer for the electorates to go to register their votes openly and publicly.

The defects of the old system were numerous and an enumeration of them here would mean a tedious repetition of what was thoroughly discussed and debated in the early nineteenth century. Suffice it to say that ever since the passage of the Ballot Act in 1872, a new era has been opened for the electoral system in this country, particularly in the procedure of polling. The most important change that was brought about by the Act was that "voting shall be given by ballot." Without this provision the modern polling, in view of the big number of voters, would be impossible. With this as a basic principle, the Act built up a detailed system for polling of which we shall speak as we proceed.

1 35-36 V., c. 33, s. 2.
To begin with, we shall discuss the polling date and polling hour. The Ballot Act contained only some general and indefinite provisions on this matter. As a result the returning officer in each constituency had a certain amount of leeway in the exercise of his power. Polling, according to the old law, was not required everywhere on the same days. In practice, it never took place on the same day in all the counties and boroughs. Certain counties and boroughs would vote on Monday, others on Tuesday, and so on for a number of days. The law gave not only the right to different constituencies to vote on different dates but also the right to one constituency to continue the poll for a number of days. The memorable poll for Westminster in 1784 was actually protracted over six weeks. Such practices not only prolonged the tension of an election, but also gave plenty of opportunity to the returning officer for political maneuvering. The fact that different constituencies could vote on different dates naturally gave those who voted last an advantage, for they could see how the election was going, and would swing to the winning side. For tactical purposes the result of the first half was keenly watched and utilized for the propaganda of the second half. As soon as the first half was known, the rest of the voting was, in many cases, predictable. Consequently, the first half of the election took the "ginger" out of the rest of the campaign. To change this highly undesirable situation, the Representation of the People Act of 1918 provided that "at a general election all polls shall be held on one day," and that day shall be "the ninth day after the day fixed for the election." For bye-elections, the same Act provides that the poll shall take place on a day not less than six or more than eight clear days after the day fixed for nomination. In the case of a university bye-election other than the Scottish university constituency, the poll takes place on such days as may be fixed by the returning officer, commencing not more than twelve and not

2 7-8 G v, c. 64, s. 21.
3 ibid.
4 ibid.
less than three clear days after the day fixed for nominations. For the Scottish university constituency, the date is not more than twenty and not less than twelve clear days after nomination.

As for the polling hours, in all cases the law provides that they shall last from 8 a.m. to 8 p.m. of the same day. A claim of extension can be made to the returning officer by any of the candidates. In case it is granted, the poll can last either from 7 a.m. to 8 p.m. or from 8 a.m. to 9 p.m. The claim for extension, however, must be made before, during, or within one hour after nomination, and should be based on substantial reasons.

Originally the right for claiming an extension was intended as a remedy for industrial districts, where most of the electors have to work during the day and are not free to go to the polling station in working hours. This provisions might have helped to solve the problem to some extent. So long as the workers are compelled to go to the poll either before or after working hours, the law is disadvantageous to the labouring class. The argument is simple. Under ordinary circumstances, polling usually takes place on week-days, that is to say, it always comes at the time when the workers are busy. The poll will not open till all workers have gone to their respective factories and will close only one or two hours after they have returned. In such cases, all workers are expected to go to poll as soon as they leave their working places. It is quite natural that after a long day's toil, the workers prefer an early rest at home. Thus, many workers, because of this disadvantage, renounce their right to vote.

The extension of an additional hour in polling may accommodate some workers, but as a great number of voters are forced to vote at a late hour, it makes the polling stations unnecessarily crowded in the later part of the polling day. On many occasions electors have to wait for the ballot in a long queue. As soon as they get into the booth, the clock may strike and they are driven out of the

5 7-8 G. 5, c. 64.
6 ibid.
7 7-8 G. 5, c. 64.
8 H. J. Houston, The Modern Electioneering Practice, p. 64.
poll again. It is not infrequent that voters after long waiting are
turned back without getting a ballot. In such a case, some workers
are deprived of their right of voting quite against their will. 9 It
has been argued that there is no law to prohibit employers from
freeing workers to vote during working hours and that such privi-
gle have been frequently granted to employees. On the other
hand, this privilege may be denied by some of the factory owners
as the latter are under no legal obligation to grant this privilege.

The law pays much attention to the polling districts and polling
stations, as well as to the polling date and hour. In early times,
the number of electorates was comparatively small. All elections
took place at the county courts. 10 Later on, the old practice was
found inadequate and impractical. To remedy the situation, the
Representation of People Act of 1867 divided the boroughs into
polling districts so that "every elector resident in the constituency
would be enabled to poll within one mile from his residence." 11
The power of carrying out this division was placed in the hands
of the council in the case of a municipal borough, and of the justice
of the peace in the case of a borough in which the council was not
the local authority. 12 As for county elections, the question was
first taken up by the Ballot Act of 1872, and it was provided that
"every county must be divided into polling districts in such a
manner that, so far it is reasonably practical, every elector resident
in the county shall have a polling place within a distance not ex-
ceeding three miles from his residence." 13 In this case, the power
of making the arrangement was invested in the hands of the county
council. 14

9 In this connection it is interesting to notice that the German con-
stitution (Section II, Act 22) provided that "Election day must be a
Sunday or a public holiday." Here, of course, "election day" means the
polling day, not the nomination day.

10 M. L. Gwyer, Anson’s Law and Custom of the Constitution, Ch. IV,
p. 106.

11 30-1 V. c. 102, s. 34.
12 ibid.
13 35-6, V. c. 33, s. 4.
14 35-6, V. c. 33, s. 4.
All these provisions, however, were repealed by the Act of 1918.\footnote{15} In substitution, the new law provides that the polling districts shall be divided "in such a manner as to give all electors in the constituency such reasonable facilities for voting as are practical in the circumstance."\footnote{16} The power of arranging these divisions, according to the new law, is invested in the council whose clerk is the registration officer or by whom the registration officer is appointed.\footnote{17} In turn, the decision of the council must have the approval of the Ministry of Health. Each polling district for the purpose of registration is distinguished by a separate letter. In case the local authority or not less than thirty electors are dissatisfied with the decision, the arrangement may be altered through a legal procedure by petition to the Ministry of Health.\footnote{18}

The room or building wherein electors mark and cast their votes is in law called the polling station. Prior to the first Reform Bill, polling might take place anywhere. Even open air polling in the past was not altogether uncommon as the proceeding was simple and more or less a formality. When the Act of 1832 was passed, Parliament began to prohibit the use of certain premises as polling stations. Churches, chapels, and places of public worship were definitely forbidden for polling.\footnote{19} The Act of 1853 added to this list such places as inns, hotels, taverns, public houses, or other premises licensed for the sale of beer, wine, or spirits, or in any such booth, hall, rooms, or other places directly communicating therewith.

Early Acts also provided that the returning officer, whenever practical, instead of erecting a booth, might hire a building or room for the purpose of taking a poll.\footnote{21} He might use rooms, the

\footnotesize{\begin{itemize}
\item \footnote{15} 7-8 G. 5, c. 64. Sch. VIII.
\item \footnote{16} 7-8 G. 5, c. 64, s. 31.
\item \footnote{17} ibid.
\item \footnote{18} ibid.
\item \footnote{19} 2-3 W. IX, c. 45. s. 68.
\item \footnote{20} 16-17 V. c. 68, s. 6.
\item \footnote{21} 30-1 V. c. 68, s. 6.
\end{itemize}}
expense of maintaining which was payable out of the money levied in such borough or county that would use the same. Any room in a school which received a grant of money provided by Parliament might be used for such a purpose, if the officer using it would make good any damage done, and defray any expense incurred by the person, body of persons, or corporations having control over the same. The same provisions appear in the Act of 1918.

The Ballot Act at first required that the returning officer must provide a sufficient number of polling stations for the accommodation of the electors entitled to vote, and distribute them in a way most convenient to the voters. It was definitely laid down by the Act that "in a district borough there shall be at least one polling station at each contributory place of such borough." In modern practice, the average number of such stations in a single constituency is about one station for every 1000 voters.

There is no legal requirement for the architectural form of such a station. In most of the cases, schoolrooms are used and the returning officer has to make arrangements as circumstances permit. If possible, the room is so arrange that there are two doors, one marked "entrance" and the other "exit." Near the entrance there are usually one or two constables to guide the voters and to maintain order in the station. Inside a booth, there are tables for the working staff, a ballot box, compartments, and other necessary furnishings that are not prohibited by law. The law permits that several stations may be in one room and one station may be divided into two or more rooms. Each of these stations shall be "furnished with such number of compartments in which the voters can mark their votes screened from observation" and in order that this purpose may be adequately accomplished, one compartment for every one hundred fifty electors at a polling station is the limit. In addition, there are a number of placards hung up inside all the compartments, giving directions and information both on corrupt and illegal practices and on the way to mark ballots.

22 35-6 V. c. 33, s. 17 (b).
23 35-6 V. c. 33, Sch. l. r. 15.
24 35-6, V. c. 33, s. ch. l. r. 16.
There is at least one ballot box for each station. This box, according to law, may be constructed of any material, size, or shape; but it must have a lock and key. The box shall be so made that ballots can be delivered in but not be withdrawn from it without unlocking it, and the lock and key must be capable of being sealed at the close of the poll. Ordinarily, ballot boxes are rectangular in shape, with varying measurements for width, length, and height. On the cover there is a small opening through which marked ballots can be delivered into the box even when the cover is on. Under this small opening there is a sliding lid that can be pulled out by a string to close up this small opening. When the poll is over, the opening is closed and sealed with wax by the presiding officer and polling clerk of the station.

It is further required that the returning officer shall provide each station with ballot papers. The number of ballots for each station must be equal to the total number of voters assigned to vote at that particular station with sufficient allowance to replace spoilt papers. Besides the regular ballot papers, the returning officer is also held responsible for providing for tender-ballot papers. The latter should be different in colour from the first, although in many other respects both ballots correspond. In addition each station should also be provided with stamps, register lists, pencils, pens, ink, and a hundred and one articles, including "sufficient light and fire" that are required by law.

In order to keep the machine running, the returning officer has to supply each station with a working staff. For every station there must be a presiding officer who is the highest authority within the polling booth. This position may be occupied by the returning officer himself or an officer appointed by him. To assist the presiding officer, each station has two polling clerks. The duties of the presiding officer are: (1) keeping order at the station, (2) reg-

25 35-6, V. c. 33. s. 8, and sch. 1, r. 20.
26 35-6 V. c. 33.
27 35-6 V. c. 33, sch. 1, r. 21.
28 35-6 V. c. 33, sch. 1, r. 45.
ulating the number of electors to be admitted at a time,29 (3) administering the oath to voters,30 (4) opening and closing the poll,31 (5) taking care of the ballots and the ballot-box,32 (6) marking ballots for incapacitated persons.33 In maintaining order at the poll, the returning officer has power to order constables to remove any person from the poll. A person thus removed cannot enter the poll again unless he has the permission of the same authority.34 But the polling officer cannot order the arrest, exclusion, or ejection, of a person from the station.35 A presiding officer “shall have the power by law belonging to a deputy returning officer” and he is at the same time liable for any wilful misfeasance or any wilful act or omission in contravention of the Ballot Act of 1872.

When all these preparations have been properly made, the poll begins at eight o’clock sharp on the morning of the appointed day. It has become a tradition that as soon as the door of the booth opens there are always a few voters forming a queue for the “first ballot.” The origin of the tradition is unknown; the psychology, however, is not obscure. By doing so, a voter manifests his enthusiasm for a particular candidate or party. The consciousness of having discharged a great duty is not the only reward for such ardent supporters. It may lead a long way to a friendship with the candidate for whom the “first ballot” has been cast. It may serve as a testimonial that such enthusiastic followers deserve more confidence and trust in party or local affairs. It was the present writer’s pleasure more than once to get up early on the polling day to watch people form a queue for the first ballot and then to observe them at the moment when they received the thanks and congratulations of their respective candidates. Whenever and wherever one sees them, one hears their story of the first ballot, as if the result of the poll is

29 35-6 V. c. 33, sch. 1, p. 45.
30 35-6 V. c. 33, s. 10.
31 35-6 V. c. 33, sch. r. 23.
32 ibid, r. 23, 29.
33 ibid, r. 26.
34 35-6 V. c. 33, s. 8.
35 ibid. r. 50.
not to be decided upon who has the most votes, but upon who receives the first vote.

Before the commencement of actual voting the first thing in the polling station is the locking and sealing up of the ballot box by the presiding officer. This must be done before some voters or representatives of the different candidates. The public should see that it is empty before it is thus locked and sealed. Having completed this routine, the staff proceeds to deliver ballots to qualified and registered voters.

The morning poll is usually very light. The campaign workers of different parties who want to dispose of this voting duty as soon as possible so as to free themselves for other important responsibilities take an early opportunity to vote. In addition mothers and wives who have their children and husbands to look after at lunch and tea time also come up to the station at a morning hour. The different groups organized by rival parties to "march up to the poll" usually start their demonstrations about noon time. Thereafter more and more voters come out. The number increases as time goes on, until the last two hours immediately before the close of the poll, which is the busiest period of the whole day.

When these voters get to their respective stations, they approach the presiding officer one by one for their ballot. According to law, none will be admitted to the booth except to vote at the station allotted to him. The voter goes in with a voting card on which he finds his registered number. He tells the officer his number. The latter will check whether he is properly registered on the list. One of the polling clerks will call out the number, the district letter, and the name of the applicant. Another member of the working staff will at the same time make a mark on the registration list to indicate that the person marked has received his ballot. While this is being done, the presiding officer (or his clerk) will mark the same on the counterfoil, taking care not to show or to give any sign what particular ballot the voter has received. Before the ballot is given out, it must be stamped with an official mark on both sides and it must be stamped separately and distinctly so that the mark is visible on the paper. Then it
is detached from the counterfoil and handed to the voter. No mark whatsoever, other than that mentioned above, is allowed either on the ballot or the counterfoil.

The voter, on receiving his ballot, must forthwith proceed to one of the compartments where he marks his paper secretly. After marking it, he must so fold it up as to conceal his vote and to show the official mark on the back. Then in the presence of the presiding officer, he inserts the paper into the ballot box. Forthwith he must leave the polling station immediately.\(^{36}\) In marking the ballot, the voter is required to place a cross with pencil or ink on the right side, opposite the name of the candidate for whom he votes.\(^{37}\) If he does this openly so that other people can detect how he has voted he violates the law. If this violation of law is discovered by the presiding officer his ballot will be refused admittance into the box. If a voter, instead of folding up his ballot "so as to conceal his vote" exhibits his marked ballot or attempts to slip it unfolded into the box, this ballot will be treated as being marked openly, and consequently rejected. If a voter, having finished his voting, refuses to leave the station immediately, he may be removed by force.

A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used as such may obtain another on condition that he delivers the spoiled one to the presiding officer and proves the fact of inadvertence to the satisfaction of the latter. The spoiled paper is put up in a package to be returned to the returning officer.\(^{38}\) Such spoiled papers cannot be taken out of the station by any individual; if it is done, it is a violation of the law. Suppose a voter marks a ballot wrongly; for instance, he marks a ballot for B when he intends to vote for A. He may then apply to the presiding officer for a new ballot. The wrongly marked ballot is thus treated as a spoiled ballot.\(^{39}\)

\(^{36}\) 35-6, V. c. 33, s. 2 and sch. 1, r. 24.

\(^{37}\) Ibid. r. 65.

\(^{38}\) 35-6 V. c. 33, sch. 1, r. 26.

\(^{39}\) Ibid, r. 27.
If a voter happens to be blind, an ex-serviceman who has lost his arm, or one who is so incapacitated by any other physical defect that he cannot mark his ballot, he may apply to the presiding or other officer to mark the ballot for him. A voter who may be physically sound but who unfortunately belongs to the illiterate class may also request one of the officers to mark his ballot for him according to his wish. If again a voter is unable to mark a cross for religious reasons on a certain date, he is treated as a physically incapacitated voter or an illiterate one. In all these three cases the voters must make a declaration, stating the reason of their inability to vote. When the presiding or other officer marks a vote for such voters, secrecy must be duly respected. In case a duly qualified and registered voter is deaf or dumb and is unable to intimate his wish to vote, such voter may be assisted by someone who knows the voter’s wish in voting, e.g., his wife or some other of his relatives.

If a person applies for a ballot after another person has voted as such elector, the applicant shall, upon duly answering the questions and taking the oath administered according to law, be entitled to mark a ballot paper in the same manner as another voter, provided that the ballot be of a different color from the rest, be specially indicated to the effect by the presiding officer, be separately put into the packet, be not counted by the returning officer, and be entered in the “tendered votes list.”

This brings us to the topic of question and oath at a polling station. When the right of any person to vote is doubted, the returning officer or his lawful deputies may, if required to do so on behalf of any candidate, question the voter in pursuance of the law, at the time of tendering his vote and not afterwards. All these questions must be put precisely in the forms prescribed by law and no voter can be rejected unless they have been so put. If any person wilfully makes a false reply to any of these questions, he is guilty of a misdemeanor and punishable by law. The answers, too, must be definite and unequivocal. Therefore, if a voter, instead of answering “I am” or “I have not” or words

40 35-6, V. c. 33, s. 10.
to the same effect, should say "I think so" or "I should say I am" or any other dubious or evasive answer, the presiding or other officer would be justified in refusing him a ballot.

In the preceding passage we have mentioned some of the duties of a candidate's representative. It is fitting and proper to speak here, therefore, of these duties in some detail. As early as 1843 provision was made in statutory laws that it was legal for any candidate at any parliamentary election to appoint an agent on his behalf to be present at each or any of the polling stations for the purpose of detecting personation.\(^{41}\) The Corrupt and Illegal Practices Act of 1883 again provided that "every candidate must appoint an election agent" and such agent may be admitted to the polling stations.\(^{42}\) In addition, if the election agent is too busy to attend the poll, representatives may be appointed to act in his behalf. Besides the working staff, the voters, and the candidates, the legal representatives are the only persons who may be admitted into the stations. When admitted, they are required to make a statutory declaration of secrecy in the presence of the justice of the peace or of the returning officer, and they are under obligation to help to maintain the secrecy of the poll. In the declaration, they must pledge that they will not do anything forbidden by section four of the Ballot Act of 1872. They should not communicate to any person before the poll is closed any information of the polling station, except for some purpose authorized by law. They should not interfere with or attempt to interfere with the voting of the electors. Any violation of these regulations makes the representative liable for punishment.

It is only fair for the present writer to point out that such representatives are not as useful today as they were half a century ago. First of all, due to the abnormal growth of the number of the electors, the number of polling stations has been proportionally increased. If one representative for each candidate is supplied each station it means a big squad of twenty-five or thirty men

\(^{41}\) 6-7 V. c. 18, s. 85.

\(^{42}\) 49-47 V., c. 51, s. 24.
for each candidate to employ. Economically, it would be a great burden for a candidate to bear, especially in view of the maximum expenditure limitation. Furthermore, personation is more or less out of date as a corrupt practice in modern elections. Just imagine the thousands of voters in a single constituency! What would be the advantage if a candidate should obtain one or two additional votes through personation? Therefore, polling agents to watch personation or other corrupt and illegal practices inside the polling stations are more or less superfluous. In most of the cases they are done away with altogether.

Before we proceed further, one question may very well be asked in this connection: How far is order at polling maintained during an English election? It is beyond any doubt that in the past England had some dreadful scenes on polling day. Manslaughter, rioting, and battery were on many occasions the accompaniment of elections. Once it was remarked that in an election for the borough of Carlow there were two troops of dragoons, two companies of infantry, and one hundred and fifty police; the whole of this force had been engaged during the period of election in keeping the peace in a town in which there were only two hundred electors. On the occasion of the election of Waterford in 1870, which was even more furious than the one cited above, one writer in the Times depicted it thus:

"A large force of infantry, cavalry, and police had been marched to the town and a most able stipendiary magistrate sent to preside over their movements. The day of polling was as usual as an Irish election; voters escorted to the poll by dragoons, politicians obnoxious to the national party stoned and beaten in the public streets. Hotels were attacked... Several stores were set on fire; the market house of the quay was burnt; the chapel of the Dominican Friars completely wrecked, and the houses of all the principal supporters of Mr. Osborne attacked and wrecked; one in particular was broken into and gutted, the furniture broken.

up and thrown into the road, the mob dancing on the piano before destroying it.44

Whatever complaints may still be made against the rowdyism of modern elections, such scenes as that in Waterford in 1870 have gone, and it may be quite safe to say, gone forever. As a whole, polling in England is orderly and peaceful, although exceptions may be made in a very small number of constituencies where the Labour influence is particularly strong. Even in those cases, although there may be more noise, more shouting, and more cheering on the streets, as for the inside of the stations, order and peace prevail everywhere. The following passage, quoted from the Times, which described the poll in the election of 1924, will give the reader some idea of the great contrast between a medieval and a modern poll:

A visitor from abroad after having heard of the political passions that have been stirred during the last few weeks might well have anticipated a little violence during the hours devoted to polling, but he would have been sadly disappointed. Even in Battersea during most of the time actually devoted to the ballot there was an almost cloisteral calm and this was characteristic of the whole of London for the greater part of the long hours that the polling station remained open.

There is still a belief abroad that Eatonwell is characteristic of our election scenes, and it is hard to convince the foreigner that the voting does not necessarily mean bloodshed and that British phlegm, does not necessarily mean apathy. As a matter of fact, the polling yesterday was very active indeed, but whatever the scenes of exitement before the booths opened and whatever the scenes of exhilaration or depression after they had closed, it was inevitable that the interval should be a kind of political 'No Man's Land.' It is the same every year; and every year it will be the same.

44 ibid, pp. 392-3.
At the opening of the booths all candidates saw their supporters go "over the top" and their work was ended. It no longer rested with them whether they were to return victorious or whether they were to be sent away as political casualties. . . . There were so few scenes during the day-time yesterday. Either a voter voted or he did not. Those who did not, did not care to shout; and those who did probably realized the futility of shouting at all just then."  

The fact that the writer of this compliment was an Englishman may lead some to take it as exaggeration. On the whole one must admit that English elections are not worse than sports and games in which there are noises and riots, and are played with equally good sportmanship and gay manner. Even in the few recent bye-elections which were considered hard and close fights, and which have been made use of by various party papers for prejudiced propaganda, the present writer, who was actually right in those polling districts, noticed nothing but calmness, quietness, and orderliness during polling. It is true that there were marches, parades, and demonstrations on the polling days. But none took them seriously except as traditions to make the polling a "jolly good time." There were constables; but they were on that day either idlers or lookers-on. While the voters were on their way to the station, they made the most of the occasion, but as soon as they entered the booth, complete calm once more reigned, and the order of the presiding officer and the law were entirely obeyed.

In spite of these improvements statutory provisions for preventing violence in polling have not been repealed. According to law, the presiding officer can remove any person from the poll as he thinks necessary.  

45 London Times, October 30, 1924.
46 35-6 V. c. 33, s. 9.
47 60 G. 3, and G. 4, c. 11, s. 22.
Third, the returning officer or his deputy may adjourn the poll previous to the expiration of the time in any case where the proceeding shall be interrupted by a riot or open violence.\textsuperscript{48}

If there is no extraordinary cause for the returning officer to adjourn it earlier, the poll of an English election is closed usually at 8 p. m. (if there is an extension granted, at 9 p. m.). The poll cannot be closed for any temporary purposes, such as an adjournment for lunch. The time rule is strictly observed. Ballots, according to law, delivered to voters after the striking of the clock are void. Ballots received by voters before such hour and returned immediately after the striking of the clock are good. Ballots applied for before but delivered after the striking of the clock are void and should not be admitted into the box.

As soon as the clock strikes, the door of the booth is closed and all voters inside of the building are cleared out. The ballot box is properly locked, sealed, and waxed up. The presiding officer and his clerk must make up all reports of the poll and pack up all packets ready for their delivery to the returning officers. Thus ends the polling.

What we have thus far described is the polling process at which voters can be physically present; it remains for us in the rest of this chapter to outline briefly the legal provisions by which absent voters exercise their political rights. The Act of 1918 introduced two new methods for absent voters to vote during an election. They are: (1) voting by post, (2) voting by proxy. We shall deal with them according to the above order.

In the case where the voter is not too far away from his own constituency and where election through post correspondence is not impossible, voting by post is allowed. When election time comes, as soon as the nomination is over, the returning officer sends a ballot paper to each of such persons at the address on the registration list. The issuing of this ballot is done according to the following procedure: First of all, the returning officer, before the ballot is sent out, notifies the candidates and their respective agents. The issuing is done in the presence of the can-

\textsuperscript{48} 2-3 W. 4, c. 45, s. 70.
didates and their agents. The ballots, like other ballots issued on the polling day to regular voters, are duly marked, stamped, and recorded. Together with this ballot paper, there is enclosed in the envelope a form of declaration of identity, a covering envelope, and a ballot paper envelope. The package which contains the above mentioned articles is delivered to the nearest head post office by the returning officer, to be forwarded to the proper voter; in return, the returning officer takes a receipt from the post office, stamped with the date of receiving the same. At the same time a box marked as "absent ballot voters' ballot-box" is prepared and it is duly sealed in the presence of the candidates and their representatives. Upon receiving such mail from the absent voter, the returning officer immediately puts it into the specially marked box without opening the envelope of the returned mail. If the package thus sent to the voter is returned as not having been delivered, the returning officer may readdress it to the best of his knowledge, in order to reach the voter. All ballots thus voted before the close of the poll are counted and treated for all purposes in the same manner as a ballot paper placed in the ballot box in the regular way.

A voter will be treated as an absent voter on these conditions: (1) if his address recorded is within the boundary of the United Kingdom; (2) if he is not a proxy voter. These rules, however, do not apply to university elections.

In the case where the elector at the time of an election is too far away for voting by post, he may apply for "voting by proxy." The appointed proxy must be either the wife, or the husband, or the parent, or the brother, or the sister, or any non-relative

49 Representation of the People Order, 1920, r. 19.
50 ibid.
51 ibid.
52 ibid.
53 ibid.
54 7-8 G. 5, c. 64, s. 28 (2).
55 7-8 G. 5, c. 64, s. 23 (4) (5).
56 7-8 G. 5, c. 64, s. 23 (3).
of the elector registered in the same constituency. Any one who has not attained the voting age cannot be proxy of other voters. It is the duty of the registration officer, if he is satisfied with the application for such paper, to signify this to the first choice for proxy nominated by the applicant. If there is no answer from this first nominee within seven days declining the appointment, the proxy paper should be accordingly issued to him. If the said nominee refuses such an appointment within seven days, the officer should proceed to notify the second choice in the same manner as the first. If this time the returning officer succeeds, he issues a proxy accordingly; if the second nominee also refuses, the officer must notify the elector to this effect. If the application thus described is received by the returning officer less than one clear day before the day of nomination, the application can be disregarded altogether. The elector cannot appoint more than two persons to act as proxy. At the same time, an elector cannot act as proxy for more than two absent voters in one constituency, unless he is voting in one case as the relative of the absent voter. A ballot paper will not be given to a proxy unless a proxy paper is shown to the presiding officer. A proxy voter should vote at the same station where the elector has registered. Questions and oath prescribed by law for such occasions may be administered to such voter if the presiding officer thinks necessary. A proxy can be cancelled through proper procedure; unless it is cancelled, even if the voter himself is present at the poll, he cannot vote.

57 Representation of the People Order, p. IV.
58 59 60 61 ibid.
62 7-8 G. 5, Sch. IV, r. 6.
CHAPTER IV

RETURNING OFFICER AND ELECTION RETURNS

After the close of the poll the returning officer, according to law, must count the ballots and make election returns. Therefore, it is logical that we should take up these activities immediately after our discussion of polling.

First of all we shall begin our story with a brief survey of the qualifications, duties, and privileges of the returning officer. In 1215, when King John granted the Great Charter, he summoned the tenants-in-chief by the sheriff and bailiffs. All the subsequent statutes followed the old practices and charged these officers with duties of executing the writs and of doing things incidental thereto. In places where such officers were lacking, the law made mayors or chairmen of councils their substitutes. When the Representation of the People Act was passed in 1918, regulations pertaining to this matter were radically revised and simplified. The present system as prescribed by the said Act is as follows:

"In the case of a parliamentary county which is coterminous with, or wholly contained in, an administration county, the sheriff acts as the returning officer.¹ In the case of a parliamentary borough which is coterminous with, or wholly contained in, a county of a city or town having a sheriff, the sheriff, and in the case of the city of London, the sheriffs act as returning officers. In the case of a parliamentary borough which is coterminous with, or wholly contained in, one municipal borough, (not being a county of a city or town having a sheriff) or one metropolitan borough, or one urban district, the mayor or chairman of the council, as the case requires. In any other cases such sheriff, mayor, or

¹ 7-8 G. 5, c. 64, s. 28.
² Order in Council, May 27, 1921 (S. R. O. 1921, No. 959).
chairman as may be designed for the purpose by the secretary of the state.²

It should be noted at the outset that the above rules do not apply to Scottish and university constituencies. In Scotland, in case a constituency is situated wholly within a sheriffdom, the sheriff of that sheriffdom is by law the returning officer; and in the case where the constituency is situated in more than one sheriffdom, the sheriff is specified in the seventh schedule of the Act of 1918.³ For a university or a combined university constituency, the returning officer shall be: (1) in the case of the Oxford, Cambridge, and London university constituency respectively, the vice-chancellor of the university;⁴ (2) in the case of Dublin university, the Provost of Trinity College;⁵ (3) in the case of the combined English university constituency, the vice-chancellor, principal, or corresponding officer of such university, being one of the combined universities as may be from time to time appointed by the Board of Education for the purpose;⁶ (4) in the case of the constituency of the university of Wales, the vice-chancellor of the university;⁷ (5) in the case of the combined Scottish university constituency, the Vice-Chancellor of the University of Edinburgh.⁸

The returning officer is indeed the man really responsible for the conduct and management of an election so far as the government is concerned. First of all, he must post notices for nomination and supply nomination papers to electors who apply for them. On the nomination day he must, as we have seen, be present to receive the nomination papers from different candidates and must stay at the place one hour after the nomination is over to wait for any objections. If the election is contested, as the majority are, he has to notify the electors of the date, the hours, and the

³ 7-8 G 5, c. 64, s. 36 (13).
⁴ 7-8 G 5, c. 64, Sch. V. p. 1.
⁵ ibid.
⁶ 7-8 G 5, c. 64, Sch. V., p. 1.
⁷ ibid.
⁸ ibid. Sch. V., p. II.
arranging polling stations, furnishing polling furniture and articles, and appointing the polling staff. On the polling day he is places of polling. In this connection he is also responsible for the person legally responsible for the civil order as well as for the legal conduct of the election. Any mistake on his part or on the part of his deputy will either involve himself in legal punishment or make the election of which he is in charge invalid. In addition, new duties are imposed upon him by the Representation Act of 1918 in connection with the voting by post and voting by proxy. When the poll is closed the work of the candidates and agents is practically over; that of the returning officer is but partly completed. His most tedious and strenuous job is yet to be performed, that is, he has to arrange, to preside over, and to announce the counting. This, as is always true, takes place on the polling night and sometimes keeps the working staff, including the returning officer, busy the whole night without rest. In conclusion, he is, as the law puts it, to "do such other acts and things as may be necessary for effectually conducting an election in the manner prescribed by law." 9

The conduct of a returning officer is strictly regulated by law. The guiding principle is that he should act with the utmost impartiality. He is liable to punishment if he wilfully, falsely, and maliciously commits any action in violation of law. 10 He is liable to damage if he wilfully delays or neglects his legal duty. 11 He "is to forfeit one hundred pounds in case he breaks certain section or sections of laws." 12

For all these services, however, the returning officer receives remuneration. He is entitled by law to make his reasonable charge of expenses, provided that he makes no profit out of the affair. 13 Many of the expenses incurred by a returning officer must be paid for by the returning officer himself as part of the burden

9 35-6, V. c. 3, s. 8.
10 7-8 V. c. 7, s. 3.
11 31-2, V. c. 125, s. 48.
12 35-6, V. c. 33, s. 11.
13 7-8 G. 5, c. 64, s. 29.
of his office. Any returning officer who "gives, pays, receives, or takes any fee, reward, or gratuity whatsoever, for the making out, receipt, delivery, return or execution of any such writ or precept or for any work necessarily connected therewith is under a penalty of five hundred pounds."14 As for his legal remuneration, it is prescribed by the Act of 1918 as fifty pounds for each county constituency and forty pounds for each borough constituency where the number of registered voters does not exceed 25,000; and in each case an additional pound is allowed for each additional 1000 voters or fraction thereof over 25,000.15 Besides this personal remuneration, fees for other items in connection therewith are carefully prescribed by section 29 of the Act of 1918, and they vary according to county and borough constituencies on the one hand, and to contested and uncontested elections on the other.

A returning officer enjoys other privileges besides the monetary remuneration we have described above. First of all, as the head officer of the election, he has the privilege of casting a deciding vote in a case "where an equality of votes is found to exist between any candidates and the addition of one vote would entitle any of such candidates to be declared elected."16 Whether the returning officer exercises such a power or not is of his own discretion; the casting vote, however, if given, is not necessarily by ballot. It may be written or oral. This privilege is again restricted to the returning officer who is a registered elector. If he should vote where there is not such an equality or if he is not registered, his vote will be struck out and he is guilty of an illegal practice.

A returning officer, as such, enjoys the right of choosing the dates, the hours, and the places both for nomination and polling, although the right is of a nominal nature, as we have pointed

14 7-8 W. 3, c. 25, s. 5.
15 7-8 G. 5, c. 64.
16 35-6 V. c. 33, s. 2.
out in our previous discussions. In presiding over the nomination, he has the power to receive and decide upon objections raised either by candidates or electors. In the same capacity he may raise objections himself to any of the nominations. But again these privileges are strictly regulated by law and are very narrow in scope. He can adjourn the poll at any time he thinks wise. He can arrest or remove anybody he wishes from the poll. For the actual exercising of these powers he has to justify his actions by law.

Last but not least in importance is his privilege of employing a working staff to help in managing the election. He may, if he wants to, delegate his power to an acting officer; in such case the returning officer becomes an ordinary elector. The man thus appointed takes up all his works and at the same time enjoys all privileges that formerly belonged to him. If the returning officer wants to retain his official dignity and yet does not want to take up all this heavy work, he may appoint a deputy returning officer. In such a case the appointee will perform work that is particularly assigned to him. The last, in fact, is the most common practice. In addition to the deputy returning officer, he may appoint a large number of presiding officers, polling clerks, counting assistants, etc. There is no limitation on the number of such subordinates that the returning officer may appoint except that he is indirectly limited by the financial allowance. For instance, he may have as many counting clerks as he wants, but the total amount for the payment for such officers in an election may not exceed fourteen pounds for the first 2,000 voters and not exceed one pound additional for every 2,000 additional votes.

All workers appointed by the returning officer are paid employees. Their remunerations vary according to the various positions they hold, ranging from ten or fifteen shillings to three or four pounds for the whole service. As such employees, they are required to observe two rules: first, they must take the oath of

17 7-8 G. 5, c. 64.
18 7-8 G. 5, c. 64, s. 30.
19 7-8 G. 5, c. 64.
secrecy; second, they must not accept any appointment from any of the candidates in the same constituency where they are serving as election officers.

On the day before the polling, it is more or less customary for the returning officer (or the acting returning officer if there is one) to summon these employees to a mass meeting to give out instructions and to take the required oath of secrecy. In the meeting, the question whether any of the workers has already taken or is going to take part in the electoral campaign of any of the candidates is put to the employees. If there is such a case the particular employee should report and should immediately resign. Then a printed form of oath is distributed to the employees. It is a declaration that the undersigned will not “at this election do anything forbidden by the section four of the Ballot Act of 1872.” The said section is read aloud by the returning officer in the meeting, and then the declarants are ordered to attach their respective signatures to these forms. Down below this printed declaration, there is another statement, saying that “the above declaration was made and subscribed” before the returning officer or a Justice of Peace. The latter, of course, will be signed either by the returning officer or the justice of peace as the case may be. During the meeting instructions to the workers for carrying out their duties properly and efficiently are given by the returning officer. Points of doubt concerning technicalities of the election law may be raised and discussed in the meeting. When everyone knows what he is to do the next day, the meeting is adjourned.

Presiding officers, poll clerks, and other assistants now all have the right to vote. If the duty of any one of them prevents him from voting at the station allowed by the registration list, he is authorized by the returning officer to vote at another station convenient to him. This authorization should be made by a written certificate. And in most of the cases, these certificates are given out to the employees as soon as they take the oath and officially accept the appointment.

The counting place is, according to law, chosen by the returning officer. The location is advertised long before the poll actually
takes place. The candidates are duly notified and are requested to appoint their respective scrutineers to attend the counting at the assigned hour and date. These communications are usually finished several days in advance of the counting, because the law provides that no such delegate of any candidate should be appointed and accepted by the returning officer later than twenty-four hours immediately prior to the counting. The building chosen for such a purpose is either the town hall or a school. In either case it must be large enough to hold the big army of attendants, the returning officer, the candidates and wives, the agents, the hundred or more counting clerks, and the scrutineers. In addition, as the counting is closed to the public, rooms where the relatives and close friends of different candidates can stay during the suspense are necessary. The building should have a big open court to hold the public crowd which will gather there as soon as the ballot boxes are transferred thereto and which will never disperse till the result is announced.

There is no legal requirement for the architectural arrangement of the counting room. As the returning officer is supposed to be the presiding officer of the proceeding, his table is usually placed where he can supervise the whole room. If the room has a platform, then the presiding officer’s table is usually on the platform. Other tables are scattered over the whole room. The place is well guarded. If it has glass windows, they must be covered with curtains or shades to prevent peeping from outside. By law, only the candidates, the agents, and the authorized scrutineers are admitted to the room. Once they enter, they cannot leave till the result is announced.

The actual operation of the machinery starts with the counting of the absent voters’ ballots. As we have pointed out already, these ballots are sealed up in a special box. This box is taken out and opened first. The envelopes are checked. The declarations are examined. The ballots are inspected. If there is any disagreement between the number of envelopes and ballots or any doubt

20 35-6 V., C. 33, Sch. I, ss. 32, 33.
about the declarations of identity, the returning officer has the right to reject any votes he wants. Votes thus rejected will not be counted if there is no protest from any of the agents to such an effect. If the rejection is objected to, then the ballot will be packeted and marked “rejection objected to.” Having completed the inspection work, the returning officer selects all good ballots and get them ready to be counted, together with ballots brought in from the different polling stations.

Then they come to the main count. First of all, the presiding officer will order all counting clerks and scrutineers to take their assigned seats. The employees and the party delegates usually sit alternately, that is to say, one scrutineer follows each counting clerk. For each table, there is a chief clerk whose duties are to preside over the counting of his table, to keep account of his group, and to report the result to the returning officer. When all tables are in a good order, ballot boxes are distributed to them. Usually each table has one box first. The chief clerk proceeds to unlock it and to pour out the contents. The first operation is to check the number of ballot papers in each box with the report sent in by the particular presiding officer. The ballots are bundled up first into twenties, and then into hundreds. No attempt during this process should be made on the part of anyone, either the counting clerk or the scrutineer, to detect the voting tendency of these papers. The total number is reported to the chief clerk of the table; the latter in turn fills up a printed form and sends it up to the returning officer for approval.

At the same time a number of workers are busy in checking the packets sent in from different polling stations, which contain the counterfoils, the unused ballots, the tender ballots, etc. These results are also reported to the returning officer. Reports thus obtained are collected and are compared for accuracy. If the number of ballot papers in a box agrees with the report of the same box, the returning officer will certify to that effect to the table that has counted the said box. The papers in bundles of twenties and hundreds will be returned to the original box and the box sent back to the returning officer. If unfortunately the returning
officer finds that the result of a box reported by the counting clerks
does not correspond to what is reported by the presiding officer,
a recount is ordered. After the second counting, the processes
that we have described will be repeated again. If the returning
officer still fails to get a correct check, the counting goes on for
the third, fourth, and indefinite number of times till the mistake
is definitely located. The repetition sometimes is very tedious.
A box may be counted by a table for many times; and in all these
countings, the same table makes the same mistake. Or it may be
worse,—in all these countings and recounts, the same table
makes new mistakes each time. And the returning officer as well
as the counting clerks does not know which of the results is the
correct one. Under such circumstances, a change of counting hands
may be ordered, that is to say, the box is sent to another table
to have another group of clerks work on it. Thus the mistake
may be detected and bring the first counting to an end.

The second part of the counting is to find the number of votes
each candidate has received in the election. Having completed
the checking process, all ballot boxes are once more collected on
the presiding officer’s table. The contents of all the boxes are
taken out and mixed. The object is to avoid the revelation of the
voting tendency of any particular electoral district. Then the
ballot papers are distributed to all tables again. This time, the
counting process is not so simple as at first. For convenience, the
writer proposes to take one table and to describe its working pro-
cess.

Let us first of all assume that the election is one in a single mem-
ber district constituency and let us also assume that it is a threecornered fight. Now the duty of the counting clerks is to find out
how many votes in the election each of the three candidates re-
ceived. In such a case the simplest process is to sort out all ballots
into three separate groups under the names of the three different
candidates. In this sorting out process the clerk should always
keep the face of the ballot (the marked side) up so the scrutineer
beside him may have a chance to watch that the work is carried
on in a proper and impartial manner. Meanwhile, the clerks
should also put aside all spoiled and doubtful papers for further scrutiny and for further advice of the higher authority. Having finished the sorting process, each table begins to count the votes of each candidate. The ballots are once more bundled together into twenties and hundreds. This result is taken down by the chief clerk and sent to the returning officer.

In this connection we should not forget the spoiled and doubtful papers that have been put aside by the clerks during their sorting out process. Ordinarily, the picking out of these spoiled and doubtful papers is at the free discretion of the counting clerk. If the clerk is either too liberal or too strict in this matter, the scrutineers whose chief duty is to watch the conduct of these workers may at any time during the counting raise objections to the decision of the former. Once a doubt is raised by a scrutineer to a ballot, that ballot should be put aside for further examination. By the end of the sorting process, all the spoiled and doubtful papers are sent to the returning officer. This officer will call together the candidates and their respective agents and inspect the ballots with them. The final decision to accept or to reject any paper is made by the officer. A further chance is given to the candidates and agents to raise objection to the decision of the returning officer. Sometimes hard debate between the officer on one side and agents on the other may ensue on these matters. The decision of the returning officer should rule and this decision is subject to reversion only through the process of election petition of which we shall speak sometime later. The ballots that are considered good are returned to the counting table to be added to the others of their respective candidates; the bad ones are packed into packets and labelled.

When all the tables have completed the counting, filled in the report forms, and sent in the results to the returning officer, the officer once again adds these accounts together and checks the total number of ballots with the result of the first count. If both agree, then well and good; the job is done. If they do not, (some times there may be a difference of one or two votes between the two total numbers), the ballots are returned to the different tables and they
are recounted one by one. One little mistake from one table may cause the whole group of workers to undergo a repetition of the counting process from beginning to end. The final declaration may be delayed for hours simply for this reason.

If the fight is not a close competition candidates may not be so keen about the difference of one or two votes. As cases have actually happened where a few votes decided the fate of the different candidates, countings are sometimes really strenuous jobs. Even when the two total numbers of the ballots agree with each other a candidate or his agent may demand a recount, causing the workers to go through the whole process of counting again. By law, however, the demand can be filed only before the final result is openly declared to the public by the returning officer. After the declaration recount can be brought about only by the candidate or his agent through an election petition.

After going through these countings and recounts, the returning officer is finally able to secure a result which may or may not be correct. It is nevertheless temporarily the result of the election. He will proceed to make a table of votes received by different candidates. He will show this table to the candidates and their agents. Then he is ready for the public declaration.21

Before we describe the scene of the public declaration, we shall very briefly touch upon the issue of validity and invalidity of a ballot paper. The question indeed deserves much more attention than it has received. Legally speaking, the returning officer is the authority to decide all questions concerning the acceptance and rejection of ballot papers. In legal theory this is true. In practice the returning officer exercises his authority only in cases where the doubtful ballots are actually brought up for his examination and advice. As in our previous discussion, we have seen that the men who actually exercise this discretion are the counting clerks. Thus, several points are worth noticing. First of all, there is a lack of strict rules for guiding the clerk in accepting or rejecting

21 35-6, V. c. 33, sch. I, s. 37.
a paper. All that can be depended upon is a sense of impartiality. This is, of course, an assumption resting purely on the ground that human beings are always just. Sometimes it works well; sometimes it does not. Second, suppose there are definite rules for accepting and rejecting ballots, some other kind of fraudulent practice may squeeze into the modern election counting system. For instance, taking the chance of being unnoticed by the scrutineer, a clerk may put some ballot papers marked for candidate B into the bundle of candidate A. In such a case the total number of the count will agree with that of the report of the presiding officer. The trick is undetectable. Nevertheless, the clerk has taken a ballot from B and added it to A. The present writer personally saw such a case. Whether it was due to a careless mistake or not is hard to say. The truth is that such a trick can be easily done, especially in view of the fact that modern counting is such a hasty business.

Now let us suppose that the work has been done with great care and due justice by counting clerks and scrutineers, and that they have left out all doubtful cases to the wisdom of the returning officer. How then is the returning officer guided in this matter? On what bases does he make his decisions? It is said that there are some general principles either laid down by the Ballot Act or derived from customary laws upon which decision of new disputes may be based. That a vote which has no official mark should be rejected and that a vote which is marked for more candidates than the voter is entitled to vote for should not be counted are some of these outstanding principles. The first is very clear and there is no ground for debate. But even in such case the mistake may be due entirely to the presiding officer or the polling clerk who has taken charge of stamping the ballot. Why should the voter suffer the consequences if the fault is not his? The second principle is obscure. Some voters make marks between the names of the candidates. Some put several marks on the ballot and against each of the candidates’ names a different mark appears. Thus there are practical difficulties in deciding.

22 35-6 V. c. 33, s. 2.
What we have spoken of are indeed not the typical cases from which the most difficult problems arise. It is one of the fundamental principles that a ballot should not be accepted if it is so filled up and marked that the voter can be identified. Thus a vote marked with the voter’s initial should be rejected. And again a vote marked with the voter’s registration number should be rejected. Thus far it is well and good. On the other hand, those who have ever had the privilege of being present in some of the election countings would agree with the writer that the varieties in the style of marking ballots are good enough for an art exhibition. Some put the cross on the right side; some on the left. Some put the cross on the very top, and some on the bottom. Then the mark has endless variations. Besides the cross, there are a hundred and one other forms. Some are round circles; some are regular squares. Some voters display their art genius by free hand drawing birds or portraits. Still others glorify the ballot paper with a big star or a long sword. And there are other varieties.

Now if the initials and the registration numbers are identifications by which voters can be recognized, how about the circles, the squares, the stars, the sword, and the other free hand drawings? According to past decisions, it was held that “the manner in which a ballot should be marked is directory and it is sufficient if they obey the regulations substantially.” Based upon such an opinion the circles, the squares, the stars, the swords, and the other form of marks have been practically always held as legal and valid. But is this consistent, scientific, and systematic?

One cannot appreciate the importance of the point that the writer has been discussing if he is not acquainted with the fact that a considerably high percentage of the votes are thus marked in various forms and that the result of a modern election may be decided on the difference of one or two ballots. As the number of three cornered fights increases the number of cases where a small plurality decides election results also increases

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23 ibid.
24 2 O’m and H. p. 216.
6 O’m and H. p. 229.
proportionally. In some cases the difference between an elected and a defeated candidate is a matter of two or three votes. For instance, in 1911, in the election of the Borough of Tower Hamlets, the winner received 2179 votes while the defeated candidate received 2177. The plurality that carried the election was a matter of two ballots. In the same year, in the West division of the Borough of St. Frances, one candidate received 3384 while the other received 3376 votes. The difference was only eight votes. In such cases a single vote means a great deal. And a reexamination of those ballots that were irregularly marked and a redistribution of them on the basis of some definite principles might have changed the balance altogether.

So much for the question of validity and invalidity of ballots. The poll is usually closed at 8:00 or 9:00 o’clock in the evening. The counting will not be finished till the early morning of the next day, it may be 1:00 or 2:00 o’clock, or it may be much later than that. The principle is that as soon as the count is completed, the returning officer should make the declaration of the poll. As soon as the boxes have been returned thousands of voters gather to hear the election results. The waiting in many cases means standing a whole night outdoors. The suspense to some is indeed strenuous. In view of this fact the golden rule for the returning officer is “Let your haste commend your duty.”

The announcement is usually made first to the crowd who have been waiting inside of the building. This group consists of the relatives of the different candidates, the local party leaders and the ardent and enthusiastic campaign workers. It is at this short meeting that the victor, as well as the defeated, pays his respective tribute to the returning officer in that happy little tradition of the vote of thanks. Immediately after the returning officer reads out the figures, the elected candidate will move a vote of thanks to the former with a brief speech, eulogizing the efficiency and the impartiality of the officer who has been the umpire of the fight. The defeated candidates, with a spirit of good sportsmanship, second the motion, usually in an equally graceful manner. The motion is usually well received by the waiting crowd with cheers and ap-
plause. The returning officer, on his part, will respond to these speeches courteously. He will congratulate the victor and console the vanquished. In addition, he will declare that war is all over and peace in the constituency should reign again.

This is followed by the public declaration to the waiting crowd outside of the building. As there is always a great deal of hubbub at such an occasion, the declaration is usually made by the returning officer on a balcony or on some other high position, and it has to be made over and over again. Every word of the returning officer will be responded to with shouting, yelling, cheering, clapping of hands, waving of banners, and noises of every description. If the elected happens to be a Labour member, the “Red Flag” or “Internationale” will immediately break out. On the other hand, if he is a Conservative, it is the “God Save the King” that befits the occasion.

The elected candidate is usually called upon to appear before the public. He is greeted in the typical British way with the chorus “He is a Jolly Good Fellow.” The victor under such an overwhelming inspiration will demonstrate his art of public speaking once more to the public, in spite of the fact that he is often exhausted from his strenuous campaign. The speech, like all other campaign oratory, is full of “hot air” and of high sounding expressions. If the elected belongs to the government party, the speech is an eulogy of the prime minister and his successful record. If he is an opposition member, he generally shouts loudly “Down with the prime minister! Down with the Government!” The hubbub may last for hours. The crowd will not disperse till the elected candidate leaves the meeting. And the gathering may end itself with a big procession of the winning party.

The returning officer has not yet finished his duty. He must forthwith return the name of the candidate elected to the clerk of the Crown in Chancery. He must deliver the writ, together with the certificate, to the postmaster of the principal postoffice of the place of election, or his deputy, and such postmaster or his deputy must forward the same by the first post, free of charge.
under cover, to the clerk of the Crown with the words "Election Writ and Return" endorsed thereon.²⁵ Besides, the returning officer must forward to the clerk of the Crown all the packets of ballot papers in his possession and other documental packets such as "tendered vote list," "declarations," etc., on each of them a description of the contents and the date of the election to which they relate.²⁶ Then the clerk of the Crown must enter the return within six days, and any amendment thereof in a book to be kept for the purpose, to which all the inspectors are to have free access, at all reasonable times, to search and take copies, on payment of a reasonable fee for the same. The clerk of the Crown retains for a year the ballot papers and all the documents forwarded to him and then, unless otherwise directed by the House or by the High Court of Justice, causes them to be destroyed.²⁷

The returning officer has two other duties in addition to the returning of the writ. As soon as possible he must give public notice of the name of the candidate elected and of the total number of votes given for each candidate, whether elected or not, by advertisements, placards, handbills, or other means he thinks fit. Then he must also dispose of the deposits in due time and manner as prescribed by law. Having finished all these, his duty as a returning officer comes to an end.

²⁵ 35-6 V. c. 33, s. 44.
²⁶ 35-6 V., c. 33, Sch. 1, r. 38.
²⁷ 35-6, V., C. 33, Sch. I, ss. 39, 40, 41, 42, 43.
CHAPTER V

PREPARATIONS FOR THE CAMPAIGN

Generally speaking, there cannot be an electoral campaign until there is an election. Unless we can define when an election commences we can never tell when an electoral campaign starts. Unfortunately the former question has always been a controversial one in legal history, and it will remain so if no further action is taken by Parliament to amend the existing law. The guiding principle for the subject seems to be that the whole problem "is left to the election judge to consider each case with reference to its own facts." 1 In considering these facts, the legal opinion again emphasized that "the general political history of the period and the conduct of the individual candidate are alike to be taken into account."

But here is the trouble with such a principle. If the "political history of the period" and the "conduct of the individual candidate" are the real bases for judgement, then we may well conclude that in England parliamentary elections are going on continuously and that election campaigns are being carried on all the time. The secret is that in order to meet the law, parties and candidates so arrange their election activities that they are not in a formal campaign till the writs are issued. Before that stage, work is done under the disguised name "party activities." In our present discussion we shall, however, for the lack of a better term, classify these disguised election activities as "preparations for the campaign."

Under this heading we shall have three sub-divisions: (1) the local party organizations, (2) the adoption of the prospective candidate, (3) the local party propaganda.

Speaking of the preparations for an election campaign an experienced agent once remarked to the writer that "now-a-days the formal campaign during election time is more or less a matter of tradition. The battle is fought and settled before election comes. A good, strong, and efficient local party organization in a constituency means everything." And he concluded that "the best electioneering in the world often falls short of its purpose unless the ground is well prepared beforehand."

The idea of preparing ground beforehand with strong party organizations goes back to the early part of the nineteenth century. After the Reform Bill of 1832, the number of electors was greatly increased. Voters who were owned, sold, and inherited by electoral magnates as private property began to wake up and to appreciate the right of voting. Instead of bargaining with the few lords and landowners for seats in Parliament, candidates who desired to be sent to the city of Westminster had henceforth to deal with the mass of electors directly. Consequently the necessity for some sort of organization for managing the election business for those who cherished the same ambition and had the same goal made itself felt. The result was a new stimulus to party organization.

At the early stage of this development, parties organized to meet the new situation usually had a general agent whose business it was to watch the electoral situation in the constituencies. For a time the general agent collected all information possible, and he was a sort of expert adviser to the party whip and party leader on this particular question. "A prime minister, before risking a dissolution of Parliament, closeted himself with the agent of the party to consult him on the chances of a general election. When he appeared in the lobbies of the House, at times when a dissolution was in the air, people pressed around him, journalists hung upon his utterances as if they were those of the Delphic Oracle!"

As time went on, the plan of having one agent to each party to look after elections proved utterly inadequate; more systematic and methodical actions were called for. In founding the Liberal Registration Societies, the whigs led a new movement of “going to the constituency.” The challenge was taken up by the Tory party in building up a series of Lancashire organizations and Conservative Operatives’ Societies. With the recent abnormal growth of the number of electors and with the increasing complexity of political issues, the problems of organization have become more intricate and more difficult. Up to the present date, an efficient organization in every constituency, representing all classes of the community and forming the main channel of political activity, is a primary necessity of progress in a party cause.

All these local organizations, although they are different in name and in party affiliations, have a similar object. The Conservative and Unionist Association in a constituency is “to assist in spreading political information, in securing a complete register, and in returning a conservative and unionist to represent in the parliament.”3 The Liberal Association in a constituency is “to secure the return of Liberal members at the parliamentary election for the constituency.”4 With the same principle, in different phraseology, the local Labour Party is “to unite the forces of Labour within the constituency and to secure the return of Labour representatives to Parliament.”5

Naturally plans of organizing these local units are dictated by the above described object. As they are virtually local headquarters for preparing and directing elections at the ordinary time, careful efforts are made that they are well distributed and strategically located. In every borough or county which is entitled to one or more members of the Parliament, one is sure to find a Conservative, a Liberal, and a Labour central organization.

3 Organizations Handbooks, National Union of Conservative and Unionist Association, (Palace Chambers, Bridge Street, London 1927).
4 The Liberal Year Book for 1927 (Parliament Street, London 1927).
5 Constitution and Rules for Labour Parties.
separately and simultaneously existing. Each one of them has its own ward and district branches. Under these branches there are the women’s associations, the youth leagues, and the juvenile societies. Then there are a number of study circles, of speakers’ classes, of information bureaus, of glee clubs, of billiard rooms, of sports teams, and of various other groups.

Turning our attention temporarily from the local party machinery to the local party activities, we shall find that the latter are of a more confusing and complicated nature. The first and the most important duty of a local party in every constituency is to work for a high registration. It is useless for a party to make converts and to recruit supporters unless the names of these enlisted adherents are certain to appear on the registry. Years ago Sir Robert Peel called the attention of his party more than once to the fact that “the battle of the constituency will be fought in the registration courts.” On one occasion he exclaimed to his followers that the watchwords of the day were “Register! Register! Register!” About half a century later Mr. J. Ramsay MacDonald wrote in his “Notes on Party Organization” that the “sum and substance of a political organization is to create a good register.” Even in 1927, when the Conservative Party put out their party Handbook, they capitalized the following statement: “the main object of a complete and up-to-date marked register is to ensure that the party polls its full strength in an election. Such a register should therefore be regarded as a primary necessity.”

So much for the importance of registration. As for the routine of the work, although it is now better done by the local government officers than it used to be, this improvement by no means lessens the competition and responsibility of the party men. In interpreting the registration laws, a great many tactics are involved; and therein party politics comes into full play. Some clauses of the law can be twisted to the advantage of one side and some to the advantage of the other. The party workers have to

6 Organization Handbooks, National Union of Conservative and Unionist Association, (Palace Chambers, Bridge Street, London 1927).
pay particular attention to families having several sons or to single houses with more than one tenant, because in such cases, by clever manipulations, a party can make unexpected gains. If a boy is living together with a widowed mother, it is up to the party worker to see that the boy occupies a small separate room, has a few pieces of furniture, and thus becomes a qualified voter. If a son is helping a father in a small business, it is again up to the party worker to make it a case of joint occupation of the same premise so that the junior as well as the senior of the business will be a bona fide elector.

On one hand it is the duty of a local party to register as many as possible of its own party adherents; on the other, to strike out as many opponents as possible from the register book. All parties will see that deaths and removals of their enemy are not overlooked by the registration officer and that they will give no chance for personation to either side. If Brown is known as a Conservative, the Labour party will see that Brown has actually attained the voting age as registered; if Smith is a Labourite, the Conservative party will do likewise. A crooked way of managing the business is to induce the opposing party to register non-qualified voters who have promised to vote for one’s own party. Thus one gets an additional vote, yet saves the trouble of answering charges brought forward on the case by the opponent. When the registration period is over, the struggle among them is to win over voters each from the other’s camp. This secret warfare goes on and increases its intensity in proportion as the time approaches for a formal campaign. When the writ is issued and an election campaign is formally declared, the secret war is converted into an open fight.

The work of registration, in order to be very successful, is usually preceded by a house-to-house canvass. According to electioneers, canvassing before the campaign has opened "can be more leisurely and more thoroughly done than is possible on the eve of an election." At present, a number of scientific canvassing plans are being used by the three different parties for peace-time canvassing purposes. Among them, the block system is compara-
tively popular. According to this plan, a constituency is mapped out into blocks; each block into districts and wards; and then wards and districts into streets or other small units. The workers are so organized that each unit will have a canvassing team led by a separate captain or leader. Then slowly and at the same time steadily these captains and leaders with their army make their house-to-house invasions. Side by side with this work of registration and canvassing, there is the party propaganda which forms with the other two a trio of local party activities, and of which we shall speak at the end of this chapter.

Our next sub-topic is the adoption of a local candidate. The term "candidate" in its correct legal sense is a difficult thing to define. In fact, no satisfactory definition at present exists. The common practice now-a-days is to draw a distinction between a "candidate" and a "prospective candidate" and this practice is evidently a tactic to evade legal restrictions. The eighth section of the Corrupt and Illegal Practices Prevention Act of 1883 provides that "no sum shall be paid and no expense shall be incurred by a candidate on an election or by his agent, whether before, during, or after an election, on account of or in respect of the conduct or management of such election, in excess of any maximum amount in that behalf specified in the first schedule to this Act." In dealing with this section, the question as to what constitutes a candidate or when candidacy begins naturally arises. Unless the latter question is satisfactorily answered, there is no basis whatsoever to interpret the clause "the conduct or management of such election" and consequently no basis for fixing the "maximum amount."

In this respect, the judgment of Lord Maclaren, in the Elgin and Nairn Petition of 1895, seems to have gained more support than any other. His ruling in the case was that "conduit or management of such election" meant a definite election within knowledge and contemplation of the parties who are engaged in
conducting and managing it.” In assenting to Justice Maclaren’s decision, Justice Bolloc further extended the doctrine and said that “expenditure in cultivating the good will of the constituency and recommending himself to the constituency is not to be regarded as expense falling within the eighth section of the Statute.” Following the same logic, Justice Bolloc carried on the idea to the conclusion that “I can not conceive that the Legislature ever meant to say, having used no word to say it, that by using the words ‘the management of election’ it intended to prohibit or it could have intended to prohibit, a person from not only taking an active part in politics but from announcing his intention that, under certain circumstances, when a vacancy occurred he was willing to become a candidate.” Based upon these arguments, Justice Bolloc invented the terms “candidate” and “prospective candidate.” A candidate therefore now-a-days means an individual who is officially and formally adopted as such by a local party meeting. Prior to such a formal adoption, the individual who is engaged in “cultivating the goodwill of the constituency” is only a “prospective candidate.”

This practice is evidently an ingenious evasion of the law and furnishes a safeguard for party politics. As a result, it reduces the eighth section of the Act of 1883 to a dead letter. In arguing before the court one lawyer pointed out that “in some cases canvassers are set to work, and committees are formed long before the dissolution or the issue of writ. If the expenses are not to be returned as election expenses, the words of the Act as to the maximum amount of expenditure are set at nought.” This observation of course has much truth in it. As the topic will be taken up again later we shall be content here with the distinction between the “candidate” and the “prospective candidate” and go on to the proceedings of the adoption of the latter.

8 ibid.
9 ibid.
In the main, regulations governing the adoption of a prospective candidate are similar in different parties. The local association in each constituency nominally has the full power to choose a prospective candidate. The first step is, in all parties, to pick out the fitting and proper individual who is in turn willing to accept the party offer. The small group known as the local executive committee and composed of a handful of local politicians and wire-pullers of the party usually control the whole thing. Through this group, recommendations are sent to the general council. If there is only one nominee and the council approves the nomination a formal resolution will be passed and henceforth the nominee thus adopted is the torchbearer of the party and is posted and advertised as the “prospective candidate” of such a party. If there are more than one nominee, the members of the council have to fight out the question among themselves. As a matter of formality, the several nominees may be invited to explain their respective political views before the council or may be requested to speak to the general assembly of the party. As to how the final decision is arrived at and how one nominee beats the other, these are party politics far too deep for us to analyze here.

The resolution which adopts a prospective candidate is usually simple and brief. And again it is more or less similar for all parties. It runs somewhat like this: “that the council of such and such a party in such and such a constituency invites so and so to allow his name to be submitted to the assembly as the parliamentary candidate of such a party when the proper time arrives.” The wording of the resolution seems of no importance and is a matter of formality. But this formality of the organization is of great value to the prospective candidate. It confers on the adopted individual an incontestable superiority over all his competitors of the same party; and the individual becomes in truth the anointed of the party and the spirit of the party is upon him from that time on.

This choice, as we have seen above, is nominally the independent and free action of the local party. But laws of different parties
do provide that “where no nominations are made, or where time does not permit of formal procedure, the national executive may take steps, in consultation with, and with the approval of, the local executive, to secure the nomination of a parliamentary candidate where it is deemed advisable.” For meeting such emergencies, the National Union of the Conservative and Unionist Associations always have a hundred and fifty names on the waiting list of “prospective candidates.” The Liberal will instruct different bodies that “if the local request is not successful, the assistance of the secretary of the District Liberal Federation should be sought.” If this appeal fails, then the final responsibility rests upon the Liberal headquarters in London. And similar provisions can be found on the Labour side although they may be different in details.

In the case of getting a candidate from the central headquarters, some red tape of the party machinery is involved. Before the formal adoption an interview is usually arranged between the recommended individual and the deputy from the local party. “If they did not come to terms,” as Ostrogorski put it, “the Association offered another candidate; it always had a supply of all shades of opinion and suited to all tastes. The Association did not put pressure on the constituencies in the choice of candidates, it only acted the part of honest broker.”10 But interference on the part of the party leader or of the central organization in such matters is not altogether lacking. When a constituency is determined to stand by a man whose view is either contradictory or unacceptable to the front bench in general or to one or two influential bosses of the party in particular, the leaders or the central party do step in and interference of such a nature is usually strong and successful.11

When such a quarrel arises, there is no doubt that both the local and the central organizations are standing for the one each thinks

11 H. Bolloc, The Party System, p. 120.
to be a good candidate. What really constitutes a "good candidate"? It is beyond any doubt that no party will adopt a man whose views are diametrically opposed to the party principles. But after all such an expression as "party principles" is general and vague. When it comes to the matter of fishing for votes, it is not so much how the candidate can agree with the party principles as how he agrees with the views of the party rank and file in his constituency. Among the same party followers, some who are "dry" wish to start a prohibition movement by law in England; some who are religious advocate that the Sabbath Day should be strictly observed; some think that birth control and compulsory vaccination should be done away with. All these issues never appear on any party platform, yet a man who wants to be a good candidate has to face all of them. It has been said that a good candidate will be one who can give pledges to and rally round him the greatest number of voters. The only way to acquire such a qualification is to stand for no definite principle, so that one is suitable for all kinds of programs.

So much for the principles of a good candidate. To urge the adoption of whatever he happens to stand for and to prove that he is up to it, it is said that a good candidate needs to be a good speaker. He must be fluent and quick at repartee. Certainly a good speaker does put up a better show during the campaign time. But experienced electioneers will agree that after all the number of voters who can be carried away by eloquence is small and is decreasing. If a candidate has other qualifications which are substantial and more material and consequently more attractive, his eloquence will not be insisted upon, because "others can speak for him." 12

It has been repeatedly emphasized that "a candidate whether prospective or actual should cultivate an intimate acquaintance with his hoped-for-voters." To be successful he needs special political gifts and not a little common knowledge but what he needs more is the power to gauge accurately his fellow men and

thus to be in a position to keep his finger upon the pulse of public opinion. Thus the social capacity of making and holding friends and turning them into political followers is indisputably important. Good memory, therefore, benefits the cause and should be counted as a rare quality for a good candidate. If "Jack" and "Tom" can be called by name and "Betty" and "Rose" be recognized by voice, the human touch and sentimental effect can produce marvellous political results.

The question of localism in choosing a candidate is doubtful. Some believe that a local horse is better than an imported colt. The advantage of a local man is that it is easy for him to be popular because he is one of "their own folks." When the polling day comes he can post himself as a "favorite son" and appeal to political sentiment, known as provincialism or localism. On the other hand, in his contact with the local life, he may have made unnecessary enemies. He may have quarreled with some of the big employers or he may have once carelessly argued with the local pastor. Furthermore, because of his popularity and familiarity, he may have made some of the natives tired of him. The mere fact that his face does not arouse any more curiosity among the children of the town or village may cause him to lose some votes from some parents.

Thus the qualities for a good candidate are endless in variety and each of them has advantages as well as drawbacks. Something which has been and still is considered as the most important fact in determining a candidate does, however, deserve attention. According to Bulloc, the type of men finding it normally possible to get into Parliament are: "first, local rich men who can dominate the local political organization; and second, rich men from outside who have suborned the central political organization."13 This view may be too pessimistic, nevertheless, it is to a great extent true. "The anxiety," said Ostrogorski, "about ways and means sometimes makes the association act with undue haste and adopt a candidate who is, perhaps, not the best available: the

13 Bulloc, p. 125.
reason is that the stomach cries cupboard, and somebody must be found with all speed to administer nourishment, or 'keep the association going' as is said in the political slogan of the day.'

When we come to our discussion of corrupt and illegal practices, we shall have much more to say on the topic. Suffice it to say here that in the field of politics, in England as well as elsewhere, actions of man on man always have the final triumph. Any one who defies the living reality in politics is bad both as a political theorist and as a practical politician. The Conservative Party was both practical and frank when it published in its party handbook that "obviously it would be a recommendation that the candidate chosen should have or be able to command money,—politics never were and never can be, run on the cheap." From this we get the real clue as to how a good candidate is determined.

Suppose a good candidate is adopted, what shall he do to live up to his reputation of being "good"? The calls on a candidate's purse are necessarily many. If unwilling to meet them, then he may seriously injure not only his own but the interests of his party. In addition to the "coal tickets" and "free drink" which are more or less free and voluntary gifts, there are some almost-required expenses. As soon as he assumes the distinguished title of the "prospective candidate," he, at the same time, becomes, quite often against his will, the honorary member of this and that society; the honorary president of this and that club; the honorary vice-president of this and that association. By "honorary" is meant that the candidate will not be entitled to monetary reward; but it by no means should indicate that he as such should not pay for these honors. Henceforth his doorbell needs constant repairs, because the frequent calls from representatives of churches, chapels, hospitals, asylums, clubs, and other organizations have put it in constant disorder. Every group of individuals who take it into their heads to assume a collective title of some kind or other and to organize themselves even for the most fanciful of

15 E. N. Bunn, Political Organization; Practical notes and suggestions.
objects "tries to screw a subscription out of him, by hinting that they represent influential electors, people who have a vote. It is nothing less than a regular blackmail levied on the candidate who would deserve sincere sympathy and pity if he had not laid himself open beforehand."\(^{16}\)

The taxation levied on a "prospective candidate" by voters is not limited to money only. He has to devote all his time as well. In the Liberal Handbook, a prospective candidate is advised "to attend important functions, civil and otherwise, held in the constituency." He should also "visit flower shows," and the "the fat stock market." Above all, he should visit "as many people as possible."\(^{17}\)

Of course, a man who hopes to sit in the Westminster Palace to make laws for the Empire must have some common sense and a little bit of intelligence, although he may be far from intellectual. For this reason he is expected to do some casual study which will enrich his limited stock of information on some of the current political issues. "He should study continuously the local papers so that he may be informed upon every day affairs of the district, and attention to these matters will provide him with excellent materials for his speeches and conversations."\(^{18}\) He may know nothing about the economic report of the Imperial Conference at Geneva, but he should get "information regarding the local industries and the life of the people in the constituency in general." He is urged by the central party office to read over all the party literature produced by his own party, which as a rule talks about everything but gives accurate information on nothing. The mentality of a "prospective candidate" is, in the main, built up on such stuff. Mediocrity is exactly what is needed to champion a modern platform in local constituencies. A real intellectual usually spoils it.

\(^{16}\) Ostrogorski, p. 452.

\(^{17}\) Bunn, Practical notes and suggestions.

\(^{18}\) ibid.
Thus far we have dealt with the local party machinery and the prospective candidates. The preparations for election cannot be considered complete without party propaganda. We have seen how they set up the local organization and how they pick out the man; the next thing is to notice the way in which the organization does all possible to boom the man, so that when the time comes, the candidate will change from the prospective into the actual candidate, and finally into an elected one. First of all, there is what is called the party education, which consists of lectures and publications. It is very true that these activities will be greatly accelerated at the time of election,—nevertheless they are main lines of regular daily party work.

Whenever chance permits, a party will grasp one or two topics, capitalize them, and run nation-wide pro- or anti-campaigns. Campaigns of the Conservatives on Anti-Bolshevism, Liberals on Land Reform, and Labour on the Trade Union Bill are recent examples. On such worthy causes, "big guns" are shifted all around to educate the country. Monster demonstrations are arranged, mass meetings are held, and open parades are organized. At the same time, all the party newspapers, such as the London Times, the Daily Mail, the Daily News, and the Daily Herald are dramatically covered with heavy headlines and crowded with long editorials on these partly invented and partly exaggerated political issues. Analyzed carefully, all these activities are inspired, animated, stimulated, guided, and directed by nothing else but the hope of a future triumphant return from the poll.

While the central headquarters are occupied with these nationwide political movements, their local parties are working busily in parallel lines toward the same goal. This local propaganda is carried on in a smaller scale but in no respect with less enthusiasm. They have their regular weekly lectures, Saturday talks, and evening discussions. These meetings, in order to be attractive, are quite often opened with music and closed with dancing. Sometimes, the speaker is a native leader; sometimes a London visitor. But in all cases the "Prospective candidate" is there, either acting as the presiding officer or as an assistant speaker. Once in
a while a foreigner, perhaps an Indian, or a Japanese, or other Oriental, is invited to entertain the party with fairy tales of a foreign land, but this is meant only for a change to break the monotony of the much-exhausted discussion on the same old political topics. Even on such rare occasions the presiding officer or the candidate never fails to find means to link up the foreign tales with native politics and to drive home to the audience one or two points which will prepare the way for the coming election.

The other phase of the party educational program is the publications. On some worthy issues, millions of leaflets and pamphlets are poured out and circulated throughout the entire country. Handbills of all descriptions, sometimes decorated with colorful printing, and sometimes adorned with artistic cartoons, are continuously produced by the party printing office and unceasingly transported to different localities. They are as a whole incredible exaggerations and unscrupulous lies. Were it not that the great majority of them are thrown into waste paper baskets without ever being read, the poisonous effect upon the mass mind would be much greater and more regrettable.

If it can afford to do so, a local party will try to build up a local press. If they cannot put up a daily paper, then a weekly or a bi-weekly. It is always wise to take an offensive stand in slander and libel in party politics. Everybody will agree that a party paper regularly published, even with a small circulation, is a sharper weapon in destroying the credit of the opponent than handbills and circulars. The usefulness of a party press will be more noticeable when the formal campaign comes, of which we shall speak later on.

Supplementary to these meetings and publications are the party social functions. Converts are made, not so much by arguments and reasons, as by "coffee" and "wine." A well organized local party always maintains a number of clubs which serve as places of rendezvous and permeate political principles in a casual and at the same time cordial manner.

The origin of party clubs goes back to the very beginning of party history. It had its start in the seventeenth century and
platform. On concert programs or dance tickets "a few pertinent political truths, facts, and figures, etc. might be printed for members to digest." The motto for all club managers is: "No opportunity should be lost of spreading the light."

The clubs are also a sort of training school for election workers in the future. Under the auspices of these clubs, speakers' training classes, debating societies, and canvassing teams are organized. They keep a systematic file of members, indicating names, addresses, and most important of all, the kind of service a member is willing to render to the party when election time comes. These files are lists of a reserved army. When the writ is issued and the campaign opens, then an order of mobilization will be given to these reserved men. These, like well trained soldiers, will march to the front and be ready for war.
CHAPTER VI

ORGANIZING THE CAMPAIGN

The modern age is an age of organization. "In commerce," says J. S. Lloyd, "a successful organizer builds up a big business; in politics, he wins elections. Organizing capacity and organizing energy are essentials in one as in the other, although the objects to be attained are widely different." In fact, it sometimes requires greater skill and better tactics to organize an electoral campaign than a commercial undertaking. First of all, politics is of a far more intricate nature. To win over voters is not such an easy job as to win over customers. In commerce, it is a proposition of exchange; the business men exchange their goods for the money of their customers. In politics it is not so; the electors are asked to give their votes, but are supposed not to take or receive anything in reward. Second, in a commercial organization, the employer can command his employees more or less at will. The fact that the latter are paid workers implies a sense of obligation to obey the master. In an election organization, the majority of the workers are volunteer supporters. Because they render their services voluntarily, it is a question of personal feeling and personal friendship. It is therefore easier to maintain discipline and order in the first than in the second case. The task is rendered so much the harder in an election campaign when we realize that "every constituency has its own peculiarities and a method which would win success in one would achieve nothing but failure in the other. But in every district and in all constituencies some touch of diplomacy is essential."

It is very important at the outset to distinguish between party organization and election organization. In reality the two may be

2 Ibid.
practically identical, but in the eyes of law, they must be made at least seemingly separate organizations. According to law no payment can be made and publication matters can be distributed for an electoral campaign through any other agency except the candidate himself or the election agent he appoints. Thus to avoid unnecessary legal complication, all parties suspend temporarily their party organizations and establish nominally an independent and separate machinery to run an election. Whether such a transformation, which is to all intents and purposes a matter of formality, has its real necessity, does not concern us here. It will suffice to recognize that there is such a transformation. And such a recognition will help us to understand the election organization better.

As a modern electoral war is short and sharp, the result depends on the efficiency of the confronting armies. In an election campaign, as in a military battle, when the opposing forces are equal in all other things, the final victory depends upon "staff works." The success or failure of the "staff work" is in turn dependent upon the one who is the commander-in-chief. The commander-in-chief in an election campaign is of course the election agent.

The election agent, in the present statutory meaning of the term, is created by the Corrupt and Illegal Practices Prevention Act of 1883. Prior to that date, the term was generally applied to the person who managed the business of election contests, and who might or might not include in his functions those of the officers (one or more in number) who were known as the expenses agents. The Act of 1883 made it definite that there can be but one election agent and on him rests all the duties which were formerly carried out by several persons of the same name. This person can be the candidate himself or his appointee.

Upon this agent depends greatly the result of the election and also the political future of the candidate. Any mistake in selecting the right personality may mean disastrous consequences. "It is therefore of paramount necessity that the person selected as an

3 Parker, Election and Returning Officer, p. 2-3.
election agent should be a person of position and responsibility of business habits, ... and of sufficient strength and force of character."

In organizing the staff and directing the campaign, the agent must have the keen sense to inquire into the integrity, liability, and suitability of his subordinate workers. He must be, as some have put it, "a respectful gentleman," so that he will be duly obeyed; yet he must be a "jolly good feller" so that he will have the greatest amount of cooperation from his army. As we have pointed out already, the majority of election workers are voluntary supporters; as such, unless they are properly induced, inspired, and treated, they are free to quit the job at will. Party enthusiasm may be transformed by the bad management of an agent into a sort of political apathy. An apathetical attitude among the rank and file not only defeats the candidate, but hurts the party as well.

The agent must be a man who can cooperate with the candidate. "Petty interference on one side or neglect of duty on the other can only be followed by the most serious results, for throughout the period of the contest the two are thrown into an extraordinary position of mutual responsibility and authority." On one hand, the appointee should have the full confidence of the employer and on the other, he should understand the psychology and spirit of the latter. In addition, when a campaign opens, the candidate himself in some respects becomes a mere puppet whose mock drama can be a success only when the agent knows how to pull wires. If the candidate is a poor speaker, a wise agent will keep the candidate away from the platform and send him to canvassing. If the candidate is to receive deputations, it is the agent's duty "to brief him well so that he is not caught unaware." "Relieve him of all unnecessary worries. Give him a cheery assurance if he is anxious that some particular thing should be done and see that it is done. Don't let the other people bother him. He must always appear in a good spirit. You cannot afford to have a harrassed candidate."

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4 6 O'M and H., p. 163.
5 H. J. Houston, Modern Electioneering Practises, pp. 57-64.
6 ibid.
Such is the advice given by writers to election agents and such should be the relation between candidate and agent.

As the commander-in-chief of the organization, the agent is responsible for the campaign plan. Examining the battle ground, organizing the committee rooms, preparing the working time schedule, sending in the nominations, checking and controlling the election expenditures, etc. are all at the discretion and direction of the head of the army. On what issues should the party direct an attack, and on what a defense? From what ward can the party withdraw some of its forces, and in what ward is there need of a reinforcement? For all these matters the agent is responsible. The candidate is only a soldier whose duty is to obey and to fight.

The agent has to deal with the thousands of voters. Although his important position prevents him from personal canvassing, his contact with the electors is nevertheless very close. Therefore it is said that a pleasant manner, not essentially what is generally called free and easy, but one perfectly free from any tinge of consideration, helps the agent to go a long way. In the old time he was expected to accompany the candidate wherever the latter went. Today he is not able to devote his whole time to playing such a “bodyguard” role; an agent, if he knows his business well on many occasions must make a tour, together with the candidate, around many meeting places and committee rooms. In such tours the agent’s capacity for remembering faces and names will win much favor for his cause. A handshake with a barrister or a solicitor sometimes means an unexpected honor for an ordinary villager; therefore by casual greeting and chats an agent may gain additional votes for his candidate. As the number of those who have to be dealt with has been increased enormously, an understanding of the rudiments of mass psychology is indispensable for a successful agent. Victory in an election contest goes invariably to those who are most skilled in the art of appealing to the emotions and the intelligence of average men and women. With knowledge of this art as his guidance, he approves or disapproves matter for publication, assigns speakers, and dispatches canvassers. In one
word, the whole campaign is a game founded on human psychology, and one who does not appreciate this is ill-qualified to be an election agent.

Without a sound knowledge of law, an agent may win the poll, but not the seat for his candidate. Worse than that, he may kill his candidate’s chance to run again for a seat in Parliament and his own privilege to be such an agent for a number of years. There are thousands of small legal points for an agent to remember, if he wishes to avoid corrupt and illegal practices.

To sum it up, the existence of such an agent means “that the affairs of the election shall be carried on in the light of the day; that there shall be a responsible man, responsible to the candidate and to the public, who shall do all that is necessary; who shall be the whole legitimate paymaster; who shall be effectively responsible for all the acts done in procuring the election; who can be dealt with afterwards; and who can be looked to afterwards for an explanation of his conduct in the management of the election.”

The law provides that certain persons cannot be appointed as agents. A candidate cannot appoint a person, whether paid or unpaid, whom he knows to have been found guilty of corrupt and illegal practices at a parliamentary election. Furthermore, a candidate cannot appoint the returning officer, or any deputy returning officer or any partner or clerk of either of the above said officers, as an election agent; if the candidate violates such a prohibition, he commits a misdemeanour and consequently is punishable by law. Nor can a candidate appoint as his agent anyone who is at the same time an officer appointed by the returning officer or deputy returning officer under the Ballot Act of 1872. A violation of this law means the voidance of the election and the party is under a legal penalty.

The time when an agent should be appointed is again provided by law. The agent must be appointed “on or before the day of

7 4 O’M and H., Election Petitions, p. 82.
8 Vict., c. 125, s. 44.
nomination although it is not necessary at or before the time of nomination." As we have noted that the agent is legally responsible for every phase of the election, including the appointment of subordinate workers and the payment of all election expenses, it is expedient that such an agent be appointed a few days before the nomination. When an election is imminent and a campaign is certain, such an agent is named at once.

Regarding the appointment, the law does not require that it should be made by the candidate himself. So far as the legal provision is concerned, it may be made "by or on behalf of the candidate." Thus a man who is absent from the constituency at the time of an election may contest the election and appoint an agent on his behalf either through his proposer or seconder. The appointment, furthermore, may be verbal because "the law requires only that an appointment be made, not made in any particular manner." The agreement between a candidate and an agent, again, may take various forms. If it is a matter between two friends, the agreement may be entirely on a basis of personal and friendly relations; otherwise the agreement may take the form of a business contract and the relation is that of employer and employee.

The remuneration of such an agent is varied. By the Act of 1918, it is provided that a fee not exceeding £75, in the case of a county election, and £50 in the case of a borough election may be paid to the agent in addition to that "which may have been agreed upon." The real meaning of the clause "which may have been agreed upon" no law has defined and no lawyer has tried to define. The statute only provides that whatever such "agreed upon" remuneration may be, if paid, it must be included in the election expenses authorized. All these provisions do not in the least sense handicap the negotiations between a candidate and an agent, for if the maximum expenditure limit is hard to keep, remuneration for an agent on a basis of mutual and secret understanding

10 Corrupt and Illegal Practices Act, 1883, s. 24.
11 7-8 G. 5, c. 64, s. 33, and schedule IV.
can always be easily reached. The law is not violated in letter; the term thus reached may be much more acceptable to both the candidate and the agent. The situation is further relieved by the legal decision that "a bona fide gift to an election agent, or other assistance in the election, if prompted by friendship and gratitude, and especially if given in kind and not in money is, it seems, unobjectionable, and not an infringement either of the spirit or of the letter of the law." Thus great as the responsibility of an agent may be, there is always enough attraction for a man to accept the position.

Generally speaking, there are two kinds of election workers,—the paid employees, and the volunteer workers. In our present study we shall take up the paid group first.

Immediately below the chief agent there may be a sub-agent. Such an officer will be appointed only in the case where the constituency is large in area and where the voters are widely scattered. The duties and qualifications of such a sub-agent are generally the same as those of the chief agent, except that the former acts as a sort of regimental commander.

Then there come a great number of clerks and messengers whose appointments are authorized by law. In a county election, one clerk and one messenger may be employed for payment for the central committee room, or if the number of electors in the county exceeds five thousand, then one clerk and one messenger may be also employed for every complete five thousand electors, and if there is a number of electors over and above any complete five thousand or five thousands, then one clerk and one messenger may be employed for such number. For each polling district of a county there may be employed for payment one clerk and one messenger. An additional clerk and messenger may be employed for every additional five hundred voters in such a district. The number of paid clerks and messengers that can be employed in a

12 Parker, p. 22.
13 7-8 G. 5, c. 64, s. 33.
borough is the same as if the borough were a polling district in a county.\textsuperscript{14}

Regarding the qualifications for such employees, the law forbids the returning officer and officers appointed by the same to be thus employed. In addition, men who have been found guilty of corrupt and illegal practices are disqualified. Besides legal considerations there are other factors that should be taken into account in enlisting such paid workers in a campaign. In interviewing an election agent, the present writer was informed that the chance of engaging the working staff should also be utilized "in a way helpful to the campaign." It was further pointed out that the secretary of the local ex-service men’s organization usually has on his list a number of useful men in need of employment. "This" according to the interviewed agent, "not only fulfills a national duty, but creates a good impression. It also assists the canvassers later on in their work when they come to get the promise of the votes of the ex-service men." This is only one of the many illustrations of how the paid working staff is selected.

Besides the clerks and messengers, a number of polling agents and counting agents may be employed by a candidate. The first is an officer constituted by the Registration Act of 1843 whose principal function is "to detect personation in the polling station."\textsuperscript{15} Today he is a man employed to stay at the station to observe and watch all corrupt and illegal practices that may take place during a voter’s polling. Formerly such an officer was appointed by the candidate himself. He can still be thus appointed if his service is given gratuitously. If he works for remuneration his appointment must be made now-a-days by the agent. Counting agents here should not be confused with the clerks employed by the returning officer to count the ballots. The duty of counting agent is to act as an observer at the counting to see that the ballots for his candidate are properly counted and recorded. Both these officers are under no special liability and are entitled to vote.

\textsuperscript{14} ibid.

\textsuperscript{15} 6-7 Vict., c. 18, s. 85.
As they are admitted to places where secrecy of proceedings is guaranteed by law, they are required to take an oath of secrecy before their admittance is granted. Unlike the clerks and the messengers, the number of such agents is not limited. But indirectly such appointments are limited by the limitation of election expenditures. If the agent wants to keep his finances within the bounds of the legal provision, he has to keep down the number of such appointees as far as possible.

The number of such employed workers, if compared with that of the volunteers, is exceedingly small. In fact, if not for the big force of the volunteer army, a large part of the excitement of a modern campaign would be gone.

The rank of the unpaid workers may vary from the agent, the commander-in-chief, down to the idle classes, including gossiping ladies, street wanderers, school children whose business is to hang around committee rooms, to run after candidate’s motor cars, and to shout and cheer in public squares and bar-corners. The service of these volunteer workers can by no means be underestimated. Several phases of the campaign work are entirely dependent upon such volunteers. In the first place, there are the campaign speakers whose important and indispensable role in a modern election campaign will be described later. Indoor meetings, outdoor meetings, small gatherings, large demonstrations, torchlight processions, polling eve rallies,—on all these occasions orators are needed to “get a crowd,” to “raise the curtain,” to “pep” and warm up the audience, and finally to “raise enthusiasm,” among the innocent, sentimental, and impressionable voters. No matter whether these speakers are party bosses, or “back benchers,” or local wire-pullers, or students of the “party speakers’” class, they are in the majority of cases unpaid workers.

Next comes the big army of canvassers. As the law provides that none can employ a worker to canvass in an election campaign, this line of work has to be done, at least nominally, by the recruiting of voluntary workers. Considering the number of the electors in a constituency that must be separately and individually approached and that the work in many cases has to be repeated
more than once, one can get some idea as to how big the canvassing army for each candidate must be. According to law, however, they are not to be paid in money or in any other kind of reward, nor to be provided with refreshment.

The campaign, in addition, needs workers to address envelopes, to distribute handbills, to post placards, and to do a hundred and one odd jobs. It needs a number of "checkers," a number of drivers for motor-cars, a number of "whips" to "knock up the voters." Just counting these last mentioned, the number would be over one hundred for each side.

In a modern election campaign, the agent uses every person who can render any voluntary service. Even the poor children who were once regarded as "unmitigated and voteless nuisances" and as "idlers in committee rooms to obstruct the smooth working of the campaign," are enlisted now-a-days into what is named the "light infantry" of the campaign. "Many youngsters," wrote Houston, "are also eager to act as unpaid missionaries for the cause. They will distribute leaflets, take home window cards and induce their parents to exhibit them, and help in other little ways if only, instead of being driven from the committee room door, they are welcomed as friends." On polling day, the part played by children is specially important. By shouting outside the committee rooms, cheering at the different polling stations, and parading in front or behind the candidate's motor car, they help to destroy the apathy of a party and create a deceptive atmosphere that is altogether desirable on the polling day.

How are these workers recruited? This is a problem that a party has to solve long before the election actually starts. A well organized local party always has a file of workers with names, addresses, and work-pledges on record and this file is somewhat like the army list of some of the nations with compulsory service. When a war is imminent, the government just takes out the list and gives an order to these trained men "to stand by." That is exactly what a party does at an election time. Each party at the

16 H. J. Houston, Modern Electioneering Practice, Ch. XI, pp. 181-182.
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ordinary time has, as we have seen, a number of subordinate organizations, the women's clubs, the youth leagues, the sport teams, the speaking classes, the discussion groups, and so on and so forth; and all these are political training camps veiled under a social or athletic name. As soon as the writ is issued and the campaign commences, these veiled organizations are immediately transformed into canvassing teams, messenger regiments, speaking patrols, etc. Were it not for this purpose of training and preparing workers, there would be no justification for the existence of party organizations in ordinary times.

If it is a bye-election, the question of recruiting is much easier to solve. The local parties are always reinforced by imported forces from the neighboring constituencies under the same party color. Party workers from neighboring towns and villages usually organize themselves and march in procession to the war area to support their respective party candidates. They arrange open air mass meetings, then organize sympathetic demonstrations, and finally enlist themselves into the working staff.

To these local rallies is added reinforcement from the central headquarters in London. The agent may be an experienced organizer of the central party who has come down to direct the operation of the war. A list of M.P.'s is always at the disposal of the local organization for the reference of the speaking department. If the chance of winning the seat is not absolutely hopeless, it is no hardship to send the party leader down to address a park or theatre meeting. Indeed, whenever there is an election war, one can always for some reason or other find enough helping hands to keep up the fight.

In this connection, an analysis of the different motives of these voluntary workers will reveal some interesting points and help to understand this never-failing enthusiasm in election competitions. It is obvious when the big leaders come to support a candidate that they do not render their service gratis. They simply help a future back bencher who will, if elected, pay back to him the tribute in Parliament. As for the so-called "prospective candidates" who lead the invading forces to help their neighboring
friends, they know that it only means an exchange of services or an investment for the future. Then the experience in such a campaign is itself an invaluable training. As for the motives of these local wire-pullers and party organizers, they know that if their own party has a member in Parliament, the party machinery will be better taken care of and the needy ones will be better looked after. Once a candidate is sent to Parliament, it is the sitting member’s business to look after the constituency and not the party’s business.

It is also beyond doubt that a member in Parliament has a considerable amount of influence over local politics. As a country becomes more democratic the number of public offices increases proportionately. Under such circumstances, local party influence in local politics is so much the stronger. Who has a better chance to get into these offices than those who have the party candidate in Parliament to pull the wires for them?

In most of the cases a candidate for a seat of the Westminster Palace is comparatively wealthy. Otherwise he will decline the offer himself or be rejected on the recommendation of the party assembly. Such being the case, attractions for voluntary workers in his campaign are so much greater. For instance, if the candidate is a factory owner, then to approach him for an employment by offering a free service in the election campaign is better than by begging at the office of the secretary of the employment bureau. If a church wants a new clock for the tower, and the billiard club a new table for the billiard room, the members go and help a candidate in his election first. As soon as the candidate is elected, he can be soaked at the will of those who have made him a national figure. Laws can prevent corrupt and illegal practices, but they can do nothing to stop contributions and donations under the cloak of charitable and philanthropic help. After all, politics is not so rigid that it can be fixed by hard and fast rules and regulations. When men deal with men, means can always be found to evade the law either to do good or evil. In most cases such evasions of laws is a mutual cooperation between the benefactor and the beneficiary. Sometimes the former is forced to
keep up the tradition and to "let his pocket have a free flow," lest he find everywhere an insurmountable apathy and his election campaign be defeated by the failure of recruitment of workers, not by the failure of a poll.

Thus far we have spoken of the campaign workers, both of the paid and unpaid classes. Now let us turn to the machinery that is organized to run the election. First of all there is the central committee room which is the central headquarters of the whole fighting army. Therein, one can find the office of the candidate, of the agent, and of the different departments of the whole election organization. For strategical reasons, the location of this central committee room is, if it is in a borough constituency, in the busy center of the town, and in a county it is in a central village. If possible a location near the terminus of communication lines is preferable. At the same time, prohibited premises, such as public houses, must be avoided.

A modern election organization consists of departments for all of the following activities, at least: (1) meetings, (2) press and publicity, (3) canvassing and removals, (4) women electors, (5) transportation, (6) special voters, (7) packers and storekeeper, (8) finance. Of course the arrangement varies according to different circumstances, but the main lines of activities are thus divided. As the work of each of the above departments deserves detailed treatment we shall speak of them separately as we proceed.

The organization has a number of sub-committee rooms in different election wards or polling districts. Regarding the location of such rooms, the Corrupt and Illegal Practises Prevention Act of 1883 provided that it cannot be in premises "licensed for the sale, whole or retail, of intoxicating liquors, nor in any premises where any intoxicating liquor is sold or supplied to members of a club, society, or association, other than a permanent political club, nor in any premises where refreshments, that is food or drink, are sold for consumption on the premises; nor in the premises of any public elementary school." The number of such committee

17 H. J. Houston, Modern Electioneering, Ch. XIV, pp. 65-164.
rooms that can be had in each district is also restricted by law. In a county, there may be hired for payment one committee room for each polling district; where the polling district has more than five hundred electors, one additional committee room for every additional five hundred electors. In a borough constituency the provision is about the same except that where the number of electors exceeds five hundred, one additional committee room for every five hundred electors or part of five hundred. As regards the working staff in such committee rooms, so far as the paid employees are concerned, they are again limited; as for volunteers, each room can have as many as the party can get.

The external decoration of these committee rooms deserves a passing word. Either on the door or on the window, there is usually a sign "committee room of Mr. so and so." A number of big posters, particularly the ones displaying the candidate's portrait, are either shown on the window glass or hung up on the wall. Side by side with these portraits, there are party banners and political advertisements of all sorts. Some big boards, with slogans written either on colored paper or with varied colored ink, are displayed and even hundreds of yards away from the place one can read on such words as "Vote for John, vote for more work," or "We want Brown to go to Parliament," or "Smith is a true friend of workers." Sometimes a committee room advertises that to vote for so and so means to vote for "cheap bread, cheap butter, and cheap sugar." To a stranger, such a sight looks indeed like a grocery advertising a bargain sale.

With the exception of the central committee room, the local offices are ordinarily very quiet. The regular routine is to receive orders from the central headquarters and to carry them out. Every evening the clerk makes a report to the head office, of the progress of the work of the day in the district. Thus duties go on till the polling day, when all committee rooms present a quite different appearance. Every one of them will be the busiest and the most noisy spot in the district. A detailed description of these rooms will be given in the following chapter.

18 46-47 Vict., c. 51, Schedule I, Part II.
19 ibid.
CHAPTER VII

THE SPEAKING AND PUBLICITY CAMPAIGN

The use of speaking and publicity in campaign propaganda is by no means a modern idea; but new modes in the application of these methods have been continually devised to meet the changing situation.

In a modern campaign public speaking and public meetings are scientifically and systematically organized affairs. There is usually one separate department in the election organization to take charge of them; and it is not infrequent that this department is again divided into a number of sub-committees such as Committee of Indoor Meetings, Committee of Outdoor meetings, and Committee of Women’s meetings. The campaign plan is a carefully prepared one, consisting of the mapping out of the constituency into meeting areas, the renting and hiring of meeting premises, the arranging of time schedules, the inviting of presiding officers, the engaging of speakers, etc. So far as the public is aware the campaign opens with a mass meeting in which a candidate is officially adopted by the party to contest for the constituency. This, in fact, is the first shot of the war. Once fire is opened, troops of different political affiliations rush into action. For the subsequent weeks, until the last moment of the poll, the constituency is inundated with orations and eloquence. If it is a bye-election where parties can concentrate their forces in a single duel or a three-cornered fight, the situation of the constituency will be so much the worse. In such a case, the locality is “literally invaded by bodies of combatants containing a motley crew of members of parliament, prospective candidates of other districts, secretaries and agents of neighboring and distant associations, professional lecturers, lady politicians, amateurs of every description.”

The most important of these stumpings affairs is the evening meeting. Every evening there are meetings simultaneously held at different parts of the constituency. They take place in either ward or district schools. If it is impossible to have a meeting in a locality every night, a system of rotation is adopted. There is the ‘‘first visit,’’ then the ‘‘second call.’’ As the polling time draws near, all parties will arrange a last meeting in each district to enable their candidates to have a ‘‘final word’’ with the electors. In these meetings, as a usual practice, distinguished speakers are rare, because all the ‘‘big-guns’’ are reserved for important mass demonstrations. The candidate, however, is expected to be present at every one of them. It is not so important that his opinion should be heard as that his face be seen everywhere so that he will be well known. In order to fulfill this purpose a motor car is arranged to take him around from one place to the other. The program is so managed that he will be able to speak in one ward at the opening, in another ward as the second speaker, etc.

As a whole these meetings are well attended at the first part of the campaign. Gradually the number declines. It is not altogether uncommon for a meeting with four or five speakers to have only ten or fifteen auditors, including a few boys in their teens who are there for no other reason than to accompany their parents. This gradual decline of attendance is due not merely to the lack of political interest on the part of the electors. It should be noticed that every night there are meetings going on simultaneously in the same ward under the auspices of different parties. As the number of voters in a ward is limited and as every one of them feels it a duty to support his own candidate, even though a great majority of the electors turn out to attend meetings every night, they do not make a ‘‘full house’’ at any meeting. At the same time, when the campaign drags on, these gatherings become simply repetitions, opened and concluded in the same old manner, presided over and conducted in the same old way, addressed by the same familiar candidate who smiles the same old smile and tells the same old tale. This sort of affair, even if it is a masterpiece of musical comedy, would be tedious if one were obliged to attend it every night.
Eloquence is as lavish at outdoor meetings as indoors. If weather permits one can find in parks, in squares, at street-crossings, in barn-yards, and at church corners, open-air meetings for election propaganda. These meetings are quite informal, therefore they are simple in organization. Two or three speakers drive in a lorry or a motor car decorated with posters, banners, and party colors. When they arrive at their assigned destination, one of them, usually a man with a big vocal capacity, will stand up on the car and shout to all passers-by. Technically, the man is "warming up" the meeting or is "getting a crowd." When the gathering increases to a considerable size, then an orator who is either a member of the speakers' class of the party or a leather-lunged M.P. will address the audience.

The method of getting a crowd is sometimes ingenious. Once it was the lot of the writer to go with two speakers to an open-air meeting. When we got to our destination we found that another meeting of an opposite party was going on quite successfully in the same spot. Despite this fact, we parked our car and opened the meeting accordingly. For the first ten minutes our meeting went on quietly and peacefully, but with a lamentably small audience. It seemed that we would be forced to acknowledge our defeat and to drive to a different place. Suddenly our driver said to the writer that he was going to "get a crowd" for the meeting. He stood in the front of the car and mixed up with the small crowd, pretending to listen to the speech. Occasionally he put one or two questions to the speaker, then argued with the latter. In the middle of a hot debate, he pointed his finger and shouted to the platform, "You reds, you liars!" The speaker, with full understanding of what was going on, replied in angry tones, "Liar? Tories are liars." The two called each other all sorts of names. They shouted to each other in bad language. At last, they came to open blows.

The fighting on this side of the street arrested the attention of the audience of the other meeting. In a sudden rush all the people forsook the Tory meeting and came across to watch the boxing match. When this newly gathered audience had acquired a con-
siderable size, one of the fighters gave up the ring and slipped out from the crowd and went away. The speaker mounted to the platform and in triumph continued his oration. He kept politics aside for the moment and regaled the audience with one or two anecdotes to amuse them. When the crowd was quieted down he poured forth once again his torrent of words of politics, clashed with the views of the opposite party right and left, and launched a summary attack on the opposing candidate whose meeting was still going on across the street. Finally he induced the audience to carry a vote of confidence and to shout three loud cheers for his own party. Meanwhile the writer looked back to the meeting on the other side, which had become very small and was badly beaten by the tactics of our driver. Examples of a similar nature may be cited. In a word, such outdoor meetings are more than ever the main preoccupation of a modern campaign; each party, aided by the experience of the local organizers and imported campaign experts, succeeds in organizing “most enthusiastic open air meetings” and in playing such tricks upon the other.

If parties engaged in the contest are not so antagonistic to each other and the campaign is not altogether a close fight, arrangements to avoid unpleasant and unnecessary conflicts are frequently made. In such cases, parties will visit the public places alternately and affairs will be less exciting and entertaining. An outside observer will certainly prefer to watch the railings and howlings in such open air encounters, especially when the candidates come to assail each other. A report of a personal encounter of two candidates at a recent bye-election furnishes an example. The scene is described thus:*

“Mr. P. was addressing an audience of men and women workers outside a factory. Then Mr. M., his opponent, drove up in a car and stopped ten yards away. After ten minutes scouting, Mr. M. ordered the driver to take the car to the other side of the conservative platform, ‘so that,’ as he said, ‘the wind will carry our voice and drown people out.’

*Daily Mail, Dec. 18, 1927.
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As soon as Mr. M. arrived at the place, he began to attempt to shout down his opponent. In a moment the street was in an uproar.

During a momentary lull in the tumult, Mr. M. was heard to say, 'You are abusing me.'

'One cannot abuse a worm,' thundered Mr. P.

The chauffeur of Mr. M's ear dashed into the enemy's camp and in an angry voice denounced Mr. P. The chauffeur was confronted by the Conservative candidate's nephew—with their noses less than a foot apart. They shouted highly uncomplimentary epithets into each other's faces.

At last, physically beaten, Mr. M. gave up the struggle and took a seat in his motor car.

'See,' exclaimed Mr. P., 'he has not enough lung power to carry on his attack.'

Mr. M. vaulted out of his motor car and went across to the opposition platform. He made to mount the running board of Mr. P's car. 'No, you don't,' said Mr. P., 'Keep off other people's property.'

Mr. M. returned to his car. The row broke out again and it lasted for twenty minutes, when it was ended by the drivers of a fleet of motor drivers.'

Now let us turn our attention from skirmishes to some large election demonstrations which are organized with the aim of proving that a candidate has the "overwhelming and unanimous support of the constituency." These meetings may take place in the middle or at the end of the campaign. They may be staged in the town hall, or at a big theatre, or in a public park. Even the choosing of the place requires technical discretion. "For strategical reasons," wrote one electioneer, "one must never run the risk of having a large hall only half filled. It depresses the speakers who are never at their best under such conditions. It depresses also the audience. Even a small one, if it is filled, creates the impression that more would have attended if they could have
got in, and those present are in consequence conscious of being privileged.’’

As the chief purpose of these meetings is to produce evidence of ‘‘enthusiasm,’’ the keynote of managing them is to make them as attractive as possible. Consequently all the ‘‘big-guns’’ are reserved for such occasions. Advertisements are published at the very beginning of the campaign. Handbills of such coming spectacular events are distributed from house to house. Posters with the candidate’s name printed even more conspicuously than that of the party leader or of the prime Minister are to be found everywhere. At the same time, tickets for admission to such meetings are issued, on one hand to create the impression that unless admission is by ticket the room will be too small to hold the crowd, and on the other to insure the attendance of the ticket-holders at least. It is needless to point out that the latter is nearer to the truth. In issuing tickets, it is usually arranged that the front rows of the hall will be occupied by ardent supporters. Thus when the interrupters and rowdies of the opposite camp arrive, they find that they can crowd only in the back corners or that the door is already closed on them. While the meeting is in progress, everything is orderly and peaceful, except for the roars of applause and approval, inspired by the candidate.

The platform of such a demonstration is usually packed with local and national ‘‘celebrities.’’ Some of them look very dignified; some very gay. All of them are decorated either with ribbons or rosettes. The platform itself is adorned with banners, flags, cartoons, and posters of every description. Behind the speaker’s table, sit the chairman, the speakers, and the candidate, all calm and confident. The setting, the people, and the general atmosphere of the whole platform, all produce a queer psychological effect and pave the way for the success of the gathering.

While people are pouring in, a chorus of a familiar tune with newly composed verses to fit the occasion breaks out. The music is in most of the cases taken from such popular songs as ‘‘Pack Up Your Troubles,’’ ‘‘Horsey, Keep Your Tail Up,’’ and ‘‘When

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3 H. J. Houston, Modern Electioneering, Ch. VIII, p. 94.
Johnny comes marching home,' etc. The wording is either "Smith goes to Parliament," or "John will get in." Quoted below are two songs, one from the Labour party and one from the Conservative, that were sung in a recent bye-election:

I. A song of the Labour Party

"John goes to Parliament; Hurrah! Hurrah!
"John goes to Parliament; Hurrah! Hurrah!
"For the life's too cheap, and bread's too dear,
"We'll only vote for Labour here;
"And we'll all sing gay
"When Labour wins the day."

II. A song of the Conservative Party

"Come, wake up, my lad, rouse up for the cause,
"We stand for our country, our homes, our laws;
"Our motto is: 'Freedom, peace, honour, and right,'
"We are all Britain's sons and for Britain we fight."

This musical part of the program is altogether necessary, because music, as many experienced organizers point out, has an intoxicating and hypnotizing power which if rightly managed will be the most effective way of producing what is known as "mob spirit" and of plunging the more sentimental and more impressionable voters into a stage of quasi-unconsciousness. After all these preliminary preparations the meeting comes to order. The first part of the program is presented by two or three secondary speakers, secondary in the sense of political prominence. Their responsibility is to warm up the meeting and clear the ground for the "big-gun." They give, in a technical term, the curtain-raising speeches." When the stage is in every sense well set, the chief speaker of the day rises. He is at least a prominent M. P. and in most of the cases the party leader in London. His appearance at such a psychological moment naturally receives warmest greetings from the already "warmed up" audience. Immediately the whole audience stands up and somebody who has been instructed beforehand will lead the chorus in singing: "He Is A Jolly Good Fellow." This music will never stop till the chair has exhausted himself in calling the meeting to order. Then the "big-gun" opens his fire
and continues the bombardment for half an hour. His effort is
to strengthen the already favorably disposed sentiment, and to
provoke a greater thirst for victory. His speech is constantly inter-
rupted with loud and spontaneous applause. Every gesture the
speaker makes is responded to by the audience. Some nod their
heads, some clap their hands, some beat the floor and strike the
seats. The most common of all is the crying of “‘hear, hear’” which
is the typical and characteristic English way of behaving when one
is hypnotized by eloquence.

Exciting as the meeting may be, yet thus far it is only a pre-
lude to introduce a still more important hero for whose sake the
play is staged. Without the appearance of the candidate in the
scene, the whole gathering will be utterly meaningless. Last and
not least comes the candidate to perform his part. He may have
been staying on the platform during the first part of the meeting
or he may for psychological reasons have hidden himself away till
the right moment when he will be hailed with cheering and howl-
ing. His name, most likely his Christian name in a popular ab-
 abbreviated form, will be echoed and reechoed in every corner of
the room, just as a Rugby hero is cheered when he scores a goal.
The noise makes the building tremble and one can hear nothing
but passionate outeries. Handbills, programs, hats, handkerchiefs,
and all kinds of papers are thrown in the air by the mad audience,
and the whole crowd is under a heavy shower of light, small
articles. The song, “‘He Is A Jolly Good Fellow,’” is started with
greater enthusiasm and endless repetition. The madness lasts at
least five or ten minutes. Indeed it is a demonstration in the real
sense of the word.

All this time the candidate is standing on the platform, calm
and smiling. He is waiting for the chance to deliver his well
prepared oration. As soon as the noise of the crowd begins
to quiet down, the candidate starts his masterpiece of eloquence.
He emphasizes the fact once again that his cause is a national
cause. He assures the audience that he is not fighting for personal
glory, but for party principles. He pledges his support to the
party leader and the party program. His election, according to
him, will have a direct and immediate effect on the welfare of the constituency in particular and that of the nation in general. He has not the slightest doubt, he will say with confidence, that his cause is the right one and being so will win as a matter of course. What he wants is not a majority only, but a decisive and smashing majority. Then, in a first tenor pitch, he will end his short address in a sincere and honest appeal, with the same high sounding expressions which are to be found in every piece of such campaign rhetoric.

In this connection, another point may be mentioned. If the wife of the candidate is a presentable speaker, chance is never missed for her to have a heart-to-heart talk with the women attendants in the meetings. Sometimes, her appearance contributes more to the success of such a demonstration than that of the candidate. In a recent bye-election, which was in many respects one of the most remarkable contests, the part of the candidate’s wife was regarded by many as an important contributing factor to that election’s successful demonstrations and wide publicity. Here is one of the many examples which show how a wife helped the candidate to win the election: 4

“Tonight Mr. M’s wife, Lady C. was the most conspicuous person at the meeting, attended by 15000 people in the Victoria Park. She sat in the front of an illuminated bandstand—a radiant figure wearing two coats heavy with fur.

While the candidate was speaking, a women handed his wife a six months old baby, wrapped in shawls. Lady C. sat down with it in her arms, as if crooning it to sleep, but the child’s lusty eries could be heard deep in the dense audience, and after ten minutes, Lady C. restored the baby to its mother.”

Such a happening as personally witnessed both by the present writer and the newspaper reporter could not be purely a matter of accident. It is a part of the program arranged to arrest the attention of the people, and is part of the publicity of the campaign. As we go on we shall speak more of the important part played by women and children in modern election campaigns.

Ever since 1918 the capturing of women's votes in modern elections is a paramount consideration in a campaign. To accomplish this aim, special women's meetings are organized to supplement other election demonstrations. As most of the mothers and wives have household duties at noon and in the evening, such women's meetings usually take place not earlier than 2:30 P.M. and end not later than 4:30 P.M. To make such undertakings seemingly voluntary and independent actions initiated and managed by women themselves, they are customarily presided over and addressed by lady leaders. But for psychological reasons again, the presence of a few male figures on a women's platform is in no respect less necessary than females on men's. "It is erroneous to suppose," says Houston, "that women prefer women speakers. The fact is that nobody interests women more than a man of warm, human emotions, who understands the lives of women, and can speak to them sympathetically on the interests of their homes and families." In addition, the best type of man to arrest greatest attention and strike deep into their hearts in such meetings is "one of good appearance and of good dress," especially will it be true when the "flapper-vote" bill is passed in the future.

In dealing with the women voters, high-sounding rhetoric gives place to domestic expressions. That women are more susceptible to flattery is practically an axiom and the understanding of it goes a long way toward the solution of the whole problem. Such appeals as "women hold the balance of power in election," "women purify national politics," and "the wife controls the vote of a husband" are very effective; and they are in general cordially received by the audience. Campaign speeches which may be elaborate and technical are otherwise reduced to rudimentary and elementary arguments. The important issues for such occasions for all parties alike are: (1) the problem of child education, (2) the problem of women's pensions, (3) the purchasing power of the pound. Among them, special emphasis is laid on the first. Each candidate claims that his is a "save the child" campaign and each

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5 H. J. Houston, Modern Electioneering Practice, p. 92.
has full confidence that there is not a single woman in the constituency who would not rally to his noble cause.

In such meetings, the prominent and important figure is the candidate’s wife. If she is an able personality and good speaker she usually has a telling effect. The candidate of course has to be present, but his role is secondary. He assists his wife in managing the meeting and tries, by taking a subordinate role in the meeting, to impress upon the public that he is a really nice gentleman, ever so courteous and polite to the lady. A quotation from the introductory part of a speech given by a candidate in a recent bye-election in a women’s meeting is a tactful and typical piece of modern campaign literature:  

“I have never faced so many ladies in my life. It is not fair that my wife has so many friends on her side. I am instructed to stop my speech at the end of fifteen minutes, because I am told that this is not the place for me to say too much. I, anyhow, have the first word, although the women will have the last—which is indeed nothing really new. . . .”

On the other hand, if the wife is still one of the old type, inexperienced and too shy to appear before the public, it is a drawback to the candidate in modern electioneering. It was the lot of the writer to visit an embarrassing scene in which a wife who meant to help the campaign failed miserably to perform her assigned part. It was in a women’s meeting where the candidate’s wife was scheduled to close the demonstration with a short speech. When all other items were finished and it came to her turn, the wife stood up, blushing and trembling. She stood in the front of the platform and did not know how to begin. She remained silent. She looked to the audience, to the chairman, and then to her husband. She whispered, murmured, and stammered; but none could hear anything from her. Then the chairman urged her to go on. The speaker remained silent. The longer she stayed there, the more embarrassed she felt. She was entirely overwhelmed by stage fright. At last she said, “I told my husband that I could not speak. He wanted me to speak. I cannot and I will not.” Then

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6 Smethwick Weekly, December 19, 1927.
she sat down. The meeting was adjourned. It is certainly a rare incident; nevertheless it shows how dramatic modern electioneering can be.

So much for the organization of these meetings. The success of a demonstration means an advantage to one party, therefore a disadvantage to the other, so that it is quite natural that rival parties should try to destroy or disturb the meetings of each other. Thus they have the time-honored tactics of heckling and rowdyism.

In every campaign meeting, there are always a few who belong to a different political organization and who come to attend the meeting not so much to listen as to embarrass and to ridicule the speaker. These hecklers are no less trained experts than the campaign speakers, only they are trained in different lines. The combination of the two types of workers always makes campaign meetings more humorous and more lively. Sometimes a good heckler can trap, leak, and pin-prick a speaker so successfully that he makes the latter appear nothing but a public fool. On the other hand, if the repartee is a really clever and witty one, the public never fails to appreciate it and to give it due credit. It was said that the Marquis of Caer Marthen, the Duke of Leeds, when a young man and fighting for a London seat, while he was addressing a big meeting the night before the poll, was interrupted by a heckler thus: "Does your mother know you are out?" "Yes, Sir," the speaker replied, "she does and she will know that I am tomorrow."

Stories of the same nature are quite common, only modern hecklers are not as witty as they are violent and rude. Modern heckling is an endless variety, but its chief aim is more to stop the speaker than to embarrass him. The writer witnessed many scenes where heckling and repartee were used, but most of them were dull and tedious encounters. They still resort to the method of questioning and arguing, the trouble with them being that either the one is too stupid or the other too nonsensical. Most of the fights had enough vigour, but they were frightfully lacking in humour. In most cases they were a waste of time.
There are still other worse methods of interfering with a meeting. In one case while a meeting was going on, two ladies of an opposing party, with their faces painted, dressed in fancy costumes, with posters and handbills in their hands, suddenly entered the room. They whispered at first, then sang, and then danced. They were asked to leave the meeting, but they refused on the ground that they had the privilege of attending an open and free political discussion. Their stay arrested the attention of the entire audience and turned the schoolroom where the meeting was held temporarily into a vaudeville theatre. The speaker was put into a hopeless condition and had no other choice but to give up the platform.

Sometimes an organized group of opponents may come to a meeting. They cheer, shout, howl, sing, and make noises of all sorts that immediately put the gathering into an uproar. Failing this, their last resort is violence. The following is an account given by a lady who was injured in a rowdy scene in a recent bye-election:

"I went to the meeting as a reserve speaker, and in the front row. It was a quiet meeting at first, then a gang of youths, whose ages ranged from 16 to 20 invaded the back of the hall, and caused some disturbances. I was leaving the meeting with the candidate and his wife, and when near the door became separated from them. I was pushed from behind and should have fallen but for the people in front of me. Then a young man hit me. The blow landed under the heart and I became unconscious. I have taken part in many election and know what rowdyism is, but this is the first time I have ever been subjected to physical violence."

It is, however, fair to point out that rowdyism of such a nature is after all rare. Many a time we read reports of this sort from newspapers. But they are quite often exaggerations or untruths calculated to destroy the reputation of rival candidates. Comparing modern election riots with fightings that took place half a century ago when the hustling was not abolished, one can but marvel at the improvement that has been made in this respect.

7 Daily Mail, Dec. 19, 1927.
Thus far we have spoken of organizing and disrupting election meetings. A few questions arise here. Do these meetings really contribute anything to the success of the poll? Are they really worth the trouble?

First of all, so far as campaign literature is concerned it really contributes little to the enlightenment of the electors. As we have pointed out already, most of the material is vague and abstract. Nominally each party is championing some principles on which are based its party platforms. These principles and platforms are supposed to have a certain degree of difference among different parties. By attending election meetings, one will find that all of them are either championing the same thing or nothing. Their similarity is real; their differences artificial and superficial. Each party makes a number of good promises; because they are good, they are practically the same. In the main, campaign is fought on the defense and attack of their artificial and superficial differences. On this point the tactics of all parties are alike, to blackmail and to misrepresent each other.

Thus in a recent campaign, one of the socialist speakers told the audience that "To do away with socialism means to do away with all the elementary schools; to do away with all law and order; to do away with all policemen. And therefore you have to carry a pistol with you all the time. All the privileges are privileges of socialism pure and simple." Therefore the socialist urged his electors to give their votes to socialism. On the other hand, one of the Unionist speakers in the same campaign interpreted socialism like this: "There are many interpretations of the socialist creed—one prominent advocate has for instance stated that 'the ten Commandments want tearing up'; while others mean a repudiation of God, duty, family and the fatherland." Then the speaker went on to say that the interests of their socialist leaders are in inverse proportion to the interests of their members. When the situation is prosperous, there is no need of socialism; when bad, socialism becomes prosperous. So the business of the socialist leaders is to keep the condition of the country bad in order that the leaders themselves can be prosperous. He finally warned the voters that
a vote for the socialist means a vote for a man whose business is “to keep the country in bad order.”

That is how parties attack each other on their principles. Now when they come to something that is a common desire of the electors, each of them will claim to be the right champion and one and all give the same good pledge. For instance, on the question of Trade Unionism, the Conservative claimed that the Conservative legalized Trade Unionism; Liberals, that they gave Trade Unionism real power; and Labour, that they alone are the true Trade Unionists and the true lineal descendants of the Movement. When they put up posters or advertisements, one candidate will post himself as “a worker for workers,” the other, “a true worker,” and the third, “a bona fide unionist.”

Such are the so-called party principles and platforms among which the voters make their choice.

Now we come to the question as to how much these meetings contribute to the success of the poll. In other words, how far can they influence the mind of the electors? There are always some electors whom the influence of meetings can never reach. For some reason or other, some refrain from attending and others, because of lack of time, cannot attend. Of this class some may not care for the vote at all. If they do vote, their decision either has been made up long ago by prejudice or will be made up in the polling house with no careful discretion. As a matter of fact the number who do not is far greater than that of those who do attend meetings.

Among the latter group we again find that “once belong to a party, always belong to the party” is a strongly dominating feeling. The Unionist would consider it his duty to support the Conservative meetings; the other party adherents support theirs. Very few will cross the boundary and give a fair hearing to the opponent’s view. Consequently the speaking and meetings have little chance to make converts. The “full house” meetings which seem overflowing with enthusiasm are only deceptions, because when we come to analyze the attendance we find the same faces appearing in the meetings again and again. “The campaign of meetings, etc.,” said Ostrogorski, “which precedes the voting no
doubt does plunge the population into a state of great excitement, but the emotions aroused are decidedly of a sporting character; it is not the consciousness of the public interests at stake which produces them with the vast majority, but the anxiety of the race-course." Since these meetings stimulate little serious thinking, evidently they make no converts. Therefore their contribution to the results of the poll is limited.

Side by side with these lip-services paid by parties during a campaign there stand the election publications. These two work in parallel lines, and are supplementary to each other. Like meetings, they are not only important electioneering methods, but daily and regular party activities. Constantly and continually all the parties have to maintain an unceasing barrage of spoken and printed words upon the voters till the moment of the official commencement of an election and then they will accelerate the speed and plunge themselves into large scale "political advertising."

The most important thing in campaign publication is the "election address." It is in most cases printed in the form of a double folder with the portrait of the candidate on the cover. In "Modern Electioneering Practice" Messrs. Houston and Valdar advise that "whether the candidate is well known in the division or a complete stranger to the electors, this portrait is essential to the campaign." According to these writers, "a great deal of care should be taken to make the portrait as effective as possible. If there is not a thoroughly reliable lithographic or photogravure printer in the division, the work should be sent to London. No third-rate work should be tolerated at the expense of the candidate's features—not to speak of his chances with the women voters." This advice has been carefully adhered to. Having looked over quite a few election addresses and compared the photographs with the respective candidates the writer was more than

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9 H. J. Houston, Modern Electioneering Practice, p. 108.
10 ibid, 109.
once impressed by the fact that these photographs have every
good quality but accuracy.

The cover is so arranged that it leaves spaces both above and
below the picture for lettering. At the top such words as “vote
for” are heavily printed. Down below is the title of the party
to which the candidate belongs.

Care is always taken in drafting the address. The propositions
must meet the approval of the party as well as suit the taste of
the voters. The best motto in such matters is always: “Don’t
commit yourself, don’t antagonize.” The address is usually brief
and chiefly consists of solemn rhetoric, familiar expressions, and
political slogans. It is lightened with catchy headline phrases of
the most attractive type. A comparative study of addresses cir-
culated by different candidates in one campaign revealed the fol-
lowing interesting facts. In a recent bye-election there were three
addresses issued by the three respective candidates. Under the
heading of “Industrial Policy,” one party stood for “peace in
industry;” another, “goodwill between classes;” and the third,
“no more war between employers and employees.” As regards
Trade Unionism, the Conservative said, “We want to free work-
ers’ organizations from being used as political institutions;” the
Liberals, “We stand solidly for the basic principles of trade
unionism,” and the Labour, “Hands Off Unionism.” In another
case the Conservative and Liberal candidates capitalized the edu-
cational issue. The one said that “I stand for no (capital ‘N’)
curtailment in the wise expenditure on education, realizing that
this is a form of social insurance and increased national efficiency;”
the other printed that “I am in favor of improving the efficiency
of our system of education in every way. The path from the ele-
mentary schools to the universities should be made as easy as
possible to all suitable characters.”

The situation is well summarized by a writer thus: “No subject,
not mentioned in either program, however much the people may
desire to raise it, can be effectively raised. No solution of any
problem except the prescribed solutions, however much the people
might prefer it, can ever be really discussed. Nothing is left to
the people but to choose the least of the two evils.''

When the election address is sent out, the next task is to prepare
the "second post" and the "third post." The second post is
technically known as the "final word" and with it the candidate
sends the "polling card" to the voters. Ever since the passage
of the Act of 1918, all candidates are allowed to have one free
postage and this privilege is generally made use of for the
second post. The "final word" may take either of two forms,—
it may be simply a repetition of what has been set forth in the
first address and it is put under such new titles as "Remember
the Issues," or "What John Stands For," etc., or it may be a
denial or a defense against an opponent's attacks and headlined
by "Beware the Election Lies," or "A Warning." Whatever the
phrasing may be, this address is certainly, compared with the
first, less dignified in language. It is composed of phrases and
clauses in every form of instruction, argument, attack, abuse,
slander, and libel which appeals in the main to passions, pre-
judices, ignorance, and all elements of weakness that can be found
in human nature.

Accompanying this "final word" there is the polling card which
purports to give instructions for voters to vote and in reality is
nothing less than a fraudulent device calculated to mislead them.
On the top of the card is the name and the registered number
of the voter. Then the name of the polling station at which the
particular voter is to vote is also printed. Then a small sample
ballot form is given below with names of all candidates on the
right and marking spaces on the left side. The sender's name is
printed at least five times larger than those of his rivals and
against this heavily printed name is a big cross indicating the
right way of marking a ballot. Fearing that the above suggestion is
still not clear enough they print such additional instructions as
"To vote for Mr. —, the — Party candidate, put a cross opposite
his name thus." At the bottom of the same card there are such

12 7-8 G. V., c. 64, s. 33.
remarks as: "When you have voted, please hand the card to Mr. —'s worker at the polling station door, or leave same at his committee room."

So much for the second post. The third post is what is known as the emergency post which may or may not be sent out. It is for instant use in the event of anything arising suddenly as the contest nears its close that makes it imperative for the candidate to send circulars to the electors once more. As libels and forgery are unfortunately still expedient electioneering methods, the third post has a great value for an eleventh hour attack or defense. Should such an emergency happily not arise, then the prepared envelopes may be used for some other purposes, for instance, an appeal to a certain section of the electors whose influence is so strong that it will decide the polling result, or an extra message to the women voters on the discussion of some domestic problem. Or it may be a letter from the candidate's wife, appealing for support to her husband. In a recent bye-election, as the polling date is near Christmas, the third post was used to send the Christmas greetings of one candidate's wife to voters. On the card was printed the following letter:

"What really matter to us are our children. I want every mother's child to have a chance for a decent life. If you vote for my husband, he will fight for that policy."

Then the message concluded with "A happy Christmas to you all." On the back of the card was a family picture of the candidate, including his two children standing between the father and mother.

If the third post is calculated for the purpose of blackmail, sometimes it works very successfully and the one who is unprepared to defend himself against such an eleventh hour lie may suffer an unexpected defeat. The following incident, narrated by Mr. Webster in his own book, furnishes a concrete example:13

"The chances are that I might have been returned at the election for this constituency—as I was a few months later, had not a rather sharp trick been played on me at the

13 R. G. Webster, Elections, Electors, and Elected, pp. 84-85.
end of the contest. It was as follows. Accompanied by the leading residents, who were my supporters, I paid a call on a particularly influential resident in the district, who at the interval promised me the support, and this fact was accordingly publicly announced both by myself and by my committee. After all polling cards were posted, at the end of the election my political opponent — whether under a misapprehension of the true facts or not, it is impossible to say—the day before the poll issued with his polling cards a statement that this was not the case, and that our statement were knowingly false, and though the elector in question did all in his power to set the matter right by writing to the press that he had stated to me that he was one of my supporters . . . . . it was too late to meet the eyes of a considerable number of electors, and it was not generally known as the original statement."

The above passage quoted here is not so much to illustrate a common electioneering trick as to prove the occasional importance of the third post.

Thus far we have described the mail-campaign. Another line of the work in the same department is the campaign of leaflets and pamphlets. "This I regard," wrote Mr. Houston, "as the really vital feature of the campaign. It is capable of reacting on far more electors than any other form of electioneering if effectively carried out, and it can be developed into a weapon far superior to personal canvassing, which the size of modern constituencies and electorates has rendered almost impracticable."

In view of this fact, the publication that really counts is the one of greatest quantity rather than of best quality. Some candidates who can afford both the time and the money circulate new printed matter every day. The productions are endlessly varied in form and in subject. Sometimes they are printed on different colored papers; sometimes in different colored ink. If artists are at hand, some printed cartoons are circulated to give a change to the taste of readers. Regarding the subjects, there is no need to avoid

repetition. On the contrary, experienced agents will maintain a policy of "harping on the same string." "The mesmeric power of repetition in print is the force which commerce employs for the introduction of the new branded article and hard headed business men have such confidence in its effect on the human mind that they do not hesitate to venture a fortune in publicity to influence the public favorably towards the new article. The same force which draws money to the pockets of the public can extract votes from voters." The only care that they need take is that these publications are in homely language and that they have some kind of continuity in their way of reasoning, no matter whether the reasoning is on a right or a wrong basis.

In collaboration with the above mentioned weapons there are the party presses which usually play an important part in all election campaigns, either in general or in bye-elections. These party presses are not considered as election publications. Therefore they are at liberty to say whatever they like. It is not altogether uncommon that they make false reports, exaggerated stories, and imaginary tales of election news. They can boost "dark horses" into "national heroes" and attack the rival candidates with unfair language. To reinforce these national daily or weekly papers, parties organize small scale local newspapers. When an election campaign opens, the local papers publish special issues and thus become one of the important forces in an election war.

In addition to party newspapers and party leaflets, there is still another important weapon which forms the last link in the triology of election publications, that is the poster campaign. "The posters in their endless variety of form and subject are a sort of quintessence of the election campaign, condensing and summing up the canvassing and the stump for the least comprehensive mind." When one visits a constituency where a general or a bye-election is going on, one is most likely struck by the gorgeous decorations of the town or the village with its painted boards, colored writings, and fanciful cartoons. Here again, the modern art of advertising in the commercial field has been brought into use in politics in its

15 Ostrogorski, op. cit., p. 467.
fullest extent. One notices that side by side with posters of "Gold-flakes" and the "Army Club" cigarette, there stand in a very dignified manner the portraits of various party candidates. Then across the streets or highway paths, there fly big banners marked with such solemn rhetoric: "Vote for John, vote for more work" or "Vote for Smith, vote for higher wages." The application of the modern motion picture art to the service of election campaigns is nothing new. The writer actually saw election speakers lecture with lantern slides. Advertisements with colorful, electric floating lights were seen on the Smethwick streets in the recent bye-election in 1927.

The campaign publication involves more expense than all other phases of the campaign. It needs more time and work. Yet what are the actual benefits to the electors? It is indeed well said by Mr. Hardy in the debate of the Act of 1872 that "If half of the papers, posts, and printer's ink needed in the election was saved and the other half pitched into the sea or burnt, it would be better for the candidate and better for the sufferers."\(^{16}\)

CHAPTER VIII

CANVASSING AND CONVEYANCE

Like campaign meetings and campaign publications, canvassing has a very old history. During the reign of Queen Anne, Lord Wharton was known as a "born genius of canvassing." In the general election of 1705, while the Tories and Whigs were having a close fight in a certain constituency and while the two parties concerned had been equally lavish in cash and wine, Lord Wharton at last succeeded in turning the scale in the Whig's favor by his "canvassing genius." The incident was described as follows:

"While the Lord was going up and down the town in securing votes for the Whig, he passed a shoemaker's shop. The Lord entered and asked 'where Dick was.' The good woman inside said that her husband was gone two or three miles off with some shoes and that his lordship should not fear him—she would keep him tight. 'I know that,' said the Lord, 'but I want to see Dick and drink a glass with him.' The wife was very sorry that Dick was out of the way. 'Well,' said the Lord, 'how are all the children? Molly is a brave girl, I warrant, by this time.' 'Yes, I thank ye, my Lord,' replied the woman. And the Lord continued 'Is not Jenny breeched yet?'")

A Tory, it was told, witnessed the scene, and he immediately concluded that the opposite side had won the war. Such pretended intimacy based on hypocrisy which helped Lord Wharton to beat the Tory in the early eighteenth century became highly inadequate for the same purpose about eighty years later. This time, the Duchess of Devonshire scored an equally great and undoubtedly more spectacular feat in the election history of the country. In

1 J. Grego, History of Parliamentary Election, (London 1892), Ch. III, p. 70.
1784, when Tory and Whig both exhausted in their means of canvassing in the Westminster fight and when the result was still very close and uncertain, the Duchess came out openly to direct the Whig campaign. By physical beauty, personal charm, and feminine affability, the Duchess won the poll and sent the Whig candidates to Parliament. Her sensational story in the famous Westminster canvassing was told in Wraxall’s “Post Humorous Memoirs” by an eye-witness, in the following language:

"... The progress of the canvass thence forward is amusing. The entirety of the voters for Westminster having been exhausted, the only hope was in exciting the suburbs. The Duchess instantly ordered out our equipage, and with her sister, the Countess of Dunconnon, drove, polling list in hand, to the houses of the voters. Entreaties, ridicules, civilities, influences of all kinds were lavished on those rough legislators; and the novelty of being solicited by two women of rank and remarkable fashion, took the popular taste universally... An imperfect attempt was made on the hostile side by similar captivity, and Lady Salisbury was moved to awake the dying fortunes of the government candidate. But the effort failed; it was imitation. It was too late; and the Duchess was six and twenty, and Lady Salisbury thirty four."  

That is not the whole story. The fact of the Duchess having purchased the vote of an "impracticable butcher" by a kiss is said to be unquestionable. It was, as history tells, on one of these occasions that the well known compliment was made to her by an Irish mechanic: "I could light my pipe on your eyes."

The operation of the system of canvassing has been greatly improved in modern times. It is now more complicated and far-reaching. In the first place, due to the extension of suffrage during the past half century, the work of canvassing is beyond the management of one or two individuals. It must be conducted on a scientifically organized basis. The enfranchisement of women

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3 ibid.

introduced a new factor in voter’s psychology which has to be dealt with by new canvassing tactics.

Like campaign meetings and publicity, canvassing in a modern election organization has a separately organized department. The choosing of the department leader is always a difficult job in view of his heavy work and immense responsibility. The fact that this leader has to handle more volunteer workers than any other leader renders the job so much harder. At the same time, he is expected to possess an adequate knowledge of the constituency, both regarding its geography and its residents. “The usual type of man for the job is the registration agent of a local political association or an expert from party headquarters. Failing either of these, a satisfactory substitute can generally be found in the ranks of the local insurance agent.” In view of the fact that “unpleasant districts have to be dealt with and wounded feeling have to be soothed continually, the best type to negotiate with these bundles is one of good appearance and address.” The latter qualification is, as pointed out by one writer, especially necessary, “as a large proportion of the volunteer workers are women.”

There is no legal limitation on the number of such workers in an election organization. The policy is “the more, the better.” When a candidate has the support of a well organized local party, the problem of canvassing is half solved, because an efficient local party always has an up-to-date canvassing file which supplies information both on workers and plan of working. The canvassing department just takes over the file and proceeds to work accordingly. The change of hands from party to election organization is only a matter of formality to evade the law. For a candidate who lacks such a supply, extraordinary measures have to be taken. Volunteers are called for either by advertisements or handbills. The failure to organize the canvassing department usually means defeat at the poll.

The first step of the work is to divide up the voters into groups, according to voting districts and to assign these lists to proper sub-committee rooms. The men in charge of these rooms will in turn

4 Houston, op. cit., p 129.
arrange districts into streets, or villages, or into other convenient units. Individuals who are assigned for certain units immediately proceed with their house to house invasion.

Two methods of recording canvassing are at present in use: one by means of a canvassing book; the other, canvassing cards. The former consists of taking out the assigned register lists, arranging the voters’ names in the order of their house numbers, fixing these names on the left hand page of the book and leaving space at the right hand side for marking canvassing result.

The second method is the use of specially designed cards. These cards are so designed that on each of them are printed spaces to fill in the name, the address, and the registered number of each voter. There is space to mark “For,” “Against,” “Doubtful,” “Dead,” or “Removed” as the case may be. There is also a place for the canvasser to put down remarks for particular cases. These cards are bound into booklets. In turn, these booklets are distributed to different canvassers.

The canvasser is required to return his canvassing books or cards to his district committee room every night. When the clerk receives them he immediately records the result obtained during the day. Similar entries such as “For,” “Against,” “Doubtful,” etc. for each voter are made by the clerk on a specially printed form sheet. Sometimes he may mark these results on a reserved register list, with different colored pencils to indicate the “For,” “Against,” or “Doubtful” of the voters.

With these operations completed, the clerk prepares a daily canvassing return of his district for the election headquarters. The department head collects these reports, studies them, analyzes them and finally records them. Every day there is a general canvassing meeting of the party workers, presided over by the canvassing leader and attended by different committee room clerks. The purpose of this is to go over some of the hard cases and to find remedies for them. For the cases marked “Dead” the department will make sure that their register numbers are struck out and chances for personation by the opponents are therefore eliminated. For the “Removal,” it is the duty of the department to forward the
new address to proper committee rooms and thereby these "removals" will be canvassed. The most important and the hardest work is dealing with the "Doubtful" cases. These are the voters whose decisions occasionally change the result. Only among them are chances of making converts.

On the eve of the poll each committee room will present its final canvass return to the headquarters. Usually this is done in the most confidential way possible. "If the telephone is used for the purpose," as advised by Mr. Houston in his "Modern Electioneering," "a code should be previously decided upon, as accidental 'listening-in' is not unknown." With these final returns, the department can roughly estimate the coming poll. Discounting a certain percentage of voters who will not come to vote and always adding the "doubtfuls" to the rival camp, the estimation is usually fairly accurate.

This, however, is not the end of the work. Unless all the promises of the voters are actually transformed into cross marks on ballot papers they are valueless. Indeed, many times, too much confidence in the mathematical figures of canvassing reports leads to disastrous defeats. Some who have pledged may change their minds later; some may not come out to vote; some may be unwilling to vote without an urge; and some may lose their vote because of turning up too late. All these are events that often happen on a polling day. The canvassers have to deal with them tactfully.

Therefore, even at the last moment of the poll, the canvassing department is still very busy. In the early part of the day the voters are left to themselves to go to the poll. Starting usually from at noon, the canvassers begin the "whip-up." When it comes to the last two hours of the poll there comes the "last drive." Canvassers, men and women, young and old, with booklets and pencils in hand, electric lamps in pocket, run from street to street and house to house to have a last "round-up." They pull out old mothers from homes, and patients from hospitals to go to the poll. The only thing they are very careful about is not to knock at a wrong door to wake up an enemy voter to give an

5 H. J. Houston, Modern Electioneering Practice, p. 135.
additional vote to the other side. They forget that their opponents are trying the same trick.

In a previous chapter the writer has pointed out that while distributing campaign literature each candidate sends a polling card to every individual voter and requests the voter to return the same to the right party after voting. For collecting these cards, each candidate has a number of checkers at each polling station when the poll is going on. As soon as a checker receives some of these cards, he forwards them to the nearest party committee room by "runners." Cooperation is usually maintained among the checkers of different parties at the station, so that one checker, in case he fails to get back the party card from a voter who has voted for an opponent, can find out the register number of the said voter from the rival checker. Thus, all the checkers are able to make a complete report of the day's proceedings. The cards or register numbers are forwarded to the different committee rooms.

Inside the committee room the clerk and his assistants are busy in checking the "wall sheet." This sheet is a register list with the voters' names and numbers. When a name or a number is reported as "voted," a mark is made on the sheet under or against the said voter. While this operation is in process others will check the canvassing cards to see among the "For's" how many have not yet voted. To these electors canvassers are sent once more to whip them up. Thus we have what has been described as the last "round-up."

The first "round" of canvassing, which aims at only a checking up of "For," "Against," "Doubtful," etc., is usually done by ordinary volunteer canvassers. Armed with cards, pencils, handbills, pamphlets, window portraits, and campaign literature, the canvassers call at first on every house, irrespective of party lines. Their sole purpose is to obtain a flat "yes" or flat "no" from a voter.

In view of the legal responsibilities involved in the work, these canvassers are guided in their work by some printed instructions, issued either by the agent or by the party headquarters. In ad-
diction to being warned “not to receive payment” and “not to leave canvassing card in a voter’s house,” they are cautioned with a list of “don’ts.” For instance, “don’t promise gift of any kind to a voter,” “don’t use undue influence,” and “don’t give a bribe,” etc. They are sometimes instructed either on the cover of the canvassing book or on a separate printed sheet that “courtesy and politeness win more hearts than arguments,” that “nice dress and good appearance always give a good impression,” and that “friendliness disarms surliness and frequently brings over a voter.”

The actual extent and nature of these negotiations are endlessly varied. Sometimes a single question suffices; sometimes a long conversation ensues. In any case the canvasser must be patient and able to stand laughter, scorn, humiliation, and ridicule. If the voters are doubtful concerning the candidate’s platform, it is up to the canvasser to prove to them that the platform in question is the most excellent one imaginable; it is a panacea. If they are in doubt concerning the personality of the candidate, they must be persuaded that the candidate is the saviour of the Empire and is the most favorable colt in the present race. Indeed, no point raised is ever indefensible on the canvasser’s side. If his wisdom fails him, he has his reference book to rely upon. The latter is issued usually by the London headquarters of different parties. With such dignified titles as “How to Canvass,” or “Keynote to Canvassing,” these books are of an encyclopedic nature, therein one is sure to find whatever one wants. All information is, as the writer has pointed out once before, very general and inclusive, but rarely accurate. Once, for instance, it was the writer’s lot to witness a debate between a canvasser and a voter on the topic of “Tariff Reform and Socialism.” The canvasser took out his encyclopedia from his pocket and read the following statements:

6 Houston, op. cit. passim.

In this connection, interesting readings can be found in pamphlets such as “Hints to Canvassers,” “How to Canvass,” etc., issued by different parties in London.
"Tariff reform will bring the country more employment and better wages, socialism by driving all the money out of the country will bring us less employment and lower wages. Tariff reform will create peace and prosperity; socialism will create strife, starvation, and bloodshed." This is only one of many examples.

If the voter is accessible only to less abstract considerations, it is the canvasser’s business to find arguments more suitable to the occasion. Slogans like "vote for Labour, vote for peace," "vote for Conservative, vote for prosperity," "vote for Liberal, vote for employment," are appealing to simple-minded people; therefore, they are good canvassing weapons. Sometimes lies and libels are expedient measures for canvassings. "Thus according to the degree of the intelligence and morality of the voter, and the level of his own moral standard, the canvasser in turn argues, persuades, insinuates, promises, intimidates, or even goes further."

A canvasser is supposed not only to call on every house and talk to every voter, but also to make sure that he sees every voter in person and gets the voter’s personal pledge. "It is not sufficient," wrote E. N. Bunn in his "Suggestions for Canvassing," "merely to call at a voter’s house in his absence or even to take his wife’s answer, and it is only when the voter himself has distinctly said he will vote for the party that his promise should be entered on the canvassing card." For this reason, much of the canvassing work in the industrial district has to be done in the evening. Shopkeepers and workmen have to be approached after the working hours. The canvassers may knock on a door while the family are at supper; they may ring a bell when the whole household has gone to rest. Thus canvassers are always intruders and disturbers, and they are, to some voters, worse than nuisances.

As a rule, the majority of electors are "fixed" voters. They are either "blue" or "yellow" or "red." It is the ill-fate of the canvasser that he must often spend hours of conversation, debating, arguing, persuading, and entreating; and as a result he gets nothing, sometimes not even a word of thanks. "I have been introduced to the elector," wrote R. G. Webster in a book on his

own experience in canvassing, 'by an accompanying friend. The elector would say, 'What color is yours?', to which my reply was 'Yaller.' The elector would grasp my hand and say 'That's all right, I am a Yaller.' Or if he was on the other side, 'That's no good, I am thoroughly blue.' If I attempted to urge the claims the party I belonged to had to the electors' confidence and support, he would listen with greatest interest and even went as far as acknowledging 'That's all right, I like that. That is what I want.' But notwithstanding, he was 'blue' and so he apparently remained.'

The aim of canvassing, as pointed out above, is not to convert "blue" into "yellow," or vice versa; but to exploit the group styled "doubtful." Thesse "doubtful" cases are brought up at the committee meetings for special treatment every day. General appeals are made as to who will try this and who will take charge of that. This marks the start of the "second round" of canvassing. Undoubtedly, after this "second round" of canvassing some of the voters still remain "doubtful." Then either a change of hands or a change of tactics by the canvassers is applied. For instance, a minister is asked to approach an ardent church supporter, and a foreman to persuade an employee. Sometimes a husband's vote can be won over by winning over his wife first. Sometimes a patron has a greater influence over a shopkeeper than all the latter's friends. All these are hard problems for the canvassers to tackle. Usually the one who masters the trick goes a long way in the game.

Cases in which the personal tribute and influence of the candidate are necessary are reserved for the candidate. A candidate is advised to make an early call on all leading peoples—the clergymen, the presidents and vice-presidents of different organizations, the male celebrities, the female leaders,—disregarding those who are opposed to him. "Don't talk politics unless they start. Make them see that however objectionable your politics may be to them,

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8 R. G. Webster, Elections, Electors, and Elected. pp. 52-53.
you are personally a likeable man." This is one type of advice given by Houston to all candidates on personal canvassing.

In paying such personal tribute, politeness alone is not enough. "Perhaps," wrote MacDonagh, "the prettiest compliments that have ever been paid outside those of the lover to his mistress, have been paid by candidates in canvassing electors. Kissing even played a leading part in the art in the gallant days of old. The custom has its drawback... So kissing by candidates has fallen into disfavour, and the most candidates are expected to do is to pinch the cheeks of babies or chuck them under the chin in the hope of inducing the parents to recognize the merits of the Unionist, or Labour, or Liberal course."

The poet Cowper left a curious description of a canvassing visit which Grenville had paid to him. The description is as follows:

"We were sitting yesterday after dinner, the two ladies and myself very composedly — when to our unspeakable surprise a mob appeared before the window, a smart rap was heard at the door, and the maid announced Mr. Grenville. In a minute, the yard, the kitchen, and the parlour were filled. Mr. Grenville, advancing toward me, shook me by hands with a degree of cordiality that was extremely seducing.

When the conversation ended, Mr. Grenville squeezed me by the hand again, kissed the ladies and withdrew. He kissed likewise the maid in the kitchen, and seemed upon the whole, a most loving, kissing, kind-hearted gentleman."

At present, personal canvassing has been extended to what is known as "family canvassing." The wife and the children (if any) of the candidate are summoned to share the responsibility together with the candidate himself. "Children who can pay simple tribute to the goodness of a 'daddy' and wives who can speak of a husband's courage and love in the 'dark days' have a considerable influence with the voters."

9 Houston, p. 61.
10 M. MacDonagh, The Pageant of Parliament, Ch. II, p. 25.
12 H. J. Houston, Modern Electioneering Practice, p. 150.
At the same time, "street canvassing," "open air canvassing," "block canvassing," which are more economical both in time and energy, have been introduced. According to the hours in which these activities are carried out there are such terms as "morning canvassing," "lunch-hour canvassing," and "evening canvassing." In this connection the writer will describe a "morning canvassing" to show how modern group canvassing is being done.

Early in the morning the candidate or his wife will go with some workers to an election district to call on voters. When they arrive at their destination, one of the assistants will ring a bell or blow a bugle to call people from their houses. Other assistants will go and knock from door to door, shouting that Mr. or Mrs. So and So has come to say "Hello" to the voters. Meanwhile the candidate or his wife will walk from door to door to great whoever comes out. The caller will shake hands with everybody, man and woman, young and old. Such remarks as "Good-morning," "Wonderful weather," "Exceedingly glad to see you," and so on and so forth are freely exchanged between visitors and electors. The latter are requested to get together at some corner where the caller can give a five or ten minutes canvassing speech.

The request is usually granted by the majority, although some of the voters still prefer to watch the affair from their respective doors. When the electors come together and form a small circle, the canvasser, standing in the center, will start a speech. A typical specimen of such addresses, taken down by the writer in a recent bye-election, is produced below:

"Good-morning, comrades. Glad to see you all. (speaker smiles). It is absolutely unnecessary for you to live in such wretched houses, wear such poor clothes, and eat such poor food. Who is responsible for that? The Tory party. (Hear! hear!) The present Government tries to make the rich richer; the poor, poorer. Comrades, vote for my husband. He is standing for the poor. (Hear!) He will be able to give you better houses, better clothes, and better food. Comrades, he will make an entirely different world. Come out, comrades, and vote for my husband. We want every-
one of you. We want a bumping majority. (Hear! hear!) Comrades, a vote missed on my husband’s side means a vote for Tory. A vote for Tory means a vote for a wretched house, poor clothes, and poor food. Vote for my husband, that’s what I want every one of you to do, and that’s what I have come to you for. Good-bye to everybody.’’

Thus she concluded her speech. She smiled and shook hands again with some of the audience. With waving hands, smiling face, and sweet greetings, she went away to another street to repeat the same performance.

In this connection, it might be as well to say a few words on the influence of women in modern elections. It is of course quite impossible to treat the male and female electors separately in a campaign. The canvassing of the two types of electors must be conducted as a whole. Nevertheless, the fact that forty percent of the total electors are women and that many women voters have a considerable amount of influence over their husbands in the matter of voting deserves the special attention of the campaign workers.

The problem on the one hand is met by placing the election organization on a basis of cooperation between the two sexes. For instance some would have a man as chairman and a woman as vice-chairman for some departments in the organization. Some would create some women’s departments and let these departments be run on a parallel line with the men’s departments. Mr. Houston goes so far in his ‘‘Modern Electioneering’’ as to prophesy that ‘‘I shall be surprised if in the near future there does not arise a new type of professional woman, the woman election agent, who will take her place of equality beside her masculine colleagues and command the same remuneration.’’ He says also that ‘‘no election organization will be complete without a man and a woman agent working side by side, and the work of the woman will be at least as important as that of the man.’’

On the other hand, there is the modification of the electioneering tactics. In the past the Duchess of Devonshire purchased a vote

13 H. J. Houston, Modern Electioneering Practice, pp. 149-151.
from the "impractical butcher" by a kiss; modern agents believe that the best type of men to negotiate with the women voters is the one with "good appearance and dress." It is, of course, the same principle differently applied. In addition, the understanding of woman psychology plays a very important part in modern electioneering. Although a portion of women voters are influenced by purely feminine issues, the majority of the women-in-the-house respond to appeals on food prices, education, religion, taxation, and wages. Therefore, when a canvasser calls on a woman voter, it is both wisdom and policy to talk with her about the purchasing power of the pound rather than about international politics.

According to law, canvassing is legal only if it is done by volunteer canvassers. Certain persons are not allowed to do such work. A person who, within seven years, has been found guilty of "any corrupt and illegal practices by an competent legal tribunal, or by a committee of the House of Commons, or by the report of an election judge, or by the report of election commissioners" is not qualified for doing canvassing and the engagement of such persons for such work on the part of a candidate makes the election void. Furthermore, the law says that "no peer, Lord lieutenant, prelate, minister of the Crown, soldier, officer as constable of the metropolitan or of any county or borough police should engage in canvassing or be appointed or accepted as a canvasser."

The law prohibits any canvasser to receive any payment, but at the same time it does not forbid anybody to pay his own expenses in canvassing for a candidate. The section 28 of the Act of 1883 is held by the count as not to apply "to 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." Therefore it now stands that "several individual canvassers may collectively, and by arrangement among themselves, conduct a com-

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14 F. R. Parker, The Powers, Duties, and Liabilities of an Election Agent and a Returning Officer, p. 133.
15 ibid, p. 577.
16 16-47 Vict. c. 51, s. 13.
plete canvass of the whole constituency without in any way infringing the law.'"17

Although a candidate cannot pay a man to canvass for him,18 there is no legal provision to prevent the paid election agent, sub-agent, clerk or messenger, from undertaking such canvassing as he has leisure for and as is not incompatible with his other duties. There is, again, no law to disallow expenses incurred for items other than paying the canvassers, such as expenses for preparing canvassing books, cards, pencils, register lists, and other requisites. Even the payment for canvassing travelling fees is not illegal.

From the above survey it may be said that the law in England encourages instead of discourages canvassing in election. There are, as we have seen above, only a few vague restrictions, of which most can be easily complied with. Some of them can be evaded altogether. The provision against the payment of canvassers'19 does not trouble a candidate or his agent in the least. The incentives for volunteer workers are many. "The most important among the members of the caucus who 'work,' establish a claim to be brought on the Town Council by the organization to which they have done good service, or even to be recommended for the honourary position of magistrate. For a good many others the title of worker serves as a testimonial for getting one of the numerous small subordinate posts at the disposal of the municipalities in places where the party in question controls the Town Council. The small fry find their remuneration in the refreshments to which the canvassers are treated during election time or canvassing nights when they come in from their rounds."20 Therefore, as long as the law does not forbid the practice, there is no fear that canvassing will lack in attraction for volunteers. And if one party does it, under the present circumstances the other parties must. Whatever may be the real usefulness of the system, so long as a call is looked upon as a personal favor of the party and so long

17 Parker, p. 577.
18 46-47 Vict. c. 51, ss. 13, 17.
19 ibid.
20 Ostrogorski, p. 462.
as the law does not stop these calls, no party can afford to
neglect it.

It may be frankly admitted that the abolition of the practice
will greatly reduce the percentage of votes at the poll, which has
in recent days come to such a high mark as sixty, sixty-five, and
sometimes seventy percent of the total electors. Without can-
vassing the voting percentage may go down to thirty or forty
percent. Granting this is true, it is still necessary to find out
whether there is no other better means to encourage people to
vote and whether the end does really justify the means.

As a weapon to win an election, the effect of canvassing, it is
said, has been greatly exaggerated. It is pointed out by some
agents that where canvassing really works is among the group
of “doubtful” voters. The percentage of such electors in some
cases is very small. Some calculate it as only a few percent. The
great majority of the voters are fixed “blue,” “yellow,” or
“red,” and they are most likely not to be changed by campaign
elocution, publication, and canvassing. Once the writer stayed
in an election district and witnessed a scene when a canvasser
came to talk over his landlady. “I cann’t vote for the Liberal,”
the landlord told the canvasser. “Why?” he was asked. “I cann’t
means I cann’t, that settles it,” was the determined reply. “Oh,
no!” said his wife. “We will not do it. We will not vote for
Liberal for the whole world. The lady next house is the chairman
of the Unionist Club. Oh, no, I will not vote against her for the
whole world.” This is one of the many illustrations to show the
mentality of some of the voters in England.

When the campaign is a close fight and the result is very doubt-
ful, then there may be a chance for canvassing. Even then, the
moral effect of the method still has to be considered. In the first
place “by asking voters to give pledges in favour of this or that
candidate, the law on secret voting is made a dead letter.”21 In
1872, when the House was debating on the Ballot Act, Foster said
that “the very essence of the Ballot is that it should be a com-

21 Ostrogorski, p. 463.
plete secret. By that expression, it means that a voter should not be able to prove to any one how he has voted, because were he able to do so, the object of the ballot would be defeated.’’ In view of this fact, the practice of canvassing is a systematic attack on the Ballot Act both in substance and in spirit. Besides these legal considerations, canvassing is itself an intruding and annoying thing. ‘‘As soon as election time begins, the voters become the prey of canvassers belonging to all parties. The rule expressed by the saying that ‘my house is my castle’ is practically suspended during the whole time of canvassing.’’ Indeed, there is not an hour in the day or in the evening in which the voter is safe from the invasion of the canvasser. Voters may try to get rid of these uninvited guests by putting up ‘‘window portraits’’ or other cards indicating ‘‘no admittance,’’ but canvassers are tenacious creatures who are not easily kept out.

For these reasons, many writers have suggested that canvassing should be, just as bribing and treating, put on a statute and forbidden altogether. Details as to how this problem can be solved will be discussed later on.

As a means of assuring or encouraging some hesitating voters to go to the poll, sometimes carriages are offered to them by canvassers. In marking the cards or books, the canvassers put down the cases where cars are needed and when and where they are to be sent to. When the polling day comes, these offers are strictly carried out. As a result the polling day in a constituency is a day of a big race, a race of horses, of motor-cars, and of carriages of all descriptions.

Practically an hour before the poll opens, cars of various sizes and various shapes, adorned with party colors, decorated with posters, begin to assemble at the different headquarters. Drivers of different parties are organized as transportation corps, with commanders-in-chief in different central committee rooms and division-commanders in sub-committee rooms. For the whole day they drive hither and thither, with horns blowing, bells ringing, and whistles shrieking. When these carriages pass by the street

22 Parliamentary Debate, Feb. 20, 1871.
boys, school children, and young idlers of all kinds, with rosettes or ribbons of the party to which their parents belong, shout, cheer, and hoot, and wave hats, handkerchiefs, or whatever papers they have in hand, to every carriage.

The cars in which the various candidates drive are particularly smart looking. Accompanied by their wives, children, and sometimes, their agents, these candidates ride from one committee room to another like "generals going along the ranks when the battle is on the point of beginning." Wherever the candidates stop, they receive cheers and congratulations from their own supporters. They will pass a few remarks with their workers in different committee rooms, inquiring how the work is going on, assuring the workers of the final victory of the party, and thanking them in advance for their service. In return, the workers and the boys give three cheers for the candidates and then three cheers for the wives. Then some of the workers in the crowd shout "Who will win?" and "Who will get in?" These questions are usually answered unanimously, and the candidate's name is shouted lustily. Then these children go to another committee room of a different party, where the same questions will be put to them. The reply is the same in spontaneity and in confidence, except that the name of the candidate is changed to fit the occasion.

Arrangements are usually made for some distinguished personage to act as the driver of each candidate, to show to the voters that a certain candidate is backed up by a big influence. If they cannot get a great man to act as chauffeur, sons or daughters of some distinguished families fill in these places as well. The recent bye-election at Smethwick illustrates this point well. Quoted below is a short description of the said election:

"Miss Betty Baldwin, the prime minister's daughter, arrived in the constituency today with her two-seated car, in which she drove Conservative voters to the poll.

During the day Miss Baldwin drove the Conservative candidate, Mr. Pike, around the constituency. Afterwards
she said that no bricks had been thrown at her — only kisses.\textsuperscript{23}

The law for regulating conveyance, just as in canvassing, is utterly inadequate. The statutes which formerly permitted payment for the conveyance of voters to or from the poll have been repealed.\textsuperscript{24} Now it is illegal to let or to hire, lend or borrow, employ or use for the purpose of conveying electors to or from the poll any public stage or hackney carriage, or any horse or other animal kept or used for drawing the same, or any carriage, horse, or other animal which a person keeps or uses for the purpose of letting out for hire.\textsuperscript{25} Such provision does not include ships, barges, or boats.

The law makes it illegal to pay or contract to pay, for the purpose of promoting or procuring the election of a candidate, and knowingly to receive payment or be party to any contract for payment for the conveyance of electors to or from the poll, whether for the hiring of horses, of carriages, or for railway fares, or otherwise.\textsuperscript{26} But carriages of all kinds that are not kept for hire can be lent to candidates gratuitously and this is not illegal. At the same time, the employment of persons to take charge of such transportations is legal. Similarly, the cost of petroleum for cars and of food for feeding horses may be paid for legally. In addition, voters are free to pay for their conveyance to the poll, either individually or jointly.

There are arguments on both sides for the allowance of such convenience at election time. The argument for it is that were there no such carriages, some voters, especially the old and sick ones, would be prevented from voting. In addition, in a rural constituency, the distance is sometimes too far for some voters to walk. On the other hand, when an election becomes a free competition of the number of cars, it gives a serious handicap to economically poor and socially less known candidates. In the

\textsuperscript{23} Daily Mail, London, December 22, 1927.
\textsuperscript{24} 46-47, Vict. c. 51, s. 66.
\textsuperscript{25} ibid, s. 14.
\textsuperscript{26} 46-47, Vict. c. 51, s. 7, a, b, c.
recent bye-election of Westbury which polled on June 16, 1927, Major Long, the Conservative candidate, had more than three hundred automobiles at his disposal on the polling day. This number exceeded greatly that of his rival candidates. In the result of the elections, the Conservative got into Parliament with a 149 majority. Supposing one car brought one additional vote to the Conservatives which otherwise might have been lost, then the victory is a victory of better conveyance rather than anything else. In the Smethwick bye-election in 1927, the Conservative and the Labour candidates each had over 100 motor-cars. The Liberal, the poorest of the three candidates, had only a dozen cars. And the last made such a poor showing in the election that he lost his deposit. It cannot be positively stated that the Liberal lost his election merely because of this disadvantage. Nevertheless, there are probably voters who cast votes for a candidate because of a pleasure ride on the election day. It may be impractical to suggest that conveyance in elections should be prohibited altogether. However, some improvements must be made to ensure a fair contest between the rich and poor. In the past, candidates had to pay for all the expenditures of conducting an election; since 1918, the government bears the larger part of the responsibility. There is no reason why some arrangement cannot be made that conveyance, if it is necessary should be prepared by the public and be an equal advantage to all parties. It is needless to say that the thing can be run on a more economical basis if it is taken care of by the public and it will be fair to all candidates, whether rich or poor.
CHAPTER IX

CORRUPT PRACTICES

It is difficult to draw a clear line of demarcation between the terms "corrupt practice" and "illegal practice." "It is important," said Justice Field in the Barron-in-Furness case in 1886, "to observe that the Act makes a great distinction between corrupt and illegal practices. A corrupt practice is a thing the mind goes along with. An illegal practice is a thing the Legislature is determined to prevent whether it is done honestly or dishonestly." Some time later, in 1892, Justice B. Pollock made the following statement in the Walsall case:" An illegal practice involves no question of motive, pure or otherwise. The only question the court has to consider is, whether there has been a breach of the Act." President Lowell in his "Government of England" said that "a corrupt practice involves moral turpitude, and it is necessary to prove a corrupt content. A gift to a voter for instance, is not bribery unless it is made for the purpose of influencing his vote; but an illegal practice is simply an act forbidden by law, and as such in the case, for instance, of a payment of expenses above the maximum fixed by law, is illegal without regard to the motive with which it is done."

While the distinction here noted may be valid to some extent, a careful analysis of the existing laws proves that the distinction is not always followed. In the first place, is it always true that corrupt practice is a question of "moral turpitude" and of "motive"? For instance, Section 34 of the Representation of the People Act of 1918 provides that "a person other than the election agent of a candidate shall not incur any expenses on account

1 4 O'M & H. p. 77.
2 4 O'M & H. p. 125.
of holding public meetings or issuing advertisements, circulars, or publications for the purpose of promoting or procuring the election of any candidate at a parliamentary election, unless he is authorized in writing to do so by such election agent." The same section goes on to say that "if any person acts in contravention of the said section he shall be guilty of corrupt practice." In such a case, the decision factor in establishing the crime is whether the accused party has without proper authorization, incurred expenses in carrying out those legally forbidden things or not. The law is clear. The investigation is simple. If the party violates the provision, he commits a corrupt practice; if not, he is innocent.

On the other hand, the Act of 1895 says "that any person, who, or the directors of any body or association corporate which, before or during any parliamentary election, shall, for the purpose of affecting the return of a candidate at such election, make or publish any false statement of fact in relation to the general character or conduct of such candidate shall be guilty of an illegal practice." In order to come within this section, according to court decisions, several conditions are necessary. First, the statement complained of must be untrue; second, it must be in relation to the personal character or conduct of the candidate; and third, it must be made for the purpose of affecting the election of the candidate. Thus, in deciding such a case, the court has to go much further than a simple investigation of law. Especially in fulfilling the third condition laid down by the court, it is a pure and simple investigation of motive and of morality.

Corrupt practices, according to the existing laws, include the following offenses: (1) bribery, (2) treating, (3) undue influences, (4) personation, (5) making knowingly a false declaration respecting election expenses, (6) incurring expenses on account of holding public meetings or issuing advertisements,

4 7-8 G. V. c. 64, s. 34.
circulars, or publications for the purpose of promoting or procuring the election without the authorization of the election agent.

Bribery is first defined by the Act of 1854 and then reenacted by the Act of 1883. Those who are guilty of bribery are described as follows:

1. Every person who shall directly or indirectly, by himself or by any other person on his behalf, give, lend, or agree to give or lend, or shall offer promise, or promise to procure or to endeavour to procure, any money, or valuable consideration, to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce any voter to vote, or refrain from voting, or shall corruptly do any such act as aforesaid, on account of such voter having voted or refrained from voting at any election;

2. Every person who shall directly or indirectly, by himself or by any other person on his behalf, give or procure, or agree to give or procure, or offer, promise, or promise to procure or to endeavour to procure any office, place, or employment to or for any voter, or to or for any person in behalf of any voter, or to or for any other person, in order to induce such voter to vote, or refrain from voting, or shall corruptly do any such act as aforesaid, on account of any voter having voted or refrained from voting at any election;

3. Every person who shall, directly or indirectly, by himself or by any other person on his behalf, make any such gift, loan, offer, promise, procurement, or agreement as aforesaid, to or for any person, in order to induce such person to procure, or endeavour to procure, the return of any person to serve in Parliament, or the vote of any voter at any election;

4. Every person who shall, upon or in consequence of any gift, loan, offer, promise, procurement, or agreement, procure or engage, promise or endeavour to procure the

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6 46-47 Vict. c. 51, Third schedule, Part III.
return of any person to serve in Parliament, or the vote of any voter at any election;

5. Every person who shall advance or pay or cause to be paid, any money to or to the use of any other person with the intent that such money or any part thereof shall be expended in bribery at any election, or who shall knowingly pay or cause to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election, provided always, that the aforesaid enactment shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses bona fide incurred at or concerning any election;

6. Every voter who shall before or during any election, directly or indirectly, by himself or by any other person or his behalf, receive, agree, or contract for any money, gift, loan, or valuable consideration, office, place, or employment, for himself or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election;

7. Every person who shall, after any election, directly or indirectly, by himself or by any other person on his behalf, receive any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting at any election.”

The earliest form of bribery in parliamentary election in England was negative in nature. Sometimes it was arranged that the representatives would accept service for less than the statutory rate of wages fixed by the Act 1323 which was four shillings a day for every knight of the shire and two shillings a day for every citizen or burgess. Sometimes agreement was made that the representative would accept payment of other kind than money. Still others would promise to go to Parliament, foregoing wages and reducing travelling fees. The first instance on record
where money was used to secure a seat in the House was the naive case of Thomas Long in 1571.\textsuperscript{7} The said gentleman, standing for a seat of the borough of Westbury, offered four pounds to the mayor and other citizens of the constituency to secure his seat. Afterwards, when he was sent to the City of Westminster, he was questioned as to how he came to be elected. The simple and honest gentleman confessed to the House that he had given the mayor four pounds for the honour. Consequently he was convicted and deprived of the seat. An order was issued from the House to compel Gorland, the mayor, to refund the four pounds to Long and to pay twenty pounds as a fine to the Queen.

By the close of the eighteenth century, bribery had become an habitual means of securing political power, and was regarded as a sort of aristocratic, gentlemanly, and respectable offense.\textsuperscript{8} No effort on the part of either the government or of the citizens was made to hide the practice. Once it was recorded that a voter complained to a candidate of the low price paid for a vote. “Oh, Sir, things cannot go on in this way; there must be a reform,” said the voter to the Lord, “we poor electors are not properly paid at all.”\textsuperscript{9} Another story related in the Lord Dundonald’s autobiography was as follows: “While canvassing the electors of Honiton, one of these independents said to the Lord, ‘You need not ask me, My Lord, whom I shall vote for; I always vote for Mr. Most’.”\textsuperscript{10} The most notable instance of organized corruption was the case in the borough of Shoreham. The electors formed a sort of joint stock company for electioneering purposes with the sole object of obtaining the top price for their votes. The organization was known as the “Christian Club.” A verse, written by an eighteenth century satirist, depicted the condition of that period in these lines:\textsuperscript{11}

\textsuperscript{7} M. MacDonagh, The Pageant of Parliament, pp. 155-157.
\textsuperscript{8} E. Porritt, The Unreformed House of Commons, passim.
\textsuperscript{9} C. Seymour, How the World Votes, p. 95.
\textsuperscript{11} J. Grego, Parliamentary Elections in the Old Days, p. 85.
"The law against bribery provision may make,
"Yet means will be found to give and to take,
"While charms are in flattery and power in gold,
"Men will be corrupt and liberty sold."

As indicated in this verse, England had her laws to prevent corrupt and illegal practice before the eighteenth century. The first comparatively important Act of such a nature was passed in 1696. It was known as the Treating Act. An Act which amended and consolidated all the past laws was passed in 1854. In spite of this law, the electoral system degenerated more and more as time went on. The general election of 1880 revealed that money was the dominant influence in the so-called democratic institution. The Gladstonian government was compelled to recognize this deplorable situation and to take measures of further improvement. As a result, the famous Corrupt and Illegal Practices Prevention Act of 1883, was adopted. This Act, in many respects, was a reiteration of the law of 1854. The definition of bribery was copied verbatim from the Act of 1854, and reproduced in its entirety in the third schedule of the new law, except that the last two articles (articles 6 and 7 quoted above) were newly added to it.

As for the interpretation of the Act, it is a really complicated matter. It has been held that bribery need not necessarily be in the form of money. Therefore, a promise of refreshment in the future to induce a voter to vote is bribery.\textsuperscript{12} So is the permission to trap and to shoot rabbits in the garden of the candidate.\textsuperscript{13} So is a gift of a pair of shoes from a candidate to a voter.\textsuperscript{14} The principle laid down by the court for the application of the term is that "when a thing is done in the way of bribery, though it may be a valueless thing, it is still bribery."\textsuperscript{15}

It is again decided by the court that "the amount of the bribe is immaterial provided that "the corrupt intention is proved." "A single bribe of 2 s. 6 d., or a very small bribing act, such

\textsuperscript{12} 1 O'M and H., p. 124.
\textsuperscript{13} ibid, p. 129.
\textsuperscript{14} 2 O'M and H., p. 208.
\textsuperscript{15} Parker, p. 537.
as the giving of a single glass of beer is sufficient to upset the election.\textsuperscript{16}

The promise of payment to a voter of his travelling expenses on the condition expressed or implied that he shall vote for a particular candidate is bribery.\textsuperscript{17} If the promise of payment to a voter of his travelling fee is an unconditional one, that is to say, the recipient is not required to pledge to vote for the giver, it is not bribery.\textsuperscript{18}

A payment to the voter for a loss of time in coming to vote is a payment for voting, therefore bribery.\textsuperscript{19} And so is an offer to cause a voter to be "no loser by coming to vote."\textsuperscript{20} A payment for a substitute to do the work of a voter while the latter comes to vote is bribery.\textsuperscript{21} The payment of a day's wage to a voter for coming to vote is bribery.\textsuperscript{22} On the other hand, the court decided that there was no violation of the law when an employer permitted his employees to be absent for a reasonable time to vote in a parliamentary election. This permission, however, should be given equally to all employees alike and not with a view to induce voters to vote for a particular candidate.\textsuperscript{23}

With regard to the offer of a position as bribery, whether the nature of the office be temporary at the election or permanent does not matter.\textsuperscript{24} Whether it be given to the voter or to a third person to indirectly influence the voter is immaterial.\textsuperscript{25} The employment of an influential person to exercise his influence on a voter is bribery.\textsuperscript{26} The mere offer to obtain a situation or to

\textsuperscript{17} 4 O'M and H., p. 13.
\textsuperscript{18} 3 O'M and H., p. 53.
\textsuperscript{19} 1 O'M and H., p. 153.
\textsuperscript{20} 6 O'M and H., p. 43.
\textsuperscript{21} 3 O'M and H., p. 107.
\textsuperscript{22} 1 O'M and H., p. 220.
\textsuperscript{23} 48-49 Vict., c. 56, s. 1.
\textsuperscript{24} 3 O'M and H., p. 153.
\textsuperscript{25} 1 O'M and H., p. 32.
\textsuperscript{26} 1 O'M and H., p. 32 and p. 102.
vacate a situation in favour of the voter is bribery. 27

The time at which a corrupt act is done, is not, as a matter of law, and except as regards the evidence to prove the offense, material, provided it is done at the time when it is operative on the election. The law does not specify any limitation of time; therefore, so far as the corrupt intention is concerned, whether the action is done one, two or six years before, it is just as much a bribery as if it were committed on the day before or the day of the election.28 With reference to the evidence required, time is material. "If the act is committed shortly before the voter has voted, the act will be assumed to be bribery until the contrary be shown, and no further proof of any corrupt intention is requisite, but if the act is committed after the voter has voted, it must be shown to have been done corruptly." 29

Bribery in election sometimes took the form of charitable gifts and subscriptions. In 1701 it was testified before the election committee that a certain candidate in the election had promised to his own constituency that if the city should choose him he would make the market free from tolls. Another case discovered at the same time in the hearing of a Winchester petition was that a candidate had pledged himself to set up a fund out of which money was to be lent to poor tradesmen without interest. In 1713, two candidates built a bridge at Weymouth constituency to fulfil a promise made during the election time. In the hearing of the case afterwards, a voter actually told the commission that he voted for the donors because they gave the town a good bridge. 30

It should also be pointed out that during this period when the number of electors was small, bribery, veiled in the form of charitable subscription was more or less limited. As time went on, its

27 2 O'M and H., p. 25.
28 1 O'M and H., p. 302.
29 ibid.
importance increased in proportion to the increase of the number of electors. Reasons for this fact are quite simple.

In the first place, as the number of voters increased, direct bargaining on monetary terms for votes became less practicable. It was less economical and expedient to purchase votes than to purchase good will and popularity, which would lead to the same goal. "The belief that the candidate is a good fellow, that the large bills will be run up at shops and hotels, and paid without a murmur, that waiters, drivers, porters, and the rest will have a share of booty, that needy individuals will not be allowed to suffer, that deserving institutions need not be afraid of a deficit on the year's accounts, cast a glamour over a man's political convictions which is far from ineffective on the polling day." In the second place, this veiled form of corruption had a high moral tone and could easily evade the law. "There is no law yet," said Blackburn J. in the Hasting Case in 1869, "which says that any lavish expenditure in any neighborhood with a view of gaining influence in the election there is illegal." In the same case, Lash J. said that "many evils no doubt result from indiscriminate and injudicious charity, but these belong to a region of morality, which is above the reach of legislation. All that we can say is that a charitable gift, however injudicious it may be, is harmless in the eyes of the law, whatever its effects may be upon the recipient and certainly it is not bribery."

For these two reasons, while direct bribery declined as time went on, charitable subscriptions as means of corruption have been constantly and continually growing and have a tendency to become a substitution for the former. A few instances where such electioneering has been employed and employed successfully may be cited here.

In a recent bye-election in England at which the present writer had the privilege of being a personal witness, one speaker in a mass meeting recommended the labour candidate to the public with these words, "Mr. M. (the candidate) has always been standing for the cause of the poor workers. For instance, in the late General Strike, he actually sent one hundred and fifty pounds to the work-
ers of this constituency.” The speaker went on to read the letter of the candidate by which the latter donated the money, and concluded his speech with a challenge to the opposite parties to prove the generosity of their candidates. In another bye-election held recently in one of the London districts, the Tory newspapers spoke of the Conservative candidate as a benevolent person because the latter had contributed freely and magnanimously to public causes. On July 10th, 1895, Mr. Grotrian, who had sat for Hull, was reported to have said the following in a public meeting: 31

“I was going to tell you that Lord George Hamilton told me with his own lips, the last time he was in Hull, that they had spent £900,000 during the time he was in office and I was your parliamentary member. After all, am I not right when I say I am a strong advocate for a very good dose of bread and butter politics?”

In another case it was reported by a newspaper that a candidate’s wife who used to give money out to poor people came out one day into a Northern market town in her car and her car was at once surrounded by a crowd eager to shake hands. “A small boy tried to get near in vain and began to weep. ‘Never mind,’ said one friend, ‘I will lift you up to look at her.’ ‘I don’t want to look at her,’ replied the boy, still weeping, ‘I want to get near, I want my penny’.” 32 These are, of course, only a few illustrations. Many other similar cases may be cited.

On the other hand, the amount required for such purposes on the part of candidates has been always a large burden. In one instance it was found that a member in the parliament had a roll over twenty feet long, “containing requests for subscriptions to religious, philanthropic, and social organizations.” One member who sat in Parliament from 1895 to 1900 spent in a single year out of the five years £27,000 for such subscriptions. 33 For such practice there is no legal prevention; it has indeed become an established electoral custom, of which any violation means a risk

31 C. R. Buxton, Election Up-to-date, p. 17.
32 Ibid.
33 Porritt, Unreformed House of Commons, Vol. 1, p. 165.
on the part of the particular candidate. In a recent bye-election held in Dover, the candidate who announced that he was unable to make contributions to local charity found himself next morning heralded to the constituency by the glaring headline "Not a Penny for Dover." Afterwards he was defeated. As has been mentioned, the Unionist Party in 1927 openly recommended to the country that a candidate be rich because politics cannot be run "cheap." When the Party put out such advice, it probably had, in addition to other reasons, the consideration of "charitable subscriptions" of a candidate in mind. And so far as statutory laws in England are concerned, these charitable works are neither corrupt nor illegal.

Treating as a corrupt practice in parliamentary election is as old as charitable subscription. In the electoral history of England, treating has featured on several memorable occasions. Thomas Long, the supposed first case of bribery in parliamentary elections, may have been skipped over by some students of English history, but who can forget the "Spendthrift Election?" The extravagant and luxurious scene in the Spendthrift Election was described by a writer in these words:

“At the famous historical seats of Horton, Castle Ashley and Althrop, the orgies pictured in Hogarth’s ‘Election Dinner’—filled with humour of what Bubb Dodington fitly called ‘Venal wretches’—were indefinitely prolonged. The scot and lot—woolcombers, wearers, shoemakers, laborers, peddlers, militia men, and victuallers—held high revel, prolonged without intercession from night till morning in the well-stocked wine cellars. They were in a body ‘made free.’ Therein lodged the petition of Horton, for after they had drained dry the stock of matured port, Lord Halifax had to place before them his choicest claret, whereon, with one accord filled with vinous fastidiousness, the ‘rabble rout’ deserted to a man, declaring ‘that they would

never vote for a man who gave them sour port' and went in a body to Castle Ashley.'"

It was also recorded that once in a Liverpool election in the old time, tickets were issued to the voters which on their face entitled the bearer to a cask of beer.36 Another occasion at Bristol, the Conservative agents carried on corrupt practice through the distribution of pieces of beef which, because of the Conservative colour, was known as "blue beef."37 Stories of such a nature are indeed too many to be cited here. Suffice it to say that during those unreformed days, there was hardly any constituency that had not had its share in meat and wine.

The reform movement to make treating an illegal practice was started simultaneously with that to prevent bribery. In fact, the first Act regulating the conduct of election was known as the Treating Act and was passed in 1696. In 1883, Parliament repealed all past laws on treating and newly provided that it is illegal for:

1. Any person who corruptly, by himself or by any other person, whether before, during, or after an election, directly or indirectly gives or provides, or pays wholly or in part the expenses of giving or providing any meat, drink, entertainment, or provision to or for any person for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at the election, or on account of such person or any other person having voted or refrained from voting or being about to vote or refrain from voting at such election;

2. And any elector who corruptly accepts or takes any such meat, drink, entertainment or provision . . .

In this connection, one question naturally arises,—that is, what is the difference between bribery and treating? According to President Lowell,39 "treated differs from bribery in the fact

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37 Ibid.
38 46-47 Vict. c. 51, s. 1.
that bribery involves a contract for a vote, expressed or implied, whereas the person who treats obtains no promise from the voter and relies only upon his general sense of gratitude." With this opinion the writer begs to disagree. For instance, a gift is a bribery if a corrupt intention of the giver is proved; but in giving the gift, it is not necessarily true that there exists a contract between the giver and the recipient for future voting. The transaction may be entirely a fishing for good will; nevertheless it is bribery. On the other hand, voters were quite often taken into bars, as has been proved in many election hearings, treated to a free glass, after which they were induced to make pledges for voting. Evidently, there were involved bargains and contracts. Such cases were treatings, not bribery.

According to the English courts, however, the factors of time, circumstance, and amount have to be considered in treating, while all these factors are immaterial in bribery. "Treating before the election," says the court, "with a view of influencing a vote, is as much an offense as if it takes place at the election. But treating after the election must be under such circumstances as to lead to the inference that it is done for the purpose of rewarding the voter for voting in a particular way or in pursuance of a previous corrupt understanding or agreement." For this reason, an entertainment given after the election, of which the fact has never been mentioned and never even been thought of, is not corrupt with regard to the past election. And an entertainment given after the election is over merely to celebrate the victory is not of itself corrupt.

Regarding the matter of circumstance under which treating is done, the court held that a gift of breakfast to a starving man in a time of great general distress may be worth more than the gift of a large sum of money at a more prosperous time and may under such circumstances amount to a corruption. Where a

40 2 O'M and H., p. 44.
3 O'M and H., p. 70.
6 O'M and H., p. 335.
41 4 O'M and H., p. 13.
custom had prevailed at previous elections of supplying refreshments to electors and that custom was followed, it was not held as an election treating. 42

Regarding the amount of treating the court held that "one case may not be enough, for the motive influencing the corrupt act must be proved and established beyond doubt." Therefore, it held in one case that "one glass of beer is not sufficient to justify the inference of a corrupt intention." 43 It has been also laid down by the court that in making conviction of such a case, the intention of the treating must be found first and that "the judge must see on what scale and to what extent the treating is done." 44

From this brief survey we derive one salient idea,—that is, in a case of treating, the court has laid great stress on the word "corruptly." In other words, the court held that bribery is a thing inherently bad, while treating may be good or bad. Treating, according to the court, has much to do with the question of "intention." "Treating," said the court in one decision, "is prima facie innocent, and to make it a corrupt act, it must appear to have been done with a corrupt motive." 45

This naturally leads to a discussion of the true meaning of the word "corruptly." On this point one opinion which has been quoted more than any other is: "Corruptly does not mean wickedly, or immorally, or dishonestly or anything of that sort, but with the object and intention of doing that which the Legislature plainly means to forbid. In fact, giving meat or drink is treating when the person who gives has an intention of treating, not otherwise." 46 In the first place, then, we must raise the question as to what are the things that the Legislature plainly means to forbid if they are not the things done "wickedly, immorally, dishonestly, or anything of that sort?" Can anything that is done "not

42 5 O'M and H., p. 193.  
43 5 O'M and H., p. 23.  
44 6 O'M and H., p. 335 and p. 150.  
45 4 O'M and H., p. 63.  
46 6 O'M and H., p. 147.
wickedly,' "not immorally,' "not dishonestly,' etc., still have a bad intention and bad motive? In the second place, what can these words 'when the one who gives has an intention of treating, not otherwise' mean? Particularly, what can the word 'intention' mean in this sentence? And what can the word 'otherwise' mean? Since 'corruptly' does not mean 'wickedly, immorally, dishonestly, or anything of that sort,' then it must imply that the law does not prohibit treating, but treating with an intention of treating; and the law does not care whether the intention is good or bad. The court at the same time held that treating is prima facie an innocent act. In other words, though one may do an innocent act, he commits a crime so long as he does it with an 'intention' of doing it, even with a good 'intention.' Can this be the true meaning of the law? Furthermore, the word 'otherwise' in the second sentence seems to imply that if anyone who gives a treating has no 'intention of treating' one is doing a perfectly legal thing. But the fact that meat and drink have been given is there. The fact that this giving of meat and drink will influence the recipient in his voting is also there. Yet this, according to the philosophy of the English court, is legal.

The way to evade the law, then, is to treat without an 'intention of treating.' But how can the court detect whether the giver has an 'intention' or not? Can there be such a thing as giving a treat, yet giving it unintentionally? This indeed puzzles the writer.

Another decision held that 'corruptly means doing something knowing it is wrong.' What is the definition of 'wrong' then? The court has laid down already that 'corruptly' does not mean 'wickedly, immorally, dishonestly, or anything of that sort.' Logically, 'wrong' cannot mean doing anything 'wickedly, immorally, dishonestly, etc.' Some argue that 'wrong' means doing things contrary to the intention of the Legislature. What is the 'intention' of the Legislature then? The reply is that there are things that the Legislature means plainly to forbid.

47 1 O'M and H., p. 57.
What are these things that the Legislature plainly means to forbid? Thus we argue in a circle.

Still other later decisions held that "corruptly" means "with an intention to produce an effect upon election."\(^{48}\) Also it means that "it is not going so far as bribery, but going so far as to produce an effect upon the election."\(^{49}\) The argument is still more unsound. If what "Parliament means plainly to forbid" is an intention to do something to effect the result of an election, it is equivalent to saying that Parliament means to forbid the electoral campaign altogether. There is no action in a campaign that is not aimed at producing an effect on the result of the election.

Other decisions more conflicting and confusing may be cited here. It has been held by English jurists that "a single desire to acquire general good will or to gain popularity does not amount to corrupt treating, but an intention that is to gain popularity and to avoid unpopularity and thereby to affect the election is corrupt."\(^{50}\) If a desire to acquire good will and popularity is not aimed at affecting the election result, what is the purpose of this desire? If a party has acquired good will and popularity by treating, how can the Legislature prevent this good will and popularity from affecting the election result? The judges drew a distinction between "a desire to acquire good will and popularity" and "an intention to gain popularity and thereby to affect the election result." They concluded that the former is legal while the latter is not. Is not such a distinction very illogical?

If bribery and treating are hard to define, undue influence is indeed indefinable. While the House was discussing the Act of 1883, Mr. Porter, then the Attorney General under whose care

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\(^{48}\) O'M and H., p. 10-20.
\(^{49}\) O'M and H., p. 91.
\(^{50}\) O'M and H., p. 91.

6 O'M and H., p. 189.
2 O'M and H., p. 22.
the said Act was passed, being requested to define undue influence, said:51

"It was undoubtedly difficult to give a definition of undue influence; the forms of it were too numerous to admit of that, and it was to be met within the affairs of life, as well as in parliamentary matters. It had always been understood by the judge that nothing was more difficult of definition and they had refrained from defining it, because it was felt that as great was the ingenuity of men inclined to fraud that it would be prejudicial to do so."

More than half a century has elapsed since the passage of the Act, and no new contribution has ever been made either by parliament or by the court which will help toward a concrete and exact understanding of this indefinable.

According to Parker,52 it is best to treat the topic under three separate sub-headings. They are: (1) general intimidation or riot, avoiding election at common law; (2) undue influence of peers, ministers, and other persons, placed in certain positions which have given them exceptional powers of influencing an election; and (3) undue influence by statute, avoiding the election if exercised by the candidate or his agent.

By general intimidation the common law required that, in order to invalidate an election, it must be shown to spread over such an extent of ground and to permeate through the community to such an extent, that freedom of election has ceased to exist in consequence.53 In deciding such a case, the proof that the result of the election is actually affected by such intimidation is unnecessary, and unless it can be shown that the intimidation could not possibly have affected the result of the election, it will be declared void.54

51 Parliamentary Debate (1883).
52 F. A. Parker, The Powers, Duties, and Liabilities of an Election Agent and of a Returning Election Officer.
53 1 O'M and H., p. 259.
2 O'M and H., p. 156.
4 O'M and H., p. 66.
Regarding the undue influence of peers and ministers, it was enacted in 1276 that "because election ought to be free, the king commanded, upon great forfeiture, that no great men nor others, by force of arms, nor by menacing, shall disturb anyone to make free election." There have since been several resolutions in Parliament against the improper interference of peers, lords-lieutenant, prelates, ministers of the Crown, Crown servants and soldiers in election. In addition, the influence of soldiers or police present in any election is by statutory law an undue influence, and therefore duly prohibited.

The third sub-heading is undue influence by statute. Undue influence of this type was first defined by the Act of 1854. Then the Act of 1883 provided:

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

By analyzing the statutory provision, one may classify the influences that are deemed undue by law thus: First, the influence of force, violence, restraint, or the threat thereof; second, temporal or spiritual damage, harm, or loss, or the threat thereof; third, abduction, duress, fraudulent device, or contrivance.

It has been held that "when a person in order to prevent another from voting or to force him to vote, either beats him or threatens injury to his person, or his house, or the like, is undue influence.

55 3 Edw. i, c. 5, s. 5.
56 46-47 Vict., c. 51.
influence. The intimidation is not necessarily general in nature, that is the provision of common law. If a candidate’s agent incites a mob to beat or molest people on the polling day, it is undue influence. And a mere attempt to intimidate a voter, even though the person using the threat has not the power to carry it out or the threat is unsuccessful is, according to the English court, undue influence.

Regarding the temporal undue influence, the court held that if a landlord threatens to inflict or does actually inflict the turning out of a tenant for his vote, it is a case of undue influence. An employer who extracts the promise of an employee to enter his vote or to refrain from voting and who threatens the latter the loss of employment for acting otherwise is exercising an undue influence. The withdrawal or a threat of withdrawal of one’s custom in order to induce a voter to vote or to refrain from voting is an undue influence.

As for the spiritual side of the question, it has been decided that priests and clergymen have the right to exercise their legitimate influence in the same way as other classes. In the proper exercise of their legitimate influence, the priests and clergymen may lecture to the people and address their congregations upon the conflicting claims of the different candidates, for priests and clergymen are citizens and entitled to have their political opinions and to express them freely. But in doing so, they may not appeal to the fears, terrors, or superstitions of those they address. They must not hold out hopes of reward here or hereafter, nor threaten temporal injury.

57 1 O’M and H., p. 240.
58 1 O’M and H., p. 173.
60 1 O’M and H., p. 50.
61 1 O’M and H., p. 31.
The third type of undue influences that are prohibited by the Act is that of abduction, duress, or any other fraudulent device or contrivance to affect the result of an election. No case of abduction or duress thus far has yet come to court.63 Only one case where an agent stated publicly on several occasions just before the election that he had discovered a plan to detect how each voter had voted and circulated ten thousand copies of newspapers to confirm his statement was held a fraudulent device to interfere with the result of an election.64

If an examination is made of what have been held by the court to be due influences, we shall be surprised to see how these interpretations are amazingly unfair to the working or laboring classes. The court has openly declared that the "law cannot take away from a man who has property or who can give employment the influence he has over those whom he can benefit."65 Based upon this theory it has been held that "a suggestion to a tenant to vote for a particular candidate and a request that if the voter couldn't vote he would stay at home and not vote" was not a case exceeding the bounds of legitimate influence. If an employer has, according to the court, a mixed motive for the dismissal of a voter—if the dismissal is partly political and partly for other reasons, he is "not bound to abstain from dismissing his worker."66 Regarding the relation of a trader with the customer, it was the legal opinion that "it is open to a man to say 'I choose to deal with you, not in accordance with the merits of the commodities you sell to me, but your politics on one side or on the other.'"67

The above are only a few illustrative cases that have been brought up to the court. As a matter of fact, there are a number of such practices whereby the capitalist is able to take advantage of the laboring class in the matter of election. Mr. Buxton's book, "Electioneering Up-to-date" furnishes startling stories on this matter.

63 F. A. Parker, op. cit.
64 ibid.
65 1 O'M and H., p. 40.
67 2 O'M and H., p. 158.
In this connection one point deserves a passing remark. It is often said that rowdyism, hooliganism, and other mob actions are now-a-days more a part of Labor electioneering than of other parties. To be fair-minded, the writer would like to quote the following verse to answer this question:

"All is right as right can be,
' daß turns a vote from you to me,
'The power is wrong, and most undue,
'That turns a vote from me to you."
CHAPTER X

ILLEGAL PRACTICES

Illegal practices, according to law, include illegal expense, illegal payment, illegal employment, illegal hiring, illegal statement, illegal report, illegal voting, and some other minor items connected with electoral activites. With a few exceptions, these provisions are aimed at the limitation of election expense. It is, therefore, fitting and proper to begin the present discussion with the topic of election expenses.

First of all, it is necessary to have a general survey of the conditions prior to 1883, when the Corrupt Practices Act was passed. During those unreformed days, elections were highly expensive and sometimes ruinously extravagant. A few famous illustrations may be cited here. Among them the "Spendthrift Election" of 1768 at Northampton once more deserves our attention.\(^1\) The opponents in that grand, though notorious, contest were the Earls of Halifax, Northampton, and Spencer, and the respective nominees they pitched against each other in this all but ruinous "tourney" were Sir George Osborne, Sir George Bridge Rodney, and the Hon. Thomas Howe. These candidates were all of small account in the conflict; their patrons bore the brunt of the battle. The canvassing commenced long before the polling and all castles of the patrons involved were open to voters for free hospitality. The contest was exciting and the result was no less eccentric.\(^1\) The legitimate number of electors, some nine hundred thirty, was exceeded by two hundred eighty-eight; the number of votes for each candidate was finally found equal. "The election was referred to chance and it was decided by a toss, which Lord Spencer fortunately won. The cost of the election was tremendously large."\(^1\) It was reported that

\(^1\) J. Grego, History of Parliamentary Elections in the Old Days, Ch. IX, pp. 227-246.
Lord Spencer, the winner, spent one hundred thousand pounds; his antagonists are credited with having wasted one hundred fifty thousand pounds each." One of them, Lord Halifax, was ruined. Lord Northampton was forced to cut down his trees and sell them for timber, disperse his furniture, live abroad for the rest of his days and die as a poor fellow in Switzerland.

Another case which took place forty years later and which was equally expensive, if the story is credible, was the famous Yorkshire election. This time Wilberforce, Lord Milton, and Lascelles were the three competing candidates. The poll continued for fifteen days, for the first part of which Wilberforce stood so low that his professional adviser stated that the sooner he resigned the better. It was only by money influence that Wilberforce was able to change his fate and finally he stood at the head of the poll with eleven thousand eight hundred six votes. It was alleged that half a million dollars of money was squandered. The case afterwards was known as the Austerlitz of Electioneering.

Happily the situation described above was brought to an end by the passage of the Act of 1883. The Representation of the People Act of 1918 further did away with many loopholes left by the Act of 1883. The significant features of these Acts are their restraints upon the election expenses. The Act of 1883 limited on one hand the object and on the other the total amount of expenditure for an election. A schedule to the Act of 1883 enumerates the objects for which expenses may be legally incurred. The first part of the schedule deals with persons whom a candidate may employ in an election. They are, according to the law, as follows: (1) one election agent and no more, (2) in counties, one deputy election agent to act within each polling district and no more, (3) one polling agent in each polling station and no more, (4) clerks and messengers in proportion to population, the allowance being in a borough one clerk and messenger or a number of clerks and messengers, not exceeding in number one clerk and one messenger for

2 Gergo, p. 227.
3 ibid, Ch. XII, pp. 325-328.
4 46-47 Vict., c. 51, Schedule I, Part I.
every complete five hundred electors in the borough; in a county for the central committee room one clerk and one messenger or a number of clerks and messengers not exceeding in number one clerk and one messenger for every complete five thousand electors in the county; in a county a number of clerks and messengers not exceeding in number one clerk and one messenger for each polling district in the county or a number of clerks and messengers not exceeding in number one clerk and one messenger for every complete five hundred electors in a polling district.\(^5\)

The second part of the same schedule enumerates a list of expenses which are allowed to a candidate. They are: (1) the personal expenses of the candidate; (2) the expenses of advertising, of issuing and distributing addresses and notices; (3) the expenses of stationery, messages, postages, and telegrams; (4) the expenses of holding public meetings; (5) the fees for committee room of which the number is registered by law. The law also provides a maximum amount for each item. In addition, the Act also fixes two hundred pounds as a maximum amount for miscellaneous matters.\(^6\)

In this connection two points are worth noticing. The provision for the expenses of the returning officer was repealed by the Act of 1918.\(^7\) The personal expenses of the candidate are further restrained to an amount not exceeding one hundred pounds, and any further personal expenses so incurred by the candidate shall be paid by the election agent.\(^8\)

In this schedule, canvassers are not mentioned; consequently the use of paid canvassers is illegal. There are no employees to distribute handbills, addresses, and notices, so an employment of any of these workers is illegal.

The Act of 1918 also provided that "the expenses mentioned above in Parts I, II, and III, of this schedule, other than personal expenses and the fee, if any, paid to the election agent (not ex-

\(^5\) ibid.

\(^6\) 46-7 Vict., c. 51, Sch. 1, r. 8.

\(^7\) H. Fraser, The Representation of the People Act, p. 271.

\(^8\) ibid, s. 31.
ceeding in the case of a county election seventy-five pounds and in the case of a borough election, fifty pounds, without reckoning for the purposes of that limit any part of the fee which may have been included in the expenses first above mentioned) shall not exceed the amount equal: I, in the case of a county to seven pence for each elector on the register; in the case of a borough to five pence for each elector of the register.\footnote{7-8 G., V., c. 64, s. 33.} The amount that is allowed for miscellaneous expenses (two hundred pounds) is reckoned as a part of the maximum amount.\footnote{46-7 Vict., c. 51, Sched. 1, r. 2.} In case there are two or more joint candidates at an election the maximum amount of expenses for Parts III and IV of the said schedule for each of the joint candidates if the amount produced by multiplying a single candidate’s maximum by one and a half dividing the result by the number of joint candidates.\footnote{7-8 G., V., c. 64, s. 33.}

This section of the law would, however, have no meaning if it were not read together with section 8 of the Act of 1883. The latter says that, subject to such exceptions as may be allowed by law, “no sum shall be paid and no expenses should be incurred by a candidate at an election or his election agent, whether before, during, or after an election on account of or in respect of the conduct or management of such election in excess of any maximum amount in that behalf specified” by law.\footnote{46-7 Vict., c. 51, s. 8 (1).} And any candidate or agent who knowingly acts in contravention of this section shall be guilty of an illegal practice.\footnote{ibid (2).}

The Act of 1883, as it has been pointed out already, enumerated the items of expenses and fixed a maximum amount for each specified item. On the other hand, the Act of 1918 provided only the average amount that a candidate can spend on each elector. The impracticability and the unfairness of the first plan was pointed out by members of the Parliament while the Act of 1883 was under discussion in the House. It was argued that the size of different
constituencies varied and it would be a great injustice to the candidates of smaller constituencies. In addition, it left little margin for the agent to draw freely a plan of campaign when the expenses of electoral activities were unnecessarily specified item by item for them. In these two respects the Act of 1918 is certainly an improvement. The Act of 1918 is calculated on the basis of the number of voters, therefore the maximum amount of expenses varies not only from constituency to constituency, but also from year to year in accordance with the increase or decrease of electoral populations of each constituency. But arguments have recently been brought up to criticize the new Act. It has been pointed out that the expenses of the new law were calculated on the prices of 1918, and while the price level changes from day to day, the law remains always the same. Mr. H. J. Houston, an experienced agent, complained of the present Act in the following language:

While I am heartily in favor of the limitation of election expenditure, I take this opportunity of pointing out that when the provisions of the Act of 1918 were discussed and settled by the Speaker’s conference the purchasing power of the pound was particularly at the normal, and the amounts fixed were decided on what was almost a pre-war basis of money value.

Not a few of the agents’ difficulties since have arisen from this fact. Wages, printing, paper, hotel expenses have all increased considerably. To take only one item of election expenditure, envelopes that before the war could be bought at from 2/6 to 3/ per 1000 have since soared as high as 12/6...

In enforcing the maximum limitation the authorities are brought to face two serious questions and until these questions can be adequately answered, the present law is nothing but a farce. First, when does election actually begin? Second, what is the meaning of the term “conduct and management of an election”? The failure to meet these questions in the past has definitely reduced the law

to a dead letter, and consequently has encouraged the "cooking" and falsification of expenditure reports.

As to the first question,—when does an election begin?—the court has consistently refrained from committing itself.\textsuperscript{15} "No definition," said Judge Bruce, "and no definite rule can be laid down as to the time when an election begins. The Legislature has not fixed any definite period, and I think it is not for the judges to attempt to lay down a general definition which the Legislature has carefully avoided."\textsuperscript{16} Out of this chaotic situation the court nevertheless has been and is still following some precedents laid down by the court itself. It is held that "the question is left to individual judges to consider each case with reference to each of its own facts."\textsuperscript{17} It therefore remains for the judges to take any view they please. Some hold that an election does not commence till the election agent is appointed for an actual election campaign. Others believe that all election expenditures should be dated from the adoption of the candidate. Whatever view the judges might have taken in the past does not help to improve the existing law. In fact, because of these uncertainties of the law, ingenuous methods have been used by parties to evade the limitation of election expenses. A candidate can open his pockets wide before he takes legal procedures to start a formal campaign. A party can start meetings without an adopted candidate; they can canvass without an appointed agent. These have been actual practices. What good has the maximum limitation done to the Parliamentary elections in England?\textsuperscript{18}

Lord MacLaren in the Elgin and Nairn Petition (1895) held that "conduct or management of such election meant a definite election within the knowledge and contemplation of the parties who are engaged in conducting and managing it."\textsuperscript{18} Such being the case the result is that the men who interpret the law are those actually engaged in conducting and managing the election. It is equivalent

\textsuperscript{15} H. Fraser, Representation of the People Act, pp. 192-193.
\textsuperscript{16} 5 O'M and H., pp. 50-51.
\textsuperscript{17} 6 O'M and H., pp. 39, 40, 49, 50, and 5 O'M and H., pp. 10-12.
\textsuperscript{18} 5 O'M and H., pp. 11, 12.
to saying that the candidates and agents are men to define the limit of an election, for how can the court tell "the knowledge and contemplation" of the election workers if the latter should not wish to reveal them? Furthermore, ways are too many to conceal such "knowledge and contemplation." The election workers will always have a free hand in dealing with the election expenses.

Indeed, the court has gone one step further to help out the parties in these difficulties. In interpreting the Act, the court has laid down a distinction between what are the so-called "prospective" and "actual" candidates. "I do not agree," said Pollock B,19 "with the argument that there is to be no distinction made between a person who is an actual candidate and a person who is a prospective candidate." As a so called "prospective candidate" the individual, according to the court, is at liberty in "cultivating the goodwill of and recommending to his constituency" and all expenditure thus incurred is not to be regarded as expenses "falling within the eighth section of the Statute." Consequently nursing a constituency becomes not only necessary but legal electioneering practice.

The court principles are these: First, the questions as to when an election begins and what the real scope of the expression "conduct and management of election" is, are entirely left to the wisdom of individual judges to consider each case with reference to each of its own facts; second, election does not commence till the candidate is adopted and the agent is appointed; third, parties are free to elect their prospective candidates and to cultivate the good will of and to recommend to the constituency; fourth, there is no limitation whatsoever about the time of a prospective candidacy. With these four principles laid down by the courts parties have not the least difficulty with either the maximum expenditure limitation of the Act of 1918 or the eighth section of the Act of 1883. In reality, these laws are dead letters.

In addition, other methods have been invented to defeat these laws. Although there is a law forbidding political organizations from carrying on electoral activities during campaign time, these

19 5 O'M and H., p. 28.
organizations can work before the "adoption of the candidate and appointment of the agent." As soon as the moment comes when certain formalities become necessary, in order to fulfill the requirements of the law, these organizations can easily pass a resolution to suspend their existence temporarily. The plan thus far has worked beautifully. It is a method used by all parties in England, therefore there is a common understanding among them.

Some still simpler, though much more unscrupulous, devises can be found to meet the requirements of the law. It is a never-so-easy arithmetical proposition that where a number of items of expenditure go to make up a total, if you can effect a saving upon one set of items you will have more to spend upon the others. Most of the candidates and their agents know the secret and are able to act upon it in the most effective manner. It is quite common that a sub-agent will give his service to a candidate gratis. And one can easily get a worker to accept such a proposition if he can have the assurance that this arrangement is only a compromise to facilitate the agent to make the official report and that the worker will be rewarded doubly or triply for what he is actually entitled in reality. In making up the report the agent can easily return three pounds for a payment of ten or fifteen pounds. This is, technically speaking, the "cooking" of a report and is a common art mastered by most of the election agents.

In order to make the existing law really effective, several suggestions have been made. Mr. Peffer in his book suggests that for the purpose of improving the law, "sums paid and expenses incurred by a candidate or his election agent shall be computed from a date at least six months prior to the date of the election, except where there has been a previous election within such a period, in which case they shall be computed from the date thereof and be returned as election expenses in accordance with the provisions of this Act." The effect of this amendment would be, according to Mr. Peffer, that "every candidate would know that his expenses during any six months would be liable to be election
expenses. A candidate would then be put upon his guard and nursing a constituency would be robbed of its luxuries." This suggestion may prove better than the existing law, but it should be also pointed out here that this "six months" limit may mean the same thing as the "adoption of a candidate and the appointment of an agent." In other words, what the parties have to do in this case is to start their nursing work early and to stop it a few months before the election. Such management is easy in bye-elections, because the parties practically can control the election time by manipulating the time of the resignation of the sitting member.

To remedy the "cooking" of reports, both Mr. King and Mr. Peffer suggest²⁰ that "the items of reports should be open to immediate challenge. . . . Within a certain time, the return might be disputed before the returning officer, subject to appeal to the High Court without the formality of a petition." With this suggestion the writer entirely agrees.

According to law, the making or receiving of payment, or making a contract for payment for the purpose of promoting or procuring the election of a candidate at any election, on account of the conveyance of the electors to or from the poll, whether for the hiring of horses or carriages, or for railway fares, or otherwise is illegal.²¹ A payment to an elector on account of the use of any house, lands, buildings, or premises for the exhibition of any address, bill, or notice, or on account of the exhibition of any address, bill, or notice, unless it is the ordinary business of such elector as an advertising agent to exhibit for payment bills and advertisements and such payment to or contract with such elector is made in the ordinary course of business; or on account of any committee room in excess of the number allowed by law is illegal.²² In the case of a candidate at an election or any agent of his or any other person making any payment, advance or deposit before, during or after an election, in respect of any expenses

²⁰ J. King, Electoral Reform, pp. 114-118.
²¹ 46-7 Vict., c. 51, s. 14.
²² 46-7 Vict., c. 51, s. 7.
incurred on account of or in respect to the contest or management of such election otherwise than by or through the election agent acting in person, or by a sub-agent within his district; and in the case of any person, the payment of any money provided by any person other than the candidate for any of the said expenses, whether as a gift, loan, advance, or deposit, to any person other than the candidate or his election agent;—they are illegal practices.\(^{23}\) Payment of a claim which is not sent in to the election agent within fourteen days after the day on which the candidates returns are declared elected without a judgment or order of a competent court, or a leave of the high court or payment of any of the said expenses after twenty days after the day which the candidate’s returns declare him elected is illegal practice.\(^{24}\) A person who knowingly provides money for any payment contrary to the provisions of law is committing an illegal Act.\(^{25}\) Any person who corruptly induces or procures any other person to withdraw from being a candidate at any election in consideration of any payment or promise of payment or so withdraw from being a candidate at an election in consideration of any payment or promise of payment contrary to the provision of law commits an illegal practice.\(^{26}\) Any person who pays or receives payment or contracts for payment at any election on account of bands, torches, flags, banners, cockades, ribbons, or other marks of distinction, is guilty of illegal practice.\(^{27}\) But a person who provides flags, banners, ribbons without payment is not committing an illegal act.

The next point is illegal hiring and illegal employment. It has been pointed out that the law limits the number of persons to be employed by a candidate in an election campaign. The employment of any number in excess of this limitation is an illegal

\(^{23}\) 46-7 Vict., c. 51, s. 28.
\(^{24}\) ibid, s. 29.
\(^{25}\) ibid, s. 13.
\(^{26}\) ibid, s. 15.
\(^{27}\) ibid, s. 16.
practice. A man who uses any of the following places for committee rooms in election is guilty of an illegal practice: (1) where liquor is sold by license, (2) where any intoxicating liquor is sold or is supplied to member of a club, society, or association, other than a political club; (3) where refreshments of any kind are ordinarily sold for consumption on the premises; (4) where there is any public elementary school that receives annual grants.

The third point is illegal statement and reports. Any person who before or during an election knowingly publishes a false statement of the withdrawal of a candidate for the purpose of procuring the election of another candidate is guilty of an illegal practice. The making or publishing of a false statement of fact in relation to the personal character or conduct of a candidate for the purpose of affecting his return without evidence or proof to show his innocence on the matter is an illegal practice. A candidate, his election agent, or sub-agent within his district, who prints or publishes, or posts, or causes to be printed, published, or posted, any bill, or placard, or poster, having reference to an election, which fails to bear upon the face thereof the names and addresses of the printer and publisher is guilty of an illegal practice. If without authorization a candidate or his agent fails to comply with the requirements of the law as to the return and declaration respecting election expense, he is guilty of an illegal

28 46-7 Vict., c. 51, Schedule 1.
29 ibid., s. 14.
30 46-7 Vict., c. 51, s. 20.
31 46-7 Vict., c. 51, s. 9.
32 58-9 Vict., c. 40, s. 1.
33 58-9 Vict., c. 51, ss. 18, 25.
practice.34 False return by the returning officer and false answer to election questions by electors are also illegal practices.35

The last is illegal voting. If any person at a general election votes for more constituencies than he is entitled in accordance with the Act of 1918, or asks for ballot or voting paper for the purpose of so voting he is guilty of an illegal practice.36 A proxy voter who votes in the same constituency otherwise than by proxy, commits an illegal practice.37 A person who votes or attempts to vote as proxy on behalf of more than two absent voters at an election in any constituency, other than voting as husband and wife, or the parent, brother or sister of the present voter is guilty of an illegal practice.38 Voting and attempting to vote at any election under the authority of a proxy paper by such person, who knows or has reasonable grounds for supposing that the proxy paper has been cancelled, or that the elector to whom or in whose behalf the proxy paper has been issued is dead or no longer entitled to vote at this election is an illegal practice.39 Voting at an election by any person who knows that he is prohibited by statute from voting, or inducing or procuring any person to vote at an election, knowing that such person is prohibited by statute from voting, is also illegal by the Act of 1883.40

As for punishments for all these crimes, the law laid down that a person who is guilty of an illegal practice may be prosecuted in the manner provided by the summary Jurisdiction Act41 and is on summary conviction liable to a fine not exceeding one hundred pounds and is incapable, during a period of five years, from the date of his conviction, of being registered as an elector,

34 ibid, s. 33 (6).
35 14-4 Vict., c. 67, s. 88.
36 7-8 G. 5, c. 64, s. 22.
37 ibid, sched. III, r. 10.
38 ibid.
39 7-8 G. 5, c. 64, sched. III.
40 46-7 Vict., c. 51, s. 9.
41 ibid, s. 54.
or of voting at any election held for or within the county or 
borough in which the illegal practice was committed.\textsuperscript{42} 

A candidate or any election agent of a candidate, who is per-
sonally guilty of an offense of illegal payment, employment, hiring, 
etc., is guilty of an illegal practice, and is punishable accordingly.\textsuperscript{43}

\textsuperscript{42} ibid, s. 10.
\textsuperscript{43} ibid, s. 21.
CHAPTER XI

ELECTION PETITIONS

Prior to 1868 the validity of an election was decided by the House of Commons. Consequently party bias played a very important part in deciding such cases. A great deal of injustice was done to the minority party. As a reforming measure, the House decided in 1770 to create a specially selected committee to handle election disputes. This, however, did not put an end to party influence. Finally, in 1868, the trial of election petitions, whether filed on the ground of misconduct or of corrupt or illegal practices, was committed to a judicial body. The Parliament Election Act of 1868 was the first Act dealing with the question of election petition in a detailed manner. It defined the jurisdiction and regulated the procedure of such cases. In the fiftieth article, the law required that "no election or return to Parliament shall be questioned except in accordance with the provision of the Act." Henceforth, the question of validity of election became a judicial question and could be settled through proper judicial process.

This judicial power, however, was by no means unlimited. First of all, it was provided that no election should be declared invalid by reason of a non-compliance with certain unimportant formalities if "it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in the body of the Act of 1872 and that such non-compliance or mistake did not affect the result of the election." Secondly, the Representation of the People Act of 1918 goes further and says that "an election shall not be questioned by reason of any non-compliance with the provisions of this sec-

1 31-32 Vict., c. 125, s. 50.
2 35-6 Vict., c. 33, s. 13.
tion, or any informality relative to polling districts or polling stations."

With these two modifications, it is a natural consequence that an election dispute of an unimportant nature is not to be brought up and that the field of election suit is practically narrowed down mainly to questions of corrupt and illegal practices. On the other hand the ancient jurisdiction of the House over its own members is not, however, entirely taken away. After the time has expired for presentation of an election petition or after an election has been withdrawn the House is free to determine all questions affecting a member or his seat. One of the concrete examples is the power of the House to appoint Election Commissions to inquire into any election.

Where two or more electors of any county or borough present a petition to the House of Commons within twenty-one days after the return of a member, or within fourteen days after the meeting of Parliament, and therein allege that corrupt and illegal practices have extensively prevailed at the election, or where the election judges report to the same effect, both Houses may by a joint address pray His Majesty to appoint a Commissioner to inquire into the existence of such corrupt practices. If the two Houses differ, so that no joint address can be presented, a special Act may sometimes be passed to appoint commissioners.

The commissioners must be barristers of not less than seven years standing. They must not be members of Parliament, or hold any office or place of profit under the Crown other than that of recorder of any city or borough and are usually three in number. If appointed, they are empowered to inquire into illegal as well as corrupt practices. And if they find that corrupt or

\[\text{footnotes:} 3 \text{ 7-8 G. 5, c. 64, s. 31.} \]
\[4 \text{ 46-7 Vict., c. 51, s. 12.} \]
\[5 \text{ 15-16 Vict., c. 57, s. 1.} \]
\[31-32 \text{ Vict., c. 125, s. 15.} \]
\[6 \text{ ibid, s. 65.} \]
\[7 \text{ 15-16 Vict., c. 57, s. 1.} \]
illegal practices have been committed at the election into which they are authorized to inquire, they may make the like inquiries concerning the latest previous election and then into the election immediately previous thereto and so in like manner from election to election as far back as they may think fit.  

The meetings and inquiries are somewhat similar to the proceedings of an election court of which we are going to speak soon. It is worth while here to point out that until the commission appointed in 1906 to inquire into corrupt practices at Worcester, no election commission had been issued since 1880 and none has been issued since 1906.

The grounds on which a petition can be brought up are that the election or return is void or that there is no return. The main grounds for the first case are: (1) it is not a real election, (2) the election is not conducted in accordance with the principles of the subsisting election laws, (3) the successful candidate or any agent of his has been guilty of any illegal practice mentioned in existing election laws. A return may be void as being an undue or double return. Regarding double return it is worth noticing that in case there is a tie between two candidates and the returning officer cannot vote or does not want to vote in such a case, then the returning officer is permitted to make a double return.

An election petition may also make a claim regarding special matters contained in a return, the conduct of the returning officer, the decision of the returning officer allowing an objection to a nomination paper, or any question arising in regard to a ballot paper. It may pray a scrutiny or a recount or a limited recount.

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8 46-47 Vict., c. 51, s. 12.  
9 31-2 Vict., c. 125, ss. 5, 40, 52, 53.  
10 ibid, s. 51.  
11 35-36 Vict., c. 33, r. 13.  
12 ibid, r. 32.  
13 ibid.  
14 1 O'm and H., p. 225.
A petition may claim the seat, in which case recriminatory evidence may be gone into. The respondent cannot recriminate and the petitioner cannot give exculpatory evidence unless the seat is claimed.

According to law, anyone or more of the following persons may petition: 15
1. A person who voted or who had a right to vote at the election to which the petition relates;
2. A person claiming to have had a right to be returned or elected at such election;
3. A person alleging himself to have been a candidate at such election.

A petition complaining of an undue return or undue election of a member to serve in the parliament shall be presented within twenty-one days after the return has been made to the Clerk of the Crown. 16 An election petition questions the election return upon an allegation of an illegal practice, or illegal practice amounting to corrupt practice may be presented at any time before the expiration of fourteen days after the day on which the returning officer receives the return and declarations respecting election expenses by the member to whose election the petition relates and by his election agent. 17 In this connection two points should be noticed. The day on which the returning officer receives the return and declaration is: (a) Where the returns and declarations are received on different days, the day on which the last of them is received; (b) Where there is an authorized excuse or authorized excuses respecting election expenses, the date of the allowance of the last excuse. 18 In the case when a petition specially alleges, upon the ground of an illegal practice, that a payment of money or some other act was made or done, since the day on which the returning officer so receives the return and declarations aforesaid,

15 31-32 Vict., c. 125, s. 5.
16 31-32 Vict., c. 125, s. 5.
17 31-32 Vict., c. 125, s. 6.
18 46-47 Vict., c. 51, s. 40.
by the member or an agent of the member or with the privity of the member or his election agent in pursuance or in furtherance of the illegal practice alleged in the petition, the petition may be presented at any time within twenty-eight days after the date of such payment or other act.\textsuperscript{19}

At the beginning the Courts of Common Pleas at Westminster of England and Dublin of Ireland were assigned to take charge of all the election petition cases. The officers taking care of these cases received extra remuneration in addition to their existing salaries for these extra duties.\textsuperscript{20} In 1881 a new act was passed and it provided that the judges for the trial of election petitions should be elected from the judges of the Queen’s Bench Division of the High Court of Justice.\textsuperscript{21} These judges are elected on or before the fourth of November in every year by a majority vote. They are altogether three in number and none of them can be a member of the House of Lords. Down to the present moment the tribunal for trial of election petition is still the King’s Bench Division of the High Court of Justice.

It is a matter of course that only the person who is petitioned against can be made a respondent. In most of the cases the successful candidates are the respondents. When a petition complains of the conduct of a returning officer, such returning officer shall be for all purposes, except the admission of respondents in his place, deemed to be a respondent.\textsuperscript{22} It has been held that to justify the making of a returning officer a respondent, there must be an imputation of misconduct—a bona fide, though erroneous decision upon a point of law (e.g. upon the validity of a nomination paper) is not a “complaint of the conduct of the returning officer” within the meaning of the law. If before the trial of any election one of these events happens to the respondent: (1) he dies, (2) he is summoned to Parliament as a peer, (3) the House resolves that

\textsuperscript{19} ibid, s. 40, (a), (b).
\textsuperscript{20} 31-32 Vict., c. 125, r. 52.
\textsuperscript{21} 44-45 Vict., c. 68, s. 13.
\textsuperscript{22} 31-2 Vict., c. 125, c. 51.
his seat be vacant, (4) he gives in and at the prescribed manner and time notice to the court that he does not intend to oppose the petition; and the notice of such happenings has been duly given, then any person who might have been a petitioner in respect of the election to which the petition relates, may apply to the court or judge to be admitted as a respondent to oppose the petition, and such person shall be admitted accordingly, either with the respondent if there be one or in place of the respondent. A respondent who has given the prescribed notice that he does not intend to oppose the petition shall not be allowed to appear or act as a party against such petition in any proceeding thereon, and shall not sit or vote in the House until the House has been informed of the report on the petition; and the judge or the court is responsible for reporting the same to the House. It also shall be remembered that two or more candidates may be made respondents to the same petition, and their cases may for the sake of convenience be tried at the same time, but for such cases there shall be deemed to be a separate petition against each respondent.

In foregoing passages it has been pointed out that petition shall be presented at a due time and to a proper authority. But a petition shall also be presented in a certain manner, prescribed by law. First of all, a petition "shall be in such form and state such matters as may be prescribed." Petitions are presented by leaving them at the offices of the master of the King's Bench Division, and the master must, if required, give a receipt. With the petition there must be left: (1) a copy thereof for the master to send to the returning officer of the county or borough to which the petition relates, (2) a writing signed by the petitioners or on their behalf, giving the name of their agent, or stating that they act for themselves, as the case may be, and in either case giving an address within three miles from the General Post Office at which notices addressed to them may be left. Then the service of petition shall be as nearly as in the manner in which a writ or summons is served. Immediately after service, the petitioner or the agent shall

21 31-2 Vict., c. 125, s. 20.
file with the master of the court an affidavit of the time and manner of service thereof. The petitioner as well as respondent may employ an agent to act as his attorney, and the agent thus employed shall leave notices in the office of the court informing the latter of the same fact.

The petition must state the right of the petitioner on the basis of law (Act of 1868), the holding and result of the election, and the facts and grounds relied on to sustain the prayer. The petition must be divided into paragraphs, each of which, as nearly as may be must be confined to a distinct portion of the subject and every paragraph must be numbered consecutively. It must conclude with a prayer, as for instance, that some specified person should be declared duly returned or elected, or that the election should be declared void, or that a return should be forced, as the case may be; and it must be, as it has been pointed out, signed by the petitioner or petitioners.

A petition cannot be defeated by a mere formal objection; but if its language be so loose and vague that its meaning cannot be fairly ascertained, it may be held insufficient. Personal charges should not be made without reasonable grounds. 24 If a scrutiny be desired, the petitioner must claim the seat, or he will not be permitted to go into a scrutiny.

The petition may be either printed or written, and on paper or on parchment. Finally the petition must be signed by all petitioners with their own hands and by their names and marks. It will not suffice to sign for procuration.

A petition after being presented to the court may be withdrawn through legal process. First of all, the law requires that it should be withdrawn through special application and by leave of the court. No such application can be made until notice has been given, in the county or borough to which the petition relates, of the intention of the petitioner to make an application for the withdrawal of the petition. Such notices must be in writing 25 and

24 3 O'm and H., p. 99.
25 31-32 Vict., c. 125, s. 35.
signed by the petitioners or their agents and it must state the
ground on which the application is intended to be supported.\textsuperscript{26}
On the hearing of the application for withdrawal any person,
who might have been a petitioner in respect of the election to
which the petition relates, may apply to the court to be sub-
stituted as a petitioner for the petitioner so desirous of with-
drawing the petition.\textsuperscript{27} The court may substitute as a petitioner
any such applicant as aforesaid and it may order the security
of the original petitioner to be retained as the security for the
new applicant if the court thinks fit.

Where there are more petitioners than one, no application to
withdraw a petition can be made except with the consent of all
the petitioners.\textsuperscript{28} At the same time, the application must be
supported by affidavit.\textsuperscript{29} In every case of withdrawal the court
shall report the same to the Speaker of the House with the decision
of the court regarding it.\textsuperscript{30} Final notice of withdrawal shall be
sent to the respondent and to the returning officer, who must make
it public in the county or borough to which it relates.

Closely connected with the above topic is the question of abate-
ment. There are two ways by which a petition is abated. A peti-
tion is abated by the death of a sole petitioner or of the survivor
of several petitioners. In any case the abatement of a petition
does not affect the liability of the petitioner to the payment of
cost previously incurred. On the abatement of an election petition,
otice of such happening should be given to the county or borough
to which the petition relates within a due time and other persons
may apply for substitution to be a new petitioner.

Those petitions which have been properly presented and not
been withdrawn or abated are tried by the election court. Formerly
a election petition was tried by one judge, but the Act of 1879
provided that the trial of every election and the hearing of an

\textsuperscript{26} ibid, rules 46, 47.
\textsuperscript{27} ibid, s. 35.
\textsuperscript{28} ibid, s. 35.
\textsuperscript{29} 46-47 Vict., c. 51, s. 41.
\textsuperscript{30} ibid.
application for the withdrawal of an election petition shall be conducted before two judges. By the Parliamentary Election Act of 1868, the trial of an election, in the case of a petition relating to a county or borough election shall take place in the county or borough respectively unless "special circumstance" exists which makes the court think it desirable to conduct the trial in some other place than the county or the borough to which the trial relates. There is, however, no such "special circumstance" in the fact that the inquiry is of such a nature that the trial can be more cheaply and conveniently held elsewhere.

The time and place of trial is fixed by the judges on the rata. Notice of the time and place at which an election petition will be tried shall be given, not less than fourteen days before the day on which the trial is held, in the prescribed manner.

During the trial the judge presiding may adjourn the same from time to time and from place to place as may seem expedient to him. In case the question demands recount or scrutiny of the old ballots, such processes may be conducted by the court in accordance with law. If the case involves corrupt and illegal practices for which witnesses are quite necessary, then witnesses may be summoned and examined. The law provides that "witnesses shall be subpoenaed and sworn in the same manner, as nearly as circumstances admit, as in a trial at nisi prius and shall be subject to the same penalties for perjury." The same Act also provides that "the judge may by order under his hand, compel the attendance of any person as a witness who appears to him to have been concerned in the election to which the petition refers, and any person


34 31-32 Vict., c. 125, s. 11 (16).

36 ibid, s. 31.
refusing to obey such order shall be guilty of contempt of court. The judge may examine any witness so compelled to attend, or any person in court, although such witness is not called and examined by any party to the petition. Such witness may be cross-examined by or on behalf of the petitioner and respondent, or either of them.\(^{37}\)

Besides witnesses, the shorthand writer of the House of Commons or his deputy shall attend, and shall be sworn by the judge to take down faithfully and truly the evidence given at the trial and to write or cause the same to be written in words at length.\(^{38}\)

The last point about the trial is the decision of the judges and their report. In the event of the judges not having arrived at the time appointed for the trial, or to which the trial is postponed, the commencement of the trial shall ipso facto stand adjourned to the ensuing day, and so from day to day.\(^{39}\) The decision made by the Judges is final. In case the two judges determine that such member is not duly elected or returned, but differ as to the rest of the determination, they shall certify that difference, and the election shall be deemed to be void; and if the judges differ as to the subject of a report to the Speaker, they shall certify that difference and make no report on the subject which they differ. But if the judges differ as to whether the member whose return or election is complained of was duly returned or elected the member is deemed to be duly elected and returned.\(^{42}\) When a conclusion is arrived at, the judges shall forthwith certify in writing such determination to the Speaker. Where a corrupt practice has been committed in the case, the judge shall in addition to such certificate report the following things to the said Speaker: (1) whether any corrupt practice has or has not been learned to have been committed by or with the knowledge and the consent of any candidate at such election, and the return of such corrupt practice, (2) the names of all

\(^{37}\) ibid, s. 32.

\(^{38}\) 31-32 Vict., c. 125, s. 23.

\(^{39}\) Petition Rules 35.

\(^{40}\) 42-3 Vict., c. 75, s. 2.

\(^{41}\) 31-2 Vict., c. 125, s. 11 (14), 15.
persons (if any) who have been proved at the trial to have been guilty of corrupt practices, whether corrupt practices have or whether there is reason to believe that corrupt practices have extensively prevailed at the election to which the petition relates. In addition the judge may make a special report to the House as to the matters arising in the course of the trial an account of which, in his judgment, should be submitted to the House of Commons.42

In this connection the question may arise as to who is responsible for the costs thus incurred in these election petitions? The law provides that "all costs," charges and expenses incidental to the presentation of a petition and to the proceedings consequent thereon, with the exception of such cost, charges, and expenses as are by statute otherwise provided for, must be defrayed by the parties to the petition in such manner and in such proportions as the court may determine."43 The exceptional cases are: (1) the expenses of the judge and of his reception by the sheriff or mayor at the place of trial and of the court and of any witness whom the judge may think fit to call and examine which are to be paid by the Treasury; (2) the costs of the respondent where the petition is withdrawn, which must be paid by petitioner;45 (3) the cost of the publication of anything required to be published by the returning officer, etc.46 Then the court may order the cost to be paid by the county or by the borough to which the petition relates or may order some individual to be responsible for the whole or part of the cost incurred if the court has sufficient ground to justify the action.47

The election judges now have also the power of discretion as to

42 31-32 Vict., c. 125, s. 11 (4) (5).
43 ibid, s. 41.
44 ibid, s. 28, 30, 31.
45 ibid, s. 35
46 Petition Rules, no. 12.
47 46-7 Vict., c. 51, s. 44.
the scale on which costs shall be allowed and taxed. The usual rule is that costs follow the event.\textsuperscript{48}

By a successful petition a petitioner may be deprived of costs in any of the following cases: (1) where the primary object of the petition has failed and it has succeeded on a subordinate point merely, (2) where a reprimaratory case has been brought forward or a scrutiny has been held and each side has succeeded and each has failed, (3) where election is avoided not for the acts of the respondent or his agent but because it is void at the common law, etc. On the other hand a successful respondent may also be deprived of costs on some cases, e.g. where there is a strong prima facie case and reasonable cause for presenting the petition and for inquiry, but not if the petitioner’s evidence has been collected in an improper way; where the respondent or his agent has been guilty of acts which, though not sufficient to avoid the election, are illegal, etc.

In recent cases there has been a growing tendency on the part of the Court to apportion costs in respect to particular issues in the petition. Thus a petitioner may obtain his costs in some particulars and the respondent in others. And quite often the two parties bear the expenses of some particulars equally and proportionately according to the share of their responsibilities involved.

In the case where a returning officer is a respondent he may also be ordered to pay or to obtain the costs as the court decides.

Then we come to the question of security. At the time of the presentation of a petition or within three days afterwards, security has to be given on behalf of the petitioner for the payment of all costs, charges, and expenses, that may become payable by him (1) to any person summoned as a witness on his behalf, or (2) to the member whose election or return is complained of.\textsuperscript{49}

The amount for this security is, by law, one thousand pounds. It must be given by recognizances to be entered into by any num-

\textsuperscript{48} 1 O’M and H., p. 7.
\textsuperscript{49} 6 O’M and H., p. 131.
\textsuperscript{49} 31-32 C. 125 s. 6 (4).
ber of sureties not exceeding four, or by a deposit of money, or partly in the other. 59

Thus far we have discussed how a petition is filed in the court and how the court makes its decision, but it should be remembered that the final alteration of the result of an election is to be carried out by the House of Commons itself. Upon receiving the report of the election court, the House shall order the same to be entered in the journal and shall give the necessary directions for confirming and altering the return, or for issuing a writ for a new election, or for carrying the determination into execution, as circumstance may require. Where the court makes a special report, then the House makes such orders in respect to such special report as it thinks proper. 52

So much for the legal procedure of election petition. We propose in this connection to comment in a few words upon the system. It has been pointed out that there is a decreasing tendency to make use of this machinery. This is, of course, not so much due to the false presumption that election conditions have been raised to a higher moral level as to the defect of the petition system itself. In the first place, the provision that only voters and defeated candidates can be plaintiffs in a petition is somewhat illogical. At present the theory of the law seems to be that electoral offenses are merely wrongs suffered by the defeated candidates or those who have supported the latter. On the contrary, they are offenses against the state and public morality. Therefore the responsibility of persecution should be on the state, instead of as it is now, on some particular individuals. Mr. Buxton recommended that “cases of bribery, treating, and undue influence should be dealt with by the police, like other offenses, whether a petition is brought or not.” 53 Such a suggestion is certainly worth serious consideration.

Secondly, the law in the past provided that such cases should be tried by one judge. Today it is changed into a system of two

50 ibid, s. 6 (5).
51 31-2 Vict., c. 125, s. 18.
52 31-2 Vict., c. 125, s. 14.
53 Buxton, Election Up-to-date, Ch. VI, pp. 66-6
judges. Whether this change is an improvement or not does not concern us here at this moment. What the writer wants to point out is that a court organized by two judges is itself an ill-devised machinery. Nothing in the world is more absurd than having an even-numbered body to decide disputable cases, worst of all, a body composed of the smallest even number, two members. Should one be surprised that such organized body has the greatest opportunity to meet a deadlock in its working? Were it a court of six or of eight, or of twelve judges, the situation might be better. In the present case it is a court of two of whom the opinion of one may at any time differ from the other and consequently at any time there may be a tie or a deadlock. There is, in addition, no remedy for such a tie or a deadlock other than the method of reporting such differences to the House. And there is no provision whatsoever that the House will take steps to settle these differences, which are due to the ill-organized judicial system. As it is now, a single judge, if he has a party prejudice, can blockade an election petition at his free will. What is then the guarantee of justice under the present system?

Thirdly, the system is terribly costly, so costly that it actually deprives the economically poor candidate or voters of the protection of the law. Speaking of the required security alone, it means one thousand pounds. How many of the ordinary candidates or voters can afford to desposit such a big amount in a bank for the purpose of starting an election case? Therefore the system gives an incredible advantage to the rich and serves as a safeguard for those who can really afford it for corrupt and illegal practices in election.

In addition, there are the expenses of counsel fee, of witness fee, and of many other unexpected fees. If one fails in a petition, of which the chance is very great under the present ill-organized system, one is called upon to pay the costs of both sides. So to start an election petition means to run a ruinous risk on the part of the petitioner. Is this not a reason sufficient enough to explain why so few cases have been brought up in the past years?
Lastly, the limitation of time for petition should be also extended. Under the present system, petition should be presented within a certain time limit and when the limit is over, nobody can question the result. Under such circumstances tricks can be easily played by guilty candidates to defeat the law. And that all inquiries regarding the illegal and corrupt practices should be made within such a short time after election is again "sufficient explanation why less and less use is made of the law." Why should this limitation be necessary? Why are not illegal and corrupt practices discovered after the time-limit offenses before the law?

All these facts show that the existing laws need to be revised. Of course there is the suggestion that a punitive is not as good a guiding principle as a preventative one in jurisprudence. If some improvement can be made in the election system itself, there will be less need of this judicial provision. "I would not be thought to suggest," said Mr. Buxton, "that mere legal restriction is the ultimate remedy for the evil I have indicated. These evils are merely the symptoms of a deeper malady. It is public opinion which is at fault." The writer certainly gives full support to what has been so adequately and wisely expressed by Mr. Buxton. But the fact remains that the cultivation of a healthy public opinion and the reformation of the law should be equally and simultaneously emphasized.

VITA

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In 1923, he finished his B. A. in the University of Wisconsin and in the next year he received his M. A. in the same institution.

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