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SOCIAL SCIENCES

VOL. VIII

JUNE, 1919

No. 2

THE HISTORY OF CUMULATIVE VOTING  
AND MINORITY REPRESENTATION  
IN ILLINOIS; 1870-1919

BY

BLAINE F. MOORE, PH.D.

Associate Professor of Political Science  
University of Kansas

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REVISED EDITION

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PUBLISHED BY THE UNIVERSITY OF ILLINOIS  
URBANA

[Entered as second class matter, July 27, 1915, at the post office at Urbana, Illinois, under the Act of August 24, 1912. Acceptance for mailing at the special rate of postage provided for in section 1103, Act of October 3, 1917, authorized July 31, 1918.]

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SOCIAL SCIENCES

VOL. VIII

JUNE, 1919

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The History of Cumulative Voting  
and Minority Representation  
in Illinois, 1870-1919

BY

BLAINE F. MOORE, PH.D.

Associate Professor of Political Science  
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### PREFACE TO THE REVISED EDITION.

The principal object of this revision has been to bring the statistical tables and current information up to date, with such changes and additions to the text as the modified tables and the passing of events since the original publication have made necessary or advisable. The enactment of a valid primary law by the State of Illinois in 1910 has presented a new question and a chapter has been included discussing the effect of the primary system as disclosed by its use over a period of five biennial elections.

The author is indebted to his colleague, Mr. Herman B. Chubb, who rendered material assistance in the revision. Dr. W. F. Dodd has read the manuscript and made important suggestions, particularly regarding present local conditions in Illinois. The author is also under obligations to Miss Katherine Summy for assistance in proof reading.

B. F. M.



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## INTRODUCTION

BY JAMES W. GARNER

*Professor of Political Science  
in the University of Illinois*

In the view of the early meeting of a Constitutional Convention in Illinois and the certainty that the question whether the existing scheme of minority representation shall be retained will be the subject of much discussion in the Convention, the publication of a revised and up-to-date edition of Professor Moore's useful and impartial study of the actual working of the cumulative system from 1872 to 1919 is most timely. He sets forth the reasons which led the Convention of 1870 to establish a system which departed from the practice of the rest of the country and has not yet found favor in any other state, examines the somewhat extravagant claims that were put forth in support of it by its advocates, and details the actual operation of the scheme, in an effort to show to what extent if any the advantages claimed for it have been realized in practice. The results show that with a few exceptions the principal minority party in each of the legislative districts has been able to elect at least one of the three members of the house of representatives to which the district is entitled, there having been only six instances since 1872 in which one party succeeded in electing all three members. The system has therefore resulted in practice in enabling the chief minority party in the state to elect more than one-third of the members of the house of representatives. But as the author points out the system does not necessarily insure proportional representation; its advocates in fact did not claim that it would have this result. Nevertheless, so far as the two dominant parties are concerned, it has in practice resulted in what amounts to a system of proportional representation approximating mathematical exactness. Since the senate is not elected according to the cumulative system and since 50 per cent of its members are always "holdovers" it may

and not infrequently does fall short of representing the prevailing political sentiment of the state at a given time. Thus in 1904-06 the principal minority party was represented in the senate by less than half the number of members it was entitled to on the basis of its vote at the last election.

Mr. Moore also points out that the scheme does not insure proportional representation to minor political parties: the Socialists, Progressives, Prohibitionists and others. In fact, however, third parties have been represented in every legislature since 1872, with six exceptions, though it has rarely been in proportion to their voting strength.

While, as stated above, the principal minority party in each district has, with six exceptions since 1872, always succeeded in electing at least one of the three representatives, it has also happened in 47 instances that it elected two of the three. In 1912 this occurred in eleven districts. Such slips of the cog may be due as the author shows to the over-conservatism of the majority party or to inaccurate estimation of its voting strength which causes it to nominate but one candidate; it may also result from over estimation of its voting strength which leads it to nominate three candidates. This usually results in the division of its vote to the advantage of the minority party if the latter puts only two candidates in the field. Finally, and this is the most common, it may result from excessive cumulating or "plumping" of votes on a popular candidate to the detriment of his party running mate, or from the "knifing" of a nominee from another county in favor of the home man.

Since the publication of the first edition of Professor Moore's study the primary law has been enacted and he very properly adds a chapter to the new edition, showing how the working of the cumulative system has been affected by the law. This law empowers the senatorial committee in each district to determine the number of candidates that shall be nominated by the party which it represents whereas formerly the number was determined by the party managers. Prior to the enactment of the primary law a standing complaint of reform organizations such as the Legislative Voters' League was that the majority party in each district rarely nominated more than two candidates and the minority not more than one. As no more candidates were nominated than there were representatives to be chosen the



voter had little choice at the election. Since the enactment of the primary law there has been some increase in the number of candidates nominated (42 per cent of the Cook County districts have nominated four or more candidates; in 1918, 17 districts outside of Cook County did this) but the proportion is still comparatively low so that in the majority of districts the voters still have no choice at the general election. This is regrettable, but as Professor Moore points out, where a party nominates more candidates than it can elect it will be exposed to defeat through a division of its voting strength. If each party for example were to nominate three candidates as the Legislative Voters' League advocated, the majority would probably elect all three members and the system of minority representation would break down.

In his general evaluation of the merits and demerits of the system Professor Moore shows, as stated above, that it has with the few exceptions mentioned enabled the minority party to elect over one-third of the members of the house, and in this respect it has fulfilled the main purpose of its sponsors. But there is no evidence that it has resulted in the election of representatives of greater ability or larger breadth of view than were elected under the old system prior to 1870 or are now elected in other states. Apart therefore from the advantage of insuring that the leading minority party be represented by a certain number of its own adherents the system does not appear to possess any particular merit, if one considers only the intrinsic character of the legislature and the general interests of the state which it is intended to serve.

The most serious defect of the system is to be found in the fact that it has in some cases resulted in the election of a house of representatives in which no political party had a majority. In such a house no party possesses power or responsibility; party strife is accentuated; paralysis is apt to characterize the proceedings and the output of constructive legislation is likely to be disappointing.

Furthermore, it sometimes results under the cumulative system that the party which elects the governor has only a small majority of the representatives. Under these circumstances a few members may hold the balance of power, and the governor may find it impossible to carry out the legislative program

upon which he may have made his campaign and which may have received the endorsement of the majority of the voters. To be sure this situation may, and sometimes does, happen in other states where the cumulative system is not in force, but it has happened more frequently in Illinois in recent years than elsewhere.

On the whole, a study of the results, and they have been set forth by Professor Moore in a fair and judicial manner, does not quite convince one that the system is superior, if the general interests of the state as a whole be considered, to that of the other states. Certainly many of the advantages claimed for it in the beginning by its advocates have not been realized in fact, and it is doubtful whether the advantages that have been realized have not often been offset by the disadvantages.

## CHAPTER I

### NEW METHODS OF REPRESENTATION

Elections by pluralities and the failure of large groups in each community to obtain representation in the government have led to the proposal of numerous remedies, the principal of which are indicated briefly below.

(1) When but one officer is to be elected, plans of preferential voting have been proposed whereby the voter may express his second or further choices. Thus, when there is but one official to be elected and three candidates, no one of the three may have a majority, and the expression of second and third choices may indicate an actual choice of the majority of the voters. Let us suppose that A has 400 votes, B, 300 votes and C, 300 votes. If A is declared elected upon the basis of this vote he is clearly a minority choice whereas 600 voters may prefer either B or C to A. The expression and count of a second choice does, it is claimed, produce a better representation of public sentiment and preferential voting of this character has been adopted in many parts of the world. There are a number of methods of counting second, third or further choices, of which the best known in this country (and perhaps the least satisfactory) is the so-called Bucklin system, first applied in Grand Junction, Colo., and now employed in Cleveland and other cities.

(2) The limited vote. Where there are three or more persons to be elected, this plan has occasionally been adopted. For example, if three candidates are to be elected, each voter will be given but two votes, and the majority party will thus be able to elect only two candidates, if the minority party is fairly strong and is well-disciplined. Such a plan will normally give representation to the strongest minority party. For some years this plan was employed in the election of aldermen in New York City and in Boston and is also used in the election of judges in Pennsylvania.

(3) Cumulative voting, of which the most striking example

is that of Illinois, to which this study is devoted. The cumulative voting system provided for by the Illinois constitution of 1870, applies to a district electing three members, and gives each voter three votes to cast — three votes for one candidate, one and one-half votes each for two candidates, or one vote each for three candidates.

(4) Proportional representation. The limited vote and cumulative voting obtain a representation of minorities, but strengthen the party organizations, and give representation ordinarily to the two strongest parties only. The ideal of proportional representation is that representation shall, as nearly as possible, be in mathematical proportion to the votes cast by each separate group or party. If a district elects only three representatives, this limitation of number means necessarily that at most only three groups of voters can be represented, and that usually under almost any system, only the two stronger will have representation. Proportional representation therefore requires larger districts, each electing a greater number of persons. Suppose for example, a district which has 70,000 voters and elects 7 members. A mathematical distribution of the votes of the seven members might be as follows:

Republicans	30,000 votes — 3 members
Democrats	20,000 votes — 2 members
Progressives	10,000 votes — 1 member
Socialists	10,000 votes — 1 member

Even with larger districts and with a scheme that will count every vote effectively, exact mathematical results will, of course, not be obtained, but the result will be more nearly accurate than under cumulative voting.

The several plans of proportional representation involve a considerable amount of technicality, though the actual operation of the several systems is not particularly complex. The two plans most discussed are (1) the single transferable vote and (2) the list system. Under the single transferable vote system, the voter votes for but one candidate, no matter how many candidates are to be elected, but expresses also his second, third or fourth choices. If the candidate for whom he votes has more than enough votes to be elected, the surplus votes are transferred, in order of the choice expressed, to some other

candidate who has not sufficient votes; in this manner the loss of votes is reduced to the minimum. Under the single transferable vote system there are several methods of counting, the best known of which was devised by Thomas Hare. Under this scheme parties follow the usual custom of designating candidates, but independent candidates may also be freely nominated.<sup>1</sup>

The list system is best known through its use in Belgium. The system, as used in that country, involves the presentation of a list of candidates by each party, the voter then casting his ballot for the list and he may also express his preference among the candidates on the list. Each party obtains a number of seats in proportion to the votes cast for its list. The party arranges the order of the names on the list and the seats apportioned to each party go to the candidates in this order, unless the voters have expressed a different preference. Under the Belgian system the party thus not only designates the candidates but normally also determines the order in which they shall be declared elected.

Other countries, while using the list system in its essentials as described above, have varied it in details. The variations are usually designed to lessen party control and give the voter a wider freedom of choice.

Above are described the principal methods which have been used at various times in attempts to secure a fairer representation in government councils than is afforded by the ordinary plurality method of election. A considerable number of other schemes have been applied but usually they are fundamentally based on some of the principles indicated above though they vary somewhat widely in details.

The founders of the American Republic were thoroughly imbued with the spirit of equal political rights to all, but in a country so extensive and populous as the United States, direct participation in government by each citizen was obviously impossible. To avoid this difficulty and yet apply the theory to a practical government a representative democracy was formed.

<sup>1</sup> For a judicial discussion of the constitutional aspects of preferential voting see *Brown v. Smallwood*, 130 Minn., 492, and cases cited therein; for a different view see *Orpen v. Watson*, 87 N. J. Law, 69.

It was soon apparent, however, that the scheme adopted secured only partial representation inasmuch as officials were sometimes elected by an actual minority of the voters and consequently large classes had no authorized agent in the legislative councils.

The movement for representative reform was not accidental but was the logical result of prevailing conditions and theories. During the first half of the nineteenth century the various states occupied themselves with liberalizing their governments and properly distributing political power among the legislative, judicial and executive departments. When this was accomplished to some degree of satisfaction their attention was next turned to securing better representation for minority parties and factions which had greatly increased because of the wide extension of the elective franchise about the middle of the last century. In England there was a particular reason for advocating proportional representation, for when the number of voters was largely augmented in 1867, the aristocratic and landed classes feared that they would be entirely excluded from representation in the government unless some form of minority representation should be provided. The political leaders, however, were soon convinced that they had nothing to fear, at that time, from the newly made voters and consequently lost interest in the reform.

While active agitation for representative reform began about 1865, its origin can be traced farther back. In 1814 Norway made some provisions in its constitution for the representation of minority parties. During the discussion on the Reform Bill in England in 1832, minority representation was considered but received no legal recognition. In the United States some of the states, where the general ticket plan of election prevailed, were sending single party delegations to Congress, and in 1842 that body directed that Representatives in Congress should be elected by the district method, thus insuring better representation for both parties and localities. In 1845 the Danish government adopted a plan of proportional representation.

The year 1844 marks the beginning of a permanent literature and systematic study of the subject. In that year appeared Thomas Gilpin's work entitled: "On the Representation of Minorities of Electors to Act with the Majority in Elected Assem-

blies," but the volume attracted little attention at the time of its publication. Ten years later James Garth Marshall published his "Majorities and Minorities: Their Relative Rights," a book which contained the first printed account of the cumulative vote. In 1859 Thomas Hare produced his noted volume, "The Election of Representatives, Parliamentary and Municipal." John Stuart Mill became an advocate of representative reform in 1865 and popular interest in the scheme was now fairly well started.

In England the discussion crystallized into law in 1867 when the limited vote was adopted for parliamentary districts returning three members. In 1870 the members of the English school boards were elected by the cumulative vote. The number of places to be filled was comparatively large, sometimes as many as fifteen, and the voters manipulated their ballots to suit their individual tastes, which inevitably resulted in confusion and inequalities. In the United States, during the period of the bitter struggle in Congress following the Civil War, the need of representative reform became evident, for not only was the Congress then sitting representative of only one section of the country but fresh in the minds of the people was the memory of a great war, hastened, if not brought on, by the action of the governing bodies in which the radicals of both sections predominated to the exclusion of a large body of conservatives. In 1867<sup>2</sup> and 1869<sup>3</sup> Mr. Buckalew of Pennsylvania proposed in the Senate of the United States that the cumulative vote be applied to the election of Representatives in Congress. In 1870<sup>4</sup> and again in 1871<sup>5</sup> the subject was debated in Congress, but this body was not inclined to make concessions to the Democratic minority.

Although the various representative reform bills failed in Congress more success was attained in the states. In 1867 New York used the limited vote in the election of delegates to a constitutional convention.<sup>6</sup> A clause providing for minority representation in the state legislature was incorporated in the

<sup>2</sup> *Congressional Globe*, 40th Congress, 1st Session, 513.

<sup>3</sup> *Congressional Globe*, 40th Congress, 3rd Session, 320.

<sup>4</sup> *Congressional Globe*, 41st Congress, 2nd Session, 4735, *et seq.*

<sup>5</sup> *Congressional Globe*, 42nd Congress, 2nd Session, 63, 110.

<sup>6</sup> *Session Laws*, 1867; Ch. 194, 286.

Illinois constitution of 1870. The cumulative vote was applied to municipal elections in Pennsylvania in 1871<sup>7</sup> and to Wilmington, North Carolina, in 1872,<sup>8</sup> but in both cases the laws authorizing this were soon repealed. In the latter year, in an attempt to break the power of Tammany, the cumulative vote was provided for in a new charter for the city of New York, but the Governor interposed his veto.<sup>9</sup> Pennsylvania applied the limited vote in 1873 to the election of certain judicial officers. By constitutional provisions the cumulative vote has been applied to the election of directors in private corporations in eleven states.<sup>10</sup>

Popular interest in the reform waned after 1875 and for some years it made but little progress. Later, however, interest in the question revived both in the United States and in foreign countries and more recently slow but continued advance has been made. Ohio<sup>11</sup> in 1884 and Michigan<sup>12</sup> in 1889 made a limited application of the principle of minority representation, but in both cases the statutes applying the theory were held to be unconstitutional.<sup>13</sup> In 1891 South Dakota rejected a proposed constitutional amendment providing for minority representation in the Legislature. About the same time several of the Swiss cantons provided for proportional representation, and in 1899 Belgium adopted a modification of the Swiss plan for the election of members to the lower house of the national Legislature. In 1900 Japan provided for the election of members to the popular branch of parliament by a proportional representation scheme of the single non-transferable vote type.

During the last decade the movement for a more representa-

<sup>7</sup> *Session Laws*, 1871, 283.

<sup>8</sup> *Private Laws*, Session 1871-72, 139.

<sup>9</sup> *Public Papers of Governor John T. Hoffman*, 353; also *Journal of the Assembly*, New York, 1872, Vol. 2, 1596. This message discusses at considerable length the advantages and disadvantages of minority representation.

<sup>10</sup> Ill., Neb., Cal., Pa., W. Va., Miss., Idaho, Ky., N. Dak., Montana, Mo. Commons, "Proportional Representation."

<sup>11</sup> *Session Laws*, 1884, 121.

<sup>12</sup> *Session Laws*, 1889, 374.

<sup>13</sup> *State v. Constantine*, 42 Ohio, 437; *Maynard v. Board of Commissioners*, 84 Michigan, 228.



tive system of electing members of deliberate bodies has made considerable progress. In several instances countries have experimented with the idea of proportional representation in a restricted manner, as for example, electing a limited number of representatives under the system rather than applying the principle to the whole legislative body.

In 1906 provision was made to elect the Finnish Diet by proportional representation, but later this was interfered with by Russia. In 1908 a statute was enacted providing for the election of councilmen in the Danish cities on the proportional basis, and in 1915 a law was passed providing for a system of proportional representation for parliamentary elections which is combined with a system of single member districts. The first election under the system was held in April, 1918.<sup>14</sup>

In 1909 Tasmania made general what had previously been applied only partially and provided for the election of all members of Parliament by a proportional scheme. In the same year Sweden arranged for the election of members of both houses of Parliament and the committees of those houses by the list system; a similar plan was also applied to the election of members of the county and municipal councils. Likewise in 1909 South Africa applied the proportional representation idea to the election of members of the Senate and also to the elections in a limited number of local political units.

In 1913 the Chinese Parliament was elected by a rather crude system of proportional representation. Two years later New Zealand provided for the election of the legislative council by a proportional representation scheme, and also made the plan optional with the cities for the election of local officials.

The Russian constituent assembly, chosen in 1917, was elected on a proportional basis. The same year Holland adopted the recommendation of a commission appointed to report on the subject, and provided for the election of the lower house of Parliament and for the provincial and municipal councils by a scheme of proportional representation based on the Hare system. In 1918 the lower house of the New South Wales legislature was chosen on a proportional basis. Proportional representation is

<sup>14</sup>The system and the results under the first election are explained in the *American Political Science Review* for November, 1919.

provided for in the new constitutions of Germany, Czecho-Slovakia and Poland.

In 1919 the French Parliament after long discussion of the subject and much agitation throughout the country enacted a law providing for a system of proportional representation in the Chamber of Deputies. Hereafter every department will choose as many deputies as it has multiples of 75,000 inhabitants of French nationality. Remainders in excess of 37,500 will choose an additional deputy. Departments whose population entitle them to more than six deputies will be divided into sections each of which will elect three deputies according to the list system. The first elections under the new law take place in November, 1919.

In England in recent years the question of representative reform has also been attracting attention. In 1906, in response to an address, a report was made by the Foreign Office to the House of Commons indicating what representative reforms had been made, or were in the process of being carried out, in various foreign countries. At the close of 1908 a Royal Commission was appointed to investigate the various schemes adopted or proposed in order to secure a fully representative character for popularly elected legislative bodies and to consider to what extent these systems might be applicable to the English electorate. This Commission conducted quite an elaborate investigation. Because of the peculiar political conditions and traditions of England this Commission was unable to recommend for present adoption the transferable vote system for the election of political officers. The Commission, however, did recommend the use of the alternative vote in those constituencies returning more than two members.

In 1910 Parliament passed an act authorizing all English and Welsh cities, at their option, to apply the proportional representation scheme in the election of local officials. In the Home Rule Bill for Ireland, passed in 1914, proportional representation was provided for the Senate, as soon as popular elections should begin, and for 31 constituencies returning three or more members to the lower house.

In 1918 "The Representation of the People Act," passed by Parliament, provided that the eleven University members of the

House of Commons should be elected by the Hare System of proportional representation. The act also provided for the appointment of commissioners to prepare a scheme for the election of 100 members of the Commons on the principle of proportional representation for those constituencies returning three or more members. This commission was duly appointed and in a report rendered a short time later recommended that proportional representation be applied in certain districts, but did not propose any definite plan, and none has as yet been adopted.

In the United States representative reform has also recently received a considerable amount of attention, mainly in the cities, and the idea has made no very definite progress in any political unit of a larger nature. However, in 1917, Congress arranged for a mild form of proportional representation in Porto Rico. In an act passed in March <sup>15</sup> of that year it is provided that five of a total of nineteen Senators shall be elected at large, each voter to have one vote and the five candidates receiving the highest number to be declared elected. The act also provides that four representatives out of a total of thirty-nine are to be elected at large by the same scheme.

The civic awakening in American cities since the beginning of this century which has resulted in various changes in the structure of municipal government, such as the commission plan in varying forms and the more recent city manager, has also brought with it serious consideration of representative reform. While the latter has been discussed in a considerable number of instances in connection with municipal reforms, in but a few cases up to the present has proportional representation been actually adopted.

In 1915 Ashtabula, Ohio, adopted a charter which provided for the election of a council of seven at large from the city by proportional representation, using the quota system. The first election under this charter was held in November, 1915. There were fourteen candidates for the seven places and 3,334 ballots were cast. Practical difficulties in counting the votes under this system did not seem to appear and the council elected was of a representative character. The second election was held in November, 1917, and the immediate results seem to be satisfactory.

<sup>15</sup> *U. S. Statutes at Large*, Vol. 39, 959.

Boulder, Colorado, a city with a population of about 12,000, adopted in the latter part of 1917 a new charter providing for a council of nine members, three to be chosen every two years and each group of three to be elected by the Hare system of proportional representation. One election has been held under this charter, and no practical difficulties seem to have been encountered in either casting or counting the votes.

In the early part of 1918, Kalamazoo, Michigan, adopted a charter which provides for a city council of seven members to be elected at large under the Hare system of proportional representation. At the first election held under the new charter, twenty-three candidates appeared. Unfortunately issues other than local become involved. The election was held during war times and questions of loyalty were injected into the campaign. One candidate classed as a socialist and radical was bitterly attacked. Nevertheless he was elected, and this at the time caused considerable dissatisfaction and adverse criticism on the part of certain classes. However, the fact that such a candidate could be elected under the circumstances is a good proof of the representative results secured by the system, as a limited number of voters, which otherwise would have been hopelessly outnumbered, were able to select the candidate of their choice.

That a theory which contains so much inherent justice has failed to receive wider application is due to a variety of causes, the most important of which are the practical defects of the various plans tried and the failure to protect them from abuse. Moreover, the enactment of such a law involves giving large power to an opposing minority and such self-sacrifices are not common in the history of political parties.

Since the adoption of the proportional representation scheme by the cities of this country has been so recent, it is as yet impossible to ascertain with any certainty the merits of the plan as determined by actual tests in the municipalities. In two states, however, Illinois and Pennsylvania, minority representation has extended over a period of time sufficiently long to afford it an opportunity to work out logical results. The constitution of Pennsylvania, in a special provision for Philadelphia, provides that in the election of city magistrates, "No voter shall vote for more than two-thirds of the number of persons

to be elected when more than one are to be chosen.”<sup>16</sup> The constitution also states that “Whenever two judges of the supreme court are to be chosen for the same time of service, each voter shall vote for one only, and when there are three to be chosen he shall vote for no more than two.”<sup>17</sup> Although excellent judges have generally been chosen, yet the limited vote seems to be regarded as a useless complication and will probably be dropped at the first opportunity.

<sup>16</sup> *Constitution of 1873*, Art. 5, Sec. 12.

<sup>17</sup> *Constitution of 1873*, Art. 5, Sec. 16.

## CHAPTER II

### ADOPTION OF THE CUMULATIVE SYSTEM IN ILLINOIS

In Illinois the defects of the second constitution, especially the legislative provisions, were constantly becoming more apparent to political leaders, and in 1862 an unsuccessful attempt was made to remodel the organic law of the state.<sup>1</sup> As soon as the Civil War was over constitutional reform was again considered, and the question of calling a convention was referred to the people for decision. Although there was practically no opposition the indifference was so great that the proposition was carried by a very small majority. Delegates were duly elected and the convention met December 13, 1869. The assembly was probably the ablest body that ever met in the state, a large number of the members having had extensive experience in public affairs. The first week was consumed in organizing and on December 20th the standing committees were announced.<sup>2</sup> One of these was designated as the Committee on Electoral and Representative Reform, Joseph Medill of Chicago being chairman. The fact that this committee included some of the best known and ablest men in the assembly shows how important the convention considered the need of representative reform. The people at large, however, judging from the small number of petitions sent in to the committee, took but little interest in the subject. A few petitions proposing various plans of proportional representation were received, and at least one remonstrance against the adoption of any such innovation was presented.<sup>3</sup>

On February 10, 1870, the committee made a report embodied in five sections. The first provides for the ratio of senatorial representation; the second, that three times the number required for a senatorial ratio should constitute a senatorial

<sup>1</sup> See O. M. Dickerson, "The Constitution of 1862," *University of Illinois Studies*, Vol. 1, No. 9.

<sup>2</sup> *Debates and Proceedings, Constitutional Convention*, Vol. 1, 75.

<sup>3</sup> *Ibid.*, 703.

district, each of which should choose three senators. Similiar provisions are made for representatives and representative districts. Sections three and four are "floater" clauses, providing that in case any district should have a fraction of population above the ratio so large that being multiplied by the number of regular sessions of the legislature in a decade the result should be equal to one or more ratios, that district should elect an extra representative or senator in those years in which the fraction so multiplied would produce a whole ratio.

The fifth section states that "In all elections of Senators and Representatives each qualified voter shall be entitled to as many votes as there are Senators or Representatives to be elected by the same constituency and may distribute them (or equal fractions thereof), equally or unequally among the candidates or concentrate them upon one, at his option; and the candidate highest in votes shall be declared elected."<sup>4</sup>

The committee's recommendations were taken up in the convention on May 6th and the chairman then offered a substitute for the previous report. This substitute is much shorter than the original provision and consists of but three sections. The first provides that the apportionment for the Senate shall be made every ten years, beginning with 1871; the second, that the House of Representatives shall consist of three times the number of the members of the Senate, and that three Representatives shall be elected in each senatorial district.

Section three contains the cumulative voting provision and is as follows: "In all elections of Representatives aforesaid each qualified voter may cast as many votes for one candidate as there are Representatives to be elected, or may distribute the same, or equal parts thereof, among the candidates as he may see fit; and the candidate highest in votes shall be declared elected."<sup>5</sup>

The report also recommended that these sections be submitted to the people as a distinct proposition, separate from the main body of the constitution, for their rejection or approval.

It will be seen from the above that cumulative voting was to be restricted to election of members of the lower house of the

<sup>4</sup> *Debates and Proceedings, Constitutional Convention*, Vol. 1, 561.

<sup>5</sup> *Ibid.*, Vol. 2, 1726

legislature instead of applying to both houses as in the original report. Also the "floater" idea was entirely abandoned.

The argument accompanying the report is a summary of the theories of the times regarding minority representation. The first part is devoted to a review of the general theory of the subject, pointing out the injustice and inequalities of the usual majority rule and showing how unrepresentative most deliberative bodies really are. An argument is then presented for the particular system recommended. It is asserted that obviously single member districts could give no opportunity for anything but majority rule, while two member districts might easily afford the minority undue power, hence the smallest district that would make minority representation possible is a three-member one. The districts should be as small as possible consistent with the ends sought, so as to make the members representative of localities and also do as little violence as possible to existing customs.

The argument which applies especially to local conditions and at the time the most effective one in the entire report, is that referring to sectional representation. It is stated that since 1854, with few exceptions, all the senators and representatives in the northern half of Illinois had been of one political party, while the legislators from the other half of the state, with equally few exceptions, had been of the opposing party. In round numbers, 100,000 Republicans living south of the state capital had been practically disfranchised and almost as many Democrats in the northern districts had suffered from the same discrimination. It is pointed out that if alternate districts throughout the state were Republican and Democratic, conditions would not be so bad as where an entire section was wholly under the domination of one or the other party, but such was distinctly not the case. An examination of statistics showed also that in the previous legislature a minority of electors had elected a majority of representatives in that body.

The freedom and power of the voter is also emphasized in the report. Under the ordinary election method, when more than one official is to be chosen for an office, if a voter objects to any one candidate, and refuses to vote for him, he simply loses a portion of his privilege. Under the cumulative method,



or "free ballot," as it was called, he may transfer his entire vote to other candidates and hence lose nothing. The argument concludes with a glowing account of the benefits which would result from the proposed reform. "The adoption of this great reform would do much towards abating the baneful spirit of partisan animosity and removing the temptations and opportunities which now exist for the corrupt use of money at elections. It will also tend powerfully to relieve the voter from the despotism of party caucuses, and at the same time constrain party leaders to exercise more care in selecting candidates for law-makers. There is nothing which will more effectually put an end to packing conventions than arming the voter with the three-shooter or triple ballot, whereby he may fire 'plumpers' for the candidate of his choice and against those of his aversion. It will increase the usefulness of the legislature by improving the membership. It will enable the virtuous citizens to elect the ablest and purest men in their midst and secure to the legislative councils a large measure of popular confidence and respect."<sup>6</sup>

After briefly considering the report, the convention, by a large majority, adopted all its sections, but as it was distinctly understood that this was simply referring the question to the people the vote did not necessarily reflect the sentiment of the convention, nor was there any debate on the subject which would indicate the individual opinions of the members. At the popular election the people, by 99,022 affirmative and 70,080 negative votes, adopted the scheme. The advocates of the measure rejoiced that Illinois was thus the first state to inaugurate this democratic and beneficent reform in the choice and construction of the legislature, and was thus to stand as the pioneer in a movement which they thought would strengthen and purify our political system and which would eventually be universally applied. Across the Atlantic the "London Times," in its issue of January 13, 1870, in discussing the subject, said: "And in Illinois, and what Illinois thinks today the Union will think tomorrow, the discussion is passing from theory to practical approval."

<sup>6</sup> *Debates and Proceedings, Constitutional Convention*, Vol. 1, 563.

## CHAPTER III

### THE DEGREE OF MINORITY REPRESENTATION SECURED BY THE CUMULATIVE SYSTEM

In the preceding chapter the conditions prevailing at the time of the adoption of the cumulative system of voting in Illinois and the advantages which the supporters of the measure promised, have been described. It is now proposed to consider the actual results of nearly fifty years' practical test of the plan and to ascertain, as far as possible, to what extent the method has justified the expectations of its advocates.

A question that logically arises at once is, does the cumulative voting system always give in each district a minority party representation? The answer to this question, with a few rare exceptions which will be noted later, can be given definitely and decisively in the affirmative. In every senatorial district in the state, with the few exceptions mentioned, at least two parties and occasionally three have been represented in the lower House of the Legislature. The time-honored and usual practice is for the majority party to have two representatives and the minority one, with occasionally a third party candidate defeating one of either the two principal party nominees. Although there have been biennial elections in each of the fifty-one districts since 1872 under the present constitution, in but six instances have all three representatives been the regular nominees of one party.<sup>1</sup> In several other instances the Republicans have had nominally three members but in these cases one or two of the representatives ran on independent tickets as Independent Republicans,

<sup>1</sup> These instances are: District No. 38 in the 36th General Assembly (1888-1890) when the Democrats had three representatives. Districts Nos. 5 and 10 in the 40th Assembly (1896-98) where there were three Republicans in both cases. District No. 27 in the 47th Assembly (1910-12) when the Democrats had three representatives. Districts Nos. 10 and 14 in the 51st Assembly (1918-20) when there were three Republicans elected in each case.

and were not regular nominees of the party.<sup>2</sup> This was especially true of the elections in 1874 for the Twenty-ninth Assembly, when in many districts the Democrats nominated no candidates and helped elect the independents.

The figures show that the cumulative method has in practically all cases given a minority party representation, but this does not necessarily imply that it gives exact proportional representation. The originators of the scheme did not assert that it would secure proportional representation to any degree of exactness but contented themselves with calling the plan minority representation. It is a mistake to suppose that the system is based primarily on the proportional idea, yet so far as the two dominant parties are concerned it has led to a proportional representation approaching mathematical exactness, as is indicated by Table I.

Absolute conclusions cannot be drawn from this table for any one year because of the fact that but half of the Senate is renewed at any one election. Hence, there are at every session 50 per cent of "holdovers" in the Senate, who may or may not represent the present majority party in their respective districts, and this may operate to prevent the Senate from being as representative as the House. As a whole the table indicates how nearly each House has come to representing the prevailing

<sup>2</sup> The following table indicates districts and time of such occurrences:  
 1874 — 29th General Assembly, District 15, 1 regular and 2 Independent Republicans.  
 1874 — 29th General Assembly, District 20, 2 regular and 1 Independent Republican.  
 1874 — 29th General Assembly, District 23, 2 regular and 1 Independent Republican.  
 1874 — 29th General Assembly, District 28, 2 regular and 1 Independent Republican.  
 1874 — 29th General Assembly, District 29, 2 regular and 1 Independent Republican.  
 1874 — 29th General Assembly, District 30, 2 regular and 1 Independent Republican.  
 1874 — 29th General Assembly, District 30, 2 regular and 1 Independent Republicans.  
 1874 — 29th General Assembly, District 46, 1 regular and 2 Independent Republicans.  
 1886 — 35th General Assembly, District 16, 2 regular and 1 Independent Republican.

TABLE I  
COMPARISON OF BIENNIAL VOTE AND REPRESENTATION OF THE REPUBLICAN AND DEMOCRATIC PARTIES IN THE LEGISLATURE

Year	(1)		(2)		(3)		(4)		(5)		(6)		(7)		(8)	
	State Treasurer		Number of State Senators		Number of State Representatives		Ratio of Democratic to Republican Votes Expressed in Per Cent		Ratio of Democratic to Republican Members expressed in Per Cent		Legislators not Members of Republican or Democratic Parties		House		Senate	
	Republican Vote	Democratic Vote	Republicans	Democrats	Republicans	Democrats	Republicans	Democrats	Senate	House	Senate	House	Senate	House	Senate	
1872	242,686	191,806	34	17	86	67	79	50	77	..	..	..	..	..	..	
1874	162,974	128,169	24	18	69	42	79	75	61	..	..	..	..	..	..	
1876	277,664	254,751	21	22	79	67	92	105	84	8	8	8	8	7	7	
1878	206,458	170,085	26	24	80	60	82	92	75	1	1	1	1	13	13	
1880	317,732	276,670	32	18	82	71	87	56	86	..	..	..	..	..	..	
1882	250,722	244,580	31	20	77	75	97	65	97	..	..	..	..	..	..	
1884	338,171	313,400	26	25	77	75	92	96	97	..	..	..	..	..	..	
1886	276,680	240,664	32	18	80	64	86	56	80	1	1	1	1	1	1	
1888	369,881	348,834	35	15	79	73	94	43	92	1	1	1	1	9	9	
1890	321,991	331,929	27	24	73	77	103	89	105	..	..	..	..	1	1	
1892	396,309	426,817	22	29	75	78	107	132	104	..	..	..	..	3	3	
1894	455,788	321,551	34	17	92	61	71	31	66	..	..	..	..	..	..	
1896	589,714	473,050	38	12	88	63	80	31	71	..	..	..	..	2	2	
1898	448,940	405,490	34	16	81	71	90	47	88	1	1	1	1	1	1	
1900	585,002	508,720	32	19	81	72	88	59	89	..	..	..	..	..	..	
1902	450,695	360,925	36	15	88	62	80	42	70	..	..	..	..	3	3	
1904	610,300	353,232	42	9	91	57	58	21	62	..	..	..	..	5	5	
1906	417,544	271,984	44	7	89	61	65	16	69	..	..	..	..	3	3	
1908	619,698	449,978	38	13	89	64	73	34	71	..	..	..	..	..	..	
1910	436,484	376,046	35	16	82	68	86	46	83	..	..	..	..	3	3	
1912	321,577	402,292	25	24	52	72	125	96	138	..	..	..	..	29	29	
1914	418,336	374,554	25	25	79	70	88	100	89	1	1	1	1	4	4	
1916	678,404	566,919	33	18	85	67	84	54	78	..	..	..	..	1	1	
1918	506,028	264,925	34	17	88	67	84	57	78	..	..	..	..	..	..	

political opinion through a series of years, and a close correspondence will be found between the ratios indicated in columns 5 and 7 of the table. It will be observed that, except in two instances (1874 and 1884) when the two parties approximated proportional representation in both houses, the lower house comes much nearer indicating the relative strength of the two dominant parties than does the Senate. The variation in the House in 1874, when the minority Democratic party had considerably less members than it was proportionately entitled to, was due to the Independents winning 41 seats<sup>3</sup> at the expense of the Democrats. The variation in 1912 when the Democrats, then the plurality party, had more than their proportional share, was due to the Progressives splitting the Republican vote to the advantage of the Democrats. The variation in 1902 can only be explained by unusual local conditions, there being no less than fifteen<sup>4</sup> so-called parties represented by candidates at the general election. This alignment apparently operated at the expense of the Democrats. In all other years the percentage of votes cast corresponds fairly closely to the percentage of members of the party in the House.

The Senate shows a wide variation. In 1904 and 1906, the minority party had less than half the number of senators it was entitled to as compared with the majority party, while all the years (1874 and 1884 excepted) show a large discrepancy, the majority, as is to be expected, usually though not always having more members than its just proportion. In this connection it should be remembered that senators and representatives are elected from the same districts.

It is mathematically demonstrable that any party which is able to poll more than one-fourth of the votes in a district may, by "plumping", that is, casting all three votes for one man, elect a representative. That a comparatively small vote can thus elect a member presumably would operate for the benefit of third parties, but as a matter of fact the minor parties have had but few representatives in the House. The total vote which

<sup>3</sup> See Moses, *Illinois: Historical and Statistical*, Vol. 2, 1189.

<sup>4</sup> Republican, Democratic, Prohibition, Socialist, Socialist Labor, Peoples, Single Tax, Independent, Independent Republican, Independent Democrat, Independent Labor, Public Ownership, Union Labor, Progressive Labor and Progressive.

they have cast in the state as a whole has been quite large, yet it seldom happens that any minor party has more votes than the weaker of the two large parties in any one district. However, with the exception of 1872, 1892, 1894, 1900, 1908, and 1918, third party men have been in every legislature.

Table 1 shows to what extent the cumulative vote affords proportional representation when only the two dominant parties are considered. Table II gives the total legislative vote, the vote by parties, and the actual and proportional representation of each party in the House of Representatives from 1910 to 1918.

The columns indicating the number elected (3) and the mathematical proportion to which the parties would have been entitled (4), show that the larger parties gained at the expense of the smaller ones, although in 1912 the Progressive party obtained all the seats to which it would have been entitled upon an exact proportional basis.

Opponents of the cumulative method have called attention to the large number of votes cast in the state by the minor parties which elect few or no candidates. In the election of 1914, the Progressive and Socialist parties and Independents had in the aggregate 476,875 votes (not voters), which was about seventeen per cent of the total vote, yet all these combined elected but four members of the House. This simply establishes what has already been asserted, that the cumulative voting plan does not claim to be primarily a proportional representation scheme, but a minority party representation device, and the tables and figures cited above indicate how far the system gives a minority party representation and to what extent it gives, or fails to give, proportional representation to all parties.

While it is true that minor parties receive no great benefit from the scheme, the defect may not be really so great in practice as it appears. The principle of government by parties is firmly fixed in American politics, the few third party members of legislative bodies are not taken into the councils of either of the dominant parties, and, except in the unusual cases where they happen to hold the balance of power, they are given but little consideration and have but little opportunity to exert any influence. Moreover, where a large number of parties are represented, a legislative body almost inevitably degenerates

TABLE II  
COMPARISON OF POPULAR VOTE AND PARTY REPRESENTATION, 1910-1918<sup>1</sup>

Party	1910				1912				1914				1916				1918			
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
	Vote for Representative	Per Cent of Total Vote	Number Elected	Proportional Number	Vote for Representative	Per Cent of Total Vote	Number Elected	Proportional Number	Vote for Representative	Per Cent of Total Vote	Number Elected	Proportional Number	Vote for Representative	Per Cent of Total Vote	Number Elected	Proportional Number	Vote for Representative	Per Cent of Total Vote	Number Elected	Proportional Number
Republican	1,225,672	47	82	72	1,085,436	34	52	52	1,174,559	42	79	64	1,941,579	52	85	80	1,446,311	55	90	83
Democratic	1,109,946	42	68	64	1,255,501	39	72	60	1,132,460	41	70	63	1,576,251	43	67	64	1,090,506	41	63	68
Progressive					548,955	17	26	26	343,390	12	2	18	13,734							
Socialistic	133,420	5		8	249,634	8	3	12	127,766	5	2	8	146,910	4		7	87,481	3		5
Independent	57,713	2	2	3					5,719				22,605	1	1	2	10,991	.4		2
Prohibition	75,820	4	1	6	39,836	2														
Ind. Repub.	6,293																			
Union Labor	5,281																			
Total Votes	2,614,145	100	153	153	3,192,813	100	153	153	2,783,894	100	153	153	3,701,079	100	153	153	2,635,300	100	153	153

<sup>1</sup> A small number of scattering votes are included in the totals which do not appear in the party votes.

into a mere debating society and hence legislates with difficulty. This is well illustrated by the Twenty-ninth assembly, when in the Senate there were 24 Republicans, 19 Democrats and 9 Independents, Liberals, etc. In the House, the Republicans had 69 members, the Democrats 42 and there were 41 Independents and others difficult to classify.<sup>5</sup> The proceedings of the assembly were marked by disgraceful scenes and personal combats, and finally it adjourned with but a few results to show for its labors. Theoretically it may be very proper and just for each faction to be represented in exact proportion to its voting strength, but experience scarcely bears out the practical expediency of such a theory.

Since at legislative elections each voter is allowed "to multiply himself three times" at the polls, the 476,875 votes cast in the state securing but four legislators in 1914, represent approximately 158,958 voters. In this connection it is only necessary to point out that the same year in the state elections, 625,148 votes were cast for United States Senator and 522,999 votes for Treasurer, which elected no official and were entirely lost or wasted.

In Cook County in 1918, sixteen out of nineteen districts elected Senators and 128,932 votes failed to secure representation. Had elections been held in all districts and the ratio of ineffective votes remained the same for the three districts as in the other sixteen there would have been about 153,106 votes lost in the county as compared with about 16,271 adherents of minor parties who cast 48,813 votes in Cook County and whose votes were lost in the election to the House of Representatives.

Although the cumulative method does not secure exact proportional representation for all parties, it has at least the virtue of approximating it much more closely than does the ordinary majority system and with far less waste of votes than usually prevails.

It is evident from a consideration of Table I, page 30, that where the system of minority representation prevails, gerrymandering is largely shorn of its viciousness. When some mi-

<sup>5</sup> Figures taken from Moses, *Illinois: Historical and Statistical*, 829. These figures do not entirely harmonize with newspaper accounts, due probably to the difficulty of classifying some members.



nority party is practically certain of securing at least one member out of three in each district, the gross inequalities and injustice that frequently prevail as a result of the gerrymander must be greatly reduced. In Massachusetts in 1892 it required 16,560 Democrats to elect one State Senator and only 6,182 Republicans to accomplish the same result. In other words, one Republican equaled two and two-thirds Democrats. In 1894 Democratic members of the lower house of the General Assembly of New York received an average of 21,783 votes and the Republicans 6,341. In Michigan the same year, using the vote for Governor as a basis, the Republicans with 237,215 votes elected 99 members of the lower house of the legislature while the Democrats with 130,823 votes secured but one. In Ohio in 1892 one Republican vote for legislators was equal to nearly two and one-fourth Democratic votes.<sup>6</sup> In Illinois in 1912, the Democrats on an average elected a member of Congress for every 23,059 votes cast, while it required 72,988 Republican votes to elect a member. In the Missouri congressional elections in 1914 a Democratic vote was five times as effective in electing a member as was a Republican vote. In the same year in Iowa, 159,232 Democratic votes elected one Congressman while 207,472 Republican votes elected ten members. In Illinois in the elections of 1916, each Democratic Congressman received on an average 92,037 votes, while the average for the successful Republican candidates was 33,158. In Illinois in 1918 it required 14,238 Republican and 23,285<sup>7</sup> Democratic votes to elect a State Senator, while for the House, with the cumulative method, in the same year 16,070 Republicans and 17,309 Democratic votes elected a Representative. The last apportionment was made in 1901 when the Republicans had a majority in both houses, and they were probably as keenly alive to the party advantage as any body of legislators. While the House vote shows some variation and can scarcely be regarded as ideal, nevertheless it has none of those glaring inequalities so frequently prevalent

<sup>6</sup> Figures for Mass., N. Y., Michigan, Ohio, compiled from statistics given in Commons "Proportional Representation."

<sup>7</sup> In 1918 out of 26 districts, 18 Republican Senators were elected by a vote of 255,299 and 8 Democrats by a vote of 186,284. The Socialists polled 27,560 votes for the Senate.

as the result of the inherent injustice of the majority system combined with the consummation of political art in juggling district boundary lines.

The constitution provides that "In all elections of Representatives aforesaid, each qualified voter may cast as many votes for one candidate as there are Representatives to be elected, or may distribute the same, or equal parts thereof, among the candidates as he shall see fit."<sup>8</sup> Leaving the voter really free, without the restrictions of party discipline, to cast these three votes as he sees fit might easily lead to an enormous waste of votes by "plumping" on one candidate, thus giving him far more votes than necessary to elect, while a minority by judiciously distributing its votes might elect two candidates and secure more than its just share of power.

It is frequently asserted by the opponents of the cumulative method that by means of it minority parties do often secure undue representation. Whether this assertion is correct or not depends very largely upon one's view regarding the rights of minorities. If, as asserted by some violent partisans, the minority has few or no rights that must be respected by the majority, and as the majority party alone is responsible for policies or legislation, this party should have a free hand, then the cumulative vote does give a minority party excessive representation. If, however, the more sane and just assumption is made that a minority has certain rights which a majority is ethically bound to respect, and that the minority is entitled to about the same ratio of representation in the legislative body as it bears to the whole body politic, there is still some question as to whether the minority does not secure more representation than it justly deserves. The possibility of this may be illustrated mathematically by the following hypothetical case. The majority of a district casts 18,000 votes and the minority 16,000. A and B are majority and C and D are minority candidates. A, for some reason, attracts more than his share of votes and receives 11,000, leaving 7,000 for B. The minority candidates run more evenly and each receives 8,000 votes. The result manifestly is that a party, while casting an actual minority of the total vote, has elected two out of three members. This

<sup>8</sup> Article IV, Sec. 7.

is an undesirable condition, but one which actually occurs so seldom that it does not constitute a very formidable objection. Such inequalities are found occasionally but almost invariably in districts where the two parties are of nearly equal voting strength. In some cases the defect has been the result of "plumping", but frequently such miscarriages occur in districts so close that a few votes either way would change the result of the election.

Table III indicates the districts in which such mishaps have occurred and the vote in each case.

It will be seen that there have been forty-seven cases in which the minority clearly had an undue share of representation. In six cases (Nos. 3, 13, 15, 22, 23, 26) this was caused by over-conservatism of the party managers or by inaccurate estimation by the dominant party of its voting strength, as shown by its failure to nominate more than one candidate. In eight instances (Nos. 1, 8, 9, 11, 14, 20, 28, 42) the contest was so close, and such a small number of votes would have turned the scale, that a party which thus lost a representative could have but little ground for complaint of injustice. In three instances (Nos. 4, 34 and 47) the majority failed to elect its quota because it had three candidates in the field. In ten instances, (Nos. 31, 32, 33, 35, 36, 37, 38, 40, 43, 46), a party failed to elect its due quota because of the fact that one or more of the opposition parties nominated but one candidate and concentrated on him, while the losing party divided its vote between two candidates and consequently failed to secure the representation to which the number of its voters entitled it. In the remaining twenty cases there is evidence of "plumping" to a greater or less extent within the party. This was sometimes caused by the apparent great personal popularity of one candidate, sometimes because one was backed by an aggressive "machine," but more frequently where two or more counties are joined to make up a district one county "knifed" a candidate from another and "plumped" for the "home" man, thus getting local revenge at the expense of the party and of fair representation.

A study of Table III shows the years 1910, 1912 and 1914 to have the greatest number of districts in which a minority elected a majority of the representatives. This may be explain-

TABLE III  
 TABLE OF DISTRICTS IN WHICH A MINORITY HAS ELECTED A MAJORITY OF REPRESENTATIVES

	Year	Dist.	Republican Vote	Republican Vote	Total	Democratic Vote	Democratic Vote	Total	Progressive Vote	Total
1	1872	24	*6,334	*6,889	13,233	*6,984	6,268	13,252		
2		26	*5,591	*5,587	11,178	*6,377	5,314	11,691		
3		45	*14,629		14,629	*6,170	*7,159	13,329		
4	1874	13	3,405	*4,017	+11,303	*4,188	*4,038	8,226		
5		25	*6,838	4,984	11,822	*5,302	*5,101	10,403		
6	1876	14	*6,417	*4,338	9,755	4,255	*7,527	11,782		
7		27	*8,122	*8,586	16,708	8,047	*9,526	17,513		
8	1878	41	*5,516	*4,451	9,967	*5,549	4,433	9,982		
9	1880	24	*7,349	*7,219	14,558	*7,443	7,142	14,585		
10	1882	9	*3,440	*3,228	6,668	*5,236	3,130	8,366		
11		32	*8,784	*8,725	17,509	*9,325	8,194	17,519		
12	1884	15	*9,953	6,997	16,950	*7,142	*7,687	14,489		
13	1892	6	*25,957	*25,728	51,685	*61,637		61,637		
14		32	*11,066	*11,090	22,156	*11,420	10,747	22,167		
15	1894	9	*19,980		19,980	*8,744	*9,635	18,379		
16		43	13,329		27,349	*13,527	*13,422	26,749		
17		45	*11,140	9,628	20,768	*9,793	*8,699	19,492		
18	1896	40	15,175	*15,603	30,778	*15,224	*15,272	30,496		
19	1898	6	*15,091	*14,992	30,083	*15,685	14,909	30,594		
20		49	*10,264	*10,080	20,344	*10,697	9,685	20,382		
21	1900	23	*15,136	12,226	27,362	*12,776	*13,131	25,087		
22	1904	17	*16,265		16,265	*7,483	*6,610	14,093		
23		46	*28,235		28,235	*12,682	*12,429	25,111		
24	1906	39	*9,931	*9,965	19,896	9,766	*13,724	23,490		
25	1908	28	*16,969	*17,167	34,136	*17,927	16,415	34,342		
26	1910	2	*7,396	*8,087	15,483	*16,328		16,328		
27		32	*12,679	*12,311	24,990	*14,611	11,663	26,274		
28		34	*11,632	*11,003	22,635	*11,705	10,937	22,642		
29		39	*10,687	*12,729	23,416	*14,083	9,879	23,962		
30		42	10,960	*12,419	23,379	*12,065	*11,060	23,125		

31	1912	3	9,059	9,498	18,557	*11,080	*9,565	20,645	*11,735	11,735
32		11	13,900	13,051	26,951	*18,497	*14,388	32,885	*21,767	21,767
33		12	9,546	9,103	18,649	*12,938	*10,020	22,958	*11,899	11,899
34		13	10,022	*10,257	20,279	9,362	8,937	†27,332	*20,260	
35		16	9,217	8,592	17,809	*12,672	*10,740	23,412	*13,521	
36		23	*11,263	9,172	20,435	10,925	9,997	20,922	*17,396	
37		29	4,132	3,786	7,918	*7,133	*6,839	13,972	*6,674	
38		32	9,736	9,683	19,419	*12,657	*12,932	25,589	*12,913	
39		39	*10,798	*11,774	22,572	*15,708	10,591	26,299		
40		41	*14,025	*14,859	28,884	11,515	11,833	23,348	*18,634	
41		50	*16,380	*17,601	33,981	*17,893	16,349	34,242		
42	1914	12	*12,595	7,671	20,266	*10,978	*9,268	20,246		
43		14	*14,679	*11,939	26,618	*10,230		10,230	8,954	16,166
44		28	*14,543	*13,485	28,028	*16,261	12,876	29,137		
45		39	*11,515	*11,225	22,740	*18,761	6,710	25,471		
46		41	*13,506	*12,321	25,827	*16,968		16,968	12,302	22,310
47	1916	21	*14,245	*13,302	27,547	*15,687	11,108	†36,384	10,008	

\* Indicates the successful candidate in each case.

† Vote for third candidate included in total. 1874, Dist. 13, Republican, 3,881 votes. 1912, Dist. 13, Democratic, 9,033 votes. 1916, Dist. 21, Democratic, 9,589 votes.

ed in 1910 because of the dissatisfaction of the people with political conditions resulting in a vigorous campaign waged against corrupt legislative methods. Bribery and corruption in Illinois had become a matter of national disgrace. Another fact, which, combined with the cumulative vote, made unequal representation possible in 1910 was the very close vote of the leading parties in the 34th and 42nd districts. Furthermore, the insurgent Republican movement did much to disrupt Republican strength.<sup>9</sup> In 1912 the miscarriages which occurred in eleven districts were due to the coming into existence of a strong third party, which developed unforeseen strength and upset the calculations of the committees which determined the number of nominees to be presented. In nine of these districts Progressive candidates were elected and in two Socialists gained seats. In 1914 the discrepancy was mainly due to the Progressive vote, an aftermath of the great campaign waged in 1912. The years 1916 and 1918 are again normal, there being only one instance of excessive representation in 1916 and none in 1918.

From the viewpoint of party representation in the legislature, these cases offset each other to a considerable extent. Thus in 1912, with 11 cases of over-representation by a minority, one major party lost five seats and gained the same number; the other major party lost six seats and gained three, a net loss of three, which were gained by two minor parties.

Table III covers a period of 24 elections in 51 districts, the minority securing more than its due share of representatives in about four per cent of the total number of elections. Whether due to "plumping" or other causes the proportion of "mishaps" is small and the system has so seldom been subverted in such a manner as to defeat the will of the majority that there can be no serious accusation against the cumulative method in this regard.

It has been asserted that because of the peculiar method of electing representatives, the party carrying the state elections may fail to secure the majority in the legislature to which it is entitled. The example cited is that of the year 1890, when the Democrats, for the first time in years, secured the small number of state officers elected that fall. In the Senate the Republicans

<sup>9</sup> For parties and votes cast, see Table II.

had 27 and the Democrats 24 members. In the House there were 73 Republicans, 77 Democrats and 3 Farmers' Alliance members, the latter thus holding the balance of power on joint ballot. The above figures show that so far as the House was concerned the Democrats did have a small majority, and the failure to secure a majority on joint ballot was due to the non-representative character of the Senate, since of the 26 Senators who held over 16 were Republicans. A more recent instance in which no party had a working majority in the House occurred in 1912 when the Democrats elected 72 members, the Republicans 52, the Progressives 26 and the Socialists 3. In this instance also there can be no complaint of injustice against the cumulative vote since the Democrats cast a plurality of votes in the state in 1912 and also had a plurality of members in the House.

Partisans are inclined to assert that great harm may be done the majority by a minority securing undue representation at certain critical times. This was most apparent when in former times a United States Senator was to be elected by the legislature and the classical example given is the senatorial election of 1877. In the elections of 1876 the Republicans cast for President 278,232 votes and the Democrats 258,601. In the legislature which assembled in 1877 as the result of the fall elections, there were in the Senate 21 Republicans, 22 Democrats and 8 Independents. In the House the Republicans counted 79, the Democrats 67 and 7 Independents, thus giving a small faction the balance of power on joint ballot. The Independents clung obstinately to their Senatorial candidate (Judge David Davis) and finally the Democratic vote was transferred to him, thus giving the required majority, and the Republicans failed to secure an office they claimed was justly theirs. Such an occurrence is simply an illustration of the occasional extraordinary influence of a small group holding the balance of power. This may and does happen under any system of election and is not a defect peculiar to the cumulative system. Indeed, in this case the Republicans had a majority in the House, elected by the cumulative method.

Another objection to minority representation is that in case of the death or resignation of a House member the majority party would elect the new member of that district regardless of

the politics of the ex-member. In exceptional cases, when the vote is close and party lines tightly drawn, this might give a party a majority to which it is not justly entitled and might be of considerable importance. In many legislatures in Illinois vacancies have been caused by death or resignation, yet no great injustice has ever been worked in filling these and the likelihood of such events causing party disaster is so remote as to be scarcely worthy of consideration.<sup>10</sup>

Still another objection is to be found in the fact that the House of Representatives elected under the cumulative system may be controlled by a different party from that which is in control of the executive department. This was the case in 1915-16. This situation may exist but it also occurs in other states where the cumulative system does not prevail; and is due to the election of members of the legislature in the middle of the governor's term.

<sup>10</sup> What has actually happened has been exactly the reverse of the above. In 1885 on the death of a member of the House, Senator Logan by consummate political skill secured the election of a Republican member from a strongly Democratic district, and was as a result, elected to succeed himself as United States Senator.



## CHAPTER IV

### PRIMARY LEGISLATION AND ITS EFFECT.

Prior to the campaign of 1904 the only legislation for the control of party nominations in Illinois had been aimed at corrupt practices in party caucuses and conventions.<sup>1</sup> With the new century came an insistent demand for reform in the method of nominating candidates for public office. This demand for reform was taken up by the press of the state, and resulted in the submission of a Public Policy question to the people at the November election of 1904. This question was worded as follows: "Shall the State Legislature amend the Primary Election Law so as to provide for party primaries at which the voter will vote under the Australian ballot directly for the candidate whom he wishes nominated by his party."

Upon this question the affirmative vote was 590,976 and the negative vote 78,446, the question obtaining a distinct majority of the total vote cast at the election.

In his message of January 4, 1905, the retiring governor recommended that the General Assembly enact a direct primary law. The incoming governor in his inaugural address on January 9, 1905, advocated primary legislation. The legislature responded to public sentiment as expressed at the polls and to the executive recommendations and the first general primary law was enacted on May 18, 1905.<sup>2</sup> Before there was an opportunity to put this law into effect it was declared invalid by the Supreme Court.<sup>3</sup> It was held in this case that the whole law was objectionable because it was local and special legislation since it applied different rules to Cook County from those adopted for the remainder of the state. Certain sections of the law were also unconstitutional on other grounds. The court in this case

<sup>1</sup> See Merriam, C. E., *Primary Elections*, 1908, 298-302; and *Illinois Laws*, 1885, 187; 1889, 140; 1898, 11; 1899, 211; 1901, 172, 192; 1903, 176.

<sup>2</sup> *Illinois Laws*, 1905, 211.

<sup>3</sup> *People v. Board of Election Commissioners*, 211 Ill., 9.

laid down the general rule that primaries were elections as that term is used in the constitution and consequently all the constitutional provisions applying to general elections were also applicable to primaries. "The right to choose candidates for public offices, whose names will be placed on the official ballot, is as valuable as the right to vote for them after they are chosen and it is of precisely the same nature." The court later adhered to this rule throughout the litigation over the primary law, though the application of the rule does not always seem clear.

Immediately after the judicial decision declaring invalid the act of 1905, the General Assembly was convened in special session for the purpose of passing another law. The second general Primary Election Law was approved May 23, 1906.<sup>4</sup> Under this act a state-wide primary election was held in August and the candidates nominated in this primary were voted upon in the November election of 1906.

This primary law met the same fate as its predecessor and was declared unconstitutional by the Supreme Court in October, 1907.<sup>5</sup> This declaration of unconstitutionality, however, as indicated above, did not come until after the act had actually been applied to nominations for the regular election of November, 1906.

One of the grounds for holding invalid the primary act of 1906 directly relates to the subject of cumulative voting. The law provided that delegates to a senatorial convention should be instructed to vote on the first ballot for the candidate for representative who received the highest popular vote at the primary. One candidate was thus in effect entitled to nomination because of the popular vote if his plurality was properly distributed so that he received the instructed vote of a majority of the delegates to the senatorial convention. If he failed to receive a majority then the instructions were discharged and the delegates free to make the selection. The popular vote thus applied but to one of the three candidates for representative, that is, to the candidate for representative receiving the highest popular vote at the primary.

<sup>4</sup> *Illinois Laws*, 1906, Special Session, 436.

<sup>5</sup> *Rouse v. Thompson*, 228 Ill., 522.

The court applied its previous rule regarding the constitutional status of primaries and held that since the constitution provided that a voter had the right to vote for one, two or three candidates for representative in the General Assembly at the general election and the primary law provided that the voter could vote for but one candidate that portion of the statute was accordingly unconstitutional. In the opinion it was stated that: "Any primary election law to be valid, which provides for the nomination of candidates for representatives in the General Assembly must give the voter the right to participate in the selection of all the candidates of his party for representatives in the General Assembly which are to be nominated by his party." Also in this opinion the court pointed out rather definitely at least one possible method by which a primary law could be applied to the selection of candidates for the office of representative so as to conform to constitutional provisions. The method proposed by the court however did not seem to appeal to the legislature.

A third primary law was enacted in January, 1908,<sup>6</sup> and was declared unconstitutional in June, 1909.<sup>7</sup> As happened under the primary act of 1906, between the time of the passing of the law of 1908 and the decision of the Supreme Court holding it unconstitutional, a primary election was held under the statute, and nominees thus chosen were voted upon at the general election held in November, 1908.

The decision holding the primary law of 1908 invalid was based on several grounds, one of which relates to the subject of cumulative voting. The court held quite closely to its rule, promulgated in the first primary case and re-affirmed in the second decision, that primaries are elections as that term is used in the constitution and the decision is primarily an application of this rule as the court interpreted it. It was held that all provisions of the constitution, including those regarding cumulative voting for members of the House of Representatives, must apply to the primary elections as they do to general elections. Since the statute failed to meet all these requirements it was declared to be unconstitutional. Incidentally it might

<sup>6</sup> *Illinois Laws*, Adjourned Session, 1908, 48.

<sup>7</sup> *People v. Strassheim*, 240 Ill., 279.

be noted that this statute repeated in substance some of the provisions of the previous law which had been declared void in the preceding case.

The General Assembly in enacting these primary laws had apparently proceeded upon the assumption that a primary election is not an election as that term is used in the constitution. It was also contended that the cumulative vote was intended to be applied to contests between parties rather than to intra-party contests and that the cumulative vote was introduced into the constitution of 1870 primarily for the purpose of equalizing representation between the parties. In regard to the difference of opinion concerning the definition of the word "election" as used in the constitution, it may be noted that the judicial decisions in some states agree with the apparent assumptions of the legislature while in others they agree with the ruling of the supreme court.

The fourth primary law of Illinois was enacted in March, 1910, and was sustained by the Supreme Court in December of the same year.<sup>8</sup>

The primary legislation of 1910 was embodied in two laws, one relating to the selection of officers in general, and the other confined to the nomination of members of the Senate and the House of Representatives and the election of senatorial committeemen. The law relating to legislative nominations provides that the senatorial committee in each district shall determine the number of candidates which its party shall nominate. The act also expressly provides for cumulative voting in the nomination of party candidates for the House of Representatives, specifying that "in all primaries for the nomination of candidates for representatives in the General Assembly, each qualified primary elector may cast three votes for one candidate, or may distribute the same or any parts thereof among two candidates or three candidates as he shall see fit."

The primary law of 1910 provides that any citizen legally qualified to fill the office of representative may become a candidate in the party primary and have his name printed upon the ballot, by filing a petition signed by one-half of one per cent

<sup>8</sup> *People v. Deneen*, 247 Ill., 289.

of the qualified primary electors of the party in his district.<sup>9</sup> Because of the ease with which one may become a candidate in the party primary, there has been no dearth of such candidates. In 1910 there were 722 candidates; <sup>10</sup> in 1912, 604; in 1914, 693; in 1916, 592; and in 1918, 456. These figures are for the candidates of all parties, and in connection with them it should be borne in mind that the number of places to be filled at each regular election is 153.

The great number of candidates in 1910 was probably due not only to the tendency to experiment with a new plan, but also to the high degree of public interest because of the scandal incident to the election of United States Senator at the session of 1909. The large number of candidates in 1914 was due to the fact that the Progressive party first appeared in the primary of that year, and had in the 1912 general election obtained a fairly large number of seats in the General Assembly, although in that election the Progressive party nominees were not selected by popular vote at the primary. No less than 126 Progressive candidates appeared in 1914.

Under the primary election law of 1910 the fight for office is now divided into two contests, and the number of candidates in the first or primary contest is an index of the freedom of choice presented to the voters. A table is therefore given covering a period of five elections under the law of 1910, showing by districts the number of candidates and nominees of the important parties at these elections.

In twenty-two instances out of 561 the voter had no choice, there being but one candidate presented for nomination. Nine of these twenty-two cases were those of candidates of the Progressive party in 1914, when that party was concentrating upon comparatively few candidates. In 1910, 1912, and 1914 the greatest number of candidates appeared in the Democratic primaries, while in 1916 and 1918 the greatest number appeared in the Republican primaries.

<sup>9</sup> The statute also contemplates independent candidates appearing on the regular election ticket by petition.

<sup>10</sup> Unofficial figures. The statistics given in Table V include four parties only for 1910. In addition to the candidates of these four parties there were a considerable number of independent candidates.

TABLE IV  
NUMBER OF CANDIDATES AT PRIMARIES NUMBER OF NOMINEES AT GENERAL ELECTION

District	*1910		1912		1914		1916		1918		1910		1912		1914		1916		1918			
	Rep.	Dem.	Rep.	Dem.	Rep.	Dem.	Rep.	Dem.	Rep.	Dem.	Prog.	Rep.	Dem.	Prog.	Rep.	Dem.	Prog.	Rep.	Dem.	Prog.	Rep.	Dem.
1	3	3	6	2	3	6	3	9	5	2	1	3	1	1	3	1	1	2	1	1	3	1
2	4	2	6	7	5	19	6	5	4	8	2	1	2	1	1	1	1	2	1	1	2	2
3	7	5	6	9	7	9	4	9	4	3	3	2	2	1	2	2	1	2	2	1	2	2
4	4	4	4	15	5	20	5	8	7	9	3	2	3	1	2	1	1	2	1	1	2	2
5	4	2	6	8	6	5	4	7	3	6	3	1	2	1	2	1	1	2	1	1	2	2
6	4	8	9	5	8	7	6	4	6	2	3	1	1	1	2	1	1	2	1	1	2	2
7	4	5	7	3	4	2	4	4	2	2	3	1	1	1	2	1	1	2	1	1	2	2
8	4	4	5	5	5	2	4	4	4	2	3	1	1	1	2	1	1	2	1	1	2	2
9	5	4	5	5	5	2	9	2	4	9	4	1	1	1	1	1	1	2	1	1	2	2
10	3	10	2	9	3	9	4	1	8	1	1	3	1	1	1	1	1	2	1	1	2	2
11	4	4	6	13	3	10	3	5	4	4	1	1	1	1	1	1	1	2	1	1	2	2
12	4	7	6	3	3	10	3	3	5	3	1	1	1	1	1	1	1	2	1	1	2	2
13	4	4	4	3	3	7	3	2	8	2	2	1	1	1	1	1	1	2	1	1	2	2
14	5	6	4	10	4	11	5	6	7	1	3	2	1	1	1	1	1	2	1	1	2	2
15	6	2	4	5	5	7	3	4	3	1	3	1	1	1	1	1	1	2	1	1	2	2
16	4	8	2	3	3	5	3	5	6	1	4	2	2	1	2	1	1	2	1	1	2	2
17	2	9	3	8	2	13	2	4	1	2	3	1	1	1	2	1	1	2	1	1	2	2
18	6	5	4	4	4	2	4	2	4	1	3	2	2	1	2	1	1	2	1	1	2	2
19	4	5	9	9	9	22	7	6	3	3	1	2	1	1	2	1	1	2	1	1	2	2
20	3	3	4	4	4	6	4	7	4	3	2	1	1	1	3	1	1	2	1	1	2	2
21	7	4	9	5	6	6	4	8	7	4	1	1	1	1	2	1	1	2	1	1	2	2
22	4	2	3	3	4	2	4	4	4	4	1	1	1	1	2	1	1	2	1	1	2	2
23	3	4	6	4	3	9	3	4	4	4	1	1	1	1	1	1	1	2	1	1	2	2
24	6	4	3	2	3	3	3	3	3	3	1	1	1	1	1	1	1	2	1	1	2	2
25	3	7	11	3	5	15	4	4	4	4	1	1	1	1	1	1	1	2	1	1	2	2
26	4	2	4	5	3	5	2	3	5	2	1	1	1	1	1	1	1	2	1	1	2	2
27	2	9	3	4	5	9	1	3	2	9	1	1	1	1	1	1	1	2	1	1	2	2



The average number of primary candidates of the two great parties over the period of five elections was four to the district. All the cases in which there were ten or more candidates to the district were within Cook County. In the fourth and nineteenth districts in 1914 there were 20 and 22 primary candidates respectively for the Democratic nominations, while the largest number entered in a Republican primary was 12 in the 21st and 31st districts in 1916.

The large number of contestants in party primaries in certain cases may be partly due to factional warfare within the party and to lack of strong party candidates. The party organization can still put up its own candidates and still does so, but the primary law has undoubtedly thrown open the doors to as many non-organization candidates as may be desired. Although candidates without an organization support may present themselves with great ease for the party nominations in the primary, it should, however, be borne in mind that party organization is effective here as well as in the general election, and that ordinarily the primary candidate with organization aid obtains the nomination.

As has already been mentioned, the primary act of 1910 provides for a senatorial committee of each party in every district. This committee is composed of three members for each district consisting of two counties or less; and of one member from each county in districts of three or more counties. In two-county districts the respective counties select one or two members according to the vote polled at the previous general election, and in one-county districts or districts wholly within a county, the members are elected at large.

The principal function of the senatorial committee of each party is to determine how many candidates of that party shall be nominated within the district. When the primary legislation was under consideration an attempt was made to allow the voters to decide for themselves whether each party should nominate one, two or three candidates for representative. It was decided, however, that this power should be given to the senatorial committee, and this decision was made largely because of the fact that it would have been extremely difficult to devise a system under which the voter could at the same time



express his view as to the number to be nominated by his party, and also indicate his preference among candidates the number of which had not then been determined.

The number of candidates to be nominated by a party must be decided by the senatorial committee at least thirty-three days prior to the primary election. The committee, of course, determines merely how many candidates are to be nominated. It can decide how many nominees the district is to have, but it cannot legally dictate what candidates are to be chosen by the voters. The members are elected by popular vote at the primary, and the voters have an opportunity to select non-organization committeemen though they may not take advantage of the opportunity. The senatorial committee has undoubtedly been an important part of the party machinery and in practice has, to a large extent, apparently been able to determine who the nominee or nominees shall be.

A study of Table IV will show that in the general elections since the primary law came into force there have been but ten instances in which one party has nominated more than two candidates, although the number of party nominees has been slightly greater than before the adoption of the primary law. The total number of nominees put forth from year to year by either of the two leading parties shows no great variation. The senatorial committee's ability to forecast party strength has on the whole proven good. In the five elections held since the primary law has been operative, in but twelve instances have party candidates failed in the general election because the senatorial committee permitted too many candidates to enter the final contest. Eight of these cases occurred in 1912, and were due to the fact that the Progressives, a new party, entered the field and it was impossible to forecast accurately its strength. It should also be stated that minor parties almost invariably limit their candidates at the primaries to one for each district, restricting their voters both in the primary and in the general election to but one candidate. This, however, was not true of the Progressive party in 1914.

Table V indicates the party vote cast at the last five primary elections. The meagerness of this vote confirms the general opinion with regard to primary elections, namely, that they do

not arouse the interest of the average voter. It is interesting to note that in 1916, 95 votes were sufficient to nominate thirteen candidates of the Progressive party.

The primary system has given a greater opportunity to those who desire to become candidates for party nominations, and has theoretically given to each voter a greater share in the determination as to who the party candidates shall be. However as already suggested, the party organization still determines as a usual thing who the nominees shall be. In practice a well disciplined party organization is more effective than a loosely organized independent or reform movement. It should be noted however that the primary system does force a presentation of the organization candidates more openly than was the case before the introduction of the primary.

With two elections, the one a choice between candidates at the primary and the other between nominees at the general election, the real determination as to the membership of the General Assembly has shifted largely to the first or primary election. This has not materially altered the situation, for before the primary law was enacted the real determination as to who should be members of the General Assembly was not altogether that at the general election, but was, to a very considerable extent, a determination within the party organization before the general election was held. Under the system which existed before the introduction of the primary, the voter at the general election had little choice as to whom he should cast his ballot for, and the existing primary law has not greatly changed this, although since the enactment of that law the voters have had a somewhat greater choice through the fact that there have been more four-candidate districts than previously.

If an organization candidate is to be defeated, however, the contest must be made in the primary, and it is probable that the non-organization voters have a more distinct opportunity to defeat an undesirable organization candidate under the primary system than before. But it can scarcely be said that the present primary system has weakened party organization.

The primary system does, however, make it possible to organize and carry on an open fight against an undesirable candidate for the nomination. The existence of this oppor-

TABLE V  
PRIMARY ELECTIONS

Party	1910				1912				1914				1916				1918			
	Vote for Representative	Per Cent of Total Vote	Number of Candidates	Number of Nominees	Vote for Representative	Per Cent of Total Vote	Number of Candidates	Number of Nominees	Vote for Representative	Per Cent of Total Vote	Number of Candidates	Number of Nominees	Vote for Representative	Per Cent of Total Vote	Number of Candidates	Number of Nominees	Vote for Representative	Per Cent of Total Vote	Number of Candidates	Number of Nominees
Republican	986,792	63.217	96	90	1,164,814	58.221	90	89	601,631	41.203	89	89	1,109,688	62.264	93	93	1,062,995	64.214	93	93
Democratic	580,241	36.233	83	89	820,256	41.257	89	85	783,346	54.310	85	84	673,984	38.240	84	84	599,135	36.198	83	83
Progressive							43		69,102	4.126	53				29	13				
Socialistic	9,420	.5	49	51	15,910	.7	58	51	8,013	.5	54	51	4,391	59	52		3,096	44	43	
Independent							2					3			6					
Prohibition	8,369	.5	75	47	7,133	.3	68	49												
Total	1,584,822	100	575	287	2,008,113	100	604	324	1,462,092	100	693	281	1,788,158	100	592	248	1,665,226	100	456	225

tunity has led such associations as the Legislative Voters' League to transfer their activities, to a very large extent, to the primaries as distinguished from the general election. The Legislative Voters' League, since the adoption of the primary system, has issued recommendations regarding candidates before the primaries, recognizing the fact that the voters' choice after such primaries is relatively limited. However, as has already been suggested, the voter has a limited degree of choice in the fairly large number of districts where each of the leading parties nominates two candidates to be voted upon at the general election.

## CHAPTER V

### EFFECT ON PARTY ORGANIZATION

An investigation of the practical workings of cumulative voting is difficult, since with the exception of the bare facts to be derived from official statistics, there is little information on the subject. The history of the scheme is contemporaneous history and it is not easy to determine what has been accomplished by a movement still in progress. Many of the facts must be sought from individuals still in active life and in order to supplement statistical information, a list of questions was sent in 1908 when the first edition of this study was in preparation to members of the legislature,<sup>1</sup> state officials, editors of some of the more important newspapers of the state, individuals active in civic reforms and a few other prominent citizens. The tabulation of the answers to those questions still of interest will appear in this and following chapters.

In a preceding chapter appears the following quotation from the report of the Committee on Electoral Reform to the constitutional convention:

“It (minority representation) will also tend powerfully to relieve the voter from the despotism of party caucuses and at the same time constrain leaders to exercise more care in selecting candidates for law-making. There is nothing which will more effectually put an end to the practice of packing conventions than arming the voter with the three-shooter or triple ballot power, whereby he may fire ‘plumpers’ for the candidate of his choice and against those of his aversion.” In other words, the cumulative vote would deal a death blow to party bossism. In a report issued by the Legislative Voters’ League of Chicago appear these statements: “By it (minority representation) the people of Illinois have lost control of their Legislature,” and “Minority representation has been one of the most vicious acts

<sup>1</sup> Legislature of 1908.

ever placed on the statute books;” “The candidates nominated and elected under the present system are in most instances merely errand boys and messengers for the party boss.”<sup>2</sup>

It would be difficult for two assertions to be more widely contradictory. One is the statement made by a civic reformer prophesying the results of one of his favorite projects, the other was made after the scheme had been tried for thirty-five years. While the first, being a prophecy, can prove nothing, neither do the latter empiric dogmatic statements convince.

One of the questions contained in the letter of inquiry sent out in 1908 was, “Does the system (cumulative voting) increase or diminish the power of the party machine?” Eighty-four definite answers were received to this question. Nine asserted that the power was diminished, thirty-five maintained that the system had no effect on party organization, while forty asserted, and most of these were very certain as to the correctness of the answer, that the influence of the party machine was greatly increased. It is interesting, if not important, to note that of the nine who thought the party power was diminished, seven were then members of the legislature, and in general there is considerable variation between the answers of politicians and others who are but observers or critics of political affairs.

One strong evidence of strict party control was the limited number of real candidates nominated under the convention system especially in the Chicago districts. It is true that there were frequently seven or eight candidates for the three places at each election, but usually there were but three nominees of the two dominant parties combined, and nomination thus became practically equivalent to an election. Other candidates represented various minor parties and were fully aware that ordinarily they had no chance of election. The usual rule was for the majority party to nominate two, the principal minority one, and this custom was practically universal so far as the former party was concerned. Prior to 1896 three candidates

<sup>2</sup> But compare the following from the reports of this same organization: “The things which have distinguished this Legislature are the high character of a majority of its members. . . .” “We are prepared to state that it is an absolute fact that a large majority of the members of the 44th General Assembly are honest and patriotic citizens” and various kindred statements.

were occasionally nominated by one party, but this happened only in districts where the majority party was unusually strong and had some hopes of electing three members; or, what was more usual, the three candidates were the result of county factional controversies where two or more counties were combined in one district. In such cases it sometimes happened that the larger county demanded and secured both nominees and the smaller county, for the sake of revenge, would adopt the suicidal policy of putting a candidate of its own in the field. So far as has been ascertained, no majority party has ever nominated three candidates in order to give its constituents a greater choice at the polls.

Before 1910 the number of candidates to be nominated was determined by the party leaders. No more candidates were nominated than it was thought possible to elect, and nominations were made in party caucuses and conventions. Since 1910 the law has expressly vested in the senatorial committee of each political party the power "to determine the number of candidates to be nominated by their party at the primary for representative in the General Assembly;" and the nomination is made at a primary election, in which each voter may cumulate his votes the same as at a general election.

In Cook County, which has nineteen districts and consequently fifty-seven Representatives to elect, there were before 1910 from 59 to 61 candidates presented by the combined Republican and Democratic parties. Since 1910 there have been from 62 to 67 presented. It was the rule to have but three candidates presented by the two main political parties before the primary law of 1910, but since that year 42 percent of the Cook County districts have had four or more nominees. In at least one district both in 1904 and 1906 the majority party was strong enough to elect all three representatives but presented only two candidates.<sup>3</sup> In the districts outside of Cook County the appearance of four candidates of the two great parties has been more common since 1910 than in Cook County.

In ten of the thirty-two districts outside of Cook County in 1906, the two dominant parties nominated four candidates for the three positions. In 1904 in the same districts four candi-

<sup>3</sup> Seventh District.

dates were nominated in but eight of them; in 1902 four candidates were nominated in but seven districts. In 1900, under the apportionment of 1893 in which there were 36 districts outside of Cook County, 20 districts had four or more candidates of the two main parties in the field; in 1898, 26 districts and in 1896, 20 districts; in 1894, 29 districts. Under the primary law of 1910 there has been an increased number of four-nominee districts outside of Cook County; in 1910 there were 17 out of the 32 districts; in 1912, 15; in 1914, 15; in 1916, 13; and in 1918, 17 districts.

It appears from the above figures that the voters of the minority party in certain districts have had a limited choice of candidates at the election. It will also be seen that there is no uniform rule governing the action of the minority in regard to nominating two candidates, but there was a decrease in the number of four candidate districts in the elections preceding 1910 and an increase of such districts since that year.<sup>4</sup>

Whether this is merely accidental or whether it is a permanent tendency cannot be definitely determined. Whenever there are two candidates on the same ticket and but one can be elected there is obviously an excellent prospect for an intra-party fight.

A study of election statistics reveals little or nothing regarding party discipline. In some districts where there are four candidates and naturally each nominee of the minority party will induce as much "plumping" for himself as possible, the equality of the vote would seem to indicate an obedience to the party exhortation not to "plump," but to vote one and one-half votes for each candidate. In other cases "plumping" does appear, but it is impossible to tell whether this is due to a voters' rebellion against party domination or whether it is an indication of the power of the party leaders using their influence to elect the organization candidate.

Such a scheme as minority representation and cumulative voting must automatically increase party control. Several thousand voters coming to the polls each with three votes to distribute as he sees fit, without a certain amount of party supervision, can lead to nothing but confusion, injustice, and misrepresent-

<sup>4</sup> See Table IV for 1910 and following elections.



tation. Some popular candidate might receive a large share of the votes while two others, a majority of those to be elected in this case, might be selected by a comparatively few votes cast for each. There would inevitably be such a waste of votes and unfair representation that the people would demand, or at least acquiesce in, the dictation of party managers in order to prevent such useless and indiscriminate voting.

The undesirable conditions described above are not a mere supposition of what might happen, but specific instances can be cited of the disaster attending cumulative voting elections without party organization among the mass of the people. The best illustrations are the somewhat notorious school board elections in England in 1870 already mentioned, when in some of the districts as many as fifteen members were to be elected and each elector as in Illinois, had as many votes as there were places to be filled. In Manchester there were fifteen members to be elected. "Manchester is famous for two things — first, the fervor of its Protestantism; second, the number, organization and strength of its working classes. But at this election two Roman Catholics were brought in at the head of the poll, one of them receiving nearly 20,000 more votes than any Protestant candidate and no working class candidate, of whom there were seven, being elected at all."<sup>5</sup>

In Marylebone, a district of London, the favorite candidate received 47,858 votes and the next in the list had only 13,494. In Finsbury, another district of London, the highest number received by one candidate was 27,858 and the next highest but 10,766. In Birmingham the fifteen successful candidates were voted for by about 18,800 voters, while 10,100 lost their votes on unsuccessful candidates<sup>6</sup> — a much greater percentage of non-representation than usually prevails in the single vote method. If specific instances are necessary to prove what appears an almost axiomatic truth — the futility of attempting an election with the cumulative vote without party organization and leaders able to control that organization, the English school board elections furnish some very instructive examples.

While there can be no doubt but that a scheme of cumulative

<sup>5</sup> Dutcher, *Minority Representation*, 72.

<sup>6</sup> Dutcher, *Minority Representation*, 69-74.

voting, because of inherent peculiarities, will create a demand for a strong party organization, this does not necessarily imply that the members of the various legislatures of the state have been "machine" men in the opprobrious sense in which that term has come to be used. However, legislative conditions in Illinois have not been altogether satisfactory, to put it mildly, and the records of some of the legislatures have not been ideal. Granting, for the sake of argument, that all the many accusations made against the legislature in the past few years are true, it would appear that the cumulative voting system has been more sinned against than sinning. Admitting all the charges, there is no evidence anywhere nor any analogy from which conclusions can be drawn which would warrant any belief other than that the "machine" would be just as corrupt and have just as complete control as it now has if the cumulative vote had never been used. An investigation of the legislatures of New York, Pennsylvania, in fact almost any state selected at random, will show that other states suffer from exactly the same political "boss" evils of which Illinois complains. The sins of the latter state's legislature seem to be those of omission rather than commission. There have been vexatious delays in securing legislation made necessary by the rapid advance of the state, but with a few recent exceptions there have not been many charges of positive corruption such as are not altogether infrequent in other states.

The same organization which calls the cumulative voting system the "most vicious piece of legislation ever placed on the statute books" also says: "These two measures illustrate how the organizations of the Senate and House work hand in hand. They divide the responsibility — one kills one bill and the other another."<sup>7</sup> In other words, the Senate is as bad as the House, yet the Senate has never been tainted with the cumulative vote. Also in this state there was no cumulative voting prior to 1872, and surely the records of some of these earlier legislatures are nothing of which to boast. So greatly did the early law-making bodies abuse their power that one of the principal reasons for calling a constitutional convention in 1848 and again in 1862

<sup>7</sup> Legislative Voters' League, Preliminary Report on the 45th General Assembly, 1908.

was to limit legislative discretion. It is not necessary here to describe the "internal improvement" policy, the oppressive state debt, attempts at repudiation, the passage of questionable private bills and the long, dreary list of legislative shortcomings, but it is doubtful if the later legislatures can equal the unenviable records of many of their early predecessors.

The above is written with no intention of either defending or condemning the state legislatures, but rather to clear the cumulative voting system of certain charges of which it is not altogether guilty. It would be useless to deny that the cumulative vote requires strict party discipline, and that in this system the political "boss" found ready made a means of exercising his control, but all evidence tends to show that if such means had not been furnished he would have found methods of his own to accomplish the same result. It is, of course, a very negative sort of a recommendation to say that a system is no worse than others but, so far as the evils of excessive party control is concerned, that is the most that can be said about the cumulative system as actually applied in this state. But it should be borne in mind that these evils are not all due to cumulative voting *per se*, but rather to abuses of the system, and here is really the heart of the whole question. As the scheme has worked out in practice nominations to the House of Representatives have become practically equivalent to election.

As has already been indicated, the primary election law of 1910 vested in the party senatorial committee of each district the authority to determine the number of candidates to be nominated by the party in such district. The preceding discussion indicates that there has been under the primary law a greater number of cases than theretofore in which each of the larger parties has nominated two candidates. The determination as to how many candidates each party shall nominate is by the terms of the law a more open and public matter than before 1910, and under the present plan party leaders have so acted as to give the voter a greater degree of choice in the general election.

In the primary to nominate the number of candidates designated by the senatorial committee, the cumulative system applies, and this is constitutionally necessary under the decisions

of the state Supreme Court. The tables on pages 48, 49 and 53 indicate that there has been no dearth of primary candidates since 1910. Anyone may easily become a candidate in the primary, but this fact does not seem up to the present time to have weakened the party organization. The application of the cumulative system to the primary may work to strengthen the organization, for if there are a number of candidates in the primary, a well disciplined body of voters by cumulating on one or two candidates may usually decide the nomination; and the party organization has thus controlled not only the number of candidates to be nominated, but has also frequently determined who should be nominated in the primary.

## CHAPTER VI

### PRACTICAL DIFFICULTIES OF THE CUMULATIVE SYSTEM, AND ITS EFFECT ON THE LEGISLATIVE PERSONNEL

When the advocates of electoral reform were busy formulating schemes of minority representation they had no difficulties in devising theories that would afford such representation with mathematical exactness. The real difficulty lay in making these methods so simple that the ordinary voter could exercise his privilege intelligently and the returning boards tabulate results readily and accurately. The committee on electoral reform in the constitutional convention also struggled with this problem and abandoned their first device as too complicated. The plan finally recommended was the simplest the committee could devise, but even then it was feared there would be difficulty in voting and counting the votes. As a matter of fact, as often happens whenever any new system of voting is put into operation, there was at first some difficulty at the polls, but this grew less as the voters became familiar with the plan. Later, when the Australian ballot was introduced, more obstacles were encountered. To obtain additional information on this subject the following question was included in the list sent out by the writer in 1908: Are there any practical difficulties in voting, counting votes, etc?'' Of the ninety-three answers received to this question, sixty asserted that there were no difficulties at all, or, if any, they were so slight as to be of no real importance. Thirty-three answered that the difficulties were serious enough to constitute a real objection. In the great majority of cases these thirty-three were opposed to the entire plan, and were inclined to attack every phase of it whether there was really justification for such attack or not. To count and record half votes may require a little more time to arrive at results than under the ordinary system of voting, but beyond this inconvenience the practical difficulties are so slight that they cannot be considered as any real objection.

With the idea of determining public sentiment on the question and to ascertain if minority representation in its somewhat crude and limited form was regarded sufficiently successful that the people of the state would approve of a wider application of the principle, a question was included in the previously mentioned list sent out in 1908 asking what advantages, if any, would be gained by increasing the size of the districts and electing more than three men from each. Evidently the larger the districts and the more officials elected from each, the more opportunity small parties would have of being represented and the more nearly the scheme would approach proportional representation. Of eighty-eight who replied directly to this question, three favored the idea of larger districts and eighty-five disapproved, but it is evident that the answers are of but little value so far as an expression of opinion regarding proportional representation is concerned. Apparently those replying had not considered the wide extension of the principles of proportional representation which such a change would entail and opposed any such increase in the size of the districts on grounds of general expediency.

Judging from the opinions of representative citizens whose standing in the community is such that their ideas may be taken as a criterion, public sentiment is either indifferent or opposed to minority representation. The scheme has a few warm friends, but many of those expressing opinions think it has produced but little effect in any direction, while others are squarely opposed, opposition usually being based on the alleged subversion of the system by party organization. All are agreed that one of the principal objects of the introduction of the method, the allaying of sectional strife, has been accomplished, but this is now an issue of the past and cannot be advanced as a justification for the present existence of minority representation.

As quoted in a preceding chapter the electoral committee took the view that: "It (cumulative voting) will increase the usefulness of the legislature by improving the membership. It will enable virtuous citizens to elect the ablest and purest men in their midst and secure to the legislative councils a large measure of popular confidence and respect." How far this contention has been justified it is difficult to say, but in reply to

the previously mentioned questionnaire sent out in 1908, only six out of a total of eighty-four who expressed their ideas on the subject were of the opinion that the personnel of the legislature had been improved by the cumulative method of election. The public, however, usually thinks of cases in which the cumulative system has kept in office some undesirable member, and overlooks the fact that a number of the ablest and most useful members have been minority members in their own districts.

Those mentioned above who expressed their opinions on this subject are not altogether fair in their comparisons between the cumulative vote and the ordinary method. They are fully aware of the defects of the method used and compare an actual system and its practical evils with an ideal conception of the one-vote method, forgetting that the latter leads to equally bad, if not the same, evils, when put into operation. Then again, it is the fashion to decry and ridicule all legislative bodies from municipal councils to the Congress of the United States. Creative legislation is a difficult task and when mistakes are made many self-constituted critics appear and denounce both statutes and their authors and allowance must be made for this prevailing custom.

There are two features, aside from the increased power of the party organization, which may aid in the election of inferior candidates. It was expected that the voter's privilege of "plumping" would tend to defeat undesirable men, but in fact this has at times worked out in exactly the opposite way. Practice here illustrates how easily a reform may be utilized advantageously by the very people against whom the measure was aimed and the "triple armed voter—the terror of party despotism" seems to have been reduced to a very harmless terror indeed. As already mentioned the party organization may exert all its influence to elect its candidate, while a more independent nominee may unwittingly aid his own defeat by asking his party to divide the vote equally between himself and his ticket-mate. While such cases may happen their frequency has undoubtedly been exaggerated. Election statistics show but comparatively few instances where a candidate has been defeated by "plumping." Even assuming, what facts will not warrant, namely, that all nominees who fail of election are the very ones

that should have been elected, few men have been kept out of the legislature on this account, who, for the good of the community, should have been there.

Another circumstance which may affect the personnel of the legislature is incidental rather than essential to minority representation. In this state, if three legislators are to be elected from a district, the number of these latter must be somewhat limited and this necessitates the union of two or more counties. This combination leads to jealousies between the counties, each fearing that it will not get its full share of the spoils. When fights of this sort occur the personality and qualifications of the candidates are lost sight of and the only question considered by the voter is whether or not the nominee is a "home" man. While these county feuds exist and are sometimes of long standing, it is doubtful if they produce much effect on the personnel of the legislature. Some desirable candidates have probably been defeated because of county jealousies, but it is probably true that just as many undesirable nominees have failed of election for the same reason and the account is about balanced.

Many of those expressing their opinion on the subject believe that the method of election has nothing to do with the character and ability of the legislators and this seems the reasonable and logical view. The voters and character of the voters will be the same regardless of the method of election and, generally speaking, elected officials are representative of those from whom they receive their credentials.

While the cumulative vote requires strict party discipline, the abuse of that discipline does not necessarily follow, but it is evident that when the innovation was introduced into Illinois it was not properly safeguarded. While few attempts have been made to abolish the cumulative vote by constitutional amendment several schemes have been proposed to free it of its attendant evils. A reform which has been suggested and championed by at least one rather prominent civic organization is to compel each party to nominate a full ticket of three candidates. The object is, of course, to present a considerable number of men from which the voter may select those he considers best qualified but the attempt to inaugurate this change without specific statutory authority failed. This method would obviously be a plain violation of the spirit, if not of the letter, of the constitu-



tion if such a law or custom were followed in good faith. For illustration, we will assume a district in which the Republican party has a majority. This party would nominate a full ticket and the Democratic and other minority parties would do likewise. Since party dis-affection is the unusual rather than usual condition, the result would be ordinarily that each voter would cast one vote for each candidate of his party, and the three Republican nominees would be elected and minority representation practically abolished. Such practice would give the independent voters a chance to exercise their discretion, but it is only when the occasional wave of civic virtue sweeps over the country that they become numerous enough to endanger party success. The usual results of each party having a ticket of three candidates would be that the majority party would elect all three representatives at the expense of the minority.

If three men were nominated in good faith by each party, thus putting a larger number of candidates in the field, of which only three could be elected, the result would be a hard, bitter fight, not between parties, but between nominees on the same ticket. It would be easier for a Republican, for example, to secure one or one and one-half votes from his colleague than it would to cross party lines and secure the same from his Democratic opponent. Parties would be demoralized, cliques and rings would grow up around certain individuals and campaigns would be waged not on political issues but personalities. Such a change would in no way affect the real evil in the case.

In the above it is assumed that in nominating three candidates each party acts in good faith. Every conclusion, however, that can be drawn from past history or present conditions indicates that such practice would not be conscientiously carried out by any party nor is it probable that any legislation could accomplish the desired result. Taking the example previously given, if the Democrats only had enough votes to elect one man if they "plumped" on him, they undoubtedly would "plump." Three names might appear on the ticket, but it would be made known that two of them were there to meet the technical requirements and that there was but one real candidate. A rebellious voter might not vote for that one, but if he did not he would be practically sure that he was wasting his vote.

## CHAPTER VII

### SUMMARY AND CONCLUSION

In the preceding discussion it has been shown that the cumulative method in practically all cases secures minority representation in the legislative districts of the state. Considering only the two main parties, representation is obtained very nearly proportional to the vote cast by each. Parties other than the Republican and Democratic seldom have more votes in any district than the weaker of these two main ones and hence elect but few members. There is, however, a much smaller waste of votes and smaller percentage of non-representation than prevails under the ordinary majority system.

The evils of gerrymandering are greatly reduced, as is indicated by the fact that the vote required to elect a representative is about the same for either of the two principal parties, while for senators, elected by the plurality system from the same districts, it requires from two to four times as many Democratic as Republican votes to elect one member.

The minority party does occasionally secure undue representation, as in some instances it has elected two out of three representatives. Such results, however, occur only in a few cases since only in about four per cent of the total elections has a minority elected an excessive member of legislators from individual districts. These mishaps may be due to bad management by the majority party failing to nominate the candidates which it might elect or one party nominating three candidates when it had not sufficient votes to elect them; or by one or more of the opposition parties concentrating on one candidate; or they may be caused by the personal popularity of a candidate; by county feuds, where two or more are joined in one district; or by the party organization fighting valiantly for a candidate whom it fears may be defeated.

In every case where a party has had a plurality in the state it has had a plurality in the lower house of the legislature, and

the will of the people, as indicated by party vote, has never been defeated because of occasional instances of the minority securing excessive representation in certain districts.

Any system like the cumulative method has inherent qualities which demand strict party discipline. Political leaders of the state have not been slow to take advantage of this. The most noticeable and pernicious evil, before the enactment of the primary law, was the rigorous limitation of nominees presented by the two principal parties at each election. While this condition has not been greatly changed since the use of the primary system, the people do have a wider choice, as indicated by the large number of candidates at the primaries from which to select the limited number of nominees, and as also indicated by the increase of four nominee districts. Although party control is required by the cumulative vote, it is doubtful if, on the whole, political bossism has been worse in Illinois than in other states. In Illinois, however, with the system unguarded as it was until quite recently, it was very difficult for the electorate to free itself from this undesirable party domination even if so inclined. If a satisfactory primary law, allowing the electors a wide choice in their selection of nominees, is available, the Illinois voter would seem as free to rid himself of undue partisan control as the voter in other states where the cumulative system does not prevail.

The practical difficulties of voting under the cumulative system as used in this state are so slight as to constitute no real objection.

The effect of the cumulative method on the personnel of the legislature is difficult to ascertain definitely, since the character of legislators who might have been elected to office under some other plan of selection is entirely indeterminate. The logical conclusion, however, drawn from comparison, is that the cumulative method has had little effect on the personnel of the Assembly. The method of voting can, of course, have no influence on the electorate which determines who the representatives shall be. In comparison with other states the members of the Illinois legislature seem to be a fair average, thus again indicating the small effects which electoral methods have on the character of officials.

The strongest recommendation for the cumulative system is

the fact that at all times it secures representation for a minority party, thus insuring a strong minority in the lower house of the General Assembly. The inherent justice of the first mentioned fact will appeal strongly to civic reformers and is worthy of consideration when discussing the merits of minority representations, while the latter makes impossible the tyranny of an overwhelming majority which is too often inclined to override the minority in a mere wanton display of power. An ever present minority also serves to check the tendency towards corruption which almost invariably follows when one party has for a considerable time a large majority in the legislature. This applies with special force to Illinois where with but few exceptions one party has had control of the state for many years.

The serious objection to the cumulative method is the opportunity it affords for "machine" control and party "bossism." While the primary system in itself is not a guarantee against undesirable party activity yet in practice it has in other states bettered political conditions and there is no apparent reason why a satisfactory primary law may not accomplish the same result in Illinois if the voters will avail themselves freely of its opportunities.

It may also be said of the primary that it in no way affects the cumulative system of voting. It simply applies the system in two elections instead of one. Minority representation is also unaffected as evidenced by Table II. With a satisfactory primary system in force the people may, if they will, apparently control their legislature as effectively as under the ordinary plurality system and in addition secure an approach to proportional representation so far as the two major parties are concerned.

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