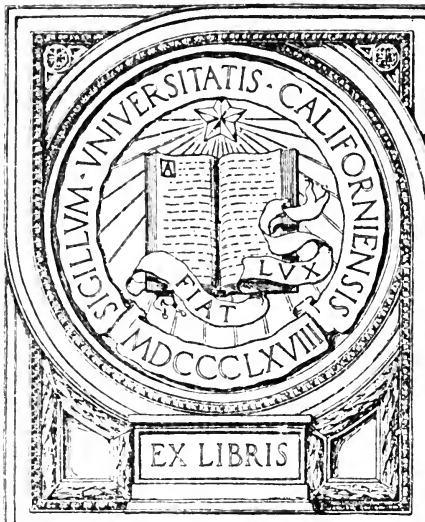

A NEW PLAN FOR DIRECT NOMINATIONS

Report of Committee Appointed by the Speakers' Club to Investigate the Existing Provisions of the Election Law of the State of New York Relative to Direct Nominations and Primary Elections and Pending and Proposed Legislation thereon, Submitted to the Club and Adopted, after Extended Debate, at the Dinner of the Club held in the Rooms of the New York Press Club June 24, 1913

Communications relative to the subject matter of the Report are requested to be sent to the Committe:

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The PLAN is found on page 11

New York, June 24, 1913.

To the Speakers' Club:

Your Committee, appointed at the dinner of the club held on the fourth Monday of May to investigate the existing provisions of the election law in the State of New York relative to direct nominations and primary elections, and pending and proposed legislation thereon, respectfully reports as follows:

The Committee met on the following Wednesday, May 28, 1913, at the rooms of the New York County Lawyers' Association, No. 165 Broadway, New York City, at 11 o'clock in the forenoon, and organized with Clarence C. Ferris as chairman, and James S. McDonogh as secretary. After a general discussion it was resolved that each member of the Committee should personally make a study of the existing law in the State of New York, and of pending and proposed legislation. Various books, pamphlets, magazines and newspaper articles relating to the subject of elections, and particularly to the subject of direct nominations and primary elections, have been procured and read by the members of the Committee. Many consultations and interviews have been had with persons familiar with the subjects, and the so-called Blauvelt and Sulzer bills to amend the election law generally, the brief of Mr. Mark Eisner, assemblyman from the Seventeenth District of New York County, and the work of Prof. C. E. Merriam on primary elections have been particularly studied by members of the Committee, besides the pamphlet issued under the direction of Hon. Norman E. Mack and others, entitled "The Truth about Direct Primaries," embodying the criticisms upon the so-called Sulzer bill by Mr. John G. Saxe.

The Committee's investigation necessarily took a wide range, but as its authority is limited to an examination of the subject of direct nominations and primary elections, the Committee has endeavored to confine its report to that subject, although impressed with the fact that popular management of political affairs involves not only a consideration of the entire election machinery, but of many other subjects as well.

The present election law was, of course, first considered, and particularly that portion of it which refers to primary elections.

The present and first primary election law in the State of New York, popularly known as the Levy Election Law, is chapter 891 of the Laws of 1911, which went into effect November 15, 1911, and as the majority in the Legislature at that time was of the Democratic party, it may be assumed that it was intended by that party as an effort to realize upon the party's declaration in favor of a state-wide direct primary law, in accordance with the resolution for such legislation contained in the platform adopted at the preceding Democratic State Convention, which was that held at Rochester in September, 1910; and notwithstanding all the criticisms to which this law has been subjected, and the admission by the most conservative elements in the Democratic party that it does not meet the demands of either the voters or of candidates for direct control of nominations by the voters themselves, your Committee is impressed with the fact that the principle of direct control of political affairs is recognized in, and to a considerable extent may be enforced by the provisions of that law, and that the courage and devotion to principle of the persons who had any part in drawing and passing the law, entitle them to have their names placed upon a roll of honor. We may fairly say this preliminary to our own criticism of this law.

A beginning is half, and in fact it is much more than half, when a great and fundamental change in the means of political action is effected. Magna Charta itself was not so important in the practical changes which it brought about and the political rights which it conferred as in the fact that it was a break with the past, and promised much for the future.

The bare text of our present election law, as provided in pamphlet form by the Secretary of State, covers 244 closely printed octavo pages, and practically to understand the application of this law there must be read in connection with it many hundreds of pages of reports of the courts, and opinions of the Attorney-General, and the law as a whole is properly subject to severe criticism. That part relating to primary elections

is the most vulnerable portion of the law. It has proved to be cumbersome, and to the voters generally unintelligible and uninteresting. Considerable portions of it have been annulled by the courts as unconstitutional. It is unfair, both to voters and to candidates. The law affords cover to dishonest methods. In its practical workings it induces corruption on the part of the rich candidates, and oppresses the poor ones. It allows the making of party rules and regulations outside of the law itself, which have virtually worked to a large extent an annulment of the powers which it was the object of the Legislature to take away from political machines and place in the hands of the voters. It is found that these party rules and regulations allowed by law may be and frequently are changed to suit the schemes and emergencies which arise in party management, and serve mainly to keep in control of party machinery those persons who are fortunate enough to have secured party positions, making it practically impossible for those who are not members of political committees ever to become such members, except by grace of those persons who are already party managers.

The object of laws for direct nominations, and for primary elections is, of course, to confer practical political power upon all voters who really desire it, and not to leave it in the hands of those who have already secured it, and who naturally wish to keep what it has cost them so much time, trouble and expense to obtain. When we consider the great advantages which those who have already obtained political power by securing party positions and a share in party management now possess, we can not help but admire their moderation in the maintenance of their privileges, and we wish to repeat that the present provisions of our election law, conferring as they do considerable power in the making of direct nominations, and in the control of political machinery, are a credit to the courage and earnest endeavors of the politicians who succeeded, in the face of obstacles which can only be appreciated by those who have encountered them, in placing the law upon the statute book. It must be remembered that New York State is not what is known as "a progressive State." It is the financial centre of the country, and may reasonably be expected to be, and actually is, a fortress of conservatism.

New York is, however, reckoned as one of the thirty-eight States of the Union which have adopted some measures for statewide direct nominations and primary elections. The so-called Levy Law is often referred to as a direct primary measure, but the opportunities for direct voting by enrolled party voters are so remote and so hedged in with conditions that they are of little value to the electorate. The law allows political committees to continue and to maintain themselves in office from year to year, and they are so strongly entrenched and protected by the provisions of the present law that it is almost impossible to remove them.

By the existing law there is no definite number of members fixed for any committee. This is all left to party rules and regulations, which afford an unlimited opportunity for trickery. As a matter of fact, the members of these committees are selected by the leaders in the various districts, and the majority of the members of the committees are under such obligations to their district leaders for favors rendered that they may be considered as mere pawns in the hands of such leaders. There is nothing in the law which prevents the application of unit rules in party caucuses. The members are therefore not free in their choice of candidates, and a direct result of this is that the voters of the party are presented with candidates selected by those persons entrenched in power as leaders largely by virtue of the unit-rule system.

A political party is a peculiar legal entity. It is not a corporation, and it is different in many respects from any other voluntary association of individuals, unincorporated, but to a greater or less extent organized for some purpose. The statutory definition of a political party is "any political organization which at the last preceding election for governor polled at least ten thousand votes for any candidate for any office nominated by it to be voted for by all of the electors of the State." Notwithstanding the legal indefiniteness of the term "political party," there is practically no form of organization better understood by the people generally than is the political party. And the reason for this is that political parties should and do stand for principles. The people feel, and properly so, that principles are more important than persons; that political theories are necessary to proper political practice; that in politics, as in everything else,

you must have a plan; that persons who may be candidates of a political party are merely the agents to work the plan.

Upon consideration of the matter, one can not help but be impressed with how definite the political ideas of the voters generally are, and how easily they recognize that "political party," which seems in its plan of political action to embody their own political ideas as its principles.

Your Committee is impressed with the value of political parties as agencies for the expression and maintenance of political principles, and therefore has come to the conclusion that any form of election machinery which has a tendency to assist persons who are politically ambitious, rather than to forward the expression and maintenance of political principles, will, if carried out to its logical end, bring the people to a condition of political anarchy, and afterwards to despotism. The political party seems to be absolutely essential for the assembling and enforcement of certain definite political ideas, principles and policies.

The Party Parliament

As we are concerned in this report only with means for the procural of political control for the people of the State of New York, we have first presented to our minds for consideration the question, How shall the certain ideas, principles and policies, which may in a general way be held by a considerable body of the people of this State, be assembled and formulated?—and our conclusion is that such a formulation of the principles, actually held by a considerable number of people, can only be had by bringing together, in a *State Parliament,* assembled for that purpose, a large and truly representative delegation of the people who appear in a general way to hold the same political ideas, principles and policies. In other words, we think a State Convention of a party is an absolute necessity if principles are to be preferred to persons; and that principles are to be preferred to persons in all cases where any considerable number of individuals is involved can admit of no question. The *State Convention* should be regarded as *the great parliament of the party* in which the principles of the party can be formulated and measures de-

vised for carrying those principles into political effect. Therefore, what is usually called the platform is the first consideration of the party parliament. The platform is the formulation of the principles of the party. It is of paramount importance that the platform enunciate the principles of the party. The individual preferences of persons in the party should for the time being, and for the particular campaign which is in contemplation, be subjected to and controlled by the principles enunciated in the platform. The candidates who may be chosen for the ensuing campaign are not the persons who should formulate for themselves, or have any part in formulating after they are nominated, what they may choose to regard as the principles of the party. The candidates should stand upon the platform. We therefore condemn as ill-advised the provisions in the so-called Sulzer Bill for the formation of a "Party Council," composed of the members of the State Committee and the candidates for the time being, with power to such committee and the candidates for the time being to formulate the platform for the party. This would be preferring persons to principles. It is evident to us that a candidate possessing personal popularity, or a capacity for intrigue, might very easily control the enunciation of the alleged principles of the party for the campaign for which he is a candidate, and that as persons under this system of the party council would virtually be more important than principles, we should never get a consistent statement of principles for an alleged party for more than one year at a time, and the only thing which justifies the existence of a political party, that is, a body of citizens formed for the clear statement and enforcement of political principles, would cease to exist. We should first arrive at a position of political anarchy, and afterwards, and rapidly, at one of political despotism, brought about, as are all despotisms, by the preference for a person over principles.

Having therefore decided that a great parliament of the party, which may as well be a state convention as any other assemblage of the party within the State, is an absolute necessity, we come to the consideration of the first part in the political machinery for the accomplishment of this first great purpose, the Party Parliament.

There is one excellent feature of the present election law.

That is, the provision for enrollment with an existing party and the provision for enrollment with any new party which may be formed of any voter who wishes to be a member of that party. A voter wishing to enroll with a particular party indicates his choice upon a ballot provided for that purpose at the time of registering for the general election. The general election day, however, would be a better time for the voter to select his party for the ensuing year. He has had the benefit of the political education afforded by the campaign, and is in the best position to decide which party will express and enforce the political principles which he himself holds. The voter having selected his party, will next, in logical order, turn his attention to the selection of the delegates to the party parliament, because it is in the party parliament that the principles which he believes the party holds, or should hold must be formulated.

In the view of your Committee the plan adopted for the nomination and election of delegates to the State Convention, may be adapted to the nomination and election of persons to all party positions, and to all political offices. This plan obviously must allow perfect freedom of selection to every person who has constituted himself a member of the party by enrollment therewith. Every member of the party should have the opportunity to nominate, free from control of others in caucuses, or the importunities of canvassers for names to designating petitions, such persons as in his judgment will best represent the principles and policies of the party in the State Convention, and your Committee is especially impressed with the fact that the present law, the Blauvelt Bill, the Sulzer Bill, and all other plans for direct nominations and direct primaries, which have been brought to your Committee's attention, are radically wrong, and therefore practically deficient in their provisions for affording the opportunity to the members of a party for free selection of persons to party positions and political offices.

Existing Systems for Direct Nominations

Practically the only method which has been adopted is that of designation in petitions which are circulated on behalf of individual candidates. Now, the circulation of any petition re-

quires the attention of that particular ambitious person in whose behalf it is circulated. It also requires money to circulate a petition, and particularly here in New York under the existing law is the circulating of designating petitions accompanied with great expense, for every name signed must be certified to by an officer qualified to take the acknowledgment of a deed—a judge, a mayor of a city, a county clerk and certain other important officers, a notary or a commissioner of deeds. It is, of course, to the two classes of officials last named, the notaries and the commissioners of deeds, that all the canvassing for signatures—and "canvassing" it certainly is—is confined. The notary or commissioner is under the law at all events entitled to his fee of twenty-five cents for every signature certified, but practically no person will canvass for signatures unless he is paid a much larger sum for each signature obtained than one-quarter of a dollar. It would not be going far out of the way to affirm that every name on every designating or nominating petition which has ever been filed in the State of New York has cost some one upwards of one dollar. So difficult is it to obtain signatures to designating petitions that practically every such petition has been subjected to judicial action by striking out a considerable number of the names as having been fraudulently signed. In fact, the class of persons who have been and can be employed as notaries to circulate such petitions is to a large extent a disreputable one. The usual method employed by candidates is to offer the notary so much money for each signature obtained. The notary soon finds the labor of obtaining *bona fide* signatures so difficult that the common experience is that he will resort to fraud and forgery in filling up his list with the signatures of alleged voters; will obtain the money which has been promised him for the signatures, and will then promptly disappear to avoid prosecution. And it is much to be feared that candidates themselves have in numerous instances winked at the nefarious practices of notaries in securing signatures to such petitions. Candidates also find themselves in other difficulties with regard to nominating petitions, due to the class of notaries who are willing to circulate them. We readily recall the instance on Long Island where a notary who had procured a large number of signatures to a National Progressive Party petition, declined to surrender the petition until

his demand for the payment of the sum which he chose to place upon the value of his services in circulating the paper had been satisfied. In this case the Supreme Court was able to help out the candidate and his party by directing the notary to file the petition. Suppose the notary, instead of giving the Court this opportunity to control his action, finding that he could not obtain the amount of money which he demanded for the petition, had, for the purposes of revenge, or corrupted by rival candidates, their emissaries or partisans, disappeared with the document on the last day which the law allowed for filing?

Because of the expense of circulating designating petitions, if for no other reason—and there are many other reasons against the plan—your Committee is unalterably opposed to any form of the designating petition which requires circulation. The expense of circulating such petitions, to say nothing of other expenses which are inherent in this method of nomination, in the opinion of your Committee fully justifies the assertion of ex-President Taft, who as professor at Yale in May last, in a lecture on "Some Questions of Modern Government," gave as a sufficient reason for opposing altogether primary election laws the fact that they will place political power almost exclusively in the hands of ambitious rich men.

A New Plan for Direct Nominations

As in this State we all have equal political rights, whether we possess a dollar or not, and no one proposes to change the qualifications for the franchise, except upon the proposition to more than double the number of voters by allowing women to vote, it is obvious that the free practical expression of political ideas must be secured by some system which does not involve the use of money, except to a very limited extent. It is perhaps true that nothing can be done without the use of money.

The essentials of existing election laws providing direct primaries, so far as this Committee has been enabled to make an analysis of the matter, involve three operations:

1. The designation of the persons who shall be candidates in the party primary.

2. The nomination in the party primary of the person who shall be the party candidate.

3. The general election to determine which one of all the candidates shall hold the particular office.

The three words, designation, nomination and election, are practically synonyms. The use of any one of these words in the election law to describe a particular act is therefore purely arbitrary and technical. The present law uses the word "designation" for the first naming of a person as a candidate. Mere differences in nomenclature are of course of no importance. The object of the voter is, in scriptural phrase, to make his candidate's "calling and election sure."

It seemed to your Committee to be more exact to call the first act a nomination; the second a designation, leaving for the third act the election by all the voters. After an extended debate upon this question, however, your Committee came to the conclusion that it would be best to follow the terminology of the present law, in which the first naming of a candidate, that is, in the petition, is termed "designation"; the second step, the selection at the primary, is called "nomination"; the third act is the general election. But whatever terminology may be adopted, the mechanics of the matter are of prime importance. Everything depends upon them. To want of proper mechanism of election, simple, direct, and adapted to the use of all the voters, is due the lack of interest and the failure to take part in practical politics by the people generally. The expense of engaging in politics is also another reason why the people generally have not exercised their privileges. Expense includes both the money necessary to put out, as things have been, and also the loss of time, because time is money. A prime object in the scheme of a general election law, therefore, will be economy of time and of effort on the part of the voting public; and certainly, a way to keep the mere Moneybags from the control of politics is demanded by every tendency of the times. The success of our general elections, with the details managed by well trained and well paid bodies of specialists organized in boards of elections, has been gratifying. It is commonly believed, and with much reason, that vote buying has become a thing of the past, but the use of money in securing nominations, due to the faulty machinery of our election laws, is a crying evil, but in the opinion of your

Committee it is an evil which can easily be eradicated, and by simply making use of our existing election boards as custodians of primary records, and to a far greater extent than has yet been done. Your Committee has devised a plan which it believes will be effective, and for the present we are keeping especially in mind the election of the delegate to the party parliament or party council, or whatever other name you choose to give to the great convention of the party, in other words, to the State Convention.

The Plan is this: An enrolled voter who desires to have himself or any other qualified person nominated for the position of delegate of the party to the State Convention, or other party position, or office, will go to the office of the custodian of primary records, give to such custodian or his deputy, the name, place of residence, and office for which he desires a particular person to be designated. The custodian will enter the name, residence and position for which the person is designated in a book to be kept by him for that purpose. The designator will then subscribe his name in the book to the designation which he has made. The custodian of primary records will have the right to make such inquiries as to the identity and qualifications of the designator as may be necessary, and to take the proper affidavit from him. A reference to the original or printed enrollment of the party will show the custodian at once whether there is such a qualified designator. The designator's identity will be established by his own signature. Further proof of his identity may under reasonable regulations to be prescribed by statute be required by the custodian. The books can of course be arranged to suit the requirements of the situation. The oath and form of certification of all names can be printed once for all on the first page of the book. One or more books can be kept for the purpose, as the custodian of primary records may find necessary or best adapted to the purpose. All the books will of course be public records and open under reasonable regulations, and for such time as may be necessary, to all persons. It might be well, where the number of voters is not large, to have only one designating book, in which every designator of every party shall make his designation *seriatim*. This would tend to prevent forgeries by transposition and omission, and in other ways not depending upon mere

erasure, and this book system in any event will render practically impossible forgeries by erasure and substitution.

No person shall offer any designator any sum of money or other valuable thing, or promise him any office or reward whatsoever for a designation. The designator shall pay his own travelling expenses to the office of the custodian of primary records.

The number of designations required in order that the person designated shall be entitled to be voted for at the primary election is simply a matter of policy, but at all events it should be a small number.

Your Committee suggests that for the office of alderman in the City of New York, twenty designations shall be required and twenty-five allowed; for assemblyman, twenty-five shall be required, and thirty allowed; for State senator, seventy-five shall be required and eighty-five allowed; for justice of the Municipal Court, seventy-five shall be required, and eighty-five allowed; for borough president, one hundred shall be required and one hundred and ten allowed; for justice of the City Court, two hundred shall be required and two hundred and twenty allowed, and for justice of the Supreme Court, two hundred and fifty shall be required and two hundred and seventy-five allowed.

The reason for limiting the number of designations which may be made is to prevent designating campaigns, especially by existing powerful committees and political clubs; also to save clerical work and expense at the office of the custodian of primary records.

To return to the question of nomination of delegates to the State Convention, your Committee thinks that the delegates to the State Convention should be at least seven to each one of the one hundred and fifty assembly districts in the State, making a total of 1,050, with a like number of alternates. If all the delegates and alternates attend the convention, there will be only 2,100. This number of persons can be conveniently seated in any hall which is ordinarily used for the purpose of a State Convention in New York. The object is to draw out as large a representation of the voters in the party as possible. The designator can go to the office of the custodian of primary records, and name his candidates for the State Convention in exactly the same

way as is indicated for the naming of a candidate for any office at the primary election.

In designating candidates to be delegates to the State Convention, your Committee suggests that seven designations should be required for every candidate, and ten allowed; and that in the primary election, the seven candidates who receive the largest number of votes should be the delegates, and the seven candidates receiving in their order the next largest number of votes should be the alternates.

The majority of your Committee has also come to the conclusion, after prolonged discussion, that delegates to the State Convention, selected in a manner so representative as that outlined above is believed to be, should not only formulate the principles of the party at the State Convention in the platform, but should also nominate all the candidates for State offices at the same convention. Many reasons have tended to bring your Committee to this conclusion. Among them is the consideration that it would be undignified for the candidate for Governor and for the candidates for State Comptroller and Attorney General, and the other State offices, and especially for the candidates for Judge of the Court of Appeals, to be obliged to enter into designating and primary election campaigns, to say nothing about the expense of such campaigns, which certainly could not be well kept within the limit of expenses which your Committee proposes shall be placed upon all candidates, and which will be hereinafter specified.

There has been a wide diversity of views among the members of your Committee as to the necessity for the creation of other party positions than those of State delegate; but in consideration of the fact that some committee for a party is necessary to fill vacancies which may occur between primary day and election day, we have come to the conclusion that a small committee from each assembly district, say three, to fill vacancies, and to manage the campaign, may be provided for; such committeemen to be elected in the same manner as delegates to the State Convention, and upon the same number of designations allowed and required as are the designations for alderman. Assembly district committeemen will, where necessary, fill vacancies for the particular subdivisions and officers therein involved,

aldermanic, assembly, senate, municipal court, borough, and county and city, as the case may require. Taken together, these committeemen will represent the party in and for the purposes of all local elections. There is no reason, also, why the assembly district committeemen should not, all taken together, form the State committee. The right to fill vacancies, however, occurring in the State ticket, should be left to a committee especially appointed by the State Convention.

But if general committees of political parties, meaning committees of considerable numbers of electors, are to be allowed, it is the opinion of your Committee that the law should require such committees to be composed of a sufficiently large number to be truly representative, and to give those persons who desire it an opportunity to be politically active, and should not be less in number than are the existing district and county committees.

Your Committee is aware that a storm of objections may be made to this system of nominating candidates and persons for party positions, on the ground that the number of candidates is likely to be a multitude. In the opinion, however, of Prof. Merriam this has not proved under any system which has been adopted for direct nominations to be the case. There has seldom, according to Prof. Merriam, been at any time more than five candidates nominated for any office or party position under any of the primary laws in the United States, and from two to three are the usual number; often there is only a single candidate nominated; but your Committee has borne in mind the theoretical possibilities of the situation, and so far from regretting that this scheme might produce a multitude of candidates, your Committee rejoices in the suggestion that such might prove to be the case. Your Committee thinks that the stirring up of new political blood in such a way would make the experiment well worth the while. The probability is, however, that the nomination of anything more than a reasonable number of candidates for office or party position would never, in fact, occur. If, however, it did, the situation could be met in this way: Let the law provide that no designation shall be effective until a sufficient sum of money to be fixed by the custodian of primary records has been deposited with him by the designators to cover the expense of the printing and distribution of ballots for the primary election.

Your Committee has considered the proposition that any enrolled voter should be allowed, without indorsement by others, to nominate himself or any other qualified person for an office or party position and secure the printing of his name upon the primary ballot by depositing with the custodian of primary records such sum as the custodian may determine to be the reasonable expense of the printing and distribution of the necessary primary ballots. This was the principal feature of the first primary law in Kentucky, and strange as it may seem, although the expense was small for each candidate, this law did not result in the nomination of a large number of candidates.

Your Committee favors the placing of candidates' names upon primary ballots by a limited number of designations required and allowed as outlined above.

Keeping in mind the theoretical necessities of the case, we have carefully considered whether if there proved to be a multitude of candidates all the names could be conveniently printed in any form upon one sheet of paper folded in the manner of the present Australian ballot, as is provided by the present primary law, and as is proposed in the Blauvelt and Sulzer bills. We have come to the conclusion that to avoid the possible mechanical difficulties of printing a multitude of names upon one sheet of paper, at least in trying out this method in the first instance, it will be well to have printed and distributed to the election booths a separate ballot for each candidate, the expense to be paid to the custodian of primary records by the candidate or his designators. We propose that six ballots shall be printed on behalf of each candidate for each enrolled voter of the party; that three of these ballots shall be delivered to the candidate or his representative, and the remaining three shall be sent to the election booths for use there by the voters. That the election officers shall give every party voter a complete set of ballots, if desired by him, but the voter may bring with him such officially printed ballots as he desires to vote, take them into the booth with him, insert them in an official envelope to be provided by the custodian of primary records, and furnished to the election officers, and vote for all candidates by sealing their ballots in the envelope and depositing it in the ballot box, or handing it to the election officer

to be deposited in the same way in which the election ballot is now deposited.

The objection is made that it might take so long to count the ballots as to make this form of election impracticable. We do not, however, consider this an insuperable objection. In fact, we think in practice the ballots might be counted this way more quickly than by the examination of hundreds of names on huge sheets of paper, as now has to be done at many elections, both general and primary. It must be kept in mind that there is always under the present law a chance of names being written in upon all our ballots, both general and primary, and by merely having the voter whose vote has been bought sign his name or some other specified name upon the ballot, the delivery of the vote is proved without a doubt. By our system of officially printed separate ballots, no such means of identifying a vote is possible, and as for counting the vote, it must be remembered that this separate ballot system is the one which prevailed from the time of the existence of our State government up to the period of the adoption of the Australian ballot less than a quarter of a century ago, and that fairly honest elections were possible under the old-fashioned system, when the people were sufficiently aroused to take an interest. We think, moreover, that a differentiation of the method of voting in the primary election will serve to create in the mind of the voter an interest in all primary elections, which most voters now take only in a general election.

The candidate at the primary election who has a plurality of votes will be the nominee of the party for the office for which the candidate is named.

We have not proposed to change anything in the law for the general election or for election officers, because by this system no change will be necessary. We keep in mind that as cumbersome as may be the mechanics of our general election, the people and the election officers have become accustomed to the method, they understand the system, and it is advisable to try but one new thing at a time. The one new thing demanded at this time is an effective means of securing direct political control by the voters of a party themselves, and taking the control out of the hands of what are virtually self-constituted and self-perpetuated political committees, whose powers under the

unit rule are virtually all surrendered in the case of every committee to a committee of one for the particular subdivision in which such committee may act, and in succession by applications of the unit rule, these committees surrender their powers to another committee of one, and so on, till you find the whole political control centered in some one person, who very properly has come to be known as the "Boss." Your Committee is of the opinion that it will be well to provide against any caucus or concerted action of any kind by the members of any political committee in the designation of candidates at the office of the custodian of primary reocrds; and to forbid such concerted action under proper penalties, the most effective of which in the opinion of your Committee will be the voiding of the nomination upon application of any voter to the Supreme Court in a proper summary proceeding.

Limitation of Expenses

Your Committee recommends that the expenses of candidates in securing designation, nomination and election to any office be limited to ten per cent of the salary of that office for the first year, or where there is no salary, to an amount which will be approximately equal to ten per cent of the fees or emoluments of the office for the first year, and in cases where the fees or emoluments can not be ascertained, to one hundred and fifty dollars.

A salary paid a public officer is for his sustenance, to enable him to take his time from private business and devote it to the service of the public. No public officer should be allowed to spend more than ten per cent of the income from his office to secure the office. Ten per cent is fixed upon by your Committee because it is very generally the amount which the business community reckons as proper to be expended in securing that kind of business in which it may be engaged. Ten per cent, instead of being a small amount to which to limit election expenses, is, in the judgment of your Committee, a liberal one. If the poor are to have equal chances with the well-to-do and the rich in political management it is absoluely necessary that the expense of securing office shall be limited to such amount as even a poor man and his friends may be able to raise to pay the expense of his designation, nomination and election.

The statute must forbid the expenditure of more than ten per cent, not only by the candidate, but by any person for or on account of the candidate, or by any person whomsoever to secure the designation, nomination or election of the candidate. Otherwise, unlimited amounts might be spent by near relatives and close friends.

A New and Effectual Means for Preventing Corrupt Practices

Penatlies for the expenditure of more than the limited amount are to a certain extent provided for by the existing law. These penal provisions are, however, seldom put into effect, no matter how gross the violation of the statute may have been. But there is one provision which has not been made, which in the opinion of your Committee will be effectual. That is, vacation of the certificate of election by an action in the nature of *quo warranto,* brought at the suit of any voter or of the Attorney General, and which action must be brought by the Attorney General upon the petition of a certain number of voters, say one per cent (which petition should be signed only at the office of the custodian of primary records), setting forth facts which *prima facie* call for a judgment vacating the certificate. It is as necessary to provide for the vacation of offices secured by the use of money on the petition of poor voters as it is upon the petition of rich voters, for otherwise the rich voter would have an undue advantage in his ability to pay for legal proceedings.

When a certificate of election is vacated, the candidate for the office having the next highest number of votes shall be entitled to the certificate.

Economy of Time and of Effort on the Part of Voters

Keeping in mind the economy of time and of effort on the part of the voter, which should always be our object in arrangements for him to take part in political management, your Committee thinks that the seventh Tuesday before election day, which ordinarily falls about the middle of September, and is fixed upon

by our statute for primary day, should also be made a registration day for the voters. For the making of designations in the books of the custodian of primary records a considerable time should be allowed, say from the first Tuesday of July to the first Tuesday of August. This will allow the custodian sufficient time in which to prepare the ballots for the primary election and for judicial proceedings in which to determine the validity of the designations.

Independent Nominations

If the parties already constituted fail to provide satisfactory platforms or candidates for the voters as a whole, the right to make independent nominations should be preserved in at least as full and free a form as they are by the existing law.

Nominations by independents may be made at the office of the custodian of primary records in the same manner that designations are made for positions on party tickets.

The canvassing for names to petitions for independent nominations is subject to the same objections as the canvassing for names on party designating petitions. Until a new party is formed, independent nominators will not hold primary elections. The names of independent candidates shall be printed upon the official ballot at the general election in case they have been nominated by a sufficient number of persons who have not made nominations of any other candidate for the position since the last general election. Their qualifications can be established by an oath printed on the first page of the book for independent nominations, and by examination by the custodian of primary records or his deputy. It is suggested that to entitle an independent candidate to have his name printed on the general election ballot nominations equivalent to one per cent of the total vote cast for that office in the particular subdivision at the previous general election will be sufficient. The same penalties as to payment of valuable considerations, promises of reward by way of securing appointment to positions, or payment of travelling fees to the nominator to go to the office of the custodian of primary records shall hold in the case of independent candidates as in the case of party candidates. In

either case the striking of the name from the ballot by application of any voter to the Supreme Court, or the vacation of the election certificate, will be a powerful and sufficient deterrent against prohibited practices. Where an election certificate is vacated, the candidate receiving the next highest number of votes for the office shall be entitled to the certificate.

Party Positions

Your Committee is of the opinion that schemes for simplification in political management which propose to reduce the membership of committees and the number of delegates to conventions will defeat their own ends, by preventing that large and representative participation of the voters in such committees and conventions as is necessary to keep the control out of the hands of the few who may secure it. We are of the opinion that it is not necessary to limit the representation in State conventions to less than seven members for an assembly district with alternates, or to limit the representation of a party committee in an assembly district to less than seven members for an election district. Keeping in mind conditions in the City of New York, we think that there are few election districts in which there are not at least seven men in every party who would be glad to take part in political management if they were given an opportunity. We can obviate the difficulty of voting for so many names for party positions at the office of the custodian of primary records by requiring, for instance, that all names of the designator's delegates for a party committee shall be contained in one printed or typewritten list signed by the designator, and filed as a part of his designations made on the designating register. In the same manner, where there is a large number of names of candidates for party positions on committees, each group of designations can be printed by the custodian of primary records upon a single sheet of paper, about the size of the ordinary hand blotter. Such names, of course, when printed by the custodian for the primary election will be only the names of those candidates for party positions who have received a sufficient number of designations to entitle their names to be placed upon the primary ballot.

Provisions must be made making void the ballots of any

voter at a primary election which show any mark or fold or other irregularity which might indicate who the voter was when the envelope is opened by the election officers. These are matters of detail which can be supplied by the draftsman of the bill. Of course, such detail presents difficulties, but if our theory be correct, as we believe it is, the details can be worked out in practice.

The Plan Easily Applied to Initiative and Recall

In those States in which legislation may be directly instituted or passed by the people themselves without the intervention of legislatures, and in those States where officials after election may be recalled by a vote of the people, the universal method of procedure is the circulation of petitions requiring a large number of signatures properly certified. In these ingenious arrangements for the prevention of miscarriages in popular governments, gross abuses have already sprung up, although the systems have been in use but a short time in any of the States. The principal abuse is in the circulation of petitions to bring about the recall of public officers. The obtaining of names to such petitions has been commercialized. In some of the States companies for the circulation of recall petitions have been formed, and they will undertake, upon the payment of a certain amount of money, to secure sufficient signatures to a petition to bring about the recall, or an election for the recall, of any public officer, without regard to the merits of his administration. By the plan which we propose such abuse of the initiative or the recall, if at any time they shall come to be adopted in this State, will be impossible. Unless the people have real grievances, it will never be possible to induce even a small number of voters to go to the central booking office and register themselves in favor of a petition there filed for the recall of a public official.

In Conclusion

Your Committee believes it has presented a scheme for a primary law, which, if put into effect, will interest the voters generally in politics and will revolutionize political management;

will give the people what they have never had, the control of their own political affairs, and will result in a marked improvement in the statement and application of political principles, in the securing of public offices by the candidates, and in the conducting of the business of such offices when secured.

CLARENCE C. FERRIS,
Chairman,
JAMES S. McDONOGH,
Secretary,
GEO. P. H. McVAY,

FRANK E. WILLIAMSON,
Committee.

The Minority Report

Mr. Henry B. Hammond joins in and approves of the majority report, with the single exception that he believes that the provision for direct primaries should be applied to State offices. He does not disapprove of the continuation of the State Convention for the purpose of framing the party platform, or for any other inter-party matters, but he believes that it should have no power to make nominations.