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ELECTION ADMINISTRATION
IN THE UNITED STATES

BY

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DIRECTOR'S PREFACE

In his volume "Registration of Voters in the United States," published by the Brookings Institution in 1929, the author of the present work gives an exceptionally complete and illuminating account of one phase of the electoral process. In his present work he continues this account by setting forth the system now in force in the United States for the casting and counting of the ballot and the canvassing and declaration of the result, together with a critical examination of conditions and practices and a statement of the principles, the adoption and following of which will in his opinion provide for the most efficient handling of this problem of government.

Though great progress has been made in recent years in the elimination of fraud and in the perfection of the whole system for the registration of voters, the casting of the ballot and the counting of such ballot, much remains to be done in the way of perfecting this fundamental feature of government through which the will of the people in respect to policies to be adopted and the magistracy to have charge of the actual conduct of governmental affairs may be expressed. Especially is there need that curb shall be put upon the expenses of elections and upon the use of money by parties and candidates in office. Among other things this volume should contribute materially to the achievement of both of these ends, and in so doing to improvement in the whole technique of the conduct of elections.

The members of the committee appointed to coöperate with the author in the preparation of this volume were Arnold Bennett Hall and F. W. Powell.

W. F. WILLOUGHBY

June 1932

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AUTHOR'S PREFACE

This is a companion volume to my study of the "Registration of Voters in the United States." It is based almost entirely upon data collected in a field study of election administration throughout the United States and parts of Canada, made in 1929 and 1930. Some phases of election administration had been touched upon incidentally in the registration study. The election administration of the several states visited was surveyed in a systematic manner with a view to finding which features were working satisfactorily, which unsatisfactorily, and what was the general experience. Emphasis was placed always upon the practical operation of election laws rather than merely the provisions of the statutes. Each survey involved not only a study of the statutes but also detailed, and usually lengthy, interviews with chief election officers, examination of records and equipment, and interviews with politically informed persons outside of the election office. Ordinarily each survey was written up immediately following its completion.

This study was undertaken because of the present backward and generally unsatisfactory administration of elections. It was believed, in view of the rather widespread improvement in registration laws following the previous study of that subject, that a study of election administration might be attended by similar results. The findings of the investigation of election administration, and a program for a satisfactory system, were published before the field work had been completed as a committee report of the National Municipal League. This report has been reproduced here with the kind permission of the editor of the *National Municipal Review*. The author feels particularly indebted to the members of this committee, who by their constructive criticisms, suggestions, and comments upon this report, made it possible for him to make use of their ripened judgment upon many phases of election administration. Included in the personnel of the committee were some of the most able chief election officers in the country.

There is no "ideal" system of holding elections. The methods used in any state or city could be improved, though some jurisdictions have much better administration than others. This study is concerned principally with the essentials of a sound administration. A careful study of the practical workings of existing laws is necessary to an understanding of the various phases of the problem. No attempt is made in this volume, however, to assemble the large amount of descriptive material which has been collected. The treatment is analytical rather than descriptive. Upon each important matter, however, the usual practice is stated, and at many points the individual practices, where unusual or significant, are cited. This, it is believed, will be more useful than the tedious setting forth of the various practices of the several states upon each phase.

I am greatly indebted to election officers throughout the country for their indispensable assistance to me. Many of them have given most generously of their time not only in informing me of the methods used in their office but also in discussing various problems of election administration. A number of the election officers of our large cities have compiled detailed tables of the cost of elections at my request. To these officials, too numerous to list by name, I wish to express my gratitude.

I wish to make especial acknowledgment to Mr. William F. Willoughby, who suggested to me several years ago that this study should be made, and who is largely responsible for its being undertaken. The field work was made possible by a joint grant from the Social Science Research Council, the Institute for Government Research, and the University of Wisconsin. It is a pleasure to make acknowledgment to these institutions of my deep gratitude.

JOSEPH P. HARRIS

CONTENTS

CHAPTER	PAGE
DIRECTOR'S PREFACE	ix
AUTHOR'S PREFACE	xi
I. INTRODUCTION: THE PROBLEM OF THE ADMINISTRATION OF ELEC- TIONS; HISTORICAL BACKGROUND	I
The Problem	1
Brief History of Election Administration	11
In the colonies	11
After the Revolution	16
Recent tendencies	19
II. A MODEL ELECTION ADMINISTRATION SYSTEM	24
Specifications for the System	24
General Changes in the Election Laws	70
A Model Election Administration Code	77
III. OVERHEAD ORGANIZATION	95
State Control	96
County and City Officers	108
Boards of Election	110
Organization	110
Qualifications	112
Selection	114
Term and salary	116
Powers	117
IV. THE RANK AND FILE	121
Office Employees	121
Precinct Officers	126
Number and compensation	127
Qualifications	131
Selection	136
Discipline	146
Summary and Conclusions	148
V. BALLOTS	150
History of the Australian Ballot	152
Form of the Ballot	154
Variations from the usual types of ballots	159
Party emblems	160
Use of party, residence, occupation, etc., on the ballot	163
Placing Names of Candidates on the Ballot	165
Provisions for Candidates not Named on the Ballot	176
The Order of Offices, Parties, and Candidates	180
Instructions to Voters	184
Sample Ballots and Ballot Advertising	189
Printing	192
Presidential Electors and the Ballot	195
VI. THE CONDUCT OF ELECTIONS	200
The Call of the Election	200
Frequency of Elections	202

CHAPTER	PAGE
Election Precincts	206
Polling Places	213
Delivery of Election Equipment and Supplies	218
Hours for Voting	218
Organization of the Precinct Election Board	220
Identification of the Voter	221
Poll Lists	223
Handling the Ballots	224
Assistance to Voters	227
Challenges	229
Watchers and Challengers	232
The Count	236
VII. VOTING MACHINES	247
Extent of their Use	247
Legislation	255
Operation	259
Defects of manual counting of paper ballots	260
Frauds	261
Cost of machines and economies effected	264
Facility of voting	271
Quick returns	275
Recounts	276
Secrecy	277
Election officers	277
Proportional representation	278
Breakdown of machines	278
Liability of abandonment	279
Summary	279
VIII. ABSENT VOTING; MAIL VOTING; THE CANVASS; RECOUNTS.....	283
Absent Voting	283
Scope of legislation	284
Procedure	287
Summary	299
Mail Voting	301
Canvass of Elections	305
Recounts	307
IX. ELECTION FRAUDS	315
Philadelphia	320
Chicago	340
Pittsburgh	360
Cleveland	365
Election Frauds Elsewhere	369
Types of Voting Frauds	370
Registration frauds	370
Repeating	371
Ballot-box stuffing	372
Chain ballots	373
Assistance to voters	373
Intimidation and violence	374
Altering ballots	374

CONTENTS

xi

CHAPTER	PAGE
Substitution of ballots	374
False count and false returns	375
Altering returns	375
Factors and Conditions Responsible for Frauds	375
Prevention of Frauds	381
X. ELECTION COSTS	383
An Excessive Burden	383
Election Costs in Large Cities	389
Personnel Costs	420
Regular Employees	423
Temporary Employees	425
Precinct Officers	427
Operating Expenses	434
Ballots	434
Supplies	435
Printing	435
Rental	436
Repairs	438
Cartage	438
Storage	439
Advertising	439
Financial Control	439
The Reduction of Costs	442
XI. STATISTICS	444
INDEX	449

ELECTION ADMINISTRATION IN THE UNITED STATES

CHAPTER I

INTRODUCTION: THE PROBLEM OF THE ADMINISTRATION OF ELECTIONS; HISTORICAL BACKGROUND

There is probably no other phase of public administration in the United States which is so badly managed as the conduct of elections. Every investigation or election contest brings to light glaring irregularities, errors, misconduct on the part of precinct officers, disregard of election laws and instructions, slipshod practices, and downright frauds. The entire country has been shocked from time to time by the revelation of wholesale election frauds in some of our large cities. Competent political observers report that election frauds are by no means confined to these few cities, but are widely prevalent in less populous communities. Even these election scandals and the slipshod administration revealed by election recounts do not indicate the real state of affairs which prevails generally in election administration. The truth of the matter is that the whole administration—organizations, laws, methods and procedures, and records—are, for most states, quite obsolete. The whole system, including the election laws, requires a thorough revision and improvement.

The Problem. The ideal election administration is one which uniformly and regularly produces honest and accurate results. There should never be the slightest question about the integrity of the ballot box or doubt cast upon the honesty of the elections. It is hardly necessary to point out that the presence of election frauds and sharp practices will undermine public morale and interest in civic affairs more quickly than any other condition. The existence of election frauds is an un-

failing sign of bad government, for frauds cannot be perpetrated upon a large scale except by a powerful and corrupt political organization, willing to go to any length to maintain its control over the government, and able to afford protection to those who corruptly carry out its orders. Fraudulent elections cannot be tolerated by any self respecting community. Fair elections are absolutely essential to good government, but do not, of course, guarantee good government.

The right of the suffrage is an empty formality where election frauds prevail. Public opinion, civic interest, and efforts to elect capable officers and to secure good government are of no avail in the face of a powerful political machine, able and willing to corrupt the elections. In some of our large cities, such as Chicago, Philadelphia, and Pittsburgh, it is sometimes wondered why civic interest and responsibility are at such a low ebb, why the political machines are able to control so easily and continuously. No single explanation may be offered. The whole history of these communities, the traditions, customs, prestige of public office, political organization, and many other factors have to be taken into consideration, but it is significant that election malpractices almost always may be found in misgoverned communities. Where civic conscience seems to be at low ebb and the public has resigned itself to accepting corrupt and poor government, usually this state of affairs may be traced in part to the presence of election frauds and the belief on the part of the voters that "nothing can be done about it."

A sound election system involves convenience to the voters, so that they may participate in elections without serious loss of time or trouble. An election administration which occasions delays at the polls, or necessitates the declaring of a half or whole holiday so that the mass of voters may cast their ballots, is inefficient and expensive. It is not advocated for a moment that the problem of non-voting can be solved by making elections more convenient. The extent of popular participation in elections is determined largely by other factors, though

convenience is one factor.¹ Regardless of the problem of voting and non-voting, however, elections should be conducted in such manner as to occasion the least possible delay and inconvenience to the mass of voters. The polls should be held in suitable surroundings and in a manner that will inspire confidence on the part of the voter. The act of voting, for many citizens, constitutes their only participation in government, and it is fundamental that elections be properly conducted.

The cost of elections is an important consideration. At present the cost is notoriously high in many cities, frequently averaging more than one dollar per vote cast.² There is no justification whatever for such an extravagant cost. This is amply borne out by the fact that some cities are able to conduct their elections at a cost of ten cents per vote cast, or even less. The high election costs are caused by political administration, overstuffed offices, small precincts, too many precinct officers, too high salaries for precinct officers, excessive printing and supply costs due to lack of competitive bidding, obsolete methods, unwise advertising requirements, and sometimes by too many elections held during each year. Substantial economies may be made in most jurisdictions without adversely affecting the election administration. It is a fact throughout the country that the offices which are best conducted are usually the most economically conducted. Excessive election costs almost always indicate a poor administration.

There should never be any question about the accuracy of election results. The returns should be as accurate as the accounts of a bank or of any other commercial institution. An error in the records of a bank may be measured in terms of dollars and cents, if discovered, but an error in the results of an election may mean the difference between good government and bad government, involving the welfare of a

¹ See C. E. Merriam and H. F. Gosnell, *Non-voting* (1924), and H. F. Gosnell, *Why Europe votes* (1930).

² See Chap. X.

community. At the present time inaccuracies are the rule rather than the exception in election returns. Recounts produce different results from the original count in practically every precinct, and the variations are sometimes startling.³

Several years ago the ballots of a number of the precincts in Chicago were recounted with the result that the recount tabulations showed a total difference from the original returns in many precincts running into thousands of votes. These recounts offered positive evidence of fraud on a large scale. But aside from such startling revelations as these, disclosing frauds, the recounts conducted in other communities always bring to light the widespread prevalence of errors. This, to be sure, applies to precincts in which paper ballots are used and the count is conducted by the precinct officers at the close of the day, and is not true of precincts using voting machines. In Milwaukee, for example, a recount of votes for representative in Congress was conducted in 1928 covering 123 precincts of the city. Although only the votes for this one office were counted, the recount results showed errors in every precinct except one. The average number of changes in the vote for the two leading candidates per precinct was eighteen. A number of precincts showed an error of over one hundred votes. Yet Milwaukee boasts quite rightly of one of the best election administrations in the country. It may be pointed out that if there is no concerted effort to steal the election, the errors will tend to offset each other, and such was the case in Milwaukee, though the total vote for the two candidates was substantially altered by the recount. But can we defend an election system where only one precinct out of more than a hundred reports a correct count? Would banks or other commercial or business institutions be willing to operate on the theory that one error will be offset by another? The truth of the matter is that our elections at present are conducted in such manner that errors and inaccuracies are inevitable, and if the results are at all close, no one can predict the outcome of a

³ See Chap. IX.

recount. About the only thing that can be predicted with certainty is that the revised count for each precinct will probably vary from the original return. Elections need to be removed from the field of guesswork and errors and placed upon a plane where accurate results will be assured.

The conduct of elections is marked throughout by obsolete procedures and methods. Many large election offices do not have a single competent clerk or stenographer upon the payroll. It is quite common for all records to be written out in longhand, and for the system of records to resemble that of the village squire. Usually no records are kept of the precinct personnel, except of the most primitive kind, consisting merely of the list of persons appointed. The personnel of the election office is usually concerned only with carrying out the provisions of state law, never giving thought to any matter concerned with improving the administration. The conduct of the elections in the precincts has undergone no substantial change since the introduction of the Australian ballot. It is very common for useless forms and records to be made out, many signatures required, and other forms of red tape, which are not only unnecessary, but actually defeat their own ends. The voting machine has changed somewhat the work of the precinct officers, but has not resulted in the reduction of the number of precinct officers to the extent possible. Voting machines make it possible for much larger precincts to be used, with two or more machines to the precinct, but in practice this has been done only in a few communities. In precincts which use paper ballots it should be simple and easy to organize the work so that a few election officers might handle a thousand voters or more without delay, but this is done in only a few states. The count of the ballots by hand, if properly organized, with a division of the work into two or more teams in large elections, and with suitable and improved tally sheets, could be conducted much more expeditiously and economically. This would make possible the use of larger precincts and a more definite fixing of responsibility for accurate

and honest counts, but it has not been done in this country. The work at the polls and the conduct of the count are handled in essentially the same manner as a generation or more ago. The whole election machinery is inflexible, making no change or adaptation to the size and type of election. A small election at which fifteen per cent of the voters turn out costs approximately as much as one at which eighty or ninety per cent vote.

The administration of elections is marked by many irregularities, and frequently by sharp practices. The election statutes are so detailed that the precinct officers cannot know the law. Often the procedure set forth in state law is so cumbersome and unsound that the election officers make no pretense of complying with it. In small cities and rural sections especially, the precinct officers conduct the elections in a highly irregular manner, though many of these irregularities are not connected with sharp practices or frauds. Every election contest brings to light slipshod, careless, and irregular administration. The records are not kept as required by law; the tally sheets are marked up at the close of the count, instead of while the counting is being conducted; the ballots are not counted one by one as is generally provided by law; the numerous required signatures, supposed to be made at the close of the day, are made during the day; the voters are permitted to mark their ballots upon the wall and outside of the voting booth; voters are permitted to confer with each other while marking the ballot; the precinct officers fail to sign each ballot; sometimes the election officers may go outside of the polling place to receive the vote of a person unable to come to the polls; outsiders are permitted to participate in the conduct of the election, particularly in the count; some of the precinct officers are absent for long periods of time; no record is made of challenges and many other formalities are not complied with; these are some of the more common violations of election laws which may be classed as irregularities. The remedy lies not so much in putting pressure

upon the precinct officers to comply with the law, but rather in a revision of the election statutes so that the temptation to take short cuts will be largely eliminated. The procedure at the polls should be simplified and regularized. When a sound procedure has been established, the office in charge of elections should take greater pains to instruct the precinct officers and to inspect and supervise their work.

The constant flood of election bills which is introduced in practically every state indicates the present unsatisfactory condition of election administration. Every bill is designed to correct an evil, to prevent a sharp practice which has sprung up. The election laws are being constantly changed, but without any fundamental revision or improvement. Many of the principles which now govern the conduct of elections and guide the framing of election statutes are unwise, and must be discarded before a sound system can be established. Patchwork upon patchwork will not remedy the situation. The deluge of election laws, with constant revisions, has produced in many states an election code not only of voluminous size, but also with many conflicting and uncertain provisions. Wholly aside from fundamental improvements which are necessary, most states are greatly in need of a revision of the election laws in order to clarify and codify the existing statutes.

Election statutes are greatly overworked at the present time. No sound, efficient, economical, and satisfactory administration can be secured so long as it is the practice to prescribe in minute detail every operation in the conduct of elections. The attempt is made now to secure uniform and satisfactory election administration throughout the state by statutes, without any effective administrative supervision, and without using rules, regulations, and instructions issued by an administrative office. In no other phase of public administration do the statutes bulk so large and administrative control and supervision so little. Ordinarily there is no office exercising any real control over elections throughout the state, and

usually the local city or county officers in charge have only slight powers of control, supervision, and inspection of the work of the precinct officers. In many states the precinct officers are practically a law unto themselves. If the conduct of elections is to be improved we must inevitably turn away from the present decentralized, un-integrated organization, place less reliance upon election laws, and use administrative rules, regulations, instruction, and inspection to a greater extent.

A cardinal principle of election administration at present is that of bipartisanship. It may be observed in the election statutes in every state in the Union. In many states it is difficult for the election officials in charge to secure a full quota of precinct officers from the ranks of the minority party in some precincts. The principle of bipartisan representation, however, goes much further than is generally supposed. It does not stop with the securing of a representative of each of the two leading parties upon the precinct board and a division of the office personnel and the board of elections of the city or county; it turns over to the party organizations the selection of the election officers. The boards of elections which exist in our large cities are practically uniformly selected by the party machines, and they, in turn, take orders from the machine in the selection of their subordinates. In a number of states this procedure is set forth in the statutes, but in other states custom and tradition accomplish the same result. The election positions are regarded almost everywhere as party or personal patronage.

The result is most unfortunate. The boards in charge of elections in our large cities and populous counties consist, for the most part, of politicians, interested primarily in party politics and partisan advantage and with little real conception of the work of the election office, except in terms of party advancement. The office employees, regular and temporary, are recruited from the ranks of the party machine workers. The offices are generally overstaffed in order to provide places for

the faithful. In many cities the election office is the worst spoils ridden office of all, and it is not uncommon for it to be the dumping ground for incompetents who cannot be placed elsewhere. In many cities with strong political organizations the precinct officers are not merely incompetent, they are often corrupt, and, in some precincts, they are drawn from the underworld of vice and crime.⁴ The bipartisan principle results in our elections being controlled by the very elements of society most bent upon winning the election—the bitter partisans whose livelihood may depend upon party victory. Common sense would dictate that such persons should be debarred from having any control over elections, but under the bipartisan theory it is necessary to “set a thief to watch a thief.” Unfortunately, thieves may make bargains. The supposed opposition of the two leading political parties is little more than a farce in many large cities. The minority party is often the tool of the majority party.

The time has arrived to discard the whole theory of bipartisanship in elections, and to set up instead a responsible election organization in which the active partisan is debarred. Competent precinct officers and satisfactory office employees cannot be secured through party lists. If the party is given the selection of the persons to fill these positions, it will use them as patronage, and to serve its own ends. The best election administration in the country is to be found in places where no attention is paid to party allegiance in selecting the officers or employees. Definite fixing of responsibility for the selection of honest and capable employees is more effective than bipartisanship.

Many practices have grown up which should be discarded as unsound or obsolete. One of these is the use of small precincts, with each precinct a separate entity in itself, subject to little supervision. This system was probably well adapted to the needs of a hundred years ago. Then there were few large cities, the means of transportation were primitive, and streets

⁴ See below, Chap. IV.

as well as rural highways were unimproved. There is no longer any justification for the practice. In many Canadian cities it is common for a single voting district to contain as many as three thousand registered voters. The polling place is located in a large room, and several boards under suitable supervision perform the work. This procedure is fundamentally sound. It makes possible effective supervision and great economies. In this country voting precincts should be increased in size, with each precinct laid out around a building suitable for a polling place.

One of the greatest absurdities in the conduct of elections is that each election, large or small, costs practically the same. The same army of precinct officers must be employed. Now it is well known that there is a wide variation in the vote cast and the actual work involved in different elections. A special election, or even a local or primary election, may see a turnout of as low as a fourth or a fifth of the vote cast in a presidential election. The machinery should be adapted better to the requirements. A few states now use a smaller number of precinct officers in minor elections. If larger precincts were used, it would be entirely feasible to adjust the election machinery to each election, using in each precinct only the number of officers required to take care of the vote.

Election reform in this country will probably take place along the following lines:

1. Creation of a responsible, integrated, centralized organization.
2. Substitution of administrative control through rules, regulations, instructions, and inspection, in the place of detailed statutes, which are ineffective.
3. Greater flexibility of organization, so that the requirements of each election may be taken care of at a minimum expense.
4. Abandonment of bipartisanship and the freeing of the election machinery from the spoils system.
5. Use of larger precincts.

6. Simplification of the records and the improvement of the methods and procedures.
7. Adoption of the office group ballot.
8. Simplification and improvement of absent voting.

Brief History of Election Administration. This brief account of the history of election administration is presented without any claim to completeness or thoroughness. Historical data upon several of the important phases of election administration, particularly ballots, voting machines, and election frauds will be found in the following chapters. It is deemed more appropriate to present such data in connection with treatment of particular phases of administration rather than in this chapter.

It may be pointed out that while a great deal has been written upon the history of suffrage, of ballot laws, and of political parties and party battles, little has been written upon the history of the detailed administration of elections. A study of the legislative acts on election matters of the several states, or of selected states, would throw some light on the problem, but unless such acts could be studied in the light of the prevailing election practices and abuses, they would be of little value. Most of the laws pertain to minor details, and changes are made from year to year of no importance to the historian. A detailed and scholarly study of the history of elections in the colonial period has been made by Professor Bishop.⁵ A comparable history of elections since the formation of the Union is needed, but is beyond the scope of the present volume.

*In the Colonies.*⁶ Some public officers were popularly elected almost from the very beginning of the colonial settlements in America. The first (1606), second (1609), and third

⁵ Cortland F. Bishop, *History of elections in the American colonies* (1893).

⁶ The best accounts are given in Bishop, and in Charles Seymour and Donald Frary, *How the world votes*, Vol. I (1918). See also Albert E. McKinley, *The suffrage franchise in the thirteen English colonies in America* (1905); Eldon C. Evans, *History of the Australian ballot system in the United States* (1917); and Kirk Porter, *History of suffrage in the United States* (1918).

(1611-12) Virginia charters provided for councils to meet in England to manage the affairs of the colony, but the council in 1621 issued an order placing legislative power in the colony in the hands of a council of state and an assembly, the latter of which was to consist of some two hundred burgesses, popularly elected. Already, however, the governor had called a legislative assembly in 1619, without legislative sanction.⁷ In Plymouth a governor and assistants were elected annually beginning in 1620.⁸ In Massachusetts the Charter of 1628 provided for the popular election of the governor and eighteen assistants, though it appears that the governor was not so elected until 1632.⁹ The other colonies, with the exception of New York, under the Dutch rule, also provided for the popular election of the legislative assembly and frequently of other officers. It is interesting to note that in the early period numerous officers were often elected; for example, in Massachusetts, the governor, deputy governor, eighteen assistants, a treasurer, major-general, admiral at sea, commissioners for the United Colonies, secretary of the General Court, "and such other officers as are, or hereafter may be, of like general nature," were chosen annually by the freemen. The long ballot had thus already come into use in colonial days.

In the early years of the colonies the franchise was vaguely defined, but in general it was broader than it came to be later on, when property, religious, taxpaying, and residence requirements were prescribed. Virginia and Maryland allowed all male, adult inhabitants to vote until the middle of the seventeenth century. By this time or shortly afterwards, however, most of the colonies adopted suffrage provisions requiring the ownership of land or of personal property as a qualification, and some of them added religious qualifications.¹⁰

The method of conducting elections in the colonies was

⁷ McKinley, p. 17.

⁸ Bishop, p. 3.

⁹ *Ibid.*, p. 2.

¹⁰ See McKinley, particularly Chap. XV.

borrowed in large measure from the prevailing practice in England, though variations quickly appeared, particularly the use of paper ballots. The royal colonies followed the British practices of the time very closely, while the New England colonies departed most widely. The details of the administration of elections cannot now be traced with any great degree of certainty, for the actual practice was not prescribed minutely by statute, as it is now, and what statutes there were on the subject were not always followed.

Two methods were used in calling elections. In the New England colonies the election dates were fixed by statute, usually annually, and in the early spring, while in the other colonies elections were frequently called by a special writ, as in England. Detailed provisions were made for the publication of the writ by posting notices, reading the proclamation, and in some colonies by requiring notice to be read at the religious services. The hours for voting were not always provided by law, but, in comparison with the present practice, they were usually short. It was not unusual for the polling to start at nine o'clock in the morning, and the polls to be closed by two or three o'clock in the afternoon. However, there were elections which lasted for several days, contrary to the fixed custom which has since arisen for the election to be completed within a single day.

The early practice in New England was for the election to be held at the capital of the province, but as the settlements became widespread, it became necessary for some provision to be made whereby the citizens might cast their ballots without having to make the journey from the settlement to Boston, or to the capital. This was inconvenient because the election day came at time when crops were being planted, and the danger of Indian attacks was a consideration. Under these conditions the proxy system of voting, whereby votes were cast at local meetings and the ballots sent in by a deputy, arose. This, indeed, was quite similar to the present practice of establishing voting districts and local polling places throughout the state.

It was apparently confined to New England, perhaps due to the fact that in other colonies the general officers for the colony were elected by the legislative body rather than by popular vote, and hence local elections were conducted for the election of representatives—the only officers popularly elected.

Elections were, in practically all cases, conducted by the local officers, such as the sheriff, coroner, or mayor. Provision was early made in Pennsylvania for election of judges and inspectors to assist the sheriff or his deputy, and similar provisions were made in other colonies. In New England provision was made for the nomination of candidates prior to the election. Two methods were used at different times: one was a preliminary election, similar to the direct primary of today; the other was nomination by the legislative assembly. During part of this period, in Massachusetts and Connecticut nominations were made in the fall for the election to be conducted during the spring following, but this practice was discontinued before the end of the period.

The method of voting in use in England during the colonial period was *viva voce*, and this method was generally followed in New York and the colonies to the south. By 1634 Massachusetts adopted paper ballots for the election of governor, and the neighboring colonies followed this practice. In some of the colonies frauds crept into the elections, and we find an early law in Massachusetts forbidding paper ballots to be twisted or rolled up. The practice of having the voters sign their ballots was used for a few years in Rhode Island.¹¹ The election of assistants in Massachusetts was conducted differently. At the meeting of the General Court, the governor propounded the names of one candidate after another, and the voters present went out, and as they came back they dropped a paper into the hat. A blank paper counted as a vote against the nominee, and a paper with a mark or scroll on it as a favorable vote. This process continued until the re-

¹¹ Bishop, p. 148.

quired number was elected. Later Indian beans, white and black, came to take the place of the papers. It is uncertain whether the voters who sent in their votes by a deputy or proxy participated in the election of assistants, but there is some evidence that the bean votes were taken on each candidate in the towns and then sealed and forwarded to the General court for the election there. The paper ballot was unofficial and had to be provided by the voter, who usually brought it with him to the polls. No provision was made for the illiterate voter, though doubtless he might cast a ballot which had been prepared for him by someone else. The evils of intimidation and bribery, so rampant under this system of voting later on, both in this country and in England, were evidently not widespread in the colonies.

In New York, New Jersey, Maryland, Virginia, and Georgia, where the English election practices were followed more closely, the use of paper ballots was unknown during the colonial period. Usually the sheriff, or some other officer, took the poll either by a show of hands or by a *viva voce* vote. Under this method the sheriff and his election officers provided books in which the names of the candidates were arranged in columns, and when the voter appeared his name was written down and a vote recorded for those candidates for whom he wished to vote. As in England, this destroyed the secrecy of the poll, and led to intimidation and bribery. The election officers called out the name of the voter in a loud voice and asked him for whom he voted. He replied, announcing his choice publicly, and in Virginia it was the practice for the candidate or his representative to rise, bow, and thank the voter for his vote, while partisans often applauded.¹² There was considerable variation in the conduct of elections, however, and it is recorded that in Virginia it was common for the sheriff to take the votes at the homes of the citizens. The written ballot was used in the proprietary colonies to a certain extent. It was provided in William Penn's

¹² See J. S. Wise, *The end of an era*, pp. 55-56.

Frame of Government and in the Act of Settlement.¹⁸ A debate in the provincial council of Pennsylvania in 1689 indicated, however, that paper ballots were not generally used, beans and *viva voce* voting being used instead. In 1706 a statute was adopted in Pennsylvania which rigidly required the use of paper ballots. North Carolina provided for the use of paper ballots by a statute of 1744, but later the colony returned to the English form of *viva voce* voting. East Jersey, West Jersey, Delaware, and South Carolina used the paper ballot during at least a part of the colonial period.

There is little information concerning election practices, corruption, violence, bribery, and fraud at the polls during the colonial period. The silence of the statutes on the subject in New England indicates perhaps an absence of these forms of electoral abuse. Most of the other colonies prohibited bribery and other forms of misconduct at the polls, and enacted various provisions designed to safeguard the polls against fraud. It appears that bribery was prevalent in the colonies without the secret ballot, and constituted in all probability the worst abuse in colonial elections. The departure of the colonies from the English practice is most marked in the adoption of paper ballots, suggested probably by the practice in church elections. The use of proxy voting, which in reality amounted to the division of the colony into towns or districts for the purpose of electing general officers, pointed the way to modern election practice, in contrast to the early practice of requiring all the electors to appear at the legislature to elect such officers. The absence of bribery and corruption on a large scale in the colonies was probably due in part to the use of paper ballots, but largely to the lack of offices which were eagerly sought after. The earlier provisions governing the franchise appear to have been somewhat vague, and, in general, very liberal, but later restrictions of various kinds, following in the main the English franchise, were adopted.

After the Revolution. Nine of the ten state constitutions

¹⁸ Pennsylvania Colonial Records, pp. 33, 42.

framed between 1776 and 1780 required the secret ballot for the election of certain officers, but the *viva voce* voting continued in some states, particularly in the South. Arkansas continued this form of voting until 1846, Missouri and Virginia until the Civil War, and Kentucky abandoned it as late as 1890. As time went on, abuses under the unofficial paper ballot became fully as great as ever existed under *viva voce* voting. Because of the constantly increasing size of the ballot, it became the practice for the political parties to print ballots for the convenience of their voters, and these unofficial ballots rather than ballots written by the voter himself, were held valid in Massachusetts in 1829. Each party printed its ballot upon colored paper so that it could be easily recognized, thus destroying the secrecy of the ballot. When some of the states required that all ballots should be printed on white paper, various shades and weights of white paper were used, making it easy to identify the ballots as they were cast. With the unofficial ballot in use bribery was rampant, for the bribed voter could be handed a ballot and watched until he placed the ballot in the box. Other abuses were also widespread. Each party often prepared ballots, ostensibly of the other party, but actually containing only the names of one or two prominent candidates of the opposing party. The voter had to be on his guard against such spurious ballots.

These abuses led to the adoption of the Australian ballot. As early as 1856 Victoria adopted an official ballot, containing the names of all candidates, printed by public officers at public expense, upon uniform paper, and distributed only at the polls, where it was marked in secret. During the years immediately following it was adopted in South Australia, Tasmania, New South Wales, New Zealand, and West Australia. Hence this form of ballot came to be called the "Australian Ballot." Its adoption in this country was urged in 1882 by the Philadelphia Civil Service Reform League, and in the following year by Henry George. Kentucky provided the first Australian ballot law in this country in 1888, but limited its application to Louisville. The following year New York

adopted a state wide act, and within a few years the Australian ballot swept the country.

One of the principal trends in elections following the Revolution was the liberalization of the franchise. Between 1800 and 1830 most of the states repealed the requirements of property and religious qualifications, and established adult male suffrage. The new states admitted to the Union practically all came in with adult male suffrage, and this influenced the older states to abolish their suffrage restrictions. The wave of democracy which marked the Jacksonian era established male suffrage, with a few states still retaining property qualifications.

With the rise of large cities following the Civil War and the increase of immigration, election frauds became rampant. As early as 1800 Massachusetts enacted a registration law which was designed to prevent illegal voting as well as violence at the polls. The other New England states followed the lead of Massachusetts within a few years, but outside of this section, registration laws were delayed until after the Civil War, when election frauds became so general that registration of voters was imperative. Between 1860 and 1890 practically all of the states adopted some form of registration of voters, though in a number of states the requirement was limited to cities, and this is still the case. The early, weak registration laws were easily circumvented, and repeating and colonization became quite common in the large cities. This in turn resulted in tightening up the registration laws and the passage of special laws and the creation of special election and registration commissions for the large cities. These changes usually cleaned up the elections for a few years, but eventually the offices fell into the hands of the party organizations and election frauds again were committed with impunity. As late as 1900 it was estimated by well informed observers that as many as 60,000 fraudulent votes were cast in hotly contested elections in Philadelphia.¹⁴

¹⁴ For a history of registration laws, see my "Registration of voters in the United States," Chap. III.

A number of important trends in election laws appeared during the closing decades of the nineteenth century, brought on partly by the flagrant election frauds and violence which marked the conduct of elections throughout the country. In many states special election boards were created for the large cities or the most populous counties. The City Election Act of Illinois was enacted in 1885 after flagrant election frauds and violence in previous years had led to a concerted movement for election reform. The board of elections of Milwaukee was not created, however, until 1911, and the office of election commissioner of Omaha until 1913. In general, special boards of election were created in the larger cities during the period from 1880 until 1910. These special boards were set up as a device to bring about election reform, but, in common with many other independent boards and commissions, they soon fell under the domination of political organizations and provided little or no improvement.

With the widespread adoption of the Australian ballot following 1890 many new provisions were written into the statutes. All of the provisions governing the ballot, as well as the nominating of candidates so that their names would be printed upon the ballot, came only when an official state ballot was provided. It is not at all by chance that the direct primary spread shortly after 1890. The adoption of the official ballot made it imperative for the statutes to recognize the existence of political parties, which had been done reluctantly before this period, and through the election laws there appeared more frequent provision for representation of the two leading political parties in election administration, and the regulation of the party organization itself.

The voting machine appeared during the closing years of the nineteenth century, which led to the adoption of laws permitting its use in many states.

Recent Tendencies. Since 1900 the general tone of election administration has greatly improved throughout the country, and frauds, formerly so widespread, have tended to disappear in all but a few communities. This improvement

has been brought about by stricter registration laws, more stringent election laws, the requirement of the signature at the polls, the Australian ballot, which has practically put a stop to bribery, and, in recent years, by the enfranchisement of women and the passing of the open saloon. Not many years ago it was taken for granted that there would be a great deal of drunkenness, disorder, violence, bribery, and other mal-practices at the polls. To-day the polling place is quiet and orderly. One of the leading arguments used against woman suffrage was that no woman of refinement or culture would care to venture near the polls on the day of election, for "it was not a fit place for women." Happily this has practically passed. Election frauds have not entirely disappeared, and intimidation and violence are sometimes present at the polls, but these conditions obtain only in a few politically backward communities.

The constant revision of election laws which is taking place in most states is designed in practically every case to rectify some abuse which has sprung up. These alterations deal with minor details of administration and do not involve any fundamental changes. They have led to more and more cumbersome procedures and records. Most of the election records and methods are antiquated, expensive in operation, and require a thorough revision. There is needed for the administration of elections: (1) a revision of the state election laws similar to the revision which has already taken place in many states in the administration of the registration of voters, (2) a reorganization of the election machinery, and (3) many improvements in election management. A movement in this direction has been started in a number of states. Ohio adopted a new election code in 1929, which simplified and greatly improved the elections of the state. This code, which was prepared and sponsored by the Citizens League of Cleveland and its director, Dr. Mayo Fesler, will accomplish an annual saving, it is estimated, of one million dollars. The new election code of Ohio was opposed by the party organiza-

tions and did not receive the support of the chief election officers of the state. Many compromises were necessary to secure its adoption, and some of the election boards of the state are still unfriendly to the law. It is a significant step in the right direction.

The Illinois legislature in 1929 created a state commission on revision of election laws, and the governor appointed a commission of three members, headed by Judge Edmund K. Jarecki, the chief election officer of Chicago. The commission published its report in March 1931, recommending many changes in the election laws, including the following: Fewer elections, permanent registration of voters, certain minor ballot reforms, uniform voting hours from 6 A.M. until 6 P.M., the precinct election officers should be officers of the county court so that punishment for malpractices could be inflicted by the county judge under the power to punish for contempt, stricter laws governing the giving of assistance to voters, many detailed changes of procedure, and the creation of a state election commission with powers to issue rules, regulations, and instructions and to supervise elections throughout the state. The commission presented to the legislature a series of bills designed to accomplish these results and also recommended a complete revision and simplification of the election code, which it did not undertake to prepare.

In the spring of 1930 the Pennsylvania League of Women Voters called a state conference upon election reform, inviting all interested organizations to send representatives.¹⁵ The bar association and many other organizations responded and a state organization was formed to work for a new election code which would wipe out many of the antiquated, cumbersome, and expensive features of the present election administration in the state and make it easier to secure honest elections. A modern election code for the State of Pennsylvania was drawn and presented to the legislature, but failed

¹⁵ See Albert B. Maris, "Pennsylvania moves to modernize election code," *National Municipal Review*, Vol. XX, pp. 206-09 (April 1931).

of passage. It provided for a unified registration and election administration, in the place of the present much divided administration, and a single election office, headed by a board, in each county. The board was to be appointed by the governor, and to have complete control of all phases of election administration. A state elections bureau was to be provided in the office of secretary of state with substantial powers. Permanent registration and many other improvements in election administration were provided. The movement for a modern, sound election code in Pennsylvania will probably be carried forward until a thorough reorganization of the election administration will be secured.

The system of registering voters within the last two decades has undergone a fundamental change in many states with the adoption of permanent registration of voters. The organization, methods, records, and the correction of the lists have been thoroughly revised in most of the states adopting this system. Permanent registration of voters has now spread until it is used, in whole or in part, in over thirty states. Some of the states which have recently adopted sound permanent registration systems include the following: Wisconsin (Milwaukee) (1911), Nebraska (1913), Oregon (1917), Minnesota (1923), Wisconsin (statewide) (1927), Iowa (1927), Ohio (1929), Michigan (1929), Kentucky (1930), California (1930), Washington (1932), Illinois and Indiana (1933). The movement for an improved registration system has been greatly facilitated by the popular slogan, "permanent registration," though as a matter of fact these recent registration laws have revised practically all the details of registration.¹⁶

The following chapters present, first, a summary of the findings and recommendations for improvements, with a model election code, and second a detailed analysis of the

¹⁶ For an account of the spread of permanent registration of voters within recent years, see "Registration of Voters in the United States," Chap. III, and articles in the *American Political Science Review*, Vol. XXIII, pp. 908-914, (Nov. 1929), and Vol. XXIV, pp. 963-966, (Nov. 1930).

principal phases of election administration: organization, ballots, the conduct of elections, precincts and polling places, absent voting, recounts, and other matters. In all of these details an attempt is made to present an analysis of the problem, the usual provisions found in state laws, with important variations, and especially the practical workings in various states with respect to each phase. Special attention is given to the methods and procedures followed in jurisdictions with the best election administration, and suggestions are made throughout the chapters as to the essentials of sound practice. No attempt has been made to catalog the laws of the several states upon the many phases of election administration. There is a great deal of variation from state to state which would make a digest of the state laws upon these many matters extremely tedious, and the existing laws are subject to change from year to year. Emphasis has been placed, instead, upon an analysis of the problems, the present practical workings, the better methods followed, and suggestions for a sound administration.