

## ELECTION PROCEDURE AND THE ELECTIONS ACT

*Editorial Note:*- The views expressed in the following article do not necessarily represent the opinions of the U.N.B. Law Students' Society or of the Law School Journal but are the opinions of the author Mr. Gordon Fairweather.

I have been asked to contribute a few words concerning suggested amendments to the New Brunswick Elections Act, but I have decided to incorporate with my suggestions some comments on the new English Act.

"The Elections Act" being Chapter 8 of the Acts of New Brunswick, 1944 sets out the method, mechanics and machinery for the electing of candidates to the Legislature of New Brunswick and because the Act does all this it should be a model in its own way of progressive and democratic thinking; it should be designed so as to safeguard the rights of our people and to ensure that each and every voter has complete freedom to vote for the candidates of his choice.

This is not possible in New Brunswick under the system of balloting provided for in S. 55 of the Act. This section permits of the use by the contending parties of a form on which are printed the names of the candidates who represent a particular party. Any of you who have had an opportunity to either work at or near a poll on Election Day will be aware of the abuses this method permits. At times the Poll resembles a midway at a fair or exhibition with workers for each side trying to thrust the prepared ballot into unsuspecting hands like a hawker trying to attract customers into a sideshow. The best conquests are, by the very nature of the methods used, those of our people who are old, who do not see too well or perhaps are unable even to read.

S. 55 should be repealed forthwith and the voters of this Province given an opportunity to vote by marking an "X" beside the name of the candidate of their choice, the entire list of whom should be listed on one ballot. Only in this way can we be sure that our people are able to vote according to their wishes.

Another section which requires amendment is S. 34, which is the section dealing with qualification and disqualification of electors. By sub-section (d) Indians residing on an Indian Reservation are not entitled to vote. I cannot understand why all Indians, no matter whether they live in reservations or not, should not be given the right of franchise. These people are, after all, truly our first citizens.

Sub section (g) of Section 34 disqualifies inmates from poor houses from voting. This sub-section too should be repealed.

Perhaps these few suggested reforms to the Elections Act of New Brunswick will be considered by some to be too trite even to bother commenting on. However, I shall allow my case for reform of the ballot to stand on the evidence of any Poll worker on Election Day.

Any discussions of elections procedure would be incomplete without reference to a recent Act of the United Kingdom Parliament, the Representation of the People Act, 1949. This great reform legislation is too extensive and the bulk of it too remote from our local set-up to warrant any extensive comment in an article such as this; however, the provisions of the Act respecting election expenses, corrupt and illegal practices and methods of counting ballots do deserve at least a cursory examination.

S. 64 of the Act strictly limits the election expenses of any candidate. Permissible expenses depend on whether the candidate is from a County or a borough constituency. In each case a candidate is allowed a flat amount of £450. and, in the case of a County constituency an additional two pence for every voter on the roll; and in a borough constituency an additional one and a half penny for every voter on the roll.

If this provision were in effect in Canada it would mean in a country constituency where there are, say, 30,000 voters an allowance of slightly under \$2000. Slightly less than this again would be allowed for a City riding. It is obvious what a tremendous difference this would make (and I submit for the better) in any election campaign in this Country.

Perhaps some will remember reading an article written by the Hon. Charles G. Power in McLean's Magazine a year or so ago where he made a carefully reasoned plea for limiting campaign expenses in this Country.

The Hon. Mr. Power has, if I remember correctly, suggested the same thing in the House of Commons on a number of occasions and usually with little audible support. I wonder, however, if the truth were known if this scheme would not have many more supporters who would only show their colors if they thought everyone else agreed with them.

The English Act also limits the use of cars to bring voters to the polls. In my opinion distances are too great in some of our rural ridings to make this a desirable or practicable reform in Canada.

Sections 99, 100 and 101 set out strict provisions against bribery, treating or the use of undue influence in an attempt to gain votes. Bribery of course speaks for itself and is provided for in the equivalent Canadian Statute. However, S. 100, dealing with "Treating" is interesting because of the widespread practice in country constituencies in Canada of parties providing one meal and in some cases two meals to entire families! I know of one particular poll where the enlightened chairmen of each party got together and agreed on a scheme of joint catering. It is best that I say nothing about "treating by providing drink."

One further reform brought into effect by the English Act concerns the counting of ballots. In England this is done at a central place in

each constituency. All ballot boxes are taken to this central place and emptied into one common pile. The votes are then counted and it is impossible to learn the number of votes a particular candidate got in any particular poll. This might be rather difficult in this Country because of distances, however, it is worthy of consideration. In some small polls in Canada the division of votes can all too readily indicate how a particular person voted. This should not be possible.

To summarize, I make my plea for (a) the immediate abolition of the ballot in use in New Brunswick which has on it the names of candidates representing a particular party; (b) an enlargement of the franchise to include: Indians no matter whether they live in reservations or not; and persons living in poor houses; (c) a curtailment of election expenses allowed each candidate; (d) strict control over such malpractices as bribery, treating and undue influence.

I shall end with the thought that at least we in Canada do not suffer under laws similar to those in the United States where election dates are established by statute. In Canada, of course, election dates are (except insofar as statutory limits as to the length of time a Government can hold office) set by the Government. This provides contending parties with the elements of a guessing game, confines genuine electioneering to the few weeks before the contest, keeps the airwaves relatively clear until the last frantic weeks and the faces of would-be men of destiny are not hanging from billboards and telegraph polls for too long.

—by Gordon Fairweather,

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#### LAW STUDENT'S LAMENT

My chest is as tight as a Writ of Mandamus,  
Blackstone's bursting my fuddled head  
I am (ipso facto) an ignoramus  
From studying torts 'till my eyes are red.  
I'm steeping my soul in Leake (on Contracts)  
My brain's in a tizzy, from Cox (C.C.)  
Gone are my erstwhile social contacts  
From spending my evenings in "Chancery"  
In youth, I considered Steve Leacock Witty  
Now "Corpus Juris" provides my cheer  
I'm so daft that I chuckle when I read Chitty  
I am "nulla bona", and dad blames beer!

Herman Lordly