

# THE NEW ELECTION LAW

## IMPORTANT AMENDMENTS MADE BY THE LEGISLATURE.

### SUGGESTIONS FOR THE VOTER—HOW TO USE THE PASTER—THE NUMBER OF BALLOTS—DUTIES OF ELECTION OFFICERS—INDEPENDENT NOMINATIONS—THE PENAL CODE.

The Legislature last Winter, with the assistance of the Statutory Revision Commission, Messrs. Collin, Magone, and Linson, made a number of important changes in the election laws of the State, most of which do much toward their simplification. With a few exceptions, the changes have to do with the duties of election officers, the periods during which nominations may be made, and the canvassing of the ballots, so that the voter who has exercised his right of suffrage since the original ballot-reform act was passed will find little to confuse him this year on election day.

Unfortunately, the paster ballot is still permitted. Therefore if the voter wishes to make easy his work at the polls he will prepare his ballot at home. A complete set of pasters will be sent to every registered voter in the city by the several political parties, so that this task will be an easy one. Let the voter make up his mind for whom he wants to vote and prepare his blanket pasters accordingly; then when he has retired to the privacy of an election booth he can put it upon any one of the party tickets given him by the ballot clerks, fold it, as well as the others of the set, first crosswise by bringing the bottom of the ballot up to the perforated lines, and then in the middle lengthwise, but in such a way that the contents of the ballot shall be concealed and the stubs can be removed without disclosing any of the contents of the ballot, and then he can hand it to the Inspector with entire confidence that he has done his duty to his country and to the men of his choice.

But he will not be given an opportunity to follow these suggestions unless he is careful to register. This he may do in this city and Brooklyn Oct. 11, 19, 28, and 29; in cities other than Brooklyn and New-York the fifth, fourth, third, and second Saturdays before election; elsewhere than in cities the third and second Saturdays before election day. The hours during which the registry lists must be kept open are from 9 A. M. to 9 P. M. If the voter be a countryman he must not forget that it will be necessary for him to register in person. The city voter is used to doing this, so that he is not likely to lose his right of suffrage because of any such oversight.

This year the voter will have to bethink with at least eleven different ballots, which will be presented to him by the ballot clerk on his arrival at the polling place. They will be the ballot of the Republican, the Democratic, the Prohibition, the Socialist-Labor, and the People's Parties, and they will contain the names of the Presidential Electors of each party, together with the State, county, and city nominees. In addition to these five, there will be six ballots of votes on the three proposed constitutional amendments, three marked "for" and three "against." One of these proposed amendments authorizes the sale of the State's salt springs; a second an increase in the number of Supreme Court Judges, and a third the transfer to the courts from the Legislature of the decision of contested election cases.

Perhaps the most important of the changes made which have to do with the voter and the actual process of voting is that which defines "physical disability." This section of the law says:

"Not more than one person shall occupy one voting booth at the same time, except that a voter who shall declare under oath to the Inspectors of the Elections that, by reason of total blindness, loss of both hands, such total inability in both hands that he cannot use either hand for ordinary purposes, or physical disability by reason of crippled conditions of disease to enter the booth alone, he is unable to receive or prepare his ballot without assistance, may select a person for that purpose, who shall be allowed to pass within the guard rail and receive such ballots, and to enter the voting booth with such voter, and there assist him in preparing the ballot. The person so selected shall not in any manner request or seek to persuade or induce such voter to vote any particular ballot or for any particular candidate, and shall not directly or indirectly reveal to any other person the name of any candidate voted for by such voter, or anything occurring within such voting booth, and he shall not remain within the guard rail longer than is necessary to assist such disabled voter."

The law continues the provision of the ballot-reform law which permitted a voter if he spoiled one set of ballots to obtain another, and so on until he shall receive four in all. Yet there is the following provision in Section 105 in regard to such voters as go outside the guard rail after obtaining one set of ballots:

"A voter may, after receiving one set of official ballots and before voting, return all such ballots to the ballot clerks and then pass outside the guard rail, and afterward, while the polls are open, enter once again within the guard rail for the purpose of voting, and receive and prepare his ballots and vote the same as if he had not once before been within the guard rail and received his ballots therefor. But not more than two sets in all of official ballots shall, on such account, be delivered to any voter, and no voter shall pass within the guard rail more than twice at the same election for the purpose of voting."

One amendment to the law of 1891 provides that the designation of the polling place for which each official ballot is prepared shall be made upon the face of the stub instead of upon the back of the ballot, as heretofore. The reason for this change is that the designation of the polling place upon the back of the ballot made its identification easy if it should be used at the wrong polling place, and it was to prevent the loss of their vote by innocent voters using such misplaced ballots, as was the case in certain districts last year, that the Legislature made the above amendment to the law. The back of the stub is to contain, as in 1890 and 1891, only the printed number of each official ballot. On the back of each official ballot below the stub there will be printed in great primer roman condensed capitals the indorsement, "Official ballot for —," and after the word "for" there will follow the date of the election and a fac simile of the signature of the officer or clerk of the board providing the ballots, except that ballots containing the names of candidates for Commissioners of Excise of towns are to be indorsed "Excise" only, and other ballots for town meetings not held at the same time as the general elections are to be indorsed "Town" only.

The names of all offices to be filled must be printed upon the face of each ballot below the perforated line separating the ballot from its stub. The law declares that the names of the offices to be filled shall be printed upon every ballot "in brevier lower-case type within the spaces respectively allowed therefor." It further declares that under the name of each office stated upon the ballot the name of each candidate nominated therefor by or by virtue of the kind of certificates to which such kind of ballot corresponds shall be printed in brevier capitals within the spaces respectively allowed therefor. The names on each ballot must be in a single column, except that the names of candidates for Presidential Electors and the names of Inspectors of Election, if ten or more, shall be in two columns. If the full number of candidates for the offices specified on any one kind of ballot shall not have been nominated, blank spaces must be left on each ballot of such kind where the names of candidates would appear except for such failure to nominate.

There has also been put into the law a more decisive form of the caveat clause—the provision enabling party candidates to prohibit the printing of their names upon the ballot as independent candidates. The amendment reads as follows:

"The name of a person having a party nomination shall not be placed upon an official ballot of independent nomination, if such person shall have given notice at least fifteen days before the election for which the ballot is prepared to the officer with whom his party certificate of nomination is filed by a writing signed and acknowledged by him that he does not wish his name placed upon any ballot of independent nomination or upon such particular ballot of independent nomination."

The period between election day and the final day when independent nominations can be made and the printing of particular ballots be secured has been lengthened. The law now provides that no independent nominations for a State office can be filed later than a day within twenty days of election day. Under the old law such nominations could be filed up to a day within fifteen days of election day. Formerly, also, independents had ten days after a party nomination was made to a State office, if it was delayed to the last possible moment, to make their nominations to the same office. Under the amendment this period is shortened to five days. The same principle of increasing the period between election day and the final day when independent certificates can be filed is pursued in the election code regarding the lesser offices.

Under the old law an independent nomination for a county office could be filed with the County Clerk or, if in New-York, with the Board of Police Commissioners, or in Brooklyn with the Board of Elections, up to a period within twelve days before election. As amended, this period is lengthened by three days; no independent nomination papers can be filed in a less period than fifteen days. The interval here between the final filing of party nomination papers and the final filing of independent nomination papers is five days. Before, it was eight days.

Provision is made in the amended law as it was not in either the Ballot-Reform act of 1890 or the amended act of 1891 for the filing of nomination papers in the minor cities of the State. The period before election day when the final papers can be filed is less than in New-York and Brooklyn. Thus the Election Code declares that those certificates "require to be filed with the City Clerk of any other city," than New-York and Brooklyn, if party nominations must be filed "at least ten days and not more than

twenty days; if independent nominations, at least eight and not more than twenty days." This is a reduction of ten days, so far as the smaller cities of the State are concerned, for filing party nominations. Thus party nominations in the minor cities can be made ten days nearer election day. Certificates of independent nominations can be filed in cities other than New-York and Brooklyn up to within eight days of election. This makes an interval of only two days between the final day upon which a party nomination and an independent nomination can be made in these cities. Still another new feature respecting nomination certificates is a division of the period for the filing of party and independent certificates in towns and villages.

The act of 1891 said that "nominations for town and village offices shall be made and certified substantially as hereinbefore provided, but the certificates thereof should be filed with the Clerk not less than five days before the day of election." The amended law declares that those certificates "require to be filed with the Town or Village Clerk if party nomination shall be filed at least six and not more than twenty days before election day," and, "if independent nominations, at least five and not more than twenty days" before election day.

As a result of the quad-marked ballots in the Dutchess County election last Autumn, a change has been made in the law in respect to ballots presumably marked for identification. The old law declared that legal notice should be taken of any ballot or paster ballot written upon or marked in any way "with the intent that the same may be identified." The amended law declares that legal notice shall be taken of any ballot or paster ballot, written upon or marked in any way, "for the purposes of identification." The following directions are given to Inspectors of Election respecting marked ballots:

"When an Inspector of Election or an inspection officer or duly-authorized watcher shall during a canvass of the vote, or immediately after the completion thereof, declare his belief that any particular ballot, paster, or paster ballot affixed thereto has been written upon or marked in any way for the purpose of identification, the Inspectors or canvassers shall write on the back of such ballot the words 'Objected to because marked for identification,' or words in substance to that effect, and sign their names thereto, and attach each such ballot to their written statement of the result of the canvass. Each such ballot shall be counted by them the same as if not so objected to."

Careful provision is also made for the recording of the number of ballots in respect to the marks for the purpose of identification. Section 115 of the law declares that upon the completion of the canvass the Inspectors, except in New-York and Brooklyn, shall make and sign a written statement showing the dates of the election, the number of the district, the town or ward, and the county in which it was held, the whole number of ballots received for such office, and the whole number of ballots cast for each person for such office, and the whole number of ballots objected to because marked for identification, and must also append a certificate signed by the Inspectors to the effect that the statement is in all respects correct.

Regarding the official ballots and the preservation of a sample of each one, the law says that Inspectors must attach to each statement one official ballot of each kind voted for all the officers to be chosen at the election. They must state in words at length and written partly on the ballot, and partly on the paper to which it is attached, the whole number of ballots which were received having the same names for the same offices as the one attached. Continuing, this section says:

"If two or more ballots cast varying from every official ballot shall have thereon the names of the same candidates to the same offices throughout, only one of such ballots shall be annexed to such statement, and there shall be written partly upon it and partly upon the paper to which it is attached, a statement of the number of such ballots cast. The ballot so attached, with such statements so written, shall be deemed a part of the certified statements of the canvass by the Inspectors. All other ballots cast at such elections not containing the names of the same candidates to the same offices as appear upon any other ballot so cast, shall be secretly attached to such statements. Unless such election be an election of town, city, village, or school officers, held at a different time from a general election, such Inspectors shall forthwith and before adjourning make two certified copies of such certified statement of the result of the canvass."

The act of 1891 provided for a review by the court of the action of the Board of Inspectors in counting alleged marked ballots. This provision has been recast so that it now reads as follows:

"If any such certified statement of the result of the canvass shall show that any of the ballots counted were objected to as marked for identification a writ of mandamus may, upon the application of any candidate voted for at such election, within thirty days thereafter, issue out of the Supreme Court if such statement is filed in the County Clerk's office to the Board of County Canvassers, or if in any City Clerk's office or in any Town or Village Clerk's office, to the board or body of canvassers, if any, of the returns of the Inspectors or canvassers of the election district, and otherwise to the Inspectors of Election making such statement requiring a recount of the votes. If the court shall in the proceedings upon such writ determine that any such ballot was marked for the purpose of identification in any manner not proper or necessary for expressing a vote for a person for an office to be filled at such election, the court may order such ballot to be excluded upon a recount of such votes. Inspectors and canvassers of election districts and Boards of Canvassers shall continue in office for the purpose of such proceeding."

Authority has always been possessed by the court to compel County Boards of Canvassers to reconvene to correct errors made by them in canvassing election returns. The law of 1892 has this to say on this subject:

"The Supreme Court may, upon affidavit presented by any voter showing that errors have occurred in any statement or determination made by any County Board of Canvassers, make an order requiring such board to correct such errors, or show cause why such correction should not be made. If such board fail or neglect to make such correction, or to show cause as aforesaid, the court may compel such board, by writ of mandamus, to correct such errors; and if it shall have made its determination and dissolved, to reconvene for the purpose of making such corrections. Such meeting of the Board of County Canvassers shall be deemed a continuation of its regular session for the purpose of making such corrections as the court shall order, and the statement and certificates shall be made and filed as the court shall direct, and shall stand in lieu of the original certificates and statements so far as they shall vary therefrom, and shall in all places be treated with the same effect as if such corrected statement had been a part of the original required by law."

One of the new election laws is the Election Penal Code. This provides for the punishment of misdemeanors at political caucuses and conventions, of false registration, of the mutilation, destruction, or loss of a registry list, of the misconduct of registry officers, of the failure of a house dweller to answer inquiries, of the removal, mutilation, or destruction of election supplies, poll lists, or cards of instruction, of a refusal to permit employes to attend the election, and finally of misconduct in relation to certificates of nomination and official ballots. Section 41 of the Corrupt Practices act of 1890 has been amended to read as follows:

"Any person who directly or indirectly, by himself or through any other person, pays, lends, or contributes, or offers or promises to pay, lend, or contribute, any money or other valuable consideration to or for any voter, or to or for any other person, to induce such voter to vote or refrain from voting at such election for any particular person or persons, or to induce such voter to come to the polls or remain away from the polls at such election, or on account of such voter having voted or refrained from voting, or having voted or refrained from voting for any particular purpose, or having come to the polls or remained away from the polls at such election."

This section, also, of the Penal Code declares that any one who thus bribes a voter is guilty of an infamous crime, and may be punished by imprisonment for not less than three months nor more than one year, and, in addition, forfeits any office to which he may have been elected at the election at which the offense was committed.