

The Objects of a Federal Law for the Election of Members of the House of Representatives should be

- 1 - To secure the rights of individual citizens of the United States
- 2 - To prevent inequality of power among the citizens of the various states.
- 3 - To ensure a free election and fair return and to prevent undue influence being exercised upon the voter.
- 4 - To prevent the gerrymandering of districts whereby the election of Congressmen is made the football of local politics.
- 5 - To extend the jurisdiction of the United States courts over offences against the political rights of the citizen and the officials who conduct the elections for these officials.

The projects of law by which these results have attempted to be secured, have hitherto been in the main fragmentary and ineffective. Of those which have reached the dignity of statutory enactments the most important are the following:

- 1 - The Enforcement Act of 1871 intended to carry into effect the Fifteenth Amendment. It is notable chiefly for the thoroughness with which it fails to effect the result aimed at. As a protective statute it is just about as valuable as a sieve would be for a water-bucket. It is one of the best instances on record of the fact that good intentions do not make a good law. A careful study of conditions and restrictions is the first element of efficacy.

2. Another method, has been by Federal Supervision of elections conducted by State officials. It is a singularly unwise and defective measure. In some few instances its operation has been productive of good results, though it may be doubtful if its most valuable features would stand the test of legal scrutiny. In the main it has served merely to gather testimony as to crimes, there is no power to punish.

The appointment of Marshals with indefinite and uncertain powers, which not wholly worth as ineffective is of little value except in connection with a general system of law controlling the exercise of political right by citizens of the United States.

Of the bills pending in both houses upon this subject, of which I have examined a large number perhaps all that have been printed. By far the greater number of these are liable to the objection of inequality — a lack of universality. Waiving the question of constitutionality, which in my opinion is a very serious one, it seems to me that the provision is very unwise and if I may say so, unjust.

It does not seem wise to me to require or permit any limited number of the voters of a district — or a state — to regulate the time place and manner of a congressional election, or permit them to have one method on one occasion and another the next.

Again, if there is any real need for ousting the state authority in any particular region, it is unfair and unjust for the Congress of the United States to put on individual citizens whom it has shown little ability to protect in the exercise of political rights, the odium of making or requiring such change. I do not hesitate to say that in many parts of the country the requirement of such an act on the part of a specific number of citizens, ~~or~~ as a condition precedent of an opportunity to vote for Congressmen is a refinement of injustice which would do honor to Caligula. They would have to face social ostracism, commercial disaster and in some cases a liability to sudden death which would justify ~~an~~ an insurance company in cancelling policies upon their lives. In short it seems to me a shirking of responsibility which is both unwise and cowardly. If the representatives of the people believe that injustice results under the present system it seems to me a duty no man can deny that the Congress, should exercise its expressly reserved constitutional power and take con-

of these elections, in all states, directing
administering, protecting, furnishing as may
be needful and from time to time, reg-
ulating and amending as occasion may
serve.

It is with these views that I have drawn
the bill I am expected especially to call to your
attention. Though I have been frequently asked
to do so before, it has never seemed to me
that the time was fully ripe for the consider-
ation of the question until the present when
I yielded to the request of its introducer
Mr. Kelly of Kansas.

It is but just and reasonable that one
appearing as the author and advocate of
such a measure before a legislative committee
should show to a certain extent at least, some-
thing of his competency, his observation and
his ability to formulate in legal effective
form his conclusions. Perhaps I ought all
the more to do this because I may be said
to be best known as a novelist and the
erroneous idea prevails that the chief quality of the
novelists' intellect is a fancy as wild and
woolly as the compliment east sees fit to

denominated that home of future empire, the Great West. Curiously enough, the qualities exercised in the drafting of a law to meet new conditions are much the same as those required in fiction - to wit observation of conditions and the adaptation of means to ends. These require at least of course to be supplemented not only by legal knowledge but by legal practice for it is unquestionable that nothing but legal practice gives the habit of carefully considering the legal import of terms used in a statute.

From June 1855 until 1880, I was a legal practitioner at the bar or on the Bench of North Carolina. I was a member of two constitutional Conventions and for three years a member of the Code Commission which shaped the legislation of the state to new conditions. This has been my apprenticeship. For more than twenty years I have given more attention to the securing of the rights of the citizen as in that section, to avoiding conflict and averting peril, than to any one subject - I do not claim any merit for this. It is simply my misfortune. I have not the faculty of letting go what I have once taken hold of even when my individual interests demand that I should. But for what

seemed to me some serious defects in
Mr. Hoar's excellent bill especially as touching
the constitutionality of some of its provisions I would
not have undertaken the task at all, and if
I had not felt that the bill introduced by the
chairman of this committee Australia system
of voting

CHAUTAUQUA COUNTY NY HISTORICAL SOCIETY 2013

Features of bill -

Qualifications of electors - Secs. 1+2 -

Obstructing citizen in right to vote - Sec 3.

Bribery of Elector - " 4

Intimidation by riot - " 5

" " " " " " " " " 6

State laws cannot deprive electors " 7

Rule of interpreting language to voters " 8

Districts - 9

Elections when held 10

Special elections 11

Court of Elections 12

Duties of Court 13

" " " " " " " " " 14

" " " " " " " " " 15

Registrations - Registrar 16

Registration 20

Challenges

28-21

Erasure of names

25-

Protest of members

40-42

Oath of Registration -

42^a