

## THE BALLOT: SECRECY AND PERSONATION.

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CHIEF JUSTICE HARRISON, in a judgment recently delivered on an application to unseat an alderman of the city of Toronto (*Reg. ex rel. Riddell v. Burke*), and containing an able review of the questions of facts presented, spoke of two things during the inquiry which struck him as remarkable :

(1) The ability of poll clerks, scrutineers and others to tell for whom voters had voted, notwithstanding the provisions of the Ballot Act ; and (2) the facility for personating voters.

As to the first point, the essence of the ballot system is secrecy ; if secrecy in voting is not obtained, it is devoid of that which is the redeeming feature of a scheme which contains many inducements to lying and deceit, and is in other ways repulsive to the manly instincts of the Anglo-Saxon race. As to the first point, it will be difficult to prevent scrutineers who know their business, or poll clerks who live, as is generally the case at municipal elections, in the neighbourhood of the polling subdivision, from forming a tolerably correct estimate of how the vote is going from time to time, or even as to how doubtful men record their votes. There are a hundred ways in which this can be done by any one familiar with such matters. For example : the person with whom the voter may be seen before voting, marks opposite the voter's name in the canvass books, the mode in which the opposing scrutineer addresses him, casual observations, and putting two and two together, &c. We happen to know of a scrutineer at a recent Parliamentary election, who (comparatively a stranger in the immediate neighbourhood, but an "old hand"), as the polling went on, marked down privately how he thought

each man had voted, and then stated what he believed would be the result ; and when the ballots were counted, he was proved to be within one of the correct number. This was, of course, to a certain extent an accident, but it is an example of our proposition that the want of secrecy remarked upon by the learned Chief Justice is not so much attributable to defects in the system or its working as might be supposed.

We quite agree, however, that (quoting from the words of the judgment)

"If personation of votes is to be prevented, the act must be amended so as to furnish machinery for the ready detection and adequate punishment of persons guilty of this vile practice."

The Chief Justice then continues :—

"It is by the English Statute 13 and 14 Vict., cap. 69, ss. 92, 93, for the more effectual detection of the personation of voters at elections, provided that any candidate at any election to serve in Parliament may appoint agents to attend polling booths for the purpose of detecting personation ; that if any such agent, at the time any person tenders his vote, or after he has voted, and before he leave the polling booth, declare to the returning officer that he verily believes, and undertakes to prove, that the person so voting is not in fact the person in whose name he assumes to vote, the returning officer is required, immediately after such person shall have voted, by word of mouth to order any constable, or other peace officer, to take the person so voting into custody ; and provision is in the same act made for the immediate hearing before Justices of the Peace, and committal for trial or discharge of the person accused, and in the latter case compensation paid for damages and costs.

"The greater the secrecy in vote by ballot, the greater the difficulty of discovering for whom the vote was cast, and the greater the danger of personation. But where it is proved that there was personation, and for whom the personator voted, there is no good reason in a scrutiny against holding such vote invalid, and rejecting it.

"Besides, personation in Parliamentary elections is in England now made a *felony*, and the person convicted thereof is liable to be punished by imprisonment for a term not exceeding two