

the possibility of bribery, intimidation and fraud generally. No voter is likely to be paid for his vote, unless the briber can, in some way, ascertain that the goods are delivered. No voter can be threatened or punished for not voting as others who have power over him dictate, if such persons cannot discover how he votes. To accomplish these results the present law was passed. Did the change made in these ballots retard or impair the secrecy here sought for? Did it enable any one, officer of election, challenger or any other voter to discover how a certain person voted, whether he voted the Democratic or Republican ticket, for the contestant or contestee?

Did it render fraud, solicitation or intimidation easier?

Did it unjustly or illegally aid the contestant and hurt the contestee?

Did it or could it proximately or remotely, directly or indirectly, curtail any of the rights or privileges of the voter or break down any of the barriers by which his rights are protected?

Did it prevent any man who desired to vote for the contestee from doing so freely and secretly; did it in any way enable the Officers of Election to perpetrate a fraud?

It not only did not give rise to such results, but it cannot be conceived how it could possibly have done so. Why then is it illegal? Because the Committee says the law makes certain specific provision, which are mandatory and must be obeyed to the letter. Shylock demands his pound of flesh. This he may have, but not one drop of blood. The law must be complied with, but its life and effectiveness must not be destroyed.

Under a proper construction, as I have shown, the law was not violated in its most rigid particular by the charge, but if it was, such a change, in no way affecting the purposes of law, could not invalidate the election, because, the provision upon which the objection to the change is made is "directory" only. (McCreary, on Elections, sections 192, 193, 194, 501, 502, 503, 504, 505, 508, 512.)