

The Committee relies for its conclusions that the ballot is illegal upon sections 128, 137, 158 of the Act of 1890, chapter 538, and upon a decision in 29 N. E. Reporter, 322.

What do they provide?

Section 128 provides simply that ballots shall be printed at public expense and throws no light on the questions here involved.

Section 137 provides the kind of paper, ink, &c. to be used, as well as the form of ballot, and then as follows: And on the back and outside shall be printed the words "Official Ballot for," followed by the designation of the polling place, for which it is prepared, the date of the election and a fac-simile of the signature of the President of the Board of Supervisors of Election by whom the ballot has been prepared.

Section 158 provides that no ballot without the official endorsement and the initials of one of the ballot clerks, shall be allowed to be deposited in the ballot box.

The whole purpose of these provisions is "uniformity" and "secrecy." In the absence of fraud or injury, which does not appear from the evidence, those provisions, the technical violation of which will not impair these purposes are only "directory" as will appear from the authorities I have quoted above. Not one element of the provisions of the sections above named, looking to the secrecy of the ballot, could possibly be violated by striking out the word "first" and substituting "second."

Section 137 prescribes the form and style of the official ballot, and is mandatory in all its provisions, the violation of which would or could destroy secrecy, but no further. It does not, nor does the law anywhere declare that none but the ballots therein described shall be received or deposited in the box.

Section 138 contains a prohibition, however, the only one of the sort in the law, namely, that no ballot shall be deposited without the official endorsement and the initials of one of the Ballot Clerks.

What is the official endorsement, and what is its purpose? The Committee, on this point, clearly misconstrues the plain meaning and words of the law.