

"THE PRICE OF PEACE."



IN writing about the lobby, in his "American Commonwealth," Mr. James Bryce says: "All legislative bodies which control important pecuniary interests are as sure to have a lobby as an army to have its camp-followers. Where the body is, there will the vultures be gathered together. Great and wealthy States, like New York and Pennsylvania, support the largest and most active lobbies." This was written several years ago, and was, like all the same author's comments upon American affairs, singularly penetrating and accurate. The lobby evil was then substantially the same in all the older and wealthier States, and the problem of coping with it by means of laws for its regulation was a subject of current discussion. But within recent years there have been developments which have resulted virtually in the discontinuance of the lobby in the richest State, and in the establishment in its place of the political boss as the disposer and regulator of all legislation. Since Mr. Bryce wrote also one State, Massachusetts, has passed a law for the regulation and restraint of the lobby, and I will consider briefly the results achieved by that law before passing to the consideration of the modern substitute for the lobby.

The Massachusetts statute went into effect at the legislative session of 1891. It requires the sergeant-at-arms of the legislature to keep two dockets, one for the names of all persons employed as counsel before committees, and the other for the names of all agents employed in connection with any legislation affecting the pecuniary interests of any individual, association, or private or public corporation. Upon these dockets the names of each counsel and agent must be registered within one week of the date of his employment, with the length of time it is to continue, the special subject or subjects of legislation to which his employment relates, and the name and business address of his employer. Whenever additional subjects of legislation are assigned to an agent or counsel, they must be entered on the books in such a manner that the entries opposite the name of each employer will show all the subjects of legislation in relation to which any counsel or agent is employed by him, and that the entries opposite the name of each agent or counsel will show all the subjects of legislation with reference to which he is employed. No person whose name is not

registered is allowed to appear as counsel before any committee, or to act in any manner as agent in respect to any legislation, and no person, or corporation, or association, is permitted to employ as counsel or agent any person who is not registered. Each register or docket is closed at the end of the session, and new ones must be opened at the ensuing session. Within thirty days after adjournment, every person, corporation, or association, whose name appears on the docket as having employed any counsel or agent, must render to the secretary of the Commonwealth a full, complete, and detailed statement, sworn to before a justice of the peace, of all expenses paid or incurred in connection with promoting or opposing in any manner, directly or indirectly, the passage of legislation. Violation of any provision of the act is punishable by a fine of not less than \$100 or more than \$1000 for each offense; and any person seeking to act as counsel or agent contrary to its provisions is liable to the same penalties, and in addition will be disqualified from acting in such capacity for a period of three years from the date of conviction.

The law demonstrated its usefulness in one respect immediately upon going into operation. At the first session of a legislature acting under its provisions, many professional lobbyists, including all those of the most notorious character, declined to put their names upon the dockets and departed forever from the State-house. Some of them took up their occupation in the hotel lobbies, and other places frequented by members of the legislature, but they plied their trade under such disadvantages that most of them abandoned it permanently not long afterward. The regular counsel of the railway companies and other corporations appeared as usual, and put their names on the dockets. At the close of the session of 1891, the secretary of the Commonwealth sent to the attorney-general the names of 67 employers of counsel and agents who had failed to make sworn statements in accordance with the law. These were classified as follows: making no returns, 8; making returns more than thirty days after adjournment, 28; making imperfect returns, 31. The attorney-general submitted the cases to the grand jury, but no indictments were returned. Since 1891 the attorney-general has sent notice to persons whose names have been given to him as those of employers failing to comply with the law, and they have all thereupon made the required returns. I

have obtained from the records of the attorney-general's office the following figures of registrations and returns for the four years in which the law has been in operation, those for 1894 being incomplete as to returns, which at this writing are not due:

	1891.	1892.	1893.	1894.
Legislative coun- sel.....	163 men. } 223 cases. }	183 men. } 276 cases. }	157 men. } 262 cases. }	142 men. } 231 cases. }
Legislative agents }	49 men. } 66 cases. }	39 men. } 57 cases. }	20 men. } 63 cases. }	17 men. } 28 cases. }
Cases referred to the attorney- general.....	67	36	23	—
Prosecutions.....	o	o	o	—

As to the general working of this law, it is the verdict of all observers that it has made the air of the State-house steadily clearer each year, the number of lobbyists growing smaller at each succeeding session, as the official figures show. Of the seventeen agents registered this year, only seven were professionals—that is, men who have been about the State-house as lobbyists for several years. All these had a miserable year of it, or, as the sergeant-at-arms put it, "were living on apples and cheese." It has been shown that persons and corporations in search of legislation do not like to make public record of the fact, as they are obliged to do if they employ a counsel or an agent. They do not like to have it known, in the first place, that they are hiring men to help them to procure legislation, and they wish to avoid, in the second place, the importunities of agents who rush in for employment as soon as they see a possibility of obtaining it. Publicity, which is a wonderful reform agency wherever it is applied, works, first, to cut down the number of lobbyists by driving away the more pernicious of them, because they dare not register, and, second, to send the more reputable into other occupations by diminishing the number of employers and making the business unprofitable. One bad effect of the law, which was developed during its first three years, seems to have run its course, for it has not been apparent during the present year. Foreseeing that they could not ply their trade thenceforth in the lobby, certain professional corruptionists got themselves elected to the legislature, and plied it on the inside. They would go to the registered employers of counsel and agents, and offer for cash to pass certain measures, threatening to defeat them if their offers were not accepted. There was reason to suspect that something of this kind was done during the first three years of the law, but this year none of the persons suspected reappeared in either house, and that evil appears to have worked its own cure.

Ohio is the only other State which has shown any indication of even a desire to adopt the

Massachusetts method, a bill embodying its principles having been introduced in the Ohio legislature at its last session. So far as I can discover, there are no other State laws bearing upon the subject except the old ones of California and Georgia, the former of which declares lobbying to be a felony, and the latter declares it to be a crime.

Let us now consider the case of New York, in which State, as I have said, the lobby has been superseded by a political boss who dispenses and regulates all legislation. It has been a part of my professional duty for many years to keep close watch upon legislation at Albany, and to examine every bill that was introduced in either house of the legislature. I began to notice four years ago that certain forms of "strikes"—that is, bills against corporations, designed to reduce their profits or otherwise injure them, which had been familiar for many years—were not so plentiful as formerly. This was in the session of 1891. In the session of 1892 a still further diminution was perceptible. In 1893 there was a total void. Not a "strike" of any size or consequence was to be found among the bills from the opening to the close of the session. In 1894 a few of the familiar ones reappeared again, but they were of comparatively slight importance, and were able to make no progress. When the "strikes" began to fall off in 1891, loud complaints were heard from the lobby, and when the supply failed entirely in 1893, the lobbyists disappeared from the capital, and, what was no less significant, members who for years had been notorious legislative jobbers began to complain audibly that there was no longer "anything in the business," since the bosses took all the profits.

The legislature of 1892 was the first one for many years which had in both houses a majority of the same political faith as the governor. This harmonious arrangement had been accomplished by proceedings which afterward became familiar to the whole State because of Judge Maynard's connection with them. It was during this session that my curiosity prompted me to set on foot inquiries as to the reasons for the falling off in anti-corporation legislation. There were rumors in circulation that a new system had been put in operation, and that instead of "sending up the stuff to Albany,"—to quote Mr. Tilden's phrase in description of the lobby method,—a way had been opened for the direct application of the "stuff" in New York city. I asked one attorney of a powerful corporation, who had spent much time at Albany every winter for many years, if he had any information on the point which he could give me. His answer was that he could only say that for the first time since his

connection with the corporation he had not been asked to go to Albany to oppose any measure either in committee or elsewhere. I asked another attorney, whose knowledge of the ways of corporations was intimate and large, what he thought about the matter, and his reply was that if the truth could be got at, he suspected it would be found that every corporation liable to attack at Albany had "bought peace" for itself in New York city.

It should be borne in mind, in order to follow step by step the development of the new system which is now thoroughly established in New York, that no assurance could be given, during the campaign of 1891, in which the legislature and governor of 1892 were elected, that one party would control the entire State government. Whatever system there was in that year for controlling legislation from New York city was put in operation, consequently, after election. When the campaign of 1892 came around, the outlook was much more certain. The Democratic party had the governorship; it had such sway in New York city that it was certain of rolling up a great majority there; its majority in the State Senate was to hold over for another year, and it had an excellent prospect for getting a majority in the lower house, or Assembly. Herein lay the conditions for constructing the new system, which was the simple one of "buying peace" by means of a contribution to a campaign fund. The "word was passed" that every contributor to the Tammany campaign fund would be "taken care of," not merely in the city, but at Albany. For years a request for a contribution to this fund had been recognized as carrying with it a pledge of immunity from various local annoyances, in case it were complied with. Consequently, in 1892 and 1893, when contributions were asked on a more generous scale, and were asked also in the light of recent experience in the new way of disposing of Albany legislation, they were granted with full understanding on both sides as to the ends in view. That these contributions were very large in some instances was admitted freely in private conversation, and the existence of the new system was as well known as that of the old had been. In the campaign of 1893 the system was in full operation, and there was scarcely a corporation in the city of New York, the great center of the corporate wealth of the land, that did not at least have an opportunity to fall beneath its sway.

More or less open allusion to the existence of the system had been made from time to time in the newspapers, but the first public exposure of its operation in specific cases, with names and amounts, was made by Mr. Wheeler H. Peckham in March of the present year. In a speech before a Good Government Club, Mr.

Peckham described the new system in its true light as the successor of the old lobby, declaring that one man, the boss, "says whether a bill shall pass or not," and that to this boss "many pay large amounts 'for peace,' as they put it." He then went on to say that he had heard of one corporation, which he named, that "pays \$50,000 a year for peace," and he knew of another that pays a similar amount for the same purpose. If a man of less character had made these statements, they might have attracted little attention; but Mr. Peckham had, only a few weeks earlier, been nominated by President Cleveland for Justice of the Supreme Court of the United States, and the press of all political parties had agreed in declaring him eminently fitted, by ability and character, for that exalted position. That such a man should make statements like these was a serious matter, and there was a natural expectation that denial or explanation would follow from the corporation named. But, from that day to the present, not a word either of denial or of explanation has been heard. Silence, under such conditions, must be taken as confession.

I was led by this incident to make exhaustive inquiry as to the number of corporate and other interests which, from the nature of their business, would be likely to be called upon to "pay for peace," with a view to obtaining some idea of the gross income of this new system. I made a careful analysis of all the corporations existing under New York laws, and examined the business of those and of all other financial institutions subject in any way to legislative regulation. When the resulting list was completed, I submitted it in turn to eminent legal advisers of the various classes of corporations and institutions embraced in it, for the purpose of eliminating all whose claims to a right to be included were in any way doubtful. I left in none which did not belong to some class in which there were individual members that had, to my certain knowledge, paid something "for peace." As finally revised and sifted, this list contained 2126 names, with an aggregate nominal capital of \$1,890,000,000. These can be subdivided as follows:

With capital less than 1 million.....	1864
With capital ranging from 1 to 5 millions.....	192
With capital ranging from 5 to 25 millions ..	55
With capital ranging from 25 to 100 millions ..	15
Total,	2126

I have not included in this list the foreign steamship companies, though these are all, through Tammany control of the quarantine regulations of the port, as sensitive to the demands of "peace" as any other elements of the organized wealth of the community. A partial

list of the larger groups of susceptible corporations is the following :

Insurance companies.....	170
State banks.....	32
Savings banks.....	25
Street railway companies.....	26
Ferry companies.....	21
Foreign steamship companies.....	37
Domestic ".....	24

Whether all the members of these lists are contributors to the "peace" fund, it is impossible to say, but it is the opinion of the authorities to whom I have submitted them that the great majority of them are. It being an undoubted fact that individual members of each group or class do contribute, it is a logical and reasonable inference that other members do the same; but of course it is mere inference. There are undoubtedly exceptions, for some upon whom the demand is made refuse to accede to it. That the demand itself is made wherever there is a reasonable prospect of success can scarcely be questioned. A system of local government which levies tribute upon all forms of industry in the community, from the wealthiest corporation down to the Italian fruit-vender with his cart in the gutter, is not likely to let anything within its reach escape its clutches without an effort to grasp it. That its demands are systematic and well-nigh universal is the common belief, as was revealed in a remark which the head of a great business-house made recently, when he was asked why he did not form a corporation. "We would," he replied, "were we not afraid that Tammany would strike us the minute we did so." But the strongest testimony of all ever given on this point was that volunteered to the Senate Investigating Committee by Mr. Henry O. Havemeyer, President of the American Sugar Refining Company, known as the Sugar Trust. He said that the trust had made a campaign contribution to local political organizations, and the corporations composing the trust had done it before the trust was formed, and in explanation added: "We have large interests in this State: we need police protection and fire protection; we need everything that the city furnishes and gives, and we have to support these things. Every individual and corporation and firm — trust, or whatever you call it — does these things, and we do them."

As to the objects of the contributions, I have several incidents, of unquestionable authenticity, which leave no doubt upon that point. Toward the close of the campaign of 1893, the president of a powerful and wealthy corporation called a meeting of its directors to consider a special matter. There was some delay in getting them all together, and the meeting was not held till the Friday preceding election

day. When the directors had assembled, the president stated to them that the corporation had been asked to contribute \$15,000 to the Democratic campaign fund. He advocated the granting of the demand, saying that the amount was the same that they had paid the year before, that they had got all they had bargained for, that he considered the payment a good business investment for the company, and that as careful custodians of the interests entrusted to them they could not afford to refuse. The directors voted the payment. It was stipulated by the "peace" negotiators that the money should be divided into three equal parts, one check for \$5,000 to go to a State machine leader, another for the same amount to a local boss, and the third to a campaign-committee fund. The checks were drawn, and were to be called for by one of the beneficiaries on Monday following. They were locked in the company's safe. On Saturday the cashier or other employee in charge of the safe was called away, expecting to return on Monday. He was delayed, the safe could not be opened, and when the checks were called for, the person calling was told that they had been ordered and drawn, but could not be reached for the reasons given; he was told, however, that it was all right, and if he would call on Wednesday, the day after election, he could obtain them. On Tuesday the election was held, and the result showed that the Democrats had lost control of the legislature. When the checks were called for on Wednesday, they were withheld on the ground that the Democratic bosses "had no goods to deliver" in return for the money.

Another instance, no less authentic, is equally illuminating. A meeting of the board of directors had been called a few days before election to consider the question of a contribution of an amount similar to the one in the foregoing case. It was voted to pay it. One of the directors said that in his opinion there was considerable doubt as to the outcome of the election; and he suggested, therefore, that it might be expedient to have the check which had been drawn "mis-laid quite accidentally" till after election. If the Democrats carried the election, he explained, it could be sent to them with a note stating that it had been mis-laid, and no harm would be done. If they failed to carry the election, the check could be destroyed. It was destroyed.

Whatever else these instances show, they reveal a perfect understanding on the part of the contributors as to the real object of their contributions. They are not giving to the campaign fund because they believe in the principles of the party receiving the money, but because they are buying "peace." One prominent head of a great corporation, the "assessment" on which by Tammany in one campaign was

\$100,000, and the regular contribution of which is fully half that amount, says in conversation that he and his corporation are well satisfied with the present system: "We get what we pay for, and think it well worth the money."

While it is probably true that in some instances the "peace" money is paid to protect a corporation in the maintenance of privileges that are hostile to the public interests, in the great majority of cases it is paid to secure immunity from all kinds of blackmailing attacks. Of course, it is itself blackmail, but it is a fixed sum as against an indefinite outlay for defense against innumerable and incessant attacks. All those who refuse to pay it find out sooner or later that it is much cheaper to yield. Not only is the legislative power in the hands of the men who ask the tribute, but the local administrative and police powers as well. A corporation carrying on its work in New York city, and subject to local regulations, will soon find that unless it makes a "peace" contribution, its business is practically at a standstill. I have in mind one instance, the full details of which are in my possession, but would occupy too much space to be set forth here, in which a corporation which had refused to buy "peace" was compelled to fight in the courts, all the way up to the Court of Appeals, for a permit to which it was justly entitled from the local authorities, to carry forward operations under its franchise. It got its rights in the end, but only after more than a year of delay, during which time the development of its business had been virtually stopped, entailing upon it in business injury and legal expenses a loss of not less than \$100,000. A "peace" offering of \$10,000 or \$15,000 would have prevented unquestionably all this annoyance and expense.

Concerning the gross earning-capacity of this system, not even an approximate estimate can be made. I have not been able to discover anything like a regular scale of prices. The corporation which Mr. Peckham says pays \$50,000 a year has a nominal capital of only \$3,500,000. Its liability to harmful legislation is peculiarly great, and in this quality of its business lies its paying ability. That many other corporations pay equally large amounts, I am convinced by information which I have obtained. Among the 15 that have capital ranging from \$25,000,000 to \$100,000,000, there are several which have special reasons for paying heavily for "peace." The same thing is true of the 55 which have from \$5,000,000 to \$25,000,000, and of the 192 which have from \$1,000,000 to \$5,000,000. Contributions which range from \$50,000 a year down through \$15,000 and \$10,000 to a few hundreds pile up a great total very rapidly. I have been given all kinds of guesses as to the grand to-

tal obtainable in a year like that of 1893, when both branches of the legislature, the governor, the quarantine office, and the entire city government were all in control of the same machine. The most conservative authorities have placed it in the millions, ranging from \$2,000,000 to \$4,000,000. This includes not merely "peace" revenue from reputable business enterprises, but that obtained from the liquor-traffic, and from the vice and crime of a great city, the rates of which are being revealed to the public by the Senate Investigating Committee as this article goes to press. As those in charge of these funds at the same time control legislation and all sorts of influence and opportunity, is it a matter of wonder that they rapidly amass great fortunes and expend their money like millionaires with ostentatious profusion?

That other bosses should cast covetous eyes upon so lucrative a system is inevitable, since all bosses are at bottom of the same character, all of them being in politics for corrupt and corrupting purposes. The first essential for the establishment of the system is a machine with a boss at its head whose power is absolute. Tammany Hall, being the most perfect machine of the kind ever known, is able to operate the system more scientifically than any of its rivals or imitators; but when Tammany lost control of the legislature at Albany last winter, there were not lacking signs that a Republican boss, with a machine at his command, seemed disposed to see how the system would work when applied to his party. He could not work it so successfully because he could not command such absolute obedience; but in at least one instance there was reason to suspect that the principle of "paying for peace" had been established by one of the \$50,000 contributors to the Tammany fund. That the Republican politicians of a certain sort had caught a glimpse of the treasures within their reach was shown by their refusal to allow the Corrupt Practices Act to be so amended that every campaign committee would be compelled to make sworn publication, after election, of all moneys received or expended during the campaign. Of course, if it had been made a law, the exact amount which every corporation should contribute would have to be made public, and this would destroy the system. In this fact we find the explanation of the hostility of both parties to such amendment of the law.

It would be a mistake to infer that when the outlook concerning an election is doubtful, no contributions "for peace" are made. In such campaigns they are made in smaller sums to both sides. "We always give to the funds of Tammany Hall, the County Democracy, and the Republicans," said the head of a great corporation who was asked for a contribution a

few years ago. He was making himself "solid" with all sides, in the way in which Jay Gould declared that he was wont to do in the old Erie campaigns: "In Republican counties I was a Republican, in Democratic counties I was a Democrat, in doubtful counties I too was doubtful, but in all counties I was an Erie man."

I HAVE made inquiries of high authorities in other States containing large cities to ascertain if the "peace" method has gained any foothold there. Of course a large city is one essential to its establishment, and the existence of a machine with an autocratic boss is another. I find that Maryland and Pennsylvania are the only States except New York in which anything of the kind has been established. Maryland appears, in fact, to be entitled to the honor of inventing the system, for it came into being in that State early in the seventies. The political bosses established soon after 1870 what has since been known as the "Grandmother's Fund." Into this were poured all the "assessments" upon office-holders, all the voluntary contributions, and all the "peace" money which was levied upon corporations. At one time the "peace" tariff was a uniform one of 15 per cent. upon all bills "with money in them" which came before the legislature. Subsequently, the New York method of proportioning the levy to the liability of the corporation to injury, and to its ability to pay, was adopted, and single contributions sometimes rose as high as \$30,000. At least two treasurers of the fund have become very rich men while holding the position.

In Pennsylvania the system has been put in operation only to a limited extent, and at somewhat widely separated intervals. In Massachusetts and Illinois it is entirely unknown. But it will spread to other States in time, unless steps are taken to prevent it. If the principle once becomes general that any corporation within the regulating control of a legislature can obtain the treatment it desires by a contribution to a campaign fund, every State will succumb to it, for there is untold "money in it for politics." Campaign committees exist in all States, with or without bosses, and they will not beslow to discover this method of swelling their funds. Party committees, like bosses, can control the action of members of the legislatures. If they have the funds in their hands, they can expend them in the elections for legislative candidates, on the understanding that after election these candidates shall take no action which the contributors will dislike. When an advocate of a measure in the public interest, who had tried in vain to find some member of the majority at Albany who would introduce his bill

a few years ago, asked in great perplexity why they all refused to touch it, the leader of the majority in one house said: "Why, the corporation whose profits your bill would reduce paid \$50,000 into our campaign fund last year. Any of our members who should even introduce that bill to the legislature would never be permitted by the machine to get a nomination again." That would be the effect of the system everywhere. The lobby would be abolished, corporations would cease to have dealings with individual members, as has been their custom heretofore in nearly all our legislatures, and legislation with money in it would all be contracted for with the campaign committees before the members were elected.

The remedies for this condition of affairs are not far to seek. I have mentioned one in the requirement of sworn publication, after election, of all receipts and expenditures by campaign committees as well as by candidates. That is in force now in Massachusetts, Missouri, California, Colorado, and Kansas. No corporation would venture to contribute such a sum as \$50,000 if the fact were to be published, for the size of the contribution would of itself be proof of the bargain, expressed or implied, which was behind it. Another remedy, and the only one which can work a radical and lasting cure, lies in the awakened moral sense of the people who buy the peace. There has never been a time when these by combining and exposing their blackmailers could not have destroyed the system and driven its operators from politics forever. They not only keep silent about the levies that are made upon them, but many of them refrain from active participation in public affairs lest they may give offense to their oppressors. It is notorious that a reform movement can seldom hope to command the open sympathy and support of great corporations or great property owners. Not only do these by their "peace" offerings sustain corrupt and ignorant and debasing rule, but they also abstain from all assistance to those who are seeking to free republican institutions from the shame and burden of that rule. Such a condition of things cannot long endure. It is defended now on the plea that the interests of thousands of investors are at stake, and it is held to be cheaper to buy peace than to enjoy it as a right by securing honest government through active and vigilant performance of the duties of citizenship. Sooner or later it will be seen that there is something of far greater moment than private or corporate interests involved in this question, and that under popular government peace at the price of liberty, and at the sacrifice of patriotism, is bought too dearly to be worth the having.

Joseph B. Bishop.