A Corrupt Practices Act for Maryland

Richard W. Emory

Follow this and additional works at: http://digitalcommons.law.umaryland.edu/mlr

Part of the Election Law Commons

Recommended Citation
Richard W. Emory, A Corrupt Practices Act for Maryland, 4 Md. L. Rev. 248 (1940)
Available at: http://digitalcommons.law.umaryland.edu/mlr/vol4/iss3/2

This Article is brought to you for free and open access by the Academic Journals at DigitalCommons@UM Carey Law. It has been accepted for inclusion in Maryland Law Review by an authorized administrator of DigitalCommons@UM Carey Law. For more information, please contact smccarty@law.umaryland.edu.
A CORRUPT PRACTICES ACT FOR MARYLAND

By RICHARD W. EMORY*

Election legislation may truly be called the foundation of democratic government for under its provisions the people exercise their supreme right of electing representatives and participating in legislation. If the emphasis on the Constitution, the Bill of Rights and democracy is at all sincere, there should be a compelling demand for the best election administration that human effort can devise.

The Brookings Institute recently sponsored a study of election legislation. The result was the publication in 1934 of Harris, "Election Administration in the United States," which contains a model election code for enactment by the several States. This study is mentioned because a Commission on Obsolete Laws appointed by Governor Ritchie recommended1 in 1929 that the Maryland election code be revised. A joint resolution2 requesting the Governor to appoint a Commission to re-codify Article 33 passed the 1929 General Assembly, but nothing was done. A similar resolution3 introduced in 1937 was ignored. If more material steps to revise Maryland's election law are taken before the Brookings Institute's study is out of date, it will be well to remember this model code. In the meantime, rather than to compete with the Brookings Institute, which concerned itself with election personnel, ballots, voting, counting of ballots and contests, this article will discuss another type of election legislation, the Corrupt Practices Act.


2 Md. Laws 1929, J. R. 8, p. 1427. The Commission which was appointed reported to the Governor in 1931 as follows: "We have carefully examined the provisions of Article 33 of the Code of Public General Laws and find there are so many inconsistencies, duplications and unnecessary data we recommend that the said Article 33 be re-codified and for the purpose of carrying out this work recommend that a Commission be appointed and that the necessary funds for the carrying out of this work be appropriated."

3 S. J. R. 6, 1937 General Session.
In the 1938 Democratic primary the successful Gubernatorial candidate and his nearest rival reported expenditures of $69,263.00\(^4\) and $65,691.00.\(^5\) At the same time the successful Senatorial candidate spent $88,814.00\(^6\) to defeat an opponent who spent $37,819.\(^7\) A further $99,241.00\(^8\) was expended to elect the Democratic ticket in the ensuing general election. In the 1939 Democratic primary the successful candidate for Mayor of Baltimore spent $46,999.00\(^9\) while the contest cost his opponent $26,923.00.\(^10\) Aside from these general figures, which clearly indicate that large sums are spent, no study of money in Maryland elections has been made in the preparation of this article, and the records necessary for such a study would, no doubt, have been found non-existent had one been attempted. The purpose of this article is to present briefly some ideas of those who have made general studies of the problem of money in elections and the legislation of other states.\(^11\) From these a so-called model Corrupt Practices Act has been drafted and is proffered herewith for such consideration as it may deserve.

Unrestrained use of money by candidates and parties in elections results in the buying of votes, directly or indirectly, and a general weakening of the democratic process. The candidate with money can buy or bully his way to election, whereas one so unfortunate as to be without

\(^4\) The Sun, October 4, 1938, p. 24, col. 2.
\(^5\) The Evening Sun, October 1, 1938, p. 16, col. 4.
\(^6\) The Sun, October 4, 1938, p. 24, col. 1.
\(^7\) The Sun, October 13, 1938, p. 20, col. 8.
\(^8\) The Sun, November 26, 1938, p. 20, col. 8.
\(^9\) The Sun, May 3, 1939, p. 26, col. 5.
\(^10\) The Sun, loc. cit. supra n. 9.
\(^11\) It is impossible to discuss all the problems raised by money in elections and the numerous legislative enactments and proposals within the compass of a short article such as this, the purpose of which is to awaken interest in Maryland's Corrupt Practices Act and to recommend changes therein. Overacker, Money in Elections (1932) and Rocca, Corrupt Practices Legislation (1928) are thorough studies with excellent discussion of legislation in this country and elsewhere. Senate Document 11, 75th Congress, 1st Session is a compilation of Corrupt Practices Acts in the United States as of 1937. See also Pollock, Party Campaign Funds (1926); Sait, American Parties and Elections (1927), Ch. XX; Horne, Corrupt Practices Legislation in Maine (1929), and Brooks, Political Parties and Electoral Problems (3rd ed. 1936). I regret that I did not have access to Sikes, State and Federal Corrupt Practices Legislation (1929).
strong financial backing cannot hope for success. Down through the ages democracies have realized the necessity of preventing the rich candidates from controlling elections by the sheer weight of their money bags. “The Greeks had a word for it” when they prohibited bribery and treating. In Rome the amount which might be spent on festival meals and delicacies was restricted, and a law sponsored by Cicero prohibited a candidate from giving a gladiatorial show within two years of announcing his candidacy. In Maryland the Constitution states that “the right of the people to participate in the Legislature is the best security of liberty and the foundation of all free government” and directs the General Assembly to “pass laws necessary for the preservation of the purity of elections.”

For years in this country no restraint was placed on the expenditure of money in elections, but in 1890 New York adopted another English precedent, the British Corrupt and Illegal Practices Act of 1883, which is still spoken of as the best legislation yet enacted for the democratization of money in elections. Other States followed suit one by one, with Maryland enacting its present law in 1908. Today all but Illinois, Rhode Island, South Carolina and Washington have some form of corrupt practices legislation. It is interesting to note that the only other nation to mimic England in this respect is Japan. No doubt, a great deal of honest and painstaking endeavor has gone into the drafting and passage of these laws; nevertheless, Frank Kent assures us that “no law has yet been enacted through which the politicians cannot drive a four-horse team”.

The Maryland law, in brief, applies to both primary and general elections; requires all contributions to be made

12 OVERACKER, op. cit. supra n. 11, 8.
13 Ibid., 11 and 12.
14 Md. Const. (1867) Decl. of Rights, Sec. 7.
15 Md. Const. (1867) Art. III, Sec. 42.
16 See ROCCA, loc. cit. supra n. 11 for a good short history of Corrupt Practices Legislation.
17 OVERACKER, op. cit. supra n. 11, 210.
18 THE GREAT GAME OF POLITICS, 114.
in the name of the person contributing; prohibits contributions by corporations; authorizes candidates to appoint political agents and treasurers to assist their candidacy; requires every political party or other combination of two or more persons engaged in political activity to appoint a treasurer and prohibits such combination to accept contributions and make expenditures except through such treasurer; specifies items for which treasurers and candidates may make expenditures; limits expenditures by candidates to $10 for each 1000 votes up to 50,000 and $5 for each 1000 votes in excess of 50,000; requires candidates, political agents and treasurers to file post-election statements of contributions and expenditures; and demands that political literature designate those responsible for its publication. This law compares favorably with the product of other States and is said to be equally accommodating to a four-horse team.21

Irrespective of recommendations for substantive changes in the Maryland law, a linguistic renovation is a consummation devoutly to be wished. With all due respects to the Reform League lawyers responsible for the passage of the present law, the draftsmanship is unnecessarily verbose and confusing. A reading of any section, particularly Section 184, of the present law is all that is necessary to prove this statement.

Another factor deserving comment here is what should be the scope of a Corrupt Practices Act. Certainly, it should apply to primary as well as general elections. It would also seem proper to subject to its provisions not only all candidates for public office, but also those candidates for any party office which is required to be filled by vote at a public election. It may well be, however, that candidates for certain minor offices should not be required to file detailed reports of contributions and expenses as explained hereafter.

21 Kent, loc. cit. supra n. 18.
Publicity

The most important function of corrupt practices legislation is to publicize the use of money by candidates, parties, and others engaged in political activity. Then only can it be known whether money is being used improperly to buy elections and destroy democratic processes. "Publicity of contributions as of expenditures—pitiless, continuous and intelligent publicity, extending to non-party as well as party organizations—is the least that a democracy should demand." The following recommendations are submitted as necessary for the realization of this minimum demand:

1. Responsibility for the collection and disbursement of funds should be centralized by restricting such activity to candidates and others duly appointed for that purpose. This narrowing and marking the channels through which political funds may flow is the first step in regulation, for it is impossible to watch the use of money left to follow its own devious courses.

2. Candidates and others who handle political funds should file complete reports of their fiscal affairs. These reports should cover not only campaign activities, but all contributions and expenditures for political purposes. Centralization of responsibility having narrowed the channels to a width that can be watched, this second provisions gages the flow.

3. Reports should give the name and address of persons contributing over a certain amount, such as twenty-five dollars. This is designed to disclose the source of funds, and since almost all contributions are in larger amounts than twenty-five dollars, it is possible not to require naming the source of small contributions and at the same time to give a fairly complete picture.

4. Reports should give the names and addresses of persons to whom expenditures are made, and the reason for each disbursement.

\[22\] Overacker, op. cit. supra n. 11, 202. See also Pollock, op. cit. supra n. 11, 263 and Rocca, op. cit. supra n. 11, 31.
These four elementary requirements of publicity need no further introduction or comment for they have been in the Maryland law for over thirty years. Of more importance at this time are the following recommendations which have not been adopted by the General Assembly.

5. Signed expense vouchers showing the person to whom each expenditure is made and its purpose should be filed with each report. This additional check on expenditures appears in the laws of Delaware, New York, Pennsylvania, Oregon and many other States. New Jersey has an interesting law which goes even further and which it might be well to copy. Every candidate for Governor, United States Senator or Representative in Congress and other candidates permitted to spend $500 or more must appoint a manager, who in turn must designate a bank in which all contributions must be deposited and on which all expenditures must be drawn. Within twenty days after an election the cashier of the bank must file all deposit slips and all expense vouchers in the order of their respective dates.

6. A uniform system of accounting and preparation of reports which is intelligible to the average voter should be prescribed and its observance enforced. The importance of this recommendation cannot be overestimated for a common failing of the laws of all the various states is the omission of such a provision. The result is that the reports filed today in Maryland and elsewhere are worthless, and the publicity provisions are a nuisance without compensatory public enlightenment.

7. Candidates, parties, and others permitted to make political expenditures should be required to keep from day to day account books in which are recorded all contributions and expenditures and any interested voter, including opponents, should have access to these books. Such

---

23 Code (1935), Sec. 1965.
24 Cahill's Consolidated Laws (1930), Ch. 16, Sec. 326.
25 Statutes (1936), Title 25, Sec. 1011.
26 Code (1930), Sec. 36-2412.
27 Revised Statutes (1937), Title 19, Ch. 40.
28 Pollock, op. cit. supra n. 11, 242.
a provision should operate as a natural deterrent from unlawful activities, especially if falsification of the account books is criminally penalized.

8. Pre-election statements as well as post-election reports should be required in order that the voter may be informed before he casts his vote. Alabama,\textsuperscript{29} California,\textsuperscript{30} Florida,\textsuperscript{31} Kentucky,\textsuperscript{32} Minnesota,\textsuperscript{33} New Jersey,\textsuperscript{34} New York\textsuperscript{35} and other states have for many years required pre-election reports. A recent Maine statute\textsuperscript{36} requires pre-election statements to be published in a newspaper on the 25th day, 15th day and the Friday preceding an election.

9. Some sort of bureau under the supervision of a non-partisan director or board to examine and audit all statements should be created.\textsuperscript{37} This bureau should give the representatives of the press from time to time before any primary or general election the pertinent facts about the financing of the campaign as gleaned from pre-election reports, and after the election should prepare a summary and analysis of the campaign in comparison with previous campaigns. The bureau should also publish annually or biennially a pamphlet containing the statements that have been filed with it and should have such further general powers as necessary for the enforcement of the Corrupt Practices Act. Without going into the pros and cons of more bureaucracy, it would seem sufficient to point out that unless some system is established for digesting fiscal statements of political contributions and expenditures, their existence is superfluous. If the reports are not inspected and audited, dishonest individuals have nothing to fear from the law and honest ones will not waste time in the preparation of comprehensive statements

\textsuperscript{29} Code (1929), Sec. 598.
\textsuperscript{30} Code of General Laws (1931), Act 2263, Sec. 2.
\textsuperscript{31} General Laws (1927), Sec. 421.
\textsuperscript{32} Statutes (1936), Sec. 1565b-4.
\textsuperscript{33} Statutes (1927), Sec. 556.
\textsuperscript{34} Revised Statutes (1937), Title 19, Ch. 44.
\textsuperscript{35} Cahill's Consolidated Laws (1835 Supplement), Ch. 16, Sec. 322-a.
\textsuperscript{36} Revised Statutes (1930), Ch. 7, Sec. 22, as amended by Acts of 1931, Ch. 263.
\textsuperscript{37} See Hormell, \textit{op. cit. supra} n. 11, 17 and Overacker, \textit{op. cit. supra} n. 11, 391.
only to have their sweetness wasted on the desert air. There are too many elective offices, too many reports filed each year and too much data in each statement for the individual voter to digest. How many voters go to the clerks of the Circuit Courts to check up on campaign expenditures? If they went, how many would have the time and patience to solve the puzzling accounts that await them? Regulation of the collection of taxes, public utilities, banks, insurance companies, race tracks, etc. is not effectuated in Maryland by requiring the filing of reports whose inspection and digestion is left to the appetites of particularly hungry private citizens.

Although this recommendation is probably the most important of all, no state has a bureau or board to handle such matters. Only a handful of States, Connecticut, Montana, North Carolina, Oregon, and Wyoming require a public official to examine the fiscal statements. Georgia and Maine require that they be published in a newspaper, while Oregon requires publication in the annual report of the officer with whom they are filed.

It is inconceivable that the General Assembly will create an independent bureau within the near future, but it would not seem to be asking too much to request a central filing office. Today if a candidate lives in one county and his campaign manager in another, their reports are filed at their respective residences, which may be in widely separated localities. It would seem far preferable for a central state office, such as the Secretary of State's, to act as a clearing house for information on political contributions and expenditures. With respect to county or municipal offices, it might be desirable to retain the present system to the extent of having duplicate reports filed at

\[\text{References}\]

38 Miss Rocca lists ten states. See Rocca, op. cit. supra n. 11, 18.
39 General Statutes (1930), Sec. 687.
40 Revised Code (1935), Sec. 10779.
41 Code (1935), Sec. 6055 (a 54).
42 Code (1930), Sec. 36-2414.
43 Revised Statutes (1931), Sec. 36-2006.
44 Code (1933), Sec. 34-2001.
45 Revised Statutes (1930), Ch. 7, Sec. 22, as amended by Acts of 1931, Ch. 263.
46 Code (1930), Sec. 36-2417.
the candidate's residence where they will be more accessible to his constituents. The Secretary of State should also be directed to examine all reports and empowered to require an audit of any of which he is suspicious. There should be a provision for publishing the statements either annually or biennially in some sort of pamphlet distributed to any voter upon request.

10. Finally, there should be a court procedure whereby any voter may require an examination and audit of the fiscal affairs of any one permitted to handle political funds and required to file reports. This provision affords an additional means of checking contributions and expenditures. The Maryland law has contained such a procedure since 1908, but it can be greatly simplified by redrafting.

CONTRIBUTIONS

The contribution of political funds is as much a part of the democratic process as "the right of the People to participate in the Legislature" by voting and should be kept as inviolate. There are the bribery laws and the secret ballot to protect the right to vote, and comparative regulation of contributions would seem necessary to prevent coercion, graft and undue influence in the solicitation and use of money in elections.

1. It is submitted that the right to contribute should be restricted to natural persons. Such a restriction is an extension of the Maryland law prohibiting corporations from making contributions for it includes partnerships, labor unions, associations, and any combination of two or more persons. The reason for this is that every corporation and combination represents concentration of control of the capital of many in the hands of a few officers or directors. It is as undemocratic to permit those officers or directors to make political contributions for the many as it would be to allow them to vote for the many. Contributing funds to procure the control of governmental policy should be kept a personal right and privilege.
2. It is further submitted that contributions to any one candidate or party during any calendar year or for use in any one campaign should be restricted. Large contributions are the source of so great a percentage of political funds that "the present method of financing political campaigns threatens popular control of the party and eventually of the government." In Nebraska contributions are restricted to $1,000 for any one campaign. The somewhat more liberal and admittedly arbitrary limitation placed in Section 11 of the Act proffered herewith should at least partially equalize the power of people with money and those without it to influence elections.

3. The better to assure the disclosure of large contributions, individuals who contribute $200 or more to any candidate or party during any calendar year or any one campaign should be required to file a statement to that effect with the Secretary of State. This check on large contributions is also borrowed from Nebraska.

4. In order to equalize the competitive position of candidates with and without personal fortunes and to prevent a wealthy candidate from purchasing an election for himself and his ticket, it would seem desirable to restrict expenditures by a candidate for his own use to some amount such as 10% of the annual salary of the office and to prohibit all other contributions by a candidate except for an equal sum for the use of his party. Such a provision extends the restrictions in the Maryland law on expenditures by candidates in that it adopts the Florida law, which prohibits a candidate from contributing to the campaign of another candidate and also limits the amount which a candidate may give to his party.

5. Wherever the relationship between the solicitor and voter is such as to threaten coercion and undue influence in the procurement of political funds, it would seem desirable to prohibit solicitation and to protect the voter's right to exercise his own free will in making contributions. Con-

---

47 Overacker, op. cit. supra n. 11, 197.
48 Compiled Statutes (1929), Sec. 32-2022.
49 Compiled Statutes (1929), Sec. 32-2023.
50 General Laws (1927), Sec. 8193.
necticut,\textsuperscript{51} Massachusetts,\textsuperscript{52} Pennsylvania,\textsuperscript{53} many other States and the United States\textsuperscript{54} have half-hearted laws which prohibit soliciting public employees; others, such as Iowa,\textsuperscript{55} prohibit public employees from making any contributions whatsoever; and a third group of states forbid contributions from particular classes of citizens, for example, Ohio’s mine inspectors.\textsuperscript{56} The best course would appear to be to permit the contributions if freely made but to prohibit solicitation. The same rule should apply to employers and employees, for an employer should not be permitted to dictate how his employee shall contribute any more than he may direct how he shall vote.

\textbf{EXPENDITURES.}

The popular method of regulating expenditures is to limit the amount which may be spent. This is generally considered inadequate for several reasons:\textsuperscript{57} (1) A legitimate campaign is expensive. A candidate for an office filled by state-wide vote cannot hope to reach the voters without considerable expense. This is equally true in many cases where the office is filled by the vote of a subdivision of the state, for instance, representative to Congress or Mayor of Baltimore. (2) Large expenses are often necessary to equalize the advantage of a candidate who is supported by a political machine, incumbent in office, backed by a newspaper, or graced with a pretty wife. (3) No scientific measure of “fair” cost of an election has been devised; hence it is unfair to distinguish between legitimate and corrupt expenditures merely by their size. (4) Such a law is too easily avoided and impossible to enforce. While it would seem no more difficult to enforce a law limiting the size of expenditures than one restricting the purpose for which they may be made, listing the items for which

\textsuperscript{51} General Statutes (1930), Sec. 2054.
\textsuperscript{52} General Laws (1932), Ch. 55, Sec. 15.
\textsuperscript{53} Statutes (1936), Title 18, Secs. 1741-1744.
\textsuperscript{54} Criminal Code, Secs. 118-121.
\textsuperscript{55} Code (1935), Secs. 3279, 5713, 6538.
\textsuperscript{56} General Code (1936), Sec. 12936.
\textsuperscript{57} See \textit{Rocca, op. cit. supra} n. 11, 28 and \textit{Overacker, op. cit. supra} n. 11, 95.
political funds may be dispersed would seem preferable to an arbitrary limitation in size. Section 19 of the model Act proffered with this article is submitted as a proper list of what should be considered legitimate expenses.

Election day expenses deserve special consideration because they are freely permitted under Maryland law and are generally regarded as a constant source of corruption. Payments for automobiles and workers to carry voters to and from the polls and disbursements to "runners" and other election day hangers-on are considered such convenient loopholes for buying votes and paying certain individuals for procuring a number of votes that it would seem advisable to prohibit all expenditures for election day services, except those for watchers at the polls. It is said that such a curtailment of election day expenses will not only eliminate a constant source of corruption but will also cut campaign costs one-fourth to one-third. Two previous attempts to repeal Maryland's law permitting renting of automobiles and carrying voters to the polls have failed; but with the statutes of Minnesota, Oregon and other States as an example, it is to be hoped that a third effort would prove more successful. The best course would seem to be to prohibit every expenditure for any service or work performed on election day except limited payments to watchers at the polls.

Another expenditure which many States, such as Alabama, Louisiana, Minnesota, New Hampshire, New York and Wisconsin have prohibited is any donation or contribution by a candidate to any charitable, religious,

58 Overacker, op. cit. supra n. 11, 393. An unsuccessful Gubernatorial candidate in the 1938 Democratic primary reported election day expenses to be $25,645.00 and total expenses to be $65,691.00. See The Sun, October 2, 1938, p. 20, col. 1, and The Evening Sun, October 1, 1938, p. 10, col. 4.
59 H. B. 216, 1912 Session, and H. B. 266, 1918 Session.
60 Statutes (1927), Sec. 550.
61 Code (1930), Sec. 36-2431.
62 Code (1929), Sec. 600.
63 Session Acts (1934), Ch. 111, Secs. 24 and 25.
64 Statutes (1927), Sec. 543.
65 Public Laws (1925), Sec. 8.
66 Cahill's Consolidated Laws (1930), Ch. 41, Sec. 779.
67 Statutes (1935), Sec. 12.12.
educational or fraternal organization. Such legislation has the two-fold purpose of preventing candidates from giving favors to groups of individuals for blocks of votes and to protect candidates from the petty graft and tribute exacted by such organizations; so it is also made unlawful to solicit any such donation or contribution. There has been one previous attempt to enact such a law in Maryland. Since there would seem to be no difference in this regard between a charitable or fraternal organization and a business corporation or labor union, except that the first-named have in the past been more demanding, it is submitted that Maryland should adopt the New Hampshire law prohibiting every organization or association from soliciting money or other favors from candidates.

MISCELLANEOUS.

There are several miscellaneous recommendations within the jurisdiction of Corrupt Practices legislation which cannot accurately be classified as regulation of contributions and expenditures:

1. Political literature and advertisements should designate those responsible for its publication. Maryland already has such legislation, but it is submitted that it can stand redrafting.

2. State aid for poor candidates is one of the greatest problems raised by money in elections in view of the futility of a candidacy without strong financial backing. One proposal to remedy this situation is for the state to publish and circulate pamphlets in which every candidate is given equal advertising space. Five of the seven states which have enacted legislation for such state-aid advertising repealed their laws without even a test flight, but Florida and Oregon have administered their acts with reputed success. Another recommendation is to permit schools and other public buildings to be used for political meetings at a nominal expense. Because the Act proffered with this article is designed to regulate collection and dis-

68 H. B. 266, 1918 Session.
69 \textit{Overacker}, \textit{op. cit. supra} n. 11, 318.
bursement of funds, it contains no provisions on state aid for poor candidates, but such proposals deserve considerable thought and could easily be added should they find support.

3. Similarly, it has been proposed that public funds be granted to parties for the financing of campaigns. The first President Roosevelt suggested that public funds be used to support the major parties. In 1909 Colorado passed an Act directing the state treasurer to give each party twenty-five cents for each vote cast for its gubernatorial candidate in the next preceding election, but this novel statute was promptly declared unconstitutional by the Supreme Court of the State. Such recommendations are mentioned as interesting attempts to democratize the collection of political funds and to release parties from the necessity of relying upon a handful of rich men for their resources, but the desirability of having the state support political factions would seem doubtful.

Sanctions.

The word sanctions is first used to indicate the statutory provisions for enforcing a Corrupt Practices Act. The customary weapons are fine, imprisonment, withdrawal of a candidate's name from the ballot, forfeiture of office, and disfranchisement of the right to vote and hold office. It is interesting to note that in Maryland the Constitution makes disfranchisement the penalty for buying and selling votes. Enforcement should be further enhanced by publicity features requiring reports to be inspected by public officials and permitting a voter to require an investigation and audit of the fiscal affairs of a candidate, party or organization engaged in political activity. Another sanction which appears as Section 187 of the present Maryland law and which may also be found in other States is a court

---

70 Congressional Record, December 3, 1907, p. 78.
71 Session Laws, 1909, Ch. 141.
72 People ex rel Bradley v. Galligan, sustaining of demurrer to petition affirmed without opinion on October 10, 1910. This case apparently is unreported. See OVERACKER, op. cit. supra n. 11, 318.
73 Md. Const. (1867), Art. I, Sec. 3.
procedure by which a voter or group of voters may have an election set aside because the successful candidate has violated the Corrupt Practices Act.

But the fundamental reason for a Corrupt Practices Act is not its enforcement but is the democratization of money in elections and the prevention of bribery, coercion, graft and undue influence in the election of the representatives of the people and the participation of the people in the legislature, which is the essence of democracy. Viewed in this light, the word "sanctions" or the methods that exist for the realization of policies, has the far broader significance of what sort of legislation is most desirable. Maryland’s primary need is adequate information on political contributions and expenditures and the cost of public office. Until intelligent and thorough reports are required to be filed, it is impossible to know how great is the problem or exactly what it is. When such information has been obtained, legislation far different from what is here proposed may be found wanting.

Enactment of a Corrupt Practices Act is one of the most difficult tasks that can be conceived. It is nigh impossible to persuade the General Assembly to take any action which will cramp "the great game of politics"; nor does the general public take any interest except during the exposure of a scandal. Enforcement is an equally perplexing problem for there can be no doubt that the possibilities of Maryland’s present law have never been realized. While no law is ever better than those who administer it, it would seem possible to procure a greater efficiency in administration by a greater stringency in regulation. With this thought, the following Corrupt Practices Act is proffered, not as something perfect, but as something a little better, if only in simplicity of language, than what is now on the Maryland statute books.
APPENDIX.

PROPOSED CORRUPT PRACTICES ACT.

DEFINITIONS.

Section 1—For the purposes of this Act, unless otherwise required by the context:

(a) The word "person" means any natural person, male or female.

(b) The word "association" means any firm, corporation, association or group of individuals.

(c) The word "candidate" means any candidate for nomination or election to any public or party office, which is required by law to be filled by the vote of the legally qualified voters of this State or any subdivision thereof.

(d) The word "election" means any primary, general or special election, or any referendum or other balloting by the legally qualified voters of this State or any subdivision thereof.

(e) The term "political committee" means any association which promotes, aids or participates in the success or defeat of any candidate, political party, or proposition submitted to the vote at any election, or which collects or expends money or anything of value for political propaganda in connection with any election. A newspaper is exempt from this definition provided its participation in the success or defeat of any candidate, political party or proposition submitted to the vote at any election is limited to the publication of advertisements, news and editorials.

(f) The term "political party" means any political committee which nominates a candidate for any public office.

(g) The words "political treasurer" and "treasurer" mean the treasurer of any candidate, political party or subdivision thereof, or political committee, who is appointed under the provisions of this Act, and includes any candidate who has appointed himself his own political treasurer.

(h) The word "contribution" means any gift, loan, sale, transfer or promise of money or anything of value, directly or indirectly, to any candidate or treasurer to promote, aid or participate in the success or defeat of any candidate, political party or proposition submitted to the vote at any election, or to engage in political propaganda in connection with any election.
The word "expenditure" means any gift, loan, sale, transfer or other disbursement or promise of money or anything of value, directly or indirectly, to promote, aid or participate in the success or defeat of any candidate, political party or proposition submitted to the vote at any election, or to engage in political propaganda in connection with any election.

The word "statement" means a report of contributions and expenditures required to be filed by Sections 5 and 6 of this Act.

**Publicity.**

**Section 2—**

Before any contribution shall be accepted or expenditure made, every candidate and political committee shall appoint a person to act as political treasurer and shall certify his name and address to the Secretary of State, who shall keep a record of all such appointments. A candidate may appoint himself his own political treasurer, but may not act as treasurer for another candidate, and no person shall at the same time act as treasurer for more than one candidate or political committee, or for a candidate and a political committee.

**Section 3—**

Every political party shall appoint a treasurer for its State Central Committee and a treasurer for each County in which it makes any political expenditure and a treasurer for the City of Baltimore if it makes any expenditure in that City, and shall certify the name and address of such treasurers to the Secretary of State, who shall keep a record of all such appointments. No person shall at the same time hold more than one such position of treasurer, nor shall any such party treasurer be at the same time political treasurer for any candidate or political committee.

**Section 4—**

It is unlawful for any person or association, except political treasurers, to make any expenditure, but any person may make, subject to the provisions of this Act, a contribution provided it be made to someone who has been appointed a treasurer and whose name has been filed with the Secretary of State in accordance with the provisions of Section 2 or 3.
Section 5—

Every treasurer shall, on the second Saturday after such treasurer for the first time accepts any contribution or makes any expenditure and thereafter on the second Saturday of each calendar month so long as he continue to accept any contribution or to make any expenditure and also on the Saturday preceding any election, file with the Secretary of State a financial statement of all contributions received and all expenditures made. Each statement after the first shall contain a summary of all preceding statements and all items theretofore reported under the provisions of this Act. Every statement shall be verified under oath by the treasurer making it to the effect that to the best of his knowledge and belief it is an accurate and complete report of contributions received and expenditures made.

Section 6—

The treasurer for a candidate for a public office filled by the vote of the legally qualified voters of a subdivision of the State as distinguished from an office filled by the vote of all the legally qualified voters of the State shall file duplicate financial statements with the Clerk of the Circuit Court of the County in which the candidate lives or the clerk of the Superior Court of Baltimore City if the candidate lives in Baltimore City. Such statements shall be retained for two years and shall be open to public inspection during regular business hours.

Section 7—

Every statement filed in accordance with the provisions of Sections 5 and 6 shall give in detail:

(a) The sum total of all contributions received and unreported in a preceding statement, if any, together with the sum total of contributions received and reported in each statement or statements previously filed and the sum total of contributions to date.

(b) The name and address of every person who has given a contribution that alone or when added to other contributions by the same person amounts to $25.00 or more, and also the sum total of each person's contribution or contributions. It is unnecessary to report the name of any such contributor of $25.00 or more in more than one statement except where such a person makes a contribution in addition to what has been previously reported in a statement, in which case the additional and total contributions
of that person shall be reported in the statement next succeeding the additional contribution. In each statement the total contributions received to date from contributors of $25.00 or more shall be stated.

(c) Every expenditure made and unreported in a preceding statement, if any, together with the name and address of every person or association to whom any expenditure was disbursed, and the expenditures properly grouped according to the items for which expenditures are allowed by Section 19 of this Act. Each statement shall give the total expenditures for each item; the total expenditures for each item reported in the statement or statements previously filed; the sum total to date for each item; and the sum total of all expenditures to date.

(d) Expense vouchers for each expenditure made and unreported in a preceding statement, if any; and

(e) Such further information as the Secretary of State may require in order to effectuate the purposes of this Act.

Section 8—

The Secretary of State shall:

(a) Provide forms for the furnishing of information required by Sections 2, 3, 5, 6 and 15 of this Act.

(b) Prescribe a uniform system of accounting for statements required by Sections 5 and 6.

(c) Examine each statement before accepting it to determine whether the requirements of this Act have been fulfilled;

(d) Employ competent persons to audit any statement when he believes that the provisions of this Act have been violated or when he is ordered to do so by a court of competent jurisdiction;

(e) Preserve all statements and other matter filed under the provisions of this Act as permanent records of his office and permit public inspection of such records during regular business hours;

(f) Publish on or before the 1st of March in each year a pamphlet containing all statements filed in his office under the provisions of Sections 5, 6 and 15 of this Act during the preceding calendar year; and

(g) Do anything else that he may deem necessary and proper to effectuate the purposes of this Act.
Section 9—

Every treasurer shall keep account books in which he shall enter each contribution as it is received and each expenditure as it is made. These books shall be kept at each treasurer's campaign headquarters or at his principal office or place of business if he have no campaign headquarters, and shall be open to public inspection during regular business hours.

Section 10—

Any legally qualified voter of this State may, at any time prior to 30 days after the filing of the last and final statement of contributions and expenditures, file a petition in the Circuit Court of any County or the Superior Court of Baltimore City for a writ of mandamus directing the Secretary of State to have the statement or statements of any candidate or treasurer audited. Such a petition shall be given precedence over the other business of the Court. Any treasurer, candidate, political party or political committee named in such a petition shall be given notice to appear at the hearing which shall be held not more than ten days after the filing of the petition. If the Court be satisfied from testimony or other evidence produced at such a hearing that there are reasonable grounds for the belief that the requested audit of any statement or statements will disclose violation of this Act, then the Court shall issue a writ of mandamus directing the Secretary of State to conduct such an audit at public expense. If the Court not be satisfied from the testimony or other evidence produced at such a hearing that there are reasonable grounds for the belief that the requested audit will disclose violation of this Act, it shall nevertheless issue a writ of mandamus directing the Secretary of State to conduct such an audit provided the petitioner is willing to pay the cost of an audit and posts a satisfactory bond to assure payment of the same. After the writ has been issued, the petitioner may participate in the audit to assure faithful execution of the court's order. The Circuit Courts for the Counties and the Superior Court of Baltimore City shall have jurisdiction to do anything necessary and proper to effectuate the provisions of this section.

Contributions.

Section 11—

It is unlawful for any person directly or indirectly to make contributions totaling more than $2500, whether that
sum be contributed in one sum or in smaller sums aggregating $2500 or more, during any calendar year or for use in any one campaign, and it is unlawful for any treasurer to accept or receive any contribution which he knows or believes is made in violation of the provisions of this Section.

Section 12—

It is unlawful for any association directly or indirectly to make any political contribution or for any person to make any contribution on behalf of any association or with money or anything of value belonging to any association.

Section 13—

It is unlawful for any person or association to transfer directly or indirectly money or anything of value from any person to another person or from any association to any person in order to avoid the provisions of Section 11 or 12.

Section 14—

Any person who gives to any treasurer, during any calendar year or any one campaign a contribution or contributions of $25.00 or more, whether that sum be contributed in one sum or smaller sums aggregating $25.00 or more, shall give such treasurer, upon making any such contribution a written statement containing the contributor's name and address and a record of all other contributions of such person made to such treasurer during that same calendar year or campaign.

Section 15—

Any person who directly or indirectly during any calendar year or for use in any one campaign, makes political contributions totaling $200 or more whether that sum be contributed in one sum or in smaller sums aggregating $200 or more, shall file with the Secretary of State a statement containing his name and address, the amount of the total contribution or contributions, the name and address of the person to whom each contribution was made, and the purpose of each contribution. Such a statement shall be filed within 15 days of the making of any contribution which alone or together with other contributions by the same person during the same calendar year or for use in the same campaign aggregates $200 or more.
Section 16—

It is unlawful for any person or association directly or indirectly to demand, request, solicit, coerce or persuade any employee of this State or any subdivision thereof, or any employee of the United States or department or agency thereof to make any contribution, but it is lawful for any such employee to make any contribution in accordance with the provisions of this Act.

Section 17—

It is unlawful for any employer, whether a person or association, or any person acting on behalf of any employer, directly or indirectly to demand, request, solicit, coerce or persuade any of his employees to make any political contribution.

Section 18—

Any candidate may make a contribution or contributions to his treasurer which do not exceed, in the aggregate, 10% of the annual salary or remuneration of the office or position for which he is a candidate and may make a contribution or contributions not exceeding, in the aggregate, the same amount to his political party. It is unlawful for any candidate to make any further contribution during any calendar year or for use in any one campaign.

Expenditures.

Section 19—

It is unlawful for any treasurer to make directly or indirectly any expenditure except for one of the following purposes:

(a) Traveling expenses, lodging or food for a candidate or any person working to secure the nomination or election of such candidate while such candidate or person is for purposes of procuring such nomination or election traveling or working beyond the limits of the city or county in which such candidate or person lives, as the case may be;

(b) Stationery, printing or advertising, including rental of radio facilities;

(c) Postage, expressage, freight, telegraph, telephone or public messenger service;

(d) Rental or furnishing of offices, halls or buildings;

(e) Wages of clerks, stenographers, janitors, and messengers actually employed; and

(f) Such compensation for watchers at the polls as is allowed by Section 20 of this Act.
Section 20—

At a primary election, each candidate may employ one watcher for each polling place at which his candidacy is to be voted upon and may pay each watcher for services rendered not more than $10. At a general or special election, each political party may employ one watcher for each polling place and may pay each watcher for services rendered not more than $10. No employee of this State or any subdivision thereof and no employee of the United States or any department or agency thereof may act as a watcher or be given directly or indirectly compensation for being a watcher.

Section 21—

Except as permitted by Section 20 of this Act it is unlawful for any expenditure to be made either directly or indirectly for any service or work performed on the day of an election or for the transportation of any voter to or from the polls.

Section 22—

It is unlawful for any person or association directly or indirectly to offer, promise or give any job, money or thing of value in return for a person’s vote or political support or to use force, intimidation or coercion to secure a person’s vote or political support.

Section 23—

It is unlawful for any person or any religious, charitable, educational, fraternal or other association or person acting on behalf of any association directly or indirectly to demand, solicit, invite, accept or receive any donation, gift, expenditure, loan or promise of money or anything of value from any candidate or treasurer, or from any person acting on behalf of any candidate or treasurer. It is unlawful for any person or association to sell tickets, or advertising to any candidate, treasurer or other person or to engage in any equivalent device to circumvent the provisions of this section. It is unlawful for any candidate, treasurer or other person directly or indirectly to make any donation, loan, gift, expenditure or promise in violation of the provisions of this section.

Miscellaneous.

Section 24—

It is unlawful for any person or association to publish or distribute or cause to be published or distributed any
written matter or statement in any form whatever concerning any candidate or prospective candidate unless such matter or statement has plainly inscribed thereon the name and address of each person and of each association and the officers of each such association responsible for its publication or distribution.

SANCTIONS.

Section 25—
Any person found guilty of violating any provision of this Act may be imprisoned for not longer than one year, fined not more than $1000, or imprisoned and fined.

Section 26—
Any person found guilty of knowingly violating any provision of this Act forfeits the right to vote and to hold public office for five years and may be imprisoned for a term not to exceed five years and in addition thereto may be fined not more than $2000.

Section 27—
Any association found guilty of violating any provision of this Act may be fined not more than $2000 and any association found guilty of knowingly violating any provision of this Act shall be fined not more than $10,000.

Section 28—
If any successful candidate or if the treasurer of any successful candidate with the knowledge and acquiescence of such candidate or if any person or association in furtherance of the nomination or election of any successful candidate and with the knowledge and acquiescence of such candidate violates any provision of this Act, the successful candidate forfeits the nomination or office, as the case may be. Any legally qualified voter may within 60 days of the election bring an action at law against any successful candidate in the Circuit Court of the County in which the successful candidate lives or in the Superior Court of Baltimore City, if the successful candidate lives in Baltimore City, to have the nomination or election declared void. Such an action shall proceed as any other action at law, shall be tried before a jury and shall have precedence on the court's docket. If the jury finds that the candidate or that the treasurer of the candidate with the knowledge and acquiescence of the candidate or that any person or association in furtherance of the nomination or election of the candidate and with the knowledge and
acquiescence of the candidate violated any provision of this Act, it shall return a verdict to that effect, asking the nomination or election be declared void. The court may tax the costs as in equity cases.

Section 29—

The judge presiding at the trial shall send a certified copy of the jury's verdict to the proper authority as follows: To the Governor when the nomination or election is for any office not hereinafter specifically named or for elector of President or Vice-President of the United States, Attorney-General of this State, Representative in Congress or Senator of the United States; to the President of the Senate of Maryland when the nomination or election is for membership in the State Senate; to the Speaker of the House of Delegates of Maryland when the nomination or election is for Governor, membership in the House of Delegates, Judge, Clerk of a Court of Law, or Register of Wills; and to the judges having criminal jurisdiction of the County or City wherein the State's Attorney has been elected when the nomination or election is for State's Attorney. When the nomination or election is for Senator of the United States or Representative in Congress, the Governor shall transmit the certified copy of the jury’s verdict under the Great Seal of the State to the President of the Senate or the Speaker of the House of Representatives, as the case may be. When the nomination or election is for an office not specifically named, the Governor shall within five days of receiving the certified copy of the jury’s verdict declare the nomination or election void, and any resulting vacancy shall be filled in the same manner as would be required by law if the vacancy had arisen from the death of the successful candidate, except that under no circumstances shall it be filled by the ousted candidate or anyone found by the jury to have violated or acquiesced in the violation of any provision of this Act.

Section 30—

In any criminal or civil proceeding under this Act, when any person refuses to testify or produce any sort of evidence on the ground that such testimony or evidence will tend to incriminate him, such person shall not be excused from testifying or producing the evidence requested but such refusal shall prevent such testimony or evidence from being used against him in any proceeding except a prosecution for perjury in so testifying.