

Philip IV of Spain that he asked the opinion of his Council on a certain subject. The opinion was unanimously adverse; whereupon the monarch ordered every councillor to send in his vote signed with his name, and every vote turned out to be in favor of the proposed measure. Francis Lieber, telling the story, adds: "The Ayes and Noes have unfortunately sometimes a similar effect with us."¹ From this it would appear that Lieber thought the result discreditable, and so it was, to the councillors, but whether it was unfortunate for the King is another question.

It is hard to strike the balance. If all legislators were wise and honest, able and sincere, the Yeas and Nays would be a useless, harmful encumbrance. If all were shifty and self-seeking, stupid and dishonest, the Yeas and Nays might be the shield of society. But of legislators it is to be said as of mankind at large:

" There are some that are good and some that are bad,
Even as you and I."

Taking the usual American Legislature, my own judgment would be that were the final vote on bills to be by secret ballot, as the Constitution of Italy requires, fewer bills would become laws, because more men are by nature conservative than progressive, more men dislike than desire change, where their own interests are not at stake. In other words, the secret ballot would in a democracy impede progress, except at the revolutionary crises. If really secret, it would lessen corrupt legislation, for the buyer would rarely know whether, in the popular phrase, the seller had delivered the goods. It would take away from the man without conscience one considerable opportunity to curry favor with the people. It would relieve the man with conscience from embarrassments and menaces that now bring disturbing anxieties into his work. It would conduce to independent exercise of judgment, and that means the virtues as well as the dangers of self-reliance. On the whole, we should have better legislators and a net loss in useful legislation.

Some of the harm done by Yea-and-Nay records would be avoided were it practicable to accompany them with explanations. The idea is ancient. From time immemorial the peers of the English House of Lords have had the right to add to their votes a record of their opinion, and the grounds for it, by a "protest," which is entered in the Journal, together with the names

¹ *On Civil Liberty and Self-Government*, 263.