

# THIRTY-SIXTH DAY

(LEGISLATIVE DAY OF MARCH 11)

## MORNING SESSION.

TUESDAY, March 12, 1912.

The Convention met pursuant to recess and was called to order by the president.

Mr. LAMPSON: All of the copies of Proposal No. 118 are exhausted and I move that Proposal No. 118 as it passed the Convention be ordered printed.

Mr. DOTY: I second the motion.

The motion was carried.

Mr. DOTY: The committee on Taxation desires the use of this hall for a meeting this afternoon at which Prof. Lockhart of the Ohio State University, will address the committee on Taxation. I therefore move that the use of the hall be granted to the committee on Taxation for that purpose.

The motion was carried.

Mr. DOTY: I desire to invite the members of the Convention and the public in general to attend the meeting this evening at eight o'clock.

Mr. STOKES: I move that the committee of the Whole be relieved of the consideration of Proposal No. 73.

The motion was carried.

Mr. STOKES: I now move that Proposal No. 73 be referred to the committee on Good Roads.

The motion was carried.

Mr. FACKLER: I move that the Convention reconsider Resolution No. 54.

The motion to reconsider was seconded.

The PRESIDENT: That resolution is the resolution with reference to appointing the member from Scioto, historian of the Convention. The secretary will read the resolution.

Resolution No. 54 was read as follows:

*Resolved*, That Nelson W. Evans, delegate from Scioto county, be and is hereby appointed historian and reference librarian of this Convention, to serve without compensation.

As such it shall be his duty to obtain and preserve all data in regard to this Convention and its members as would be desired in the future.

As reference librarian, it shall be his duty to obtain and furnish to the members of this Convention and its officers, all information they may require as to any subjects germane to their duties in the preparation of the constitution.

He shall be furnished with a clerk by the secretary who shall be a stenographer and when not engaged by him shall work for the Convention.

Mr. HALFHILL: When this was presented last week it was not understood. The purpose is to have Captain Evans act as historian and librarian to the Convention and he undertakes to discharge a duty and a responsibility which few men would undertake to do for this body. Captain Evans, without any boastfulness, is

probably better equipped than any member of the body or any other person in the state. It is well known that he has been collecting data as to the history of Ohio for forty years. He has been a collector and classifier of facts and he knows more of the history of Ohio than any other citizen of the state. He appreciates what he proposes to do and the great duty will be undertaken by him with pleasure if the resolution is carried.

The motion to reconsider was carried.

Mr. DOTY: I now submit an amendment to the resolution.

The amendment was read as follows:

At the end of line 12 after the word "secretary" insert "from the regular staff of clerks or stenographers already in the employ of the Convention."

Mr. DOTY: By this amendment it is provided that if we adopt the resolution the clerk shall be taken from the present employes of the Convention, of whom we have plenty, so that there will not be any increase in the expenses of the Convention. I think the amendment ought to prevail.

The amendment was agreed to.

The resolution as amended was agreed to.

On motion the Convention here recessed until 11:25 o'clock a. m.

11:25 O'CLOCK, A. M.

The Convention met pursuant to recess.

The SERGEANT-AT-ARMS. Mr. President and Gentlemen of the Convention: I desire to present Honorable William J. Bryan, of the United States.

The PRESIDENT: The Convention will be in order. There is a Scripture text of ten words to which I would not wish to add anything by way of introduction of our friend. These are the words: "There were leaders in Israel who led, praise the Lord." Members of the Convention I have the honor of presenting to you a leader who leads, Mr. Bryan.

## ADDRESS OF WILLIAM J. BRYAN ON THE SUBJECT OF "THE PEOPLE'S LAW."

Mr. President and Gentlemen of the Constitutional Convention: I am sensible of the great honor you do me in inviting me to address you. You are entrusted with a work of great importance, the preparation of a constitution which may without impropriety be termed "The People's Law." Other matters they give into the hands of representatives chosen to legislate on general subjects and they permit the representatives to act according to their judgment, but in the case of a constitution they select agents for a particular purpose—agents chosen with more than usual care, agents in whom they repose the highest confidence—and then, so delicate is the task and so binding is the instrument prepared,

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that they insist upon its submission to the sovereign voters for ratification before it is invested with the sanctity of the law. I know not how to manifest my appreciation of the privilege that you extend to me of advising in this capacity, except to submit for your consideration some suggestions which may be helpful to you in the discharge of the solemn duty imposed upon you by the people of the state of Ohio.

The preparation of the constitution of a great state is a serious undertaking, and those who are engaged in it bear a grave responsibility. The burden has been lightened as with the advance of years it has been made easier to amend constitutions. The written constitution has become an American institution, and its hold upon the people is not likely to be shaken; its claims to confidence is jeopardized, however, when one generation attempts to fetter the freedom of succeeding generations by provisions that prevent a majority from amending their constitution.

Our federal constitution illustrates the limit to which a constitution may go in restraining the public will and in compelling a majority to submit to the rule of the minority. To amend the federal constitution a resolution must pass both houses of congress by a two-thirds vote and the amendment submitted must then be ratified by three-fourths of the states.

A minority can thus prevent a change until the majority becomes so large as to give those desiring a change a two-thirds vote in the senate and house, and then it can permanently obstruct the carrying out of the popular will on a constitutional question if it can control thirteen states out of forty-eight. We need, and I doubt not shall some day secure, an amendment to the federal constitution making it easier for a majority to change the constitution, either by striking out that which has become objectionable or by adding that which has become desirable.

The state constitutions bear witness to a growing confidence in the people; they are much more easily amended as a rule than the federal constitution, and the later state constitutions are more easily amended than the earlier ones. When New Mexico's constitutional convention recently attempted to unduly restrict the power of amendment, congress compelled a separate vote on this specific provision and the electors promptly modernized the method of amendment. The latest step in advance is embodied in what is known as the initiative.

For some years past the initiative and referendum — they are usually linked together, but are not dependent upon each other — have found increasing favor among those who are seeking to make the government responsive to the people's will. Of the two the initiative is by far the more important. While the referendum enables the people to veto a public measure before it becomes a law, the initiative not only enables the people to repeal any law which is objectionable to them, but, what is more vital to their welfare, permits them to enact directly any law which they desire, without recourse to the legislature. Through the initiative they can also submit an amendment to the constitution and secure a vote of the people upon it. The initiative is, therefore, the most useful governmental invention which the people of the various states have had under consideration in recent

years. It is the most effective means yet proposed for giving the people absolute control over their government.

With the initiative in a constitution, a constitution's defects, either of omission or commission, become comparatively harmless, for the people are in a position to add any provision which they deem necessary and to strike out any part of the constitution which they dislike.

The initiative and referendum do not overthrow representative government — they have not come to destroy but to fulfill. The purpose of representative government is to represent, and that purpose fails when representatives mis-represent their constituents. Experience has shown that the defects of our government are not in the people themselves, but in those who, acting as representatives of the people, embezzle power and turn to their own advantage the authority given them for the advancement of the public welfare. It has cost centuries to secure popular government; the blood of millions of the best and the bravest has been poured out to establish the doctrine that governments derive their just powers from the consent of the governed.

All this struggle, all this sacrifice, has been in vain if, when we secure a representative government, the people's representatives can betray them with impunity and mock their constituents while they draw salaries from the public treasury.

The initiative and referendum do not decrease the importance of legislative bodies, nor do they withdraw authority from those who are elected to represent the people; on the contrary, when the people have the initiative and the referendum with which to protect themselves, they can safely confer a larger authority upon their representatives. When the constitution embodies the initiative and referendum the representative is not compelled to vote for any measure which he feels it his conscientious duty to oppose, but he is constrained to examine the measure carefully because his action in opposing the measure can be nullified by the people through the initiative. And, so, the representative is not compelled to vote against any measure which his conscience bids him support, but he is coerced into a serious consideration of the merits of the measure by the fact that the people, through the referendum, may veto the measure if they do not like it. When the constitution provides for the initiative and the referendum the people simply say to their representatives: "Do your duty, follow your judgment and your conscience, and the more accurately you interpret our wishes the less we shall have to do." The fact that the people can act through the initiative and referendum makes it less likely that they will need to employ the remedy — there will not be so many bad laws to complain of when the people reserve the right to veto, and it will be easier to secure the enactment of good laws when the people are not absolutely dependent upon legislators for the enactment of such measures as they may desire. Direct legislation exerts an indirect as well as direct influence, and when the system is fully established and the people thoroughly understand it, it is not likely to be employed often because those elected to represent the people will be more in sympathy with their constituents.

Some difference of opinion exists among the friends of the initiative and referendum as to the percentage that ought to be required for the petitions which start

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the machinery through which the people act. It will be observed, however, that the difference of opinion on this subject reflects to some extent the degree of confidence which the people have in the reform. In proportion as a person distrusts the intelligence and patriotism of the masses he is apt to demand a high percentage, partly in the hope that a high percentage may discourage entirely a resort to this method of legislation and partly because he fears that it may be resorted to without sufficient reason. The Oregon law has usually been made the basis for the fight for these reforms in the various states, and I am unqualifiedly in favor of a low percentage as against the high one. Eight per cent for the initiative on ordinary measures and twelve per cent on constitutional amendments is not unreasonably low. Neither is five per cent too low for a referendum vote. I am sure that experience will show that these remedies will not be resorted to without real provocation, and there is no reason why those who are public spirited enough to assume the labor of bringing questions before the voters should be taxed with unnecessary labor. The larger the percentage required, the greater the burden thrown upon those who undertake to ascertain the popular will.

California has gone a step farther and reduced the percentage below the Oregon limit where the legislature is first given an opportunity to act. This is a step in advance and I am pleased to learn that it commends itself to your judgment.

The fact that the initiative is merely the means of bringing the subject before the voters and that a majority of those voting must speak affirmatively before the proposed measure can have any effect is sufficient to prevent the submission of frivolous questions or of propositions which have not a substantial support. It is not only labor lost, but labor accompanied by the penalties of defeat, to submit an unpopular measure, and this will usually protect the public from any unnecessary use of the means provided by the initiative and referendum.

One point should be carefully guarded. The opponents of the initiative and referendum are usually insistent in their demand that a proposition submitted to the people must receive not merely a majority of the votes cast on the proposition, but a majority of the votes cast at the election. This is an unreasonable requirement. Legislators are elected by a plurality vote, not by a majority, and there is no reason why more than a plurality should be required for the enactment of a law by a direct vote of the people or for the adoption of a constitutional amendment. The votes cast upon the proposition ought to be the test—to require a majority of all the votes cast at the election is to give the negative the benefit of those votes cast at the election but not cast either for or against the proposition. Why should those who propose a reform be subjected to this disadvantage? A reform that secures a majority of the votes cast on the subject certainly has the presumption of right upon its side. The most that can be said of those who do not vote is that they are indifferent and, if so, they ought not to be counted either way. If they fail to vote because they are too ignorant to understand the subject there is less reason why their voice should be made effective in defeating a proposition which has secured the

support of a majority of those who have studied the subject and expressed themselves upon it.

The attacks which were formerly made upon the initiative and referendum have been directed more recently against what is known as the recall. But it will be found upon examination that the recall is an evolution rather than a revolution. The right to terminate an official term before its legal expiration has always been recognized. I know of no public official who is not subject to impeachment at the hands of some tribunal. The only difference between the recall, as now proposed, and impeachment, as it has been employed, is that in impeachments the trial is before a body of officials while the recall places the decision in the hands of the people. It is simply a question, therefore, whether public servants shall be triable only before public servants or by the sovereign voters who are the masters. If impeachment had been found entirely satisfactory recall would not now be under discussion, but impeachment has proved unsatisfactory for two reasons. It is difficult to get officials to impeach an official; whether from fear that they will establish a precedent and endanger their own tenure of office, or whether for some other reason, may be a matter of opinion, but it is undeniably true that the present method of impeachment does not meet the requirements of today. Even the president of the United States, in a recent speech condemning the recall, admitted that the process of removal by impeachment must be improved upon.

A distinction should be drawn between the principle involved in the recall and the details of the measure applying the principle. There is room for a wide difference of opinion in the matter of detail and I am not inclined to be tenacious as to any particular detail, provided the principle is clearly recognized and fully applied.

In acting upon definite propositions the people are less liable to be mistaken than in acting upon persons. They are also less likely to be swayed by prejudice or stirred by emotion. It is not unreasonable, therefore, to require a larger percentage of the voters to a petition for a recall than in the case of the initiative or referendum. I submit, too, that it may be wise to separate the question of the recall from the candidacy of any other person. When the voter is called upon to decide upon the merits of the recall and asked to choose, at the same time, between the incumbent and a person named against him, there is more danger of confusion of thought. A nearer approach to justice may be found in having the question of recall settled by itself and the selection of a new official determined subsequently, when the relative popularity of the individuals will not draw attention away from the single question whether the incumbent has failed to discharge satisfactorily the duties of the office.

Some have suggested that, to prevent the recall of an official on purely partisan grounds, the petition ought to contain the names of enough of those who voted for him to indicate the withdrawal of confidence—the petitioners' action at the first election being revealed by his oath where it cannot be otherwise ascertained. This suggestion is worthy of consideration and to require this would enforce no hardship upon the petitioners. A still further limitation has been proposed, namely, that the pe-

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tion should be left with some official where it could be signed by those wishing to sign it instead of being circulated by those who would solicit signers. This would not prevent the use of the recall in an emergency, but if such a provision is inserted in the law the percentage should be made lower than in the case of a circulated petition.

In discussing the recall I have assumed that it would apply without discrimination to all officials, including the judiciary. The argument that a judge should be exempt from the operation of the recall, even when it is applied to other officials, has no sound foundation. If it is insisted that he enjoys public confidence to a greater extent than other public officials, this very argument answers itself, because that superior confidence will protect the judge against injustice. In proportion as people have confidence in the bench they will be less likely to remove a judge on insufficient grounds. If a judge is wrongfully removed—after the people have been given an opportunity to investigate the charges made against him, and after passion and excitement have had time to subside—if under these conditions the people still do injustice to a judge, society can better afford to risk such occasional injustice than to put the judge beyond the reach of the people. If a judge is unjustly removed the people will make amends for it when they discover their error, and the vindication that the judge will receive when the error is corrected will more than compensate him for any mortification that he may suffer in the meantime. It is not necessary to reply to the argument that the recall will make cowards of judges; the judge who would be swerved from his duty by fear of recall would not be fit for the place. Possibly, the recall may serve as a sifting process with which to eliminate those unworthy to wear the ermine. In fact, it would more than justify itself if it removed from the list of aspirants all lawyers who lack the courage to do their duty regardless of consequences. If there is any position in which we need rigid, uncompromising uprightness it is upon the bench, and the recall, instead of menacing the independence of the judiciary, is more likely to remove the character of those who occupy judicial positions.

With the recall, official terms may with safety be made longer.

And speaking of the length of terms, the tendency is toward making an executive ineligible to re-election. His duties are so responsible and his influence so extended that he should be free to devote his best energies to the public affairs, and no can devote his best energies to the public if his vision is clouded by political aspirations or his judgment perverted by personal considerations. The state needs a quickened conscience and an unbiased judgment in its executive and ineligibility to re-election largely contributes toward both. A governor may misuse the patronage at his disposal if his heart is bent upon another term—he is much more apt to than if his sole purpose is to win an honorable place in history by fidelity to his oath of office.

*Elections.*

The constitution which you are preparing will designate the means by which the electors will exercise their sovereign power at the polls. It may be taken for

granted that you will employ what is known as the Australian ballot, which insures secrecy. While we admire the courage displayed by those who openly announce a position and accept whatever responsibility may come with the announcement, we cannot be blind to the fact that, under present industrial conditions, an open ballot jeopardizes the occupation of the employes when the employer is unprincipled enough to attempt to force his political views upon those who work for him. The secret ballot is the only means that we now have of safeguarding voters who are industrially dependent upon others. In this connection, I may add that the reasons for secrecy do not extend to persons acting in a representative capacity. On the contrary, secrecy is intolerable in a representative. His constituents have a right to know what he does and therefore most modern constitutions require a roll call on all measures passing a legislative body, and usually the concurrence of a majority of all the members elected to the body—not merely a majority of those present at the time—is required for the enactment of any measure. This rule may well be extended to party caucuses. Under our system the party is inevitable, or seemingly so, and the party caucus often determines the action of all the members of the party, although the decision of the caucus depends upon the votes of a majority. Under such conditions there is no good reason why the rule applied to legislatures should not apply to the caucus. It is even more necessary because the desire to preserve the appearance of party harmony may prevent a roll call in a party caucus, unless the roll call is compulsory. Publicity is both a prevention and a purifier; the constituent cannot have too much light thrown upon the conduct of his representative.

The election boards should be bipartisan, beginning with the judges who preside over the polling place and following up to the highest canvassing board of the state, where the returns are inspected and the result finally declared. Both sides should be represented—in no other way can an honest count be secured. And a bipartisan board, to deserve the name, must be composed of members selected by the parties which they represent. A bipartisan board whose members are chosen by one side, is bipartisan in name only. Experience has shown that where the dominant party selects the representatives of the minority party, as well as its own representatives, the minority representatives do not, as a rule, reflect the wishes or protect the rights of the minority party. The minority representatives are too often chosen because they have already been corrupted or because they are open to corruption—the word corruption not being used in this case to suggest actual bribery, but rather to describe that perversion of purpose that renders one unfit to speak for those whose spokesman he is assumed to be.

I beg to commend to you two federal laws recently enacted, one prohibiting contributions from corporations and the other compelling publicity, before the election, of the names of individual contributors and limiting the amount that candidates can expend in their own behalf—and there is no reason why a limit should not be placed upon the total amount that can be expended by others on behalf of a candidate. And, while on the subject of publicity, I suggest that newspapers should be required

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to make public the names of owners, and the names of creditors also where the indebtedness is large enough to control the paper's policy.

*Primaries.*

The primary is only second in importance to the election itself. The voter is limited in his choice to the candidates named on the ticket, and the naming of the candidates is, therefore, a matter which must be guarded with care. The age of the boss is passing, and there is a continuing advance here and throughout the world toward the popularizing of all the methods of the government. If it be true that governments derive their just powers from the consent of the governed, it necessarily follows that parties derive their just authority from the consent of the voters of the party. Legislation should be authorized which shall guarantee to the voters the right to control the selection of the candidates who are to enjoy the distinction of representing the party, and provisions should also be made for nomination, by petition, of those who desire to run independent to the party organization. The primary should include an expression on presidential candidates and an expression on postmasters would probably be respected by the president in making appointments.

The primary laws should make provision for an expression of the voters on questions as well as upon candidates, and laws should be authorized dealing criminally with candidates who pledge themselves to specific measures and then, by official act, repudiate these pledges after election. Platforms should either be made binding or they should be prohibited. A platform has no meaning unless it is intended as a pledge, and a violation of such a pledge involves a greater degree of moral turpitude than the offenses against property rights which we now punish severely. A pledge publicly given by a candidate, and a platform promise not openly repudiated, should be binding in law as well as in conscience.

You now have a statue embodying what is known as "the Oregon plan," which enables the voters to pledge legislators to vote for the popular choice for United States senator. While it seems certain that congress will soon submit a constitutional amendment providing for the direct election of senators, still as a matter of precaution this safeguard should not be surrendered until a constitutional amendment is secured.

*Taxation..*

Taxation is one of the prominent subjects with which those entrusted with government have to deal. Other questions come and go, but the question of taxation remains. People may dispute about the methods to be employed in the levying and collecting of taxes, about the amount to be raised and the manner in which it should be expended, but revenue must come in or the wheels of government stop. When we find and employ a perfect system of taxation we shall have gone a long way toward perfection in government—until then we must approximate as nearly as we can to justice.

Adam Smith lays down a principle for the guidance of those who frame the tax laws, and no better rule has been proposed, namely, that citizens should contribute

to the support of the government in proportion to the benefits which they receive under the protection of the government. This is the ideal which the wise and just are struggling to embody in law. It may be taken for granted that you will consider such subjects of taxation and employ such methods as will give no just cause for complaint of partiality or favoritism in apportionment, assessment or collection. The income tax seems likely to be employed by the federal government as a means of raising national revenue, but that is no reason why it should not also be employed in the state. It is not double taxation to levy an income tax by both state and federal government. We must contribute to both governments and it is not material upon what particular kind of property the tax is levied, provided it is so levied as to impose upon each citizen his proper share of both taxes. We do not call it treble taxation when we pay upon the same piece of property a certain amount for the city, a certain amount for the county and a certain amount for the state—neither can we call it double taxation when we add another burden to the same income for the support of the general government. The same can be said of a tax on inheritances.

Franchises are a proper subject for taxation. Being a grant from the public there is special reason why they should help to bear the public burdens. Corporations, likewise, are being more and more considered proper subjects of taxation, and the mere right to incorporate is a valuable gift to those who take advantage of it. The corporation relieves the stockholder of a part of the liability borne by the man who does business as an individual or as a member of a partnership. This limitation of liability is an advantage worth paying for. The corporation also protects a business venture from the interruption and embarrassment caused by the death of an individual or the partner. The corporation confers numerous other favors which are properly taxable.

You might with propriety leave some latitude to cities and counties in the matter of taxation. If they are allowed to experiment with different methods, the public as well as the communities will have the benefit of the experiment, and only by experiment can the relative merits of systems be determined. Provision should, of course, be made for equalizing the basis of assessment so that taxes for the larger communities can be equitably distributed regardless of dissimilarity in local systems.

*Corporations.*

The corporation is becoming so important a factor in business life that its consideration will demand of you both care and courage. Here more than anywhere else you will have to stand as an impartial arbiter between the rights of the people and the interests of a class. Powerful pressure can always be brought to bear in favor of concentrated capital. A million dollars invested in a single corporation exerts an influence more potential than ten times that sum invested in a hundred separate enterprises.

The first thing to understand is the difference between the natural person and the fictitious person called a corporation. They differ in the purpose for which they are created, in the strength which they possess, and in the restraints under which they act. Man is the handiwork of God and was placed upon earth to carry

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out a Divine purpose; the corporation is the handiwork of man and created to carry out a money-making policy. There is comparatively little difference in the strength of men; a corporation may be one hundred, one thousand, or even one million times stronger than the average man. Man acts under the restraints of conscience, and is influenced also by a belief in a future life. A corporation has no soul and cares nothing about the hereafter.

The corporations created by law naturally divide themselves into two classes, quasi-public corporations and purely private corporations. The corporations that engage in public business, such as municipal corporations in a city and the transportation and other public service corporations in the state, must be kept under rigid regulation. It is absurd to say that a corporation created by the people for the advancement of the public welfare should be left to do as it pleases, regardless of the injury which may result to the public. All public service corporations should be under the control of officers, boards, or commissions empowered to prevent the watering of stock and the issuing of fictitious capitalization. All franchises should be for a definite period, and that not a long one. A perpetual franchise is abhorrent to every sense of justice, not only because it imposes burdens on generations yet to come, but also because it is entirely one-sided. No human being can look ahead one hundred years and estimate the value of a public franchise—not to speak of one thousand years or longer. If a body of men secure a public franchise that runs for a long period they can give it up at any time if they find it unprofitable, but the people cannot so easily correct a mistake if they sell it at too low a price. The maximum limit for such franchises should not be more than twenty-five years, and the charter should reserve the right of regulation and control by the government. It should also reserve the right of public purchase at the physical valuation. At most, no higher sum should be given for a franchise than the corporation paid for it.

In some instances a maximum dividend sufficient to keep the stock at par, has been fixed in the case of public service corporations—and such provision rests upon sound reasoning. If it is argued—and it can be with reason—that the dividends may sometimes fall below a reasonable rate, this difficulty can be remedied by permitting railroads, street car companies and other public service corporations to collect, over and above the dividend permitted, a surplus sufficient to make good any shrinkage in dividends that may occur in bad years. The public does not desire to do injustice to those connected with corporations. On the contrary, you will find that the public is much more likely to be generous in dealing with what we call the property rights of corporations than corporation managers are to do justice to the public.

In regulating mercantile and industrial corporations you will have little trouble except with the large ones. By far the greater number of these corporations will do business on a scale so small that competition will prevent any extortion in price or unfairness in method. It is only when a corporation begins to enjoy a monopoly that it becomes a menace. You should, therefore, prescribe such constitutional limitations as will insure competition.

There is no middle ground between competition and government ownership. A private monopoly is indefensible and intolerable. A private monopoly is naturally as prone to injure the public as a ferocious animal is to seek its prey. Private monopolies cannot be successfully regulated—they must be prohibited. The gist of monopoly is in the percentage of control, not in the size of the corporation. A corporation with a capital stock of \$10,000,000 may control one business absolutely, while in another business the corporation of \$100,000,000 may not be able to suspend the law of competition. If a corporation controls, say, five per cent of the thing in which it deals, it can not control either price or the conditions under which the business is done. If on the other hand it controls ninety-five per cent of the business, competition is stifled and those who attempt to compete must do so on the terms prescribed by the monopoly. At some point, therefore, between five per cent and ninety-five per cent the control becomes effective in the restriction of trade. This point should be ascertained, as nearly as human wisdom can ascertain it, and should be the limit of growth permitted. In case of doubt the doubt should be resolved on the side of the people. There should be no hesitation in applying rules sufficiently strict to protect the public. A corporation has no rights except those given to it by law. It can exercise no power except that conferred upon it by the people through legislation, and the people should be as free to withhold as to give, public interest and not private advantage being the end in view.

Your constitution should authorize legislation compelling banks to insure their depositors against possible loss. Bank regulation raises a presumption of security and, in return for this, the banks should be required to adopt some system of guaranty which will give depositors absolute security.

I will not attempt to urge upon you any particular system for the guaranty of depositors. I am perfectly willing that the banks shall be permitted to select and operate the system themselves, but I believe that the government should compel them to select some system and to operate it with satisfaction to the public. That banks are not secure is proven by the fact that every subdivision of the government requires specific security from the banks before depositing public funds, and, if I were not afraid of using language unparliamentary, I would say that it is cowardly upon the part of the government to protect itself and then leave the average depositor unprotected.

While I believe in the system of insurance which makes all banks liable for the failure of each individual bank, still, I am willing to yield that point if the banks will find some other system that gives absolute security, but when the banker tells me that it is not right that a good bank should be made to pay the debts of a bad bank, I reply that the banker has no hesitation whatever in making a farmer sell his farm to pay the debt of a neighbor for whose indebtedness he has gone security, one who has received no benefit whatever from the loan; and the banker who refuses a loan to a farmer until the farmer gets some other farmer to go his security ought not to be surprised when the farmer, in return, tells him that before he loans his money to the

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bank that the banker ought to get other bankers to go his security.

*Education.*

Your constitution will deal with the matter of public instruction, and interest in this direction is so widespread that you will of course provide for universal education. In a republic where the government rests upon the will of the people, popular intelligence is essential to good government, and the state, in self defense, must reduce to a minimum the area of ignorance and illiteracy. While the presumption can usually be given to the parent in matters connected with the training of a child, still the presumption is not conclusive and may be rebutted by facts. It can generally be assumed that a parent will guard the physical welfare of a child and yet he would not hesitate to punish the father or mother who would deliberately cut off the boy's arm and send him out, thus disabled, to meet the competition of his fellows. No more should a parent be permitted to disable a child intellectually by depriving him of the education necessary for successful competition with those among whom he labors. To condemn a child to ignorance in a land of intelligence is even more cruel than to maim him.

The tendency of the time is to bring education closer to the people, and it would be a reflection upon this body to doubt that it will make a thorough investigation and equip the educational department of the government with every modern means devised for extending the benefits of education to all, and for the raising of the standard.

If, in my section of the state or community, there are parents who really need the money which their children could earn during the period when the child should be in school, the community can well afford to temporarily supply such parental need rather than have the burden of the family support thrown upon the children to the injury of society in general, as well as to the impairment of the child's abilities, for an injustice done to a child flows on through succeeding generations.

While you provide for free education, so that there will be a school door open to every child, you, I doubt not, will find it consistent with your own views, as well as advantageous to the state, not to discourage private schools and colleges where religious instructions can be entwined with intellectual training; for, after all, the mind is directed by the heart and it would be of more than doubtful advantage to increase the power of the brain—power to do harm as well as to do good—if we could not feel sure that back of the brain there would be a conception of life and an ideal that would direct the larger powers to the advancement of the public welfare.

*Courts.*

In providing for courts I venture to suggest that you give careful consideration to the manner of selection. Different plans have been adopted in different states. In most of the states the judges are elected by popular vote for a definite term. In some, they are appointed for a definite term by the executive or by the legislature and, I believe, in some, they are appointed during good behavior. Our federal judges are appointed for life. I

am of opinion that popular election is more in accordance with our institutions and the system toward which we shall approach as confidence in the stability of popular government increases.

The judge, like every other officer, is the servant of the people and there is no reason why he should be made independent of a permanent public opinion upon questions fundamental in character. The distrust of the people, manifested in the disposition of some to deprive them of the right to select the judiciary, is unfounded. Unless the sense of justice inherent in the people can be trusted in such matters, we may well fear for popular government; but that sense of justice can be relied upon. The people are much more apt to deal justly with judges than they are to receive justice at the hands of judges who distrust the intelligence and the good intent of the masses.

The jurisdiction of the various courts is a matter entirely in your hands, and in conferring sufficient authority to insure the enforcement of law and the preservation of order you should be careful that even the judiciary shall not encroach upon the rights of litigants. What is known as "government by injunction"—a system under which the judge combines in himself the duty of legislator, prosecutor and judge—is obnoxious to our institutions and to the idea of justice that prevails among us. While the judge must have power to enforce respect and to fine for contempt committed in his presence, he should not be permitted to deprive the accused of a trial by jury when the alleged contempt is committed beyond the precincts of the courtroom and when guilt must be established by witnesses, as in ordinary criminal prosecutions. In such cases the right of trial by jury should not be denied.

You are invited to consider also whether the processes of the court may not be simplified and whether restrictions may not be imposed that will prevent the setting aside of verdicts and judgments upon technicalities which do not go to the merits of the case. The administration of justice becomes farcical when errors, trivial in character and effect, are allowed to prolong cases and wear out litigants.

And, I may add, in these days when all intelligent men read the newspapers, knowledge of the details of a case, gained from a newspaper, should not excuse one from jury service if he is a man of good character and fair-minded.

There is a growing tendency to substitute a majority verdict in civil cases for the unanimous verdict now generally required. While, in a criminal case, a divided jury raises a doubt, the benefit of which should be given the accused, no such situation is created by a division in a civil case. Here the plaintiff is only required to establish his claim by a preponderance of the testimony and too large an advantage is given to the defendant if a unanimous verdict is required. While in ordinary cases this requirement does not often prevent a prompt settlement of the dispute, experience has shown that in suits against influential corporations the hung-jury is frequently relied upon to force a settlement. I submit to your consideration the wisdom of permitting a verdict in such cases by a majority, two-thirds or three-fourths vote of the jury. Some advocate a constitutional provision limiting the power of the court to declare a law unconstitutional to cases in which all the judges concur

## Address of William J. Bryan—Reports of Standing Committees.

in the opinion. I am persuaded that the lawmakers are entitled to this presumption.

*Labor.*

In dealing with matters affecting labor you can hardly avoid the conclusion that the government has erred on the side of tardiness in responding to the demands made by the wage-earners for the amelioration of the conditions under which they work. The fellow-servant law, for instance, has far outgrown the conditions that originally justified it, if any conditions could justify it, and there ought to be no delay in safeguarding the right of an employe to compensation for injury due to the negligence of another employe over whose movements he has no control. The constitution should also leave the amount of recovery, in case of death or injury, to be determined by the circumstances of the case. It is a one-sided law that puts the maximum price upon a human life and then leaves the minimum to be reduced to nothing.

The constitution should authorize employer's liability and employes' compensation laws, and make the authority so specific that such laws cannot be declared unconstitutional.

In the matter of hours, the legislature should be authorized to prescribe what shall be regarded as a working day and the conditions under which longer hours may be compelled. If it is said that such legislation robs the employe of independence in the matter of contract, it may be replied that there is as little independence in such matters as there is in the fixing of the rate of interest. Solomon's declaration that the "borrower is servant unto the lender," stands good to-day and justifies usury laws. The employe of a great corporation is no less a servant unto the employer in the matter of hours, and it is for his protection that the maximum hours are fixed, as usury laws are fixed for the protection of the borrower. The home has claims which legislation must recognize. The home is the unit, the center of moral strength and health. Society cannot tolerate a condition under which the husband and father is denied the strength which home life imparts, nor can the home be robbed, with impunity, of his presence and influence.

Citizenship, too, has claims that cannot be ignored. If the laboring man is to be a voter, he must be allowed time to prepare himself for the discharge of the responsible duties that come with citizenship. The state needs both his judgment and his conscience, and it can hardly expect either if he is driven from his bed to his work, and from his work back to his bed again, with no time for study, for reflection and for conference with his fellows.

If legislation is necessary to protect the adult man, it is much more necessary to protect women and children. Investigations have sometimes disclosed conditions which cannot be described in polite language—cannot be recited without emotion. You will be sustained by your constituents if you authorize legislation which will make it impossible for women to be employed under conditions hurtful to health or that menace their social and moral welfare. You will be sustained also if you authorize legislation which will protect children from labor in factory or mine during the period when they ought to be in school, and from all kinds of employment that will stunt

their development. There is no darker page in our industrial life than that which records indifference to the welfare of children—the coining of dividends out of child blood, the darkening of the prospects of a rising generation and the impoverishment of posterity.

I offer apologies, Mr. President and gentleman of the Convention, for having trespassed so long upon your time, although I have, by no means, covered all the subjects with which you will be called upon to deal. I can only offer in my defense an intense interest in the work in which you are engaged and a sincere desire to acknowledge the compliment implied in your invitation by presenting such observations as I hope may be useful to you in framing an organic law for your commonwealth. I indulge the hope that your conclusions will be so satisfactory to your constituents that your names will be cherished by a grateful people and that this law, which the people write through you, will be worthy to endure until changed conditions compel new interpretations of the popular will.

Mr. PECK: Mr. President: I move that the thanks of this Convention be tendered to Mr. Bryan for his very interesting and instructive address.

The motion was carried.

Mr. DOTY: I move that we recess until two o'clock.

The motion was carried.

**AFTERNOON SESSION.**

The PRESIDENT: We were at the conclusion of the fourth order of business, the introduction of proposals. Are there any other proposals to be introduced? The next order of business is reference of proposals introduced the preceding day.

Mr. Doty here assumed the chair as president pro tem.

**REPORTS OF STANDING COMMITTEES.**

Mr. Miller, of Crawford, offered the following report:

The standing committee on Agriculture, to which was referred Proposal No. 64—Mr. Miller, of Fairfield, having had the same under consideration, reports it back with the following amendment, and recommends its adoption when so amended.

Strike out all after the resolving clause and insert the following:

"The general assembly, may, in order to encourage the propagation, planting and cultivation of forestry, pass laws exempting from taxation, in whole or in part, wood lots or plantations, devoted exclusively to forestry or to the growing of forest trees."

"The general assembly may also provide for re-forestation and holding as forest reserves such lands or part of lands as has been or may be forfeited to the state and they may authorize the acquiring of other lands for that purpose."

Mr. BROWN, of Highland: I did not hear when the proposals were called for. In the confusion it escaped me. I would like to submit a proposal.



## Reports of Standing Committees—Initiative and Referendum.

The PRESIDENT PRO TEM: When we get through with the report that has just been offered. The question is on agreeing to the report of the committee.

The report was agreed to.

The PRESIDENT PRO TEM: If there is no objection the report will be engrossed and put on the calendar. The member from Crawford moves that the proposal be printed as amended.

The motion was carried.

The PRESIDENT PRO TEM: The member from Highland asks to be allowed to introduce a proposal. If there is no objection it can be done.

By unanimous consent the following proposal was introduced and read the first time.

Proposal No. 308—Mr. Brown, of Highland. To submit an amendment to article XII by adding a new section—Relative to taxation.

Mr. Knight submitted the following report:

The standing committee on Education to which was referred Proposal No. 95—Mr. Fess, having had the same under consideration, reports it back and recommends its indefinite postponement.

The report was agreed to.

Mr. Nye submitted the following report:

The standing committee on Education, to which was referred Proposal No. 204—Mr. Hahn, having had the same under consideration, reports it back and recommends its indefinite postponement.

The report was agreed to.

Mr. Colton submitted the following report:

The standing committee on Education, to which was referred proposal No. 56—Mr. Pettit, having had the same under consideration, reports it back and recommends its indefinite postponement.

The report was agreed to.

Mr. Colton submitted the following report:

The standing committee on Education, to which was referred Proposal No. 43—Mr. Hahn, having had the same under consideration, reports it back and recommends its indefinite postponement.

The report was agreed to.

Mr. Stewart submitted the following report:

The standing committee on Education, to which was referred Proposal No. 98—Mr. Fess, having had the same under consideration, reports it back and recommends its indefinite postponement.

The report was agreed to.

Mr. Antrim submitted the following report:

The standing committee on Education, to which was referred Proposal No. 237—Mr. Hoffman, having had the same under consideration, reports it back and recommends its indefinite postponement.

The report was agreed to.

Mr. McClelland submitted the following report:

The standing committee on Education, to which was referred Proposal No. 124—Mr. Thomas, having had the same under consideration, reports it back and recommends its indefinite postponement.

The report was agreed to.

Mr. Eby submitted the following report:

The standing committee on Education, to which was referred Proposal No. 203—Mr. Hahn, having had the same under consideration, reports it back and recommends its indefinite postponement.

The report was agreed to.

The proposal was ordered to be engrossed and read the second time in its regular order.

Mr. Kilpatrick submitted the following report:

The standing committee on Equal Suffrage and Elective Franchise, to which Proposal No. 249—Mr. Tannehill, having had the same under consideration, reports it back and recommends its passage.

The report was agreed to.

The proposal was ordered to be engrossed and read the second time in its regular order.

Mr. Crosser submitted the following report:

The standing committee on Initiative and Referendum, to which was referred Proposal No. 2—Mr. Crosser, having had the same under consideration, reports it back with the following amendments, and recommends its passage when so amended.

Strike out the words "not more than" in lines 11, 13 and 68.

At the end of line 155 insert the following: "The basis upon which the required number of petitioners in any case, shall be determined, shall be the total number of votes cast for the office of governor at the last preceding election therefore."

The report was agreed to.

The PRESIDENT PRO TEM: The proposal has had its second reading. The question now is, Shall the proposal pass?

Mr. BIGELOW: I move that the consideration be postponed until tomorrow and that it be placed at the head of the calendar.

The motion was seconded.

Mr. HALFHILL: I move to amend so that it be placed on the calendar for the 19th inst. as a special order, and I would like to state the reasons. The report that has been offered by the committee is, of course, a majority report. There are several members of the committee though who did not sign that report. They have not thought it wisdom or that it would expedite the business of dealing with this important matter to prepare any minority report. Therefore, we have foregone that privilege. There are, however, some members on the committee on the Initiative and Referendum who pos-

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sibly believe as much in the initiative and referendum as some of its more radical exponents, but who are nevertheless not in accord with this report and desire to offer amendments at the proper time as it proceeds to consideration. Now, I object to the consideration of the matter immediately or on tomorrow for reasons that ought to be manifest and ought to be considered by this Convention.

We have been on various committees in this Convention, but the committee on Initiative and Referendum has not been a committee—it has never been anything more than a bureau of registration. It was originated to consider this proposal, but that committee never gave any consideration of any kind to the merits of the initiative and referendum; it never gave any consideration to this proposal. When the proposal was introduced it was discussed, and upon the conditions becoming apparent, as we all know, the president of the Convention, being thoroughly imbued with the idea that there was an organized opposition to initiative and referendum here, originated a caucus for considering that matter. We objected to the caucus at the time, but nevertheless it was held. As a matter of common knowledge it was held, and it is a matter of common knowledge that this report, which has just been read for consideration by the Convention, is the result of the deliberations of those gentlemen who were fortunate enough to be invited to the consideration of this question inside of the caucus. Nobody who was not supposed to be friendly to the measure, possibly in an extreme degree, ever received any invitation to that caucus, as I am informed. Now, it was said in justification of that arrangement at the time—I mean the caucus—that we were objecting that there was a powerful organized minority in the Convention which was attempting to defeat the initiative and referendum. I think the able member from Hamilton [Mr. HARRIS] used almost those words, and I think in his speech the president, if he did not use those exact words, used them in substance and effect, to show why he was justified in departing from the ordinary accepted canons of considering great questions in the committees and in the Convention. That is all well and good so far as those familiar with the proposal are concerned. There is a respectable minority at least that knows very little about this proposal and it doesn't sound exactly true or ring exactly right when we hear some one get up in the Convention and say, as has been said here repeatedly, that everything that can be known about the initiative and referendum is known and written and supposed to be known by everybody, and that there is nothing new that can be said. That is not correct. Everybody has his own ideas about this. We may agree on some particular points and disagree on some other points. There are almost as many ideas of what constitutes a proper form of initiative and referendum as there are people to consider it.

There is not any definite fixed standard for the thing. Now what position do we find ourselves in, we who desire to consider this question and offer amendments thereto. We find ourselves in a position of never having considered the proposal and never having had the benefit of hearing the discussions between two members who hold opposite views upon any particular point. Gentlemen, you must recognize the fact that discussion is one of the

things that enlightens, and that by argument of others, if you listen to them, you can get new light and new facts upon a question which you had not received before. Now we of the minority portion of the committee have never had the benefit of any discussion. We have never heard a single solitary soul who is responsible for this report get up and say anything in our presence advocating any particular feature of this proposal. We have not been in the caucus where it was discussed. What we know about the proposal we have to dig out of the pages of it as we would out of the pages of a book, and you know if you had been attending a caucus upon a question and had discussed it, you would understand it better than those of us who were excluded from the caucus can possibly understand it.

Here was a good roads proposal brought in for your consideration—and I consider that that committee in personnel compares with any other committee in the Convention—that committee gave itself to an intelligent effort to prepare a good roads proposal and it brought in a unanimous report of the committee on Good Roads; but when that report came in here, all of us having signed it and having agreed to it, thinking we had the best thing that could be presented to the Convention, so many flaws were found in it, so many amendments proposed, that we had quite a different proposal when it was adopted by the Convention from the proposal that was reported to the Convention. That showed the benefit of discussion.

You have here the distinguished author of this proposal and the president of the Convention who have led in arranging a proposal to put up for your consideration. Then they bring that proposal here, without any time fixed or any specified date arranged for, and ask us who want intelligently to discuss it to do it immediately. Now it is a matter of common knowledge to every member in this Convention that the distinguished author of this bill and the president of this Convention have been absent from the sittings of the Convention looking after this matter, some times days at a time. They were getting ready to report a proposal that they think is right and that they drew themselves when absenting themselves from the sittings of this Convention. Nobody objected to it, and the rest of us went ahead and did the prosaic business to be done, whether we particularly liked it or not, during the hours and the days they were absent. They were framing this proposal to bring in here which they believe is all right. Now we insist that it is right that there be at least a week's time given, that this should be made a special order for a week ahead, so that we who desire to address amendments to this can go at it in an intelligent way and also intelligently arrange our arguments for the purpose of presenting them here. I know, and every gentleman of experience here knows, that you can occupy three or four hours of desultory argument that ought to be compressed possibly into an hour or less if opportunity to do it were given. If we had the opportunity to do so, it would be a great pleasure for me to toil away by the lamp at night until I had reduced to writing the arguments I desire to present, and I could possibly present that argument in an hour, but I have had no opportunity, nor has any other gentleman who has not been one of the lieutenants of the caucus, or one of the

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sappers and miners of the caucus, or whatever you call them. They are all familiar with this and we are not. I submit, inasmuch as we are not going to adjourn next week and there are a number of things that can be done in the meantime, that there ought to be no objection to giving us this opportunity to intelligently consider this question and make it a special order next Tuesday.

The PRESIDENT PRO TEM: The gentleman puts that in very indefinite shape. Does the gentleman mean to place it at the head of the calendar for that day?

Mr. HALFHILL: That is what I intended.

Mr. LAMPSON: Make it a special order for 10:45 o'clock a. m.

The PRESIDENT PRO TEM: Whatever hour the member desires to make. The motion is to amend the motion to postpone until tomorrow and postpone it until next Tuesday, and that it be made a special order for 10:45 o'clock a. m. on that day.

Mr. LAMPSON: It seems to me that this most important question, inasmuch as it is a new proposition, has not been very much discussed either by the people or the Convention or any committee of the Convention, and that this motion ought to prevail. I do not believe the initiative and referendum will suffer by allowing plenty of time for debate and discussion. The gentleman who has just taken his seat reflects my views of the subject.

Mr. BIGELOW: Mr. President and Gentlemen of the Convention: I do not believe there ever has been or ever will be a proposal presented to this Convention that has received anything like the careful consideration beforehand that this proposal has received. What is the procedure of an ordinary proposal? Why, somebody introduces it and it goes to a committee under our rules and the committee cannot be larger than twenty-one. Even if these twenty-one agree and report back a unanimous report, that comes back as a proposal concerning which they are familiar. What is the case with this proposal? It was referred to a committee of twenty-one. The gentleman from Allen [Mr. HALFHILL] says he has had no opportunity to discuss the question in committee. I sat one night by the side of the gentleman and listened to a long night of discussion and I know that was not the only meeting of this committee. The gentleman, it is true, did not take any part in that discussion, but he had opportunity to do so. Not only has this measure been discussed in committee of the Convention, but we organized a committee of sixty. That is not ordinarily done. We think we are doing our duty if we appoint twenty-one men to consider a proposal, but we organized a committee of sixty to consider this proposal and we worked and worked hard upon it, and not only did that committee of sixty work hard on that proposal all together three different nights, working all the evening and late into the night, but we had such committees which had repeated sessions, and they worked hard, and in some cases they worked all day upon this proposal. If we stay here for a year we will never have a proposal that has anything like the judgment, criticism, and scrutiny that this proposal has received. Of course, it was inevitable, from the very principle on which this committee was created, that we would have some on it that did not care about the proposal itself and probably would not take any very sym-

pathetic part in the discussions in the committee, because it was my purpose to appoint on this committee, so far as I knew, some of the people who were most pronouncedly against the proposition. Why, what do these people do? This committee made repeated adjournments, it delayed and delayed. We could have brought this thing in two or three weeks ago. Even after the proposal was published — every syllable — and went to the million readers in the state of Ohio and everybody knew about it, still the committee held it up. Why? At the request of the gentleman who now comes and asks for a further delay. Why did they hold it up? Because the committee desired to give these minority members of the committee an opportunity, if they chose, to formulate a minority report and bring it in here. The delay that has occurred in committee was all the courtesy that these gentlemen were entitled to and that is usually shown by committees. We could have brought the question in here two or three weeks ago and then considered the question of postponing it for a week or so, but instead of that the committee has postponed it and given them time and time and time to consider it. Now, when they think a request for delay can no longer be justified, they come in and offer their proposal in the best thought, the most carefully-prepared and the most fully-considered proposal that has ever come or ever will come before the Convention. Now, if it were proposed to bring this to a vote, it would be a different matter, but it is proposed merely that it be placed just in the position that the liquor proposal was and that we keep it on the job, recessing from day to day, even though it takes two weeks, until we have threshed it out and are ready to vote upon it. The gentleman from Allen [Mr. HALFHILL] says he has not had time to prepare his speech. Why, the gentleman from Allen was discussing this thing in the newspapers of his county last October, before the election. He knew enough about the question to write in the newspapers and tell his people why they should not vote for it, and he had abundant opportunity to become informed in the committee. This proposal is No. 2. You will remember it was introduced on the second day of this Convention. He has had plenty of time, if he had cared to avail himself of it, to study the question and we wish the gentleman had been more industrious and had studied it so that he would not now come here and ask this delay — still more, in order that he might speak upon it. There is plenty of time here. There are people here who have given special attention and they can speak on it. They are not to be blamed or criticised for it. That is natural and to be expected, that a good many gentlemen here are in that position, but how would we ever get them prepared?

Mr. HALFHILL: May I ask the gentleman a question?

The PRESIDENT PRO TEM: Does the gentleman yield?

Mr. BIGELOW: No; I do not yield.

The PRESIDENT PRO TEM: The gentleman does not yield.

Mr. BIGELOW: Suppose we go on to other questions and debate them. When we get through with them and come to this, these gentlemen will be in the same frame of mind that they are now. They will not have

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had opportunity to study this question. They don't know how to study it. The material is not well organized for them. They want to hear what the other people have to say. Their opportunity for study on this question is from the debate upon the question. They will never study it any other way. They could not be expected to. They are going to be busy with other questions and they will never get down to a discussion of this question until the debate comes. Then these men are going to sit down and study it and work hard, and I will trust their judgment and that of the Convention, after it listens to the discussion, to settle this matter and settle it right. I think this Convention gained much good will by disposing last week of two great questions. We got ourselves in better frame of mind and standing, better with the public because we got that disturbing element, the liquor question, off our minds. Then we got the woman's suffrage question off our minds. Now, there is only one other great question left, and that is the question of the initiative and the referendum. I believe it would be a splendid thing to go at it and keep at it until we get that great thing through and have it off our minds, and then it will leave us in a still better frame of mind to carry on the rest of our work, and we will thus serve notice on the public that we are going to continue the great record that we made last week and dispose of this great question. I very much hope that the amendment will fail and that we go on with this matter.

Mr. MAUCK: I move that we proceed with the regular order of business.

The motion was carried.

The PRESIDENT PRO TEM: The question is shall Proposal No. 2 pass?

Mr. DWYER: I don't want to be gagged in that way. I got up here to move to have this proposal printed and placed on the desk of the members so that we can all read it before we go to work on it.

The PRESIDENT PRO TEM: The proposal has been printed, the motion to proceed with the regular order of business has been carried and the question now is, Shall the proposal pass?

Mr. LAMPSON: I don't understand how you cut out the pending motion.

The PRESIDENT PRO TEM: The order was to proceed with the regular order of business and that has precedence over a motion to postpone to a day certain.

Mr. LAMPSON: We had those motions pending before us.

The PRESIDENT PRO TEM: Yes, but the Convention disposed of them by proceeding with the regular order of business.

Mr. LAMPSON: Does that not mean the special order?

The PRESIDENT PRO TEM: No, sir; it does not say so. The regular order of business here is Proposal No. 2.

Mr. LAMPSON: It is perfectly apparent that those of us who represent the minority did not expect to be called upon at this time. We have been listening to Mr. Bryan and had our minds on other subjects, and I thought the short ballot was in order and would be probably taken up. I do not know that anybody wants to discuss the question so far as the minority is concerned.

Mr. DWYER: I wish to say that I am greatly surprised at what has taken place this afternoon. The statement has been made that sixty members of this Convention are familiar with this report that has been made here by the committee on Initiative and Referendum. Now there are a hundred and nineteen members of this Convention and fifty-nine of us know nothing about it, and we are called upon to take it up without proper consideration — one of the most important matters before the Convention. Now I am not opposed to the initiative and referendum, but I want an opportunity to have it printed as it came from the committee, and I want to read it and I want to consider it and I want to go at it in a manner so that it will go before the public as the full expression of this Convention. Supposing I am asked tomorrow by any of my constituents what I know about it, I can only say I do not know a thing. The sixty members may know it, but I do not nor do any of the other fifty-nine members.

Mr. BIGELOW: Will the gentleman yield to a question?

Mr. DWYER: Yes.

Mr. BIGELOW: Does the gentleman know that this proposal has been printed and has been in the proposal book nearly two weeks?

Mr. DWYER: I did not; I have not seen it. I want to say this, that I want the fairest play for everybody. I want everybody to be fully enlightened upon the question so that when they do vote for it they will vote intelligently, and if the measure carries, as I believe it will, I want it to go out to the public with the approval of the Convention. I want time, as suggested by the gentleman from Allen [Mr. HALFHILL], that we may all consider it. We may have some suggestions or some amendments to make. Certainly the fifty-nine ought to have some consideration, and I ask that the motion of the member from Allen prevail.

The PRESIDENT PRO TEM: The question is, Shall the proposal pass?

Mr. CROSSER: I presume it is in order at this time to explain what Proposal No. 2 is, in view of the apparent lack of understanding on the part of some of the members of the Convention. I do not know that I can make it any clearer than it would be by a simple reading. We all know what the initiative and referendum are. This proposition simply attempts to carry that principle into effect as regards the general law of the state of Ohio. I will go over this proposal section by section and try to explain it briefly.

Section 1 simply provides for the legislative power of the state; that it shall be vested in a general assembly consisting of a senate and a house of representatives, and it also provides that the people reserve to themselves the power to propose laws and amendments to the constitution and to adopt or reject the same at the polls independent of the general assembly.

Section 1-a provides the machinery for the direct initiative so-called. It provides that eight per cent of the voters of the state may by petition propose any law and that twelve per cent may by petition propose any amendment to the constitution.

Section 1-a also provides that such petitions shall be filed with the secretary of state and after having been verified as provided in the latter section, it provides

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that all such initiative petitions, whether proposing a law or an amendment to the constitution, shall have printed across the top thereof, in the case of proposed laws, the following: Law proposed by initiative petition to be submitted directly to the voters," or, in case of proposed amendment to the constitution: "Amendment to the constitution proposed by initiative petition to be submitted directly to the voters."

Section 1-aa provides that if at any time, not less than ten days prior to the commencement of any session of the general assembly, there shall have been filed with the secretary of state a petition signed by four per cent of the voters of the state proposing any law or amendment to the constitution the same shall be transmitted to the general assembly immediately upon its convening. It further provides that such proposed law or proposed amendment to the constitution shall be either passed or rejected without change or amendment by the general assembly, or that they may pass an entirely new law or amendment on the same subject, in which case both the law they prepare after their deliberation and also the one submitted by initiative petition shall be submitted to the voters at the next succeeding general or regular annual election. In the case of a law submitted first to the legislature it shall have printed across the top of the petition, "Law proposed by initiative petition to be first submitted to the general assembly," or in case of proposed amendment to the constitution, "Amendment to the constitution proposed by initiative petition to be first submitted to the general assembly."

The same section provides that should there be any conflict between the two laws proposed by initiative petition, both of which may have gotten a majority of the votes thereon, that then the measure receiving the highest number of votes shall be the effective law.

Section 1-b provides for the referendum and provides that six per cent of the voters of the state may by petition order the submission to the voters of the state of any law passed by the general assembly for the approval or disapproval of the voters of the state.

Section 1-c provides for emergency measures — that any measure providing for tax levies or appropriations for current expenses of the state or other emergency measures necessary for the immediate preservation of the public peace, health or safety, shall go into effect immediately upon the proper passage by the legislature, but that within the same time provided for other laws a referendum petition may be filed against that kind of a measure and if a majority of the votes thereon should be against the law that then it shall have no effect.

Section 1-d provides for local initiative and referendum. It simply provides that each city, village, county, township, school district or other political subdivision of the state shall have the initiative and referendum powers and that they shall be exercised as the general assembly may direct.

Section 1-e is the section on general provisions. It is quite essential. It provides that any initiative and referendum petition may be submitted in separate parts or sheets — whatever you want to call them — but that each part must have the full text of the measure thereon of the proposed law or the proposed amendment to the constitution; that there must be an affidavit stating that

the parties signing this petition are proper electors; that the signatures are those of the persons whose names they purport to be; that all such affidavits shall be verified free of charge by any officer authorized to administer oaths, and that the signatures to such petition shall be presumed to be genuine and the petition in fact shall be presumed to be sufficient in every respect, both as to the number of signatures and genuineness of signatures.

Then it is provided that one-half of the total number of counties of the state shall be required to furnish the signatures of the voters equal in number to one-half of the designated percentage in any particular place, whether for the initiative or referendum half of the designated voters of said county must sign such petitions.

It is further provided that a true copy of all laws shall be printed by the secretary of state and mailed, together with the argument or explanation or both for, and also an argument or explanation or both against the same. These shall be distributed as far as possible to every voter in the state.

Line 153 of the bill provides that the style of all laws be, "Be it enacted by the people of the state of Ohio", and of all constitutional amendments, "Be it resolved that the people of the state of Ohio". I believe that explains fully the bill.

Mr. STAMM: For accuracy of statement I take the liberty of reading from manuscript.

I do not know whether I owe an apology for claiming Switzerland as my country of birth, but I do not feel like apologizing when I speak of the initiative and referendum as having had their first thorough and practical trial in that country, where I had the opportunity of witnessing their twin birth and of voting for them some forty years ago when an attempt was made to have them incorporated in the federal constitution. As a teacher of medicine and surgery for a number of years I have found that my students — and physicians for that matter — had a more intelligent conception of a question when I traced it to its origin and illuminated its various phases along evolutionary lines. This method seems also to be well accepted in the world of learning, as well as in the world of business, where questions of grave and fundamental import are considered from an historical, experimental, and practical standpoint. No one will deny today that the question of the initiative and referendum is not of far-reaching and vital importance to a sound and a successful government for and by the people. It is not my desire to go back to the age of the Troglodytes or of the stone hatchet, but history shows that in a sporadic way laws were made directly by the people as early as 1294 in some parts of Switzerland. About 1650 the Landsgemeinde (Folks note) became in several cantons a permanent institution, and in a few of them it is still in existence today. This works on about the same plan as the town meeting does in New England, the difference being only in territorial extent. The state of Massachusetts resorted to the constitutional referendum in 1775, when a majority of the citizens decided in favor of a new constitution, and in 1780, when the new constitution was submitted to the vote of the people. Several other states in the Union followed this plan of submitting constitutional questions to the popular vote. France provided in 1793 in her constitution also for a veto on referendum under the name "reclamation." People

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could within forty days after the publication of the law raise their objections, but it received only consideration when it originated from one-half of all the departments, plus one, and represented at least ten per cent of the original meetings in each department. In such a case a general vote had to be taken on the proposed law. A little later a constitutional referendum was introduced in the Swiss cantons and for some time the principle was followed that the votes of the absentees from the polls were counted in the affirmative. About 1830 some voices could be heard that the representative system of government did not prove satisfactory in the end. It was said that as the representatives were not directly dependent upon the will of the people, self-interest, the influence of their surroundings, as well as their private and business affairs, would determine their work in a larger measure than was compatible with the wish of the public. It led to a self-complacent power somewhat antagonistic to the expectations of popular sovereignty upon which all constitutions at that time seemed to be based. A radical member of the diet of St. Gall, Felix Diog, said about 1831: "The people have been declared of age, but through the legislature you have given us a guardian, which naturally means that we are not ripe for self-government." The veto was introduced in some cantons, but did not make any headway. In St. Gall all laws had to lay over forty-five days to give the people a chance to veto. (I might say in passing that the difference between veto and referendum is that the latter has a more positive character — it can not only say "no," but also "yes.") In 1845 a facultative referendum and a limited initiative were introduced in the canton de Vaud. It was, however, mostly due to the powerful machinery and arbitrary rule of two men, Alfred Escher in Zurich and James Fazy in Geneva, that the popular clamor for direct government by the people became widespread and imperative. Well do I remember the imposing figure of Escher when he was a member of the national council. His great intellect and charm of manner, his glowing patriotism and captivating rhetoric gave him easy first rank among his compeers. He was a king among men, but his kingly rule and his lust for power finally caused his political downfall. He was a man of great wealth, the head of great industrial establishments, president of some banks and a railroad line, and his talent as a political organizer gave him also control over a powerful press. It must be said that he was strictly honest and did great things for his country. Instead of following a destructive policy akin to graft, he was lavish with his own means for public improvements, but he did not tolerate any other gods beside himself — no man of independent thought could be harnessed to his plans. The result was that an army of sycophants gathered about him, which, like most parasites, did their destructive work and brought about a condition which the people called "the system." (So you see that Thomas Lawson has no valid claim of being the one who coined the phrase.) This system in the eyes of the public was considered a coalition of moneyed interests, of credit and railroads, of coteries and government behind the curtain.

The system intimated that the people did not care to waste so much time in many elections; that this might have been all right for the Greeks and Romans, who had

many slaves, but that the people were an industrious and economical body and they would not arrogate to themselves the privilege of making their own laws. The democrats said that the legislature should not act as their guardian, but as their counselor it should be a pioneer of new thought and a friend of the people.

James Fazy, of Geneva, was somewhat after the type of political bosses in our American cities. It is true, he improved the city in many ways by building boulevards, quays and other public structures and institutions, but for his own private gain and self-aggrandizement he laid under contribution all gambling places and other resorts of vice, and he was so lavish with public expenditures that he brought the city near the verge of bankruptcy. His profligate and autocratic rule ended in 1864, when the government had to send troops to quiet a bloody election riot. The people were aroused to a mood to smash the machinery or the system beyond possibility of repair or resurrection and to yield to no compromise short of the initiative and the referendum. So after some years of public apathy a fresher breeze of reform went through the country, and in 1869 the initiative and referendum were given a practical trial in the canton Zurich and was subsequently introduced into every canton except Fribourg. But even the latter has been so encouraged by the good results in the other cantons that its acceptance is contemplated in the near future. In 1872 the federal council brought this question before the whole nation and advocated the initiative and referendum as a federal institution. After a three-years' stay in the United States I returned to Switzerland to complete my studies at Bern, its capital, at the time of its agitation for initiative and referendum, and I can say that besides drinking beer students at that time took not only an academical, but also an active part or interest in such public questions. I, therefore, had great opportunities to hear this question ventilated in debate before both houses as well as in public addresses. Objections similar to those you hear today in our own state were raised. President Welti, a liberal and mighty intellect, headed the opposition against the initiative as well as the referendum. He said, "Our sovereignty is the golden foundation of our institutions. If you want to dilute this gold by five hundred thousand electoral votes you will only have gilded foam or very thin foil. I feel as if the herdsman in the mountains with the code of commerce, or the stable boy with the civil law in his hand, to prepare himself for his sovereign rights, would be a caricature. Representation is not an institution of state of which you can rid yourself so easily; it is nature, which always turns up even when you throw it out with the pitchfork. All those who formerly enjoyed privileges will attack this resistless sovereign and in ten years people will be a prey to parties, industry or clergy."

President Welti lived long enough to become president of Switzerland two or three times, but not long enough to see his predictions come true. He did, however, live long enough to experience the working of the initiative and referendum on his own measures and felt its keen edge work both ways. In 1891 he proposed that the federal government should buy the Central Railroad and resorted to the referendum to accomplish it. His measure was defeated by the people, and this defeat embittered him to such a degree that he resigned

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and retired to private life. But he lived long enough to see, in 1898, that through the initiative and referendum not only his pet railroad line was bought by the government but all the railroad lines in the country. In 1872 a deputy, Ziegler of Zurich, said in answer to Welty's opposition: "Democracy will not recede; to her belongs the future. She has implicit faith in the working of the better forces of the people, and when in time of danger and distress you cannot rely upon the power of the people any new formation of our government will be without value. "Frequently," he said, "people have shown more wisdom than their representatives; North America has the representative government and corruption in close alliance." This was said in 1872. How is it today? The friends of purely representative government think that it cannot be much improved, while others think that the interests of the public at large are often misrepresented and that some privileged ones get more than their proper share of attention. Staempfli, a former president of Switzerland and probably the greatest one that the country ever had, called the referendum a great educational factor and a cement between the different cantons and races. You must not forget that Switzerland has about sixty per cent inhabitants of German blood, the others belonging to the Latin race, French and Italian.

In May, 1872, the new constitution, with a proviso of the initiative and referendum, calling for 50,000 signatures, was submitted to a vote of the people and was defeated by about 6,000 votes. Such was the fate of my first and last vote in the land of my birth. Some trifling causes contributed to its defeat, but the principal one was the fear of the French population that they might be brought too much under German rule. It was a great disappointment to the friends of the measure and even to those who stayed away from the polls. You could hear the cry in many places: "The constitution is dead, long live the constitution."

In 1874 it was brought to life again by popular vote and received in its favor a majority of about 150,000 votes. At this time the initiative was left out of the constitution, as a great many did not look with special favor upon it. In course of time, however, people began to look upon the initiative as a corollary to the referendum, and its necessity began to be more and more felt, so that in 1891 it was incorporated again and the requisite number for its availability was put at 50,000 signatures (six per cent). The rate of signers for the referendum was reduced from 50,000 to 30,000, about three and one-half per cent. The constitution can be revised at any time, either partially or wholly, by way of the initiative or by act of federal legislature. The initiative petition may be offered either in the form of a general request or in the form of a complete bill. When the petition is offered in form of a general request and the legislative chambers are in agreement with the same it is their duty to enact a bill in accordance with the sense of the petitioners and to lay the same before the people for acceptance or rejection. If the assembly is not in agreement with the petition, the question of partial revision must be subjected to a vote of the people, and in case a majority of qualified voters taking part in the election vote yes, the amendment must be elaborated by the assembly in the sense of the popular vote. If the

request is presented in the form of a complete bill and the legislative assembly is in agreement therewith the project must be submitted to the people for acceptance or rejection. In case the assembly is not in agreement it may prepare its own bill and as a competing measure submit it to the vote of the people at the same time with the initiative petition. A successful experiment of nearly forty years with governmental and legislative measures ought to rise to the dignity of a sober, practical policy. What has been the result in that country up to this date? The predictions made in my presence in 1872 that such radical measures would create considerable unrest, that the people would have to go constantly to the ballot box and to political meetings, that there would be constant discord in the public mind, have not been realized. Rudolph Holtz stated in "Swiss Civic Science," 1910, that only about ten per cent of the laws have been voted on by the public, that up to 1909 the referendum had been used 68 times, the proposed measures carried twenty-nine times and were defeated thirty-nine times. He further states: "The referendum, therefore, is not a tool of rabid demagogues, as some of its opponents at first thought. It seems more as a safety valve to quiet political passion and as a means to slacken a too rapid gait in our political life."

You may ask the question, What positive effect has the initiative and referendum had in Switzerland? It is admitted that it has proved one of the most potent factors of education in public questions. It hangs over the legislative body like the sword of Damocles. It has proved inimical to the lobby, as no one is willing to make a contract unless he knows that the goods will be delivered. The initiative is considered a corrective of the sins of omission on the part of the legislature, the referendum a corrective of the sins of commission. The latter secures a more uniform development of public opinion, more in accord with the mood and the needs of the people, and it also deflects storms of revolution. The referendum is not always a progressive measure; it has been used by reactionaries and big interests. They had such an example just recently, on February 4, 1912, when a bill providing for insurance against accidents and sickness was carried by the Swiss people with a majority of 46,000 votes. This bill originated in both houses and was especially recommended by them for acceptance, but it was fought and opposed violently by the reactionaries, high finance, and especially by the insurance companies that saw their dividends of twenty-to twenty-four per cent dwindling down to much lower figures. In a letter received a few days ago from a friend of mine, who has the ear of some of the highest officials of the Swiss government, I can show the statement that, by drawing the balance of the last ten years, the height of the benefit derived from the initiative and referendum far outweighs the shadow of their shortcomings. He does not deny that some mistakes have been made and may be made by both of them. But the fact that the president and his cabinet are greatly in favor of its application ought to be a guaranty of its practical working.

A report sent by the government of Zurich in October, 1904, to the federal council relative to the popular rights of that canton is worth listening to: It says:

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The use of the initiative and referendum in the canton of Zurich has unmistakably proved to be a popular measure and its popularity was not of slow growth, but it proved itself so from the beginning. The people cherished such a privilege which gave them a chance to participate directly in legislation and gives them also the power to guide the course of public affairs. Although the use of popular initiative has been rather frequent during the thirty-five years since its introduction we can say that no abuse has been noticeable. Some unclarified ideas and rash proposals may have occasionally been brought before the public forum, but they have been corrected partly by the critical resistance of the legislature, partly by the vote of the people. As far reaching as this popular right may be it never has threatened to drift our canton into a current of unsound or unreasonable politics.

On the contrary the right of initiative has contributed very much to keep the political life of the canton in a healthy and buoyant condition and to promote the political interest of the people. It has become the best political school. It cannot be denied that the political activity of our legislature might have been more sluggish but for this initiative agency. On the other hand the knowledge of this popular right was not without influence upon the practical decisions of the legislature.

The popular rights democratize the representative system, they prevent the widening of a gulf which, from all experience, frequently separates the people from its representatives, at the expense of the public welfare. On this point it is well to emphasize how rarely in its demand for initiative the public has been separated from its legislature. Certainly less so because it wished to follow a given dictum than because the legislature was on the whole the interpreter of the views of the people. The experiments with the initiative in the canton Zurich are a good recommendation for the introduction of the initiative of laws on federal grounds and the application of this right in our midst demonstrates the futility of any attempt on our part to repeal the initiative of laws. The method and manner in which the initiative has worked with us is perfectly satisfactory. Should in the future any change in its organization have to be considered it would only be in the direction of making the conditions under which the initiative could be brought before the public easier instead of more difficult. The fear in regard to the opinion of the people should never be the counselor of the legislator.

Theodore Curti, the Swiss historian and statesman, says: "The charge that the Swiss citizens grow tired and indifferent, owing to the large number of votings, is just as unfounded. From 1881 to 1887 from forty-one to forty-six per cent of the voters went to the polls. It rose to 69 per cent in 1891, and when the question of nationalizing the railroads was submitted to the referendum in 1898 about eighty per cent of the electorate of Switzerland participated in the election. The wholesome

effect the referendum exerts upon the country cannot be overestimated. It is a political school for the people, hence an invaluable element of culture."

Further on he says: "The people in the aggregate are always wiser than the few individuals who represent them in the legislative halls; they claim to know best what is good for them and feel more keenly where the shoe pinches, nor are they willing to wait until they are considered 'ripe' for the proper exercise of what they are entitled to consider their fundamental right." And further he says: "I have been a member of legislative assemblies in Switzerland for the past seventeen years and it is my conviction that the referendum has not prevented the passage of many beneficial laws that we desired to have enacted, but that it has prevented the committing of many errors, owing to the fact that it stood as a warning before us."

Karl Burkli, a well-known Swiss patriot, says. "The smooth working of our federal, cantonal and municipal referendum is a matter of fact, a truth generally acknowledged throughout Switzerland. The initiative and referendum are now deeply rooted in the hearts of the Swiss people. There is no party, not even a single statesman, who dares openly oppose it in principle, and yet many of them curse the institution in the depth of their hearts. All the diverse votings go on without riot, corruption, disturbance or hindrance whatever, although with great agitation. It may authoritatively be said that there is no agitation for its repeal or difficulty in its working, whether in the federation, or in the cantons, or in the cities, as Zurich, Basle, Geneva, Bern, though these cities are full of foreign elements. Our Swiss political trinity — initiative, referendum and proportional representation — is not only and wholly for hard-working Switzerland, but would be even better for that grand country of North America. It would cure them thoroughly of their leprous representation, both federal and state, and regenerate the misgovernments of their large cities."

At repeated visits in Switzerland I was always impressed by that simple democratic majesty, by that smooth and easy working of the machine of state, the unlimited and intelligent discussion preliminary to the vote, to which no opposition was offered by any party or local authority. As pleasing was the quiet and dignified manner in which the electors conducted themselves. Every citizen seemed to be imbued with the consciousness that he is a sovereign in his own domain and that any attempt to trespass upon his rights and property would be manfully resented.

Some of you may say that this smells too much of Swiss cheese. But it isn't the whole cheese. Let me, therefore, give the statement of one of the foremost Americans. Senator Albert Beveridge says, in "World of Today," December, 1911: "Is it possible that Switzerland will ever abandon the initiative and referendum?" This question was asked an elderly business man. To him the very idea of abolishing the new system was unthinkable. When finally his amazement vanished, he said: "Never! It is our protection. It is our liberty. I have lived under both systems. Under the present I am a citizen. Under the old one I was a mere cipher, a mere number. What you Americans call 'the bosses' did as they liked."



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"'Oh, no,' said a Swiss banker and business man, 'we Swiss will never give up the initiative and referendum. Such a thing is not even thought of. On the contrary we shall extend it.'

"One of the best informed lawyers in Switzerland declared: 'The referendum and the initiative are the most valuable of Swiss institutions. Nothing but the sword could destroy them; and the Swiss people would resist with arms almost to the last man before they would permit the destruction of this charter of their liberties, for that is what the initiative and referendum stands for. But this is idle talk. The proposition is fantastic. No Swiss thinks of it. In order to change the Swiss constitution at least 50,000 (six per cent) of Switzerland's voters must sign the petition. In the case of the referendum only 30,000 (three and one-half per cent) of the voters need to sign the petition in order to have any law that the national congress passed referred to all Swiss voters.'"

An inquiry of Senator Beveridge submitted to a careful student of Swiss affairs, who is an unusually conservative man, whether these percentages were not too small, elicited the reply: "No; if anything the number required is too great. The referendum especially is the only safeguard we have against very radical legislation." It was explained to him that in a certain American state it is proposed to have referendum when twenty per cent of the voters petition for it, and the opinion of this very conservative Swiss was asked upon that. His answer was prompt and decisive. "That is a fraud," said he. "Whoever proposes such an absurd thing is the enemy of the referendum and not its friend. I fear your politicians are trying to fool your people," he continued, "for, of course, such a referendum is a practical impossibility. If our referendum were so hampered it simply would not work. The expense alone would be prohibitive. A twenty-five per cent petition would be monstrous. It would utterly destroy the initiative and referendum."

Mr. DEFREES: Gentlemen of the Convention: It is to me surprising that I find there is so much ignorance on this subject, especially in Allen county. The remainder of Ohio may be well informed, and we have been talking about it for years, but in Allen county they don't know anything about it. They must have time to study the matter. Here is a proposition which you have had before you since the very beginning of this Convention. You all know what it means, that it means a fundamental changing of our state government, and yet now nobody is ready to talk on it. Nobody knows anything about it. They want to be better prepared. How long have the people of this country waited for some plan that could change the conditions that we have lived under for years and years and put up with so long? Now, when the proposition comes before you plain as day, when the best men of this country have stood in that stand and advised you to adopt this proposal, no man has opened his head against it and why we want to study it further I don't know.

Mr. PETTIT: The governor of Ohio was against it.

Mr. DEFREES: No; he wasn't. He was kind of half-heartedly against his will against it; but you will never make me believe it was his will when he stood up there and urged impossible conditions.

Mr. PETTIT: Whose words were those if they were not his?

Mr. DEFREES: You will have to ask him. He didn't tell me. Here are men who have lived under the initiative and referendum. There are men from the West who are living under it now. They have told us of its greatness and of its good qualities, and why do we hesitate? We think here we have the best initiative proposition of any state in this Union. Now is there any state in the Union which has adopted it that is re-considering the matter?

I am not a lawyer. I am not a professor in any university or college. I don't get up here to inform you of things that you don't know, but I simply remind you of things that you have forgotten. Mr. Anderson can tell you things in the law that I never knew, but I can tell Mr. Anderson things that in his upward flight he has forgotten years ago. This thing is close to me. I live close to the soil, and I belong to a class, thank God, that asks nobody any favors. We have never asked a thing to be done for us that was not done for all. No man can point to the time when the body of men I represent ever asked for unequal favors, either in the legislature or any place else, and we whom you know have never paid the attention we should have paid — we know very well we have been absorbed in things and violated our public duties, but we have come to see that we have delegated too many of these duties and we are anxious to take back part of the things we have delegated. Can any man say there is any injustice in asking for our own?

No man here denies that all powers are derived from the people, that the people have delegated these powers, that they have been robbed by the delegate to whom they have delegated. Does any man in this body believe the penitentiary doors would have shut against that man two weeks ago if this had been on the statute books, and does any man think they would be gaping for other gentlemen who have had the confidence of their friends and neighbors? Not a man believes it.

Now, gentlemen, I did not think of saying a word on this proposition. It is so plain. I am so thoroughly imbued with it that it is simply a matter of course with me. Probably for the next two or three days or a week — I don't know how long — people will want to thresh it out here. I can't understand that. I have sat here and wondered at two or three statements of men that they are not satisfied on things when their minds are irrevocably made up against the proposition. These men who are here with what they say are open minds ought not to want so much time taken to convince them of the fairness or desirability. Time of course should be given, but it seems to me that there should come the period to vote on this proposition at a very early time. It doesn't look as if it would take a week or ten days. We have studied this, and there is not a man who has not studied this proposition, and I venture to say that two weeks' time will not change any opinion of two dozen men of this Convention. They have made up their minds and why with so fair a proposition as this it should require a week or ten days or two weeks to discuss it I don't know.

Mr. HALFHILL: Did you understand the member

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from Allen [HIMSELF] to say he had studied this question?

Mr. DEFREES: Yes; in my poor feeble way I understood that. I am not a very intelligent man. I cannot make as deep a study of the matter as you from Allen could.

Mr. HALFHILL: Do you recognize that there is any difference in the views of people who believe in the initiative and referendum on principle as to what the instrument ought to be as regards percentages, etc?

Mr. DEFREES: I do not. I am not a parliamentarian as are you and two or three other gentlemen here. I don't want to be unparliamentary, but concerning my brother from Allen [Mr. HALFHILL] I think it is kind of scratching him that he didn't get invited to the caucus. That seems to be the thing with him.

The PRESIDENT PRO TEM: The chair will rule that that is perfectly parliamentary.

Mr. ANTRIM: Mr President and Gentlemen: I want to say by way of introduction that I feel very keenly what the gentleman from Miami [Mr. DEFREES] has said regarding the gentleman from Allen [Mr. HALFHILL] because the gentleman from Allen [Mr. HALFHILL] is a good friend of mine and also my neighbor, and I think we have the same kind of ignorance over in Van Wert county that they have in Allen county.

Now, in my limited study of the initiative and referendum—and I want to say my mind is far from closed; I am just a beginner, just an amateur, and I hope to learn a great many things in the discussion of the next two weeks or more—in the study I have made of the initiative and referendum these lines have frequently come to my mind:

"In words as in fashions, the same rule will hold,  
Alike fantastic, whether too new or old;  
Be not the first by whom the new is tried,  
Nor yet the last to lay the old aside."

Now, in my brief study of this subject—

Mr. STILWELL: Who is the author of that?

Mr. ANTRIM: That is from Pope's Essay on Man, and Pope in his day was a pretty level-headed individual.

Now in our consideration of the new form of government it seems to me the first thing we should do is to go to those countries and to those states where they have it. The foreign country to which we must go is Switzerland. The gentleman from Sandusky [Mr. STAMM] has told us a great deal about the operation of the initiative and referendum in Switzerland. I was very sorry I could not hear more than half of what he said. I therefore can not consider his argument, but I find in looking to Switzerland that they have sixteen thousand square miles of territory, which is about one-third the area of Ohio. They have three million eight hundred thousand people, and that is one million fewer than has the state of Ohio. In practically all respects they are very different from the state of Ohio. They speak several languages, they have a good many more mountains than we have, their climate is different, and so far as manners and customs and that sort of thing are concerned they are quite different from the American people.

Again, the voters on the whole are more intelligent than the American people. Somebody a few weeks ago

referred to the scum constantly pouring into this country. They have never allowed that. Voters in Switzerland are very intelligent and better prepared for anything like the initiative and referendum than we would be in this country. So far as other states in this country are concerned which have the initiative and referendum, I took the trouble a few weeks ago to send out a good many letters to men I knew of in various states of the Union where they had either the referendum or the initiative and referendum and I have jotted down some things these men have said. I tried to be very impartial. I found some very enthusiastic for the referendum and the initiative and referendum. Others I found very much opposed to them. I wrote men in whom I have very great confidence, men of integrity, who stand very high, and I asked them above everything else not to give me their individual opinion, but to tell me what seemed to be the sentiment of the better classes of the states in which they lived.

A gentleman from Nevada, where they have the referendum, says: "Referendum giving entire satisfaction. Used once since 1905."

A gentleman from New Mexico said: "The constitutional convention opposed to the initiative and referendum, but a majority of the people favor the referendum."

In California, of course, a majority of people favor the initiative and referendum. I want to add in this connection that I have made a personal study of the initiative and referendum in California, having spent some weeks there several years ago. That is, I mean I made a study of conditions, and I found the people were very much dissatisfied with conditions by reason of the fact that the state was held in the hollow of the hand of the Southern Pacific Railroad Co. They rebelled against that, and that is the one thing which led to the initiative and referendum being made a part of their organic law.

Mr. BROWN, of Highland: Will the gentleman permit a question?

The PRESIDENT PRO TEM: The gentleman from Highland [Mr. BROWN] would like to propound a question. Does the gentleman from Van Wert yield?

Mr. ANTRIM: I believe I will not yield until I finish.

The PRESIDENT PRO TEM: The gentleman declines to yield.

Mr. ANTRIM: In the state of South Dakota my correspondent tells me, a majority of the people favor the initiative and referendum. They have had the amendment in their constitution since 1898. In Oklahoma they have had the amendment since 1907. The statement was made by my correspondent that the initiative and referendum theoretically are approved by the people, though a majority are dissatisfied with the present form in their constitution.

In Utah, where they have had both since 1900, the legislature has passed no enabling act, so they really have the initiative and referendum no more than we have.

In Maine, I am told, they have had very little—in fact, no experience—with the initiative and referendum. Many thoughtful people oppose both.

In Arkansas it is said that W. J. Bryan and the newspapers were responsible for the initiative and referen-

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dum. The bar association and many business men are against them.

In Missouri: "The initiative and referendum, like populism, will ultimately be found to be impracticable."

In Montana, I am told, "The initiative and referendum are of doubtful benefit. The state would not suffer if they did not exist in the constitution."

In Oregon, I am told, "Not one in ten thousand reads the laws proposed under the initiative. The initiative is a vicious measure. This is the belief of a majority of the people, but the majority of the people see some merit in the referendum." I think that is hyperbole, that is, one in ten thousand. I think the gentleman who wrote that exaggerated a little bit. He felt so keenly, he evidently wanted to make it bad enough.

Colorado: The gentleman who wrote from Colorado is a man who has in a way a national reputation. His statement is: "A majority of the most sensible people are against the initiative and referendum. The likelihood is that we shall have to return to representative government."

Arizona: "The initiative and referendum are simply nostrums that can never cure existing evils. We need two things: Greater allegiance to God and an improvement of our present order of government."

Now, we find that both as to Switzerland, the one foreign county that has been mentioned, and as to the ten or twelve state I have mentioned, that have the initiative and referendum, there is not universal satisfaction. In fact, in Switzerland, I am told, there is great opposition to the initiative. There is so great opposition that some of the people have wanted to cut it out of their constitution, and no less a personage than one of the presidents of the Swiss republic has spoken and written in opposition to the initiative. As to the referendum, I think that is considered in Switzerland as almost universally satisfactory.

Now, so far as the states of the Union I have mentioned are concerned, we find the same to be the case. In some we are told that the initiative and referendum are both giving the best satisfaction. In others the people are very much opposed to them, and there is dissatisfaction expressed by a great many. Finally, we come down, after having considered in order Switzerland and the states of the Union where they have the initiative and referendum, to our own state, and we make this statement, that even if the initiative and referendum were perfectly satisfactory in Switzerland and perfectly satisfactory in all the states of the Union where we find them, it is not any sign that we should adopt the initiative and referendum measure and embody it in our organic law, for the reason that no two states are exactly alike—Ohio is quite different from any state in the Union where they have the initiative and referendum. The conditions here are entirely different from what they are in California, Colorado, or any other state in the Union where they have the initiative and referendum.

Some weeks ago I made considerable investigation in Ohio. I wrote a great many letters to persons around in the state and did considerable traveling over the state, and I asked a great many questions in my travels. I find there is a great deal of opposition to both of these in the state of Ohio, and this opposition comes especially from the rural districts. And what I shall have to say

briefly this afternoon will have to do more especially with the city as compared with the country.

Now I will take up a few counties where there is considerable opposition to the initiative and referendum. I will be impartial in this and select counties from different parts of the state. I will first take Geauga, which is away up in the northeastern part of the state; then I will go down to the southeast and pick Morgan; then in the northwest I find Van Wert and in the southwest Preble, and scattered through the central part of the state are Clinton, Fayette, Morrow and Madison.

Of course, I do not say there are not people in these counties who favor the initiative and referendum. I do not say there are not people there who are very radically in favor of the initiative and referendum, but I do say there seems to be, from all I can learn, more opposition to the initiative and referendum in those counties than favor for them.

If we consider these counties carefully we find they are among the best counties in the state. For example, according to the last census, Geauga has 14,000 people. The real estate of the county is worth \$11,500,000. Morgan county has 16,000 people and \$10,000,000 of real estate. Van Wert has 29,000 people and \$31,000,000 of real estate. Preble county has 24,000 people and \$27,000,000 of real estate. Clinton has 24,000 people and \$25,000,000 of real estate. Fayette has 22,000 people and \$28,000,000 of real estate. Morrow has 17,000 people and \$17,000,000 of real estate. Madison has 20,000 people and \$30,000,000 of real estate—that is, Madison county has \$1,500 in real estate for every man, woman and child in the county.

So the counties that are opposed to the initiative and referendum are among the substantial counties of the whole state. I might give others, but that is enough to illustrate my thought.

Now let me give you some rural statistics based on the late census report.

We find, according to the last census, that the population of Ohio is, in round figures, 4,700,000. We find that in the country on the farms there are 1,649,000 people. So 34 per cent of the people of the state are on the farms.

In villages up to 2,500 there are 452,000, or 9.5 per cent.

Villages up to 5,000, 198,000, or 4.2 per cent. This makes in the country and in the villages 2,300,067, or 48.3 per cent of the entire population of the state.

Now, what difference do we find between the conditions today as to population and the conditions in 1900 and 1890?

In 1890 the rural population was over 50 per cent of the total. In 1900 it was 42 per cent. In the past decade it has been reduced eight per cent. In 1910, one and a half years ago, it was 34.6 per cent. You see the rapid decline. We are rapidly going backward. Between 1890 and 1900 the country lost 79,000 people. Between 1900 and 1910 the country lost 113,000 people; and between 1900 and 1910 the cities gained 725,000. So the cities are gaining with great rapidity and the country is going backward with like rapidity.

Now, here is more food for thought: The decrease since 1900 in the number of farms has been 4,674, and in the number of improved acres 16,000, and in the number

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of acres in farms 400,000. That is just for the last ten years.

On the other hand, there is an increase in the number of tenants of one per cent and that is a very sorry showing, I can assure you, because as the tenants increase you know that the farming is more poorly done.

I have collected statistics with some care. They are not absolutely complete nor absolutely correct, for the reason that absolutely correct statistics are not available, but so far as I have been able to find out the 48.3 per cent of people in the country own four-sevenths of the real estate from the standpoint of value, and they own something less than two-thirds of all the taxable property of the state as per the duplicate we had in 1910.

Now, why has the country lost? I shall give briefly ten reasons.

1. There is too much work and drudgery in the country.

2. Higher wages and regular hours in the shops of the large towns and cities.

3. Weather conditions and diseases of stock.

4. Poor schools and churches—that is, comparatively speaking—compared with the schools and churches in the cities.

5. In the country we find no hospitals, no Y. M. C. A.'s, no W. C. A.'s, no libraries, no model tenements, no model rooming houses, no museums, no free amusements, no free universities, etc.

6. Taxes are high in the country, relatively higher than in the city.

7. We find the farmers paying higher interest rates than do the business men of the cities. We have heard a good deal about what they have been doing in France. There is a movement in France to lower the rates of interest for farmers, to make it easy for them to negotiate loans so that they can buy land. Now in France they get loans at three and a half and four per cent. What a difference between that and the six, seven or eight per cent that our people in the country have to pay! There are few farmers in the state of Ohio who could get a loan, mortgaging their farms, at a rate less than six per cent.

8. We have for the most part throughout the state poor roads.

9. There are many parts of the state where the tendency is to look down upon the farmer.

10. Poor prices. I believe we have a proposal before us now which has to do with that, to take some profit from the middle man and give more profit to the farmer.

Now, the question is, shall we add to these ten reasons that I have given another, namely, the initiative and referendum, for the reason that the initiative and referendum is a proposition especially helpful to the city, and especially harmful to the country?

Yet, in spite of all these things what does the country do for the cities and towns?

1. The country gives its best boys and girls to the cities. In fact, if it were not for the boys and girls that come from the country to the city to supply the great demand the cities would soon go backward.

2. The 2,300,000 country people make the cities what they are through the trade they give them.

3. The city uses all the country roads which the farmer builds and pays practically nothing for that use,

unless we consider the \$5 automobile tax something, and I really consider that next to nothing.

4. Finally the farmer is asked to help maintain many city institutions, like the hospitals and other philanthropic institutions.

Now, the cities want to give us something which we do not want and we would be handicapped, if we had it, as compared with the cities, for the reason that the population of the country is scattered over a great many square miles, whereas the population of the cities is compact. But even if the cities force upon us the initiative and referendum I believe the country districts of the state of Ohio would be able to use it more intelligently than the cities for the reason that the country is more intelligent than the cities, and I have a few statistics to establish that fact.

For example, Cuyahoga county had according to the last census a population of 637,000 people. In the schools of Cuyahoga county we find 78,285 pupils.

Take my own county, Van Wert, with which I am most familiar, and our population according to the last census was 29,119, and our school attendance was 6,016. That is, we find a greater percentage of young people attending schools in Van Wert county than we find attending schools in Cuyahoga county. So that proves our educational standard is higher, that our young people are better educated and that our people will vote more intelligently than those where the school attendance is not so good.

If you want to help us, start back to the land migration and you will receive greater profit than the farmer and the farmer will be wonderfully benefited.

Some weeks ago the gentleman from Cincinnati [Mr. BOWDLE] referred to a well-known book in the library the pages of which had not been cut, and he called it an epoch-making book. I had the pleasure of getting hold of that book when it first came out and I really consider it one of the greatest books of the time. It is entitled "Return to the Land," written by Jules Meline, one of the great scholars and statesmen of the French republic, and I will give you in a few words the outline of the book so that you can get the central thought.

He tells us in this book that the feature of the nineteenth century was the development of manufactures. First, we had master and apprentice; each shop with a local clientele; no over-production; little competition. That was during the nineteenth century, particularly the early part.

Then enters invention. Steam, electricity, coal and iron make their appearance. The local market becomes a world market.

In this expansion England takes the lead. Other nations follow with protective tariff. The whole world is exploited and competition among nations becomes intense. The result of all the great nations becoming manufacturing nations is overproduction. He elaborates that very carefully. Germany was the first nation to take warning, and is limiting production at the present time.

Germany is taking steps to limit production in order that she may keep all of her men employed as far as possible and sell her goods to a good advantage.

As a result of the world-wide curtailment of production we shall have thrown out of work many laborers

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and when those laborers are thrown out of work, what will they do?

The only thing that they can do is to return to the land, and unless they return to the land starvation will stare them in the face. And yet, in spite of this great fact, we are asked to adopt a radical initiative and referendum proposition, a thing that discriminates against the country and in favor of the city.

Now, in a few words, I want to show why rural Ohio does not want the initiative and referendum.

Why do not the many thousands scattered throughout Ohio that are more or less conservative—why do they not want the initiative and referendum?

1. Because rural Ohio feels capable of electing trustworthy representatives; they are always careful in electing their representatives and they feel capable of doing that, and with capable representatives we do not need the initiative and referendum.

2. Because voters take more interest in men than in measures. We find this in Switzerland. They have compulsory voting, and yet they find as high as thirty per cent blank ballots. The people are compelled to vote, but they don't care to vote and they just simply go and put in blank ballots to keep from being fined for not voting.

3. Because the city would have the advantage of the country, since the voters are closer together.

4. Because the city people outnumber the country people, though the country people pay two-thirds of the state taxes and human nature is based on selfishness.

We learned some time ago that the cities were going to do so much in reference to good roads. When we speak of that statement in the light of this it is insignificant.

5. The initiative and referendum would make law-making too easy.

6. The initiative and referendum would cause great unrest in the city. We all know that prosperity goes hand in hand with tranquillity. That is, where we have unrest, where the people are stirred up, there is absence of prosperity.

7. Initiative and referendum elections are expensive. Of course if they are held with other elections that expense would be reduced.

8. Let us improve what we have and not change. We see this brought out in the proposed Aldrich bill to reorganize or change our banking system. After a great committee had investigated conditions in Europe and throughout the world they decided not to recommend a central bank. They have central banks in all the other great nations of the world, but this committee decided not to recommend a central bank because it would not be suited to conditions in this country, but they decided to recommend a plan that would fit in with present conditions. They decided to recommend a plan that would permit each bank to retain its individuality and that is what they have done, and if the plan is adopted it will prove to be a most excellent plan because it is in harmony with the conditions of this country.

9. Incendiary writers, yellow press and street-corner orators would be the great influence in making votes.

10. The people are incapable—that is, a majority of the people—are incapable of making laws. The few can

make laws, but the many can recognize them after they are made.

After we have finished our deliberations and have recommended twenty or thirty or forty amendments to the constitution, the people will be able to see their merits, but the people themselves, I think, would not be able to draft amendments such as we are sent here to formulate.

11. All great institutions are representative and not subject to the initiative and referendum. I don't care what those institutions are, churches or banks or what-not, we find that they are run by representatives. There is no initiative and referendum in any of them.

Two great dangers are in government, centralization and pure democracy. So the proper thing for us to do in Ohio is to adopt something that is a golden mean between those two extremes.

I said a few moments ago that I did not believe in a radical initiative and referendum. I might, before two weeks, believe in it, because my mind is open, but I do not believe at the present time in any radical initiative and referendum, for the reason that I think it would discriminate against the country.

Now I will conclude my few remarks by a quotation from a Chinese philosopher: "The well being of the people is like a tree. Agriculture is its root; manufacture and commerce are its branches and leaves; if the root is injured, the leaves fall, the branches break away and the tree dies."

Mr. STILWELL: In quoting from the Chinese philosopher, I presume you believe there is wisdom in his quotation?

Mr. ANTRIM: I do.

Mr. STILWELL: Why has he not applied it to his own country?

Mr. ANTRIM: They are just waking up over there and are applying it, but it will take time to make a perfect application.

Mr. STILWELL: How long ago was that written?

Mr. ANTRIM: I do not know the exact date. This was quoted in the book of Jules Meline, "The Return to the Land."

Mr. STILWELL: You said the initiative and referendum would cause great unrest and be calculated to disturb prosperity?

Mr. ANTRIM: If many petitions were circulated there is no doubt about it.

Mr. STILWELL: Is it not true that in several of the most prominent states where the initiative and referendum have been incorporated in the constitution—I speak of the states on the Pacific Coast—that they are today enjoying the largest degree of prosperity that any portion of the country ever enjoyed?

Mr. ANTRIM: The only state we can take as an example is Oregon. They have had it ten years. California has just adopted it and we can not use that as an example. In Oregon tremendous opposition has developed against the initiative especially, and the man I quoted from says that if the initiative were voted on today it would be defeated.

Mr. STILWELL: I can imagine that some interests are opposed to the initiative and referendum. Is it not true that unrest has existed in California for the last decade?

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Mr. ANTRIM: Yes.

Mr. STILWELL: Yes! And the prosperity is existing?

Mr. ANTRIM: Yes; in spite of the initiative and referendum. They just got that last October.

Mr. STILWELL: Don't you believe that the unrest which rid California of the domination of the Southern Pacific is one of the means of obtaining greater—

Mr. ANTRIM: I say we can not use California for an example for the reason that they have had the initiative and referendum too short a time. We have to wait a few years and watch development.

Mr. STILWELL: How about the unrest?

Mr. ANTRIM: I say there is unrest as the result of the initiative and referendum.

Mr. STILWELL: You referred to appropriations held up in Oregon. Is it not a fact that after they had been voted up by the people and an appropriation for state armories had been voted down, that the appropriations failed because the instrumentalities had not been provided to carry the appropriations into effect—that it was the state legislature held up the appropriations and not the people?

Mr. ANTRIM: As I understand it the legislature passed a bill appropriating so much money and the people held the bills up.

Mr. STAMM: I want to correct, or at least get a better definition of your statement that there was violent opposition in Switzerland, and you mentioned the president as opposing it. Which president was it?

Mr. ANTRIM: I will get it and give you his name.

Mr. STAMM: Where did you get the authority?

Mr. ANTRIM: I can get the book. I do not recall the name right now.

Mr. STAMM: It must have been Numa Droz. He was a friend of the referendum. He died in 1895. The initiative went into effect in 1892, but had not been used in those three years while Numa Droz lived. He couldn't say anything about the practical working of that. Anything he said against it must have been from a theoretical standpoint.

Mr. ANTRIM: I will have to take your word about that.

Mr. FACKLER: You say there are different languages in Switzerland?

Mr. ANTRIM: Yes.

Mr. FACKLER: Would not that make the operation of the initiative and referendum more difficult?

Mr. ANTRIM: It might.

Mr. FACKLER: You say that the Swiss people are more intelligent than the people of Ohio. What authority have you for that statement?

Mr. ANTRIM: I have read that in several works. I have read on the subject that the average voter is somewhat more intelligent than the average voter in this country for the reason that we have so many immigrants from those foreign countries that are ignorant.

Mr. FACKLER: You also say that the people of Geauga county are violently opposed to the initiative and referendum?

Mr. ANTRIM: I didn't say violently.

Mr. FACKLER: They are opposed?

Mr. ANTRIM: Yes.

Mr. FACKLER: What is your basis for making that

statement? Is it not a fact that the delegate from that county was elected on an initiative and referendum platform?

Mr. ANTRIM: I have not consulted the delegate.

Mr. FACKLER: You say that in Van Wert there is a higher order of intelligence than in Cuyahoga?

Mr. ANTRIM: Yes; I believe that.

Mr. FACKLER: And you refer to the number of people in the schools?

Mr. ANTRIM: Yes.

Mr. FACKLER: Have you any Catholic schools?

Mr. ANTRIM: No.

Mr. FACKLER: We have, and that would make a difference.

Mr. ANTRIM: Yes, but the difference is so great that I could include 30,000 pupils in Catholic schools and still the percentage would be away ahead of you.

Mr. FACKLER: And we have that number at least.

Mr. BEATTY, of Wood: Do you consider Van Wert county ahead of Wood?

Mr. ANTRIM: No; I think Wood county is one of the banner counties of the state.

Mr. BEATTY, of Wood: We have a population of 48,000 and a tax duplicate of \$80,000,000.

Mr. ANTRIM: The word I had from Wood was that there was considerable opposition to the initiative and referendum.

Mr. BEATTY, of Wood: I couldn't find it. I won out there by the biggest majority of any county in the state.

Mr. ANTRIM: I don't say there is absolute opposition in every rural county in the state. Here and there we find good people very much in favor of the initiative and referendum, but take the country as a whole and you will find more opposition in the country than in the city.

Mr. DEFREES: You say there is a majority in Colorado against it. If they have a majority against it why don't they vote it out?

Mr. ANTRIM: I think they will. They have only had it a year or so.

Mr. DEFREES: You say it is good for the city and bad for the country. I want to know why?

Mr. ANTRIM: You study the conditions and you will possibly be able to come to that conclusion.

Mr. DEFREES: I am here to have you explain it.

Mr. ANTRIM: One of the main reasons is that the city people are closer together and it is possible to get out a bigger vote in a shorter time. This does not exist in rural counties. That is one of the great points.

Mr. PECK: What effect would that big vote have? How would that oppress the country?

Mr. ANTRIM: It would not oppress the country, but I think the rule would be that they could get out a big vote easier than in the country on any question.

Mr. PIERCE: Where do you get your information relative to your statement that Preble county is opposed to the initiative and referendum?

Mr. ANTRIM: I think Preble county may be supposed to be very conservative so far as the initiative and referendum is concerned; that is, there is no doubt that they are in favor of it, but they want a conservative measure instead of a radical one. I think the representative from that county will bear me out in that.

Mr. PIERCE: You speak of a radical initiative and

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referendum. I would like to get your definition of a conservative initiative and referendum.

Mr. ANTRIM: We will formulate that later. I do not care to do it here.

Mr. PIERCE: I would like to know if you regard the initiative in principle as any different from the right to petition, which has been a right for hundreds of years.

Mr. ANTRIM: There is no doubt that in principle the initiative is all right, but I do not know that it would work out very well practically as long as men are selfish.

Mr. WATSON: I understood you to say that rural Ohio does not want the initiative and referendum. How do you reconcile that statement with the fact that the Granges in Ohio chiefly indorse the initiative and referendum?

Mr. ANTRIM: I do not believe they do. Do they indorse any specific initiative and referendum?

Mr. WATSON: They indorse it all over the state.

Mr. ANTRIM: Specific percents?

Mr. WATSON: A motion to table it was not carried at the state meeting. In our county all the Granges wanted it and wanted the organization to back it; and not only that but the farmers through their institute indorsed it and urged me to support it.

Now you stated again that the initiative and referendum would cause unrest. Then you think a quiet ox is a good ox?

Mr. ANTRIM: I don't see the comparison or the analogy.

Mr. WATSON: The analysis is this:—

Mr. ANTRIM: The "analogy" I said.

Mr. WATSON: The human race is being driven into slavery.

Mr. ANTRIM: If you want to compare the people of Guernsey county with oxen, all right.

Mr. WATSON: You talk of the incendiary press. Does not that suggest that there is something to burn before it becomes incendiary?

Mr. ANTRIM: The incendiary press is a mighty serious element in our state life.

Mr. WATSON: If economic and sociological conditions were such as they should be, would there be an incendiary press?

Mr. ANTRIM: I think not.

Mr. NORRIS: The question has been asked the speaker in relation to majorities. Do you know how many delegates in this Convention represent a majority of the constituency of the counties?

Mr. ANTRIM: I do not.

Mr. NORRIS: Do you know that sixty-six and two-thirds per cent of every one hundred people do not want us here?

Mr. BIGELOW: I thought I understood the member to intimate that the people of Oregon were not satisfied with the initiative and referendum?

Mr. ANTRIM: I said there is a very great dissatisfaction in Oregon and I was informed by one of the most reputable men in Oregon that if there were a vote taken on it now it would fail.

Mr. BIGELOW: The inference from that statement is that if the initiative and referendum were voted upon again the people would vote it down.

Mr. ANTRIM: I meant the initiative.

Mr. BIGELOW: The initiative and referendum were put in the constitution of Oregon in 1902. Eight thousand people have been able to put upon the ballot and submit at any general election the proposition to take the initiative out of the constitution of the state of Oregon. Why have they not done it if they do not want the initiative and referendum?

Mr. ANTRIM: I suppose they have not got busy on the proposition. That is the only reason.

Mr. THOMAS: I will ask the member if it is not a fact his inquiries have been directed in that state to persons connected with big businesses who are always opposed to the initiative and referendum?

Mr. ANTRIM: No, sir; some were from poor preachers.

Mr. THOMAS: The same thing.

Mr. STILWELL: You made one important suggestion that I think deserves a little more attention, especially in view of your hesitancy about answering the question of the gentleman from Miami [Mr. DEFREES]. You are assuming that the rural districts do not want it and that the cities do. Reading between the lines of your speech, are you assuming in this controversy to set the city against the country?

Mr. ANTRIM: I do not want to do that, but I do not want the city to do anything that will set them against the country.

Mr. STILWELL: Are you assuming that the city could take any unfair advantage of the rural district and profit themselves thereby?

Mr. ANTRIM: I think they could in the matter of taxation with the initiative and referendum.

Mr. DWYER: Is it not a fact that the rural districts are very apprehensive of the single tax proposition?

Mr. ANTRIM: I think so.

Mr. PIERCE: Judge Norris asked the question how many members represented a majority of their constituents and you replied you did not know. Don't you know it is a fact that in Butler county we had nine candidates for this position and that every one of those candidates declared for the initiative and referendum and that consequently every vote in Butler county was cast for the initiative and referendum?

Mr. PECK: I rise to a point of order.

The PRESIDENT PRO TEM: The gentleman will state his point or order.

Mr. PECK: Is it proper when a man makes a speech to put him on cross-examination?

The PRESIDENT PRO TEM: Perfectly proper as long as the member consents to answer.

Mr. BIGELOW: Does the gentleman yield for another question?

Mr. ANTRIM: Yes.

Mr. BIGELOW: I want to ask the member if he knew that the question that was asked by the member from Marion [Mr. NORRIS] was very likely suggested by a certain pamphlet that was prepared and published and circulated by the Ohio State Board of Commerce, which has made the point that we do not represent the people of Ohio in being here?

Mr. ANTRIM: You will have to ask the gentleman from Marion [Mr. NORRIS].

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Mr. NORRIS: Is that question asked me or the member from Van Wert [Mr. ANTRIM]?

Mr. BIGELOW: Does any member know whether or not it is a fact that at the last election in Oregon there was an attempt made that was understood to be an attempt to destroy the initiative and referendum, an attempt to secure at the polls delegates to a constitutional convention?

Mr. ANTRIM: That shows that sentiment is crystallizing and the time will come when they will vote out the initiative and referendum.

Mr. BIGELOW: Does the vote on that proposition to allow a convention to be assembled to destroy the initiative and referendum indicate that sentiment is crystallizing against it?

Mr. ANTRIM: I don't know anything about the vote.

The delegate from Harrison [Mr. CUNNINGHAM] was here recognized.

Mr. CUNNINGHAM: Mr. President: I desire to talk a little while on this question. I have not had an opportunity to examine the provisions of this particular proposition before the Convention with reference to its workings in other states of the Union, but I have examined it far enough to know that it has many of their bad features, and so far as the principle is concerned they all embody the same principle, and so far as I am personally concerned I am opposed to the initiative and referendum in any shape or form. I think it is wrong in principle and practice. It has been proven so in all times and has been acted upon advisedly in this state at least three times before the present Constitutional Convention met. The consensus of opinion of the people of the state has always been in opposition to the initiative and referendum. They were rejected in the constitution of the United States and also in all the constitutions of our own state as well.

Under the present constitution of Ohio, adopted in 1851, the state has had unexampled and uninterrupted prosperity. It was framed by the greatest legal minds and scholars the state has produced. All its distinctive features have received from time to time the interpretations of our highest courts, and are now well understood by its citizens, and are generally, and I may say almost universally, approved by its most enlightened scholars and jurists and by the great mass of people as well. That being so, the people of Ohio will naturally demand that as few changes shall be made therein as possible, and those only as appear necessary to make the organic law of the state conform to the changed conditions of the times and the progress of events in our history; that in everything done the polar star to be kept steadily in view is that no changes shall be made that will in any way interfere with the stability of the government of the state; that whatever revision and changes are made shall be such as shall put this great state in the forefront of this progressive age; that no change shall be made simply because some particular or selfish interest demands it, but in everything the preservation of the rights of the whole people shall be paramount.

Any new questions presented should be met with the query, "Are they really progressive or are they reactionary?" We do not desire to go back to ancient times to resurrect old theories of government that have been tried

by experience and found wanting, but we should adopt only those that have proved to be in the true line of progression.

We are met at the very beginning of our deliberations with a proposition strenuously urged by certain interests to make a complete and radical change in the form of our state government, to change it from a modern, representative, republican government to a direct form of government, the people proposing and enacting the laws without the intervention of a legislative body—in other words, to substantially shear the legislature of the power to enact laws without the intervention of the mass of the people; to do away with the veto power of the governor and to recall any judge that shall dare to interfere with the validity of the laws so passed by direct vote of the people. And it is proposed to accomplish this by injecting into our constitution what is termed and known as the "initiative, referendum and recall," thus establishing by the proceeding a modern form of pure democracy, such a government in principle as was in vogue in certain small states thousands of years ago. The advocates of this radical change undertake to name themselves "Progressives." This is a misnomer; they are simply reactionaries and they should adopt on their coat of arms the crawfish rampant. This form of government prevailed among small states in the early days of recorded history, but as soon as the communities became more populous and prosperous that form of government was abandoned as impractical and dangerous to the interests of the people. Ancient Athens, small in area and population, but in knowledge of government and of the arts and sciences the wonder of the world, adopted this form of government. We would naturally think that if such a form of government could be retained to advantage anywhere it would be in a state like that, but notwithstanding all this, it was compelled, in order to preserve the rights and liberties of the people, to abandon its government of pure democracy, such as is now sought to be created for us by the initiative.

As an example of its workings in ancient Athens, Socrates, the greatest and purest philosopher of his own or any age, whose life for more than forty years was wholly spent in the service of the state and in teaching its youth the love of liberty, imparting to them a correct knowledge of the science of government and of true living—yet the people of Athens, giving a ready ear to Miletus and his other accusers who presented charges against him wholly false, basely found him guilty and compelled him to drink the deadly hemlock. The people of Athens, as soon as Socrates was dead, recognized the indefensible crime they had committed, like all assemblies of people not governed by established rules and constitutions, and not wishing to acknowledge their own responsibility, promptly condemned Miletus to death and banished the other accusers, making them the scapegoats of their own crime. Later on, as one of the numerous examples of oppression, they ordered six of their victorious generals to be executed, avowing as a reason that, while they had been victorious, it was not accomplished without cost.

Coming down four hundred years, we find Jesus Christ coming from Heaven, assuming the form of humanity, the only perfect man, going about doing nothing but good, healing the sick, cleaning the lepers,



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causing the blind to see, and the lame to walk, pointing, by His life and teaching the way of salvation to fallen man—yet, the people of Judea, assuming the initiative (as in the case of Socrates four hundred years before), haled Him before Pontius Pilate, the Roman governor, who, upon examination, pronounced Him innocent, averring that he found Him guilty of nothing worthy of death; but the people demanded referendum, that this case be referred to them, and with a mere mockery of a trial had Him condemned to be crucified, and for nineteen hundred years Jerusalem has been a mockery and a byword to the whole civilized world. Socrates died like a philosopher, Jesus Christ like a God, and they both were deprived of life at the hands of the initiative and referendum.”

We, gentlemen of this Convention, in like manner are asked to crucify representative government in this great state. If we ingraft these measures on the organic law of the state, we will, if our lives are reasonably prolonged, suffer the same censure of the people of this commonwealth.

Why should we turn back the clock of time? Why should we destroy our republican form of government, as secured to us by our present constitution, which closely follows in principle our national constitution, admitted by all students of constitutional law of all nations to be the simplest and wisest that was ever penned by man? You would think, to hear these singletaxers, socialists and faddists dilate on the beauties of the initiative and referendum, that Alexander Hamilton was a mere tyro in his knowledge of organic law. Washington, Jefferson, Madison, Ben Franklin and Alexander Hamilton all participated in the formation of our national constitution, after which our present state constitution was patterned. They, in their ignorance, according to the advocates of the initiative and referendum, drew up a purely representative form of government, although they well knew of the advantages and disadvantages of a direct and pure democracy as fully tried out in the ages that had preceded them; it was, as they well knew, the form in vogue in the early days of some of the colonies when no other form was possible. But as soon as a representative form of government could be established it was done, and the direct form discarded, even in those primitive days of our county.

Thomas Jefferson, in discussing the two forms of government, uses this language: “Modern times have the signal advantage of having discovered the only device by which the rights of man can be secured, to-wit: Government by the people, acting not in person, but by representatives, chosen by themselves,” thereby giving the initiative and referendum a direct slap in the face, styling representative government as modern and the only form of government by which the rights of man could be made secure. Thomas Jefferson was a progressive; he favored representative as being the only safe and modern form of government. He was not an ancient or reactionary, and certainly if there was ever a man living that had the true interests of the common people at heart it was Thomas Jefferson. He was the one man in favor of the masses against the classes.

But we are met by the declaration that in denying to the people the right to make laws by the initiative and referendum, you reflect upon the honesty and capacity of

the whole people, and we certainly do as to their capacity to make proper laws. If they lack capacity, no matter how honest they are—it is only one of the lawmaker’s qualifications—and they must have capacity as well, or their work will be a failure. All governments and all constitutions are in a general way a reflection on the capacity of the general mass of the people, as such, to make just, proper and wise laws. If they had the necessary honesty and capacity, we need no constitution, and we have no business here. If we believe the people generally are more honest and are better qualified to enact laws for the government of the state than their representatives, it is the duty of this Convention to pass a resolution that hereafter we will be governed by the initiative, discarding any written constitution altogether, and go home.

We certainly do not wish to reflect on the people by undertaking to frame a constitution if we believe in their infallibility. But are the people as a class more honest than their own chosen representatives? We say they are not; we further say if the people are not capable of choosing honest representatives they are not fit to govern themselves in any capacity.

We admit that the people do sometimes choose dishonest legislators, but the dishonest ones, those who accept bribes, are but few in comparison to the honest ones, and the dishonest ones are frequently a fair average in that respect of their constituents, and if an honest constituency is occasionally mistaken in its judgment of the integrity of its representatives there are always ways of getting rid of them, but if the majority of the people, in the exercise of the right of the initiative and referendum, vote away the inherent rights of the minority or of the individual there is no remedy.

I presume that none will dispute the fact that a vast majority of their representatives are far in advance, in capacity to enact wise and just laws, of the average of the people they represent. If this is true, why not allow them to continue to do so?

One of the main objections to the initiative and referendum is that popular judgment is so easily influenced and misguided; the people are more inclined for the time being to listen to the political agitator and muckraker than to enlightened statesmen.

The purpose sought in adopting a written constitution by the people is to set bounds to their own power as against the sudden impulses of mere majorities. This purpose would be wholly destroyed by adopting the initiative and referendum.

The scrutiny and consideration which a measure receives are altogether different under the two systems.

When a law is introduced, say in the house of representatives of your state, it is twice read and then referred to an appropriate committee, by which it is considered, amended if necessary and referred back to the house. It entered on the calendar, read a third time, and it then comes up for discussion and amendment by the whole house; the ayes and nays being called, it is put on its passage, after which it goes to the senate, where it is subject to indentially the same consideration. After its final passage by the ayes and nays in the senate, it is not yet a law, but it still has to receive the scrutiny of the governor, who may refuse to append his signature, and may send it back for further amendment.

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A measure before it becomes a law receives no such intelligent and careful consideration under the initiative. A measure to be submitted under this method is drawn up in some back office by some one personally interested therein; he there prepares a petition for its submission and at once places it in the hands of the great Cleveland and Cincinnati Initiative and Referendum Petition Trust Company, Limited. That corporation, having agents, in forty-eight hours the number of signatures are either procured or forged and the measure is ready to go to the people for their indorsement at the polls. No one under either initiative or referendum has a right to amend such a law in the least particular. One-half of the honest voters do not know or understand what the law embodies that he is called on to vote for, and the other half of the honest voters give it no thought and do not vote at all. The other half of the voters, made up of the slums of our cities, single taxers, socialists and dynamiters, if they think the measure is in their present interest, will vote for it and it will pass by a majority of a minority. The result will be that you will have laws passed for the government of the honest people by the worst class of the citizens of our state. I represent a purely rural population. They are almost to a man opposed to the initiative and referendum and they know their class is now in the minority in the state—that the majority of the voters are now in the larger cities—and they do not propose by these measures to tie themselves hands and feet and be passed over to the tender mercies of the worst class of voters they have in Cleveland and Cincinnati and kindred cities.

The truth is, it looks very much as though there was a conspiracy on the part of the controlling class of large cities. They have secured the upper hand of the honest dwellers in their own cities, and are now reaching out with their unhallowed measures to take away the rights of the rural population as well. I will say for myself that this infamy will not be imposed on the honest people of this state by my vote.

But the inquiry comes again, Are you not afraid to trust the people? I emphatically say, "No; not in their representative capacity." We do affirm that there never has existed a great commercial and manufacturing community like Ohio, and there does not now exist such a community anywhere, that can be trusted to enact, directly, laws for the government of the minority, or for individual members thereof.

The friends of these measures aver that incidents from the past form no criticism by which to judge of the present; that the people of today are more civilized, better informed, and are governed by a higher code of morals; but the record of history shows that the cry of the people is very much the same in all ages. Today we sing "Hosanna, Hosanna in the highest;" tomorrow the cry changes to "Crucify, crucify." And while the citizens of the present may be better educated, incidents transpiring all around us almost every day do not bear out the assertion as to the people's qualifications in this respect. A few months since, over in the old staid state of Pennsylvania, in a community equal in morality apparently to the best, a man charged with a crime and in the custody of the state authorities was in a fair way, if guilty, to receive just punishment, but the people, assuming the initiative, deliberately took the

prisoner from the custody of the officer and roasted him alive at the stake. This is only one of similar incidents transpiring all over the United States, and while the perpetrators are well known to the very best people in their several communities, out of thousands of such criminals not one has been properly punished. As in the Coatesville case, the people of the whole community are either individually guilty or accessories before or after the crime. The other day out in the state of Kansas a bright young female school teacher was decoyed to a lonely place and by a posse of men in waiting brutally stripped and a coat of tar applied to her naked body, her only offense being that she was more beautiful and attractive than the wives and daughters of the perpetrators of the crime.

At the present time the dockets of the United States courts are crowded with indictments against the most wealthy and influential men of the country for violation of the commercial laws of the land. And we have had strikes in the immediate past in all kinds of employment, and they have been invariably inaugurated with bloodshed and murder, followed by brutal assaults, incendiary fires, dynamite freely used by union labor, and by strike-breakers as well. Our state courts are overrun with divorce proceedings. Men are indicted everywhere for killing their wives, and wives for murdering their husbands. There never has been a time when crime held as high carnival as is the case today. There is not a good law on our statute books that is not shamelessly violated every day, developing an utter disregard for law, showing that the mass of people are more corrupt than their representatives and have a contempt for every good law on our statute books. Whole communities refusing to exercise the right of the elective franchise unless they are paid for their votes demonstrate that the people are very much the same in all ages; and yet it is proposed to turn over the whole law-making power of the state to the criminals, for that is what it amounts to. The criminal always exercises his right to vote, while the good citizen votes if it is convenient.

But we are again confronted with the query, "Are you not in favor of the majority ruling?" Certainly we are; the majority must of necessity rule in a free representative government, but we say to the advocates of the initiative and referendum that the majority does not rule under these cure-alls. Take, for example, the recent election in the state of California. Twenty-three amendments to their constitution were submitted to the voters and they were all adopted by a minority of the votes cast at the election. Woman suffrage, the only progressive measure submitted, was adopted by 20 per cent of the registered voters. Of the reactionary measures, the initiative was adopted by 28 per cent and the recall was adopted by 29 per cent.

In Oregon, where they have all the reactionary measures, at their last election, in 1910, thirty-two separate and distinct laws were submitted to that afflicted people for their consideration and adoption. In order that they might be enlightened a law book of 208 pages was issued, embracing the thirty-two laws they were to vote on. All these by their title were on the ticket, in addition to a long list of candidates to fill the various offices of the county and state, making a ballot seven feet in length. How many of you, gentlemen of the Convention—and

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we are certainly the most enlightened body in the world—could have cast an intelligent and satisfactory ballot at that election, no matter how carefully you may have read the various laws, and decided what ones you would vote for and what you would vote against, when in the voting booth with only the titles of the thirty-two bills before you, it being impossible to distinguish what title applied to the bill you favored and what to those you wished to vote against? I am told that many voters on the day of the election when presented with their ballot, were so appalled by the magnitude of the task before them and the impossibility of voting with even the semblance of intelligence, not knowing what practical use to make of the ballot, decided not to vote at all and carried it home and used it for a bed spread. And not a law of the thirty-two was adopted by a majority, but by a minority vote, as under their system a majority voting on the passage of the particular law, if in its favor, secured its adoption without regard to the number of votes cast at such election. A law may be adopted by ten per cent of the total vote cast, so that under the initiative and referendum it is the minority that rules and not the majority. Those particularly interested will always vote for their personal interests, while those not interested will fail to vote, and therefore must necessarily cause class legislation of the worst character.

The initiative and referendum appeal purely to the selfish interests of the voter. The citizen in enacting laws under them is responsible to none; he is governed by nothing but self interests, and there is no one to call him to account if he votes to enact laws which strike down the rights of the minority. Such is not the case with your representatives; they have taken oath to support and carry out the principles of your constitution, which secures to the minority its rights as well as the proper rights of the majority. The poorest and the weakest citizen in a representative government has the protecting aegis of the written constitution thrown around him. If his rights are infringed he has a further appeal to the courts of the land, but if his rights are taken away by the initiative and referendum, by the mere brute force of a majority of the minority, who are answerable to no one, and who are governed by no rules except self-interest, the individual is helpless. If he appeals to the governor of your state, the reply is, "I have no veto power over the laws enacted by initiative or referendum, I know the law of which you complain is unjust, I know your rights are ruthlessly trampled upon by a selfish majority, but my hands are tied and I am powerless to help you." Well, the poor harassed minority or individual turns to the courts as a last resort, but the judge shakes his head and replies, "I would help you if I could, but I have no power. This law while it is devilishly and maliciously unjust, was enacted by initiative, a bare majority of a minority decreed that your rights should be taken away, and I cannot help you. If I should attempt to thrust in the strong arm of the court to protect you I would instantly be recalled in disgrace and my name covered with infamy."

Abraham Lincoln, the greatest champion of representative government the world has ever produced, when a Southern people were about to take the initiative in their own hands by secession and throw aside the bind-

ing obligations of the constitution and of all the forms of law, in his appeal to them not to commit this, the greatest crime of the age, in the closing sentence of his immortal inaugural address, uses this language: "You have no oath registered in Heaven to destroy the government, while I shall have the most solemn one to preserve, protect and defend it."

This language fittingly represents the obligation assumed by a legislator in a representative government, and the total want of all obligations to respect the rights of anyone in a citizen seeking to enact general laws under either the initiative or referendum. In the one case the representative has a solemn oath, registered in high Heaven, that he will see that no just right under the constitution of any citizen, however humble he may be, shall under any circumstances be taken away from him, and he can justly say to the ordinary citizen, seeking to enact law under the initiative or referendum, "That law which you are about to enact was before the legislature of which I am a member; we believed that it worked an unjust deprivation of a just right of a minority of our constituents and therefore we were constrained to defeat it." You have no oath registered in Heaven not to destroy by your initiative legislation the rights of the minority of your fellow citizens, yet we appeal to your sense of justice to waive your selfish interests, and the appeal will, no doubt, usually be in vain.

If we have the initiative and referendum, we must have recall to nicely round out the system. It is but little more objectionable than the initiative. The initiative takes away the power of the educated representative, prepared by experience and thought to legislate intelligently, and puts it in the power of the general citizen, who, no matter how honest he may be, has had no experience in legislation and is in no way qualified to weigh judicially and pass upon the intricate problems of legislation, and has no time to give these matters proper and careful thought if he had the capacity.

While the recall takes away from the executive and judicial officers all independence of action, the judges of our courts must decide in accordance with the popular clamor in vogue at the particular time.

In my own little city about half of the time we have had good mayors who were willing to execute the law, all of whom, under the recall, would have been deprived of office within three months—and not one of them was re-elected—simply because they did their duty. A bad officer may occasionally be recalled, but it is the intelligent, honest and capable officer, who desires to do his duty, that usually suffers. Abraham Lincoln would have been recalled at any time before the last year of his first term, and Ben Butler, or some politician like him, put in his place.

The Dred Scott decision was probably the worst, most partisan and unjust decision ever rendered by the supreme court of the United States, yet if we had had recall at that time the two dissenting judges would have been recalled and not the chief justice who rendered the decision.

One of the banes of our form of government is the great and increasing expense of conducting it, yet we propose by these measures to largely increase that expense. All these laws before being submitted to a vote of the people must be printed, for the information

## Initiative and Referendum—Resolution Relative to Digest of State Constitutions.

of the voter, in every county of the state, putting every newspaper on the pay roll, and substantially making every publisher of a newspaper a salaried officer of the state, largely increasing the expense of holding elections in every precinct. In one state in a fit of economy they limited the number of elections under the initiative and referendum that can be held in any one year to seven. It costs Ohio over \$200,000 to hold a single election; this multiplied by only seven would make at least \$1,500,000 for these fads. This looks like a very high price to pay for a tin whistle. In South Dakota a citizen thought he needed a law for his special benefit. He prepared petitions under the initiative, paid ten cents to every one that signed it — of course he secured the necessary signatures — a special election had to be called, and while the people, in this case, in disgust voted it down, it cost the little state \$150,000 for the luxury.

We summarize our objections as follows:

First: The questions embodied in the initiative and referendum are not new in history. In large communities, with diversified interests like the state of Ohio, wherever it has been tried in such community, they have not proved satisfactory and have been universally discarded. They were expressly rejected by our fathers in framing the constitution of the United States in favor of a representative form of government, and have also been rejected by the framers of all the constitutions of the state of Ohio as well.

Second: It is cumbersome and expensive, and has proven unsatisfactory in modern times and in all ages.

Third: It puts the legislative power in the hands of the bare majority of a minority and fails to express the will of a majority of the people. It enables every well organized interest, such as single tax, socialistic measures, corporations and kindred interests, by concentrating upon a single law where a number are submitted to have their pet measures pass, thus putting a dangerous power in the hands of selfish interests, bringing about the very danger its friends are professing to try to avoid.

Fourth: It puts the legislative power in the hands of the masses, who are not informed as to intricate questions of legislation, and who have not the time to devote to the questions presented and are apt to be influenced for the time being by political agitators, and are, so acting under these measures, accountable to none, thus taking away all the safeguards of a legislative body. If the house of representatives makes a mistake, the senate is there to correct it; if they both err, the governor can correct both by his veto, and finally, when the legislature comes back for re-election, the people have a final remedy in the opportunity to vote to leave their representatives at home.

It also lessens the sense of responsibility on the part of the legislator, knowing that his actions may be reviewed.

Mr. DWYER: I know of a case that has been told me in Tulsa, Oklahoma, where the street railway company wanted an extension of their lines and they got it by the initiative. Their people turned out at the election and carried it.

Mr. CUNNINGHAM: I presume that is about the

way it would be. I don't see any reason why it could not.

Mr. TETLOW: You say twenty-nine per cent in New Mexico or Arizona adopted an article in that state?

Mr. CUNNINGHAM: I did not say either.

Mr. TETLOW: You gave some statistics.

Mr. CUNNINGHAM: I quoted California. Twenty-nine per cent voted on woman's suffrage and that was the only progressive measure and it was adopted by twenty per cent of the voters.

Mr. TETLOW: It is immaterial where the vote was cast. If twenty per cent of the people pass upon a proposition, what percentage of the people in this state would vote on it probably?

Mr. CUNNINGHAM: I expect about ten.

Mr. BIGELOW: The statement was made by the member that citizens of South Dakota circulated a petition, paying ten cents for each signature, and caused a special election in the state of South Dakota. Did I understand you to say that?

Mr. CUNNINGHAM: That is right.

Mr. BIGELOW: Don't you know that in South Dakota, the constitution of which I hold in my hand, does not permit a special election in the state?

Mr. CUNNINGHAM: I do not know. The election was held. The governor of the state said so, and while the president of this Convention knows everything the governor of the state of South Dakota knows something about his own state.

The PRESIDENT PRO TEM: The question is, Shall the proposal pass? If there is no objection the secretary desires to make a report and further consideration of Proposal No. 2 will be postponed five minutes. The chair hears no objection and the secretary will make the report.

The report was read as follows:

MARCH 12, 1912.

*To the Members of the Constitutional Convention:*

GENTLEMEN:—Acting in obedience to the instructions set forth in Resolution No. 82—Mr. Doty, I this day called on the state librarian, the Hon. J. H. Newman, presented a copy of the resolution and requested "a sufficient number of copies of the digest of the constitutions of the forty-eight states," prepared by the Municipal Association of Cleveland, for the use of this Convention.

The state librarian informed me that one copy of the publication would be delivered to each member of the Convention only when he called at the office of the librarian and received for it in person.

C. B. GALBREATH,  
*Secretary of the Convention.*

Mr. STILWELL: I offer a resolution.

The resolution was read as follows:  
Resolution No. 85:

WHEREAS, There has been prepared and printed by the board of library commissioners a digest of state constitutions for the use of this Convention, and

Resolution Relative to State Constitutions.

WHEREAS, The state librarian declined to honor the request of this Convention for sufficient number of copies for the use of the delegates thereof, and

WHEREAS, Said digest contains the full text of the provisions relative to the initiative and referendum now under discussion; therefore

*Be it resolved,* That the president of this Convention request the governor to instruct the state librarian to deliver to the Convention a sufficient number of copies for the use of delegates.

The PRESIDENT PRO TEM: The question is on the adoption of the resolution.

The resolution was adopted.

Mr. DWYER: In view of the statement last evening with reference to the state librarian, in his absence I think it is due him that a committee should be appointed to investigate the whole matter. If he is in fault he deserves censure; if he is not he should be exonerated and nothing offensive to him should appear in the record. Even the governor is censured in the record. I move that a committee of three be appointed to investigate the whole business and say who is to blame, and if the librarian is not to be blamed let him be exonerated.

The motion was seconded.

Mr. WINN: I was wondering how that resolution came to be voted upon without lying over one day and without a suspension of the rules.

The PRESIDENT PRO TEM: The house did it.

Mr. WINN: I understand it; but such a resolution should lie over one day.

The PRESIDENT PRO TEM: The rule says that all resolutions that produce debate shall lie over one day and there was no debate precipitated or asked. If there had been it would have gone over one day. The ques-

tion is now on the motion of the member from Montgomery [Mr. DWYER].

Mr. WINN: I think we should reconsider the vote by which the president of this Convention is ordered to call upon the governor. In the first place, I think we were all wrong. I don't think the resolution should have been put at all and the explanation of the chair to my mind does not explain. There couldn't be anything more ridiculous than putting the resolution in the face of our rules and the explanation is no explanation at all. The vote by which the resolution is adopted should be reconsidered and then we can have some excuse for it. I don't know anything about the controversy except that I heard there was some sort of a dispute between a man who is out and a man who is in, and they will keep it up as long as the Convention is in session if possible.

The PRESIDENT PRO TEM: Does the member from Montgomery [Mr. DWYER] withdraw his resolution for the purpose of the gentleman from Defiance [Mr. WINN] moving to reconsider?

Mr. DWYER: I do.

The motion to reconsider was seconded and being put to a vote was carried.

The PRESIDENT PRO TEM: The question is on the adoption of the resolution.

Mr. WINN: I raise the question that under Rule No. 96 it goes over.

The PRESIDENT PRO TEM: The chair will state that it is the first mistake he ever made in his life. The member is right and the chair is wrong. The resolution will go over under the rule. The member from Allen [Mr. HALFHILL] is now recognized and he yields to a motion from the gentleman from Jefferson who moves that we recess until half-past ten o'clock tomorrow morning.

The motion was carried and the Convention recessed.