

# FORTY-FIFTH DAY

(LEGISLATIVE DAY OF MARCH 25)

## MORNING SESSION.

TUESDAY, March 26, 1912.

The Convention met pursuant to recess, was called to order by the president and opened with prayer by the Rev. W. A. Warren of Columbus, Ohio.

The PRESIDENT: The member from Cuyahoga [Mr. THOMAS] has the floor.

Mr. CROSSER: Will the gentleman yield just for a moment? There are a number of gentlemen from out of town who are here to address the committee on Municipal Government and as that committee is anxious to use this hall tonight I move to postpone the consideration of Proposal No. 2 for one minute.

The motion was carried.

Mr. CROSSER: I now move that the use of this hall be granted to the committee on Municipal Government tonight for a hearing.

The motion was carried.

Mr. THOMAS: The members will recollect that when we left off last evening, I had undertaken to show that practically all of the unparalleled prosperity so frequently spoken of by some of the members had gone to the capitalist class and that \$1.72 per day was the best that labor got out of it, and the last paragraph referred to in my talk contained the information that seventy-five per cent of the manufacturers engaged in the making of drugs and foods were engaged in the criminal practice of making poisonous foods from which thousands of babies had died during the last year. A New York drug dealer the other day was sent to prison for four months for having counterfeited a trademark for liver pills. How many jail sentences have been handed out for violation of the federal food and drug act, an act designed to protect the public from drug fakirs and crooked dealers? The journal of the American Medical Association is authority for the assertion that although more than seventeen hundred persons connected with firms have been convicted under that act nothing worse than a fine had been imposed. The manufacturer of a tonic containing cocaine was convicted the other day, but the wise court suspended sentence. Trying to steal a paper-and-ink trademark was terrible, but making drug fiends out of innocent people was no crime. And that is law!

Dr. Wiley, who, during his administration of this department of government, has by every means sought to protect the people and the babies against this class of murder, has been forced at last to recall himself from government employment because of the refusal of those in authority over him to compel these food combinations to obey the laws enacted to protect our lives. Had we the right of recall, I wonder who the people would have recalled, Secretary Wilson or Dr. Wiley?

Mr. Weybrecht, the member from Stark, very eloquently drew attention to the failures of the great ancient democracies as a reason for opposing this proposal. In

the great Greek democracy, during Solon's administration, Mr. Weybrecht forgets to mention that below the fourth estate that he mentions there were thousands of slaves constantly in revolt against the atrocious conditions under which they were compelled to work, and the revolt of twenty thousand of these slaves and their joining the enemy materially aided in the conquest of that democracy. Lincoln in his emancipation proclamation declared no nation can exist half free, half slave. The slaves, and not democracy, destroyed that Greek nation. In calling attention to the excesses committed by the Roman and French revolutionists, Mr. Weybrecht entirely overlooked the atrocities committed by the monarchies and aristocracies of these nations, and neglected to call attention to the fact that only when driven to desperation did the masses seek revenge and give to their so-called masters a dose of their own medicine. He probably never read that one of the great sights of Rome was the Appian Way, with its thousands of crosses bearing the writhing bodies of dying slaves, millions of them having perished in this way either as a punishment or having committed suicide because they were unable to bear the sufferings they were compelled to undergo to keep alive. He also probably never read of the horrible massacre of women and children with their defenders in Paris at the close of the revolution of 1871, by General McMahon and the French army, backed by Bismarck and his German legions, and it looks as if the few instances of excesses committed by the masses or, as he calls them mobs, has entirely obscured his views of the same excesses committed for generations by the governing aristocracies.

Fifty years ago Lincoln, in his first message to congress, December 3, 1861, said, "It is not needed nor fitting here that a general argument should be made in favor of popular institutions; but there is one point with its connections not so hackneyed as others to which I call brief attention. It is the effort to place capital on an equal footing with, if not above, labor in the structure of government. No men living," said he, "are more worthy to be trusted than those who toil up from poverty, nor less inclined to take or touch aught which they have not honestly earned."

Both Lincoln and Jefferson, in every utterance made by them, expressed their abiding faith in the common people. Judge Ranney, in his speech to the constitutional convention of 1851 on the veto power (page 112, Vol. 1, of the Debates), speaking of the abuses of representative government, said:

The remedy is found hereafter in retaining among the people very many of the powers which have been exercised by the legislature, \* \* \* the power to confer office. \* \* \* I would not give the power to the legislature to enact all laws until they have been submitted direct to the people. That will cut down their power. \* \* \* Take from them all the power of local govern-

## Initiative and Referendum.

ment and you have left nothing for the legislature to do, but pass those general laws to which all should be subject.

These gentlemen who so constantly harp about mob rule in the event direct legislation is adopted, and still claim to be followers of Lincoln and Jefferson, put me in mind of a story told me Saturday of an Ohio citizen who went to Chicago to bury his mother-in-law. He had no friends of his own, and not knowing any one there, it became necessary for him to secure some one as mourners to show due respect to the deceased and have what we might term a respectable funeral. So he hired two Irishmen, Pat and Mike, to do the weeping for him and to follow the hearse. On the day of the funeral Mike and Pat showed up and were placed in the funeral procession, right behind the hearse, and they were told to keep their heads down and show due respect, etc. The procession started off and kept on for a long while and Pat and Mike kept their heads down with all deference to the duties they were performing. Mike got a little tired, and after a while he said, "Pat, where are we? Look up and see where we are going." Pat said, "Keep your head down, keep your head down; we want to get that ten dollars; keep your head down." They went on and in a little while Mike repeated the same question. Finally he got tired of following without apparently seeing where they were in the procession and he insisted that they raise their heads and look to see where they were, and lo and behold! instead of following a funeral hearse they were following a garbage wagon.

In reference to the single-tax scarecrow that the opponents of the initiative and referendum are trying to inject into this proposal, I would respectfully call their attention to this declaration of governmental powers, to be found Tom Paine's "Rights of Man." Now just see whether these rights are not just as true and apparent now as they were at the end of the American Revolution:

There never did, nor never can, exist a parliament or any description of man, or any generation of men, in any country, possessed of the right or the power of binding or controlling posterity to the "end of time," or of commanding forever how the world shall be governed, or who shall govern it; and therefore all such clauses, acts, or declarations, by which the makers of them attempt to do what they have neither the right nor the power to do, nor the power to execute, are in themselves null and void. Every age and generation must be as free to act for itself, in all cases, as the ages and generations which preceded it. The vanity and presumption of governing beyond the grave is the most ridiculous and insolent of all tyrannies. Man has no property in man; neither has any generation a property in the generations which are to follow. The parliament or the people of 1688, or of any other period, had no more right to dispose of the people of the present day, or to bind or control them in any shape whatever, than the parliament or the people of the present day have to dispose of, bind or control those who are to live a hundred

or a thousand years hence. Every generation is and must be competent to all the purposes which its occasion require. It is the living and not the dead that are to be accommodated. When man ceases to be, his powers and his wants cease with him; and having no longer any participation in the concerns of this world, he has no longer any authority in directing who shall be its governors, or how its government shall be organized or how administered.

The Declaration of Independence is based on these principles, and it really seems to me that it has become necessary to rewrite it in this twentieth century, so that some of our citizens at least may understand the fundamental principles on which this government was founded. I am opposed to both Mr. Lampson's and Judge Peck's amendments; to Mr. Lampson's, for the reasons that I have given; to Judge Peck's, because of my abiding faith in the ability of the people to direct their own affairs. There will be many good bills introduced in the general assembly in the years to come that will not have been petitioned for, and the people should have an opportunity to enact them into law or petition for new ones when the legislature is not in session, and I am positive that this power will not be abused. Every speaker who has addressed this Convention in opposition to direct legislation, with the exception of one, Judge Worthington, has failed to suggest any remedies for the abuses they all admit exist in the present form of representative government. Judge Worthington suggests the short ballot and the merit system or the civil service in government employment as a means of getting rid of the political boss. He seems to forget that the federal government now operates on that basis, and the daily papers for the past few weeks have been full of charges against governmental employes and officials for abusing their power to elect delegates to the national convention of the party in power, and as there is no denial that these abuses exist I am afraid the changes as suggested by Mr. Worthington would not have much effect. It puts me in mind of a story told by Judge Owen of the two farmers in Van Wert county whose chief claim to notoriety was their brevity. These farmers were named Jake and Si. About all the communication that ever transpired between them was, "Morning, Jake." "Morning, Si." "How is the weather, Jake?" "All right, Si." "Morning, Jake." "Morning, Si." That was all that would be said unless something very unusual had happened. So one morning, continuing this performance of "Morning, Jake" and "Morning, Si," Jake said, "My horse is sick, Si." "So is mine, Jake; what shall I give him?" "I gave mine turpentine, Jake." "Morning, Si." "Morning, Jake." Next morning the salutation went this way, "Morning, Si." "Morning, Jake." Then Jake said, "My horse died, Si." "So did mine, Jake." "Morning, Si." "Morning, Jake."

There is another little thing I would like to read as bearing on this subject:

## THE AMBULANCE AND THE FENCE.

'Twas a dangerous cliff, as they freely confessed,  
Though to walk near its crest was so pleasant;  
But over its terrible edge there had slipped  
A duke and full many a peasant.

## Initiative and Referendum.

So the people said something would have to be done,  
 But their projects did not at all tally,  
 Some, "Put a fence around the edge of the cliff,"  
 Some, "An ambulance down in the valley."

But the cry for the ambulance carried the day,  
 And it spread through the neighboring city;  
 A fence may be useful or not, it is true,  
 But each heart became brimful of pity  
 For those who slipped over that dangerous cliff,  
 And the dwellers in highway and alley  
 Gave pound or gave pence, not to put up a fence,  
 But an ambulance down in the valley.

Then an old sage remarked: "It's a marvel to me  
 That people give far more attention  
 To repairing results than to stopping the cause,  
 When they'd better aim at prevention,  
 "Let us stop at its source all this mischief," said he,  
 "Come, neighbors, and friends, let us rally;  
 If the cliff we will fence, we might almost dispense  
 With the ambulance down in the valley."

"Oh, he's a fanatic," the others rejoined;  
 "Dispense with the ambulance? Never!  
 He'd dispense with all charities, too, if he could;  
 No, no, we'll support them forever!  
 Aren't we picking up folks just as fast as they fall?  
 And shall this man dictate to us? Shall he?  
 Why should people of sense stop to put up a fence,  
 While the ambulance works in the valley?"

In conclusion, I would ask the members of this Convention to stop putting the ambulance in the valley as a cure for the abuses that have continued with representative government and place the same abiding faith in the common people as the man who wrote the Declaration of Independence, the man who broke the shackles from the slaves, and give the people of our time the opportunity to govern themselves in their own way by voting for the substitute proposal as introduced by Mr. Fackler.

Mr. JOHNSON, of Madison: Mr. President and Gentlemen of the Convention: During the past few weeks we have listened to the views on the initiative and referendum of most of the presidential has-beens and some of the presidential want-to-bes of the nation, and after listening to their carefully prepared views and conclusions, we have found them as vastly divergent as are the views and conclusions of this body. But we find upon ourselves a greater responsibility than merely drawing conclusions individually among ourselves or for expressing views drawn from political aspirations. Instead we are called together for the purpose of molding our individual conclusions together into a basic law for millions of people, and, to my mind, we as constitution builders have at our disposal the important solution of this problem, which should be considered most thoroughly from three distinct viewpoints:

1. Whether or not the people of the state of Ohio have a right to adopt the initiative and referendum as a method of self-government? And, if they have the right, then,

2. Whether or not it is necessary or would better their conditions to adopt such a plan? And,

3. If it would better their conditions, then the plan and form of the initiative and referendum that we should adopt.

A constitution to my mind, without taking the definition from any dictionary, is that basic, fundamental law

which qualifies, limits, defines and restricts the governing power of any state or nation; and the governing power of any state or nation is that source of authority which holds its subjects in submission to the law of that commonwealth. To define the governing power and the source of authority of any state or nation requires a study of the inception of that form of government. I want to take up the study of the inception of some two or three different forms of government of today, and to do this may require us to retrace our steps to a period beyond ancient history, and perhaps back to the time that has been used in these discussions by our friend from Coshocton [Mr. MARSHALL] in proving the inequalities of womankind. We might, perchance, on some of those mornings described by him have seen some human being traveling through the canebrakes and swamps of the primeval forest, trailing to his lair some ichthyosaurus for his morning meal, and before he captures it and before it reaches its lair, we find him crossing and recrossing the fresh footprints of a fellow being. Finally the two men run across each other, and we find them brought to that state whereby they have first to debate for the morning meal themselves, and so these two begin to fight for the possession of the morning meal, and after an awful battle we find one of them succeeds in planting his scaly, horny heel on the neck of his adversary. Thus the one proclaims himself the conqueror of the other and the other bows in submission, and the next day we find the one who thus went into a state of subjection going out to the primeval forest for the purpose of bringing in food to the other who conquered him. Thus we see the governing authority asserted. So it was not very long until the conqueror succeeded in bringing into subjection all the rest of his fellow beings in that community and thus he builds up a dynasty, when he says to those he has captured, "Go out and capture others for my slaves." Thus we find theoretically the original despotism, as absolute monarchy. After a time we find the self-same subjects unwilling to abide by the authority whereby no rights are given them, and we see them compelling that authoritative head to sign his name to a document, while drops of sweat and blood mingle upon his brow, whereby he limits and restricts his governing authority and grants certain privileges and rights to his subjects. Here we have produced some of the limited monarchies that we find in the world today, examples of which have been presented to prove in such nations that no right of self-government exists. In England and Russia and others that have been mentioned there exist no right in the people to assert their authority to self-government, and I likewise agree with them that in a government with such inception of authority there is no right in the people except such as is granted to them by the governing power, the authoritative head, which was the head or potentate that forced the others to do his bidding and become his subjects.

Then another form of government requires consideration, and upon a similar occasion we may have seen a body of men who succeeded in bringing low the ichthyosaurus or megatherium, and recognizing that there was food enough for all, they did not fall to fighting among themselves for the carcass but divided it and each had sufficient. They there entered into a compact

## Initiative and Referendum.

whereby they agreed that from that time on they should all go out into the forest and the results of their chase and hunt were to be the common property of all. Everything went well until a hot, sunshiny day in the springtime came along, when some who had become fat and lazy refused to go out on the chase. The band of workers who went became smaller and fewer until the real hot days of summer came, when there was no longer enough food brought in for all, and those who had adopted the stage of laziness began to dwindle and lose their estate, until finally some of them didn't have strength enough to resist and starved to death. And this was the death of the socialism of antiquity, and perchance the same fate will overtake the socialism that is springing up in modern times.

Now, another group of men who have lived in a certain community have succeeded in living well for the reason that each man determined that the fruits of his labor should be his fruits, and that his dependence should be determined by his own ability to gather in his food and sustenance. Consequently these men succeeded well and were prosperous until certain rights and liberties seemed to conflict and certain contentions arose among those men as to those rights and liberties, but instead of entering into a fight for authority, and having a certain faction gain the governing power of that community, we find them meeting beneath the old elm tree and there they agree that each shall have the fruits of his own labor, and that each shall have a voice in the making of their laws. Then we find them meeting beneath the old elm tree for the purpose of making laws and establishing a system of government. This was a pure democracy and the theoretical form of government upon which pure democracies were builded, but they were so prosperous and became so numerous that ere long it was impossible for them all to meet under the elm tree or even in the forest of the community. We then find them devising a plan whereby each subdistrict sent a representative to the assembly for the purpose of expressing views and solving problems, and the power to act was delegated to them by those who sent them there, namely, the people of the different communities. Each representative there recognized his power of agency and the authority of his principal—the people who elected him—and so long as he used those delegated powers and those delegated rights, as the representative of the people, for the purpose of expressing the wishes and demands of those who elected him, that long they had a representative democracy, or the republican form of government of modern times.

The early settlers of America, in order to throw off the yoke that had been placed upon them by the governing power which emanated under the doctrine of the divine right of kings, made their settlements on the eastern coast of what is now the United States, and there asserted their power of government through the method of democracy or representative form of government, and we see them prospering with that form until we reach the stage in history where the governing power of a foreign country endeavored to force upon them certain legislative powers which they claimed the foreign nation did not possess. Consequently we see the revolutionary strife in which these people declared their independence. In this declaration they recognized that the

governing power rested only with the people who had crossed the wild, tempestuous ocean for the purpose of establishing a new government, and they were opposed to having any other form of government. Therefore they selected delegates for a constitutional convention who were to meet for the purpose of framing the basic fundamental law of that land, namely, the United States of America. After they had met and had discussed the plan of government which they had met to establish, we find the best solution as to whence they derived their power in the very first three words used in that basic law, namely, "We, the people." Consequently there is no denying the inherent right of the people to establish government, and there can be no denial of the inherent right of the people of our country to claim that the representatives whom they selected should recognize their rights of government and act only through delegated power.

Then we have the different states that have been organized under that plan of representative government, and they all possess the same authoritative head, namely, that the control of government rested not in the representatives they select, but rather in the people themselves who select the representatives. Thus we arrive at the point in our conclusions whereby we can establish the right of self-government, and then the question arises whether or not it would better conditions or whether a plan of that kind is necessary.

We have had great discussions here concerning different forms of democracies and representative governments that have existed, and it is true that both democracies and representative governments have been short-lived. We have been told here of the democracy of Athens and of the slaves it contained, and that consequently we have nothing to produce in support of a pure democracy. On the other hand, we have had mentioned here the example of republican Rome—short-lived, too, though perhaps it existed longer than any other republic—but in all these cases, if we will trace the pages of history carefully, we find that the cause of their short existence was nothing more nor less than the strife that arose between the factions of those nations, namely, the strife between the rich and the poor, the patrician and the plebeian, and in all this strife we find that there was an effort made to keep the real majority from controlling the actions of these bodies of men; we find the constant strife or effort of the wealthy to keep down the slaves and the serfs. I am not here as a pessimist to denounce the form of our government, and say that it will follow the same plan, but I must say there is a tendency to the same condition in America today, a growing strife between the rich and the poor. The historians said of republican Rome that it became a commonwealth of millionaires and beggars. We are reaching that condition in America today, and if the tendency continues it will not only be described by that statement, but the statement of the future historian may be that it became a commonwealth of billionaires and beggars. I do not wish to take from any body of men the right to accumulate property, but I say a system of government under which one man is able to use the products of the earth and take the natural resources of the land and accumulate a billion dollars, while a million of other men are on the verge of starvation, has

## Initiative and Referendum.

something wrong about it. It is not truly representative. To my mind a strong argument in favor of the adoption of the initiative and referendum, not for the purpose of establishing democracy, not for the purpose of destroying representative government, but as a corrective link between the two, is that there has been opposition to the plan, the opposition coming from those who do not want the source of government to abide where it rightfully belongs, in the people. Those persons who are striving against the recognition of the power of the people are simply attacking their own system in that they are laying a stepping-stone to its oblivion, for the reason that when any large body of men having inherent right to govern see some force contending that that inherent right does not exist, that body of men sooner or later will become determined to have that right and liberty. Then the question arises why governments based on this plan, in a way cease to be representative. The facts of the matter are that at the earliest inception of representative government the power delegated to their representatives was closely defined and carefully protected, but after a time we find so many contending forces, so much opposition of sentiment, and so many parties with different views, and so many platforms and different plans that the voters, unable to learn the real principles upon which any candidate for office stands, cease to vote for men but ally themselves with political organizations and vote with political parties. So for several decades in this country we have seen people going up and voting for eagles and roosters rather than for measures and men. After they found that system would not do, we see them voting for men, trying to pick out the best of the men running, and in most cases it has been simply a choice of the lesser of two evils, and perhaps in the last ten years we have been voting mostly for men upon the sole question of whether they were wet or dry. Consequently the representative form of government takes from the people the right to vote for measures and they do their voting absolutely for the emblem of some political party or for men, while the right of the people to express their views upon living issues is denied, for they are not given the opportunity to express them. Therefore we believe that this plan of government means the readoption of the plan of voting for measures rather than for political emblems, or even for men, and whenever you get the people to vote for measures you will more highly educate them to the solution of live questions and the governmental affairs of their state and nation. Another argument to my mind in favor of this plan of government is that the powers of government rest in the people of our state and nation, and the rights and liberties that belong to the people are inherent in them. Consequently they have, under that theory of government, established representative government, and that representative government, it is contended, has become misrepresentative and fails to perform the functions of government as it was expected to do. As a result we find men are not following the plan of government absolutely, for the reason that it does not fulfill their desires and commands. Thus these self-same people are here demanding the right to aid representative government and the question arises whether or not the initiative and referendum would destroy representative government. I would say,

in answer to that, that the right of government, being inherent in the people, and they believing in representative government, expect to use the initiative only to correct the evils of that representative government. So soon as they can restore representative government to its rightful plane, and to the high standard that prevailed at its inception, that soon they will cease to use the initiative and referendum.

Now, as to the plan and form of the initiative and referendum that I favor, I will simply say that I do not wish to enter into any lengthy discussion because that has been variously discussed, and I can do nothing more than state to you my individual conclusions upon that proposition. I am in favor of the indirect initiative at a low per cent, for the reason that I have always believed that the people of any state or any nation should have the right to petition their representatives for the enactment of laws and plans of government.

I am likewise a believer in the referendum at a low per cent, for the reason that I believe when any considerable number of the people wish to pass judgment upon the acts of the legislature they should have that right absolutely. I am a believer in popular government, and I believe that the will of the majority should always prevail. I am a believer in the direct initiative for constitutional amendments at a reasonably high per cent, and I wish to state in that connection I have always believed that when a majority of our people desire a change in their constitution there was no intent on the part of our forefathers to deny them the opportunity of securing a compliance with their wishes and demands. Therefore, the argument that because of the great stability and long existence of our plan of government it can not be changed, has no effect upon my conclusion.

Furthermore, I am a believer in the direct initiative, but that would be at a high percentage, higher than any at present named in either proposal, for the reason that I believe under the initiative and referendum the legislatures will properly perform their functions. The direct initiative, therefore, would never have to be used except in cases of absolute necessity, or when the legislators have become so corrupt that they will not perform the duties for which they were elected, and at that time, when a large percentage of the people have a crying need for the passage of some law, I would then be in favor of its coming direct from the people.

Now as to the frills and flounces of this proposition, such as the single tax and other ideas. Theoretically, I do not believe that such things should be any part of the initiative and referendum, for the reason that I do not believe we can deny the people of our state the right to pass upon all matters that are of real importance, and I believe when a majority of our people demand anything, let it be what it will, we should make that a part of our laws. On the other hand, if there is a strong demand by some outside influence asking us to pass such a thing as the single tax, so far as I am concerned, I do not believe that to be a part of a republican form of government under the plan of government we have, and therefore we want some obstruction in the way of such a socialistic doctrine and I would not be adverse to adding its inhibition to this proposition. Likewise, if there is a crying demand from such foolish people as

## Initiative and Referendum.

the corporations and "the interests" to ask us to classify our property for taxation, I would be willing to add that inhibition also. Believing as I do that this measure should not have those things tacked on to it, yet if the people are afraid of the single tax and classification of property, I would be willing to do that. I stand on these matters as I do on nearly all matters in framing basic law. I believe that a compromise method or a middle-of-the-road measure will come nearer to what the majority want, and will more nearly place us in a proper relation to future generations. Therefore I do not want to be classed with the standpatters, who want to obstruct progress with crowbars in their hands ready to jab into the running gears of any and all progressive movements, nor do I want to move with that class of radicals who want to get into a fifty-horse power racer and go dashing ahead only to find themselves up-side-down in the ditch. Rather I would like to be with the conservative progressives, who want to ride in a carefully geared electric, so constructed that it can be guided carefully in the middle of the road along its way to future progress.

In conclusion, I want to say that no great progressive movement has ever come before the people in which there have not been certain interests that fear its adoption lest it might take from them some special privileges that they have obtained, that has not met with most serious opposition and whose advocates have not been called fanatics. But the fanatics of yesterday are the wise men of today. The human body that does not have changes and does not make cellular growth will soon have the obsequies of a funeral over it. Likewise the body politic that expects to stand pat, and have no changes or growth will soon have its burial, and perhaps with not very impressive obsequies.

The PRESIDENT: The gentleman from Montgomery [Mr. STOKES] is recognized.

Mr. STOKES: Mr. President: I wish the indulgence of the Convention for a very short time that I may give expression to some views I entertain on this very important subject, the initiative and referendum, and in doing so I desire at the outset to say that I am not bound by any signed statement made before or since election and that I am absolutely free to form and have my own opinion, speak my own mind, accountable alone to the citizens that I have the honor of representing, together with the duty I owe to the great state of Ohio, its interests and all its citizens.

I have no quarrel with the gentleman from Cuyahoga who spoke this morning upon the question of the unequal distribution of the wealth of the nation. It stands a monument of shame and a disgrace to our civilization. I disagree with him, however, in the remedy which he suggests. That, in my opinion, would in its operation be worse than the disease. The fact that so small a per cent of the wage earners are home owners, is more largely due to their failure to accept the opportunities to secure a home and to a desire for theatre tickets, big hats and automobiles than to anything bad in our system of government, but I shall confine myself however to the present home owners.

Actuated absolutely without any selfish motive, political or otherwise, save and except to do my full duty as I understand it as a delegate in this Convention, I trust that critics may be as charitable in their judgment

as was He who came to redeem the world while we work this matter out, and that they pronounce judgment only after due deliberation. No one has been commissioned by any known and well-recognized authority to pass on the question of the degree of one's fidelity to the initiative and referendum and I, having been an earnest advocate of the referendum long before some of the members of this body were voters, I shall lay claim to a little orthodoxy myself and I will constitute myself a judge of the eligibility of all advocates.

No law of ethics has yet established a rule by which to correctly judge and measure the depth of sincerity of the advocates of the initiative and referendum, yet some have undertaken the task and found it impossible. The difficulty can be no better illustrated anywhere than by what we have witnessed in the different opinions among the delegates to this Convention, all claiming to be the true and genuine, blown-in-the-bottle kind, and yet they are as far apart in essentials and details as are the friends and enemies of the measure. They seem to be in a complete and inextricable entanglement, and yet no night has been so dark that it was not followed by day, and we are not without hope.

There is one thing in connection with the initiative and referendum that is a very serious menace to it, not alone in this Convention, but also among the people, and to that I wish to confine my remarks. The wisdom of this proposal becoming the basic law of the state is not going to be decided in this Convention, but by the people in every nook and corner of the state, and in making a constitutional change as important as this change will be it must be such as to appeal to the voter as being right and just, and if it does not so appeal to him it will surely meet with defeat. My vote and my influence, if any I have, will be to make this proposal not only reasonable in its language, but reasonable in its application when put to the test as the basic law of the state. No one in this Convention has greater confidence in the people than I have, and no one is willing to appeal to them with more confidence. They may not always be right, but they will not go so far wrong that they cannot be hailed in time to right a wrong. We must, however, disassociate the people from the demagogues that attempt to use the people in the name of the people to wrong the people.

Webster says "A demagogue is one who inveighs against constituted authority." The demagogue in practice is the faultfinder — in other words, the knocker — who is always on the job. A "patriot", according to the same authority, is "a person who loves his country and zealously supports and defends it and its interests." No one can, however, with truth deny or controvert the fact successfully that there is in this state a very persistent sentiment for the initiative and referendum, upon a workable basis, to the end that the government of the state may truly be representative of all the people. Representing as I do the citizens of Montgomery county, a county named for him who gave his life in the heroic task of detaching the city of Quebec and the surrounding territory from the mother country and making them a part of this republic, as well as to have the great waterway on the north in our control — this county, named for this splendid young hero, contains a population honest in its desires, industrious in its undertakings,



## Initiative and Referendum.

progressive in spirit, with inventive genius not equaled any place in the world. In this county of old Montgomery, noted for the fertility of its soil and peopled with splendid husbandmen, is the beautiful city of Dayton, with its wide and well-cleaned streets, lofty shade trees, containing 140,000 energetic, pushing people, the gem of the state, a people not surpassed anywhere for intelligence and education, lying in the lap of the Great Miami, skirted by the timbered hills, producing a picture fitting the imagination of the artist and pleasing to every eye. Here in the city of Dayton are more home owners than in any of the larger cities of the country anywhere. The people of this splendid city are and have been home builders. Here we have no slum districts, nothing approaching them; we have only a little Hungary, where the foreigner finds a congenial fresh-air home, patterned after that of his native land.

A few years ago I was showing Horace J. McFarland, president of the American Civic Association, the city of Dayton, and after a two-hours' ride, passing dwellings of all classes, he asked me to show him the homes of the laboring people, and when I informed him that these we were then passing were the homes of the laborers he exclaimed that he was agreeably surprised and that he did not know of a city any place where the laboring people were so well housed.

In this city is the home of more than a thousand factories, manufacturing articles both great and small, from the smallest article to a machine that plows the air in its voyage from ocean to ocean; factories with their output seeking and reaching the markets of the world. Here, among the many factories is the home of the Cash Register with its army of employes, whose president is the pioneer in welfare work of the world, and here also is the home of Wilbur and Orville Wright, conquerors of the air, through whose inventions world peace is an eventuality, and by the genius of these men — to speak of what is yet to come from them I forego, for fear of being charged with being a dreamer. Here, in this county, is a conservative people that are not moved quickly, but after due thought and deliberation, and when judgment is once formed they are as firm as the very rock of Gibraltar, changed only by the consciousness of a wrong conclusion.

I am the only one in this Convention giving his business as "real estate," and while I do not wish to claim, for that reason, all the knowledge relating to real estate, for I am unalterably opposed to monopoly of every kind, yet I must of necessity, by reason of my calling, have gained some information concerning real estate. For years I have been a factor in my own city in opening the avenues by which many homes have been secured to home owners, and I am unwilling now that anything shall be done with my assistance that will permit, or by my failure to do all in my power to prevent the conditions to be changed detrimental to the home owners of my county, or to subject them to a threatened changed condition that will or might put an unjust or unequal burden upon the roof that shelters the little families that the small home owner must toil constantly and economize to protect. The great Lord Chatham in the English parliament, speaking of the sacredness of the homes of the poor man, said: "The wind and the rain may blow through the poor man's dwelling, but the

king of England dare not enter there unless armed by the majesty of the law." The homes of the poor are surely as sacred in Ohio as in any place in the world. They have been secured at the expense of much blood, bone and sinew and under certain well-known and recognized conditions. Yet there is a tendency prevalent throughout the land to put upon real estate a higher rate of taxation than upon other property that can be accounted for only upon the theory that it cannot be secreted or hidden, and from the further fact that real estate owners are unorganized and are easy prey for the shifting of taxation from the shoulders of big interests, large corporations and security holders. These great interests and tax-dodgers are always patriotic — in their own estimation — except at taxpaying time and in times of war. At taxpaying time they are as scarce as an icicle in July and in time of war as deaf to the bugle call as a stone.

And now when it is sought to open the way so that the bars may be let down and the homes of the poor and the lands of the farmers subjected to a system of taxation unjust in its nature, fraught with evil in its application and dangerous in its execution, if indeed it is not confiscatory, I would be remiss in my duty to the people, and especially to these property holders of Montgomery county, did I not do all in my power to protect them and their property against this threatened probable change, and do all that is best in my judgment to secure to these people the natural results of their labor, thrift and economy.

We are told that any inhibition in the constitution that would prevent future generations from adopting such form of government, or putting such system of taxation into practice as they may wish, is undertaking to provide for those that will succeed us in the affairs of the state and for that reason is wrong. If one of the objects of this Convention is not to provide for the future, then I am unable to understand why the people provided for calling this Convention. We do not wish and it is not our province to provide for all time to come, but to provide now for the government now and in the near future such form of basic law as the people want, leaving to future generations the power to change at their will and have such a constitution as they may in their wisdom adopt. Did we not provide for the future in the jury proposal, in the liquor proposal, in the good roads proposal, and in all matters that have come before us? If we possess the authority to provide for a bond issue for good roads for the future, I am unable to see why we do not possess the power to provide that the tax system for paying the bonds shall not be one that will produce a hardship upon any class of property or upon any class of people. Did not the framers of the constitution of 1851 provide for taxation by a uniform rule? Did they not bind us, from the time of the adoption of the present constitution to the present day, by that wise provision? Are we not today as free in that respect as they were in their day, and have not we as much liberty to use our forethought as they did? We have been told from the platform by invited guests that we were selected by reason of our wisdom, learning and forethought, and no member of this Convention will, in my judgment, deny that he possesses all these qualifications, and yet you undertake to deny to us the privilege of using these

## Initiative and Referendum.

qualifications, although it probably would be an easy task to produce a preponderance of evidence that we are not as wise as our guests would have us be. No, if we are to have the initiative and referendum in this state, we must have it so fair, so plain and so just in all its workings that it will be the sheet anchor against wrong, the beacon light of right, and, above all, fair and just to every citizen, and when you have provided an initiative and referendum of that character, one that will not be the tool of any man, class, company, corporation, clique or boss, the people of the great state of Ohio will adopt it and this state will go forward in the future as she has ever striven to do in the past, to be the leader of all the states that have a star in the flag of our country.

Mr. EBY: Mr. President and Gentlemen of the Convention: I had intended to say a few words regarding our little county on the western border of Ohio, but after the glowing eulogy that the gentleman from Montgomery has paid to the people of his county I can only say that we were once a part of Montgomery county and that in the past we have paid them that debt of gratitude by having contributed about twenty-five hundred of population from our county. It is said that a few years prior to the Declaration of Independence that apostle of freedom, Thomas Paine, wrote back to his home, to some friends he had left in England, that nearly all of his political associates were true advocates of human rights, and he especially eulogized those men with whom in those years he was associated and it is a fact equally interesting that about twelve years after this, this same Thomas Paine wrote to the same friends in England that the men who were supposed to be apostles of liberty in America were nothing more than black-hearted tyrants; so Tom Paine only appropriated to himself that which so many of us are fond of doing, of making our own ideas of right and justice a standard by which to judge our fellowmen. While our forefathers were fighting so zealously to throw off the yoke of Great Britain's tyranny they were apostles of freedom, but when they came to put in operation the machinery that was to secure us the liberty that we had gained on the battlefield Tom Paine found that there was a great difference of opinion, and it is still difficult to define according to some peoples' standards whether a man is a demagogue or a friend of the people.

I am in favor of the initiative and referendum. As an abstract statement, it may mean much or it may mean little. Stated in a general way, the majority of the one hundred and nineteen members who compose this Convention advocate in some form the incorporation of the initiative and referendum into the legislative branch of our state government; but when we come to consider this problem in a more complete manner, it becomes manifest at once that my idea or some other member's idea of the place initiative and referendum should have in the governmental system of our state, or the ease and manner of its application to those legislative problems which shall engage our attention in the years to come, may be entirely different from that of some other member of this Convention. None of the problems that have come up before us — except perhaps that of equal suffrage — is so simple, so elementary, in its nature as this one, and when they are finally submitted to us, not only as members of this Convention, but as electors of this

great commonwealth, in common with the million other voters who shall vote yes or vote no, the expression of the voters upon these proposals will be an exact expression of our opinion.

We recall that but a few days ago the Liquor Traffic committee submitted to us a license proposal. I believe the members of that committee who favored the King proposal were the sincere friends of license, as they wished it, but when it came to the final test perhaps twenty of the license men of this Convention refused to vote for the King proposal. I believe they were just as sincerely in favor of licensing the liquor traffic as were many of those who voted for the original King proposal. Have you heard the able author of that proposal, the gentleman from Erie, or the chairman of the Liquor committee, or any of the ardent friends of license, say to those license members who did not vote for the King proposal, "You are the enemy of license, you are parading in false robes and at heart you do not believe in license at all?" Did they proclaim even before the committee reported it out that it is so perfect that no amendment would be needed, or that in its flight from the committee rooms to its engrossment by the secretary of this Convention and its final passage it could not be changed even so much as by the dotting of an "i" or the crossing of a "t"? Did they say to you men who did not favor the King proposal in its entirety, you men who wanted to amend it that you did not know how to study that question? Did any enthusiast for license, in order to force support for his measure, threaten any brother with any political ruin if he did not accept his dictation as to how he should vote? No, gentlemen, they did none of these things. Their experience in the different fields of human action had taught them long ago that friends of many measures, when it comes to the concrete form those measures shall take and how they shall be applied to the every day actual affairs of life, widely differ, and honestly, too.

It was my pleasure a few years ago to listen to an address by perhaps the most eminent divine in America. He said it was the experience of almost every individual that the problems of life are not abstract ones, that on almost any subject, whether the effect is individual, political or social, the things that we must finally accept are always tempered and shaped by the opinions and experience of our fellowmen, and for any man to think that his span of life has been so long or his experience so vast that he is able to write the last word on any of the manifold subjects that compel our earnest attention, marks that man as an egotist or as one who has had small experience in the affairs of actual business in life.

I deny the right of any man, whether he be a member of this Convention or whether he be the paid advocate of some set of propagandists who seek to foist upon us some new or untried social or political measure, to define my method of thought or form of action upon this all-important measure. I confess that the opinion we have that the part the representative function has played in the governmental system of our commonwealth in the years that are past, that the faith or lack of faith in it as a medium to register the sentiment of our commonwealth's citizens, and to give those sentiments a living embodiment in actual law, or a lack of faith in our representative system to have done those things in the past,



## Initiative and Referendum.

may to a large extent mould his opinions in regard to the place that the initiative and referendum should have in the basic law of the state. If he believes, as I believe, that this old house that we have lived in for over a century, that has stood the stress and braved the storms that have beset our state for over a hundred years, is still a pretty good old house, his opinions will perhaps be markedly different from those of us who believe that representative government in this country has come to be well nigh a failure. I would not have you to believe that I believe the representative system to be a perfect one. I would have you believe that I think it neither perfect in conception nor infallible in operation. Had it been all of this it would have been different from any institution that has been conceived by human minds and manned by human hands. Primarily, I believe the representative system to be the only system that could have tided us over the dangerous periods of our history in the past, and if it is the intention of any measure to set up in this great commonwealth a method of legislation that is to be invoked easily and operated entirely independent of our present representative system I am irrevocably opposed to it.

I take the view of Governor Foss, of Massachusetts, that the mission of the initiative and referendum is not to destroy representative government, but that it is to strengthen representative government. And to you, gentlemen, who so enthusiastically advocate the adoption of the Crosser proposal, I will state that that is the line of demarcation between your ideas of the initiative and referendum and mine. I believe that all past theory teaches that you cannot set up as a part of the same governmental system, free and independent of each other, a pure democracy and a representative system, side by side, and have both survive. The evidence of four centuries of history is against it. This proposal involves that, and if logically carried out to its full extent, it means nothing more nor less than a complete revolution in the fabric of our government. This may seem an extreme statement, but to make my meaning more clear I shall consider briefly the principles upon which all government rests and the functions by which it is executed.

Our constitution defines, of course, the three branches of the government—the executive, legislative and judicial—each independent of the others, yet co-ordinate in operation. This is not a modern classification, but represents in part the recognized foundation of all governments of the past. The first method of governments known to man very naturally took the form of a despotism; it was as natural for man in his primitive state to have a leader as it was for the beasts of the field. And it was not long, as tribes and nations grew, that man found there must be a form of legislation by which the mandates of the executive, whether he be a despot of one or of ten, should be carried into execution. When we come to the great empires of which we have the earliest records, we find the executive more fully developed. We find in his law-making the first example of direct law-making; being a despot, he is himself the legislator, and leaves only the forcible execution of his will to the subjects. Coming down from those most ancient forms of human government, we find in Greece and Rome a government unlike, as far

as we are aware, the ancient monarchies of the East. The government of Greece and the government of Rome were founded on the principle that the free born people of the cities should govern themselves and should choose their executives. And it was in those governments that was born the idea of a pure democracy, and it was in the governmental system of Greece and Rome that a pure democracy had its fullest exposition. True, the government of Rome was not a pure democracy in the same sense as was that of Greece, because Rome sought to temper her pure democracy with a quasi-representative system. While Rome was governed by the senatorial families, those families were tempered by the great mobs of the Roman forum.

The Romans had in the highest degree the genius for war and a genius for government. Yet the Roman empire went to pieces amid corruption and disorder, and even the genius of Alexander the Great failed to create a substantial Greek empire and upon his death the empire went to pieces. Gibbon, in his admirable history of the Roman people, says that the Roman forum was a vehicle by which every designing demagogue and impassioned orator inflicted his evil designs upon the suffering people, and it was from the break-up of the Middle Ages, which succeeded the fall of the Roman empire, that gradually emerged the kingdoms of middle Europe. In every instance except one these kingdoms developed into great or small autocracies. That one exception was England. And it is merely reiterating a statement that all history regards as a self-evident fact, namely, that what saved England, after the breakdown of her feudal system, from becoming one of the autocracies of Europe, was her parliament. England did not have, either in theory or in fact, as pure a democracy as Greece and Rome, but both Greece and Rome lost their liberties and went down in decay, while England saved hers and extended her possessions around the world. Senator Lodge, in his admirable address, truly says:

Wherever you look into the history of the last four hundred years you will find that the powers of the representative body are coincident with freedom, and that the rise of despotism is coincident with the breakdown of whatever representative bodies there may have been. The history of the representative principle in modern times is the history of political freedom, and this representative principle is the great contribution of the English-speaking people and of the period since the Renaissance to the science of government. Without that principle, the democracy of Greece failed to build up a nation coextensive with the spread of the Greek settlements and conquests, while that of Rome sank under a complete despotism. The empires of the first Napoleon and the third Napoleon as well were both reared on the ruins of the legislative bodies of France. Examples might be multiplied, but nothing is clearer than that every lasting advance which has been made toward political freedom has been made by and through the representative principle. Even today the struggle in Russia seeks as its only assurance the establishment of a representative body. Indeed, the movement

## Initiative and Referendum.

for a larger political freedom and for the rise of the people to take part in their own government has filled Europe for the last century and it is penetrating now to countries outside the pales of western civilization, and the existence of this movement in Persia, in China and in Turkey is manifested by the efforts in all these countries toward securing representative institutions. In a word, it may be said the advance toward political liberty and the establishment of the rights of the people to govern have been coincident and gone hand in hand with the progress of the representative principle.

Nor was this test of pure democracy in practice against the representative system untried in the early colonial history of our country. When we contemplated the admirable workings of our federal system of government, unless we are somewhat a close student of the early history of our country, we hardly realize that there could have been such a long and bitter discussion, not only in the formation of our federal constitution, but that there should have been such hesitancy on the part of the states as to its adoption when submitted to them. And in fact it was over two propositions, broad though they were, and all that they included, that consumed most of the time and created most of the long and angry debates that characterized many of the sessions of the federal convention. In the colonial period, immediately preceding the Revolutionary War, New England had enjoyed a form of pure democracy and Pennsylvania had almost eliminated from her territorial charter the theory of representative government.

Madison, in his admirable paper, the *Federalist*, clearly indicated that the federal fathers clearly sought two things in the establishment of the legislative branch of the government. The first was, that it should be so formed that it might interpret the sentiments of the people; the second, that it might, in the language of Alexander Hamilton, after it had ascertained that those sentiments were inspired by patriotic motives and intelligent purposes, make the statutes of the land their living embodiment.

And, strange as it may seem, at that early day one of the fiercest contests waged over the problem as to whether the sentiment should find as immediate and as easy expression as did the sentiment of the New Englanders in a town meeting, or that it should have that slowness of passage that guaranteed to every measure the certain amount of deliberation that characterized the English parliament for two centuries.

No member of this Convention will be able to give more potent argument in favor of the sentiment of the people being easily and directly expressed than did some of the New England members of the federal convention, inspired by the fervor and eloquence of Samuel Adams, who argued that to adopt the representative system, then styled "The Virginia Idea," would be to take away the rights of the people. And yet those framers of the federal constitution were better able to decide the merits and the demerits of these two systems than we are, because they were nearer to the actual working of the two systems, and I shall not wish today to go into any extended argument as to whether

our federal fathers were right or not when they put their stamp of approval upon our present form of the representative system of government. I believe it has developed some defects. I do not believe it is the fault of the system itself, and I favor the establishment of the initiative and referendum in our state, not to supplant representative government, but for the reason that, in the language of Chief Justice Marshall, the ideal legislative branch of any government is that that may interpret the true sentiment of the people, but be able to distinguish between the conclusions that come from deliberative action and exchange of opinions and those that emanate from the masses in the heat of passion or excitement, or that are inspired by the impassioned oratory of self-seeking designers.

The query is not, are we for or against the referendum, but are we for or against legislation by the initiative and referendum fairly independent of the general assembly? The constitution of a state is a social and political compact, binding the citizens of the state into a compact unit, and it should be subject to a referendum vote. The referendum is also proper in giving or withholding support to administrative or legislative acts vitally and irrevocably affecting an extended period of time all the members of the commonwealth. Legislation is the science of ethical compromises. On these issues there is always a marked difference of opinion, concerning which differences that always irresistibly and stubbornly divide a community on laws the execution of which brings unrest and evasion by one-half of the community and tends to create a disgust for all other laws, or when a community is sharply divided on its economic and social views, there should be some method of arbitrating differences on a fair basis. A deliberative body is the best ever created for that purpose. Debate, discussion and criticism tend to modify the views of each arbitrator and bring about legislation which is not too radical to either side. Such a body is not compelled to accept or reject a single proposition, but may consider alternative propositions and take the best of all.

I submit that the most radical advocates of the direct initiative and referendum will admit that that system provides for none of these. It does provide though that only six per cent of the voters of the state, no matter how radical their proposition may be, no matter how unsuited it may be to the good of the whole people, are to be given the power to have the voters of the whole state give a categorical yes or no to their proposition. They do not seem to contemplate the fact that there may be some phases of their proposition, if they could receive that modification that comes from criticism and discussion, might become valuable contributions to our statutory laws. The believers and advocates in the indirect initiative contend that the initiative is, when it comes to the legislature in the form of petition, a valuable aid to the legislature in interpreting the sentiment and demands of the great masses of the state. But I cannot believe, gentlemen of this Convention, that that per cent ought to be so small as advocated in Proposal No. 2. In the federal convention the Pennsylvania idea, that sought to establish a representative system that was to be composed of one body elected directly by the people, and the question of the

## Initiative and Referendum.

benefit any measure would receive by being deliberately and slowly discussed by two legislative bodies, were thoroughly discussed. That convention wisely advised a second deliberative body, with a veto power in an executive as a check to hasty action. Under this system of representative government, with proper constitutional limitations on the exercise of its powers, America has grown commercially, politically, morally and socially. It is now proposed to substitute in place of this deliberative body direct legislation by the direct vote of the people. I concede and I believe that there is a vast difference between the form of initiative that seeks to legislate independently of the legislature and the form that seeks to work in co-operation with the legislature. One is a supplement to and a complement of our representative system of government; the other surely in the end will be a destroyer of our representative government.

But they tell us that in the twentieth century the trend of human thought and activity has so changed that the lessons of the coincident growth of the representative system of government, and the liberties and influence of the English-speaking people that went hand in hand, teach us nothing. My good friend Judge Okey told us the other evening that something in the atmosphere surrounding the convention that framed the federal constitution warned him that they slightly mistrusted the people. They tell us that the experiences and opinions of those who fathered our representative system of government in the early struggles of this republic are so hoary and misty with age that to us they have no significance. For one hundred years the history of the failure of free democracy in the decadent empires of the Middle Ages, and the rise and growth of the representative system in England and the continental countries of Europe, as well as in America, has been the most fertile field of study in this particular branch of political science of every student in Europe and America.

But we are to pass all these by and confine our studies in governmental science to the republic of Switzerland and to that new-found political Arcadia of the Northwest, Oregon. It is strange that these astute students of political science who are advocating the passage of this measure on the floor of this Convention, tell us that we enjoyed the benefits of the representative system of government for over a century, and for all that time were not aware of the delusion it possesses when we thought it was a pretty good thing; that the verdict of that hundred years must amount to nothing, but that four years of experience in Oregon, four years that have been peaceful and prosperous to all, four years in which no public policy or public measure has been submitted to that stress which has come to the people in government in every state many times during the succeeding centuries, must be our fount of wisdom. Does it not seem more than passing strange that these people, who for a hundred years were such infants in governmental science that they did not know the evils or were incapable of judging the benefits of the representative system, should suddenly become such adult judges of the science of government? — that four years of their last experience should teach us the alpha and omega of government by direct legislation?

But before we conclude that the experience of the

Swiss republic is so thoroughly conclusive as to nullify the teachings of four centuries of past history, let us pause and consider the difference between the Swiss people as a nation and ourselves. For the purpose of argument, let us assume that the system is a success in Switzerland. But does that follow that it would be an unqualified success in Ohio? In the beginning, as a nation we are confronted with the fact that we are very much different from the Swiss people. We have a very strong centralized form of government, while the Swiss republic is merely a confederacy of cantons, in which every canton is practically autonomous and very jealous of the federal power. It is a fact noted by every foreign student of the initiative and referendum in Switzerland, and I have no doubt that Dr. Stamm and Mr. Ulmer will corroborate my statement, that with the Swiss it is the canton first and the nation next. With us it is exactly the opposite. The Swiss confederacy has no presidential or governor's veto as we have. It has no federal supreme court. Therefore, to protect the rights of the cantons from the aggrandizement of the federal government they have resorted to the initiative and referendum.

Consequently it is unfair to argue that we, of the state of Ohio, need to adopt it as a method of legislation with the same ideas in view that the Swiss people have. With the exception of Fribourg all the cantons of Switzerland have adopted the initiative and referendum in their local and municipal affairs.

In the first place, these subdivisions of Switzerland are small, both in size and number of inhabitants, the smallest having not over thirteen thousand and the largest only about one-tenth of the population of the state of Ohio. Thus, it reasonably can be seen that this difference in area and population is an important factor in determining the feasibility of applying the form of government which these small subdivisions use to a state as large in size and population as ours. Then, too, we must consider the difference in the character of the population of Switzerland and that of our state. They are a homogeneous people; we have a mixed population. They have the same habits, customs and traditions, handed down from father to son, from generation to generation, for over four centuries and their social and political relations are regulated by custom, while custom surrounds us with no such barriers as it does those Swiss people.

Mr. STAMM: Do you know what per cent of agriculturists Switzerland has?

Mr. EBY: As I understand — and if I am mistaken I hope you will correct me — the pastoral and agricultural people of Switzerland aside, Switzerland's products are not made in large factories, where thousands of workmen congregate as in our own. I saw in an article a few years ago that Switzerland has no factory that employs a thousand or even five hundred men. Switzerland does not assimilate any foreign population to any extent, and those that do come are from surrounding countries whose customs and manners are similar to those of Switzerland.

Mr. STAMM: You are misinformed.

Mr. EBY: Then they have large factories?

Mr. STAMM: Yes; they have some not of a thousand and workmen probably, but of about five hundred.

## Initiative and Referendum.

Mr. EBY: Then the statement that they have no factories employing a thousand men and but few that employ five hundred is correct?

Mr. STAMM: I don't know that they have any that employ a thousand, but they have some employing from five hundred to eight hundred.

Mr. EBY: Then I was informed correctly?

Mr. STAMM: Yes.

Mr. EBY: I also said you have no foreign population to assimilate except those that came from surrounding countries whose customs and manners were very similar to your own. Is that correct?

Mr. STAMM: Italians, Austrians and Germans. The majority of the population are immigrants. They have two races, four nationalities and four languages in Switzerland.

Mr. KING: May I inquire who is making the speech?

Mr. STAMM: I was asking a question.

Mr. EBY: What is the question?

Mr. STAMM: About the foreign population. You have not answered the question as to the per cent of agriculturists.

Mr. EBY: I said that Switzerland was largely a pastoral and agricultural country. I said that her factories are not such that they have caused the congregation of large masses of workmen of different nationalities together, and that moreover the immigrants to Switzerland are much more easily assimilated by the body politic than those who come to America.

Mr. STAMM: Where did you get that?

Mr. EBY: I have read it in a book, "The Initiative and Referendum," by Oberholtzer. I quote from that book in my remarks and will get the rest of it after I get through making my talk. If you say that conditions in Switzerland are the same as we have, I will accept your statement.

Mr. STAMM: Practically they are. They have about thirty-two per cent of agriculturists, and is it not a fact that eight or nine years ago Switzerland was about the fourth industrial nation in the world?

Mr. EBY: In the manufacture of watches and light toys Switzerland ranks higher than any nation in the world and next to the division of Germany of which Nuremberg is the center.

Mr. STAMM: Escher—he is dead now, but his descendants have properties that work more than a thousand men.

Mr. EBY: This was published two or three years ago and makes the assertion that there was no factory employing over a thousand men.

Their occupations are mostly pastoral and agricultural and consequently they do not have to wrestle with those intricate and difficult social and political problems that confront us. Having no great extremes of the very rich or poor, there is not that large opportunity and fertile field for the designing demagogue to arouse class against class. Then, too, there is absent from Switzerland those large party organizations that we have in this country, and all students are unanimous in the opinion that circumstances and conditions should be very seriously considered before the adoption of the direct initiative and referendum by other countries.

A Belgian writer says the initiative and referendum

exists in Switzerland under circumstances and amid surroundings that are without parallel in any other country on the face of the earth. N. Droz, ex-president of the Swiss confederacy, doubts the possibility of its unqualified success in other countries which, about the same time, were adopting other parts of the Swiss constitution.

Prof. Albert Bushnell Hart says so different are all the conditions in the two countries that the success of the referendum in the one does not at all imply that it will work well in the other; that if the initiative and referendum has disappointed its friends in Switzerland, where it harmonizes with other institutions, is it likely to meet with unqualified success in the United States?

Professor Hilty says that the initiative and referendum cannot find universal application; a conclusion founded upon Swiss experience cannot be successfully applied elsewhere.

Mr. Arthur Sherburne, an ex-minister to Switzerland, says "That the experience of Switzerland cannot be the argument for the adoption of the initiative and referendum in the United States, is generally admitted by continental students of the system."

Mr. STAMM: Numa Droz died about seventeen years ago, so he can't be an authority on conditions now.

Mr. EBY: Anyhow the government of Switzerland was originally so different from ours that the initiative and referendum has a different place there. Now I will read on and perhaps Dr. Stamm will indorse the last part of this: "Of the opinions of the above students and writers, men who have given their unbiased time and attention to the study of this question, and given before the time that the question has assumed anything at all of a political task in this country, is it not, in the language of one of our United States senators, worth considerable more than the harangues of cranks, faddists, socialists, cynics and political demagogues who wouldn't know a Swiss from a Switzer cheese sandwich, or men who have an axe to grind or some fad or crank reform to propagate?"

Before we leave this subject let us consider how the initiative and referendum actually works in Switzerland. In the first place, some governmental matters are excluded from the workings of the initiative and referendum. Budgets, treaties, and all enactments of an urgent nature are exempted from the referendum, and the body that exacts it is the one that decides whether or not it is urgent. Let us consider a moment how laws are accepted or rejected under the initiative and referendum in Switzerland.

In the first place, allow me to say that Switzerland has the indirect system of the initiative in law measures, and whatever success the Swiss system has achieved—and as an advocate of the initiative and referendum I am frank to say that it has played an important part in the development of the Swiss people—it has developed some shortcomings, just as has our representative system, and the notation of these shortcomings should not be taken as a conclusive argument against the system any more than should some of the deficiencies of our representative government condemn it.

In the first place, foreign students who visit Switzerland, as well as their own statesmen, are unanimous in the statement that the voting shows that the Swiss peo-

Initiative and Referendum.

ple are very little interested in it. Of twenty referenda from 1879 to 1891 the average vote was 58 per cent. In only one case did it reach 67 per cent and in only one 40 per cent of the whole confederation. And in the cantons, except where voting is compulsory, the percentage is much less.

At one time, in the Canton Schwiz the vote fell as low as nine per cent. On account of this light vote an agitation has been instituted to pay every voter one franc for voting. However, the Swiss voter is like the proverbial horse—you could lead it to the water, but you could not compel it to drink—and the effort has only resulted in the former stay-at-home casting a blank ballot.

And we must consider too that for five hundred years the Swiss people, through their landsgemeindes or town meetings, have been trained to take a direct part in their government. They would have us believe that it has been an unqualified success and that no laws are enacted except those that conform to the wishes of the majority of the masses, but this is far from true. Politicians are just as wily in Switzerland as they are in England or America, and they practice all kinds of tricks and deceptions to thwart the will of the people.

One favored method is said to be the incorporation with a measure sure to meet the approval of the people another measure whose success by itself would be questionable. Political newspapers play an important part in the accepting and rejecting of laws, and often times prejudice and passion are the controlling factors.

Mr. DOTY: Will the gentleman yield for a motion to recess?

Mr. EBY: Yes.

Mr. DOTY: I move that the Convention recess until 1:30 p. m.

The motion was carried.

**AFTERNOON SESSION.**

The Convention met pursuant to recess.

The PRESIDENT: The member from Preble is recognized.

Mr. KNIGHT: I request that the committee on Municipal Affairs be permitted to hold a meeting this afternoon at three o'clock.

The PRESIDENT: If there is no objection the request is granted.

Mr. EBY: Gentlemen, I will not burden you very long reading from this written manuscript. I have just a few more quotations from some authorities on the working of the Swiss referendum.

M. Deploige, in his excellent work, says it is true that on a referendum those opposed to a measure are more likely to vote than those in favor of it, and that on an initiative measure the contrary is true. The independent and conscientious voters of Switzerland who have not had time to carefully examine the measure usually refrain from voting, and it is his observation that the opinions of the people are more often formulated by prejudice, passion, special and transitory considerations, rather than by deliberation, discussion and investigation, and it has been the observation of all sincere Swiss students that the great laws that have tended to the reformation of many corrupt practices in Switzerland

that have been enacted through the initiative and referendum—and justice demands the admission that there have been many—have been the result of that consciousness on the part of the voters of a great wrong to be righted and that public indignation and study which have always meant an intelligent ballot, but they have noted the equally evident fact that the same interest in and wide study of any question result in an expression of better law, whether it be in Switzerland, with her pure democracy, or in England or America, with their advanced representative form of legislation. Even in monarchical Russia an aroused public opinion finds expression in some betterment of governmental edict. And he ends with a summary saying the result may be fortunate or unfortunate, but it has been determined as a matter of fact by a thousand different influences, and to speak of it as the expression and conscientious judgment of the people is only to juggle with words.

Sir Henry Maine has said it is possible by agitation or exhortation to produce in the minds of the average citizen a vague impression that he desires a particular change. But when the agitation has settled down on the dregs, when the excitement has died away, when the law is before him in all its details, he is sure to find in it much that is likely to disturb his habits, his ideas, his prejudices or his interests, and so in the long run he votes no to every proposal.

Let us quote that eminent Swiss statesman, N. Droz, once more:

It is now generally agreed that the popular initiative might at any time place the country in a very considerable danger. It cannot be denied that the Swiss people have shown a want of wisdom in adopting a system of initiative which places all our institutions at the mercy of any daring attempt, instigated by the demagogue and favored by precisely such circumstances as should rather incline us to take time for reflection.

The initiative is a two-edged sword, and one does not know against whom it will be first turned. Let us inquire a little more into the tradition and early history of the Swiss people. In truth the initiative and referendum in Switzerland is sort of a transition process from the pure democracy or the landsgemeinde form of government to the present form. As the cantons, or some of them at least, grew in manufacture, industries and wealth, the old system was inadequate, and a leap from that to the modern representative system was a chasm entirely too wide for the Swiss people to bridge with their inherent love of the right to govern themselves, and so they invented the initiative and referendum.

Sir Arthur Sherburn Hardy says: "Personal conversation with Swiss statesmen elicited no enthusiasm for either initiative or referendum and at all events the initiative in Switzerland has not fulfilled the hopes of its advocates, and the tendency toward compulsory voting and proportional representation would probably, if realized, lead to the abandonment of the referendum." I advise, instead of the states of the United States

## Initiative and Referendum.

going to Switzerland to study and to learn how to run a government, that the Swiss people come to us, and I predict that many of us will live to see the day when Switzerland will throw off the robe of instructor and become our pupil.

Mr. Mayville, a Swiss writer, says that the large number of abstentions proves that it is not the people but a relatively small part of the electoral body which accepts or rejects a law, and that it is ridiculous to suppose that each citizen can form a just and accurate opinion upon all the laws submitted to him. Summing up Mr. Hart further says that most impartial observers who examine the list of bills lost in the national referendum will be inclined to think the judgment of the assembly better and more consistent than that of the people, and adds that the experience of Switzerland seems to show four things — the Swiss voters are not deeply interested in the referendum; the referendum is as likely to kill good measures as bad measures; the initiative is more likely to suggest bad measures than good, and that the referendum leads directly to the initiative.

Mr. ULMER: Have you ever heard any statesman say that Switzerland was willing to give up the initiative and referendum?

Mr. EBY: No more than I have heard any citizen of Ohio say that he would give up representative government. What I am attempting to say is that you can adduce a good deal of testimony to prove that the initiative and referendum in Switzerland has some shortcomings, just as on the other hand you can get some testimony to show that our representative government has had some defects and shortcomings. I admit that this testimony should not be conclusive, and I beg on the other hand for you to consider that the testimony against our representative form of government, whatever it should be, should not be conclusive.

Mr. ULMER: Do you know that since they have had the referendum in Switzerland the legislative body has worked so industriously and so honestly that they hardly have any use for the initiative and referendum?

Mr. EBY: Then you admit that the initiative and referendum are valuable as accompaniments and perfectors of our representative system of government and not as substitutes for it?

Mr. ULMER: That is all it is for.

Mr. EBY: Then we agree. But the argument has been made that even if all teachings of the past, even the experience of the last century, do not show conclusively the failure of the representative system, then among the masses of the voters the evidence is conclusive that our old system is useless. Let us pause a moment to analyze this phase of the subject.

Remember we must analyze these facts as they are, and we can simply take the personnel of this body and the facts surrounding their election and prove or disprove this statement. It has been said that there are fifty-eight members of this Convention that signed a petition before the election committing them to eight, ten and twelve per cent for the initiative and referendum. Now I cannot vouch for the accuracy of that. I have heard it stated that there were but forty-nine members, but I have supposed that the first statement was perhaps correct. I have before me a tabulated statement which shows that those fifty-eight members,

including the twelve members whom I absolutely know signed no pledge of that kind, received 170,000 votes of the 1,050,000 voters of the state of Ohio.

Mr. TETLOW: Where do you get your figures?

Mr. EBY: I get my figures from the report of the secretary of state, which I have here, and if there are any mistakes in the report the only one that has been discovered is in the vote of the member from Mahoning [Mr. ANDERSON], and he is not included in that list.

Mr. TETLOW: Have you the itemized list of the vote by which each delegate was elected?

Mr. EBY: I have in my desk that tabulation and I have here the vote of the so-called fifty-eight caucus members.

Mr. TETLOW: What vote did I get?

Mr. EBY: Columbiana county gave Tetlow 3,840 majority.

Mr. TETLOW: There is where a great many people are being deceived and the efforts are to create the opinion that a minority—

Mr. EBY: Well, what was your vote?

Mr. TETLOW: Let me tell you this: In my county there were a little over 12,000 votes cast; there were three candidates and I received over 7,000 votes. There has been literature sent out over the state creating a false impression regarding the vote received by the delegates elected to this Convention and those statements are not correct.

Mr. EBY: I heard it said of the member from Mahoning [Mr. ANDERSON] that his vote was incorrect and I believe there were two others referred to, the members from Brown and Columbiana. The figures are incorrect as to those, I believe, and I stand corrected on that, but I add 3,000 to this vote. The point I want to make is that the vote for delegates to this Convention does not prove any landslide in favor of any radical measure in the form of any referendum.

Mr. KEHOE: Is it not true that in very many counties all of the candidates for the office were pledged to the initiative and referendum?

Mr. EBY: Not this particular brand of initiative and referendum. I am arguing for a certain brand of the initiative and referendum, but I am opposed to the particular brand that is up here now, this measure without any safeguards thrown around it except such safeguards as the more conservative members will compel you to insert.

Mr. KEHOE: In Brown county there were four candidates and all were for the initiative and referendum. It would have been useless for a man to run unless he favored it.

Mr. EBY: In Preble county it was the same thing. There were five candidates; four were in favor of the initiative and referendum and I was favoring the lowest percentages.

Mr. KEHOE: Then you seem to put it that the vote for the delegates here is the only vote for the initiative and referendum and that argument is not correct.

Mr. EBY: No; I think the vote last fall showed that the people were in favor of the initiative and referendum in this state, but I am combating the statements of those who say that any man who does not advocate that low percentage in making the initiative and



## Initiative and Referendum.

referendum is not standing for what the people want, and I am analyzing the vote to show that that statement is not right.

Mr. TETLOW: What percentage of the vote of the state did those in this Convention who are opposing the initiative and referendum get? It is fair to show both sides.

Mr. EBY: There is a very small percentage of those who opposed the initiative and referendum. The indirect initiative, safeguarded—they represent an inconsiderable vote. But you probably have gathered by this time as well as I have that there are several brands of the initiative and referendum, and I am speaking of this particular brand that is before us.

Mr. ANDERSON: You seem to have made an investigation. Do you know how many delegates ran upon the platform of eight, ten and twelve per cent, taking into consideration all the candidates trying to become delegates?

Mr. EBY: The Progressive Constitution League?

Mr. ANDERSON: Yes.

Mr. EBY: If the president will not call me down, I think he said to me in Cincinnati that there were fifty odd delegates of that kind. He is here to correct me if I misunderstood.

Mr. ANDERSON: Do you know of any delegate or any men elected as delegates who ran upon the platform of four per cent for anything?

Mr. EBY: No, sir; I asked that question of Mr. Fackler; he is better acquainted with the inside workings of that particular matter than I am, and he virtually admitted that there were none.

Mr. ANDERSON: Is it not true that a number of delegates—probably all but one, and I do not except the president from that—all but one (I mean Judge Worthington) ran upon a platform and signed a pledge for the indirect and only the indirect? I refer to the delegates from Hamilton.

Mr. EBY: I am coming to that.

Mr. MAUCK: Will you state whether you are for the initiative and referendum, and if so upon what basis?

Mr. EBY: Yes, sir.

Mr. MAUCK: You are opposed to what is called the Crosser amendment?

Mr. EBY: I shall vote for the eight, ten and twelve percentages and possibly less, indirect.

Mr. MAUCK: How much less?

Mr. EBY: You are asking me to do what you attempted to do—solve the question and cross the bridge before I come to it.

Mr. MAUCK: No, I am just asking you where you stand.

Mr. EBY: I stand for the indirect initiative, with the eight, ten and twelve percentages and with the inhibition against the single tax on land.

Mr. MOORE: You seem to be giving some figures on the matter of the vote last year. Have you any line on the number of votes cast in Muskingum county against the initiative and referendum?

Mr. EBY: I am not talking against the initiative and referendum. I am talking against that shape or brand that it seems a certain faction is trying to force upon the Convention, and I say that no member in the

Convention was elected upon a platform calling for that brand, and no elector in the state of Ohio cast a vote for less percentages than eight, ten and twelve, and if he did he did it through some secret conference with some one.

Mr. MOORE: Not to exceed eight, ten and twelve—as much less as we could get.

Mr. KILPATRICK: Did you make your campaign on the initiative and referendum?

Mr. EBY: I did not. I made a declaration on the subject.

Mr. KILPATRICK: Did you talk upon that subject at all?

Mr. EBY: I pointed out the excellences of our present system of government and I contended that like everything else that is the creation of finite man and put into existence by human beings, it develops defects.

Mr. KILPATRICK: Did you talk on the indirect initiative?

Mr. EBY: Two weeks after I came here—

Mr. KILPATRICK: I mean in your campaign?

Mr. EBY: Yes; and furthermore, two weeks after I came here, not expecting that the committee would pay any attention to it, I introduced a proposal providing for the indirect initiative and the indirect initiative only, and on that line I was informed by one of the ex-governors of Ohio that your honored president was an advocate of the indirect initiative.

Mr. ANDERSON: May I ask the gentleman from Trumbull a question?

Mr. EBY: Yes.

Mr. ANDERSON: Did you run on any other platform than eight, ten and twelve?

Mr. KILPATRICK: There was no particular percentage mentioned up there at all.

Mr. ANDERSON: Did you mention any other percentage except eight, ten and twelve to anybody in that campaign?

Mr. KILPATRICK: I never mentioned percentages at all.

Mr. ANDERSON: You are pledged to eight, ten and twelve?

Mr. KILPATRICK: Not more than that.

Mr. ANDERSON: You are pledged to eight, ten and twelve?

Mr. KILPATRICK: Not less than—

A DELEGATE: Not more.

Mr. KILPATRICK: Not more than that; that is the same pledge you signed.

Mr. ANDERSON: I will answer that suggestion gladly, because I did not get the support of the Progressive League. One more question: Was there anything said in your campaign about the indirect initiative in Trumbull county?

Mr. KILPATRICK: Not a thing.

Mr. STALTER: All that was attempted in the convention of 1851 under that constitution was to give the people the power to rule. Was not that true?

Mr. EBY: Yes.

Mr. STALTER: All that is attempted by the initiative and referendum is to give that power to the people now, is it not?

Mr. EBY: Yes; let me answer that more fully. I recognize that it has been the privilege of every con-

## Initiative and Referendum.

stitutional convention, from the federal constitutional convention down—that there are certain things that they have a right to fence off from the pale of legislative action.

Mr. STALTER: Did not the convention of 1851 inhibit the majority from enacting a single-tax law?

Mr. EBY: Listen—

Mr. STALTER: I just asked for an answer to that question.

Mr. EBY: The convention of 1851, in the first section of the bill of rights contains this language: "All men are by nature, free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property." I will come to that after awhile.

Mr. STALTER: What change if any has occurred since 1851 to control the majority of the people of the state if a majority desire single tax?

Mr. EBY: Because a certain set of social renovators has foisted a new method by which you can confiscate property and by which you can indirectly render void contracts of the people—two things specifically forbidden, both in the federal constitution and in the constitutions of twenty-six states in the Union.

Mr. STALTER: Is that the only difference in conditions between now and 1851?

Mr. EBY: There was more assault on the representative system of government prior to 1851 than there has been since 1851.

Mr. STALTER: Did the constitution of 1851 give the people any more than a right for the majority to control?

Mr. EBY: Yes; the constitution of 1851 placed certain things beyond the pale of even the state legislature under the title of securing inalienable rights, and if it were not right for the legislature to deprive any citizen of the state of those rights at that time, it certainly is not proper to let a more easily invoked system deprive us.

Mr. STALTER: Did the convention of 1851 inhibit a majority of the people of the state from enacting the single tax?

Mr. EBY: The single tax was not an issue then. If there haven't arisen new issues what would be the use of calling another constitutional convention?

Mr. FACKLER: Did I understand you to say you were in favor of the initiative and referendum upon percentages of eight, ten and twelve.

Mr. EBY: I made the assertion in my written argument that very few voters when they voted upon a question gave full expression of their sentiment, and that possibly would represent my individual sentiment, but I repeat that I am only one very humble member of the Convention and I am willing to accept that with those two safeguards.

Mr. FACKLER: The proposal you introduced provided for a referendum at sixteen per cent.

Mr. EBY: Yes.

Mr. FACKLER: And still you are in favor of eight per cent?

Mr. EBY: I said I would accept it with those safeguards.

Mr. ANDERSON: Do not the Crosser proposal

and the Fackler substitute, under section 1-D, permit the single tax by piecemeal in the state of Ohio?

Mr. EBY: Yes, and I will come to that after a while.

Mr. ANDERSON: Then is it not true, even if you were in favor of the majority of the state having the single tax when they want it, that you would be against the Fackler substitute, which permits the single tax piecemeal?

Mr. EBY: Yes.

Mr. LAMPSON: Does not the constitution of 1851 put the restriction upon the legislature that requires a two-thirds vote to submit a constitutional amendment?

Mr. EBY: It certainly does.

Mr. LAMPSON: Does it not also put a restriction that requires a majority of all those elected to pass a law?

Mr. EBY: Yes, sir.

Mr. LAMPSON: Does it not also put the restriction that there shall be uniformity in the rule of taxation?

Mr. EBY: Certainly. The fact of the matter is the bulk of the different sections are restrictive, and they tell what the legislature cannot do.

Mr. TETLOW: You say that the single tax is an issue before this Convention and the people of the state?

Mr. EBY: I will give you my knowledge of that later on.

Mr. TETLOW: I want to ask this question: Who has made it an issue?

Mr. EBY: I beg your pardon; I will go into that in a few minutes and I think it will be then very easy to tell who has made it an issue.

Mr. TETLOW: What percentage of the people of the state do you think are in favor of it?

Mr. EBY: Five years ago, when I was in the state of Missouri, there were only a very few far-seeing men who had their finger on the pulse of the public and on the activity of certain people, which was discernable to the public, and they told me they were trying to foist the single tax on the people. A United States senator told me that not one-tenth of one per cent entertained any such idea, and yet, through the initiative and referendum, they are going to try to force the single-tax system on Missouri this fall.

Mr. TETLOW: The point I want to bring out is, I want to find out what percentage is in favor of the single tax in this state. My own opinion is that not one per cent are trying to force the single tax on the ninety-nine per cent.

Mr. EBY: I will say that the theory of constitutions is to protect the inalienable rights of man against the majority.

Mr. ANDERSON: Are there not enough single-taxers in the state of Ohio who could, if they wanted a township or school district to adopt the single tax, under the Crosser proposal and the Fackler substitute, have the single tax in that one place?

Mr. EBY: Perhaps not the people who believe in the single tax from the Henry George standpoint as a cure for social ills, but there are large numbers of wealthy people who have most of their property in money who would welcome such a movement and give

## Initiative and Referendum.

aid to a campaign to take the burden of taxation from their shoulders and put it on someone else.

Mr. WATSON: Would not that same element foist the classification of property upon the state?

Mr. EBY: I will go into that in just a moment. I think, if I am allowed to proceed, my talk will answer most of these questions without the questions being put.

I apprehend you discern that there are several brands of the initiative and referendum and in the analysis of this vote I only wish to say that the members of this Convention who think they have received such emphatic commands to enact the measure, received only about one-seventh of the vote of the state, and is it not a fact so apparent that you will all admit it that the large proportion of those votes came from people who were espousing your candidacy on account of other issues than the initiative and referendum? If I am not mistaken one of the active advocates of the initiative and referendum in this Convention told me it cut no figure in his county, that the license question was the sole issue. I find that that member received between 3,500 and 4,000 votes and I am going to analyze these conditions a little further.

In my neighboring county of Montgomery I have included 12,000 votes cast for the candidates there. I am somewhat conversant with the campaign conducted in that county, and during that campaign the certain election of the three members who represent Montgomery county in this Convention was apparent to every observer. The agent of the Progressive League came and invited them to sign an eight, ten and twelve per cent pledge. They refused, and after that many other arguments were brought to bear upon them, but they steadfastly refused and they then had the opposition of those people. However, I have included those in the list, and if you will reduce the figures to the number of votes cast for the members of this Convention known to stand for the low percentages it is hardly one-eighth of the vote of the state.

Mr. DEFREES: Why didn't you go a little bit further—to another neighboring county?

Mr. EBY: Butler?

Mr. DEFREES: My county. We are not very far from you. Do you know that there were over 6,000 votes cast for the initiative and referendum and only 2,170 for the fellows who were against it?

Mr. EBY: Isn't it a fact that the license question cut a big figure in that county?

Mr. DEFREES: Not a bit; there was no license question in it at all. It was a square-toed initiative and referendum and anti-initiative and referendum contest, and the anti-man only got 2,170 votes.

Mr. NORRIS: After the election the other day I want to know whether the gentleman's county counted?

Mr. EBY: In Miami county one of the candidates stood for the usual eight, ten and twelve percentages; two did not subscribe to that, and that county cast 12,327 votes, giving the candidate that stood for the pledged percentages a little over 3,000 votes—one-fourth of the entire vote—while the other votes were for the candidates who stood for the indirect and against it.

Mr. DEFREES: All of the candidates were on the same platform, the initiative and referendum. There was only one man square-toed against it.

Mr. EBY: And only one stood for the low percentages?

Mr. DEFREES: All three.

Mr. EBY: Did they sign the pledge?

Mr. DEFREES: I don't know whether all were asked. Two of them did.

Mr. EBY: Then I was misinformed. I did not know that Miami county was wholly for the low, unsafeguarded initiative and referendum. I hope the gentleman from Miami will be just as brave when he comes to the final vote as he was on the license question. Then when he is called to vote on this unsafeguarded direct initiative he will voice the sentiment of Miami county by voting no.

Now I have always credited the president of the Convention with a good deal of political sagacity and after we convened—even with this great overpowering command from throughout the state of Ohio to institute and adopt the pure initiative and referendum—it seemed as if he came to one of two conclusions—I don't know which is the fact—that the people of the state, when they elected you, expressed themselves in favor of the initiative and referendum—you cannot, I know, always understand how to interpret the commands given you by the people), or he must have thought there were not enough of you, or too many, and that it was necessary to call a caucus to give force to those commands received so overwhelmingly from a good portion of the million voters of Ohio. I do not know the process of reasoning that led to the calling of that caucus, but if this condition obtained, that you did have an expression from the people of Ohio and a command, and it was expressed at the election where you got your seats in this Convention, believing that to be the fact and that you were men who would conscientiously carry out that command, why, in the name of heaven, was it necessary to corral you away from the floor of the Convention to reconvert you? The fact of the matter is that when that caucus was conceived and called, it was a tacit admission of the weakness of your cause because had you thought a majority of this Convention had a command from the people which could not be otherwise interpreted, that caucus would never have been held. I am directing this particularly to the original Crosser proposal, because I cannot take it as coming direct from the people, and what is the actual result of your caucus? It is a fact that seventy-five members of this Convention are in favor of the indirect initiative and in your caucus twenty-eight, and later twenty-seven, of your members declared themselves in favor of it, and yet, by process of the caucus, you decide to violate the written pledge that many of you made. If you attempt to carry that to its logical conclusion and stand by the findings of that caucus you will have the spectacle of twenty-eight or thirty members overriding the desires of seventy-five members of this Convention. And yet the men who instituted that caucus pose as the progressives of the Convention.

I once heard Tom L. Johnson say that the caucus was the old political war club of the reactionaries and when it was resorted to it was an admission of their weakness. This little comedy, "Won't you come into my parlor?" of the spider and the fly has been played on the floor of this Convention. It should never have oc-

## Initiative and Referendum.

curred, and while history does not record how badly the little flies got entangled in the spider's parlor, it is understood that a great many of them came out with cobwebs on their feet. Now I believe it is the courage of the independent members of the caucus that will finally save the day for the initiative and referendum. I say there is a genuine demand in the state of Ohio for the initiative and referendum, and it would not be strange that in many of the forms you would see those who have a selfish interest walking side by side with those who have interests not at all in common with them. When I speak of those selfish interests I do not mean that primarily the men who advocate them are selfish, because I believe that many advocates of the single tax in Ohio are sincere. I am not questioning the sincerity of our honored president as an advocate of the single-tax system; I believe in his sincerity, in his belief, in the intensity of purpose he has to force it on us, added to his eloquence and ability, and I believe in that is the very danger. Therefore, when I speak of this matter I do not want the president or any other singletaxer of this body to take it as a personal reflection; but I think it requires very little proof to show that the singletaxers, not only of the nation, but the singletaxers of Ohio, wish for an easily worked, unsafeguarded initiative and referendum as the vehicle to carry their pet dogmas into operation.

I have before me the current number of Everybody's Magazine, and certainly no one who reads current magazines can accuse it of being the agent of special privilege. It is a fact that Everybody's has rather been accused of pandering to the other extreme and that it is absolutely unpurchasable. There is an article that has been referred to by the member from Ashtabula [Mr. LAMPSON], by Francis Porter Stockbridge, who, the editor says, is an ardent supporter of the single-tax theory. The editor's note says:

Even when singletaxers are not definitely urging their pet doctrine they are found vigorously working for causes, such as the initiative and referendum, which will make the acceptance of the single tax easier.

Again he says:

We've just made a beginning now by starting to put the screws on our legislatures through the initiative and referendum. That was the first discovery the disciples of Henry George made when they tried to get the single tax adopted, and they were among the very first to make that discovery.

Then it goes on and speaks of U'Ren, perhaps, at this time, one of the foremost advocates of the single tax in America:

There had been advocates of the initiative and referendum in America before U'Ren, just as there were singletaxers before Henry George — the physiocrats of the eighteenth century in France, for instance, who might have put it into operation if the people hadn't become impatient and started the French Revolution. The populist party had an initiative and referendum plank in its national platform in 1892, but the single

tax was never a part of the populist program, although many of the leaders of that party, including Jerry Simpson, were singletaxers. And U'Ren, of Oregon, was a singletaxer long before he ever heard of the initiative and referendum.

U'Ren's story has often been told. In 1882, as he was crossing San Francisco Bay on the Oakland ferry, some one handed him a copy of one of Henry George's books. He read it, "saw the cat," and took with him to Oregon, whither he went in search of a friendly climate in which to renew his law practice, a fervent zeal for the single tax and the determination to do what he could to put it into operation.

U'Ren found many believers in the Henry George doctrine in Oregon and like singletaxers elsewhere, they were organizing Anti-Poverty Societies and Single Tax Leagues. Mr. George had never advocated such organizations; he had rather feared that their tendency would be to exalt the organization as such over the principle which it stood for. And it did not take young U'Ren long to realize that they would never get the single tax this way.

Before long he had become, by mutual consent, the leader of the little group of progressive thinkers who wanted conditions improved. He began to take an active part in Oregon politics, but said nothing about single tax. You could have gone from one end of Oregon to another and not heard the single tax mentioned. Yet all the time a great and powerful organization of citizens who were resolved to regain control of their own government was being built up under U'Ren's leadership.

Someone had told U'Ren and his immediate group of followers about the initiative and referendum along in the early nineties. U'Ren perceived instantly that this weapon in the hands of the people would enable them to get the single tax whenever they wanted it; and from that moment he devoted his energies to the initiative and referendum. Not for an instant, however, did he lose sight of his ultimate object.

Under U'Ren's leadership the people of Oregon got the initiative and referendum in 1902. By this time U'Ren had become without doubt the most skilful politician in Oregon. His single-tax friends were all for putting the single tax before the people for the immediate vote, under the provisions of the initiative and referendum amendment to the state constitution. U'Ren, farseeing, opposed it. It was necessary first to establish confidence in the new machinery of government and in his own leadership, and then to educate the people of the state up to the point where they could "see the cat" for themselves.

So U'Ren and his People's Power League — a new group for every election, but with the same old nucleus of singletaxers all the time — began to agitate for reforms that had a more instant appeal to the popular fancy. And they got them. They got the recall, and direct primaries, and what amounts to the direct election of senators

## Initiative and Referendum.

and the presidential preference and a corrupt practices act, and a score of locally important reforms. And with each succeeding success the people of Oregon, observing that the mountains still stood firm, came gradually to the conclusion that U'Ren wasn't the dangerous demagogue he had been pictured, but a pretty safe sort of a leader after all.

And it goes on and tells the rest of the initiative and referendum campaign in Oregon. In another paragraph it says:

Next November the people of the whole state of Missouri are going to vote on the question of substituting the single tax for all existing forms of taxation—and a good many people in Missouri think it will be carried.

In Missouri, on the contrary, the single tax movement has reached the stage of being a live issue in current politics, for it is to be voted upon at a state-wide referendum at the general election of 1912. Here, as in Oregon, the leaders of the single tax movement early saw the value of the initiative and referendum as a means of getting the single tax.

Then he speaks of the \$300,000 that Dr. Hill got and says:

Dr. Hill was elected president of the association and he and his friends got control of the \$300,000. They agreed that the money could be put to more important public service than the effort to establish the single tax in Missouri. With this fund as munitions of war, they renewed their assaults on the legislature—not for the single tax, but for the initiative and referendum.

Warned by the early experience, Dr. Hill and his associates were in no hurry to ask the people of the state for the single tax. They wanted first to give the voters time to try out the new and unfamiliar weapons on some other question. But while the people were debating prohibition and a direct tax for the State University—both of which were defeated at the first referendum in 1910—the singletaxers were perfecting a powerful state-wide organization, raising funds and beginning the campaign of education on which they relied for results. Out of the Fels fund they were awarded about \$1,500; the remainder was raised locally.

The organization of Missouri singletaxers, of which Dr. Hill is president, is known as the Equitable Taxation League. It numbers among its officers bank presidents, newspaper men, university professors, state and city officials, merchants, manufacturers, farmers, real estate operators, railway men, clergymen, lawyers, judges, and representatives of organized labor.

Then the article goes on to say:

The successful agitation for the initiative and referendum in Arizona was begun, years ago, by a singletaxer, Dr. Hill, of St. Louis.

In Colorado the movement for direct legislation was instigated by single-tax advocates.

In Arkansas money aid was given by the Fels Fund to the campaign for the initiative and referendum, which was successful in 1910.

I might go on taking your time and multiplying evidence in this article, but I will not. I only give this because it was an article in a current number of a popular magazine. I also have in my pocket a report of the single-tax conference in New York, November 19, and 20, 1910, to which the member from Allen [Mr. HALF-HILL] referred. I shall not quote very many extracts from this report; it is enough that almost every advocate of single tax points to the initiative and referendum as a weapon to secure the single tax. The report says:

The chances for putting the land-value tax system into effect are unquestionably best in states where the people have constitutional initiative, so it has always seemed clear to the commission that we could secure practical results soonest in those states and hasten results in other states best by helping them also to secure the initiative and referendum.

And you will notice that Joseph Fels himself says that the money spent in the Oregon campaign of 1909-1910 was well spent. The report also says:

Yet it is obvious that without initiative and referendum the Oregon victory for county home rule in taxation would not have been won, and that it would be impossible to submit any kind of a land-value tax amendment in Missouri or Oregon in 1912.

Now they tell us these are far-fetched and from other states.

Mr. NORRIS: Do you believe there are any singletaxers in this Convention?

Mr. EBY: I shall adduce indisputable evidence, at least to my mind—it takes stronger evidence to convince some people than others—that there are, and they have a right to be singletaxers if they want to be.

Mr. NORRIS: Don't you believe there will be a resolution offered here upon the direct subject of the single tax before this Convention adjourns, so that our garments may appear as white as snow and so that the blood may be licked off our jaws and that we can all vote against the single tax?

Mr. EBY: And I think a majority will.

Mr. NORRIS: And the people can say there were no singletaxers in the Convention?

Mr. EBY: I think we owe that to the people of Ohio. I might go on multiplying evidence on that question, but I have here a speech by one of the past masters of the Ohio State Grange, perhaps the most eloquent lecturer at farmers' institutes in the state of Ohio, a man who, if I should mention his name, would be recognized by every agriculturist in Ohio as a leader in the agricultural thought and action for the last twelve years. I will read it:

## Initiative and Referendum.

We all remember the tremendous campaign made for the initiative and referendum in 1909, especially the activities of Judson King, of Toledo, and Herbert Bigelow, of Cincinnati, and wondered where the funds came from to finance such a campaign as that. But it is readily explained when we consult the report of the single-tax conference held in New York City and find that over \$3,200 was furnished in the state of Ohio from the Joseph Fels fund. That will explain it.

Now, in an editorial in *The Public*, which is supposed to be authoritative, I find:

Under the leadership of Herbert Bigelow the singletaxers of Ohio, all of whom are People's Power advocates, so far as we know of them, are uniting with People's Power advocates, regardless of whether they are singletaxers or not, to secure in the new constitution a clause providing for the initiative and referendum. The singletaxers realize that by means of the initiative and referendum, and only so, the work of Henry George can be consummated, even when a majority of the people are converted to it; and they have frankly declared this to be one of their motives in working for the initiative and referendum.

I take that as being worth a great deal.

Now, on April 29, 1908, there appeared in the Cincinnati Post an article which quotes Mr. Bigelow as saying that he took up his work for his love of Tom Johnson. I will read the article:

Of his work for the initiative and referendum he said: "I took up the work because of my love for Tom Johnson. Those who do not know imagine Johnson's aim is the three-cent fare and such reforms. We are working for far more than that. Johnson's goal is to have Cleveland the first single-tax city in the United States. All other things are a means to an end.

You see this? Think of it! In every report of every speech before it in the singletaxers convention of 1910, the report of which is the last one in circulation — the one since then has not gotten down to the individuals — they say there is a time to talk single tax and a time to quit talking it, and the time to quit talking it is when you are talking for the initiative and referendum. From the evidence I have produced you can judge whether or not there is a well-organized campaign to foist the single tax on land upon us through the medium of the initiative and referendum. It is a fact that there is no system and no particular part of a system of government, or of our representative system, or of our courts, or of our executives, that the man who has high and noble impulses does not have to walk side by side with the men who have selfish purposes, and it would be very strange if all the men advocating the initiative and referendum had the same ideas. Now if it is a fact that certain interests are advocating the initiative and referendum simply as a means of obtaining the single

tax, is it not a fact that we should ascertain whether there is any evil in it, and if there is any evil in it whether we have a constitutional right to inhibit the initiative and referendum being used to obtain it?

I shall not discuss any of the principles of the single tax on land except to say that in every state it is being advocated. It has a numerous following among those who care not a rap for the principles of Henry George or for suffering humanity, and who are not advocating it through any principles of altruism, but simply for selfish purposes. They say that the millions they have in personalty shall be exempt and the burden put on the land owner, and it is those men who are said to be furnishing the sinews of war and the people are to furnish the votes in the campaign going on for the single tax.

Students of government do not go back to the time when government began, because we have to take into consideration things as they exist, and I can only illustrate by saying that in my own county there is a little settlement of farmers along some two and a half miles of pike where every one of the land owners twenty years ago had hardly a dollar in his pocket; but they had faith in American institutions, they had faith in the federal and state constitutions regarding the inviolability of contract, they had faith in the bill of rights, which said that we had a right to acquire and possess property, and those men, in storm and sunshine, have worked to acquire property. They made a compact under existing laws of the land because they believed they never could be directly or indirectly assailed.

The framers of the constitutions in 1851 and 1872 were not confronted with any such condition as that, but we are confronted with a subtle process that indirectly is to confiscate your property and mine, or what you have in lands, because the primary theory of the single tax as enunciated by Henry George is to make the single tax so high that it absorbs all the rent of the land. That is the primary theory, and until they obtain that they have not obtained the full value of the single-tax system. If that is not confiscation, if that is not in direct violation of section 1, article I, of the present constitution, I don't know what is, and the very idea that a constitutional convention has not the right to take certain things away from the action of the legislature, though the majority of the people may be in favor of them, or though we may see in the future at some remote time that they may be in favor of them — that they cannot take those things from the pale of legislation, is preposterous in the extreme. That matter was fought out in the federal constitution. The framers of the old Pennsylvania constitution tried to have one house in the legislature and everything to be guarded by the masses. They wanted to fence nothing off from legislative action. It passed, and for twelve years the state was operated under it. It proved useless and impractical in operation and except from the two members from Pennsylvania in the federal constitutional convention, it received no serious consideration. One of the first clauses they decided upon was the one guaranteeing our personal liberties, the right to protect our liberty and life and make them unassailable even by the courts of the land, and in addition to that they made the right to acquire and possess property just as sacred. The consti-



## Initiative and Referendum.

tution of Ohio has done it in both of our conventions in the past, and the constitutions of twenty-six states have done it, and simply because we are confronted with an indirect method of confiscating property is there any reason why we haven't a perfect right to do it and put in an inhibition against the single tax?

Are we not following in the steps of the constitution builders of the past?

Again, they tell us that the constitution of the United States guarantees and makes state constitutions guarantee all contracts as inviolate and that no state laws can be passed to annul them. I believe that many people have borrowed from charitable institutions and building and loan associations and have received loans on lands approximate from two-thirds to three-fourths of the selling value of the land. Singletaxers admit that when they appropriate the income or rent on land they practically confiscate it, that it makes the land valueless. Does not that impair the obligation of those contracts? It seems to me like the proposition is so preposterous that we have a right, and in fact it is a duty, to prohibit it by any special act or work that we desire to do.

Now I only want to make reference to one thing more, and then I shall take my seat with apologies for tiring you this long.

I noticed last night in the Citizen, published in this city, and I presume it was published in the five papers of the Scripps-McRea League, that the member from Preble county was trying to kill the initiative and referendum by loading it down with high percentages. In passing I want to say that it did say one thing that was true in that article, and that was that I am the son of my father. That is an evident fact and I won't deny it, but as far as those high percentages are concerned, I want to say in our campaign I declared publicly for fifteen or sixteen per cent for the indirect petition and the member running against me declared for a higher per cent. This fact was published time and time again in the two papers of the county and there were but few voters who did not know it. There was a candidate who ran on as low as an eight per cent platform and he received only six or seven per cent of the votes. Therefore, when I am accepting the eight, ten and twelve percentages, I am asking for lower percentages than I have been directed to do by the electors of Preble county.

Mr. SMITH, of Hamilton: Mr. President and Gentlemen of the Convention: I made a pledge to myself early in the deliberations of this Convention that I would talk just as rarely as I possibly could, and, when I did talk, just as briefly as I possibly could. I hope this afternoon to keep within fifteen minutes.

There is one great cause that has brought this Convention together. I feel very strongly that the great purpose of the bringing together of this splendid body of men is summed up in a sentence and it is this: The control of government should be in the hands of the people governed. I believe, gentlemen, that the time has come in the history of the world when the form of government can be no better than the great mass of the people who are living under that government. It has not been so in the past. All down through the ages a few men have controlled the destinies of the people,

the best men sometimes, and the worst men at other times.

The United States years ago tried to set the precedent that this government of ours should be a government by the people. I, for one, do not feel that it has been so at all times. I feel that the state of Ohio has not been governed at all times by the people of Ohio. Special interests, through the aid of marauding bosses in the small towns and the big cities and country districts, have controlled the destinies of the state. I submit the time has come to stop that sort of control and the reason I favor the initiative and referendum is because I believe that direct legislation is the instrument which, if put into the hands of the people, will bring to them self-government.

I want to refer you for a moment to the constitution of 1851, section 30, article II, adopted away back sixty years ago. Our fathers in providing for the making of new counties, or in doing certain legislative acts which you might think ought to be left to the legislature, or some people might so think, provided:

No new county shall contain less than four hundred square miles of territory, nor shall any county be reduced below that amount; and all laws creating new counties, changing county lines, or removing county seats, shall, before taking effect, be submitted to the electors of the several counties to be affected thereby, at the next general election after the passage thereof, and be adopted by a majority of all the electors voting at such election, in each of said counties; but any county now or hereafter containing one hundred thousand inhabitants, may be divided—

By whom? By the legislature? No.

—whenever a majority of the voters residing in each of the proposed divisions shall approve of the law passed for that purpose.

There is the referendum. There is no getting around the fact that the makers of the present constitution recognized and provided for the referendum sixty years ago. So when any man says that we are bringing some new doctrine into the theory of political government they are mistaken.

Now turn, if you please, to section 3 of article I of the constitution of 1851, adopted sixty years ago. You all know what that provision is, and the same provision was in the constitution of 1801, adopted over a hundred years ago. There we have a rudimentary form of the initiative. "The people have the right to assemble together in a peaceable manner to consult for their common good—" Now, mark you, "to instruct their representatives; and to petition the general assembly for the redress of grievances." No man in this Convention will deny that we are the servants of the people who sent us here. No man in this Convention will deny that the legislative assemblies are merely servants of the people. When the master instructs his servants, what does that mean? It means, if it means anything, that the servant shall perform the will of his master. Therefore, although we have always had the right under our present constitution and the one preceding it to instruct our

## Initiative and Referendum.

representatives, we have never had the power to make them obey our instructions. We want the initiative and referendum so that we may have an instrument which will compel our servants to obey their masters, the people.

A great deal has been said about the platform of the Hamilton county delegation, but no man who signed that platform has said a word about it. I think the time has come to do that. In Hamilton county a body known as the Federated Improvement Associations, made up of many improvement and welfare associations scattered all over the county, together with a club known as the City Club, an organization known as the Central Labor Council and the Business Men's Club, sent out a letter broadcast, calling on civic associations and labor unions and any body of men interested in the public welfare and not organized strictly for business advancement to get together. The organization that was formed as a result of that letter served notice on all political parties of the county to keep their hands off in the fight for constitutional delegates. This United Constitution Committee adopted a constitution, the purpose of which was set out as—

1. To study all problems relating to the new constitution.
2. To give to the people the result of our labors, so as to arouse interest in and secure careful consideration of these important matters by all citizens.
3. To decide upon and adopt a few cardinal principles and urge their incorporation into a new constitution of the state.
4. To create sentiment in this county against activity by any political party on any matter relating to this Constitutional Convention.

We adopted a platform; I hold it in my hand. I solemnly signed at the bottom of that platform a pledge to support it to the best of my ability.

Now, I know this does not conform to the same platform that other delegates here stand on. I frankly say that I was personally tied down to a definite program. I do not know how other delegates from Hamilton county may feel about it, and they are justified in doing whatever their consciences dictate—I do not mean to try to guide them in deciding how they shall vote on this question, but I know that men from some other counties in the state seem to feel that they are pledged to a different form of the initiative. They are perfectly justified in trying to live up to their program.

Mr. NORRIS: Was that pledge inspired by your immediate constituents?

Mr. SMITH, of Hamilton: Yes.

Mr. NORRIS: How have you a right to pledge to a thousand or so who voted for you when you represent every man, woman and child in Ohio and every political party and every interest in the state?

Mr. SMITH, of Hamilton: The United Constitution Committee felt that the time had come to send people up here to this deliberative assembly who could be elected on that platform and be able to discuss that platform and stand on it after they were elected. The political parties have party platforms, and we wanted to send men also on a definite platform and have them

live up to that platform after they were sent up here. This platform was published broadcast and nobody was compelled to vote for those who stood upon it if he did not approve of the platform. I will read it. It provides for the initiative and referendum on a petition not to exceed twelve per cent for constitutional amendments, not to exceed ten per cent for laws and not to exceed eight per cent on referendum. It has a special clause in regard to the initiative as follows:

That initiative propositions provided for above shall be submitted to the legislature for adoption prior to their submission to the vote of the people.

Now this is my position: I want the initiative and referendum and my people want the initiative and referendum in some workable form. I do not feel justified, however, in sitting in my seat without first having brought to the attention of the Convention the plan that Hamilton county stands for. If I have an opportunity, if the way is clear, I shall introduce an amendment providing for the indirect method of initiative—

Mr. PETTIT: Will the gentleman yield for a question?

Mr. SMITH, of Hamilton: May I finish the sentence first? —but if that indirect method which I or someone else introduces can not be had, I shall vote for the direct or any other form that gives a workable scheme for this measure. Now, Mr. Pettit.

Mr. PETTIT: Is that last provision you signed in your platform in conformity with Crosser Proposal No. 2, which does not provide simply for the indirect method?

Mr. SMITH, of Hamilton: The Crosser Proposal No. 2 provides both for the direct and indirect. Of course, the gentleman may say we are getting all we should ask for, but the United Committee of Hamilton county felt that measures proposed should first go to some body, such as the general assembly, where the true friends of the people might pick out flaws in it, where the newspapers might discuss it and where it might be advertised widely, so that when it was put up to a vote of the people and put up just as surely and inevitably as under the direct plan, the people would have the benefit of discussion.

Mr. PETTIT: Was there any talk prior to the election about the direct initiative in your county? Was not all the talk about the indirect?

Mr. SMITH, of Hamilton: As I recollect, and I hope any gentleman will correct me if I state incorrectly, in our deliberations before the United Constitution Committee, the plan was discussed thoroughly, both plans. We gave more time to the initiative and referendum than to any other question, and it was thoroughly discussed not only for two, but for possibly three, weeks, or maybe longer, before the indirect plan was finally decided upon.

Mr. PECK: I was going to call attention to the fact that the Crosser proposal, with the amendment I have offered to it, exactly complies with the platform upon which we were elected.

Mr. SMITH, of Hamilton: My distinguished colleague, Judge Peck, is right, except, and I think he will agree, that the pledge calls for the indirect method for constitutional amendments also.

## Initiative and Referendum.

Mr. PECK: You will find it there also, in the second section.

Mr. PETTIT: It accepts the direct as to constitutional amendments?

Mr. SMITH, of Hamilton: So I understand it.

Mr. PECK: It takes the provision for the direct initiative out of section 1 so far as it relates to statutes.

Mr. SMITH, of Hamilton: So I understand it.

Mr. PECK: It leaves the indirect operative upon statutes and also upon constitutional amendments in one way.

Mr. SMITH, of Hamilton: Yes; and provides for the direct as to constitutional amendments.

Mr. PECK: In other words, the constitutional amendments may be adopted both ways.

Mr. SMITH, of Hamilton: That is the way I understand it.

Mr. ANDERSON: Is it not a fact that while you were discussing before the election this platform you discussed and went into the subject of the direct initiative and that your committee decided that the indirect was much better than the direct, and therefore the platform of indirect was adopted and the direct was discarded?

Mr. SMITH, of Hamilton: In answer to that question I will say that the United Constitution Committees of Hamilton county and the people of Hamilton county want the initiative and referendum. If they can get it in the indirect form they want it that way. If they can not get it that way they want the direct in as workable form as they can get it.

Mr. ANDERSON: But was it not a fact that you discussed, before you adopted the platform, both the direct and indirect, and after you had digested it and argued it back and forth you at last decided that the indirect was much better than the direct, and therefore you decided to run upon the platform of the indirect?

Mr. SMITH, of Hamilton: That is so.

Mr. ANDERSON: If that is true, how are you entirely true to that platform and that pledge when you inject also the direct?

Mr. SMITH, of Hamilton: If the gentleman from Mahoning [Mr. ANDERSON] had been here during my remarks —

Mr. ANDERSON: I was here and was very much interested.

Mr. SMITH, of Hamilton: Then you heard the answer to your question.

Mr. ANDERSON: One other question. Was there anything in those meetings mentioned as to emergency measures?

Mr. SMITH, of Hamilton: If my memory serves me, there was.

Mr. ANDERSON: At that time did you discuss the referendum with reference to emergency measures?

Mr. SMITH, of Hamilton: I believe so.

Mr. ANDERSON: Then, in those meetings, did you decide that the referendum as to emergency measures could only be had at a regular election?

Mr. SMITH, of Hamilton: I think so.

Mr. ANDERSON: The legislature meets in January and the emergency measure becomes a law as soon as passed; you could not have a referendum election as to the law until November, and the law would be operating all the time. How would you get around that?

Mr. SMITH, of Hamilton: State that question again.

Mr. ANDERSON: I understood you to say that you decided in this caucus upon a referendum on emergency measures. Of course, an emergency measure is a measure where money is appropriated —

Mr. SMITH, of Hamilton: You don't mean to say "caucus"?

Mr. ANDERSON: I mean that committee in Hamilton county. You know the legislature meets in January and you know under the Crosser proposal and the Fackler substitute, the minute the legislature passes what is called an emergency measure it becomes a law and remains a law and does not cease and would not under this arrangement cease until the election in November. Now what is going to happen meantime with reference to the expenditure of the money from January until November? In other words, can you have a referendum on the emergency measure when the emergency measure becomes a law and is in full effect eight or nine months before you can vote upon it?

Mr. SMITH, of Hamilton: I do not remember that the committee considered that.

Mr. ANDERSON: Would you have advocated that?

Mr. SMITH, of Hamilton: Oh, it could be easily remedied. That is a small matter.

Mr. BROWN, of Highland: As you are already interrupted, let me interfere a little more. There is a question in my mind that has led me to be curious as to what would be the situation in indirect initiative provided the legislature enacted a law under the initiative and accepted the initiative bill and passed a law. Would that kind of an act be subject to referendum?

Mr. SMITH, of Hamilton: It could be provided so or not. I would not see the necessity of proposing a law and submitting it at once to referendum if it is passed as proposed. I do not recall the exact provision, but I take it that any law passed by the legislature would be subject to referendum.

Mr. EBY: The Hamilton county delegation pledged themselves to indirect initiative before the election?

Mr. SMITH, of Hamilton: Yes.

Mr. EBY: I suppose you would not surrender that until you saw it was absolutely necessary to secure some kind of initiative and referendum?

Mr. SMITH, of Hamilton: No, sir; it was discussed and adopted because it seemed the more feasible method.

Mr. EBY: You intend to carry that out on the floor of the Convention?

Mr. SMITH, of Hamilton: We intend to get a workable provision on the floor of the Convention. If we can get it in the indirect form we will get it, but if we can not we will take the other.

Mr. EBY: You were pledged to the indirect and you took that pledge in earnest?

Mr. SMITH, of Hamilton: If you know the Hamilton county delegation there is no question about that.

Mr. EBY: Consequently you would try to carry that out, as far as possible, as a member on the floor of this Convention?

Mr. SMITH, of Hamilton: So long as I do not endanger the principles of the initiative and referendum, yes.

Mr. EBY: Then if this contingency were to come up, and as a member of the floor of this Convention you

## Initiative and Referendum.

could, by combining with other members, secure the indirect initiative and thus carry out your pledges to Hamilton county or you could yield in caucus to a certain number of the Convention and not carry out your pledge, would it not be right that a member should choose to perform his duty on the floor of the Convention?

Mr. SMITH, of Hamilton: I think the gentleman answers his own question.

Mr. EBY: Then it follows that the result of that caucus is not necessarily binding on any member who wishes to do his duty?

Mr. SMITH, of Hamilton: Were you a member of the caucus?

Mr. EBY: I was not.

Mr. SMITH, of Hamilton: Then I don't know why you should be so worried about it.

Mr. EBY: I asked the question as a matter of information.

Mr. HOSKINS: Will you yield for me to ask Mr. Eby a question?

Mr. SMITH, of Hamilton: Yes.

Mr. HOSKINS: I want to ask the gentleman from Preble if it is not his judgment that he has occupied as many hours of this Convention as he ought?

Mr. EBY: I am always willing to get more information.

Mr. SMITH, of Hamilton: I was going into the question of the direct as against the indirect initiative, but I have taken fifteen minutes and the questions have consumed ten minutes more, so I will desist. I thank the gentlemen for their attention.

Mr. HOSKINS: My friend struck a popular chord when he said he would not occupy more than fifteen minutes. I do not know that I shall occupy that much [Applause].

I do not know whether to take the applause as a compliment or a criticism. The probabilities are that in the hearts of my friends it may be a compliment, and in the hearts of the other side it may be criticism—they don't want to hear me. But in any event I want to express myself here on this subject. While I would not try to curtail what any man may say or is desirous of saying on this question or on any other question, I want to put this proposition to you: There are a hundred and nineteen members in this Convention, there are a number of important propositions here to be discussed and there are about a hundred and eight or a hundred and ten of us that have just as much right as the others; therefore it might be a good idea for some of you to curtail your speeches a little bit to give some of the others of us ten or fifteen minutes occasionally to go on record. I can go on record in a very few minutes.

I am not going to discuss ancient or mediaeval civilization or times. I just want to discuss the conditions now in the state of Ohio and the proposal before us as it bears upon those conditions. I think the discussion as to the civilizations and the conditions of Greece and Rome are beside the question for one reason only, that never in the history of civilization have we had such a broad, expanded and deep-seated general intelligence among the voters, the common citizenship, as we have in Ohio today. All comparisons fail and it is useless to make comparisons about the failures of ancient governments because they did not have in those days a civiliza-

tion such as this, with books, newspapers, printing presses, and all things that go to disseminate knowledge among the common people of the commonwealth.

Let us come down to the point. Is it not a fact that the people of 1912 in the state of Ohio are better qualified for self-government, or better qualified to say by what rules, laws and conditions they should be governed, than any people of any time or any age in the past? I am willing to believe that that question should be answered in the affirmative. I believe that I and those with whom I am associated, my children, are better qualified to pass upon the laws that must govern us in the state of Ohio than our fathers were, and better than our grandfathers, and men are many fold better than in any generation or age that has passed. So those things are all out of the way, and it is a mere academic discussion to get them into this record.

There is only one fundamental fact to which I desire to call your attention. There is a reason for the wide-spread unrest that is over this country. There is a reason for this progressive movement that is on all over this land. If there were not some fundamental reasons for it, the unrest and agitation would not be here, as we all know. If conditions were satisfactory this agitation of 1912 and of the last eight or ten years would not be upon our people.

Mr. ELSON: Aside from the initiative and referendum, have we anything of importance or excellence in our civilization that we have inherited from the past?

Mr. HOSKINS: That is a college professor asking that question, and with all due respect to the college professor, the question is probably intended to be its own answer, and I cannot go into those discussions.

Mr. JONES: May I ask a question?

Mr. HOSKINS: Yes, sir; the J. P. Morgan of Fayette county has that privilege.

Mr. JONES: You said there was no doubt that the intelligence of the people was much better today than ever in the history of the world?

Mr. HOSKINS: Yes, sir.

Mr. JONES: And for that reason proper government directed by the people would be more effective now than at any other time of the world's history. Now I will put this question: Is it not a fact that legislation by those who are chosen by the body of the people to give it, if it were a good thing a hundred years ago is relatively as good today as it was then, and if not why not?

Mr. HOSKINS: It takes a long time to answer questions, but I will answer this one. I believe the world is getting better, and yet I do not believe the world is perfect. I believe recent legislatures and recent congresses have been better than many in the past, and that does not answer the argument of the agitation today, and if Brother Jones will just sit down I will be glad to reach that at the proper time. I can not go into academic discussions of "if not, why not?" There is something wrong, and I think, if he lets me alone a little, I shall be able to tell you why it is.

Mr. JONES: I want to ask one further question.

Mr. HOSKINS: All right.

Mr. JONES: And it is not for the purpose of embarrassing you.

## Initiative and Referendum.

Mr. HOSKINS: You can't do that. You needn't worry about that.

Mr. JONES: I would not if I could; but I want to try to elicit the point you are making. If the people are better educated today, would not it follow that those selected from the body of the people as representatives to make the laws, would make better laws than the body of the people, just the same as those elected years ago would?

Mr. HOSKINS: That may possibly be true and it may not.

Mr. JONES: If not, why not?

Mr. HOSKINS: There is one thing sure. If legislation has improved it is because of improvement in the body of the citizenship and because the body of the citizenship has demanded the improvement of laws, regulations, etc., referred to last night in the debate.

As I say, I am not a pessimist; I am an optimist. I believe the world is getting better. I believe the citizenship is getting better and the legislative body must be getting better, but let us address ourselves for a few minutes to this present unrest, this demand for changed conditions. I came here a pure initiative and referendum advocate. I do not know whether I knew what it was or not when I came. Up at home I am called a conservative. Some people think I am too conservative. Up there in our little business affairs we often get together and we get to discussing the unrest of the people and condemning that unrest. We little business people in the little towns often imagine ourselves a part of big business. We little fellows who happen to sit around the bank table, or as a board of directors of some little two-by-four corporation, are in the habit of imagining ourselves "big business." Sometimes we actually think that, and we have a great many people on this floor who seem to consider it their special prerogative to ally themselves with the big business interests of the country.

Mr. LAMPSON: Do you inform this Convention that you are a bank director?

Mr. HOSKINS: I did not say so.

Mr. LAMPSON: You said you sat around the bank directors' table?

Mr. HOSKINS: I said "we" in a collective sense.

Mr. LAMPSON: Are you a bank director?

Mr. HOSKINS: I don't believe it makes any difference to you whether I am or not.

Mr. LAMPSON: Does it make any difference to this Convention or to the people?

Mr. HOSKINS: I think not; but it does make a difference to the Convention as to what sort of influences undertake to control the action of the Convention. I want to say that there is an unrest in this country, and there is a cause for it. We started out a few decades ago in this new land to build up new homes and a new civilization. We started out as nearly equal as we could and as nearly equal as any people in the history of the world ever started out. I mean we were equal before the law. We were largely equal in the actual possession of this world's goods, and probably as nearly equal as ever known before in any civilization. What are the conditions now?

For the last thirty years the people of this country have been money mad. We have been crazy over the

accumulation of wealth and the wonderful prosperity that has come upon the country. We have been busy building homes, tunneling mountains and clearing the farms and doing all the things that have brought this present civilization and present condition to our doors, but what is the effect of all that? While that has been going on, the people have been dormant to every sense in the world except the accumulation of the dollar. We have been taught in this country that prosperity must come by government favoritism. We have lost track of the true theories of government, and the people are waking up in this latter day to find out that the resources of the country, the wealth of the country, have been largely concentrated in the hands of a few people. I believe myself (I don't care to be catechised about it, because I have not time for these discussions) the present conditions have been brought about by government favoritism—not always state favoritism, but by governmental favoritism we have arrived at the present conditions—and it is the cause in a large measure of the present unsettled conditions of the public mind.

Now, gentlemen, you have to make up your minds to this: The people of this country have determined that they are going to have a larger share in their own government and they believe the initiative and referendum are the best methods of getting that larger share in their own government, and if we are going to do our duty we must give them the initiative in a workable form. I do not believe that the man who wants to hobble the initiative, I do not believe the man who wants to fasten impossible conditions on the initiative, is a friend of the initiative. If you want to be true to the initiative, you must make it in a workable form. You must not fasten upon it impossible, unworkable conditions. I believe another thing, that there has been sufficient agitation upon this question for a number of years in the state of Ohio and that the people have made up their minds to get it. I believe in the direct initiative; that is the way the initiative has been taught to me; that is the way it has been advocated in our country—the right of the people to direct legislation. When we fasten riders upon direct legislation, when you say that the people shall legislate on one subject, but on certain others they can not, you have a contradiction in terms. If you are going to fasten one rider on the initiative you might as well fasten two or three or four or five, according to the different notions of the members of the Convention.

Mr. HALFHILL: I understand your argument for the direct initiative is that the people may legislate at the ballot box and you think it is not right to fasten any rider on that legislation. Is that correct?

Mr. HOSKINS: Yes, sir.

Mr. HALFHILL: What do you think of the thirty-two sections, and a great many of them absolute riders and prohibitions upon the legislature, in our present constitution?

Mr. HOSKINS: What thirty-two sections?

Mr. HALFHILL: Article II of the constitution amended by this proposal, and why should there not be inhibitions upon popular legislation as there has been and is upon legislation by representatives?

Mr. HOSKINS: I think I have answered that already—maybe not to Brother Halfhill's satisfaction,

## Initiative and Referendum.

and I think I would fail of answering it to his satisfaction, but the initiative itself and in itself implies the right of direct legislation. The people are the source of all power, and if you say that the people make legislation upon all subjects except one then you have made an exception of that subject and you have placed a rider upon the rights of the people, which is a contradiction in the very essence of the initiative.

Mr. HALFHILL: Do you maintain that the sections that now govern the legislature and that are now riders or inhibitions of it, would not govern the people?

Mr. HOSKINS: No, sir; they are riders upon the legislature's authority.

Mr. HALFHILL: Would not they govern as part of the constitution any legislation by the people?

Mr. HOSKINS: Not if you gave them the power of the initiative; I think not.

Mr. HALFHILL: I don't know why.

Mr. HOSKINS: Of course; there are a good many things you don't know.

Mr. HALFHILL: Well, I will ask this further question anyhow, so that I may understand you.

Mr. HOSKINS: All right.

Mr. HALFHILL: Does your argument mean that direct popular legislation is without any constitutional restrictions?

Mr. HOSKINS: I believe that when a majority of the people, after fair discussion of a question, decide that the law or constitution shall be thus and so, that the will of the majority of the people should be the law of the constitution.

Mr. ANDERSON: Will you yield for a question?

Mr. HOSKINS: With the same suggestion I made a while ago to one of the other good members.

Mr. ANDERSON: I have forgotten what the suggestion was. I am only asking, however, for information. Do you not think that friends of the initiative and referendum — just as much a friend as you may be — ought to do all they can as delegates to put it in the best form possible for the public?

Mr. HOSKINS: Oh, yes.

Mr. ANDERSON: Then, if that is true, are you in favor of the referendum on emergency measures, because in the Crosser proposal and the Fackler substitute—

Mr. HOSKINS: I don't understand that it is the intention to make the referendum apply to emergency clauses.

Mr. ANDERSON: But it is. Haven't you read it?

Mr. HOSKINS: Yes. Brother Anderson has a faculty of taking up time asking questions. I would be glad to answer questions, but I don't propose to have my time taken up with questions.

Mr. ANDERSON: If you don't want to answer, all right.

Mr. HOSKINS: Brother Anderson is all right, but if my recollection is right I have heard him ask at least two questions in this Convention in the last two months.

Mr. ANDERSON: Do you interpose that as a witticism, and give no opportunity for answering when I am only trying to get light on the question?

Mr. HOSKINS: I beg to call in question your desire for light. If I wanted to sit at the feet of a Gam-

aeli in this Convention I would sit in front of Brother Anderson.

Mr. ANDERSON: Will you permit another question?

The PRESIDENT: Does the member yield?

Mr. HOSKINS: No; I do not. I want to finish. Brother Anderson has taken enough time of this Convention in the last three months and he ought to sit down. I do not believe all told I have taken forty-five minutes of this Convention's time, and my judgment is there are some other members who have taken from five hours to forty-five hours. I submit is it fair when a member is speaking who has not taken up any more time than I have that they should get up and seek information they can not get from me because they know more than I do about the subject?

Mr. ANDERSON: A question of personal privilege: Has it not been a fact that my time has been taken up largely in answering questions? Is not that true?

Mr. HOSKINS: Part of it.

Mr. ANDERSON: Have not I attempted to answer, so far as my limited ability would permit, any question that has been put to me, and haven't I answered or attempted to answer hundreds of questions from you and other members on this floor?

Mr. HOSKINS: I submit to the Convention, in answer to the suggestion of Brother Anderson, that he may have answered some questions, but he has also been very prolific in the asking of questions. I yield great deference to his intellectual ability and all that sort of thing, but I do not yield to him exclusive right to the floor through a day's entire session.

Now, one other subject in connection with this proposition. I may not be able to get all I want in this Convention. I would be a remarkable man if I did. I do not believe I shall, but I have a right as a member of this Convention to tell what my ideas of the initiative and referendum are. I came here with what I thought was a pure idea of the initiative. Since that I have met a number of very staid and "safe and sane" gentlemen. In fact I have had so much sanity pounded into me in the last few months that I am a little uncertain about what my mental condition was when I came here. I came here thinking I was "safe and sane," but I have reached a point of doubt as to what my mental condition was when I came here.

Mr. LAMPSON: Don't you think you have reached the point where you have some indications of your growing sanity?

Mr. HOSKINS: I admit that sitting under the tutelage of such members as the gentleman from Ashtabula [Mr. LAMPSON] and the gentleman from Mahoning [Mr. ANDERSON] I have learned some things.

Mr. ELSON: May I ask a question?

The PRESIDENT: Does the gentleman yield?

Mr. HOSKINS: Always to the college professor.

Mr. ELSON: I was just wondering whether there were any that belonged to the proscribed class other than college professors and bankers?

Mr. HOSKINS: I don't think there are any proscribed classes. I think those people who think themselves proscribed are simply some of the little men who think themselves a part of big business, and they would



## Initiative and Referendum.

like to get in that proscribed class. I think it makes a difference as to the influences that are said to be controlling this Convention. There was an influence in the state of Ohio that started out to control this Convention. It was an influence that believed itself the special guardian of the business interests of the state. That influence was sent out all over this land. I think it was, at least. I know it came to me. It maybe that it regarded me as a little more gullible than some of the remainder of you, and maybe it didn't go to see some of you, but I know it went to see one of my friends to the right, because my friend told me of it. It started out to dominate this Convention. There is no question about this self-constituted guardian, and I am almost compelled at this point to make another admission that might reflect on me, and that is for a number of years I contributed my \$10 a year toward that institution, but, I am glad to say, before this Convention came on I cancelled my subscription. I do not criticise any man or any set of men who undertake to enlighten the Convention, but I have a criticism of the man or set of men, who, prior to the organization and prior to your election as members of the Convention, undertook to dominate the complexion of the Convention; and I have a criticism of the set of men who, after the members had been elected, undertook to dominate the complexion of the Convention; and I have a criticism of any man or set of men who, after having failed to dominate the Convention, start in with the weapons of ridicule and sarcasm to belittle every member of the Convention and all the things that the Convention wants, and you don't have to have a diagram or bill of particulars to know to whom I am referring.

Mr. EBY: Do you mean the millionaire in California who controls the Scripps-McRae League or the millionaire soap manufacturer in England? I want to know?

Mr. HOSKINS: I have a great respect for all these seekers after light.

Now, I want to read you a short extract which I regard as apropos of what I am saying. It is copied, I think, from the Journal of Commerce. I only read a few words with reference to the election of the members of this Convention. I think it is right and proper to call your attention to this method of attack owing to the fact that there is an attempt being made all over the state to discredit in advance the work of this Convention because they know the proposition of the initiative and referendum is bound to be passed by the Convention. The matter, I read, refers to the editorial preceding it and refers to our president:

With his experience of the indifference of the vast majority of voters that allowed an active minority at the polls to elect members of the Convention secretly or publicly pledged to carry out the wishes of those who would, by a mandatory provision of the constitution, open the floodgates of vice, poverty and wretchedness in all the larger cities of our fair state, it is not at all unreasonable for him and his financial backers to indulge the expectation that by their initiative and referendum scheme; they may be able to saddle all the burdens of government upon the one interest [referring to the single tax.]

But that is the charge, and what I call special attention to is members of "the Convention secretly or publicly pledged to carry out the wishes of those who would, by a mandatory provision of the constitution, open the floodgates of vice, poverty and wretchedness." What sort of a charge is that to make against the members of this Convention, that it was the purpose in electing members of this Convention to open the floodgates of vice, poverty and wretchedness in the cities? Has it really come to the time when the people of the state of Ohio can not assert themselves at the ballot box without being accused of opening the floodgates of vice and corruption? If so your representative government, as well as all government, is a failure, and you had better go back to the forms of the mediaeval ages when the common citizens had no rights.

Now, upon this question of riders upon the initiative and referendum, I want to read an editorial from the Ohio State Journal, I think of March 16. The point I make, gentlemen of the Convention, is, to put a limitation upon the rights of the people to enact laws they desire, or to establish the constitution they desire, is a contradiction of the initiative, and I have as good authority as the Ohio State Journal to back up that proposition. You may have read the editorial at the time:

The action of the Constitutional Convention in barring the single tax from the operation of the initiative and referendum, in view of the basic idea of the initiative and referendum, is utterly absurd. Here is a proposition to secure directly an expression of the people's desire, with a definite understanding that they must not desire the single tax. That is, "let the people rule," but they must rule as we want them to. If nine men out of ten want the single tax, they cannot get it out of the initiative and referendum. That has a string to it.

We are not favoring the single tax. There is no reason for it as an issue. What we point out is the inconsistency and pretense of the initiative and referendum advocates in holding that their scheme is to secure the rule of the people, and then declaring that one question of policy they shall not decide. In other words, the Constitutional Convention says that some questions of policy the people have sense enough to determine; but one, at least, they haven't.

Mr. LAMPSON: Do you think the Journal is usually right?

Mr. HOSKINS: That is hardly a fair question. It is sometimes right, though.

Now I think I have said about all I want to, but I have favored and do favor the straight direct legislative initiative. I was content and am content to pass an indirect along with the direct, as proposed in the general form of this proposition—that is, giving the people the choice of method of reaching the legislative proposition, through the initiative strictly or through the legislature. In other words, while coming here as I did, having the conception of the initiative as coming direct from the people and going directly to a vote—the direct initiative—I am content to accept the plan as proposed, and I believe the plan proposed ought to meet

## Initiative and Referendum.

the views of a majority of this Convention. I am opposed to putting riders on the initiative and referendum proposition, so far as that is concerned. If we are going to tack one rider on, then I have a number of riders in my mind I would like to tack on, and I have no doubt that there are a number of other gentlemen who are fertile minded enough to have riders of their own, and we may undertake to put on enough riders to satisfy everybody in this Convention.

This is not a political matter, but some people have referred to the fact that up in our county I belong to the democratic party. I have been going to conventions of that party for a number of years, and regularly that party has been declaring for the initiative and referendum. At least, I have been in conventions declaring for that proposition and have gone upon record in favor of the proposition for a good many years past, and to change now would be inconsistent with myself. I stand for the initiative in its pure form. I have no disposition to be inconsistent, because I have seen no light since coming here that caused me to change my mind from what I have advocated in the past. Any variation at all from the pure initiative that I vote for will be simply as a concession for the purpose of bringing out a measure which we can all support.

Mr. WOODS: Are you a Judson Harmon democrat?

Mr. HOSKINS: I submit again that that gentleman is especially one of those who are seeking light.

Mr. MARSHALL: I want to ask a question and I ask it in all earnestness. There are too many serious things connected with this Convention to quibble.

Mr. HOSKINS: I agree with you on that.

Mr. MARSHALL: Suppose the Convention passes the initiative and referendum inside of ten years the taxes are taken off of \_\_\_\_\_ and all mortgages and all property except land, and it is all land tax and we have that condition of things for ten years. You would be satisfied for that to take place if a majority were for it?

Mr. HOSKINS: That will not happen.

Mr. MARSHALL: But suppose it should happen?

Mr. HOSKINS: But suppose the world should come to an end?

Mr. MARSHALL: Suppose you get tired of the single tax on land then, and they say they are going to jump it over and put it all on bonds and money and other personal property. Would you be in favor of that? I am simply asking for information. I am not here to quibble. If you take it off of all the money and put it on the land a while, would it not be fair, when the people get tired of that, to take it off the land and put it on the money?

Mr. HOSKINS: Anything the people do is all right with me.

Mr. MARSHALL: Well, tell me anything that the people have done in the history of the world that was right?

Mr. HOSKINS: Is that a question? I am very glad, though, that these questions have been put, because I would have forgotten something if they hadn't been. I think the question of the single tax is a ghost.

Mr. DOTY: It scares people.

Mr. HOSKINS: I know it does. Now just a moment, Brother Lampson—

Mr. LAMPSON: I don't want anything.

Mr. HOSKINS: You were looking at me and I thought you wanted to say something.

Mr. LAMPSON: I always look at you when you are talking.

Mr. HOSKINS: I believe the subject of the initiative and referendum has been talked about enough in this country and the people ought to be allowed to pass on it. If they want to keep the representative form of government, let them keep it; if they want the initiative and referendum, let them get that, but I don't want them to add vote-catchers to it. That is all this thing is, and if the people don't want it in a pure form, let them say so.

Mr. LAMPSON: Can there be any harm in putting the inhibition in the constitution against the ghost?

Mr. HOSKINS: We are not legislating against ghosts; they did that in Salem, Massachusetts.

Mr. LAMPSON: If it is a ghost we are guarding against, what harm can it do? It will get votes for the initiative and referendum. I will tell you that.

Mr. HOSKINS: If a majority of this Convention should decide in the end they want the rider, I suppose they will put the rider on, but I for one want to submit it in a pure, unadulterated form.

Mr. LAMPSON: And is not every limitation in the constitution just as much a rider as this, the various limitations that have been referred to?

Mr. HOSKINS: All our present limitations in the constitution are limitations upon legislative authority, and not upon the people, who are the ultimate source of power.

Mr. LAMPSON: Don't you expect the people to obey their own constitution?

Mr. HOSKINS: Certainly.

Mr. LAMPSON: In the matter of legislation don't you expect the people to obey their own constitution? That is the question.

Mr. HOSKINS: Yes.

Mr. LAMPSON: Its mandates and its inhibitions?

Mr. HOSKINS: Yes.

Mr. EBY: Mr. President—

Mr. HOSKINS: Now what?

Mr. DOTY: He wants more light.

Mr. EBY: Yes.

Mr. DOTY: You need it.

Mr. EBY: I want to ask the gentleman from Auglaize [Mr. Hoskins] if he would eliminate article I of section 1, of the present constitution?

Mr. HOSKINS: I don't know what that is.

Mr. EBY: The guaranty of inalienable rights to personal liberty and right of property, the right to acquire and possess property.

Mr. HOSKINS: Didn't you have that in your speech?

Mr. EBY: I want your opinion on it.

Mr. HOSKINS: Would I be willing to eradicate that from the constitution in any form or way?

Mr. EBY: Yes.

Mr. HOSKINS: I do not think that is pertinent. I do not believe the people would want to mutilate the constitution.

## Initiative and Referendum.

Mr. EBY: You want to set up a power in Ohio that may indirectly do it?

Mr. HOSKINS: I am willing to set up any power in the state of Ohio that has the approval of a majority of the voters in the state of Ohio after proper consideration, and I will take my chances on the exercise of that power. Does that answer your question?

Mr. DOTY: He has the light.

Mr. COLTON: The proposal before the Convention does not require a majority of the voters of the state, but may require only a minority.

Mr. HOSKINS: That is probably correct. I should have said a majority of those voting. Nobody but a college professor would have caught that.

Mr. DOTY: And only one of them caught it.

Mr. HOSKINS: They are in the proper place — on the committee on Arrangement and Phraseology.

Mr. ELSON: Have you read Crane, of Chicago?

Mr. HOSKINS: No; I have spent my time in making a living for my family. I don't know who he is.

Mr. ELSON: He is the man who put out all this tirade against representative government.

Mr. LAMPSON: As a lawyer and a student of constitutions, don't you know that constitutions are made to protect the rights of all the people — all individuals — minority and majority?

Mr. HOSKINS: I think that is correct. I think before I sit down, I had better make my speech to the college professors.

Mr. JONES: Will you yield for a question?

Mr. HOSKINS: Just a moment, until I get even with the college professors. I have a great respect for every teacher and every college professor in this body as well as everywhere else. I preside over a board of trustees that hire college professors; they are useful in their places. There is no question about that, and I am not intending to make any question about where their place is. Even a modest number of them are useful in this Convention.

Mr. JONES: You have no criticism to make upon the form of representative government?

Mr. HOSKINS: No, but I think we could improve it.

Mr. JONES: Properly administered it is the best thing possible?

Mr. HOSKINS: That is a little stout — the way you put that.

Mr. JONES: It is the best thing we have so far been able to evolve?

Mr. HOSKINS: I will agree it is the best thing we have had up to date.

Mr. JONES: And that the complaint you have to make with reference to it is abuses which have crept in by way of corruption of legislators and similar matters?

Mr. HOSKINS: Not altogether that. That is too narrow.

Mr. JONES: Is that the chief objection?

Mr. HOSKINS: One of them only. That might be the "chief among ten thousand, and not altogether lovely."

Mr. JONES: As I understand you, it is the best thing that has been evolved so far?

Mr. HOSKINS: I guess that is right. I do not know of anything else.

Mr. JONES: You are aware that under our present system of representative government in Ohio we legislate by a majority of representatives from the various districts in the state, and it takes a majority of the representatives of those districts to pass any of those laws, are you not?

Mr. HOSKINS: Certainly.

Mr. JONES: You think that is a good provision?

Mr. HOSKINS: I guess it is all right. I don't know any other way to do it.

Mr. JONES: Are you aware of the fact that it takes representatives from about thirty-five counties of the state of Ohio to pass any law through the legislature now?

Mr. HOSKINS: I don't know what you mean by that.

Mr. JONES: You can not get a majority of the legislators without including the whole of those in at least thirty-five counties in the state.

Mr. HOSKINS: I don't know the number, but that may be right.

Mr. JONES: Are you aware of the further fact that if you adopt this method of legislation directly at the ballot box that the people in thirteen counties of the state could enact the laws they might see fit?

Mr. HOSKINS: No; the proposal must cover forty-four counties.

Mr. JONES: But I am speaking of the election — that the voters of thirteen counties of the state could enact any law they desire.

Mr. DOTY: If they all voted one way.

Mr. HOSKINS: I suppose they could, but what is the matter with that?

Mr. JONES: Do you think that a departure from the present system requiring a majority of the representatives from all the legislative districts, to this policy, which will permit thirteen counties of the state to legislate for the whole state, is a wise one?

Mr. HOSKINS: I undertook to show it, and I believe it or I would not be here talking for it.

Mr. JONES: Why is it?

Mr. HOSKINS: I have given the reason. I have perfect confidence that when the people of thirteen counties of Ohio, and I think they are of average intelligence, pass upon a proposition, that they are not going to do anything detrimental to the people of the remaining counties.

Mr. JONES: But do you not realize that the act may pass through the legislature by a majority of the representatives from the legislative districts and that same act, when it goes to the polls upon petitions for its reference, may be rejected by the voters of only thirteen counties of the state?

Mr. HOSKINS: If your figures are correct, that may be true.

Mr. DOTY: They all have to vote one way.

Mr. HOSKINS: Yes; you raise a violent presumption that they will all vote one way.

Mr. JONES: Let me put a concrete illustration.

Mr. HOSKINS: Mr. President, I want to quit —

DELEGATES: Agreed.

Mr. HOSKINS: —and knowing the proclivities of my friend from Fayette county, from having seen them

## Initiative and Referendum.

displayed in the last two months, I am afraid I can not quit if he keeps on questioning.

Mr. HARRIS, of Ashtabula: The member from Auglaize [Mr. HOSKINS]—I believe he represents Auglaize but lives in Columbus—admits he is a democrat?

Mr. HOSKINS: Yes.

Mr. HARRIS, of Ashtabula: I would like to inquire if, under the definition served up to us through a Columbus paper, he is also a plutocrat?

Mr. HOSKINS: No; he is not, and I do not think he is one of the seekers after light. It is wonderful the extent of light some men in this Convention want on even the smallest question.

I want to say further, in view of the insinuation made, and if there is anything that I am willing to do, it is to resent insinuations—

Mr. COLTON: Mr. President—

Mr. HOSKINS: Just a moment; I am not referring to you. The gentleman from Ashtabula [Mr. HARRIS] said I represented Auglaize county and lived in Columbus. That is wrong, and he has no cause to make that statement. I think the trouble is I had two or three friends out at my house the other night and he was not invited. I think this is sufficient explanation of why he says I am living here. My home is in Wapakoneta, and I live there, but I brought my boys down here to sit under the ministering care of some of these college professors and they are getting great benefit from it, too.

Mr. HARBARGER: I would like to ask this question in view of the question Mr. Jones put about the thirteen counties having a majority under the initiative and referendum, equivalent to thirty-five counties under the present system. The point is, could not we have under the popular vote in the less number of counties more votes by taking the larger counties than thirty-five of the small counties; in other words, would we not get the greater popular vote in the less number of counties, and consequently would not you have a popular expression?

Mr. HOSKINS: I guess that is so.

Mr. COLTON: You have said it is a wonder how much light people in this Convention seek—

Mr. HOSKINS:—from those who can not give it.

Mr. COLTON: Is it not also wonderful how little light people can get when they ask for it?

Mr. HOSKINS: I have no doubt of that, but there is one comfort that some of us can claim when it comes to getting light, if we are unable to get the light we don't take up much time trying to get it.

Mr. LAMPSON: I promise to ask but one question if you will let me ask it.

Mr. HOSKINS: All right.

Mr. LAMPSON: I would like to know the rate of discount in your bank?

Mr. HOSKINS: I am not on the executive committee and I don't know.

Mr. LAMPSON: You are a director; don't you keep posted?

Mr. HOSKINS: No, sir; I do not. I am one of those directors who do not direct.

Mr. ULMER: I want to ask a question. Is it right

and fair to ask foolish questions that don't belong to the business here?

Mr. HOSKINS: I am very much obliged to the member from Lucas [Mr. ULMER] for stopping the foolish questions.

The PRESIDENT: The member from Adams is recognized.

Mr. PETTIT: Gentlemen of the Convention. I want first to address myself to a question of privilege with reference to myself and to my county. The question is not germane to the subject, but I shall not consume much time on the proposition.

There seems to be a prevalent idea all over the state of Ohio and all over the United States, the result of the action of a certain gentleman, that Adams county is the most corrupt county of any on earth. I am getting tired of having that thrown in my teeth wherever I go. I do not believe in kicking a man when he is down. I want to speak particularly of the gentleman who has exploited himself in this manner, and that is nobody other than A. Z. Blair.

I know that gentleman almost as well as I know myself. He finished reading law in my office. I realize, gentlemen, that what I say goes into the record of the proceedings of this Convention, but I do not propose that that gentleman shall go over the United States as a lecturer, posing as a great reformer, and telling about the conditions that exist in Adams county without showing what connection he had with bringing those conditions about when he was in politics, and at no remote date either.

He started out first, I understand, as a preacher of the Gospel. I am not casting any reflections or slurs on that profession. God knows I respect it. It was not very long until he became a lawyer, and I want to say he is no fool by any means. He is smart, shrewd and he has plenty of cheek. He taught school a while in our county and got into politics and in the campaign of 1896 he was one of the most loud-mouthed Bryan men anywhere. I don't blame him for that, because I was a Bryan man then and am now. He was chairman of the democratic executive committee in that campaign. Now, gentlemen, I am not going to say that the conditions in Adams county were ideal, so far as the elective franchise is concerned, by any means. They were not. They were sadly out of joint, but the conditions were produced by just such men as Judge Blair, when he was figuring in politics in Adams county.

Now, without taking up too much of your time along this line, he is going around the country lecturing. He has a contract with some lecture bureau, and his sole theme is "How I Purified Politics in Adams County," and I want to show his inconsistency in another line. If you would hear him talk now on the temperance question you would think he was the only original Simon-pure temperance man in the state of Ohio. I do not want to speak personally of my attitude on that question. But it is known ever since I came to the bar in 1887, that that was the one thing above everything else that I fought, and I fought it for ten years almost single-handed and alone, and Judge Blair, as soon as he came to the bar, was the man engaged in every case against me. I think in every case I prosecuted he was opposed to me. There was one case that was commenced before the

## Initiative and Referendum.

mayor of West Union for selling liquor to a widow's minor. He took that case to the supreme court of Ohio, and he got beat at every step, but he must have been well paid for it, or he would not have taken it up. God knows I was not in it for the money, but because I had been touched by it and I was not fighting it for the money that was in it. I got in that case \$6.75 as attorney fees, paid to me by the W. T. C. U., and the case commenced before the mayor and went to the supreme court.

The town council which got the benefit of my labor, would not pay me a cent, because I did not belong to the party they belonged to. Now, another instance in that line. They had four saloons in the town of Peebles, and they were of the kind that have been referred to here as "dives." The conditions became so bad that there was a murder committed almost every year from the time those saloons started and the better class of citizens became outraged and said it must stop. Knowing how I stood on that question, they employed me to draft an ordinance. I prepared an ordinance and worked it through the council prohibiting the running of those saloons. Judge Blair (he was not "Judge" then) and a gentleman by the name of Thomas, whom Captain Evans knows, as he used to be in his office, and a local attorney at Peebles named Kesler, were all employed to fight me, but Judge Blair was the bellwether of the flock. He was the man they particularly relied on. They fought me at every step to keep that ordinance from passing. But I kept meeting with the council at every meeting and finally got it passed in the following November. Then they worked on the mayor of that town and told him that the ordinance was unconstitutional and he refused to sign it and the clerk refused to publish it at their suggestion.

I told the mayor as soon as I investigated the matter I would mandamus and make him sign the ordinance, but after I investigated I found it was not necessary to have his signature to the ordinance to make it valid. Then Mr. Blair and his associates advised the saloon keepers to go ahead and run their saloons and it was thirty days before I could get a test case and get it into the court of common pleas.

Mr. ULMER: I rise to a point of order. The gentleman is not talking to the question.

Mr. PETTIT: I stated I wanted to make a personal statement in reference to my county.

DELEGATES: Agreed.

The PRESIDENT: The member is speaking to a question of personal privilege.

Mr. DOTY: Go ahead; we are enjoying it.

Mr. PETTIT: As soon as we got the case before the common pleas court, the court decided the ordinance was all right, and they telephoned the saloon keepers to put up their shutters and get out. There was one Cincinnati man and one Portland man, and I had the two arrested and put under bond for their appearance the next week. Mr. Thomas met me and said, "I understood you agree to make a test case of these fellows and quit." I replied, "You don't understand that from what I said about it." The next day in my absence at the suggestion of his associates, they went before the mayor and filed affidavits against their own clients. The mayor fined them the minimum fine and let them go. That was Mr. Blair's attitude on the temperance question. Now,

if you would hear him exploiting himself on the lecture platform and going off a couple hundred miles to make temperance speeches, you would think he was the Simon-pure temperance man of the United States.

Mr. DOTY: How long ago was that?

Mr. PETTIT: Not over ten years. Now I want to come to the vote buying. I was a candidate against Blair five years ago for common pleas judge. That district was fifty-five hundred republican and had I published all I knew about him I would have beaten him. I cut his majority to a little over two thousand. The republican committee of Adams county was wanting money to run a campaign, and they said to Blair that he must put up so much money. He demurred, and when they told him they would not put his name on the ticket he dumped \$1,400 into the campaign.

Mr. STOKES: Did he turn republican?

Mr. PETTIT: Yes; to secure the position he now occupies. I neglected to say that after the democrats got suspicious of him he turned republican, and I understand he is opposing Taft, and threatening to defeat him. If that is so, Taft might as well get out of the race.

Now, I would not care if Blair was standing right here; I would say what I am saying, because I know whereof I speak. I do not know that I care to say anything further on that subject.

Mr. THOMAS: Have any of the bribers been either tried or convicted in Adams county?

Mr. PETTIT: I will come to that. Not a single one, not a single man who was a briber was indicted.

Mr. DOTY: Did they turn state's evidence?

Mr. PETTIT: They whitewashed them. They gave their evidence as to those who sold their votes and the ones who did the buying were not indicted. They had three cases tried and each one was acquitted. They didn't try a single case where the defendant was not acquitted.

Mr. BROWN, of Highland: Were they acquitted under Judge Blair?

Mr. PETTIT: Every one of them, and I want to make the further assertion that he was prosecutor, judge and almost the jury in the trial of those cases. He used every means in the world he could in his position as judge to convict those fellows, but didn't secure a single conviction.

Mr. DOTY: Were all three jury trials?

Mr. PETTIT: All three jury trials. The last time he was in our county to hold court he tried three jury cases. One of them was a bribery case and he might as well have told the jury to go out and find for the state, but the feeling against him was so strong that the jury found against what he charged.

Mr. LEETE: Is he holding court still?

Mr. PETTIT: No, sir; he is drawing a salary regularly though.

Mr. LEETE: He is still on the bench?

Mr. PETTIT: Yes; but he will adjourn court, send his juries home at the expense of the county and go off a couple of hundred miles to make a speech.

Mr. LEETE: Who holds court for him?

Mr. PETTIT: Judge Corn takes most of the work off his shoulders. Judge Blair came down to the county and tried two cases. He tried one of the bribery cases and the jury hung, and then, with cases still to be tried,

## Initiative and Referendum.

he adjourned, sent the jury home and went off over two hundred miles to make a temperance speech. No wonder we want the recall down in Adams county! That is why we think we should have the recall. If we had the recall there would be a judge recalled mighty soon. Now that is all I care to say on that subject.

Mr. WOODS: If it is in order, Mr. President, I move that Adams county have the recall.

Mr. PETTIT: Now I want to say what I have to say on the proposal before us. I may have to say some things—at least I feel as though we have to say some things that may impinge a little bit on some gentlemen's feelings, but the conditions that brought about what I have to say, were not of my choosing, and I am justified in saying what I shall say about them.

I am so constituted that if any man undertakes to force me to do anything I rebel. At least, if I know he is trying to do it, I rebel.

The gentleman from Auglaize [ Mr. HOSKINS ], the last gentleman on the floor, said something about the conditions that dominated this Convention, and he seemed to think, from his argument, as I understood it, that the only dominant influence here against the initiative and referendum is the Journal of Commerce. I have been at a loss to know ever since this question came up, and before, why it was necessary to adopt a different system or a different course of action in connection with the initiative and referendum proposal than for any others we have had before us; why it was necessary for the president or anybody else in this Convention to call a caucus of members agreeable to him and get them in some secret place and discuss the proposition among themselves and agree on a line of procedure and come into this Convention and get up and say, as the president did, when this proposal was introduced, "Our minds are absolutely closed on this subject. We have got it to perfection. We have something we can recommend to you and we won't let you open your mouth." When that was said it reminded me a little of when I was a boy. A mother bird had a nest in the barn in the spring of the year, and I used to go out and watch that nest very carefully. After a while the little birds appeared and I watched them. Their eyes were closed and the mother bird would come, and although their eyes were closed the little bird's mouths would fly open and the mother would drop in the worm that she would bring them, and they would just take it and swallow it down without knowing anything about it. It seems to me if some men's minds are closed another member of their anatomy is open, and they are ready to swallow any kind of pabulum furnished by some members of the Convention without batting an eye.

I was left to believe when the president made the statement that he had something, that we hardly dared to look at it, that it was so complete in phraseology and form we scarcely dared to lay vile hands on it, and I began to wonder whether after all I would be permitted to exercise my mind at all on this subject, but after thinking a little bit I came to the conclusion that I was a free-born American citizen, that I was sent up here to represent poor old slurred Adams county, that I had a little bit of mind left, so I took it up with a good deal of hesitancy. It was a rash act, but what has transpired since confirms my original opinion.

I do not understand how such gentlemen as the members from Cuyahoga [Mr. FACKLER] and Auglaize [Mr. HOSKINS] and others I might name—I presume they were in that caucus—could gulp down that proposal and permit it to come before this body. They certainly didn't inspect it, but simply took someone's word it was "all right" and O. K'd it.

I am not opposed to the initiative and referendum. I never have been. I have not changed my ideas since I formed my views. I am not like one of the gentlemen from Hamilton county who admitted that he signed a certain pledge and was elected on a certain platform and is here now ready to adopt a measure that does not conform to that pledge or platform at all, if it is necessary in order to get the initiative and referendum. I printed a card in my campaign, because whenever I ask for the suffrage of the people of Adams county, or of any other body of men, I want them to know where I stand. I have nothing to conceal from them. I said in that card that I was in favor of the initiative and referendum, the recall, the reform of the judiciary, and the election of United States senators by popular vote of the people. That was my platform and the people of Adams county knew it.

Mr. DOTY: Was that the exact form?

Mr. PETTIT: That was the exact form, word for word, and in that campaign I never heard the direct initiative discussed. Whenever I was asked about it I said, "We will first go to the legislature and ask them to pass such laws as the people want, and if they don't do it we will get up a law and submit it to the people." The direct initiative never entered their minds. It was not seriously considered in my section of the country. I signed the paper sent out from the Hamilton County League for eight, ten and twelve per cent.

Mr. DOTY: You signed another pledge?

Mr. PETTIT: I signed the pledge that I would be bound by eight, ten and twelve per cent.

Mr. DOTY: As a maximum?

Mr. PETTIT: Yes, as a maximum. I thought it was a little too low at that time, but I am not prepared to say even now that I am not agreed to that. I am not here combatting the question of the initiative and referendum. I am in favor of it, and whenever you produce a proposal embodying the principles I think should be in it I am going to help support it. They keep talking about a "workable" initiative and referendum. That was the burden of Mr. Hoskins's speech, but he didn't tell us what he meant. And I am ready to believe, from the answer he made to one of the questions, that he has not studied that proposal yet, because there has not been a single gentleman who came on the floor and analyzed it that has been in favor of it. It has been so thoroughly torn to pieces and picked apart that I don't care to go over the thing again, but there are one or two matters that I do want to call attention to that I think should be amended or put in better language.

I do not believe that if one man goes out and circulates a petition for the purpose of getting signatures for the passage of a certain law his own affidavit ought to be a sufficient guaranty of the genuineness of the signatures to the paper, and right under that head there might be two men sent out to canvass the same territory who might get exactly the same names—putting it pretty



## Initiative and Referendum.

strongly — and yet there is no authority in this proposal to give the secretary of state the right to inquire as to the genuineness of those signatures. He must presume they are correct, no matter how glaring the matter may look on its face. Is not that an absurd proposition? When we were elected last fall as delegates to this Convention there were some safeguards thrown around the law under which we secured the names on our petitions. I want to read those, and I want to read to you what we had to do to comply with the law. I read from a copy of the law passed on that subject, section 9, beginning with line 4:

Each elector signing a petition, shall add to his signature his place of residence in his own hand writing (unless he cannot write and his signature is made by mark) and shall include street and number when there is a street and number. No elector shall sign his name to more than one nominating petition for each office to be filled.

There is no such provision in this proposal. The whole number on any petition might be duplicated and there would be no remedy. Section 10 follows:

Each petition need not necessarily consist of but one paper, but five of the signers to each separate paper shall swear before a notary public, or other officer entitled to administer oaths, that the petition is bona fide in every respect to the best of his knowledge and belief, and the certificate of such oath shall be annexed. If in any case the said paper shall contain less than five signers, then as many shall swear to the validity of the paper as there are signers thereto.

Now, there are safeguards in securing those signatures, but, this Crosser proposal says that petition and the signatures so verified shall be presumed to be in all respects sufficient, unless not later than fifteen days before election it shall be otherwise proven. How? Before what officer, and by what authority?

There is nothing in the proposal that gives any light on that.

There is another very peculiar provision — and it has not been changed in the Fackler proposal either — and that is that even after the law has been passed by the legislature, in compliance with the wishes of the people, they still want a referendum in reference to that act. What sense is there in that? If the people want a law and submit it to the legislature and the legislature passes the law, why still have a referendum to set that law aside? In other words, they simply set up a man of straw to knock him down. That is not putting it too strongly under the provisions of this act.

Mr. BROWN, of Highland: Don't you think that the provision that permits the referendum, even though the legislature pass it, is giving the majority an opportunity to express their sentiments on the bill which they would not otherwise have? — the bills being presented by a small minority, don't you think that is a good thing and is really the saving clause of the whole thing?

Mr. PETTIT: No; if the dear people don't make a mistake, and if they want this law and submit it to the legislature and a majority, or two-thirds or three-fifths,

or whatever is required by the legislature, has passed the law, I can not see any reason why it should again be submitted to the people.

Now there is a further provision to the effect that after the law has been passed by the legislature although passed exactly in conformity with all the provisions of the constitution, yet if there is a referendum vote taken on that act and the law is set aside, and afterwards it has been discovered that the petition may have been obtained by fraud entirely, the people have no remedy — the vote still stands. It seems to me that is a very unsafe and dangerous proposition. It is in effect saying that it makes no difference how much fraud you have in the vote on the referendum, yet if it is discovered that fraud was practiced you have no remedy.

Mr. STILWELL: Is it not true that where a law is passed by the legislature through fraud it still stands as a law?

Mr. PETTIT: Yes, but there should be some remedy to undo it. I am not justifying that. I am with you on that, but it seems to me that is entirely wrong.

Now, another thing. This seems to go into effect by virtue of the vote itself. In other words, it is a kind of an automatic machine. It may be aided, but not by the general assembly.

As a matter of fact this thing is absolutely full of the most absurd defects, but as I said before, the straw has been threshed out so thoroughly on other propositions that I think it is scarcely worth while to further thresh it.

Now, coming down to some things that are not pleasant to speak about, in answer to Mr. Hoskins as to the influence that has been dominating this Convention. Why, gentlemen, if you don't agree with the Scripps-McRae League and some of the prominent members of the Convention it is a terrible thing, and we are criticised. Now let us see what some papers have said about the members of the Convention and see whether that suits you or not. I will recall your attention first to the Columbus Citizen of March 21, 1912, in which this article appears:

Trying to defeat the initiative and referendum by false pretenses, falsely representing that the men who are leading the crusade for a workable initiative and referendum provision in the new state constitution are simply doing so to further the interest of the single tax and establish it as the law of the state, the privileged interests are assaulting the initiative and referendum proposal in the Constitutional Convention.

For months, privilege, through its machine, the State Board of Commerce, has been flooding the rural districts with literature, trying to line up large and small landowners against the initiative and referendum, with arguments against the single tax.

Of course there is absolutely no connection between the two propositions and the interests that are making the argument know this.

Of course that settles it. Whenever the Citizen says anything there is no question whatever about it. But if I have any mind I think I can see a very strong con-

## Initiative and Referendum.

nection between this and the arguments of some of the members in the Convention.

But they also know that the demand for a workable initiative and referendum on the part of the people generally throughout the state is so insistent that the only possible way to defeat or emasculate it is to appeal to a very large class of people by misrepresentation.

The news from the Constitutional Convention, where privilege is now making its last stand against the initiative and referendum indicates that the courage, intelligence and loyalty of the progressive majority are going to be tested to the limit before the final vote is taken.

Who are these self-assumed progressives in the Convention? Do they say to me that I am not a progressive?

There is no limit to which privilege and its tools in the Convention will not go in their efforts, either to defeat the initiative and referendum proposal, or what would be equally to their liking, amend it out of all semblance to a practical, workable piece of governmental machinery.

Are you one of the tools? How many tools are there here? Think of that and talk about influences trying to dominate the Convention!

Where are the timid delegates? Are you going to get under your seat for fear somebody will understand what you are doing, or have an opinion?

The single tax talk is simply a bogey to scare timid delegates who call themselves progressives into consenting to an increase in percentage requirements.

The percentage requirements in the proposal adopted by the progressive caucus and recommended by the initiative and referendum committee are as high as ought to be conceded under any circumstances.

They were decided upon after weeks of argument and consideration by the progressive caucus, comprising a majority of the delegates.

Every man who went into that caucus and agreed to be bound by it will be under the suspicion of acting from an unworthy motive if he fails in the crisis.

There is going to be a mighty accurate test of men during the next few days at Columbus.

Of course, all of that is true. When the Citizen says it, that settles it. How do you gentlemen who were not in the caucus like that? If you gentlemen had gone into the caucus you would have to go up and take your medicine just as administered.

Now I want to call your attention to another article or two. Here is one that I saw in the Cincinnati Post last Friday when I was at home. It is headed "It's Time for the Delegates to Stand and Be Counted." Now if there is any organ in the state of Ohio that is the personal organ of the president of this Convention it is the Cincinnati Post, because almost every time he opens his mouth it is jotted down in the Post:

There never was a cleaner cut fight between the people and privilege than is now being waged in the Ohio Constitutional Convention over the Crosser initiative and referendum proposal.

Every sinister corporation and political influence in the state, through their tools in the Convention, is trying to defeat or so amend the proposal as to make it ineffective.

Privilege fully realizes that the submission of this proposal to the people in the form agreed upon by the progressive caucus will sound the deathknell of its grip upon the common people of the state.

The people of Ohio will do well to keep their eyes upon the Constitutional Convention from now on.

By doing so they will learn the real character of the delegates.

Those delegates who stand for privilege, either because they are natural reactionaries or just tools, will be found trying to defeat or amend the Crosser proposal.

Those delegates who are against privilege and honestly represent the sentiment of the great mass of people of the state will be found standing like adamant against any charge whatever in the proposal.

The fight has reached a point where further compromise will not be suggested or accepted by loyal initiative and referendum delegates.

The real friends of the initiative and referendum should insist upon a roll call on every separate amendment offered. The time has come for the delegates to stand forth and be counted so that the people of Ohio may know who among the delegates are true and who are false to their pledges.

Why, they are clinging to the original Crosser proposal still when everybody else has abandoned it!

I have not heard anybody more likely to be under false pretenses than certain members of the Hamilton county delegation; at least the eight who signed the platform down there and are willing to change and adopt the Crosser proposal. I am with Mr. Bryan. When you say something in a platform you must live up to it.

The president and I had a little conversation the other night and it is not a secret. We were talking about the influences being used here in trying to get this proposal through, and I don't think I am telling tales out of school when I speak of it. The conversation was not of my seeking. After Mr. Foraker spoke the other day I had the temerity to applaud him a little bit. He said some things that satisfied me pretty well, and I thought as an American citizen I had the right to use my hands as I saw fit. I do not think the president enjoyed Mr. Foraker's speech very much while it was in its delivery. I could see from his appearance that it was not hitting him just right, and I found after Mr. Foraker was gone that it had not. The president came and sat down in front of me at the desk and chatted very kindly for a while. I kept my temper for once. He said, "I saw you applauding Mr. Foraker a little bit this afternoon."

## Initiative and Referendum.

I replied, "Yes; I thought Mr. Foraker said some things so nicely and so forcibly that I felt like applauding him a little bit." The next question was, "How do you stand on the Lampson amendment?" I said, "I am for it," and the reply was "I thought you were a democrat." That was a stumper to me. I said, "Democrat! What has that got to do with it in this Convention? You are the only man except one that I have heard speak of politics in this Convention and that was another man from your county, Mr. Harris." I don't know what brought that out from Mr. Harris, but he got up and said something about the Democrats having a majority in the Convention. I said to the president, "I didn't think politics had anything to do with this Convention. If it had you would not be where you are as president of this Convention." He conceded that fact, and then he went along in that line and I said, "Mr. Bigelow, you ought to have judgment enough to know that the provisions you are trying to adopt in this initiative and referendum proposal won't go down with this Convention at all. It has been a pet measure of yours for years, and you are taking a course that this Convention won't stand for and you ought to know it."

Gentlemen, you will remember when that measure came up he vacated the chair and put Mr. Doty in the chair, and while Mr. Halfhill was talking and asking further time for discussion of this question I saw the president write a note and send it up by Mr. Mauck to Mr. Doty. I don't know what was in the note, but there was some purpose in it. I said to the president, in the conversation referred to, "Further than that, if this proposal won't bear argument or the light of day it is not worth the paper it is written on." And I said to him another thing, "I thought we elected a vice president of the Convention to preside when the president is not in the chair, and although the vice president is always in his seat I very seldom see him in the chair."

I have noticed he has been in the chair more since that than before. Now I don't know why the president should resort to any such measures as he has resorted to to force this Crosser proposal through. I can not believe it is absolutely a case of disinterested benevolence. Why, he is calling on members of this Convention and I have seen it in the past—he has been sending out to the people on this initiative and referendum proposal. It seems they must be enlightened as to the conditions of it. It was an humiliating spectacle to this Convention, that which took place the other night, and it would never have been brought on if the president had not by the procedure adopted attempted to force this thing through; and yet here is his "apology." I just want to read it. If this is an apology I don't know what an apology is:

The president craves the indulgence of the Convention to refer to the unfortunate episode of last evening.

Who brought on that unfortunate episode? It was not the members of the Convention, and nothing happened until he undertook to cram down the throats of the members something he knew was not right. It was very unfortunate for him. I read further:

The president is aware that the proper form for the announcement of the vote on motions is,

"The motion seems to prevail—the motion prevails." The pause is given for any call for a division that may be made.

The president confesses that he carelessly neglected last evening to state the matter in a formal way, but announced the result, and after the announcement heard vigorous demands for a division.

Was it carelessly? I say it was a deliberate act; no carelessness about it. He neglected and he announced the result, and after the announcement was made he heard vigorous demands for a division, and he heard that before he left the chair.

The president will state that he wanted to yield, but was possessed with the idea that the Convention really was recessed and could not reopen the matter. He realizes that he made a mistake in not having presence of mind enough just then to realize that he should have waived the technicality and given a division.

In the name of high Heaven, what prevented him from yielding to the call for division?

The mistake occurred at the end of a tense moment following a fatiguing day. It was certainly quite natural that the blunder incensed those who might have thought that it was made designedly.

What was the cause of this failure of presence of mind? I say it was not a technicality; I say it was an absolute matter of substance and right.

This matter of talking about a tense moment following a fatiguing day! What produced that tense moment? I think I can remember what transpired. Brother Miller had previous to that time introduced a substitute to which was attached an amendment; he realized for some reason that that was likely to be defeated and he got up and withdrew it; and then, before anybody else could have a chance, Brother Fackler shoved the amendment in to take the place of the amendment offered by the delegate from Crawford; thereupon an amendment by Mr. Miller was offered and Mr. Lampson arose and said he understood he was to have the right to offer his amendment, and at this moment Mr. Doty sprang to his feet and moved an adjournment.

Mr. DOTY: No, a recess.

Mr. PETTIT: The chair put the question and decided it carried. That is what produced the trouble, and I could not see any excuse for the action of the president at all.

Mr. DOTY: There was not any.

Mr. PETTIT: Then he ought to have made his acknowledgment in stronger language. You can see the bombastic spirit in the whole thing.

Now there has been some reference to the Ohio State Journal. I think it is a great paper. I want to refer to something in it too. There appeared an editorial in it the next day. It starts out with "Dishonoring the Chair." That is pretty strong medicine.

Mr. DOTY: Very bad.

Mr. PETTIT: The article reads as follows:

## Initiative and Referendum.

The idea of the president of a constitutional convention, a body that is supposed to be thoughtful, sincere and dignified, refusing to submit an appeal from his decision, and then in an angry disappointment abandoning the chair and leaving the Convention in disorder and chaos, until the vice president appeared and assumed control over its deliberations, is so repulsive to a sober public sentiment that faith in the Convention itself is threatened, if such things are condoned.

One is inclined to look upon an event of this kind more in sorrow than in anger — sorrow that the true public spirit should be so far forsaken as to make room for the frenzy of a personal disappointment. Nor would the sorrow be so deep were it the single lapse of a noble temper, but **because there** is so much of individual defiance of **the rules of considerate conduct**, the very respect for public authority is fast degenerating into a whim.

Any break in decorum or any assault on the dignity of the Convention is not a matter that affects that body alone, but the whole people of the state, whose respect it is in duty bound to maintain. A personal apology will not settle the matter.

Mr. DOTY: What else will happen?

Mr. PETTIT: We will see. The article continues:

The president has shown himself incapable of the high trust, and he should stand aside for some one who loves justice, truth and square dealing better than he does.

Now then, if the chair makes any more such mistakes I think we should apply the recall to the president of the Convention and he ought to stand aside.

Mr. DOTY: But he won't do it.

Mr. PETTIT: He may have to if he makes any more mistakes like that.

Mr. DOTY: He is not going to do that any more.

Mr. PETTIT: I say it is not proper for a gentleman presiding over this body to conduct himself in that manner. Right there I want to refer to another thing that took place shortly after this body was formed. You will remember after the committee had been named Mr. Hoskins asked to be relieved from service on the liquor committee and the president of the Convention announced the fact and said that he would relieve him and he would appoint "Mr. Bigelow" in his place.

Mr. DOTY: That was a horse on Mr. Bigelow.

Mr. PETTIT: It certainly was. If that was not monumental egotism I don't know what it was? There were one hundred and eighteen members of the Convention, anyone of whom might have been put on that committee, and it couldn't make it any better — it was as wet as it could be. It struck me that that kind of an act in the president of a deliberative body was a small thing to do.

Now I believe I have said all I want to say, and I thank you kindly for your attention.

The member from Scioto [Mr. EVANS] was recognized and yielded to a motion by Mr. Doty to recess until tomorrow morning at ten o'clock.

The motion was carried.