Direct Legislation in Iowa

by

J. Van der Zee

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THE STATE HISTORICAL SOCIETY OF IOWA
EDITOR'S INTRODUCTION

Directness may be said to characterize the demands of modern democracy: direct nomination, direct election, direct responsibility, and the direct discharge of public officials are accompanied by the demand for direct legislation. While no one seriously questions the principle of popular control underlying these institutional forms of democracy, their indiscriminate and unrestricted use in certain instances has resulted in some disappointment.

Perhaps it may transpire, through the discipline of political experience, that in the interest of democracy itself the number of elective officers will be greatly reduced, and the principal use of the recall and direct legislation will become corrective of major abuses or a spur to action too long delayed. This much is certain: the principle of popular control will not be snuffed out because the newer methods of its expression, like new toys, are at first overworked.

Benj. F. Shambaugh

Office of the Superintendent and Editor
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AUTHOR'S PREFACE

This paper is an attempt to define clearly what is meant by the initiative and referendum and to point out the significance of direct legislation in Iowa to-day. It is interesting to observe the extent to which the principle of this institution has been applied for a long time to the affairs of townships, school districts, counties, towns, and cities of the State. Furthermore, in the light of experience in other Commonwealths it appears that direct legislation in matters of State-wide importance is fast coming to be recognized as an indispensable feature of popular government.

The writer disclaims any desire to be partial in the presentation of the subject: he holds no brief for or against direct legislation. So much has been said and written on the present movement that the writer has consulted and relied upon some of the best sources and authorities for his summary of arguments. The Notes and References do not, therefore, represent an exhaustive bibliography of materials on the subject.

Acknowledgments are due to Mr. Benj. F. Shambaugh, Professor of Political Science in the State University of Iowa, for very helpful criticisms and suggestions.

Jacob Van der Zee

The State Historical Society of Iowa
Iowa City Iowa

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I

POPULAR GOVERNMENT AND DIRECT LEGISLATION

THE PROGRESS OF POPULAR GOVERNMENT

If the hope of democracy lies in more democracy, then surely the people of America are well on the road to the goal of popular government, for they are making phenomenal advances in regaining the powers which they once entrusted to their representatives. During the past ten years especially have they changed the old order of things: government by political parties, convalescing from the blow inflicted by the adoption of the Australian ballot system, suffered relapses when the voters decided to nominate directly their own candidates for local and State offices and for the United States Senate.

Nor have the people stopped at the adoption of merely State-wide primaries: the national convention for the nomination of presidential candidates may soon be of interest chiefly as an institution of past politics. Moreover, non-partisan methods in the elections of commission-governed cities have spread in Iowa so as to include judges, and may no doubt be extended to cover all State and local officers, whose views on national politics certainly have nothing to do with their qualifications as managers of purely local affairs. And, lest wicked or incompetent men should escape the people’s vigilance and safely run the gauntlet of primary and election, voters in the Des Moines plan cities and in some States
possess the recall — which is the modern or democratic method of removing objectionable servants from office. And finally, the equal suffrage movement promises to enforce democracy by doubling the electorate.

Supplementary to the ideas of direct nomination and direct election and direct discharge of public servants, and aimed at the correction of the same evils, is the institution of direct legislation which finds expression in the initiative and the referendum. Of the three departments of government voters have ordinarily found the greatest fault with the legislative, for through a long series of years their legislators have not only oftentimes abused the law-making function but they have also refused to give ear to the people's desires. Indeed, so widespread has been the movement for the initiative and the referendum that the people of most of the States west and a few east of the Mississippi now exercise the privilege of direct legislation in one form or another.

DIRECT LEGISLATION: INITIATIVE AND REFERENDUM

The conception of popular sovereignty — that is, rule by the people — is fundamental in American government. Indeed, popular control has everywhere been a basic factor in the history of Anglo-Saxon law and politics: originally the representative principle was developed simply as a substitute for pure democracy in communities where the population and area made folk-moots (popular assemblies) impracticable. Direct legislation is, therefore, older and more fundamental than legislation by chosen representatives.

The miners who crossed the Mississippi in 1830 and began operations in the Dubuque lead district before the Iowa country had been formally opened to settlement
assembled around an old cotton-wood log and unanimously agreed to be governed by the code of mining rules and regulations of Illinois, with two exceptions. Likewise squatters in the Iowa country, seeking to protect land claims until they might secure titles from the United States government, met together, organized claim associations, and adopted laws for their government. In the very political beginnings of Iowa, then, is found the principle of popular assent and participation in law-making.

Direct legislation may be defined as the making of laws directly by the people: it is distinguished from law-making by representative assemblies called legislatures. Where in the early history of England the people of communities met in folk-moots (popular assemblies) and gave their assent to policies, or where in the history of New England the voters of the town met in town meeting and passed resolutions, there was direct legislation. But when communities enlarged and spread out over much territory or when they became united into large units, then folk-moots and town meetings became impracticable; and so, representative assemblies came to take the place of popular assemblies and law-making by representatives was substituted for law-making directly by the people. Finally, in recent years dissatisfaction with the workings of legislatures and distrust of representative legislators have brought on a movement for more direct legislation through the initiative and referendum.

The initiative enables the people to propose the enactment of desired legislation in two ways. First, when they wish to obtain the enactment of a law a certain number of voters may draft a bill and submit it to the legislature for passage. If the legislature refuses to accede to their petition, the bill may then be submitted
to a popular vote for rejection or approval. This is known as the *indirect initiative*. Secondly, bills initiated by the voters may be directly placed upon the official ballot for a direct vote of the people at a general or special election. This is the *direct initiative*, and it is strictly the method of direct legislation.

The referendum, which enables voters to reject undesirable legislation, also appears in two forms. First, where the legislature is obliged to refer to the voters a law which it has enacted, there exists the *compulsory referendum*. Secondly, where the legislative authority may or may not submit its enactments to the people as it chooses or where the voters have the right to call for a popular vote upon a measure which the legislature has enacted, there the *optional referendum* prevails.

Although this new system of direct legislation has not assumed a definite stereotyped or final form — being still in the experimental stage — it is a fact that the people of many American States have gained recognition as the active source of all power in government and now have a direct voice in the enactment of legislation. There can be little mistake about the significance of the new movement, for, as President Wilson says, "the initiative and referendum afford a key to our own premises." In other words, direct legislation means control of legislative servants by the people instead of control of the people by legislative servants — which is but a common-sense application of the principle that a master may do or undo his servant's work.¹ Such is really the simple idea which lies at the bottom of the contemporary reform which finds expression in the initiative and referendum.
THE SPREAD OF THE INITIATIVE AND REFERENDUM

Although direct legislation is by no means a recent invention, it may still be regarded as an experiment in the government of the American States. Ever since 1778 the people of America have been familiar with the practice of referring State constitutions and constitutional amendments to the voters. Indeed, America is the home of the referendum as regards constitutional law. Then, too, about the middle of the nineteenth century the people of many States began to reserve to themselves the right to determine certain questions of State-wide importance; and so they placed constitutional limitations or restrictions upon their legislatures "when dealing with matters that involve peculiar temptations or the pressure of local and other interests."²

Moreover, from a fairly early day in American town and county government the initiative and the referendum have been resorted to in the determination of many important local matters. But the latest and most comprehensive movement for direct legislation in America, unlike the earlier phases "which are native in origin and grew out of purely indigenous ideas and conditions", appears to be an importation or conscious imitation of institutions which have attained by far their greatest development in the Republic of Switzerland and her cantons.³ Thus, the United States and Switzerland share the credit of originating the institution of direct legislation—the former in case of constitutional provisions and the latter in matters of statutory regulations.

Several Swiss cantons adopted the initiative as early as the middle of the nineteenth century—an example which was soon followed by every canton after the year 1869. But not until 1891 was the idea extended to include
amendments to the constitution of the Swiss Republic. Federal statutes, however, are not yet subject to initiation by the voters of that country. On the other hand, the practice of referring to the people all amendments to the federal and the cantonal constitutions has prevailed in Switzerland since 1874, while statutes enacted by the cantonal legislatures are liable to the compulsory referendum in some cantons and to the optional referendum in others. Likewise, laws passed by the Swiss Federal Assembly may, at the option of a certain number of voters, be submitted to the people to take effect upon a favorable vote. It is this latter form of referendum—that is, the optional referendum—which has engrossed so much public attention not only in other European countries but more especially in the American States.

Since its first adoption in South Dakota in 1898, fifteen other American States have made constitutional provision for the immediate exercise of the optional referendum on general legislation: Oregon in 1902; Nevada in 1904; Montana in 1906; Oklahoma in 1907; Maine in 1908; Missouri in 1908; Arkansas in 1910; Colorado in 1910; Arizona in 1911; California in 1911; New Mexico in 1911; Ohio in 1912; Nebraska in 1912; Washington in 1912; and Michigan in 1913. In Massachusetts in 1913 the legislature was empowered to refer any act or resolve to the people. Initiative and referendum machinery has existed in Utah since 1900, and in Idaho since 1912—waiting to be put into operation by the people’s unwilling representatives.

The voters of Wyoming and Mississippi failed to record sufficiently high majorities for the initiative and referendum amendment in 1912; while those of Kansas and Illinois got no chance to express themselves, despite
strong agitation in favor of the new idea in many quarters. Furthermore, a new constitutional amendment will be voted upon by the people of Missouri in 1914 to restrict the scope of the present system, while constitutional amendments proposing the establishment of the referendum will be submitted to the electorate for adoption or rejection at the general election of 1914 in the States of Minnesota, Texas, Wisconsin, and North Dakota; and, the Thirty-sixth General Assembly consenting, the people of Iowa may voice their sentiments on the proposed amendment not earlier than the year 1915.⁵

In the United States the initiative has not met with so general a reception as the referendum. Statutes alone may be initiated by the voters in South Dakota (since 1898), Montana (since 1906), Maine (since 1908), and Washington (since 1912); while constitutional amendments and statutes may be initiated in Oregon (since 1902), Oklahoma (since 1907), Missouri (since 1908), Arkansas (since 1910), Colorado (since 1910), Arizona (since 1911), California (since 1911), Ohio (since 1912), Nevada (since 1912), Nebraska (since 1912), and Michigan (since 1913). In some of these States measures may be proposed for direct submission to the voters. In others proposed bills must first be submitted to the legislature and upon their failure to pass must be referred to the people. In four States — Texas, Minnesota, Wisconsin, and Iowa — it is proposed to permit the initiation of both constitutional amendments and statutes; while North Dakota will have only the statutory initiative on account of the people's desire to shield their prohibition system against attack.⁶

Concerning the actual use of these institutions it is only necessary to add that the initiative was not put into
operation in any State until the year 1904 — since which time Oregon has "applied it more frequently and with greater positive results than all the other States that possess it put together"— and in no State did the voters ballot on laws subject to the referendum before the year 1906, so that the opportunities for direct legislation by the people have not yet been numerous. At the same time there is abundant evidence of an increasing dissatisfaction with the uncontrolled representative system of government: having lost confidence in their legislative servants, the voters have apparently come to a point where they demand the opportunity to determine the State's policies in many matters great and small.
II

THE INITIATIVE AND REFERENDUM IN IOWA

That the words "initiative" and "referendum" are but new names for old institutions may be gathered from a glance at the administration of local government in Iowa; for in the townships, school districts, towns, cities, and counties of this State both ideas have long since been fully institutionalized. For a long time in the history of Iowa many important questions of local administration have been submitted to the resident voters for their determination. Although the General Assembly of this State may not constitutionally delegate its law-making power to another body, there is no longer the slightest doubt but that the legislative authority established by the State in municipal corporations may on some occasions and must on others consult the people's wishes before certain policies can be put into operation.8

THE INITIATIVE AND REFERENDUM IN TOWNSHIP AFFAIRS

It was in 1868, during the early years of railroad-building, that the General Assembly conferred upon townships the power to vote taxes in aid of railroad construction. The statute then passed was but the beginning of a series of acts upon the subject, and though it underwent some changes for the protection of the voters in later years its main provisions have survived down to the present day.9

When one-third of the resident freehold taxpayers of
any township petition the board of trustees that the ques-
tion of aiding a railroad or electric railway company in
the construction of a projected line within the township
be submitted to the voters, the trustees shall at once call
a special election by newspaper publication and by post-
ing notices in five public places. If the proposition which
is thus initiated and referred to the voters of the town-
ship receives a majority of the votes polled, the proper
local officers shall cause the taxes to be levied and col-
lected.

Again, in 1872 a statute was enacted enabling one-
third of the legal voters of any district township to call
upon the board of school directors to issue notice of a
meeting of qualified electors in order to vote on the ques-
tion whether the sub-districts should be organized into
separate and independent districts. Four years later
another act made it possible for one-third of the legal
voters residing in any civil township already divided into
independent districts to prepare a written request asking
the township trustees to call an election on the question
whether the independent districts should be constituted a
district township. A majority of the voters could thus
return to the old system which existed before 1872. Such
is the law of Iowa to-day. But since 1888, if one-third
of the legal voters in each sub-district of any school town-
ship submit a written request to the board of school
directors, the electors by a majority vote may bring about
the organization of sub-districts into independent school
districts.

Since 1896 it has been possible for a majority of the
resident freeholders of a township to petition the board
of trustees for an election on the proposition whether
taxes shall be levied for the erection of a public hall in the
Such, then, are the questions of township government upon which the voters may express their opinion. In only a few other instances was the initiative and referendum provided for by statute.

THE INITIATIVE AND REFERENDUM IN SCHOOL AFFAIRS

It is in the field of school affairs, as already suggested in a few instances above noted, that the initiative and the referendum have been given wide application. As early as 1847 the qualified electors of the school district in their annual meeting enjoyed the right to decide many important matters by their votes. Since then they have been given power to initiate certain propositions for submission to all the voters at the annual meeting on election day. As members of school corporations resident citizens of the territory affected — both men and women who have the ordinary suffrage qualifications — decide by ballot all questions which involve the issuance of bonds or the increase of the tax levy; while a great many other matters are determined by the voters alone.

Thus, the board of directors of a school corporation in giving notice of the annual meeting may, or upon the written request of five electors of any rural independent district, or of ten voters of any school township, or of twenty-five voters of any city or town independent district having a population of five thousand or less, or of fifty voters of any other city or town independent district, shall, provide for submitting to the voters any of the following propositions:

Shall a change of text-books be directed?
Shall the school house or site or property be disposed of, and to what shall the proceeds be applied?
What additional branches of study shall be taught?
Shall the school buildings be used for meetings of public interest?

Shall any surplus in the school house fund be transferred to the teachers’ or contingent fund?

Shall the board obtain roads for proper access to the school houses?

Shall a school house tax (up to a stated amount) be levied for the purchase of grounds, the construction of a school house, the payment of debts contracted for the erection of a school house, a school library, or for opening roads?¹⁵

Moreover, in the year 1896 it was enacted that whenever a petition signed by one-third or more of the legal voters of a school township or independent district shall be filed, asking that free text-books be provided for the use of pupils in the public schools, the secretary of the school board shall cause notice to be given so that the electors may cast their ballots on the proposition at the annual election.¹⁶

Of more recent date (1906) and of great importance in Iowa school history is the statute which permits one-third of the electors residing upon not less than sixteen contiguous government sections to request the establishment of a consolidated independent district. After their petition has been approved by the county superintendent, if they reside in one county, or by the superintendents of two or more counties concerned in the formation of the proposed district, or by the State Superintendent if the county superintendents do not agree, the board of the school corporation in which the portion of the proposed district having the largest number of voters is situated shall call an election within ten days and ascertain the wishes of the majority. And when it is proposed to in-
clude in the district a town, city or village, twenty-five percent of the voters residing upon the territory outside of the town, city, or village shall be entitled to call for a separate referendum in their territory: if a majority of them object, the proposed independent district shall not be formed.

THE INITIATIVE AND REFERENDUM IN COUNTY AFFAIRS

The voters of Iowa have had a voice in proposing and determining many questions affecting their common welfare as inhabitants of counties. Indeed, the State Constitution stipulates one occasion when their wishes shall be consulted: no county boundary shall be changed by the General Assembly without the consent of a majority of the electors affected by the change.17

As far back as 1840 the people of the several counties of the Territory of Iowa were given the right to vote on the subject of township organization and also to express their preferences for township names. Scott County voters who had set up township government were later authorized to return to the precinct system if a majority of them so elected.18

In 1847 the General Assembly passed a statute providing that the electors in each county should, at the first township election, determine by ballot whether the county commissioners should grant licenses for the retail of intoxicating liquors; and that the county commissioners might refer to the voters the same question every year thereafter when in their opinion it seemed proper to do so. In accordance with this local option law every county in the State except Keokuk County decided against license.19

Since 1851 a great many matters have been referred
to the people of the county, not only at regular elections but also at special elections called for the purpose. For example, it lies within the discretion of the board of supervisors to submit to the voters the questions whether money may be borrowed to aid in the erection of public buildings; whether any local or police regulation not inconsistent with the laws of the State shall be established; and whether a tax of higher rate than that provided by law shall be levied for the special purpose of repaying borrowed money or constructing or aiding to construct any highway or bridge, when the warrants of a county are at a depreciated value. Every question referred to the people which involves the borrowing or expenditure of money must be accompanied by a provision to levy a tax for the payment thereof in addition to the usual taxes.

From 1851, also, dates the so-called "herd law" which is still upon the statute book. Though at first the county board of supervisors had discretion to submit the matter to the people, since 1874 one-fourth of the legal voters have had power to compel the board of supervisors to submit to the people at a regular election, or at a special one called for that purpose, any one of the following questions of police regulation:

1. Shall stock be restrained from running at large?
2. Shall stock be restrained from running at large between sunset and sunrise?
3. Shall stock be restrained from running at large from the first day of (naming the month) in each year, until the first day of (naming the month) following?
4. Shall stock be restrained from running at large between sunset and sunrise from the first day of (naming the month) in each year, until the first day of (naming the month) following?
The validity of the "herd law" was early questioned in the case of Dalby vs. Wolf which came to the Supreme Court of Iowa on appeal in 1862. The plaintiff alleged that the statute had no uniform operation, that it depended for its validity upon the vote of the people and was not, therefore, the expressed will of the legislature. The court declared that the General Assembly had given the same rule to all the people of the State, simply enabling the voters of each county to determine for themselves whether a particular police regulation should or should not be adopted: the rule thus established went into effect whether the people voted or not.23

The "herd law" of 1851 had been in existence six years when the General Assembly sought to confer upon the counties a similar police power with regard to the sale of liquor. Prohibition having been established throughout the State by the act of 1855, the legislature two years later gave ear to the insistent demands of the liquor interests and passed a statute enabling the people of each county by a majority vote upon the petition of one hundred legal voters to abrogate the effect of the prohibitory law and to provide in its place a licensing system. In other words, the people of each county, speaking through a majority, might have their choice between living under a prohibitory law and living under a license law. This was clearly an attempt to establish local option, which has been called "the referendum in full bloom."

In the case of Geebrick vs. The State, which involved the application of this statute, the Supreme Court of Iowa assailed its validity on two grounds: first, the proceedings authorized by the act were in effect the repeal of one law and the enactment of another by a vote of the people;24 and secondly, the act would not operate uni-
formly in its practical working and effect. The judges (the Chief Justice only dissenting from the majority’s second reason) declared that the legislature was plainly surrendering the law-making power to the people, and that no law could constitutionally receive its vital force from something outside of the will of the legislature. Moreover, the court followed this precedent in 1871 when the prohibitory law of 1870 was held unconstitutional and void for the same reason.

It is to be noted that these two liquor laws, like the herd law, were not to be submitted for a State-wide referendum before going into operation, but were to take effect at once throughout the State. Their provisions merely enabled a majority of the voters of each county to determine by the ballot whether they would take advantage of the law and thus license persons to sell liquor. The present “mulet law”, passed by the Twenty-fifth General Assembly in 1894 and called by one writer “a kind of legislative subterfuge for local option”, differs from the acts of 1857 and 1870 only in that, instead of calling for a county-wide election and a majority vote to permit the sale of liquor, it merely requires a written statement of consent signed by a majority or sixty-five or eighty percent of the legal voters (depending upon the size of the town or city), a resolution of the local council, and the consent of property owners—all as conditions precedent to the grant of a license or bar to proceedings for violation of the prohibitory law.

The earlier liquor laws threw the expense of an election upon the voters, whereas the present law places a burden upon those who seek the necessary consent: the former clearly represent an example of the local initiative and referendum, while the latter requires a local
referendum by personal solicitation instead of by public election. When the mulct law came up for judicial review in the case of The State vs. Forkner the Supreme Court of Iowa logically declared that it was a simple delegation to town and city councils of the power to make a police regulation after certain requirements had been complied with. Thus the court seems finally to have discarded the earlier decisions.  It is nevertheless interesting to recall the dissenting opinion in The State vs. Forkner as expressed by Justice Kinne.

Justice Kinne dissented because the so-called mulct law permitted the people and the local councils to repeal the existing prohibitory law. To quote his own words: "I think the rule of the majority opinion is full of peril, opens wide the door, and invites members of the legislature to put aside the discharge of the duties properly devolving upon them, removes the personal responsibility, which, under our form of government must ever rest upon the law-making power, and takes away the constitutional safeguards against unwise, ill-considered, and hasty legislation. In brief, it is a long step towards a government of the town meeting, and tends strongly to encourage the very evils in legislation which our representative form of government was created to correct."  

Since 1855, whenever one-half of all the legal voters of a county desire to re-locate the county seat, they have had the power, upon petition to the board of supervisors not oftener than once in five years, to compel a popular vote upon the proposition at the next general election — the seat of justice being removed to the place receiving the highest vote. And since the year 1860 the law has provided that the board of supervisors shall not order the erection of a courthouse, jail, poorhouse, or other build-
ing, or bridge when the probable cost shall exceed a certain amount (now $5000), nor purchase real estate for county purposes exceeding $2000 in value, until a proposition therefor shall have been submitted to the legal voters of the county and adopted by a majority of those voting thereon at a special or general election.\textsuperscript{31}

Since 1870 one-third of the electors of a county have had the right to petition and compel a vote on the questions whether a county high school shall be established at a place named and whether a stated amount shall be levied in taxes for the necessary buildings.\textsuperscript{32} Ever since the same year one-fourth of the electors of a county have been able to initiate for reference to the people the questions whether the number of county supervisors shall be increased to five or seven, or reduced to five or three, as the case may be.\textsuperscript{33}

Unique among the statutory provisions for the initiative and referendum in county affairs is the law of 1886 which enables a majority of the members of grand army posts in any county to cause the board of supervisors to refer to the voters the question whether taxes shall be raised to aid in the erection of a soldiers' and sailors' monument or memorial hall.\textsuperscript{34} Since 1890 a number of the school directors of the county, other than those in cities and towns, have been authorized to assume the initiative in a matter to be referred to the decision of all the voters: one-third of the directors may cause the question of county uniformity of school text-books to be subjected to the referendum.\textsuperscript{35}

\textbf{THE INITIATIVE AND REFERENDUM IN MUNICIPAL AFFAIRS}

Numerous opportunities are offered by the statute laws of Iowa for the exercise of the initiative and the
referendum, both compulsory and optional, in municipal affairs. In the days of the first State Constitution when at least one-fourth of the legal voters of a village, containing a population of three hundred, desired incorporation as a town, they were empowered upon petition to apply to the proper authority and thus secure the submission of the question to a vote of the people. Then, after a majority of the voters had adopted the proposition, the articles of incorporation were drawn up and referred to the people: voters were thus allowed to express their opinions for or against the document which was to regulate their future civic life. At that time, also, the people had to give their sanction to any change in the name of their town and to favor a loan on the credit of their city. The voters likewise had to give their consent to the annexation of territory and to the vacation of the town plat, in whole or in part, after a petition had been filed to that effect.  

In many of these particulars the provisions of the law to-day are practically the same as those found in the *Code of 1851*. To-day, upon the petition of twenty-five qualified voters of an unincorporated town, the district court must submit to all those concerned the question of incorporation. If, after a majority of voters have favored the idea of incorporation, twenty-five percent of them desire to break the bonds of the new status, a petition to that effect will result in an election to decide whether incorporation shall be discontinued. To-day also, the town or city council must consult the people’s wishes in the matter of the annexation of territory, the consolidation or union of two towns, and on any proposed change of name. Since the year 1858 a statute has permitted ten legal voters of a city or town to call for the opinion of the
electors on separate organization as an independent school district. 39

Ten percent of the voters in cities which received special charters from the General Assembly previous to 1857 may now initiate, for reference to the people, a proposition to abandon their charter and organize under the provisions of the general law. 40 And since 1868 one-third of the resident freehold taxpayers of any town or city have had the privilege of obtaining from their fellow-citizens a vote on the question whether the local authorities shall levy taxes in aid of railroad (and since 1902 of electric railway) construction. A favorable vote makes it incumbent upon local officers to carry out the wishes of the taxpayers in this respect. 41

Furthermore, since 1882 a majority of resident freehold taxpayers have been entitled to the privilege of drafting a petition to compel the town or city council to submit, for the approval of two-thirds of the voters, the question whether sufficient land shall be purchased (or funds shall be appropriated for such purchase) and donated to any railway company owning or constructing a line in the city for depot grounds, engine houses, and machine shops. 42

Another series of statutes enacted since 1872 is the foundation for other powers vested in the electors of towns and cities. For example, before money can be appropriated for the formation and maintenance of a free public library, the voters at a general or special election must give their consent to the establishment of the library. 43 No council may "purchase, establish, erect, maintain and operate within or without the corporate limits of any city or town, heating plants, waterworks, gas works or electric light or electric power plants. . . .
and lease or sell the same”, nor may the council authorize individuals or private corporations to erect and maintain such works or plants for a term of more than twenty-five years or renew or extend such a grant, unless a majority of the legal electors voting thereon at a general, city, or special election favor the proposition. In special charter cities the council may order a vote on any of these questions as well as on the further question of granting franchises to street railway or telephone companies, or the mayor shall submit any question to a referendum upon the petition of twenty-five property owners of each ward in the city.

Again, it appears that upon the presentation of a petition signed by a majority of the resident freehold taxpayers of a city or town, the local council shall order a special election submitting to the voters the question whether a stated tax levy shall be voted to aid in the construction of any county bridge when the estimated cost is not less than ten thousand dollars. Such has been the law since 1882. A statute passed in 1897 forbids any city or town to grant, renew, or extend a franchise permitting the use of its streets and alleys by telegraph, telephone, street railway, and electric light and power companies, unless a majority of the legal voters favors the proposition, the council, or the mayor upon the petition of twenty-five property owners of each ward in a city or fifty property owners in any incorporated town, submitting the question to them.

Most interesting is the rôle now played by the initiative and referendum in the commission-governed cities of Iowa. The plan inaugurated at Galveston, Texas, met with instant favor in this State; but its advocates developed and added some features which made the Des Moines
Plan famous the country over as a model of city government. By the terms of the Iowa statute twenty-five percent of the legal voters of cities having a population of 2000 or over may cause a special election on the subject of adopting the commission plan. If a majority of the votes cast favors the proposition, the new government will be established. Thereafter twenty-five percent of the voters may propose ordinances for the city. Upon a refusal to pass a measure thus initiated, the council must submit the measure to the electors of the city at the general municipal election if it comes after thirty days and within ninety days, or else at a special election. But only ten percent of the electors need initiate legislation if the general election comes within thirty days.

In the commission-plan cities there is afforded an example of the optional referendum: an ordinance passed by the council (except one passed by a two-thirds vote for the immediate preservation of the public peace, health or safety) shall not go into effect for ten days, so that twenty-five percent of the electors may have an opportunity to sign a petition of protest against such ordinance. If the council does not then reconsider and repeal its action, it shall submit the measure to a popular vote at the general or a special municipal election; and only if a majority of the qualified electors voting thereon favor it, shall the ordinance go into operation.

And should the people of a commission-governed city tire of their plan of government after a six years’ trial, twenty-five percent of the electors may bring about a special election on the proposal to abandon their organization and to return to the ordinary form of city government. The people of these Iowa cities operating under the Des Moines plan are, therefore, the active source of all political power.48
THE STATE-WIDE INITIATIVE AND REFERENDUM

The people of Iowa have never had the right to propose State-wide legislation for submission to a vote of the electorate — that is, they have not had the initiative in State affairs. To be sure, they have always been permitted to appeal to the General Assembly through petitions, but by this method they have had no assurance that their wishes would be enacted into law. Accordingly, they have adopted the very common American practice of getting one or more legislators to champion their cause in the committees and on the floor of the houses — which practice has fostered the twin evils of lobbying and logrolling. Indeed, it is said that unless private citizens and their advocates in the legislature resort to such well-known tactics, they can scarcely hope to see their proposed measure triumph. The provision of the Bill of Rights in the Iowa Constitution that the people have the right freely to assemble together to counsel for the common good, to make known their opinions to their representatives, and to petition for a redress of grievances — all this it appears is but an empty constitutional guaranty when the legislature may turn a deaf ear to its petitioners.

Although the people of Iowa can not initiate constitutional amendments and statutory law except by petition, they have been frequently consulted as the source of all political power. Since government is instituted for their protection, security, and benefit, many matters of fundamental governmental importance have been referred to them. Here again "the roots of the present lie deep in the past." The State-wide referendum, for instance, dates back to the Territorial period. When Governor Robert Lucas and the Legislative Assembly in
1840 and again in 1842 asked the people whether they desired statehood, the voters decisively answered "no" in every county of the Territory; but in 1844 they favored the proposition by a considerable majority.

The people then elected delegates to a constitutional convention which met at Iowa City. The work of this body, the Constitution of 1844, was twice referred to the people in 1845 and twice rejected by them. The Constitution formulated by a second convention in 1846 met with favor from a slight majority of the electors; and so after much voting the pioneers definitely launched their State government in December, 1846. Again, in the year 1856, when the question of revising the Constitution was referred to the people, they voted to call a convention. Shortly afterward by a very slight majority the people ratified the work of the convention in the form of the present Constitution, at the same time rejecting the proposition to strike the word "white" from the article on the suffrage — thus withholding the right to vote from the negroes of Iowa until after the Civil War.51

The fundamental principle that the sovereign people shall ratify the Constitution has, as a matter of course, been extended to constitutional amendments. Following the defeat of the Constitution of 1844, the Constitution of 1846 provided for future amendment by convention only, the question of holding such convention and the conclusions of the convention both being referred to the people for adoption or rejection. Moreover, in the adoption of the present State Constitution, as in the case of practically all American constitutions of an earlier day, the people consented to severe restrictions upon their right to change the fundamental law. In the State of Iowa today two successive General Assemblies must approve a
proposed amendment before referring it to the people, or the General Assembly may at any time refer the question of a constitutional convention to the people. And once in every ten years the question of calling a constitutional convention is by the Constitution submitted to a vote of the people.

Present methods of amending and revising the Constitution may be said to be "difficult enough not only to avoid but also to prevent hasty legislation, excessive legislation, and partisan legislation, and at the same time easy enough to make possible those changes that are demanded by progressive society." 52 The result has been that the people of Iowa have voted to amend their Constitution at seven different times since 1857. But two of these attempts were declared unconstitutional by the State Supreme Court; while a vast number of amendments have been proposed and lost in the General Assembly at various times. 53

Besides the compulsory State-wide referendum on the question of calling a constitutional convention and on amendments to the Constitution, the people of Iowa have reserved to themselves the right to express their opinion on a few important matters of State-wide legislation. They have never had the optional referendum, that is, the right to call for a popular vote on an objectionable statute passed by the legislature. If a majority of them are grieved by the passage of some law, they may perhaps refuse to enforce its provisions or secure a repeal by petitioning the General Assembly, but they can never vote it out of existence. In this respect matters stand much as they did in Territorial days: when the pioneers asked for redress against their first Governor as a man "unfit to be the ruler of a free people," Congress limited his veto and appointing powers. 54
While the voters have never been given an opportunity to ask that an act of the General Assembly be referred to the people for their ratification or rejection, all the Constitutions of the State of Iowa have specified a few matters on which an obligatory or compulsory Statewide referendum vote should be taken. The instrument of 1844 declared there should be "no bank or banking institution, or corporation with banking privileges in this State, unless the charter with all its provisions, shall be submitted to a vote of the people at a general election for State officers, and receive a majority of the votes of the qualified electors of this State, cast for and against it." And the Constitutions of 1844 and 1846 both required the General Assembly to publish and submit to the people any law which would put the State in debt to an extent exceeding $100,000.

The present Constitution of Iowa calls for a Statewide referendum on two matters: the incurring of State indebtedness in a sum exceeding $250,000 is prohibited except by a majority vote of the people; and the enactment of a statute authorizing or creating corporations or associations with banking powers is forbidden, as well as amendments thereto, unless the electors record their approval within three months after the passage of the act. In accordance with the requirements relative to banks the General Assembly in 1858 passed two statutes: one to incorporate the State Bank of Iowa and another authorizing general banking in the State. Both acts were referred to the electors and both were approved by a majority. In 1860 the latter was amended by the General Assembly, but the people refused to accede to the amendment.55

It was during the operation of the Constitution of
1846 that the General Assembly attempted to confer upon the people a power not covered by the reservations above noted. The result was an important decision by the State Supreme Court.

In the winter of 1850–1851 there were widely circulated and signed throughout the State petitions calling upon the General Assembly to enact a law prohibiting the sale of liquor — some even asking that it be submitted to the people for their approval. Not until January, 1855, did the legislature pass an act for the suppression of intemperance, providing among other things that the question of prohibiting the sale and manufacture of intoxicating liquor should be submitted to the legal voters of the State in April, and if a majority of them voted for the law, it should take effect on July 1, 1855.\(^6\)

In a case involving the application of this law, \textit{Santo vs. The State}, the Supreme Court of Iowa decided that the statute became effective on July 1, 1855, despite the popular majority for it, and that not even an adverse vote of the people would have suspended its operation. The justices, only one dissenting, declared that the General Assembly could not legally submit to the people the proposition whether an act should become law or not, and “the people have no power, in their primary or individual capacity, to make laws.” In other words, the legislature could not constitutionally delegate its legislative power to any body, and therefore only that part of the act which called for a popular vote was null and void, while the remainder was a complete and valid act. Chief Justice Wright disagreed with his brethren in rejecting only the part which he declared vitalized the whole act. He believed that the people’s vote was intended to breathe life into this law in violation of the spirit of a constitutional
government, however beneficent the legislature's design to suppress intemperance, pauperism, and crime. Members of the General Assembly, he declared, are supposed to be chosen for their wisdom, integrity, experience, and fitness to enact legislation, and can not lodge their power in their constituents.\(^57\)

It is the decision in the case of *Santo vs. The State* which prevents the General Assembly of Iowa from submitting measures to the electorate of the entire State for approval or rejection. Moreover, the weight of authority in the United States accords with this decision.\(^58\) It is not so important, however, that the legislature shall have the option of submitting measures to the people as that the people shall have the right to call for a vote upon an act passed by the legislature. This, indeed, is the idea which lies at the bottom of the present agitation in the United States for the adoption of amendments to State constitutions establishing the initiative and referendum.

**THE PROPOSED STATE-WIDE INITIATIVE AND REFERENDUM**

As long ago as 1892 a member of the State Senate introduced a resolution to amend the Constitution of Iowa allowing the General Assembly to submit any act to a vote of the qualified electors at a general or special election, the act to take effect only when the voters cast a majority in its favor. The committee to which this proposal was referred recommended its passage but the Senators voted it down.

A member of the House of Representatives in 1898 was supported by the Committee on Constitutional Amendments in the wish to vest legislative authority in the General Assembly and to reserve to the people the right and authority, in manner and form provided by law,
to propose matters for legislation and to require that such measures be referred to a vote of the electors of the State. The amendment further provided that two-fifths of the members of each house might file a demand that any measure passed by the General Assembly should be referred to the people. This proposal, however, found little favor with the legislature.

On April 1, 1904, the Clinton County members of the General Assembly introduced a joint resolution which embodied an amendment to the Constitution to provide for direct legislation. Initiative petitions containing the full text of proposed laws were to be signed by at least five percent of the legal voters of the State. Laws passed by the General Assembly were to be submitted to a referendum either upon the petition of five percent of the voters or upon the demand of twenty-five percent of the members of the legislature on joint ballot. The proposed amendment contained other provisions, but as in the case of its successor, which came before the House of Representatives in 1906 in very condensed form, the legislative committees did not hesitate to recommend indefinite postponement, and in each year their report was adopted.59

Thus the forward movement for a State-wide system of direct legislation in Iowa began at least ten years ago. The Prohibition Party assembled in State convention in 1904 inserted the following plank in its platform: "To guard against corrupt legislators and class legislation, that so often thwart the will of the people, we declare for the initiative and referendum system of government." In 1906 the Prohibitionists reiterated their belief in the new system, and found support in the State platforms of the People's and the Socialist parties. Two years later the Prohibitionists declared: "We favor the referendum,
initiative and recall privilege now granted to certain cities by the last general assembly and recommend that the same privilege extend to the entire state."

In 1910 the Democrats adopted the following plank as a part of their State platform: "We believe in the principle of the Initiative and Referendum and Recall, and we favor legislation putting the same into force." But the Republican State convention of the same year gave no heed to Senator Cummins's statement that "the government is for the people, and not the people for the government, and there are times when to secure reforms essential to their welfare they should have the right to initiate, approve, or disapprove legislation which touches fundamentally their welfare."

In 1911 Mr. David E. Kulp (Republican) introduced into the House of Representatives a joint resolution proposing to amend the Constitution so as to provide for direct legislation. The committee on constitutional amendments recommended that the resolution pass, but on the floor of the House it was defeated by a vote of 58 to 42.60

Again in 1912 Prohibitionists, Socialists, and Democrats endorsed the principle of the initiative and referendum, the Democrats recognizing in it "the best method by which the question of woman suffrage and other reforms may be submitted to the people." The Progressive Party also asserted its belief in the idea, as did the Republican Party in a State convention held about two weeks before the conventions of both the Progressives and the Democrats. Such, then, was the unanimity of parties in the State that early in 1913 the Thirty-fifth General Assembly by overwhelming votes in both houses adopted Mr. Kulp's resolution.61
The main features of the proposed constitutional amendment may now properly be reviewed. According to its provisions the legislative authority of the State shall be vested in the General Assembly, “the people reserving unto themselves the right and power to propose laws, to enact, approve or reject the same at the polls, and . . . . to approve or reject any item, section or part of any act enacted by the general assembly”; but such right shall not extend or apply to an act “relating to the preservation of the public peace, public health or appropriations for the support and maintenance of the department of state and state institutions.”

The number of persons required to call for the referendum of an act (until fixed by the General Assembly somewhere between ten and twenty percent) shall be fifteen percent of the qualified electors of each of the congressional districts who voted for Secretary of State at the last preceding election. These electors shall file their petition for a referendum with the Secretary of State within ninety days from the final adjournment of the General Assembly which passed the act or part of an act to be referred. Measures shall be referred to the people at regular biennial elections and shall be in full force until rejected by the people.

Subject to the same constitutional limitations as the General Assembly, the people shall be permitted to enact a law proposed by fifteen percent (until fixed by General Assembly somewhere between twelve and twenty-two percent) of the qualified electors of each of the congressional districts. They may also initiate amendments to the Constitution. The full text and title of the proposed bill or amendment shall be filed with the Secretary of State not less than one hundred and fifty days before the
general election, and this officer shall submit the bill to the Supreme Court for its opinion as to constitutionality.

Ninety days before election the Secretary of State shall mail to the county auditors for distribution to each voter a pamphlet containing a full text, with arguments for and against, of all measures to be voted on. A majority of the votes cast on any measure shall be necessary to its adoption or rejection. Within thirty days after the vote has been canvassed the Governor shall declare the results of the election. Where conflicting measures are approved by the people, that receiving the highest vote shall prevail. All measures shall take effect upon the Governor’s proclamation, except that two affirmative votes at two successive biennial elections are made necessary to the adoption of a constitutional amendment.64

Such, briefly summarized, is the proposed constitutional amendment providing for the initiative and referendum in Iowa. If it is agreed to by the Thirty-sixth General Assembly and approved and ratified by a majority of the qualified electors voting thereon it will become a part of the fundamental law of the State of Iowa.65
III

THE CASE FOR AND AGAINST DIRECT LEGISLATION

All of the standard arguments on the initiative and referendum have undergone so much discussion, both popular and academic, that little more need be done here than summarize them and refer to some of their chief exponents. Two considerable classes of persons may be said to oppose direct legislation: those who "profess belief in government by the people, but have some misgivings about the practical results of applied democracy", and those who believe in "government by gentlemen". Neither class has been idle in sounding the alarm against the spread of the new system.

ARGUMENTS AGAINST THE INITIATIVE AND REFERENDUM

Opponents of direct legislation would improve but not change the present machinery of representative government in a belief that what legislators will do for the masses is more to be desired than what the masses themselves demand: they believe that the welfare of the people, like that of children, is best promoted in the long run by persons of maturer and more experienced minds. If legislators show a lack of experience and even misconduct themselves, are not these evils of the plain people's own making? Why not reduce the length of the ballot and enable the voters to know not only the personal character and ability but, more important, the political opinions of
their candidates for the legislature? And why not improve the conditions under which the legislature works? The big fact productive of so many political evils is that from top to bottom our American system has been wanting in civic and official responsibility and lacking in capable leadership.

In State government, it is asserted, there has existed a woeful absence of political issues: it is time that candidates should seek election to the legislature on a few definite issues. English methods and practices are cited with approval. The people of England, it is said, keep their fingers upon the pulse of Parliament, and candidates for Parliament always come to them with proposed measures and policies. If the leaders of the majority in the House of Commons are prevented by adverse votes from carrying out their pledges to the people, Parliament is dissolved, a new election is held, and the people’s mandate is obtained. Such a referendum works where there is an enlightened, alert public opinion and recognized responsible leadership.

Is there any real reason why the same sort of system could not be developed in our American States, unless it be that the voters do not know what they want and have no leaders to tell them? What have national politics to do with State policy? Why should the advocates of national policies be elected to State offices by voters whose national party affiliations happen to be the same? The State’s field of action, its policies, problems, and needs are big enough to admit of the existence of well-defined State parties: the absence of a real, constant line of cleavage has been and is due to a dearth of men who are able to crystallize public opinion.

Opponents of the initiative and referendum believe
that if the new system is mainly due to the corruption of legislatures by bosses and corporations, this condition was made possible by "the sluggishness of the people." It is not these new institutions that will bring the millennium in government and cure the abuses of power: rather will popular government succeed when the idea of "effective responsibility for the performance of tasks imposed" becomes established. It has been said that the democratic mistake in America is "making officers responsible through the ballot." Should not Americans discard this practice and secure answerability by fixity of tenure as in private business, discharging a servant only for failure to do his duty faithfully? And if we can not have the English or Canadian way of obtaining responsibility, how can we obtain a permanently aroused public and an awakened social conscience? To this many persons reply: "A short ballot will lessen the electoral duties of the people and secure their general attention at moderate intervals for concentrated and effective action."

If State legislatures are not better, to what is this due if not to the voters' ignorance? To be sure, opponents of direct legislation realize that representatives too often show a tendency to play politics, they stoop to log-rolling, and even fall before the pressure of local and private interests. But can we not select some impartial body of men to consider local and private bills and let the legislators give their time to the larger affairs of public policy? Under the American system "with all its furious voting" the legislative candidate knows his election will not be obtained so much by policies and issues and general efficiency as by the efforts of workers at the polls and the canvassing of voters before election. The advocates of the old system feel certain that what is desired from the
voters to-day is intelligence, in place of the fatalism on which men have ridden into power for long years past.

And now, in view of what is called the prevailing political blindness of the masses, shall we also entrust the enactment of legislation to them? Is not the average man, busy with the ordinary affairs of life, already too overloaded and confused to give important measures the consideration which they merit? Lack of time, experience, and interest preclude the necessary investigation of measures in advance, even though the State distributes to each voter a booklet of measures and arguments. And so the opponents of direct legislation say, let the voter cast his ballot for the candidate whose views and legislative program are known: by all means save the voter from going to the polls to face a ballot encumbered with texts and titles of proposed or referred laws, feet wide and yards long, thirty and forty at one time.

The system, declares Mr. Taft, which makes such a ballot possible is a "travesty upon practical methods of ascertaining the deliberate will of the people either in legislation or in the selection of candidates." If we want better legislation, let us not begin at the wrong end and call upon a hasty and superficial electorate: let us first elect better representatives and the need of direct legislation by the people will soon enough pass away.71

Such in brief are perhaps the strongest arguments put forward in opposition to direct legislation. Besides, it is feared that the initiative will destroy the constitutional stability guaranteed by the American system of checks and balances, in the complexity of which there is thought to be great virtue. The advocates of representative government would prohibit the sovereign people from touching as seldom as possible the constitutions which they
themselves have created — as if these instruments were already well-nigh perfect. Some, indeed, are opposed to the initiative because they believe that it will foster the tyranny of the majority and end in revolutionary violence involving perhaps the destruction of individual and property rights and finally the State itself.\textsuperscript{72}

Furthermore, these same persons believe that the initiative will tend to subvert the power of judges to interpret the laws and lead to the entire loss of the distinction between constitutions and statutes to the hopeless confusion of our legal system.\textsuperscript{73} They prophesy that legislation will be badly and unscientifically drafted, the product of the clamor of the moment, of passions and emotions, and of popular whim and impulse — the snap judgments and emotional enactments of the inconstant numerical majority.\textsuperscript{74} Moreover, the initiative will also be used by special interests to get the better of the people, for under normal conditions "the politically ignorant voter will get his advice how to vote on measures just as on men from the men who have always been directing people how to vote."\textsuperscript{75}

Against the referendum the objection is offered that it interferes with the orderly performance of governmental functions, and also affords the legislator an excuse for shirking responsibility.\textsuperscript{76} It gives him a chance to dodge issues and reduces the amount of public pressure brought to bear upon him in view of anticipated legislative action. The Oregon legislator, it is declared, feels that his work is somewhat of secondary importance and that any question in which the public is intensely interested he had best allow the people to decide at the polls, thus avoiding the risk of incurring undue popularity by favoring one side or the other. The voter, secure in the
possession of the initiative, now takes less interest in what his representative does.\(^\text{77}\)

In the eyes of the opponents of the referendum, majority rule is to be shunned as a pest destructive of the republican form of government; it involves the furor and expense of frequent elections; and it lays too heavy a burden upon the time and intelligence of the electorate. In local government voting "yes" or "no" on such simple and easily understood questions as local option, bonds, and franchises is quite different from voting on long, complicated bills of State-wide application,\(^\text{78}\) and the experience of Oregon shows that the voters lag behind the best thought on matters of economic importance.\(^\text{79}\)

The most frequent stricture upon the initiative and referendum is that the minority imposes laws upon the majority.\(^\text{80}\) Popular votes in all the States upon such important matters as constitutional amendments are cited, and attention is called to the fact that the total vote on legislative enactments varies from seventy-five to twenty-five percent of the votes cast for candidates at the same election. To quote the words of one writer: "The vote was an expression of opinion, not on the merits of the measures themselves, but on the popular incompetence to decide them, and on the principle that such measures ought not to be proposed in this way."\(^\text{81}\) The recommendation of another opponent of direct legislation may be repeated in concluding this summary of arguments against the new institutions. Says Mr. Taft:

Let the movement in favor of purer and better government go on. Let it disclose itself in the effective attention to the election of our representatives in executive and legislative offices, and to the holding of them to strict responsibility. But let us not, with a confession that we, the people, are incapable of selecting honest
representatives, assume the still more difficult office and duty of directly discharging the delicate functions of government by the hasty action of a necessarily uninformed majority of the electorate, or, what is more likely, by a minority of an electorate, a majority of which declines to take part in the government through disgust at the impractical and unwise burdens that are sought to be thrown upon them.\textsuperscript{82}

ARGUMENTS FOR THE INITIATIVE AND REFERENDUM

The tendency of the times is so distinctly towards making the experiment and the champions of direct legislation have gained ground so rapidly of late years that the arguments for the initiative and referendum deserve careful consideration. The short experience of Oregon and other States, declare the advocates of the new system, is more convincing and satisfactory than any theories, however well established.\textsuperscript{83}

The initiative results in the drafting of new laws by those who wish them to succeed: the latest opinion is that “in all that pertains to the technique of draftsmanship, legislation passed under the initiative is markedly superior to the average of the statutes passed by the legislature.” The men who frame a bill scrutinize their work closely, knowing that their measure “once launched must go as it is, for better or for worse.” Furthermore, the referendum has made the legislator somewhat more careful of the form of the measure which he introduces, knowing that if it should ever be referred to the voters, it will succeed if its meaning is clear.\textsuperscript{84}

The initiative enables the sovereign people to register their will without the consent of the legislature, especially in obtaining amendments to the Constitution which have always had difficulty in running the gauntlet prescribed
in the different States. The legislature’s obstructive tactics can now be avoided. The objection that in this way the fundamental distinction between Constitution and ordinary statutes will be destroyed is not nearly so formidable as many American writers and statesmen would have us believe, because the distinction between them is really very hard to determine.\(^{85}\)

In England where Parliament as sovereign can do practically anything it pleases, people waste no breath debating whether an action is constitutional or not: in fact they have no such word as “constitutionality” in their vocabulary. To be sure, if Parliament undertakes to strike at the root of a matter, to make some fundamental change, it goes to the people for a mandate, as was the case when Parliament recently curtailed the veto power of the House of Lords. Indeed, reformers in America maintain that the initiative will enable the people to brush away those useless agencies of government which have accumulated in so many Commonwealths. To those who contend that the State is “essentially municipal in character” the way now lies clear for the complete reorganization of State government through the initiative and referendum. To the conservatives who are startled by this scheme of reform, the reformers reply that Americans can run any constitution.\(^{86}\)

In States where the legislature has fallen into the hands of city interests or big business or a few corrupt, selfish, and often ignorant boss politicians, the referendum removes the temptation of the people’s representatives to bestow special privileges.\(^{87}\) As President Wilson declares: “You know there is temptation in loneliness and secrecy. . . . Publicity is one of the purifying elements of politics.”\(^{88}\) The referendum is a weapon
which causes the legislature at all times to take the people into its own confidence.

Statutes providing for such large objects as workmen’s compensation and the regulation of public utilities by State commissions concern the people much more than most constitutional amendments: if commercial domination stands in the way of social legislation, the initiative and referendum “provide means of political action apart from those controlled by special interests and free from the secret entanglements of the legislative committee system.” For a long time, declare the advocates of the new movement, the cry of “individual rights” was the key-note of representative government in England and America — to-day the idea of social justice is more and more coming to be emphasized. Lawyers and laymen alike are beginning to see that individual liberty in the modern world deserves to be protected only so long as it does not conflict with the welfare of the community; and in the opinion of Chief Justice Winslow of Wisconsin nothing at present can bring on the era of social justice so rapidly as can the initiative and referendum intelligently exercised by the voters.

President Wilson who believes in these newer institutional forms of democracy declares that the processes of our politics “have been too secret, too complicated, too roundabout”. He recommends the substitution of public for private machinery, because there have been too many private conferences and secret understandings and too much control of legislation by men who are not legislators, who stand outside and dictate and so obscure a bill’s history: “the very fact that so much in politics is done in the dark, behind closed doors, promotes suspicion.” The President’s experience as Governor of
New Jersey may properly be set forth in full as a practical demonstration of the need of the initiative and referendum. Speaking of the connection between the political machine and big business, he asserts:

But, unfortunately, the whole process of law-making in America is a very obscure one. There is no highway of legislation, but there are many byways. Parties are not organized in such a way in our legislatures as to make any one group of men avowedly responsible for the course of legislation. The whole process of discussion, if any discussion at all takes place, is private and shut away from public scrutiny and knowledge. There are so many circles within circles, there are so many indirect and private ways of getting at legislative action, that our communities are constantly uneasy during legislative sessions. It is this confusion and obscurity and privacy of our legislative method that gives the political machine its opportunity. There is no publicly responsible man or group of men who are known to formulate legislation and to take charge of it from the time of its introduction until the time of its enactment.

I am striving to indicate my belief that our legislative methods may well be reformed in the direction of giving more open publicity to every act, in the direction of setting up some form of responsible leadership on the floor of our legislative halls so that the people may know who is back of every bill and back of the opposition to it, and so that it may be dealt with in the open chamber rather than in the committee room. The light must be let in on all processes of law-making.

Such a scheme of government by private understanding deprives you of representation, deprives the people of representative institutions. It has got to be put into the heads of legislators that public business is public business. I hold the opinion that there can be no confidences as against the people with respect to their government, and that it is the duty of every public officer to explain to his fellow-citizens whenever he gets a chance,—explain exactly what is going on inside of his own office.
Majority rule, that is, the responsibility of public servants to the sovereign people who select them — in short, republican government — is rapidly coming to be a reality. Where the initiative and referendum exist, it is believed there will be a growing tendency for legislators and candidates for the legislature to stand for simple political issues, realizing that in this way they can best show their feeling of accountability to their constituents. Even where a candidate may be personally desirable and yet differ from the popular will on some matters of policy, the initiative and referendum enable the voters to elect their man and afterwards separate the issues on which he is elected, which is, in fact, the chief reason for the existence of the referendum in Switzerland. Parties and political organizations will adapt themselves to the needs of the time: what the time needs is leaders but, most of all, issues. If we are to have party politics in State government it is time we find a line of cleavage other than that now existing on national questions which certainly have no place in the management of a State’s business affairs.

Those who assert that the new ideas are an attempt to uproot, overturn, or destroy representative government are very much mistaken: the initiative and referendum are designed to remove defects, to supplement and perfect representative government. The people are tired of a government that represents somebody else: they know that the theory of representative government is good, but also that in practice it is often bad. In 1910 when Oregon’s voters spoke on thirty-two measures, eighteen were initiated bills “wholly because our legislative assembly in times past has failed or refused to do its duty, or refused to heed the people’s vote for progressive measures.”
Advocates of the initiative and referendum call these instruments “the sword of Damocles”, or “the gun behind the door”, which makes the voters feel secure and elicits respect from the legislature. They are not merely “a cure for legislative rascality, but chiefly a preventive”, to be resorted to at unusual times. The referendum is not to be used on all statutes enacted by the legislature, but only on demand of the voters to insure just laws and prevent corrupt measures, thus bringing the voters and their representatives into partnership relations. Indeed, on account of the growing irresponsibility and unresponsiveness of legislators the new system is held to be an absolute necessity.93

But the most important of all the arguments for the initiative and referendum is the way in which these institutions affect the voters: they appear to utilize the individual in politics as never before. Direct legislation has been called “the greatest plan ever devised to encourage patriotic activity, and bring to the service of the state the brains of the commonwealth.”94 Experience in Switzerland shows that majority rule is “a bulwark of conservatism”, while it educates citizenship to a sense of civic responsibility and leads to general participation in public affairs.95 In Oregon, voters, teachers, and pupils in the public schools pay more and more attention to measures about to be submitted at the polls. A student of Oregon conditions observes that political science is more nearly popular and better understood among the ordinary run of people there than anywhere else in the United States.96 Such a State is not so likely to become the victim of political apathy because the people are better informed and more watchful of public affairs. Says Mr. Richard Montague:
Clearly the voters of Oregon take a considerable interest in the exercise of the franchise, which is increasing as the importance of their determinations becomes manifest. For some time before an election discussion of measures to be voted on is rife on the street, in conversation among friends, everywhere. It is part of the regular program in grange halls and labor union councils, and to some extent in clubs and associations of every sort. The newspapers are full of it. The pamphlets published by the state and distributed to every voter, wherein arguments pro and con are set forth, are seen almost like autumn leaves in Vallombrosa. The discussion even invades those circles where the 'tired business man' myth, and the indifference of the ordinary successful American to everything but putting money in his purse and spending it, combine against it.\textsuperscript{97}

The claim, then, that the initiative and referendum prevent deliberation is said to be clearly wrong. Indeed, the Oregon voter has many months in which to acquaint himself with the nature of measures submitted for his consideration — more time than he has for familiarizing himself with the candidates for State and national offices. There is no haste at all under the new régime: it has even been called the most deliberative of all our governmental processes, for initiated bills are deliberately drafted to insure clearness and success; petitions are circulated and generally deliberately signed by the required percentage of voters; and measures are then printed with arguments and sent to each voter months before the election at which their fate will be decided. Indeed, the idea of being responsible for each law placed upon the statute book appeals more to the voter's imagination than voting for the proper representative: the Oregon system is therefore the greatest school of political thought in the country. With a little original, independent thinking the voter can more easily determine whether
the general purpose and intent of a measure is acceptable than whether a candidate’s professions are genuine. To quote Mr. Montague again:

The educative effect of the discussion of a matter of public interest, generally participated in, with audience for everybody who has anything to say and with everybody who cares to think about it having a voice in the result, followed by a sound decision, simply cannot be exaggerated. It removes the ultimate ground of complaint from the mouth of discontent and brings the responsibility for the state of law home to the will and intelligence of every voter.

Have the voters of Oregon and Switzerland voted intelligently and conservatively? Champions of direct legislation point to the record: long ballots do not seem to have bewildered the voters, and thus far revolutionary measures have not been enacted. Switzerland has come to be called a conservative democracy, and Oregon statistics "give evidence of that patience and conservatism which Dr. Eliot predicates of democracy in America." What the people of the initiative and referendum States have done can best be gathered from consulting the statutes enacted by them in recent years: it is a record which justifies itself.

The fact that usually a smaller vote is cast for measures than for candidates is urged as an evidence of "minority rule". The reformers explain that the smallness of the vote does not necessarily indicate lack of interest but a high degree of intelligence on the part of the voters. Actual intelligence is now brought to bear upon measures and blind political affiliation still prevails in the voting upon candidates. Oregon voters are not now merely going through the motions of government. To be sure, in all the direct legislation States, of the one
hundred voters who cast their ballots for candidates, very often less than seventy-five express their opinions on bills; but important measures of State-wide interest ordinarily receive a large vote and the result represents a real popular judgment.

Compulsory voting is no solution of the problem of non-voting: advocates of the initiative and referendum cry out against dragging incompetents to the polls, and prefer to let the unintelligent, unfit, and uninterested voters entirely alone, because present conditions are all that could be desired, and "no practical bad results from the deficiency of the vote on measures have been pointed out". The system of direct legislation is still in its infancy, but the evils from which it is suffering are not inherent, so that with a few safeguards its future success seems assured.101
IV

GENERAL STANDARDS OR CANONS OF CRITICISM

To obtain a workable system of direct legislation much depends upon the provisions of the constitutional amendment and legislative enactments which support it. In many States so-called "jokers" have crept in, and the people's power is said to be hedged about by unjust safeguards and restrictions. Despite the newness of the machinery adopted for direct State-wide legislation, there are a few standards or principles which are now generally recognized and recommended by students and advocates of the initiative and referendum. These fundamentals of criticism may be summarized under nine heads: 102

1. Where the constitutional amendment providing for the initiative and referendum permits the legislature to declare the urgency of an act so as to place it beyond the immediate reach of voters, such declaration should be made by at least a two-thirds majority of each house, and emergency measures should contain a "preamble briefly setting forth the facts constituting the alleged emergency." 103

2. Acts making appropriations for purposes authorized by existing laws and acts for the immediate preservation of the public peace, health, or safety should be subject to the referendum petition; but, unlike other acts, not until an adverse vote of the people be rendered should they be suspended. Laws passed by the legislature
should not go into operation for at least ninety days after the adjournment of the session so as to give the voters sufficient opportunity to prepare referendum petitions. Parts, sections, and items of statutes should likewise be open to objection.

3. The right of initiative should apply to both statutes and constitutional amendments without discrimination or limitation of any sort. It should be possible to initiative a measure directly for submission to the voters as well as indirectly, the difference being that the legislature in the latter case has a chance to enact or reject the measure as proposed. Upon rejecting an initiated bill the legislature should be allowed to refer to the voters both the original and a competing measure.\textsuperscript{104}

4. The number of signatures required for initiative petitions should be larger than that required for referendum petitions, the definite number plan being preferable to the percentage plan; but in no case should the number be put so high as to make the system difficult to operate; nor should petitions be required from a certain number of counties or congressional districts in the State.\textsuperscript{105}

5. The State Supreme Court should be required to give its opinion on the constitutionality of bills initiated by the voters.\textsuperscript{106}

6. The State should furnish each voter with a pamphlet containing the titles and texts of measures to be voted on at the pending election. Arguments for and against all measures should be included.

7. The official ballot should not contain the full text of measures submitted but should merely state the purpose of each bill clearly and concisely.

8. Measures should be voted on at regular State
elections; and at least one regular State election should intervene before resubmission, by petition, of the same measure. To take effect a measure should be approved by a majority of the voters voting thereon and not otherwise; and in case two conflicting measures are approved the one receiving the highest vote should prevail.\textsuperscript{107}

9. The Governor's veto power should not extend to measures approved or enacted by the voters, nor should a measure so approved be amended or repealed by the legislature except by a three-fourths vote of all the members of each house or by a direct vote of the electors.\textsuperscript{108}
NOTES AND REFERENCES
NOTES AND REFERENCES

1 *Equity*, Vol. X, p. 94. This quarterly, edited by Mr. C. F. Taylor, is devoted to scientific politics and progressive government, recording the advance of the movement for direct legislation, proportional representation, and the short ballot.


4 Lowell's *Public Opinion and Popular Government*, pp. 164, 165, 199


6 *The American Year Book*, 1913, p. 76; and the references in note 5 above.

7 Lowell's *Public Opinion and Popular Government*, pp. 174, 203. For the results of direct legislation in 1912, see Appendix B in Lowell's book.

8 So held in 38 Iowa 467, 84 Iowa 262, 137 Iowa 478, 479.

9 *Laws of Iowa*, 1868, p. 54; *Laws of Iowa*, 1876, p. 110; *Laws of Iowa*, 1884, p. 164; *Code Supplement of 1907*, p. 468; Aurner's *History of Township Government in Iowa*, pp. 43–45, 190. Mr. Aurner declares that "it is clearly shown in the voting of taxes in aid of railroad construction that the electors can not be trusted with complete freedom in such matters. . . . From what occurred it is clear that the taxpayer needed protection against himself, and the revision and repeal of laws which followed appear to have had that end in view. Initiative on the part of taxpayers may have been desirable; but hasty actions in the hope of possible advantages to the immediate community . . . . must have suggested further legislation which aimed to prevent a repetition of these occurrences, without taking away the privileges of the elector."


10 *Code of 1873*, p. 334.


12 *Code of 1897*, p. 952.

63
A statute of 1872 enabled one-third of the voters of the township to force a popular vote upon the question of restraining stock from running at large. By a law of 1882 townships might vote aid in the construction of bridges, the estimated cost of which was not less than ten thousand dollars. — Aurner’s History of Township Government in Iowa, pp. 45, 52.

The original school law of 1847 has been modified by later legislation. — See Revision of 1860, p. 360; Code of 1873, p. 318; Code of 1897, pp. 933, 934.

An act to protect crops against the invasion of stock was passed in 1868, its last section providing that the act should be in full force in every county where the voters, called upon by a majority of the board of supervisors, chose to take advantage of the provisions of the act. The Supreme Court followed Santo vs. The State (a case involving the application of a law calling for a State-wide referendum) and declared that in each case the law depended upon a popular vote for validity: since this was unconstitutional, the law was ‘of force without regard to the vote which it provides shall be taken to determine the question of its adoption by the people’. Thus, the court saddled the people of Iowa with a law not made by the General Assembly. The court was certainly not interpreting the legislature’s intention to establish local option in this matter. See Laws of Iowa, 1868, p. 204; and the case of Weir vs. Cram, 37 Iowa 652, 653.

The language of the statute of 1857 was no doubt unfortunate, the last section providing that ‘all acts and parts of acts now in force, coming in conflict with the provisions of this act, are hereby repealed: Provided, That the act entitled ‘an act for the suppression of intemperance,’ approved January 22d, 1855, be not and is not by this act repealed in any county of this State, unless the people of such county by a vote taken as
herein provided, shall adopt this act."—Laws of Iowa, 1856-1857, pp. 382, 383.

The use of the word "'repeal'" and of the expression "'adopt this act'," in fact the wording of the whole section is loose, but the intention of the legislature is clear as day: a county referendum in favor of the question of 'license' certainly would not 'repeal' the prohibitory law which was State-wide, nor would the people thus adopt the new law, the language of the General Assembly to the contrary notwithstanding. The people's action would abrogate the effect of the prohibitory law and thus virtually establish a system of local option. It may be that the justices in Geebrick vs. The State allowed their prejudices in favor of prohibition to get the better of their reasoning, as suggested in Oberholtzer's The Referendum, Initiative, and Recall in America (2nd edition), p. 323. It must be admitted that the last section of the act of 1857, as stated above, is objectionable if it means that the people of a county or all the counties could elect to abrogate the effect of the prohibitory law of 1855 and thus forever cut off their right to return to it if they desired.

25 Geebrick vs. The State, 5 Iowa 496, 499.

26 The State vs. Weir, 33 Iowa 135. The statute of 1870 in the Laws of Iowa, 1870, p. 83, is also poorly drafted, and the court believed that it fell 'completely within the principles and reasoning of Geebrick vs. The State', but the justices seem to have allowed precedent to lead them into error.

27 Code Supplement of 1907, p. 534.

28 For a discussion of the Iowa Supreme Court's vacillating policy see Oberholtzer's The Referendum, p. 322. Geebrick vs. The State seems to have been reversed in The State vs. Forkner, 94 Iowa 1, 16.

29 94 Iowa 24, 26, 32, 33.

30 Revision of 1860, p. 38; Code of 1897, p. 216.

31 Revision of 1860, p. 51; Code of 1897, p. 231.


33 Laws of Iowa, 1870, p. 187; Code Supplement of 1907, p. 86.

34 Laws of Iowa, 1886, p. 70; Code of 1897, p. 234.

35 Laws of Iowa, 1890, p. 37; Code Supplement of 1907, p. 680.


37 Laws of Iowa, 1866, p. 157; Laws of Iowa, 1868, pp. 78, 79; Code of 1897, pp. 269, 270.

38 Laws of Iowa, 1858, pp. 347, 349; Code of 1897, pp. 271, 272, 276, 278.
Electors in cities of the first class have a right to vote on the question whether a contract or contracts approved by the city council in relation to the purchase and construction of waterworks shall be adopted.—Code Supplement of 1907, p. 142.

45 See references in footnote 44 above; Laws of Iowa, 1890, p. 19; Code Supplement of 1907, p. 199.

46 Laws of Iowa, 1882, p. 63; Laws of Iowa, 1886, pp. 13, 119; Laws of Iowa, 1894, p. 33; Code of 1897, p. 323.

47 Code Supplement of 1907, p. 159; Code of 1897, p. 329. The General Assembly in 1913 authorized the people of Waterloo to petition and authorize the construction of a business men’s coliseum and convention hall over the Cedar River.—Laws of Iowa, 1913, p. 358.


The initiative was first invoked at Des Moines on the 7th of March, 1910. The proposition of municipal ownership of the street-car system was submitted to the voters on March 28th.

Resort to a popular vote in order to enact municipal law was held not to conflict with the provision of the Constitution vesting all legislative authority in the General Assembly since this constitutional provision has no application to the legislative power of city councils. Nor is the referendum destructive of republican government.—Eckerson vs. The City of Des Moines, 137 Iowa 452, 482, 483, 484.

49 Constitution of Iowa, Article I, Section 20.

50 Constitution of Iowa, Article I, Section 2.


52 For the right of the voters to revise or amend their fundamental law


56 The vote was 25,000 for and 22,000 against the law. See *The Iowa Journal of History and Politics*, Vol. VI, pp. 63, 73, 78, 79.

57 *Santo vs. The State*, 2 Iowa 165, 203, 224, 228, 229.


59 See the writer's article on proposed constitutional amendments in *The Iowa Journal of History and Politics*, Vol. VIII, pp. 197-199.

For State party platforms see the *Iowa Official Register* for the years 1907 to 1914. See also *Equity*, Vol. XII, p. 150, Vol. XIII, p. 25.


62 The original amendment also contained the words "public safety".—See *House Journal*, 1913, p. 190.

63 An amendment to the original resolution to reduce the number was defeated, and an amendment to insert "Congressional Districts" was adopted.—See *House Journal*, 1913, pp. 876, 1408, 1409.

64 Mr. Kulp's resolution made the initiative and referendum on constitutional amendments the same as on ordinary statutes.—See *House Journal*, 1913, pp. 475, 1411.

At the present time it takes the people of Iowa at least three years to amend their Constitution.
Laws of Iowa, 1913, pp. 423-425.


Read Wilson's The New Freedom, pp. 55-78, 242, on the influence of "gentlemen" or "aristocrats" in American government.

Lowell's Public Opinion and Popular Government, p. 143. President Wilson in The New Freedom, pp. 123, 124, declares: "I think it will become more and more obvious that the way to purify our politics is to simplify them, and that the way to simplify them is to establish responsible leadership. We now have no leadership at all inside our legislative bodies,— at any rate, no leadership which is definite enough to attract the attention and watchfulness of the country." On the people's part there is a growing demand for responsible leadership, for putting in authority those whom they know and whom they can watch and whom they can constantly hold to account.


Kales's Unpopular Government, pp. 19, 21, 37, 39, 40, 42, 48, 120, 121. Mr. Taft in his Popular Government, pp. 21, 49, 52, 53, urges lightening the voter's burden so as not to discourage his political activity. See also The Political Science Quarterly, Vol. XXIII, pp. 597, 598.

Taft's Popular Government, pp. 68, 70.


For all these expressions as used by such writers as William H. Taft, Nicholas M. Butler, A. Lawrence Lowell, Ellis P. Oberholtzer, Charles M. Hollingsworth, Henry C. Lodge, Governor O'Neal of Alabama, and Congressmen McCall and Sutherland, see their writings or Equity, Vol. XIV, pp. 58-70.

Members of the legal profession still cling tenaciously to the doctrine of innate or natural rights which places in theory a limit upon the despotism of the majority. Accordingly, they declare that if the so-called sovereign people are permitted to pass whatever laws they please, unrestrained by any power, human or divine, legislation will become an expression of the popular will for the time being, whereas law at all times should be an expression of reason applied to the relations of man with man and of man with the State. They urge that under no circumstances should our liberty be supplanted by license, lest might should become right.
For the statement of these arguments the writer is largely indebted to Wilcox's *Government by All the People*, pp. 36-104. See also Kales's *Unpopular Government*, pp. 120, 121.

For these arguments against the referendum see Wilcox's *Government by All the People*, pp. 139-148.

This is the statement made by a resident of Oregon who is friendly to the new experiment.

Taft's *Popular Government*, pp. 46, 48.


Taft's *Popular Government*, pp. 93, 94.

So declares Mr. Richard W. Montague, a graduate of the Law College of the State University of Iowa and a long-time resident of Portland, Oregon. See his recent article on *The Oregon System at Work* in the National Municipal Review, Vol. III, pp. 256-283.


Wilson's *The New Freedom*, p. 115. Read especially what he has to say on "Bosses" and the Oregon system, pp. 224-226.


President Lowell of Harvard University in his *Public Opinion and Pop-
ular Government, pp. 139, 140, 141, believes that people exaggerate the faults of their legislators: 'We suffer, no doubt, from a lack of experience in our public bodies; but we suffer also from a self-confidence that causes everyone to think himself capable of forming a valuable opinion on every subject, and not less from a general lack of mutual confidence in one another. This last is a highly important matter, for it lies at the root of much of our evil-doing in politics, in business, and in daily life.'


92 Equity, Vol. XIV, pp. 63, 65; Beard and Shultz's Documents on the Initiative, Referendum, and Recall, pp. 22-24; Wilson's The New Freedom, pp. 228, 229, 235. President Wilson believes there are States where it is perhaps premature to discuss the initiative and referendum at all.


The notion that the electors will be eternally busy voting on measures referred to them under the new régime is, of course, quite wrong; for elections, generally speaking, take place, as before, at the regular time.

Arguments for the initiative and referendum may be found excellently presented in Wilcox's Government by All the People, pp. 104-128, 149-164, 266-298.

94 Equity, Vol. XIV, pp. 136, 137.

95 The Annals of the American Academy of Political and Social Science, Vol. XLIII, pp. 43, 142; Wilcox's Government by All the People, pp. 104-112, 272-280, 290-298. See also the speech of Mr. Jonathan Bourne, Jr., in the United States Senate on May 5, 1910.

96 Such is the opinion of Mr. Charles D. Mahaffie, a Portland lawyer, in a letter to the writer. See also Equity, Vol. XII, pp. 19, 20.


99 That Oregon is the crank's paradise and the happy home of hobbyists, extremists, and fanatics is a statement frequently made, but huge majorities against their plans have squelched their foolish agitation.—National Municipal Review, Vol. III, p. 265, and for Oregon's record see pp. 271-278; also Political Science Quarterly, Vol. XXVI, pp. 432, 442. As to Switzerland's record see Lowell's Public Opinion and Popular Government, p. 168; and The Annals of the American Academy of Political and Social Science, Vol. XLIII, pp. 110-145.


Mr. Allen H. Eaton in *The Oregon System*, pp. 48, 49, asserts that the people ‘‘have undeniably used discretion in their decisions’’, but he does not hesitate to point out a few disadvantages. Too many measures are submitted; trick measures slip in through deceitful headings or titles; some measures are subsequently repeated in the face of overwhelming defeat; general ignorance of certain measures is due to the multiplicity of measures on the ballots and to their complicated and technical character; the voters cut down expenses in certain communities with which they are not familiar; and too many local measures get on the ballot. Mr. Eaton’s remedies may be found on pp. 148–156.

The writer is chiefly indebted to Mr. C. F. Taylor’s *Equity*, Vol. XV, pp. 22–33, for what he believes to be the essentials of an efficient initiative and referendum system.

In South Dakota the emergency clause has been used in forty-three percent of the laws passed.—See Lowell’s *Public Opinion and Popular Government*, p. 175.

In Wisconsin there are to be no circulating petitions until a bill submitted to the legislature has been defeated. The reason for such a system is that the people want to avail themselves of their legislative reference library, drafting department, the cooperation of university experts, and improved committee methods.—See *The American Political Science Review*, Vol. XXV, p. 590.

For the numbers required in the different States see *Equity*, Vol. XV, pp. 34–47. In California the number is five percent on referendum petitions and five or eight percent on indirect and direct initiative petitions respectively.

Mr. Taylor’s model amendment prohibits any State court from declaring unconstitutional any measure made law by the people.

See a stricture on this point in *The Nation*, Vol. CXCV, p. 325.

It will be noticed that the proposed systems of Iowa, Minnesota, and Wisconsin depart in many particulars from the simplicity and directness of the Oregon plan.—See *The American Year Book*, 1913, p. 76.