est Democrats, have made a majority for direct primaries.

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It is evident enough, then, that Gov. Deneen was solicitous not for the wishes of the people, but for the good will of the powerful politicians in his own party whose power depends upon giving to the people the semblance, and only the semblance, of participating in the nomination of candidates. That is precisely what is done by this measure, which owes its enactment not only to Gov. Deneen's signature as governor, but to his active participation in pushing it through the legislature. The nearest it comes to giving the people the power to nominate candidates is to make it morally, not legally, obligatory upon delegates to vote once for candidates having in their districts respectively a plurality of the popular vote. If this is not semblance instead of substance, we miss the meaning of the words. It is said that Mr. Deneen is in training to succeed Mr. Roosevelt. He is getting on famously. But he should consider that Rooseveltian standards may be going out of fashion.

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Louisiana Oyster Laws.

The Louisiana oyster law of 1904, intended to protect and develop the Louisiana oyster lands, is worthy of study as an effort in the right direction with reference to other land tenures for business purposes. Claiming title to the beds of the waters within its jurisdiction, Louisiana provides for leasing them for oyster culture,—natural oyster beds being withheld, however, as a sort of oyster fishery commons. The leases, limited to 1,000 acres, run for fifteen years at a nominal rental; and during that term the leased tract must be placed under oyster cultivation at the rate of one-tenth of its area per year after the first five years. At the expiration of this term the tenant has a right of renewal for ten years at double the previous rent; and after the expiration of the extended term, the rentals are to be fixed by the State, presumably at their fair values. The substance of it all is this: that cultivators of oyster lands, not natural oyster beds, shall have the right of occupancy and use for twenty-five years on consideration of putting the land under cultivation, and that after that term the plant as well as the land shall belong to the State. To realize the significance of this manner of dealing with the subject, one needs but to reflect upon the manner in which governments have dealt with other kinds of land. Instead of giving a limited use to improvers for a reasonably limited time, in consideration of the improvements they make, whole continents, embracing rich mines and city sites, now of enormous value, have been given away or sold for nominal prices, for every use and forever. Yet the only difference is that in the one case the land is, and in the other it is not, covered with water. And what real difference does that make?

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THE INITIATIVE AND THE REFERENDUM.*

Were I asked to single out the most distinctively American of all our political institutions, I should name the New England town meeting. Yet I am influenced by no New England bias. A Dutchman from the fresh water streams and hilly horizons of northern New Jersey, I merely acknowledge what no one can fairly deny. The New England town meeting has woven its story into the history of the whole Republic, and its lessons, pregnant with democracy, have been learned in every township.

Of course, New England cannot claim priority of invention. In some form or other, the town meeting has always existed. They had it in Athens and in Rome; it was once a Scandinavian institution, and also a Germanic; even in Russia its survival in some localities after centuries of centralized despotism has preserved a degree of liberty in local affairs down to our own day. It prevailed in England until the development of landlordism had undermined it and made way for the Norman conquest; and Switzerland has not only maintained it unimpaired but has vastly improved it. The oldest mode of government known—dating back historically to times whereof the memory of man runneth not to the contrary, and by sociological inference to the very earliest political organizations—the town meeting cannot indeed be called a New England institution in the sense of original invention. But does not the notable transplanting here by New England of this ancient institution, together with the supreme importance of its influence upon the political development of our whole country, fully warrant my opening statement? Isn't it true that the most distinctively American of all our political institutions is the New England town meeting?

May we not add that it is also one of our best? Convinced that it is, I earnestly urge the advisability of extending its application and perfecting

*Paper by Louis F. Post, prepared for and read and discussed at the twelfth annual meeting of the National Municipal League at Atlantic City, N. J., April 26, 1906.

it in form. To this end let me invite a moment's preliminary reflection upon its nature.

What is the essential principle of the New England town meeting? I take it to be two-fold: first, municipal home rule; and, second, direct legislation. With the home rule feature this paper has little to do. We ought, however, to observe in passing that the idea of municipal home rule is coming into more general acceptance as the problems of municipal government attract greater attention and cause closer study. This fact may suggest their error to such of our friends as imagine that direct legislation in the United States is a far cry. The same political impulses that are speeding us on to the policy of home rule for municipalities are likewise speeding us on to direct legislation in municipalities. Indeed, without people's rule at home, home rule would be a delusion; for home rule by local dynasties, whether political or financial, is as undemocratic as imperial centralization.

That the truth of this is felt by the people is evident from the fact, for fact it is, that the New England town meeting principle, not only in its home rule aspect but also in its direct-legislation aspect, is taking a hold upon public opinion such as has not been experienced before in many a year. I doubt if it has been so strongly felt in America since the time when Thomas Hooker and his congregation, faithful churchmen though they were, migrated from Massachusetts to the Connecticut wilderness rather than countenance a town meeting system which limited the suffrage to church members. It is with the principle that moved Hooker's congregation to quit Massachusetts that I am here chiefly concerned—the same principle that moved Abraham Lincoln two centuries later to proclaim as the American political ideal that government must be not only of the people and for the people but by the people. And this ideal can be realized in no other way, I confidently submit, than by some such adaptation of the town meeting principle of direct legislation as is offered by the Initiative and the Referendum.

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By the Initiative we understand the reservation to the people of the power of originating legislation by direct vote; the Referendum is the reservation to the people of the power, also by direct vote, of vetoing the objectionable legislation of representatives. Considered as correlative methods of popular government, the two differ from the town meeting system only in their adaptation of its essential principle to larger uses. At the town meeting the people vote on questions of public policy orally or by show of hands and in the confusion of a mass meeting. This is direct legislation in its narrowest and crudest form. In its broadest and most refined and effective form, direct legislation is by the Initiative and the Referendum. For the confusion of mass meetings these substitute campaigns of orderly discussion, culminating in individual voting by ballot. In place of off-hand popular legislation on all subjects, as at town meeting, they would repose legislative authority in representative bodies precisely as now, but would safeguard this delegation of authority by reserving to the people their inherent power of command and veto, to be exercised at all seasonable times and with reference to all legislative subjects. They would enable the people themselves, who are the ultimate source of governing authority, to compel legislation if the legislature were laggard, and to stop legislation if the legislature were swift. Designed to guide and govern legislation with reference rather to principle and policy than to detail and form, the Initiative and the Referendum are to the New England town meeting as is a modern dwelling house to the old log cabin. Perfected in form, and general as well as local in application, they would operate comprehensively, in all respects and at all times, for securing to the people their sovereign powers unimpaired; and thereby, as we contend, they would continuously and effectively guard the people from misrepresentation by representatives.

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In their comprehensive application, the Initiative and the Referendum originated with the Swiss, these correlative methods of direct legislation having now been available to the people of Switzerland for a quarter of a century. Their character and effect in that democratic oasis of Europe is tersely described by McCrackan in his inspiring story, "The Rise of the Swiss Republic." He says they have developed "the Swiss people into a nation governing itself upon an almost ideal plan, directly, logically and without intermediaries." But this ideal plan is only a common sense adaptation to larger constituencies and newer conditions, of the essential principle of the same town meeting custom which Americans trace to New England, and with which the Swiss were familiar half a thousand years before there was a New England.

Genuine Americanism has no call to quarrel with this plan whencesoever it may have come. The town-meeting parentage of the Initiative and

the Referendum, which in itself commends them to our favorable consideration, is coupled with a recommendation that should appeal to our patriotic sympathies. For the Swiss initiative and referendum sprang out of that revival of the democratic spirit in Europe which culminated in the French revolution of 1830, and brought to an end the era of the divine right of kings. A democratic republic like ours, whose boast it is that the people are sovereign and even their highest official is their servant, stultifies itself if it rejects as a foreign exotic what is in fact a weapon for the security of popular government.

There is another reason still for turning a deaf ear to those who argue that the Swiss initiative and referendum are alien institutions. Not alone do these correlated devices appeal to American democracy because they were born of the democratic spirit. Not only do they demand our favorable consideration because they are logical developments of the town meeting principle of our own New England. Beyond these primary considerations they are historically American even in scope and form, albeit the historical American form is imperfect. The Swiss did no more in this matter than to perfect a form of democratic government which we had long before invented and crudely used.

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Having always recognized the democratic principle that sovereignty resides in the people, we began our constitution-making with the Initiative and the Referendum. Massachusetts took the lead with the Referendum as long ago as 1778. The constitution then submitted to the people was defeated, but in 1779 a similar referendum resulted favorably. Other States followed, and in 1821 New York joined this democratic procession. Since that time the custom has been almost unbroken among American States. The exceptions, other than those connected with the secession period of 1860-61, are Florida in 1838, Mississippi in 1890, South Carolina and Delaware in 1895, and Louisiana in 1898. In each of these instances, however, with the possible exception of Florida, the unconcealed purpose of denying the referendum was in contravention of the fundamental American doctrine that sovereignty resides with the people.

As with the organic Referendum so with the organic Initiative, the former having as a rule in the United States been accompanied by the latter. It is said to have been quite as common (perhaps there have been fewer exceptions to the rule), for the people by direct vote to initiate the calling of conventions to formulate new constitutions, as it has been for them to pass by referendum upon new constitutions when formulated. Just as Massachusetts was the American pioneer with the organic Referendum, so Georgia appears to have been with the organic Initiative. Back in 1777, a year before the Massachusetts referendum, Georgia provided in her constitution for an initiative by requiring that the constitution should not be altered "without petitions from a majority of the counties, the petition from each county to be signed by a majority of voters." But thereupon the legislature was required to call a convention to amend the constitution, the call to specify "the alterations to be made according to the petitions."

With so broad a recognition of popular sovereignty, advances from the generals of the constitutional to the particulars of the legislative initiative and referendum were natural and logical. Does not the greater include the less? If a people can directly dictate general constitutional powers and limitations, why may they not directly dictate specific legislation? There is but one valid reason to the contrary. In establishing general powers and limitations in their organic law, they may have delegated their specific powers. In such a case it is clear that they cannot without revolution resume those powers otherwise than by the constitutional methods which they themselves have established. But this reason would obviously fail in any case in which the people by their constitution either did not create a legislative agency with exclusive powers, or did reserve to themselves the right not only of organic but also of legislative initiative and referendum.

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Moreover, our courts have completely established the rule that though legislative power be so conferred upon a legislative body as to prevent a general transfer of that power by that body, even to the people themselves, yet a transfer of the power for local purposes and within local limitations may be made not only to local and subordinate legislative bodies, but to the people of the respective localities. This is a clear judicial acknowledgment of the Initiative and the Referendum as American institutions.

And both have been resorted to in the United States for many local purposes and over a long period of time. The mere recital of instances would astonish some of the patriotic objectors who denounce the Initiative and the Referendum as foreign. If any institution is more distinctively American than another, and this without reference, if you please, to its town meeting origin and

its use in constitution-making, but with reference only to the statutory history of the States of the American Union, it is the institution of the Initiative and the Referendum. "They exist together in fact if not in name in nearly all the States of the Union." So says Dr. Oberholtzer in his work on "The Referendum in America," a book which is without bias unless the bias be against the general initiative and referendum that I am advocating. It is withal a book whose claims to be "an unvarnished historical account" are justly made, and I cordially acknowledge indebtedness to it for most of the statements of fact in this paper. According to Dr. Oberholtzer the legislative referendum in the United States dates back some twenty years earlier than the period of its beginnings in Switzerland. It was first resorted to by Maryland, which in 1825 referred to the voters of each county the question of establishing free primary schools, the law to become operative only in those counties in which a majority of the votes cast on the question were in the affirmative. Pennsylvania established a school-district referendum on the same subject in 1836, and in 1849 New York also made the subject a referendum issue. Meanwhile, Virginia in 1837 and Pennsylvania in 1842 provided for submission to local referendums of questions of local public subscriptions to internal improvements. From these beginnings the local or municipal referendum has grown into a common American custom, and the local initiative has kept pace with it. To quote again from Dr. Oberholtzer's excellent historical work, "both have been developing side by side until they have become familiar to us by general usage in all but every State in the great American Republic."

Among the local questions which it has long been customary in the United States to submit to local referendum either with or without the aid of the initiative, we find civil service regulations and minority representation, as well as the care of the poor, highway control, the subdivision of counties, and the organization of townships. A very general subject of local referendum is the loaning of public credit, and another is the expenditure of public money. One of the oldest is the question of public subscriptions to private enterprises, and among the newest are the adoption of voting machines and the question of granting public utility franchises. In sheep-raising sections regulations for compensation for sheep killed by dogs have been made a subject of referendum. Out of the patriotism of the Civil War period have come local referendums on erecting soldiers' monuments at public expense, and in Ohio the erection of local monuments to the memory of "Mad" Anthony Wayne were by general law long ago made a subject of local referendum. In cities we have had referendums on the question of selling beer on Sunday. And is not the local-option liquor referendum familiar everywhere? The submission of city charters to referendum has come to be well nigh regarded as a cherished right, while such questions as levying taxes for special purposes, exempting industrial enterprises, and removing county seats have long been referendum subjects of general recognition as such. Like the man who had been reading prose all his life without knowing it, we have habitually, even if unawares, been using the Initiative and the Referendum ever since Jackson's time.

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Who shall say, then, that South Dakota, the first of our States to adopt the general Initiative and Referendum, imported them from Europe? Even if their particular form and scope were borrowed from Switzerland, where they had been in actual and satisfactory operation, who can deny that the idea was absolutely American? We have seen that it is an established principle of American jurisprudence as well as American polity to consider that all legislative power inheres in the people; that it remains with them unless they delegate it by constitutional provision; and that it returns to them if by constitutional amendment they revoke the delegated authority. Now, the people of South Dakota did nothing more than to revoke, constitutionally, the legislative authority they had previously delegated. But when that was done, the Initiative and the Referendum, as inherent powers of the people, were ipso facto revived. The people of South Dakota did not import a Swiss invention; they resumed an American power.

Their Constitution of 1889 having delegated the legislative power of the people to a senate and house of representatives, their amendment of 1898 so altered this delegation of power as expressly to reserve thereafter to themselves, first, the right, upon petition signed by a percentage of the voters, to propose measures which the legislature must enact and submit to popular vote for final approval, and, second, the requirement that by like petition any laws the legislature might enact of its own motion should be submitted to popular vote before going into effect—emergency laws alone excepted. The same reservations of popular sovereignty in law-making were applied by this constitutional amendment to

municipalities with reference to municipal bodies and municipal questions, as to the State with reference to the legislature and State questions. Laws in execution of this constitutional reform in South Dakota were enacted in 1899, but the reform has never been used directly in any notable instance. It has, however, headed off much corrupt legislation, the mere threat of resorting to it having proved effective.

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In Utah the South Dakota amendment was adopted in 1900, but no legislation to carry it into effect has yet been enacted. A similar amendment adopted in Nevada appears also to be a dead letter. But in Oregon the amendment has not only been adopted as in the other three States, and a law in execution been enacted as in South Dakota, but the Supreme Court of the State has given it judicial sanction, and the people are utilizing it vigorously and intelligently for its intended purpose.

Although the reform was first adopted in South Dakota and has been effective in heading off corrupt legislation there, Oregon is the first State actually to utilize it at the polls. A direct primary and a local-option liquor law, both under the Initiative, were adopted at the election of 1904; and at the municipal election of 1905 in Portland seven charter amendments were voted on, five of which carried and two were lost. Other questions are now pending in the State—an appropriation bill, an anti-pass bill, and five Constitutional amendments, all of which are to be voted on in June. One of the proposed amendments, presented on Initiative by the Equal Suffrage Association, provides for voting by women on an equality with men; another would invest municipalities with power to make and amend their own charters.

The further progress of the American movement in behalf of the comprehensive Initiative and Referendum is too obvious to need particularization. At any rate the most modest attempt at particularization would far transcend the limits of this paper. Perhaps, however, before passing to another phase of the general subject, I should note the fact that the people of Montana will vote next Fall on a constitutional amendment like that of South Dakota. It is to be added, moreover, that the right to the Initiative and the Referendum for municipal purposes but without further limitation as to subject than that the questions shall be of local concern, has been conferred upon other municipalities than those of the four initiative and referendum States. Among these are the cities and counties of California, the municipal subdivisions of Nebraska, the capital city of Colorado, and the counties of Iowa.

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For the sake of distinction the phase of the general subject which I have thus far considered may be described as the mandatory. It relates, that is to say, to initiatives and referendums at which a favorable vote gives legal vitality to the proposition voted on. But out of the movement for direct legislation of the mandatory sort, has arisen a movement for advisory methods.

The advisory referendum is usually regulated by parliamentary rules of procedure. The custom appears to have originated in Winnetka, a Lake-Michigan village of Illinois north of Chicago. The village council had before it some years ago an ordinance granting a private franchise for supplying gas. Against this ordinance there was a public protest, and upon the suggestion of the late Henry D. Lloyd, who led the opposition, the council resolved to submit the question to an advisory vote of the people and abide the result. This vote being taken, the ordinance was overwhelmingly condemned, and out of that experience the citizens of Winnetka got a valuable lesson which they proceeded to profit by. At the next election they agreed to vote only for those candidates who would pledge themselves if elected to refer all important measures to the voters and to vote in council in accordance with their instructions. The nominees thus pledged were elected, and what was then an innovation in Winnetka became an institution.

Acting upon this hint Mr. George H. Shibley of Washington has for several years been engaged in popularizing the Winnetka system and adapting it, not only to municipal but to State and national uses. Mr. Shibley's method contemplates the adoption by legislative bodies of a rule of procedure relative to all legislation of a specified character. Pursuant to this rule, action by the body on any of the measures specified, is, after second reading, suspended for a convenient length of time, during which the filing of a petition for submission to referendum vote operates to postpone third reading until the referendum vote has been taken. If the referendum vote be favorable, the members of the legislative body are obligated by their rule, reinforced by their election pledges, to proceed to third reading and pass the measure; if the referendum vote be unfavorable, the measure is lost. This system in substance has been adopted, I am informed, by several

municipal bodies, including the city council of Detroit.

This type of advisory referendum, which may be distinguished as the voluntary or non-legal form, has been supplemented by a legalized form which was introduced in 1901 by the State of Illinois. The bill for the latter was drawn by Mr. Allen Ripley Foote, and carried through the legislature of Illinois by Mr. Clayton E. Crafts, a member of the lower house from Chicago. As originally presented the Crafts bill allowed the submission to popular vote of any question of public policy when petitioned for by 10 per cent. of the voters within the territory to which the question applied. Inasmuch as the referendum thus provided for was to be only advisory, the bill was regarded by the politicians and corporations as harmless, and only from an excess of caution did the legislature raise the percentage to 25 per cent. for municipalities. But this gun that didn't seem to be loaded, has gone off several times with important results.

No State has yet followed the lead of Illinois in adopting an advisory referendum law, although the lower house in Massachusetts has recently passed a bill which is now pending in the Senate. But the city of Buffalo applies the same principle under the "general welfare" clause of the city charter. By ordinance the council provides that upon a five per cent. petition any question of local public policy shall be submitted to the voters for the purpose of obtaining their opinion, and under the provisions of this ordinance important advisory referendums have been had in Buffalo.

Interesting, however, and even important as are these experiments with the advisory referendum, it is after all the mandatory referendum with which we are chiefly concerned. For the question at issue is between representative legislation unrestricted save by constitutions, and direct popular legislation upon popular demand. If representatives yield to advisory popular votes, their doing so is only voluntary; whereas mandatory initiatives and referendums have the effect of a command. When these are invoked they place the legislative representative in the position not of a noble who may oblige, but of a servant who must obey.

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To such a mandate directly from the people there are of course vociferous if not profound objections. Some are merely special pleas for special interests; but others are genuine, arising in some instances from sincere hostility to and in others from sincere distrust of popular government. With these objections I shall not attempt to deal seriatim. Except as they may be refuted by the facts I have cited and my affirmative argument, they must be accorded such validity as upon the surface they may appear to have. The essential issue, as it seems to me, is one of people's rule or bosses' rule, and to that issue broadly I invite your attention.

Is it not obvious that unless the people rule freely, with the least possible obstruction and friction consistent with good order and true expression, their rule will wane and the rule of bosses strengthen? And is it not equally true that representative legislation with no popular initiative or veto, does operate to obstruct the people's rule by making public opinion more or less inarticulate and consequently impotent? It seems to me that the obstruction and the friction thereby interposed to people's rule, make the coming of the boss as certain as fate. This sinister lesson may be learned from the evolution of the boss in American politics. With legislators empowered to choose between the people's will and their own, people's rule has given way to party rule, party rule to caucus rule, caucus rule to ring rule, and ring rule to boss rule. The source of the boss's power, both the old time political boss and the later corporation type, is the system which enables legislative representatives to represent the boss, whose puppets they become, instead of the people, whose agents they are.

Yet the usefulness of representative government I cordially concede. For purposes of administration, representatives are absolutely necessary; and for purposes of legislation they have functions of a high order. But the functions of the legislator are as truly to execute the people's will in their sphere as are those of the administrative official in his. The legislative function in a republic consists in adjusting details and forms in execution of popular demands as to principles and policies. It is true that these demands may be inferred by legislatures; and they are rightly inferred if, having a referendum veto, the people do not exercise it. But the legislative function in a republic should not extend to the point of dominion over the people. Legislatures should be servants and not masters.

While it is true that republics may be representative, the people speaking not directly but through legislative agents to whom they have delegated with certain restrictions the legislative power that belongs to themselves, it is also true that they may be democratic, reserving to themselves final power over all legislation—to order, to

veto, and to revoke. These two types of the republican form of government are expressly recognized by the first article of the Swiss Constitution, in which, to quote the exact language, cantons are assured "the exercise of political rights according to republican forms, representative or democratic." Our own Federal constitution guarantees "to every State in this Union a republican form of government," but no express discrimination is made, as in the Swiss Constitution. The intention, however, was clearly in the minds of the fathers of our Republic. When they declared for republicanism they had no thought of opposing democracy. The contrast they sought to make was between the republican and the monarchical form, not between the representative and the democratic method. All of them feared the encroachments of absolutism; few of them feared the evolution of democracy. One of the greatest among them all, a man who probably contributed more than any other to the acceptance of the Constitution by the people, was James Madison; and in No. 39 of the Federalist he wrote of the republican form as "a government which derives all its power *directly* or *indirectly* from the great body of the people."

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The whole question of representative in contradistinction to democratic republicanism, in the American sense at any rate, may be reduced to one proposition: Representation which does not tend toward democracy is not truly republican. There is a radical difference between representation of the people and abdication by the people. The true American spirit in this respect was expressed by a Swiss democrat, Felix Diog, when in the constitutional assembly of the Canton of St. Gall in 1845, he said: "The people are sovereign. The people, and the people only, should exercise supreme power. Their will should be law. Sovereignty cannot be delegated. A sovereign who acts only through delegates may be said to have abdicated."

Is it objected that the people are not intelligent enough to be trusted with this supervisory power? Or is it argued that they would be apathetic, because in American experience the voting on candidates is larger than on questions of public policy? These objections nullify each other. The argument that the people are apathetic takes into consideration only the unintelligent who neglect to vote, ignoring the public spirit of the intelligent who do vote. Those who do vote are not apathetic; they prove it by voting. Neither are they unintelligent, except by the frail test that he who is with us is intelligent and he who is against us is not. What, then, does the apathy argument lead to but the conclusion that the Initiative and the Referendum would operate automatically to disfranchise the unintelligent?

But that would be an ideal system for making intelligence the condition of suffrage. That the suffrage ought to be limited to the intelligent may be granted. But that any class of citizens should disfranchise others by labeling them "unintelligent" is repugnant to republicanism, whether the republicanism be representative or democratic. Each citizen should be his own disfranchiser. He should be his own judge of his own intelligence at each election as to each question of public policy on which a difference of opinion is sufficiently pronounced to call for a show of hands. And this self-judgment is what the Initiative and the Referendum would demand of all citizens.

Nor should we overlook in the same connection the influence of the Initiative and the Referendum in promoting and extending civic intelligence. For it is civic intelligence, not mere business intelligence, that is needed for good government. The kind of intelligence that is developed by the principles of "cent. per cent." and the experiences of "the merry chase for elusive dollars," may be competent to deal with questions of private policy, but it is not the best kind for determining questions of public policy. Only active participation in public affairs, with a sense of personal responsibility, can develop this civic intelligence; and under the Initiative and the Referendum that participation would be open to every citizen. If there is a deficiency of civic intelligence now, who can deny without better tests than we have yet had, that it may be due to that abuse of our representative system which transfers the voter's responsibility to his legislative representatives, and tends to transmute his natural and wholesome interest in questions of public policy into a morbid interest in the mere personality of candidates? A degree of interest in the personality of candidates is indeed natural and wholesome; but the custom of investing them when elected with full legislative power disturbs the civic equilibrium. Considerations relating to person, party or class, confused with an intermixture of public questions, tend to distract the voter when he has to choose between one candidate for irresponsible legislative power and another. Not infrequently, therefore, he votes for the candidate who will misrepresent him on some questions, because he prefers that candidate for personal or party reasons, or as his representative on other questions, or it may

be for his efficiency in the business details of public life. This would not occur if the voter were able when voting for the candidate of his choice to instruct or overrule that candidate by mandatory initiative or referendum on questions of public policy regarding which they disagree. Neither would the reverse of this any longer occur. It not infrequently happens now, that voters prefer a bad representative who will represent them truly on a dominant issue, to a good one who opposes them on that issue. And shall we condemn voters for making such a choice of evils, when we offer them only the alternative of voting for a bad candidate or a bad policy?

Not only would the Initiative and the Referendum tend to enhance the civic intelligence of all citizens—even those citizens of the slums whose civic intelligence is almost nil, and those infinitely more dangerous citizens of the business world whose civic intelligence is hardly better than a mere reflection of their own business interests—not only would all civic intelligence improve in this clash of mind with mind in rendering direct and responsible judgment on questions of public policy, but the fidelity of public servants would be vastly improved. For is it not true that the more directly we bring governmental machinery within the influence of public opinion the better the government tends to become? Such at any rate seems to be the impressive lesson of all political experience.

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That every government springs from the people is no speculative theory. It is an observed fact. No matter what may be the forms of government, the people rule everywhere. But if they are so far removed from the machinery of government that they can enforce their rule only by revolution, their governing agents become despotic and corrupt. And to the degree that they are so removed, to that degree is despotism and corruption engendered. Our question, then, is not whether the people shall rule, for in the last analysis they do rule; it is whether they shall rule with a minimum of friction or with a maximum of obstruction—whether their governments shall respond to their will quickly and without disorder, or sluggishly and with culminating upheavals.

What a glorious response to this question was that of Norway and Sweden. Had the people's representatives in those countries decided the dispute, a devastating war might have resulted with its aftermath of international hatred. But when the people of Norway were allowed to decide directly through referendum, peace was assured and international friendship followed. Always and everywhere the principle works with similar effect. The greatest advances in government are where political forms make government sensitive to the popular will.

In the United States, for instance, the popular will sways government as it does not and cannot in Russia. The people of the United States live under political forms that admit at frequent intervals of expressions of their opinion. These forms for the most part are, indeed, crude and defective; but for ascertaining and executing the people's will, Russia has no forms at all. Consequently, although the people of Russia do govern, in the sense that Russia is what her inhabitants allow her to be, yet the obstacles in the way of their action have been such as to make their influence upon government so remote that it could be exerted for progress only through conspiracies and revolutions. Government in the United States is, therefore, more truly than in Russia, government by the people. But in this respect American government yields to British government. The "responsible system" dominant in Great Britain and her autonomous colonies, under which important questions are promptly though imperfectly referred to the people, and an administration in comparative harmony with the people's verdict comes into power as soon as that verdict is rendered, puts the British government more directly under popular control than any other great government on the globe.

Besides the direct effect of democratic forms in strengthening popular checks upon governing agencies, there is the secondary effect which I have already mentioned. It is of even greater importance, considered by itself, than the direct effect. This is the tendency of democratic forms to vitalize the civic spirit of the people. The more democratic the forms, the more general and vital will civic spirit become. If it is true that a people make their government—and as a primary conception it is true—then it is no less true that by reaction their government helps to mold their civic character. Democratic forms of government tend to make the spirit of the people democratic; despotic forms tend to make the spirit of the people disorderly.

For examples we need go no farther than to the countries already mentioned. In Russia until the recent terrific disorders, there was no orderly civic spirit; individual exceptions did not weaken the rule. Nor was there any civic intelligence

except the fantastic or the bookish. But in the United States there is civic spirit and there is civic intelligence. Our democratic inheritance from the free constitutions of old New England and the free thought of old Virginia still vitalizes American citizenship. Yet it must be conceded that in old England, whence our colonial democracy came, in "little England" which lighted the torch of liberty long before Magna Charta and has never allowed its blaze to die wholly down, in the England which to-day gives the world an example of representative government responsible immediately and directly to the people—it must be conceded that to that England (despite its imperialistic reactions, its pasteboard throne, and its tinsel crown), the civic spirit and the intelligence of the people are on the whole superior to those of our own fellow citizens. The American patriot who doubts may easily convince himself. Let him compare parliamentary debates with a debate in Congress, speeches at English elections with speeches at ours, the contents of popular English newspapers with the contents of popular American newspapers, or the common talk on public questions of the common people of both countries—let the thick and thin American patriot do this, and he will be satisfied. His patriotic pride may suffer, but his patriotic intelligence will be the gainer. Reacting upon the people, the more democratic forms of English government, as compared with those of the United States, have produced a superior and more general civic spirit and intelligence.

But England must yield in turn to Switzerland, where the forms of government are more democratic still. In Switzerland the people not only express their political judgment indirectly by voting for representatives, as in Great Britain and the United States; they express it also specifically whenever they wish to, by voting directly upon public measures. The preservation by the Swiss of their ancient democratic aspirations, symbolized in their legend of William Tell, is not to be accounted for, of course, by their present ballot method of direct legislation. But it certainly is to be accounted for in part by the cruder and more ancient mass-meeting methods, resembling the New England town meeting on which the ballot method is an improvement. There can be little doubt that the progressive action and reaction of democratic sentiment upon government, giving to it more and more the democratic form, and of democratic forms upon public intelligence and sentiment, elevating and strengthening them, have had much to do with putting the Swiss as a people at the head of the nations for civic spirit and civic intelligence.

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Let us take these lessons to ourselves. We cannot trust to our constitutional restraints upon legislation to improve the administration of our government and preserve the democracy of our Republic. While constitutions may embalm the dead public opinion of the past, they do not express the living public opinion of the present. Judges may indeed read into them from time to time the public opinion of the present, or possibly the opinion of a mere party or class, but at the best this is not enough. With only a constitution and a bench of judges between public opinion and representative power, public opinion is inarticulate. What the people need in order to make it vital and expressive, is freedom to choose legislative servants without investing them with despotic authority. Such freedom they would have were their sovereign powers over legislation restored. They could then instruct their legislatures on questions of public policy with instructions that must be obeyed.

This restoration can be accomplished through the Initiative and the Referendum. Shall it be done? We all appeal to public opinion as the court of last resort. The Initiative and the Referendum would make this court articulate. It is now only a speechless fetish, whose silent or incoherent mandates are interpreted by an interested political priesthood. Let us restore to public opinion the powers of speech of which it has been deprived. Let us allow public opinion to speak for itself and interpret its own commands. This would not abolish representative republicanism among us; it would perfect it. This would not be government by a mob; it would be government by an orderly democracy. This would not be a foreign innovation; it would be in the strictest sense an American evolution.

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Little Girl: Please, sir, mamma sent me back with this castile soap and says to tell you it won't raise a lather.

Grocer (examining substance): Let me see. Didn't you buy this the other day? Didn't you buy some cheese and some soap together? This isn't the soap.

Little Girl (light breaking in): O-oh! Then that's what made the rabbit taste so funny last night!—Boston Transcript.