the citizen in the free exercise of the right of suffrage?

If a legislature should enact a law prohibiting all publications or speeches favoring the adoption of the Initiative, Referendum, or Recall, would you deprive the courts of the right to hold such a law unconstitutional?

Go through the Constitutions of the various States and you will find all through them provisions restraining legislative bodies in the enactment of laws. Therefore, to abolish the right of the courts to pass upon the constitutionality of laws would be in effect to abolish the Constitutions themselves.

Under our form of government and under our written Constitutions it must always be the duty of the courts to pass upon the Constitutionality of laws enacted by legislative bodies, because they must at all times recognize the Constitution of the State as the highest law in the State. When an agency created by the Constitution and deriving its powers from the Constitution abuses that power and acts contrary to the prohibitions and restrictions therein laid down, then the courts must hold such acts void and enforce the Constitution as the highest law.

We must always remember that Constitutions are the fundamental laws of the State, adopted by the people themselves acting directly in their sovereign capacity; and that laws enacted by a legislative body are merely the acts of the agents of the people temporarily appointed to carry on the government in accordance with the directions and restrictions laid down in the Constitution and not contrary thereto.

If beneficial laws have been held unconstitutional by courts, it is not necessarily the fault of the courts, but may be the fault of the Constitutions in prohibiting such legislation; and it is possible that in a few instances the courts have misinterpreted the Constitutions and have held some laws unconstitutional which should not have been so held. In either case a remedy is at hand. If the so-called beneficial law is restricted by the Constitution, then the judges should most certainly not be recalled for holding it so; neither should their decision be referred; but the Constitution should be amended by the people in their sovereign capacity so as to remove the restriction against such beneficial legislation. Even if the courts have misinterpreted Constitutions, then it would be far better to amend the Constitution so as to make its meaning clear, than to recall the judge who rendered the decision.

We must always remember that the Constitutions are the legislative acts of the whole people; that is, all the people have a right to vote upon them, and as the majority of the people did vote for them they have become binding upon all the people; and when the courts enforce the Constitutions, they are carrying out the will of the people as theretofore expressed in such Constitutions. It may be that some Constitutions are difficult to amend, and it may be that some Constitutions contain restrictions upon legislation which they should not contain; nevertheless the Constitutions are the expressed will of the people, and we must presume that they understood and knew what they were doing when they adopted them. To say that they did not is to say that they are incapable of self-government. It must always be remembered that as the people adopted the Constitutions, so do the people have the right to alter, change, revise or amend their Constitutions. So it is no argument in favor of the Recall of judges because they hold laws enacted by legislative bodies unconstitutional, but rather in favor of the recall of the legislators who enacted such laws, or for the adoption of an easier method of submitting Constitutional amendments.

I have confined myself in this letter simply to State Constitutions because that is apparently the scope of Mr. Swan's article. As far as the general principles are concerned the same would be true of the United States Constitution. But by reason of its different manner of adoption, and the rules of construction governing it, it would have to be considered separately.

JOHN H. FRY.

NEWS NARRATIVE

The figures in brackets at the ends of paragraphs refer to volumes and pages of The Public for earlier information on the same subject.

Week ending Tuesday, March 19, 1912.

British Coal Miners' Strike.

After a three-hours' joint conference on the 12th, representatives of both sides in the British coal-mining strike adjourned for the day without having reached an agreement. The Prime Minister presided. It appeared from the dispatches that the difficulty then in the way was the refusal of the owners of Scotch and Welsh coal deposits to join the owners of the English deposits in fixing a minimum wage. The conference of the 13th was equally fruitless except that its adjournment for the day was expressly for the purpose of considering "certain proposals made by the Prime Minister." Subsequent sessions appear, however, to have produced no result; and dispatches of the 15th announced failure and termination of the joint conference, supplemented with an official statement by the Prime Minister, who said: "The Government has done all in its power to obtain a settlement of the controversy by an agreement, and it has come to the conclusion, with great regret, that this is impossible and that other measures must therefore be taken." The same dispatches reported, though unofficially, that "the Government's minimum-wage bill will be read in the House of Commons Tuesday, hurried through the various stages, and probably become a law by the end of the week." Such a bill appeared from subsequent dispatches to have been drawn by Lloyd George and to have been approved on the 16th by the Cabinet. It was introduced in Parliament by the Prime Minister on the 19th. He explained that the measure was only a temporary one, whose specific purpose was to settle the present difficulty. It will be effective only three years

unless the coal industry wishes to prolong it. A reasonable minimum wage for the miners, with safeguards to protect the owners against slackness and deficiency of output, will be settled by district boards. The minimum will be retroactive, the men being paid from the date of their return to work at the rate of their return to work at the rate subsequently fixed by the district boards. [See current volume, page 250.]

The Coal Strike in Germany.

In the Westphalian district 200,000 miners were reported on the 12th as on strike, and on the 13th 240,000, with indications of wider extension. Repressive police action had by that time brought on conflicts between policemen and strikers. Dispatches of the 19th reported that leaders of the miners unions decided at their meeting at Bochum on that day to end the strike. [See current volume, page 251.]

Probable Coal Strike in the United States.

Negotiations between miners and the owners of coal deposits in the United States for renewal of their contract, which expires March 31, have given rise to a situation which the president of the miners' union described on the 13th as looking "very blue" with indications pointing to a strike. Better terms, including 20 per cent increase of wages and a one-year's agreement instead of three years', were proposed by the miners, and this proposal the owners' union rejected on the 13th, with a counter proposal that the present agreement be renewed for three years. [See vol. viii, p. 853; vol. xii, p. 445; vol. xiii, pp. 83, 321; vol. xiv, p. 806.]

Free Sugar.

By a vote of 198 to 103, the lower House of Congress passed a bill on the 15th abolishing all taxes on the importation of sugar into the United States. It is calculated that if this bill becomes a law the price of sugar will be reduced a cent and a half a pound, and that the annual loss to the Federal revenues will be $53,000,000. Party lines were crossed in the vote on the bill. Democrats voting against it were Estopal, Wickliffe, Dupre, Rondsell and Broussard of Louisiana, and Martin and Taylor of Colorado; while the Republicans voting for it (24 in all) included Lindberg of Minnesota, Murdock of Kansas, La Follette of Washington, Kent of California, and Norris of Nebraska. Four of these Republicans were Standpatters, and 20 were Progressives. To make up the revenue loss on free sugar, a bill came before the House for imposing an excise tax (conformably to the Supreme Court decision in the corporation-tax cases) of 1 per cent on the incomes of corporations, firms or individuals which reach or exceed $5,000 a year. This bill was passed in the House on the 19th by 249 to 41. [See vol. xiv, p. 255.]

Direct Legislation in the Ohio Constitutional Convention.

Having decided on the 11th that instead of submitting to the people a new Constitution, the policy of the convention shall be—

to submit all of the proposals which shall pass, to the electors in the form of separate amendments or in groups under a common title,—

the Constitutional Convention of Ohio took up on the 12th the measure for the Initiative and Referendum. [See current volume, page 253.]

Mr. Crosser, chairman of the committee on Initiative and Referendum, reported the measure substantially as outlined in these columns last week, with the recommendation of the committee that it pass. On the 13th, the controversy having gone over to that day, Mr. Halfhill led the opposition with amendments increasing the number of signatures necessary for Initiative and Referendum petitions, and Mr. Lampson led it on another tack with a motion proposing the following amendment:

The powers defined herein as "the Initiative" and "the Referendum" shall never be used to amend or repeal any of the provisions of this paragraph, or to enact a law to adopt an amendment to the Constitution authorizing a levy of the single tax on land, or taxing land, or land values, or land sites, at a higher rate or by a different rule than is or may be applied to improvements thereon to personal property or to the bonds of corporations other than municipal. Such powers shall never be used to enact a law or laws redistricting the State for Representatives in Congress or redistricting the State for members of the General Assembly, or changing the boundaries of judicial districts.

No conclusion had been reached when the Convention closed its sessions for the week.

Bryan Before the Ohio Constitutional Convention.

In speaking upon invitation before the Constitutional Convention of Ohio on the 12th, William J. Bryan advocated the Initiative, Referendum and Recall. On that point he said:

The Initiative and the Referendum do not overthrow representative government—they have not come to destroy, but to fulfill. The purpose of representative government is to represent, and that purpose fails when representatives misrepresent their constituents. Experience has shown that the defects of our government are not in the people themselves, but in those who, acting as representatives of the people, embezzle power and turn to their own advantage the authority given them for the advancement of the