Primary League of Maine. Several months were spent in the study of the legislation and experience of other States, and finally a bill was formulated with great care and especial reference to conditions and customs in Maine. Shortly afterwards both the Republican and the Democratic State conventions adopted platforms containing direct primary planks.

But the friends of the direct primary wisely placed little reliance upon those convention resolutions. They set out, instead, to invoke the Initiative clause of the Constitution. To do that it was necessary to secure the signatures of not less than 12,000 legal voters. Both the State Grange and the Federation of Labor co-operated, and the task was finally accomplished with the expenditure of only a few hundred dollars.

When this bill and petition were introduced in the legislature, as required by the Maine system, the politicians paid no more attention to it than they had before. They did pass an apology for a direct primary law, however, to make the people think they had lived up to their platform. Under the Maine Constitution our bill then had to go to the people, and the Governor called the special election upon it for the same date as that set for the referendum on the rum question.

We did very little campaigning, but considerable literature was distributed among the voters explaining the bill and its probable effect upon Maine politics. Evidently the politicians didn't care to buck anything backed by both the Grange and organized Labor, so they all kept quite aloof. The vote was taken September 11th, and although the returns are not quite all in, they show a vote in round numbers of 60,000 for the bill to 20,000 against. We "Maniacs" rather think that now we shall be able to handle our politicians and public servants.

The real lesson in it all is that without the direct legislation amendment to our Constitution, which was adopted in 1908, the will of our people would probably have been thwarted for years to come.

CHRISTOPHER M. GALLUP.

INCIDENTAL SUGGESTIONS

HOW TO PULL THE SUPREME COURT'S TEETH.

Grand Rapids, Mich.

Whatever may be thought of the merits of Victor Berger's old age pension bill itself it must be conceded by all who reject the "judicial infallibility" dogma, that the Socialist Congressman has by the introduction of this measure incidentally performed a great public service by dealing a body blow not only to this heresy but to the more dangerous one of judicial supremacy and irresponsibility. Reference is here had to the last section of the Berger bill,* which runs:

> That in accordance with section a, article 3 of the Constitution, and the precedent established by the act of Congress passed over the President's veto March 27, 1868, the exercise of jurisdiction by any of the Federal courts upon the validity of this act is hereby expressly forbidden.

*See on same subject in The Public, current volume, pages 842, 874.

The clause of the Constitution referred to provides that "In all cases affecting ambassadors, other public ministers and consuls, and those to which a State shall be a party, the Supreme Court shall have original jurisdiction;" but that in all other cases "the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as Congress shall make."

Four times the Convention of 1787 refused to insert a clause in the Constitution giving the Supreme Court power to annul acts of Congress. But the Supreme Court has repeatedly exercised this power; and it has for years been generally accepted as a fact that Congress was helpless to resist judicial usurpations by that tribunal—that the Supreme Court, in fact, had become, through gradual, insidious encroachments, the sovereign and irresponsible power. When it has been proposed in Congress to curtail or regulate injunction jurisdiction in certain cases, and to provide for jury trials in contempt cases not committed in presence of the court, the claim has been strenuously set up that this would be an unconstitutional encroachment on the functions of the judiciary of which the Supreme Court would and should make short work.

There seems to be no question, in the face of the foregoing Constitutional provision, of the ample power of Congress to regulate, limit or exclude Supreme Court jurisdiction except in the comparatively few cases where it is original. But, as Mr. Berger points out in his speech in defense of this section of his bill, the United States Supreme Court, by unanimous decision, given by Chief Justice Chase April 12, 1868, has expressly upheld this power of Congress. Mr. Berger thus states the occasion of this decision:

> Congress on March 27, 1868, enacted over President Johnson's veto, a law prohibiting the Federal courts from passing on the validity of the Civil War reconstruction laws. The cause of this defiant act of Congress was the fact that the Attorney General had expressed the opinion that these acts were unconstitutional, and had therefore refused to appear against one McArdle of Mississippi, who had an appeal for a habeas corpus writ before the Supreme Court, he having been arrested by the military authorities for newspaper criticisms of their conduct.

In sustaining the validity of this act of Congress the Supreme Court said: "The appellate jurisdiction of this court is, strictly speaking, conferred by the Constitution; but it is conferred with such exceptions and under such regulations as Congress shall make." Further on the Court says: "It is quite clear, therefore, that this court cannot proceed to pronounce judgment in this case, for it has no longer jurisdiction of the appeal, and judicial duty is not less fully performed by declining ungranted jurisdiction than by firmly exercising that which the Constitution and law confer."

It is surprising that a Congressional and judicial precedent of such far-reaching scope as that brought to the front by Mr. Berger has been practically ignored by nearly all the daily journals of the country. For, under this unanimous Supreme Court decision, Congress has unquestionably power not only to prohibit that court from nullifying any act of Congress except by a unanimous bench (as provided in a pending bill), but likewise to prohibit it from

declaring unconstitutional any or every act of Congress now subject to its appellate jurisdiction.

By its refusal to grant the Supreme Court a veto on acts of Congress the convention of 1787 prohibited the exercise by that tribunal of such power, for "all powers not granted by the Federal Constitution to the United States"—whether to its judicial, legislative or executive departments—are forbidden. Nevertheless, the Supreme Court, under the regime of that rank Federalist, Chief Justice Marshall, author of the indefensible Dartmouth College decision, early usurped this denied authority. And the wonder is that Congress and the country, with this ample Constitutional remedy at hand, should have so long submitted to this judicial usurpation.

Why these important and far-reaching precedents, now brought into the limelight by Mr. Berger, have been ignored by Congress and the country for more than 40 years, it is not easy to explain. Neither is it easy to explain why, now that he has resurrected them, they are still given little or no attention by the press of the country.

W. M. H.

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, September 19, 1911.

Premier of Russia Assassinated.

Peter A. Stolypin, President of the Council of Ministers since 1906, and Minister of the Interior, of the "Empire of all the Russias," was assassinated while attending a gala performance of the opera in the city of Kiev on the evening of the 14th. The Czar was present at the opera at the time of the shooting, having come to Kiev to be present at the unveiling of a monument to Czar Alexander II, which had taken place in the afternoon. He had also received deputations from the new western Zemstvos, and had given a reception to the nobility, previous to the special performance of the evening which was to mark the close of the festivities. Mr. Stolypin received two wounds. One bullet cut his hand, and another grazed the liver and lodged in the spine. The assassin was instantly apprehended, and was found to be a Jewish lawyer named Dmitri Bogroff, who seems to have been playing a double part between the police and the revolutionists. He was in the confidence of police officials and gained entrance to the opera house as a police spy. It was hoped for a day or two that Mr. Stolypin's life might be saved, but peritonitis set in and he died on the 18th. The Jews of Russia are panic-stricken, fearing retaliatory massacres. Thirty thousand troops have been poured into Kiev to prevent excesses. Mr. Kokovsoff, minister of finance, who was appointed acting Premier after Mr. Stolypin was shot, has sent a peremptory circular to the various governors on the maintenance of order. This was the fourth attempt on Stolypin's life in five years. The Chicago Record-Herald of the 16th thus summed up Stolypin's relation to the different political groups of Russia:

Stolypin is hated by the Leftists and feared, suspected and denounced by the extreme Rightists. The Black Hundreds call him traitor. The advanced Liberals detest him. Even the mild Octobrists have had to rebuke and repudiate him. The upper house of the Russian "parliament" passed resolutions of censure against him. The Douma has thundered and condemned him. The grand dukes regard him as an enemy. But the Czar feels that he needs Stolypin and has on several occasions prevented him by personal appeal from resigning office. Stolypin is chiefly identified with intense nationalism, the movement to substitute private peasant ownership of land for communal ownership, and opposition to violence and crime as means of reform. Only the Moderates and the commercial elements spport him.

On the 19th the same paper expressed the view "that he was a Conservative with Liberal leanings who sincerely believed that Russia was not ripe for genuine constitutionalism." [See current volume, page 301.]

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Strikes and Food Riots in Europe.

Spain is suffering severely from strikes which may lead to revolution. There are general strikes at Bilbao and Saragossa, and partial ones at Huelva, Cadiz, Valencia, Seville and Gijon. Mobs of strikers aided by socialist and republican agitators have been in conflict with the soldiery in several cities, with fatal results. On the 19th the inhabitants of the towns of Alcocer and Carcagente, near Valencia, revolted, drove out the authorities and proclaimed a commune. On the same day the King suspended constitutional guarantees throughout the nation. [See current volume, page 855.]

✣

In Italy, at Parma, mobs of striking bricklayers were fired upon by soldiers on the 14th.

✣

In France the war against the high prices for food, which had been languishing for a few days, owing to vigorous precautions of the authorities or the palliative measures of the mayors in establishing municipal butcheries and food depots, burst forth afresh on the 12th with riots at Saint Etienne and Cherbourg, and on the 13th at Creil and Charleville. At the two latter places troops charged the crowds and large numbers were injured. [See current volume, page 933.]

✣

Similar food riots have broken out in Austria. At Vienna, on the 17th, the mobs destroyed property and built barricades, throwing missiles at the soldiers sent against them, and crying, "We want