

with their landed possessions, and Mr. Lewis has them struggling with capitalists "during the greater part of the nineteenth century." They lost only the serfs. Their economic power lies in the land, and this has not been overthrown.

DIRECT LEGISLATION,

(For the Review.)

By JOHN Z. WHITE.

Important social changes result from social necessity, but the sort of change made is determined by the quality of men involved in the undertaking. Conditions in the United States just before the constitutional convention of 1787 made change necessary. The articles of confederation had proved to be inadequate. But had the men who sat in that convention as delegates been of different mental habit our constitution would be other than the tory document that it is.

In like manner to-day change is certain, but just what change will occur will depend upon the sort of men that will be instrumental in the work.

The first social need is peace, or defense from robbery. This being secured by a more or less virtuous and vigilant police power, the matter of a sufficient revenue is vital, as without it even the police power cannot be maintained.

Various revenue systems have been advocated and practiced. None thus far has proved satisfactory. In spite of their various names, all serious students will agree with Alexander Hamilton that we must tax either commerce or land. In truth we tax men only, but shall we tax them in proportion to the value of the land they hold or in proportion to the value of other holdings (that is, as Hamilton said, "commerce"). It was agreed by the constitutional convention that the revenue of the United States should be mostly drawn from commerce. We have pursued this method. The result is plain. The inevitable classes are here. The very rich—the very poor.

Our government frame work, like that of Britain, is calculated to secure the end achieved. Its chief feature is a separation of the people from the real powers of government. The electoral college was intended to stand between the people and the presidency. The senate and judicial power are still beyond the people's direction. The House was meant to represent the people, but no ultimate power was placed in its hands.

Our government is tory in structure, but there has been a continual pressure for more democratic methods. The electoral college has been reduced to a merely clerical function. The senate and even the supreme court have found it convenient to be moderate at times. The states have enlarged their constitutions in attempts to check the aggression of officials, until many of the documents have become little else than statutes.

From a government tory in form democratic results may not reasonably be hoped and have not been secured. The pressure for fuller expression of the people's will however has finally evolved an orderly method of direct legislation, which is in operation in several states, among them Oregon, Oklahoma and Missouri.

The referendum seems generally to be misunderstood. People apparently believe it to be something strange—a new device, whose merits and demerits are vague and uncertain. In truth it is a plan universally followed in all parliamentary bodies. Without it parliamentary law is impossible. Its absence from legislative assemblies is possible only through the substitution of that meanest and most irritating of all tyrannies, the rule of the gavel.

The referendum and the initiative are the means by which self-government is secured by any group of men, under any conditions whatsoever. Interference with these is just so much subtracted from the fact of self-government.

In deliberative bodies a chairman is selected to preside. His duty is upon demand to enforce the rules that may be adopted. If any decision rendered by him is thought to be in violation of these rules any member may appeal from such decision to the whole body. This is the referendum. In the absence of this right of appeal, the presiding officer practically can do what he pleases.

If a member wishes action on any matter, he makes a motion to that effect, and this, on receiving the support of a second member, is placed before the body for consideration and adoption or rejection. This is the initiative. In the absence of this right to "move," members are without power to act.

If the people of a city, state or nation, are in truth to be self-governing it seems inevitably to follow that they must have at hand the means of making the government do their bidding. The people of the city of Chicago, for instance, voted in favor of public ownership of their street car system, but their board of aldermen were long able to thwart the popular desire. The people of Philadelphia, and many other places, have repeatedly found themselves unable to achieve their wish. To many, self-government has come to be looked upon as an iridescent dream.

This pessimistic view arises from the fact that we are possessed of but part of the necessary machinery of self-government. We are like an engineer who has all essentials save the governor. His engine will "go" but its action is beyond orderly control.

The initiative and referendum are called direct legislation. That is, just as in any deliberative body, if the usual machinery does not produce desired results, the body can act directly. So, if our city, or other government does not act rightly, the body of the people, when possessed of the machinery of direct legislation can act, or legislate, directly. Without this power they are not really self governing.

It is proposed, therefore, to give to a certain percentage of the qualified voters in any political body the power to prepare and present petitions for proposed laws to the whole body of voters. This is the exact equivalent of a motion in any club or society, save that a considerable number of "seconds"

is required. That is, each signer of the petition really "second's" the motion to adopt the matter proposed in the petition. Such action is the initiative.

It is sometimes said that the people need only to elect officials favorable to such action, and that thereby all need for the device known as the initiative will vanish. The fallacy in this position comes from the fact that our officials have many duties. An officer may be highly esteemed and very satisfactory in nearly all relations, but at the same time be quite at variance with the people on some question held by them to be important. Why shall we maintain a system that either deprives us of an efficient officer, or of a measure that we believe to be expedient.

An officer was elected by a majority of two to one, although he declared himself opposed to a policy that the same constituency favored by a vote of three to one. The opposing candidate, meanwhile, had declared in favor of this policy. The explanation is simple. Other issues were, in the opinion of the voters, sufficiently important to force this matter into the background. If possessed of the power to initiate legislation, the voters could have enjoyed the services of the officer they desired, and also secured the adoption of the policy they preferred. They were, in fact, but partly self-governing.

It is also proposed that the people shall have power, expressed by petition, to promptly propose the defeat of acts of legislation deemed by them to be unwise. If a measure has been enacted by the legislature, a petition may be prepared within a stated time (perhaps 90 days) and signed by the given percentage of qualified voters whereupon it shall be submitted to the people for adoption or rejection. This is exactly equivalent to "an appeal from the chair." The matter may be placed before the people at a special election or at the next general election.

It is sometimes urged that under such a plan the people would be voting all the time and on all manner of questions. In fact, the referendum, where adopted, is seldom resorted to. Legislators are careful when they know the people can reverse their doings; and, very much more important, lobbyists are not inclined to use their peculiar powers of persuasion on members of legislative bodies when they know there are watchful citizens intent upon the defeat of their nefarious schemes, and with full power to defeat them if the people so will.

Legislators are usually elected for two years, and the people, who are the principals, have no control of their agents save by criminal or impeachment proceedings—and constitutional guarantees, which are subject to court interpretation. Would any rational business man give to an agent or agents complete control—equal to an irrevocable power of attorney—of his establishment for two years? If he continued this practice with no power save to change his attorney every two years, how long would his establishment continue to be his property?

The referendum will not only cure legislative rascality, but in even greater degree operate as a preventative. Would a railroad corporation bribe a legislative body to enact injurious monopoly laws if it knew the people would

in all probability rescind such act within a few weeks or months? It would not pay. They would merely lose the money paid for legislative privileges.

With the initiative and referendum the will of the people cannot be thwarted by indirect methods. In the legislature "pigeonholing" and obscure amendments frequently divert or even reverse the effect of a law as first introduced. A bill on being presented to the legislature is referred to a committee. Unless those interested in its adoption are sufficiently powerful to overcome any opposition that may appear the bill is never heard of again—it is "pigeonholed." If forced from the committee and its enemies cannot outvote its friends, it may be placed so far down on the list of bills that the day of adjournment arrives before it is acted upon. Failing to stop the bill by these methods amendments are prepared and it often happens that a few members are (or profess to be) convinced the amendments are desirable when in fact they render the whole bill useless.

If the bill finally gets through one house it must travel the same course in the other. Failure of the two houses to agree often leads to a conference committee from both—with of course another opening for clever minds.

After all this, the bill may still be vetoed. Later it must run the gauntlet of the courts.

All of these indirect methods of obstruction are avoided by the initiative. A bill properly signed and filed goes to the people without obstruction. All opportunity to deceive or poison is eliminated.

Direct legislation is merely the application to our public affairs of those methods that experience has shown best suited to attain the end desired. That end is self government. Do we want self government? It sometimes seems problematical. Capable men who oppose direct legislation can explain their attitude only on the ground that the people in their judgment, are not capable of managing their own affairs. Such men are Tories. They have no proper place in the American scheme of government.

If it be held that we have conducted this government for above a century without direct legislation and that we may safely continue "in the path our fathers trod," we would call attention to the fact that in nothing else are we satisfied with the ways of our fathers. They used the ox cart—we don't. Just as we have improved on our father's mechanical appliances, without violence to the principles of mechanics, so it may be possible to improve on governmental machinery without in any way altering the correct principles of government with which we were dowered.

The principle of the first locomotive is identical with that of the last. The changes have all been in the elimination of defective methods in detail, to the end that the essential principle involved might be more fully realized. Why is it not the part of wisdom to eliminate like defective details in the machinery of our government?

Again, when we remember that for the first time in history self-government on a large scale is attempted in America, is it at all surprising that the

machinery first installed is defective in detail? Would it not be profoundly astonishing if that machinery were not defective?

We are supposed to possess popular self-government. But in fact the hindrances to its realization are so many as to cause a considerable percentage of our voters to despair. Capable men, who are earnest in their studies and in their effort to improve existing conditions, are heard to declare that representative government has proved a failure. That these men are hasty is no doubt true; but, on the other hand, the evidence of seemingly almost fatal defects in our governmental machinery is overwhelming.

Why was it necessary to battle so many years in order to secure the interstate commerce commission? Was it not because the people had no means by which they could directly express themselves on that one question? The people must express themselves through representatives, and these have many duties to engage their attention.

The resulting situation is that the representatives are not under positive command to do any one particular thing—are not even certain as to the desires of their constituencies. These conditions inevitably give to political machines a controlling power, that, among a truly self-governing people, should reside with the voters alone. We have no reason whatever to despair of popular self-government until it shall first have had full and adequate trial under the most favorable circumstances, or in conditions giving the people every opportunity, when in their judgment the need arises, to completely control governmental action.

The intent of our governmental structure is right. Its defects are wholly in the details of administration. These are not of uncertain or indefinite character, but easily perceived, and as easily understood. So long as city or state legislative bodies may grant a privilege in highways—commonly known as a right-of-way—and the courts continue to declare such grant to be a contract, thus placing it beyond the reach of sovereign states, the people are helpless, unless we secure possession of the machinery for direct legislation.

Why should any man who believes in popular self-government hesitate to claim the right to review legislative action? Does he not know what he desires the legislature or the city council to do? If he does not, why does he vote?

Let us then recognize the very evident fact that the machinery originally installed for the realization of popular self-government is in some respects insufficient for the intended purpose. Let us observe that this insufficiency has been fully overcome by the commonly known and plainly correct methods of customary parliamentary law.

Having arrived at a clear knowledge of the simple remedy for the difficulty let us demand that it be applied—and at once. We demand the initiative, that we may carry our will into effect when legislative bodies fail or refuse to act. We demand the referendum, that we may resist legislative action when contrary to the popular will.

In other words we demand the continuance of representative government

with optional direct legislation. We want representative government as a mere matter of convenience—but demand direct legislation as our natural and inalienable right.

Again, such a step is in accord with previous action. The electoral college was originally designed as a representative body, whose duty was the naming of a chief executive from among certain selected citizens. This body was soon reduced to a merely clerical position, with the result that, in the matter of selecting their chief executive, the people now possess the initiative. If the citizens of the United States desire a particular man to act as president, no one may say them nay. Would any considerable number of our people favor curtailing popular power in this direction? On the contrary, is there not an ever-increasing demand for the election of United States senators by popular vote?

Tories everywhere oppose the rule of the plain people. The claim is set up that they are incompetent. So said Charles 1, so said Louis XVI. So say all tories to-day. And yet the world's history bluntly tells the story of meanness, misery and fraud wherever power has been placed with the few, while peace, good will and joy have ever attended those peoples whose governments were equally participated in by all.

There be those, even among democrats, who, fearful of error on their own part, seek to lean on some one thought to be more capable. To these we commend a few words from a speech in New York by Justice David Brewer of the United States Supreme Court—which position we trust carries sufficient "dignity" to satisfy the most fastidious.

"The two supreme dangers that menace a democratic state are despotism on the one hand and mob rule on the other—the more constant and universal the voice of the people makes itself manifest, the nearer do we approach to an ideal government.

The initiative and referendum make public opinion the controlling factor in government. The more promptly and the more fully public officers carry into effect such public opinion, the more truly is government of the people realized."

REPLY TO JAMES S. PATON.

(For the Review.)

By WILLIAM G. WRIGHT.

The essay by Mr. James S. Paton in Sept.-Oct. REVIEW on "Competition and the Law of Supply and Demand" contains much that is of value. Particularly interesting is his criticism of both the orthodox and the Georgian theories of the laws that govern the distribution of wealth between landlords, laborers and capitalists. But in the development of the theory which he