SHALL THE PEOPLE BE TRICKED OUT OF THEIR POWER TO RULE?

The warfare of the allied reactionary corporation and political interests to prevent the successful establishment and permanence of the initiative and referendum in American States and cities has been directed along four general lines:

1. To prevent their introduction at all.
2. To have them declared "unconstitutional" by the courts.
3. To induce legislatures to insert "jokers" in proposed amendments which would render them unworkable when secured.
4. To break them down after they are secured.

In Missouri, for example, the legislature has submitted, in the place of the good one now in force, a substitute amendment, which, if adopted, will practically kill the initiative and referendum in that State.

REMARKS

OF

HON. ROBERT L. OWEN

OF OKLAHOMA

IN THE

SENATE OF THE UNITED STATES

AUGUST 20, 1914

PRESENTING A STATEMENT BY THE

NATIONAL POPULAR GOVERNMENT LEAGUE

ENTITLED

THE NATION-WIDE ATTEMPT TO DESTROY THE EFFICIENCY OF THE INITIATIVE AND REFERENDUM

WASHINGTON
1914

58178—13871

REMARKS

OF

HON. ROBERT L. OWEN.

SHALL THE PEOPLE BE TRICKED OUT OF THEIR POWER TO RULE?

Mr. OWEN. Mr. President, the assaults being made upon the initiative and referendum throughout the Nation merit the careful attention of every American citizen who believes in popular government and genuine majority rule.

Direct legislation is now in operation in 15 States, and its adoption is a vital issue in many others. Its advance is, of course, bitterly opposed by the special interests. But not content with combating the further extension of the initiative and referendum, various corrupting corporations and the corrupt political machines under their influence or control are determined to destroy these instruments of self-government in States which have already secured them.

In Missouri, for example, the legislature has submitted, in place of the excellent provision now in force, a new substitute amendment which will, if adopted, practically kill the initiative and referendum in that State. The people of Missouri are not aware of the true character of the proposal made to them.

They are being asked to support a deceptive substitute, on the grounds that it will prohibit the initiative from being applied to the single tax. *As a matter of fact, they are being asked to renounce the sovereign control which they now possess over the lawmaking function, forfeit the powers they gained after years of struggle, and once more place the State legislature in supreme control over themselves.*

In Montana the supreme court has recently been asked to invalidate, upon absurd technicalities, an initiative and referendum amendment adopted by the people of that State in 1906.

In Arkansas the supreme court has by unfriendly decisions destroyed a great part of the amendment adopted in 1910.

In Washington the organized farmers and workingmen have found great difficulty, under the unjust and arbitrary conditions imposed by the legislature, in securing petitions for laws desired by them. Even after petitions have been secured, the State officials are seemingly making every effort to keep these questions off the ballot—questions which the special interests do not want submitted to the people.

In Oregon an attempt is being made to secure the passage of a law which will render it almost impossible to secure petitions. In Colorado Gov. Ammons has declared himself in favor of inhibitive restrictions. Like attacks might be mentioned in other States.

Mr. President, the cause of this sinister warfare against the people's new-found liberties is not far to seek. Many laws of the highest importance to equalize opportunity, to conserve, protect, and develop human life and human energy are urgently

needed. Those great objects are to be accomplished by a series of measures involving social and industrial reforms. There is in reality a political struggle being waged between the masses of the people and the organized forces of human selfishness, which have systematically glorified the acquisition of property at the expense of human life and happiness.

It is the failure of representative government to give the people what they want that has caused the people of several States to demand and secure the initiative and referendum. A demand for direct legislation is being made by the people of every State. This movement the forces of reaction are determined to overthrow; if not openly, then by betrayal. This is the explanation of all these amazing attempts to prevent true self-government from being established in this Republic, founded upon the principle of the sovereignty of the people. This is why men who claim to reverence Thomas Jefferson and Abraham Lincoln bend their energies to subvert and annihilate methods of government which embody the very essence of every principle for which those great exponents of government by the people stood. I deem it a public duty to expose upon the floor of the Senate this attack upon popular government, and I desire to insert as a part of my remarks a statement upon this subject prepared by the National Popular Government League, of this city, which sets forth in detail the methods now being employed to destroy the initiative and referendum and block the efforts of the American people to attain true political liberty.

If there is no objection, I should like to insert that in my remarks.

The PRESIDING OFFICER (Mr. PITTMAN in the chair). Without objection, it will be so ordered.

The matter referred to is as follows:

THE NATION-WIDE ATTEMPT TO DESTROY THE EFFICIENCY OF THE INITIATIVE AND REFERENDUM.

A statement prepared by Judson King, executive secretary of the National Popular Government League, and individually reviewed, accepted, and approved by the following officers of the league:

President: Hon. ROBERT L. OWEN, United States Senator, Oklahoma.

Vice presidents: Charles S. Barrett, Union City, Ga., president National Farmers' Union; Hon. GEORGE E. CHAMBERLAIN, United States Senator, Oregon; Hon. MOSES E. CLAPP, United States Senator, Minnesota; Samuel Gompers, Washington, D. C., president American Federation of Labor; Dr. John R. Haynes, Los Angeles, father direct legislation in California; C. B. Kegley, Palouse, Wash., president National Conference of Progressive State Granges; Hon. M. CLYDE KELLY, Congressman, Pennsylvania; John P. White, Indianapolis, president United Mine Workers of America.

Of the finance committee: George P. Hampton, chairman, New York, secretary Farmers' National Committee on Popular Government; Hon. WILLIAM E. CHILTON, United States Senator, West Virginia; Carl Schurz Vrooman, Bloomington, Ill., author "American railway problems."

Of the executive committee: Hon. Frank P. Walsh, chairman, Kansas City, Mo., chairman Federal Commission on Industrial Relations; Prof. Lewis J. Johnson, Cambridge, Mass., civil engineering, Harvard University; Dr. A. J. McKelway, Washington, D. C., southern secretary National Child Labor Committee; Hon. GEORGE W. NORRIS, United States Senator, Nebraska; the president and executive secretary of the league.

Of the committee on legislative forms: William S. U'Ren, chairman, Oregon City, Oreg., father of the "Oregon system"; Hon. ROBERT CROSSER, Congressman, chairman initiative and referendum committee, Ohio constitutional convention; Hon. Joseph W. Folk, Washington, D. C., ex-governor of Missouri, solicitor Interstate Commerce Commis-

sion; Francis J. Heney, San Francisco, attorney at law; Stiles P. Jones, Minneapolis, secretary the Voters League; Dean William Draper Lewis, Philadelphia, law school University of Pennsylvania; Dr. Charles McCarthy, Madison, Wis., director legislative reference library; Milton T. U'Ren, San Francisco, attorney at law; Delos F. Wilcox, Ph. D., New York, consulting franchise expert, author "Government by all the people."

The warfare of the reactionary allied corporation and political interests to prevent the successful establishment of constitutional amendments and statute laws for the initiative and referendum in American States and cities has been directed along four general lines:

FIRST. TO PREVENT THEIR INTRODUCTION AT ALL.

It took 10 years of strenuous fighting in Oregon to secure direct legislation, 12 years in Missouri, 18 years in Ohio, etc. After 22 years of effort since the popular demand began, only 17 States have amendments, such as they are.

SECOND. TO HAVE THEM DECLARED "UNCONSTITUTIONAL" BY COURTS.

The Morgan interests carried a case to the Supreme Court of the United States in an effort to have the Oregon amendment—and hence all amendments—declared "repugnant to the Federal Constitution." The court decided in 1911 that it was a political question for Congress to determine. And Congress has kept hands off. Attacks of like character have been made in nearly all State supreme courts.

THIRD. TO INDUCE LEGISLATURES TO INSERT "JOKERS" IN PROPOSED AMENDMENTS WHICH WOULD RENDER THEM UNWORKABLE WHEN SECURED.

Of the 17 amendments adopted, only 8 can be called *good*. And there are only 4 honest, adequate, complete systems in operation to-day. The rest are all defective at vital points, and some are absolutely worthless. Six proposed amendments will be voted on November 3, 1914. Four of these are worthless.

FOURTH. TO BREAK THEM DOWN AFTER THEY ARE ESTABLISHED.

An account of attacks of this character is the subject of this writing. In nearly every State which has direct legislation the interests are constantly at work to destroy them or prevent their use *on vital issues*. The courts are appealed to, the legislatures are seduced, and even the people themselves are asked—not to repeal the initiative and referendum, the interests are too clever for that, but to vote for innocent-looking changes in the amendments which will deprive the people of practical power to control the lawmaking function of their government.

It is these "jokers" which shear the voters of their power and against them all champions of government by the people should be on their guard. An abortive initiative and referendum is worse than none at all.

MISSOURI.

One of the cleverest attempts to deprive the people of a great State of the powers they now possess under the initiative and referendum is furnished just now by Missouri.

In 1912 an amendment to the State constitution proposing a mild application of the principle of the single tax was placed upon the ballot by initiative petition, and, after one of the most bitter and sensational campaigns of its kind ever known in the State, was defeated by a vote of 508,137 *against* to 86,647 *for*. The total vote for governor was 699,210; hence 85.1 per cent voted on the proposition. So great was the opposition to the measure that a very considerable demand was made upon the legislature to make it *impossible for the single tax to be again initiated. That was all.* There was no demand from the people that the use of the initiative and referendum on other questions be impaired or prohibited.

The legislature of 1913 submitted an entire substitute initiative and referendum section to be voted upon at the general election, November 3, 1914, which contains a clause prohibiting

the initiative and referendum from being applied to the single tax; *but it did not stop with this.*

Several other new provisions were inserted which, if adopted, will render it easy to stop the use of the initiative and referendum *on any subject whatever* which may meet with any powerful opposition.

THE OPEN RESTRICTION.

What might be called the antisingle-tax section is as follows:

The powers reserved or contained in this section as aforesaid shall not be used to pass a law or constitutional amendment authorizing any classification of property for the purpose of levying the different rates of taxation thereon, or of authorizing the levy of any single tax on 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, or to personal property, or to authorize or confer local option or other local powers in matters of taxation in or upon any of the counties, municipalities, or political subdivisions of the State, or to repeal, amend, or modify these provisions relating to taxation.

This is a remarkable proposition.

Not only are the singletaxers tied up tight, but everyone else, no matter how hostile to the single tax. The principle of property classification is not the single tax, but is urged by bitter antisingletaxers. The principle of home rule in taxation is not the single tax. Even the Supreme Court of the United States, which can not be said even to have single-tax leanings, declared (Pacific Express Co. *v.* Seibert, 142 U. S. Repts., 351):

A system which imposes the same tax upon every species of property, irrespective of its nature or condition or class, will be destructive of the principle of uniformity and equality in taxation, and of a just adaptability.

PEOPLE POWERLESS TO CHANGE THIS.

The people are thus asked to surrender any practical control over the function of taxation; but, what is more, they are specifically cut off from ever recovering control if they so desire. They can not use the initiative and referendum to "amend, repeal, or modify these provisions relating to taxation." If the old adage be true, that the power to tax be the power to govern, then a more humiliating proposition was never presented to a free citizenship.

OTHER RUINOUS PROVISIONS APPLYING TO ALL PETITIONS.

But this is not the most important thing. Let us examine further. Another new provision, the conditions of which are in another place repeated so as to *apply also to the referendum*, reads:

Initiative petitions shall be filed with the respective county clerks of the respective counties in which the signers thereof reside and vote not less than four months before the election at which they are to be voted upon. *Within 30 days* after said petitions are filed with the respective county clerks of the respective counties said initiative petitions shall be, by said respective county clerks, laid before the county courts of the respective counties, and said petitions shall be examined by the respective county courts of the respective counties, and *if the signatures thereto are found to be genuine signatures of voters of such counties, they shall, at least three months before the election* at which they are to be voted upon, be certified by the respective county courts of the respective counties to the secretary of state.

This seemingly innocent section when coupled up with another provision "that petitions must be secured—8 per cent for the initiative and 5 per cent for the referendum—in each of at least two-thirds of the congressional districts in the State," can easily be made an insurmountable obstacle to the use of the initiative and referendum.

58178—13871

WHAT COUNTY CLERKS COULD DO WITH ALL PETITIONS.

Now, watch carefully! All petitions must be in the hands of county clerks *four months* before the election. That means in 1914, say, on July 3, with the election on November 3. But the clerk may hold these petitions for 30 days before turning them over to the county court. He can hold them till August 1 to 3, all petitions filed from July 1 to 3. Now, August 3 is the date on which all petitions must be in the hands of the secretary of state at Jefferson City—that is, "*three months* before the election"—after being examined and certified by the county courts. It would be a physical impossibility for the county court to do all this for all petitions filed late in June or early in July, and the history of similar petitions filed in States all over the Union shows that a goodly portion of such petitions are filed shortly before or on the final date set. And even if the people should file their petitions earlier, the power of the county clerk to hold them 30 days would still be a menace and could cause thousands of names to fail to reach the secretary of state in time.

The county court could easily refuse to certify a petition to the secretary of state on the grounds that it had not had time to examine the genuineness of the signatures.

It is perfectly clear then, that any petition opposed by a small number only of county clerks or county courts would have no possible chance to get through, and these officials would all act within their constitutional rights and could not be touched.

UNPRECEDENTED POWER OVER PETITIONS GIVEN THE COURTS.

But more dangerous still is the unprecedented power given the courts to reject at will not only single-tax petitions but all other petitions of the people. The text says petitions shall be certified by the county courts "*if the signatures thereto shall be found to be genuine signatures of voters of such counties.*" This is the first instance where it has been provided not only that genuine signatures must first actually be obtained, but that they are then of no avail until proved genuine signatures of voters before a judicial officer—*the first time signatures authorized to be procured by law are presumed to be false until found genuine by the courts.*

That this provision would absolutely kill every petition passed upon by an unfriendly court can not be denied. The language is plain; the effect is clear. The examination by the court and the passing upon the signatures by the court, and its finding them to be genuine, is one of the prerequisite steps of a valid petition. Further, the amendment could not be aided by judicial construction *because it is a fundamental condition* on which a law can be initiated or referred.

In other States, and in Missouri now, the oath of the one securing the petitions that they are genuine signatures of voters is sufficient to establish validity, and such petitions are presumed genuine unless they are proven to be otherwise.

But in this provision the little word "if" shifts the burden of proof to the other side. It is not too much to say that a judge desiring to strictly comply with the requirements laid down could compel, or would have to compel, every man signing a petition to come into court and prove to the satisfaction of the court both that his signature was genuine and that he was a legal voter of the county. *Unquestionably, an intolerable bur-*

den is here placed upon the judges which is undesirable to them, and one which it is inexpedient and unwise to place upon them.

This provision, if carried out, *could and would cause the rejection of all petitions*, because it is practically impossible for a judge to examine into the genuineness of all the signatures of his county. If the judge were friendly to the initiated measure he might assume to pass upon the signatures without an examination, but if unfriendly he would simply say, "I am unable to find the signatures 'genuine signatures of voters of such counties,'" and what then? There is no method prescribed for reviewing the judge's conduct. It being a judicial act, the judge can not be compelled, by mandamus or otherwise, to find the signatures "genuine signatures of voters of such counties." Had this section been simply an effort to have questionable signatures passed upon it would have provided that within the 30 days anyone could present to the court evidence of the falsity of signatures questioned, and then the court would have to pass upon only the *questioned* signatures instead of the *unquestioned* ones as well. If the court had to pass only upon the genuineness of the signatures, he might take the testimony of those of actual voters of his county. Think of a county judge examining into the fact as to whether every signer of a petition is a voter.

If the courts, acting clearly within the powers thus granted, could easily throw out petitions which were genuine, consider with how much greater ease they could decline to certify a petition on which a few illegal or doubtful names appeared. It is always a simple matter for those opposing a petition to "job" a solicitor, no matter how honest he may be, and get fraudulent names upon a petition. Judges could hold the whole petition incompetent because of a few bad signatures, no matter how genuine all the rest of the petition might be. The whole provision is comparable only to one which might prescribe that *no man's vote upon a measure could be counted until first passed upon by the courts.*

ESPECIALLY HARD FOR THE FARMERS.

The farmers have made active use of the initiative and referendum in nearly every one of the 15 States where it is in operation. They will want to do so in Missouri. The above provisions will make it harder for them to secure valid petitions even than for town people. For example, the organized farmers of the State of Washington this year initiated seven laws of tremendous value to them, which were rejected by the legislature. They appointed a joint legislative committee to manage the work of securing the seven petitions, and found it a difficult matter. Think of the additional money, anxiety, and trouble it would cost the committee, *under the proposed Missouri conditions*, to watch all the county clerks and the county courts to see if they were properly attending to petitions after they had been filed. The farmers would be helpless against hostile county courthouse "rings," and the rings be protected by the constitution itself. And, then, if they were blocked in just 1 district out of the necessary 11, the whole State petition would fail, even if all the voters in the other 10 districts had signed the petition.

58178—13871

TIES UP THE PEOPLE FOR SIX YEARS.

It is also provided that any law or amendment to the State constitution rejected by a vote of the people can not be resubmitted by petition for a period of *five years*. This means *six years*, since Missouri has biennial elections. The provision reads:

> When any measure shall have been submitted to the people for their approval *under the powers reserved or contained in this section*, as aforesaid, and shall be rejected by the people, neither the same measure nor any other measure which shall have or *tend to have* the same meaning, nor any other measure which shall have or tend to have the same or similar effect as the measure rejected, shall again be submitted *under the said powers reserved or contained in this section* for a term of five years.

On first blush this is ostensibly inserted to prevent the early resubmission of a defeated *initiative* measure. A law or constitutional amendment rejected in 1914 could not be again presented till 1920, then 1926, and so forth, nor could anything which a court might say "*tended in that direction*" be submitted. An emergency might arise, conditions might change, delay might mean millions of dollars lost; the people might desire to act in 1916 or 1918, but they could not until 1920.

INCLUDES THE REFERENDUM ALSO.

But this provision goes far deeper. It is so worded as to apply to the referendum as well as the initiative. The phrase "powers reserved or contained in this section" includes the referendum.

An amazing limitation on the people is here disclosed which can best be set forth by an example. Suppose the legislature should enact an unpopular law—make some huge appropriation, create some special privilege, give away a railway franchise, or do anything which might be strongly opposed by the people? Suppose a referendum petition is filed and the act is rejected by an enormous majority. *The very next session of the legislature could enact that exact law—or one like it—and the people could not vote on the question for six years.*

A CONFISCATION OF THE PEOPLE'S POWER.

To sum up, what the people of Missouri who vote for this amendment think they are doing is to prevent another submission of the single tax.

What they really will be doing is:

1. To place in the hands of a few county officials power to prevent the people's use of the initiative and referendum on any subject.

2. To surrender their present control of the taxation machinery of the State and hand it over to the legislature.

3. To fix this legislative control in the constitution irrevocably so that the people can never change or recover it.

4. To deny to all the people for six years the use of either the initiative or referendum on the subject matter of any measure once rejected by popular vote.

5. To give the legislature absolute power to immediately reenact its own laws which the people have rejected through the referendum.

When closely examined, therefore, and its "sleepers" pointed out, the people of Missouri are asked in this substitute to vote to curtail and destroy their own legislative powers and to solemnly announce by their votes that they can not trust them-

58178—13871

selves with the instruments of self-government, which they now possess, but must return to the old conditions of being controlled instead of remaining their own masters as at present. If this substitute carries, it will be the first time in American history when the people by their own act have deliberately deprived themselves of popular sovereignty.

It is unthinkable that a majority of the members of the Missouri Legislature who voted for this substitute were correctly informed as to the true significance of the changes proposed, as there are many members who are strong supporters of direct legislation.

WHO IS BACK OF THIS SCHEME?

The whole situation is a pleasing prospect indeed—to the reactionary interest. The railroads, the brewery interests, the franchise grabbers, the wealthy tax dodgers, and, in short, all forms of "special privilege" opposed to the people and who hate the initiative and referendum with an undying hatred, have now their golden opportunity. They know exactly what they are about. Taking advantage of the resentment aroused by the submission of the unpopular single-tax proposal they hope to carry this new substitute amendment and so "hamstring" the initiative and referendum itself. If the people of Missouri fall in with this scheme, they will find their hands completely tied on any practical use of the initiative and referendum in the future.

The great mass of the voters do not know this. In truth, proposed measures are so inadequately published in Missouri that not more than one-third of the voters will ever see the text of this substitute.

Every citizen of Missouri who believes in Democracy and the rule of the people should awake to the fact that the passage of this amendment would destroy his fundamental political rights, won after years of struggle. It would place Missouri in the column of reactionary States.

Talk about the danger of the single tax is without point. The people of Missouri did not want it and voted it down almost unanimously. It is absurd, therefore, to ask this same people to indorse a proposition which implies that they are unfit for self-government and unable to use the initiative and referendum.

Hence, the question before the people of Missouri is not whether they want to vote on the single tax, but whether they want to *retain the power to vote upon anything.*

Here is what some leading public men in Missouri and elsewhere think about the value of the initiative and referendum:

GOV. ELLIOTT W. MAJOR.

Gov. Elliott W. Major, when he was attorney general of Missouri, filed a brief for the initiative and referendum before the United States Supreme Court, in which he argues strongly against the attempt to declare these measures unconstitutional, and he said that they were the distinguishing right of the people under a republican form of government.

GOV. HERBERT S. HADLEY.

In his message to the Forty-ninth General Assembly of Missouri, Gov. Hadley said:

I believe that, on the whole, the initiative and referendum in our constitution has been beneficial. Some persons have urged that the

requirements for initiating laws or amendments to the constitution should be made more difficult. I do not agree with this suggestion and I recommend that the law stand unchanged.

GOV. JOSEPH W. FOLK, NOW ATTORNEY FOR THE INTERSTATE COMMERCE COMMISSION.

Ex-Gov. Folk, in his address before the National Popular Government League in Washington, D. C., on December 6, 1913, strongly condemned this attempt to kill the initiative and referendum in Missouri:

If the opponents of the initiative and referendum succeed in hobbling it with this proposed amendment in this respect—

Taxation—

the next step, of course, will be to hobble it in some other respect, and directly take away from the people the power to vote on some other question. This, *together with the other changes made by the new proposal, leads to the practical repeal or abolition of the initiative and referendum.* I hope the people of Missouri will not be misled into giving up this power that they now have in their hands and the obtaining of which has taken 14 years of political struggle. If they tie their hands now from voting on something they do not want, they will find themselves powerless in the future to secure something they do want.

We want in this country not only good government, we want self-government. We might have good government under a king; we might have so-called good government, though all of us be slaves. As between good government without self-government and bad government with self-government, I would prefer the latter.

The initiative and referendum are the tools of self-government, and when the people have these in their hands they can make the Government just as good as they wish to make it or just as bad as they suffer it to become. The kind of government this movement for better things demands is that which comes through governing ourselves.

EX-PRESIDENT THEODORE ROOSEVELT.

In his public addresses and in the platform of the Progressive Party, Theodore Roosevelt has repeatedly urged the initiative and referendum as necessary instruments in the hands of the people to maintain self-government.

HON. WILLIAM JENNINGS BRYAN.

This great Democratic leader has for 18 years been an active advocate for the initiative and referendum. In a letter written July 15, 1914, urging the voters of Mississippi to adopt a pending amendment providing for these powers, he said:

I regard the initiative and referendum the greatest modern improvement in strengthening representative government.

PRESIDENT WOODROW WILSON.

In his book, "The New Freedom," in chapter 10, entitled "The way to resume," the President said:

Back of all reform lies the method of getting it—

And then he pointed out that the initiative and referendum were necessary instruments in the hands of the people to secure these reforms. They are the key that opens the door to our legislative house. He then says:

The initiative is a means of seeing to it that measures which the people want shall be passed when legislatures defy or ignore public opinion. The referendum is a means of seeing to it that the unrepresentative measures which they do not want shall not be placed upon the statute book.

OREGON.

The notable things accomplished by the people of Oregon through the initiative and referendum have been heralded to the Nation. It is not generally known that since their adoption in 1902 the people of Oregon have been engaged in a *constant struggle to* preserve these legislative powers against repeated

attacks by the enemies of popular sovereignty. The struggle is still on.

The first attack was made by the State legislature of 1903 in an attempt to virtually set aside the referendum by declaring the "emergency clause" upon laws the politicians did not wish to go to the people. The then governor, Hon. GEORGE E. CHAMBERLAIN, now United States Senator from Oregon, being a genuine friend of popular government saw the danger and promptly met the issue by sending such bills back with a stinging veto. His messages roused the State, and it is now dangerous for any member to "trifle" with the emergency clause.

In 1906 the State grange initiated a law taxing the telegraph, telephone, and express companies upon their gross incomes. They were at that time practically untaxed. The bill was adopted by the people. The Morgan interests refused to pay the tax, and took this as a test case to the Supreme Court of the United States in an effort to have the Oregon initiative and referendum declared "unconstitutional," and so kill the movement in the entire Nation. They failed, but the struggle was a costly and harrowing one to the people.

At every session of the legislature laws or changes in the amendments are introduced calculated to "pull its teeth." For example, in 1910 the legislature proposed a new constitutional convention. The evident scheme was to fix up a new constitution in which all the new popular-government provisions would be either abolished or rendered inoperative. A hard campaign ensued, and it was rejected by the people.

In 1910 an amendment was submitted to the people to require measures to receive a majority of "all votes cast in the election" to enact measures instead of a majority of the votes cast on the question, as at present. It took a vigorous campaign to defeat this joker.

At the present time a new amendment is proposed which will prohibit the employment of solicitors to secure petitions. Needless to say, this attempt is meeting with the strong opposition of all organizations and men who know from actual experience what it means to get petitions and what a blow this would prove to the successful use of the initiative and referendum, as it has already proven in the State of Washington.

IDAHO AND UTAH.

By a vote of 43,658 to 13,490, the people of Idaho placed in their constitution at the election of 1912 what they supposed was an initiative and referendum amendment. It contained several jokers, but, worst of all, was not made self-executing. It provided that the legislature should draft laws, filling in details and putting it into effect. The legislature of 1913, in defiance of the direct mandate of the people, refused to pass such legislation. This is a repetition of the same fraud which was practiced upon the people of Utah since 1900. The "general principle" was put in the constitution, and for 14 years the people have waited in vain for the legislature to put the initiative and referendum in action. *No legislature should be permitted to fix by law the conditions upon which the people may review its acts.*

WASHINGTON.

The voters of Washington adopted the initiative and referendum at the general election of 1912. It was a defective amend-

ment. Among other things, it failed to provide for the use of the initiative on amendments to the State constitution. Gov. Hay's opposition to the constitutional initiative defeated him for reelection. The legislature met in January, 1913, and under the guise of "safeguarding" the amendment, deliberately passed an enabling act which needlessly placed severe handicaps upon the people in any use of the initiative and referendum. It is made a "gross misdemeanor" for a busy citizen to aid a petition in which he is interested by hiring a solicitor to secure signatures. Only names of voters who are actually *upon the last registration lists* can be counted on petitions, and so on.

On July 3, after a heroic struggle, the State Farmers' Grange, the State Farmers' Union, the State Federation of Labor, and the Direct Legislation League, acting under the direction of a joint legislative committee, succeeded in surmounting the obstacles and filed petitions for seven laws—"the seven sisters"—of great importance to the common people but undesired by the politicians and the interests. Miss Lucy R. Case, of Seattle, a most able woman and secretary of the committee, gave her entire time for six months, without pay, to the work of securing this petition. But even then the petition cost $1,281.93. Thirty-one thousand eight hundred and thirty-six names were necessary; 35,000 were secured and properly certified to before the county registers, where they were signed.

The interests opposed to these laws organized a "Stop, Look, Listen League," and spent thousands of dollars in paid newspaper advertising and otherwise in an attempt to frighten the people away from signing petitions. They are now bending every energy in an attempt to *prevent the questions from going on the ballot.* In this they evidently have the support of the State administration. The law requires the secretary of state simply to *count* the signatures certified to by the county authorities, and if sufficient, he is required to place the questions on the ballot. Instead of this Secretary Howell assumes jurisdiction upon the genuineness of the signatures and is putting the State to a frightful expense to verify work already done. His every move is hostile and the seeming intent is, upon one pretext or another, to *throw out enough names to cause the principal petitions to fail.*

The attorney general, Mr. Tanner, makes the unheard-of "ruling" that during the 30 days given the secretary of state by law to count the names citizens can *withdraw their names;* and blanks for that purpose have been prepared in the office of the secretary of state. But *no new names can be added.* The "Stop, Look, Listen League" is scouring the State to induce men to withdraw their names, and at this writing (July 27) it is doubtful if the farmers' important laws will go on the ballot.

But whatever the outcome, this experience of the people of Washington serves as a warning to other States to watch "enabling acts" closely. It further shows the bitter hostility of reactionary politicians and corporations to permitting the people expressing their will on important laws. Mr. C. B. Kegley, of Palouse, Wash., master of the State Grange, strongly opposes the law prohibiting responsible organizations and citizens from employing solicitors, thus enabling the volunteer work to be supplemented by men who can give their entire attention to securing petitions in a crisis.

58178—13871

ARKANSAS.

In Arkansas the opponents of the initiative, referendum, and recall have met with success in their efforts to devitalize the amendment through the decisions of a supreme court hostile to these instruments of popular government.

The original amendment adopted in 1910 read:

> The legislative power of this State shall be vested in a general assembly, * * * but the people of each municipality, each county, and of the State reserve to themselves power to propose laws and amendments to the constitution and to enact or reject the same at the polls—

And so forth.

It is perfectly evident that this is a bungling attempt to establish both the local and State-wide initiative and referendum in one short clause, so adored by constitutional lawyers. In fact, the words "*of each municipality, of each county, and of the State*" were inserted in the original draft as an amendment to accomplish this purpose, and not, as was claimed in the campaign, to permit the cities to override the State constitution.

Nevertheless the supreme court declared itself unable to discover what the language meant, and so abolished the whole clause, *which took from the people their constitutional right of initiative and referendum in counties and cities. Exit the local initiative and referendum!*

Next, the legislature of 1913 passed a law under the "emergency clause" and thus denied a referendum petition upon it on the grounds that it was "necessary for the *immediate* preservation of the public peace, health, and safety," but also provided that the law should not go into effect for *one year*. The supreme court upheld the legality of this action. Hence, *exit the referendum!*

Next, in 1912 the people passed an amendment by initiative petition establishing the recall on all public officers, including judges. Also two other amendments.

Now, the constitution adopted in 1874 provided that the legislature could submit only three amendments at any one election. The initiative and referendum amendment adopted in 1910—36 years later—did not disturb the old system, but made no limitations on the number of amendments the people might submit by petition.

At the 1912 election the legislature submitted proposed amendments No. 11 and No. 12. The people submitted No. 13, limiting the legislative session to 60 days. No. 14 provided for the recall of all elective officials, including judges; also No. 15.

All three of the initiate amendments were adopted by large majorities. The election board refused to certify the adoption of Nos. 14 and 15, on the grounds that they were illegally submitted.

Suit was brought, and the supreme court solemnly decided that limitation of three, adopted in 1874, governed the amendment of 1910, and that amendments 14 and 15 must fall. This is a complete reversal of the universal rule of construction that the last enactment governs and repeals older enactments in conflict.

But by this means *the recall was destroyed.* Hereafter the legislature can prevent the submission of any amendment by initiative of the people by *filling up* the ballot with three amendments of whatever nature. *Exit the constitutional initiative!*

58178—13871

And at the present time it is given to this supreme court to decide whether the people will have the right to vote at the November election upon a bank-guaranty law and a law establishing a State mining board and insure safety for miners. These laws have been properly initiated and promptly enjoined from going on the ballot by the bankers and mine owners.

OHIO.

Ohio adopted the initiative and referendum in 1912. Gross frauds were practiced by the special interests in 1913 in an attempt to secure referendum petitions upon two statutes. These frauds were widely heralded in the press and were made the basis of a demand by these same special interests for a law prohibiting solicitors for petitions to receive compensation. To secure from 60,000 to 125,000 signatures of legal voters upon petitions, as required in Ohio, is a gigantic task, and few petitions could be secured by volunteer work alone.

The friends of direct legislation in the legislature and outside promptly met the issue, a campaign of education was made, the help of the administration was secured, and a law preventing fraudulent securing of petitions was passed, but not the thing desired by the enemies of popular government.

The citizens of Toledo are engaged in a life and death struggle with the public-utility interests over a street car franchise worth $25,000,000. These interests are now carrying a case to the Supreme Court in an attempt to have the municipal initiative and referendum law of the State declared "unconstitutional," and so *deprive the people of a vote upon the settlement of this important question.*

OKLAHOMA.

One of the most vital provisions of a direct-legislation system is adequate publicity upon pending measures for the information of the voters. Oregon has the best method. A neat State pamphlet containing copies of the measures, with their ballot titles, and also explanatory arguments for and against, *furnished by citizens or organizations of citizens,* is mailed from the office of the secretary of state direct to the voters 50 days before election. In Oklahoma, however, the legislature has failed to provide for any arguments from citizens, and the system of distribution is fatally defective. It is supposed to be handed to the voters at the primary election by election officials. On any vital measure opposed by the machines this is not done adequately. Probably not more than one-third of the voters ever see the pamphlet. Another vital defect in the Oklahoma system is the requirement that measures, to be adopted, must receive a majority of all votes cast "in said election" instead of "a majority of all votes cast thereon."

PENDING AMENDMENTS.

At the general election November 3, 1914, proposed constitutional amendments for the initiative and referendum will be voted upon in five States, as follows:

Texas: Petitions must be signed by 20 per cent of the voters for both initiative and referendum. This is preposterous. No State should require over 8 per cent, and in no case more than 50,000 signatures for the initiative; nor more than 5 per cent, and in no case more than 30,000 for the referendum. The amendment is not self-executing and all other details must be

provided by the legislature. It is the Utah and Idaho trick all over again. The adoption of this subterfuge would kill the movement in Texas for years.

Minnesota: The Minnesota amendment is so full of jokers and restrictions that space does not permit even an attempt at discussion. One provision actually gives the legislature specific power to *prohibit* the circulation of petitions on any subject it sees fit.

Wisconsin: Submits a conservative but fairly good amendment, which it will be worth while to adopt.

North Dakota: Amendment lacks the constitutional initiative, requires too large petitions, and has a wicked "distributing" clause for petitions. There are other jokers. Not worth adopting.

Maryland votes upon an amendment providing for the *referendum* only. It is in very good shape. The people, however, are prohibited from referring any liquor law.

Iowa: An amendment was passed in 1913, which, if adopted by the legislature of 1915, will be voted on in 1916. Among the numerous jokers which render it worthless may be mentioned the right given the legislature to fix petitions at anywhere from 12 to 22 per cent for the initiative, and from 10 to 20 per cent for the referendum. Worthless.

This statement is by no means a complete account of the unwarranted and unjustifiable attacks made upon the initiative and referendum in States and cities where they are established. The few examples given illustrate the general tendency and demonstrate beyond question that strenuous efforts are being made to destroy the initiative and referendum in America, and that the most dangerous forms which the opposition takes are, first, to insert stealthy "jokers" in these provisions which unexpectedly operate at critical junctures against the exercise of direct legislative powers by the people; and, second, to break them down in the courts.

One of the most important functions of the National Popular Government League (nonpartisan) is to point out these "jokers" and warn the people against them. The league maintains a bureau of information and its headquarters are at 1017 Munsey Building, Washington, D. C., where accurate information concerning these matters can be had freely upon application to the executive secretary.

58178—13871