

initiative with the people would not prevent the same to be exercised by the representative body originating such propositions as their judgment might suggest. The broad proposition covered by the "initiative" is that proposed law shall originate in the aroused and concentrated desires of the body of people. The function of the legislature would consist in digesting and assimilating the crude movements of the popular will for deliberation and final action. This final action is the purpose of the "Referendum." It is to refer all important laws passed by the legislature to a vote of all the people. In effect it holds in suspense before the scrutiny of the public all measures of public welfare long enough to discover and discuss their purpose and adaptation."

Direct legislation is not without a long trial. It has been adopted by all the Cantons of Switzerland, and by the Swiss Federal Republic. Its results in that country under the most favorable conditions would hardly furnish a criterion for America or other great nations where legislation is infinitely complex and public interests both delicate and massive. It is therefore significant that after a long trial the Swiss Cantons are making a rapid espousal of proportional representation. Two Cantons have already done so, and the question is a live one in others and in the Federal Government. The people in their primary capacity are incapable of giving the necessary deliberation to public measures. They decide questions not on their merits but on entirely different considerations, the principal one being the question of confidence in the Congress which submitted the bill. A vote against a given bill is not to be taken as a disapproval of the bill, but as a general lack of confidence in the legislature. The Swiss people have rejected through the Referendum more bills than they have ratified, and then in a few years later have turned about and ratified bills which they had previously rejected. The Referendum has undoubtedly prevented bad legislation, but it has also prevented the good. But the people cannot judge upon such matters. They lack the information and the opportunities of counsel and compromise. They can only express confidence or distrust in individuals. What they need is wise and experienced legislators in whom they can confide, and then to leave the decision to them. Says Albert Teckney* "Do we really wish that our legislators should give us only such legislation as we ourselves think best? Do men wish their shoemakers to make such shoes as they themselves would make, or their lawyer to try their cases as they themselves would try them, or their physician to give them such drugs as they themselves may fancy? What we wish from our public servants is, not such work as we ourselves should do, or as we may think the best, but better work than we know anything about. On any proper theory of government we select our very best men, to use their own brains, and not ours, in our service. We choose them, or should choose them, because they will be leagues in advance of anything we dream of."

However much the powers of legislators may be reduced by the referendum, it nevertheless is necessary to leave great discretion to them. An act of legislation is a growth. It takes days and months, conferences and committees, reports and debates, arguments and amendments, to complete it ready for enactment. Here is where skilled workmanship tells. Here is the opportunity for the lobby. The people are helpless. They must treat the statute as a whole. They can only answer the categorical yes or no. But legislation is far more than this. Its essence is in the details, the working, the harmonising with other statutes.

The same reasons which substituted representation for the primary assembly must hold good, though in less degree, against direct legislation. "Representation," says Hearn,† "is not a makeshift, it is a substantive institution. It is essentially distinct from the government of the Agora or the Forum; and as a political instrument is far superior to that polity. . . . The primary principle on which its value rests is the same principle which regulates the exercise of the royal will. The people require checks and limitations and enlightenment no less than the king. An aggregate assemblage of individuals must be restrained and informed no less than each individual unit of that aggregate. If a monarchic absolutism be liable to infirmities, democratic absolutism is liable to other and no less dangerous infirmities. For the sovereign Many, therefore, as well as for the sovereign One, the law assigns a specific and exclusive form of expression. The object of this form is the same in both cases. It is designed to secure the well-weighed and deliberate

* A True Republic, page 240.

† Government of England, page 496.