

Direct Legislation

OR

The Initiative and Referendum: What it is and why we need it

By ROBERT L. SCOTT

SECOND ARTICLE

1. **Direct Legislation** shall consist of both the **Initiative and Referendum**.

2. **Eight per cent.** of the duly qualified voters shall be required to legalize an **Initiative** petition. **Five per cent.** of the voters shall be required upon the **Referendum** petition to make a legal demand that legislation passed by the legislature be referred to the people.

3. **Signatures to petitions** shall be computed on a basis of the whole number of votes cast in the Province for all candidates for seats in the legislature at the regular election last preceding the filing of any petition for the Initiative or the Referendum.

4. **Amendments to the Manitoba Act and the Acts of Autonomy** will be required to enable the adoption of the system of Direct Legislation in Canada's three Prairie Provinces. These amendments can be had so soon as the people insist upon having them.

5. **An emergency clause** shall apply to laws necessary for the immediate preservation of the public peace, health and safety. But if it is necessary for the immediate preservation of the public peace, health and safety that a law shall become effective without delay, such necessity and facts shall be stated in one section of the bill and if upon affirmative and negative vote in the Legislature two-thirds of all the members of the Legislature vote in favor of said law going into instant operation for the immediate preservation of public health, peace or safety, such laws shall become operative upon the approval of the Lieutenant-Governor-in-Council and such law shall remain in force until repealed by a majority vote of the legislature or by vote of the people upon **Referendum** petition at the next general election or the next special election should the latter be ordered by the Legislature or Lieutenant-Governor-in-Council upon such emergency measure or any other that may be submitted to the people.

6. **The Referendum** shall be explicitly made to apply to **parts of measures** as well as to entire measures.

7. **Initiative petitions** must be filed not less than ninety days before any regular session of the Legislative Assembly.

8. **Referendum petitions** must be filed not more than ninety days after the final adjournment of the Legislative session at which the act petitioned against was adopted by the Legislature and no law save those passed under and according to the provisions in reference to urgency measures shall become co-operative until ninety days have expired. No measure petitioned against, save those passed under the emergency clause, shall come into effect unless and until after such measure has been ratified or endorsed by the people at the election when said measure is voted upon as result of **Referendum** petition.

9. All petitions, both **Initiative and Referendum**, are to be filed at the office of the Provincial Secretary.

10. A provision shall be made enabling the Legislature or Lieutenant-Governor-in-Council to propose an **alternative measure** in case they object to the form of petition drawn by the promoters of any legislation by means of the **Initiative**.

11. **The votes on Initiative and Referendum** petitions shall be taken at the next regular general election, except when the Legislative Assembly or Lieutenant-Governor-in-Council shall order a special election and at all elections when special measures are submitted to the people of the Province.

12. **The style of measures** passed directly by the people shall be as follows: His Majesty, by and with the consent of the people of Manitoba, Saskatchewan or Alberta, enacts as follows:

13. Provision shall be made for the reference to the people of **measures proposed by the Legislature**.

14. **Cities towns and municipalities** shall be enabled to provide for the manner of exercising the **Initiative and Referendum powers** as to municipal legislation, including emergency measures, but shall not require more than ten per cent. of their legal voters to order the **Referendum** nor more than fifteen per cent. to propose any municipal measure by means of the **Initiative**.

Where Direct Legislation Would be Useful

In defeating the corrupt schemes of promoters and politicians whose aim it is to exploit public resources, secure charters and monopoly rights in their own interests and to the detriment of the public welfare.

In cancelling extravagant and improper deals made by our legislators extending privileges, subsidies, etc., in connection with the construction of railways and public works.

In preventing the alienation of the public domain in the interests of a few speculators and manipulators.

In opening the way for progress, to enable the people to gain reforms just so fast as they want them. **Direct Legislation** will foil the ambitions of the self-seeker and interest-server. It will enable the people to retain the services of statesmen of honor, courage and executive ability but who may advocate policies unpopular or in advance of public opinion. This is impossible under our present system of representative government, so-called.

Many people who are inherently conservative seem to regard **Direct Legislation** as a dangerous innovation; they think it a new device, strange and unproven. Such is not the case, the idea was originally conceived by a German reformer and was first outlined in the columns of a Parisian newspaper. The Swiss were the first people to apply it to the regulation of their affairs of State and since its adoption nearly half a century ago Switzerland has been universally recognized as one of the best governed democracies in the world.

Direct Legislation is now part of the governmental machinery in eight of the American States. It was adopted in South Dakota in 1898, Utah 1900, Oregon 1902, Nevada 1905, Montana 1906, Oklahoma 1907, Maine 1908, Missouri 1908. Provision has been made for the adoption of the **Initiative and Referendum** in the two new States of New Mexico and Arizona which are being admitted to the American Union this year. The question is a live issue in half of the remaining States of the North and West and in several States is endorsed by both the Republican and Democratic parties. This ensures the fact that its practice is to be very much extended after the impending congressional election.

People who do not understand the principle of **Direct Legislation** and do not want it because it might infringe upon the almost despotic power within the party caucus which they now abuse and enjoy have ridiculed the idea as being a "Yankee" scheme, un-British, etc., etc. This is about the best objection that can be urged in opposition to it, therefore we are not surprised that since **Direct Legislation** has promised to become a factor in Canadian politics such inane observations should be advanced. Dr. Johnson has said "Patriotism is the last refuge of the scoundrel." So time has proven on countless occasions since the utterance of that famous epigram. Why should we object to a good thing though it be un-British? Have not some of our grandest ideas and most beneficial practices come from sources other than those of British origin. Is not our Theology un-British? We do not refuse to listen to the music of the German Wagner. We do not despise the art of the Italian Dante nor the poetry of the Egyptian Homer. We do not refuse to ride in a steamboat because it was first the creation of an American citizen.

One of Canada's most prominent politicians in referring to **Direct Legislation** spurned the idea and dismissed it with a seeming self-assurance that he had said the last word in this statement: "The Referendum finds no place in the history of British constitutional development". This is not true, but were it true would such a statement be any argument against it. We believe such inane objections only serve the more to prove the need of some such innovation. We have not refused to push out upon new lines in the process of material development, why should we refuse to do so in the constitutional development of political institutions? If all our activities were governed by such a standard the human race would have advanced little beyond the stage of carnivorous animals living upon uncooked flesh and herbs.

It is, however, a fact that we have ample precedent for the practise of the **Referendum** which can be cited for the benefit of those worshippers of the past who refuse to act in the absence of precedent. No longer ago than December, 1909, Lord Lansdowne, leader of the dominant party in the British House of Lords—one of the most exclusive and conservative bodies extant in modern times—said in moving the rejection of the famous Lloyd-George budget: "This House is not justified in giving its consent to this bill until it has been submitted to the judgment of the country." The election of January, 1910, was the result of the action of the House of Lords. The Liberal party of Great Britain was sustained upon its record. That the Lords recognize the final supremacy of the people as expressed therein the **Referendum** there can be no doubt. When the budget came up for consideration after the election Lord Lansdowne signified the withdrawal of further opposition in these words: "The Lords withheld assent from the budget solely with the object of referring it to the voters. Now that the constituencies, through their representatives in the Commons, have expressed their favor the Lords have no other course but to acquiesce in the passing of the budget."

The issue of the budget which provoked the Lords to take the stand was entangled and confused with many another in favor of the **Referendum** issue. We are safe in saying that the verdict of the people was in favor of the budget but the only manner in which the opinion of the country could have been learned with anything approaching mathematical precision would have been through the submission of a **Referendum** along the lines which we propose it shall be employed under the system of **Direct Legislation**. Another precedent for the **Referendum** is found in the practise of municipalities in submitting money by-laws to the people for their approval or rejection.

The principle of **Direct Legislation** is endorsed first in the court of common sense and sustained by the precedent of the highest judicial body in the British Empire. The contention of those who oppose it upon the ground of want of precedent is fatuous and absurd.

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