

legislative bodies through direct primaries, elections and legislation.

"States and governments were made for man; and at the same time how true it is that his creatures and servants have first deceived, next vilified and at last oppressed their master and maker."

Mr. Justice Wilson in *Chisholm v. Georgia*, 2, *Dal.* 455.

#### C. The Extension of the System

##### 1. CONSTITUTIONAL AMENDMENTS ADOPTED

The system of the initiative and referendum has been adopted by popular votes as follows:

| State                                | Year | Yea    | Nay    |
|--------------------------------------|------|--------|--------|
| South Dakota . . . . .               | 1898 |        |        |
| Utah . . . . .                       | 1900 |        |        |
| Oregon . . . . .                     | 1902 | 62024  | 5668   |
| Montana . . . . .                    | 1906 | 36374  | 6616   |
| Oklahoma . . . . .                   | 1907 | 180333 | 73059  |
| Maine . . . . .                      | 1908 | 51991  | 23712  |
| Missouri . . . . .                   | 1908 | 177615 | 147290 |
| Arkansas . . . . .                   | 1910 | 91363  | 39680  |
| Colorado . . . . .                   | 1910 | 87141  | 28698  |
| Arizona . . . . .                    | 1911 |        |        |
| Calif. (latest unofficial) . . . . . | 1911 | 138181 | 44850  |

Utah voted an amendment for direct legislation in 1900 but left it to be executed through enabling acts of the legislature, which acts have not been passed.

Thus eleven states have already incorporated the initiative and referendum into their constitutions.

The legislatures of the following states have voted to submit the initiative and referendum for popular ratification: Nebraska, Wisconsin, North Dakota, Wyoming, Washington.

In Nevada, where the referendum is in the constitution, the legislature passed this year a resolve for the initiative for the second time, and the amendment is to be voted on at the next election.

As such amendments (excepting a defective proposal in Missouri in 1904) have never been rejected by popular vote in any state, it is not impossible that, by the time the court reaches its decision in this case, these six states will have been added to the list and that seventeen states will then have adopted this system.

##### 2. MOVEMENTS IN OTHER STATES

The legislature of Idaho has submitted for popular vote the constitutional amendment for the referendum.

In New Mexico the democratic platform declared for the initiative and referendum, but only the referendum was incorporated in the constitution.

Illinois in 1901 adopted an advisory initiative, and as above stated (I. B. 2), the legislature of the state has refused to accede to the demands of enormous majorities in favor of the constitutional amendment for the initiative and referendum.

In Illinois (in 1910) both party platforms favored the initiative and referendum.

In 1906 the people of Delaware by popular vote instructed their legislature to provide a constitutional amendment for the initiative and referendum.

In Delaware March 17, 1911, the house of representatives voted on the constitutional amendment for the initiative and referendum by 16 yeas to 9 nays, two-thirds being necessary for a passage.

The municipalities in more than one-half of the states of the union have received charters containing the initiative and referendum.

In Iowa the recent legislature rejected the amendment in the house by a vote of 58 yeas to 42 nays.

In Kansas all the political parties declared for the initiative and referendum in their platforms of 1910, but the measure failed of the necessary two-thirds vote in the legislature. The house of representatives passed the measure by 107 yeas to 10 nays; the senate defeated the measure by a vote of 23 yeas to 15 nays, a two-thirds vote being required in both houses. Governor Stubbs was elected on the platform pledged to the initiative and referendum.

In Michigan a vote for the constitutional amendment passed the house by 74 yeas to 20 nays, but the senate defeated the amendment by a vote of 15 yeas to 14 nays, a two-thirds vote being required.

In Minnesota, the democratic platform declared for this constitutional amendment, but the resolve was defeated in the legislature.

In Massachusetts a constitutional amendment was defeated June 27, 1911, by a vote of 125 yeas to 75 nays, two-thirds being required.

In West Virginia Governor Dawson in his

annual message indorsed the initiative and referendum and prophesied the passage of the resolve.

In Ohio, Governor Harmon was elected in 1909 on a platform pledged to the initiative and referendum.

In New Hampshire the democratic platform of 1910 pledged the party to the initiative and referendum.

In New Jersey the present governor is in favor of such amendment.

In Pennsylvania in May, 1911, the judiciary committees of both branches of the legislature reported favorably upon the passage of a constitutional amendment for the initiative and referendum.

##### 3. NATIONAL MOVEMENT

The democratic national platform adopted at Kansas City in 1900 declared for the initiative and referendum.

On the 12th day of June, 1911, a memorial was presented in the senate of the United States from both branches of the Wisconsin legislature calling for the submission of an amendment to the United States constitution to provide for the initiative, referendum and recall for legislation and officials and the initiative for constitutional amendments.

Within the dominant party a new organization has been formed entitled the "National Progressive Republican League." It has leaders of great ability, and from the Mississippi to the Pacific is rapidly obtaining control; it proposes to contest for the control of the next national republican convention. Its platform of principles is confined to five measures, designed for the sole end "that the people may control and hold the officers responsible." These are the measures:

1. Direct election of United States senators by the people.
2. Direct primaries for nomination of elective officers.
3. Direct election of delegates to national conventions.
4. Constitutional amendments for initiative, referendum and recall.
5. Thoroughgoing corrupt-practices' act.

The force of this movement is made more powerful by the fact that both political parties are involved in it, and that in many states all the parties have united in its favor.

Senator Works of California, April 10, 1911, in the senate spoke as follows:

"Congress need not delude itself with the belief that this demand for direct legislation comes from fanatics and radical reformers only. The demand is universal and is supported by the best citizens in the country without regard to party. The absolute necessity for some legislation that will put the people in possession and control of their government, and drive the interests and political bosses out of politics, and the official life of the nation is too evident to admit of question."

This sweeping assertion of the strength of the popular demand has been justified by the enormous majority of the votes recently cast in the senator's own state in approval of the initiative, referendum and recall.

As in all the cases involving Art. IV, Section 4, this court has denied jurisdiction, scant consideration has been given to the interpretation and construction of the provision, "the United States shall guarantee to every state in this union a republican form of government."

If in the case at bar this court should undertake to review the powers, political or judicial, which are conferred by this provision, it is submitted that many statements made obiter concerning it, may need explanation and revision. Many important questions yet unconsidered may be or become of supreme importance, which are involved in the terms of the guaranty.

[The second installment of Mr. Williams' brief will be printed in the next issue of *The Commoner*.]

##### WALL STREET JOURNAL, ATTENTION

If the Wall Street Journal was indignant because of the declaration by Mr. James C. McReynolds that the tobacco trust reorganization plan was a fraud what will it say of the conduct of the attorneys general of Virginia, North Carolina and South Carolina? These gentlemen are officers of the court and yet they make bold to use stronger language even than Mr. McReynolds used.

The attention of the Wall Street Journal is respectively called to the following Associated Press dispatch: "New York, Oct. 20.—After thoroughly studying the plan of disintegration filed by the American Tobacco company with

the judges of the United States circuit court, the attorney generals of Virginia, North Carolina and South Carolina, who have been in conference here on the matter for three days, reported the conclusion today that the scheme proposed will offer no relief to tobacco growers of this country. They furthermore express the belief that should this plan be adopted the victory of the government resulting from the decision of the United States supreme court would be a barren one.

"The conferees decided to file tomorrow a petition in the United States circuit court asking that the southern states represented at the conference be permitted to file written objections to the plan of dissolution and to be heard at the hearing set for October 30.

Attorney General W. T. Pickett of North Carolina, Attorney General J. L. Lyon of South Carolina and Attorney General Williams of Virginia participated in the conference to determine whether the plan carried out the decree of the supreme court and would give southern tobacco planters and others interested in the tobacco industry in their states the relief desired. They talked over the situation with Attorney Felix H. Levy, who is associated with Louis Brandeis as counsel for the independent tobacco concerns.

##### ASK THE CANDIDATE

W. C. Hedgpeth of Phoenix, Ariz., submitted a list of questions to the various candidates in Arizona who asked for the offices of United States senator and representatives in congress at the democratic primary. Mr. Hedgpeth's letter as printed in an Arizona newspaper follows:

"To the candidate for United States senators and United States representatives on the democratic ticket: Dear Sirs—As a democrat who will help to select our party's candidates at the primary on October 24th, I desire to submit to you some questions in order that I may know your position on the important questions now before congress, or which are likely to become important during your tenure of office.

"1. Do you favor tariff for revenue only?

"2. Do you favor free raw materials and the placing of a duty only on manufactured goods?

"3. What is your idea of raw materials? Is it the idea lately advanced by Joe Cannon and approved by some (so-called) democrats, or the idea advanced by W. J. Bryan?

"4. Do you favor the repeal of the criminal clause of the anti-trust law, or do you believe that in view of the recent legislation by the supreme court congress should make it clear that all restraint of trade is unreasonable?

"5. Do you favor Senator La Follette's bill requiring all trusts to prove that their acts are not unreasonable rather than the government to prove the unreasonableness of their acts?

"6. Do you favor the election of United States senators by popular vote?

"7. Which do you prefer, the amendment to the constitution as adopted by the house or as amended by the senate?

"8. Do you favor national laws (or if necessary an amendment to the United States constitution) providing for the recall by the people of United States senators and representatives, similar to the provision now in the Arizona constitution?

"9. Do you favor an income tax?"

"10. If elected to congress would you, as soon as the amendment providing for an income tax is ratified by a sufficient number of states and proclaimed as part of the constitution, work to secure the enactment of an income tax act, so drawn as to place the least tax on those of small incomes and the greatest tax on those of large incomes.

"11. What is your attitude in regard to Philippine independence?

"12. Do you believe in the publicity of campaign contributions and expenditures both before and after election day?

"13. Do you believe in the support of the state governments in all their rights?

"14. Do you indorse the 1908 national democratic platform in toto?

"15. Do you approve the plan known as the Aldrich currency scheme?

"16. Do you favor asset currency in any form? If so, in what form?

"17. Do you believe in the establishment of what is known as a central bank?

"18. Do you favor legislation compelling banks to insure depositors?

"19. Are you in favor of the bill now before congress prohibiting the interstate shipment of liquors in violation of state liquor laws?

"20. Do you favor an act limiting the terms of office of federal judges and prohibiting their