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MR. TAFT'S BLUNDERS

The republican progressives are pursuing an aggressive campaign. They possess organization and a supply of funds. They have a card system of enrolling actual and possible converts, borrowed from that master of personal detail in politics—the progressive leader from Wisconsin whose absorption in high principles for the public welfare is apparently so complete.

President Taft's friends now believe the time has come for counter-organization and action. Card index will be met by card index. As the army of progressives crosses the Mississippi in its eastward march it will be fought with its own weapons.

It will not prove an impressive course of action. What strength the progressive movement has is the gift of the president rather than the creation of the La Follettes.

When Mr. Taft allowed Aldrich and Payne to "reform" the tariff for him and pronounced their work "the best tariff ever enacted," he started the progressive revolt.

When he closed the patronage to the seceders and made public admission of the fact, he armed them with a measure of public sympathy.

When he repeated the Payne-Aldrich blunder in the vetoes of the extra-session tariff bills, he further strengthened the conditions of party revolt.

And when he now repudiates his own courageous hostility to the Cox regime in Cincinnati and travels far to support it with his vote, he destroys a distinction that had won him wide admiration and adds again to the power of his opponents.

The president is his own worst enemy as against the progressives. Card indexes will be of little use. The one way to defeat the progressives is to give the country a more consistently progressive administration.—New York World.

MAYOR HUNT'S LETTER

Cincinnati, O., Nov. 21, 1911.—To the Editor of the Denver News, Denver Colo: My attention has been called to an editorial recently appearing in your paper, commenting on the Ohio municipal elections, wherein I was quoted as having said regarding Governor Harmon, the following: "During the Cox crusade Hunt continually made the charge that Governor Harmon was rendering all aid and sustenance to the Cox-controlled machine."

I wish to emphatically deny ever having made such statement or entertained such belief. On the contrary I wish to say that in the prolonged fight that has been waged to overthrow the Cox machine, Governor Harmon, both as an official and as a private citizen, has borne a conspicuous part.

In justice to both Governor Harmon and myself I would respectfully ask that this refutation be published in a prominent place in your paper.

HENRY HUNT,

Mayor-elect of Cincinnati.

The Commoner.

Direct Legislation Before Supreme Court

George Fred Williams of Massachusetts has filed an interesting and instructive brief in the direct legislation case now before the United States supreme court.

The first installment of this brief was printed in The Commoner of November 10. The fifth and final installment appears in this issue. The fifth installment of Mr. Williams' brief follows:

C. THE REPRESENTATIVE SYSTEM

1. Necessity: Not a Principle

Historians are agreed that where democratic forms have prevailed they have yielded to representative or delegate forms only from the necessities arising from extension of population and territory. It has been pointed out (supra III, B. 4, a.) that this was true of the Teutonic institutions of England.

Concerning the Plymouth colony, "The government was first a pure democracy; the whole body of the people often met and divided upon affairs both executive and legislative. As their numbers increased, this was found inconvenient; and in 1639 a house of representatives was established, and representatives elected from the several towns."

Pitkin's History United States, p. 34.
Bancroft's History of United States, Vol VIII, p. 370, says:

"The republics of the ancient world had grown out of cities, so that their governments were originally municipalities; to make a republic possible in the large territories embraced in the several American colonies where the whole society could never be assembled, power was to be deputed by the many to the few, who were to be elected by suffrage, and were in theory to be a faithful miniature portrait of the people."

The charter of "the governor and company of Massachusetts bay, granted 1629 by Charles I, provided that

"The freemen of the company were to hold a meeting four times a year; and they were empowered to choose a governor, etc.:"

"After their arrival in Massachusetts, their numbers increased so rapidly that it became impossible to have a primary assembly of all the freemen, and so a representative assembly was devised after the model of the Old English county court."

John Fiske's "Civil Government in the United States," pp. 161, 162. (Cambridge Press Edition, 1902.)

"As a republican, sir, I think that the security of the liberty and happiness of the people from the highest to the lowest, being the object of government, the people are consequently the fountain of all power. They must, however, delegate it to agents because from their number, dispersed situation and many other circumstances, they can not exercise it in person."

Edmund Pendleton, Elliot's Debates, Vol. 3, 298.

Mr. Wilson, a Swiss official, says of the initiative and referendum in Switzerland that

"They have given back to the people the right they once possessed to take part in the legislation of their respective cantons. The right was surrendered when the people became too numerous to assemble together for law-making, and so representatives were chosen to make the laws."

The conception of a general assembly of the state is involved in the address of the Massachusetts "Convention for framing a new Constitution of government"—to their constituents, March 2, 1780.

"Could the whole body of the people have convened for the same purpose, there might have been equal reason to conclude that a perfect unanimity of sentiments would have been an object not to be obtained."

Journal of Mass. Convention Appx., p. 216.
John Adams in Thoughts on Government, Vol. IV, p. 194, says:

"As good government is an empire of laws, how shall your laws be made? In a large society, inhabiting an extensive country, it is impossible that the whole should assemble to make laws. The first step, then, is to depute power from the many to a few of the most wise and good," and at p. 195—"This representative assembly—should be in miniature an exact por-

trait of the people at large. It should think, feel, reason and act like them."

2. Philosophy of Representative System

The conception that the principle of representation somehow qualifies the sovereignty of the people suggests the German adage!

"Wo die Begriffe fehlen, da stellt zu rechter Zeit ein Wort sich ein."

(When comprehension fails, a word happens opportunely in.)

It is true in the larger sense that the whole government must represent the popular will, but it is not true that all its functions must be performed through delegates. It suffices if the things done "represent the will of the majority of the people" and this is the length and breadth of the representative system in a republican government. The manner in which this is accomplished is merely functional and in no sense fundamental.

It does not need argument or citations to prove that our governments are and must be affected by the representative principle and practice. The error of the appellant in his claims is in assuming that legislation must under the republican principle take the form of a delegated power. The various expressions indicating that some kinds of representation are necessary are essentially true because all acts of government can not be performed by the mass. Even in the forum of Rome, there were senators, tribunes, praetors and aediles. In the town meeting, the present form of democracy, sit the selectmen, assessors, town clerk, constables and other representatives of the people of the town in the execution of their behests. There sits the justice of the peace, their agent or representative to perform the judicial functions. Clearly the citizens in mass can not pay bills, assess and collect taxes, keep the records and make arrests.

A democracy without agents and representatives is inconceivable. In the executive functions, the representative system is physically essential to a pure democracy.

The judicial functions might be exercised directly by judgments and decrees settled in mass, but the service and execution must be delegated to certain persons.

But the legislative or law-making power may be physically exercised without the intervention of agents or the power may be delegated to agents who are called "representatives," because they in theory carry out the will of the electorate. Hence representative legislation is the exercise of the people's sovereignty, not by virtue of any sovereign power inherent in the persons who represent, but purely by virtue of the sovereignty imparted to them by the people.

There is no legal or constitutional principle which warrants the claim that when the people decline to delegate their sovereignty, the republic fails.

Representation so far as it is a necessity must exist, but the necessity is limited and variable, and between its maximum and minimum is no line which marks the republican boundaries.

Legislators may be dispensed with and the popular will remain in full power. A legislature is no more essential to a republican form, than agents are essential to a business. They may be functionally necessary, but do not inhere in the business.

James Wilson (Elliot's Debates, Vol. II, page 358) says that even in England, "though we find representation operating as a check it can not be considered as a prevailing principle."

3. Power of Legislatures Delegated and Limited

a. DELEGATED POWER

The legislature is a pure creature of the state. While it is necessary to make laws, it is not necessary to have legislatures. If the people choose they may cease to create, and the creature will cease to exist.

The status of legislatures is already well established in the decisions of this court. In Van Horn's Lessee v. Dorrance, 2 Dall. 304, Mr. Justice Patterson describes the source and extent of legislative power.

"The constitution of England is at the mercy of parliament. Every act of parliament is transcendent and must be obeyed."

In America "a constitution is the form of government delineated by the mighty hand of the people, in which certain first principles of fundamental law are established. It contains the permanent will of the people and is the