

FORTY-FIRST DAY

(LEGISLATIVE DAY OF MARCH 11)

MORNING SESSION.

WEDNESDAY, March 20, 1912.

The Convention met pursuant to recess, was called to order by the president and opened with prayer by the Rev. R. E. Golliday, of Columbus, Ohio.

The PRESIDENT: The gentleman from Hamilton [Mr. PECK] is recognized.

Mr. PECK: Mr. President and Gentlemen of the Convention: I do not think the value of discussion and criticism has often been more clearly illustrated than it has been in this debate. From the beginning there has been a continuous stream of criticism and objection poured upon this proposal, and these critics have shown many things that were worthy of consideration, but in no respect, in so far as I can understand, have they ever in the slightest degree injured the main proposition.

The question to which I first want to devote myself is one that perhaps, in view of the admission made yesterday, might be unnecessary, but I want to show some things in connection with it. It was conceded by the gentleman who says that he is opposed to the initiative and referendum "root and branch," that there is a demand and a necessity for reform of our legislative proceedings in some way or other, that an evil exists, to put it in his own language. While I think the fact that the evil is present is appreciated, not many of us have considered how widespread is the trouble which prevails in our legislative bodies of one sort or another.

Let us begin at the lowest class of legislative bodies, the smaller ones, the city councils. Do you know of any body that is more thoroughly discredited than the average city council? Who has any confidence in it? There are a few exceptions, but I am certain that I am stating the rule. I know that in the city where I live to become a member of the city council was something that came to be a joke instead of an honor, and if a man held that position he felt called upon to apologize for it. That situation prevailed for many years in Cincinnati and up to last year. All the other great cities of the country have been and are more or less in the same situation. Take the largest of them, the city of New York. There nobody professes to have any confidence in the board of aldermen. Nobody believes that they are animated by sincere and disinterested motives such as influence this body and ought to influence every legislative body representing its people. Everybody knows that they are controlled by the large moneyed capitalistic influences outside, that they are under the control of certain persons and that the people at large have very little control over them. They will pass or defeat anything that certain influences outside of the council dictate, and they will not pass anything that they do not want. As it is in New York so it is in Philadelphia. Why, I do not think that there is a city in the world that has a worse name, so far as government is concerned, than Philadelphia. The

odor extends all over Pennsylvania and many miles out to sea. It is decayed, and yet the people of Philadelphia seem to enjoy it. They become so accustomed to that sort of odor that they rather like it. Now take the other end of the state of Pennsylvania. There is Pittsburgh; you remember what happened there a few years ago when the grand jury got after some of the members of their local legislative body and the sheriff was engaged in chasing some of the leading citizens of Pittsburgh all over the earth and bringing them back to stand trial for misconduct in the city council. So it was in Cleveland until the day of Tom Johnson, of blessed memory. Cleveland was happily rescued for the time being, at least. So it has continued. I hardly need to go over this any more.

In the city where I live, the old historic city of Ohio, Cincinnati, for a generation we did not have a council that was not easily amenable to pecuniary considerations until last year, when a civic volcano exploded there and blew them all out of office. The city is rescued for the time being. Such is the condition of these legislative bodies, and is it not a case where something should be done?

Now take the legislatures themselves. Look them over in the same way. You remember about the legislature of the state of New York. Do you recall the exposé made there of criminality of all sorts in connection with the insurance scandal two or three years ago? And back of that again and again similar cases have come out, and there is always one thing to be said in these matters, as well as in all other criminal matters, for every one that is exposed you may be sure there are a dozen that are not exposed. Such is the common belief. From very slight evidences and surrounding circumstances the people believe there is no confidence to be put in legislatures of that sort. They do not represent the people. They are at the beck and call of certain great interests, certain people who are out of the sphere of legislation, who hold no public position and are not animated by any desire to assist the public in any way, and whose motives are purely selfish.

Wealth is one of the great necessities. No nation can ascend to the heights of civilization without it. You cannot have those things necessary to a high state of civilization without wealth. The great universities, the great art museums, the great examples of architecture, and many other great things necessary in a highly civilized country, cannot be had without wealth. But wealth always brings with it certain responsibilities and certain drawbacks, and one of these is a tendency to continually accumulate itself and a desire for more and more and more. It is a continuous desire, and when this spirit of greed takes possession of a man it drives out nearly every good trait. You remember how it was said that the love of money is the root of all evil. Money itself is a good thing, but the love of it is the root of all evil, and it is the love of money that has corrupted our city councils and our state legislatures, and to meet all this

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the situation now demands from our Constitutional Convention in Ohio something in the nature of a remedy.

Observe some of the other state legislatures. Look at Illinois and see what recent investigations concerning their legislature have disclosed about their jackpot legislation and all this Lorimer scandal. Why, it has been admitted and proved that certain men were paid to vote for Senator Lorimer. The defense of Lorimer is that he knew nothing of it and that it was done without his consent. But that the men were paid has been proved beyond reasonable doubt, and that the corruption is there there is no doubt.

Take the state of Wisconsin, said to be one of the most progressive states in the Union, and their legislature is now undergoing investigation in the Stephenson matter. It is admitted that \$107,000 was expended there to elect Stephenson. Does anybody believe that it required any such amount of money to honestly elect anybody to the United States senate? I do not think it requires evidence to convince anybody that it would not require any such amount.

Now come back to the state of Ohio, and I do not need to call you attention to the sad things that have happened here. At this very moment one of our senators is on trial on a charge of bribery in a court near by. Another senator has been convicted, and a public official connected with one of the legislative bodies has also been convicted and sent to prison. Common rumor says that similar offenses have been committed a great many times in Ohio. Is not there need for something to be done about our legislative bodies? Are they to go on wallowing in this mire of corruption forever and amen? Shall we not endeavor to lift them out? That is the situation, and that is why I pledged myself to vote for the initiative and referendum. Before I was elected to this Convention I intended to vote for it, and I intend to vote for it now and until it is adopted, and that is why every one of us ought to do something in this line to bring about the reform which nearly all feel to be so necessary.

There is no use of going back and speaking of the former glories of representative government and to cite Burke and Chatham and Gladstone, and all the great worthies of our American congresses and legislatures in times and ages long past. Those times were not these times. Those men knew no more about the conditions in which we live than they knew about the telephone or the automobile. These have sprung up since. All the circumstances have changed so that we are now in the midst of an era in which we have to deal with evils against which they did not have to struggle. The evil we have to deal with is the filth that is a slimy one, but we must deal with it in a straightforward, manly way and endeavor to remove it from our body politic. As I say, the very frank and able speech made from this stand yesterday admitted the evil, but the efficacy of the proposed remedy was denied, and that is where we take issue.

Necessarily when an evil of this kind is admitted and you offer a remedy, it rests upon the people who object to the remedy to offer something else that is better.

Judge Worthington suggests curbing the power of the boss by means of civil service regulations.

These regulations have been put in force in a number of cities and towns, but they do not answer the pur-

pose altogether. The power of the boss is to some extent a separate thing, but it is nearly always mixed up with these corrupt matters that grow out of the power of great aggregations and accumulations of wealth, the great trusts which with their enormous influences can control men and control legislative bodies. They are not always mixed up with the boss; sometimes they can do things without the boss and in defiance of the boss, but the boss will generally be found allied with them and they with him. There is generally in all cities that sort of an alliance in perpetual operation, and the remedy proposed does not seem to me to be at all adequate. I believe in the civil service, but it won't reach the spot. The elimination of the boss would not remove the evils or the greater part of them. A very large part of them are not dependent upon him. Civil service is not applicable to legislators. I never yet heard of a legislator being examined touching his qualifications before being elected. The legislators are elected by the people. Those who are selected by civil service examination are people who are employed — employes and subordinate officers — but not legislators, and that remedy will not reach; and when you talk about curbing the boss, who is going to perform the difficult and interesting operation of putting the bit to his mouth? I would like to see it done very much, but I doubt if it can be done by such process. The only way to hold the boss or legislative bodies or control them is for the people themselves to take them in hand. That is the power they all dread and fear. There is nothing that these great aggregations of wealth and power which are behind this mischief fear so much as the people. They fear and distrust the people. I have often said, and I beg leave to repeat it here, though it may be a little unparliamentary, that the average corporation would rather meet the devil coming down the street with hoofs and horns than a jury. So they would rather do anything than to meet the people, for the jury is the popular end of the judiciary. It is the people that they fear and it is the power of the people that can control them. Just think what the power of the people is. It is easy to say "people," and when we say "people" we think of a crowd of persons in the street, perhaps something like that. Broaden your view as to that. The people constitute the ultimate court of last resort in all matters of morals. It is what the world regards as right that settles the question. No man can go against the united people. He might as well try to swim up Niagara. A man can plunge into the stream and swim nicely with the current, but let him face the other way and see what he can do.

The people have so many eyes and their aggregate will is so powerful that nobody can withstand them. That is why it is that the propositions come from the people with so much force. Submit anything to them that they are interested in and it is subject to the scrutiny of millions of pairs of eyes, looking at it from as many different angles, and to the consideration of a million minds; and you may be sure that every advantage and disadvantage connected with that matter will come out. Somewhere, in some nook or corner, some quiet citizen or thinker will fish out something that other people didn't see, and he will tell, and it will immediately go over all of the state, and so as to everything

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about it. Everything will be found out. That is why the people are so all-powerful, and everybody regards the opinion of his neighbors and wants to stand well in their opinion, because popular opinion is the ultimate power in all social and political matters.

Why are we here? The people sent us. Why is this constitution made? The people wanted it; it is the voice of the people. It is the command of the people which all must obey. Under the old monarchical form of government the word of the sovereign was the supreme law. Whatever he said was equal to a constitutional command with the people. He was the reservoir of power, the fountain of honors; the one who did not err and who never died. With us it is the people who do not die; it is the people whose judgments at last are conclusive and they are necessarily and conventionally infallible. It is the people who are all-powerful; it is the people who are the fountain of power and honors. They are the sovereign. It is they who can reform these legislatures which are going astray now, but which were so well fitted to perform their functions in those early days. There is no question that representative government is a great and valuable institution, and will continue to be great and valuable, and the wisdom of our fathers is not in any degree discredited by anything we may do. We are dealing with conditions that they knew nothing about and could not possibly anticipate. They knew nothing about modern affairs. We can look back through the pages of history and find out a little about the conditions that existed in their time, and can to some extent appreciate how it was, and we bless them for having discovered and put into operation this great system of government. But that it can continue and never wear out, that it can continue forever and go through all the varying circumstances without change to meet those circumstances is impossible. Our fathers appreciated that when they put in the constitution the provision that it should be submitted to the people every twenty years to say whether they want it changed or amended. So that we are now here and the question is, what shall we do with our legislative body? How are we going to help them out of the slough into which they have fallen?

The advocates of this proposal favor the initiative and referendum as a way to help them out. We say to them we want a certain law enacted, and if they don't enact it within a fixed time we will take it in hand ourselves and we will see that it is done. At any rate we will submit it to the whole body of people. That is one way, and we appeal to a body that these powerful and wealthy institutions cannot control, a body to whom they are often antagonistic. They may control legislative bodies about matters which affect the people, but they cannot control the people themselves. They may succeed in controlling the legislature with reference to railroad rates or with reference to regulations which ought to be enacted for public safety or convenience or with reference to a hundred things that you can think of, all of which we have had examples of in the past few years, but they cannot control the people. Whenever the people get at them they subordinate them just as they do everything else.

When we speak of the people we mean all society, all classes, high and low, rich and poor alike, and we do not mean any particular class of persons but all together,

the whole aggregate of society which together makes up that great force called "public opinion." That is what we speak of when we say "the people."

We are here to make a constitution for that kind of people. We are here to serve them, all classes of people, all sections. I represent the farmers of Ashtabula county as much as do the gentlemen from Ashtabula, although I come from a mercantile city. I represent the merchants and manufacturers and the lawyers. I represent every man, woman and child in this state. I am here to help protect them and so is each one of you. That is the only view to take of our duty here.

The first question is as to the initiative. Will it be a remedy? It certainly will enable the people to act. The objection of some of the gentlemen seems to indicate that it will enable the people to act too freely. It doesn't seem to me that there is much in that. It seems to me that the percentage is pretty high. I have occasionally had to do with getting up popular subscriptions and petitions to one thing or another, and my experience has not been that it is so easy to do. I think that when anybody undertakes to get eight per cent. of the voters of Ohio to subscribe to any proposition he is up against a big job. He will find before he gets through that he has certainly something to do that will take a long time and he will have to have an organization extending over the state and people working in every corner of it to get eight out of every hundred voters to sign a petition for a proposition that has to be explained to them man by man before you get the signatures. It is an easy thing to get signatures to a petition for the benefit of an individual. He is known, and when you mention his name the person can decide instantly whether he wants to sign the petition for him, but when you want to put up a proposed law it must be explained. You have to make the people understand the necessity for it and the kind of law that is proposed. It takes an interview of some length to get anybody's signature to a petition for a law and that is the reason I say if you undertake to get an initiative petition from eighty thousand people you have a job on your hands for sure.

The criticisms of the gentleman from Mahoning [Mr. ANDERSON] and by my colleague from Hamilton [Mr. WORTHINGTON] have, it seems to me to a certain extent, shown some defects in this proposal as it stands, but those defects are easily remedied and they ought to be remedied, and they will be, no doubt. My discussion is to be directed mostly to the main question, and I shall not undertake to answer those technical objections made to the proposal yesterday.

The first objection that occurs to me that was made against the initiative, and perhaps the same objection is made to apply to the referendum, is that a large portion of the people will not vote. I do not know to what extent that is based upon experience or whether it is a mere anticipation. I think likely that some people will not vote on anything that is submitted to them. We know that there is a considerable percentage of people who never vote. Anybody who has ever observed the course of elections in this country knows that there is one election that always draws a considerably larger percentage of voters than any other, and that is the presidential election. Everybody knows that some ten per cent more votes are cast at presidential election than at any other election

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because of the profound interest in that office and the man who is to fill it. There is always in every election for local officers a considerable percentage of the people who do not vote, which is all wrong; everybody should vote, and if we are to have representative government everybody must vote as near as we can make them. A democratic government is a co-operative machine; every man must do his part of the work and not shirk, and any man who does not take an interest in public affairs and does not vote, is shirking his duties as a citizen, and if there is a great deal of that it is injurious. There is always some and you cannot get rid of it altogether. As to the voting on these matters under the initiative and referendum, there will always be some people who will not vote, but the large bulk of the people will vote, I believe. It has been shown in the other states where these remedies have been applied that a very large proportion, two-thirds or three-fourths of the voters, always vote on these propositions, and that is quite enough to settle the trend of public opinion and popular judgment, which is what we want. We want the judgment of the people, and the judgment of the people is the judgment of those who take enough interest in a proposition to think about it and to express an opinion by voting. So I do not believe that the objection is well founded.

Well, then, we are told that an initiative petition cannot be amended, that it must go through just as it is without the change of a letter. That is true if there is what we call a direct initiative; that goes directly to the people. But what are the consequences? One consequence is that the people who propose a law will have to be very certain they have it right before they start. If they do not get it just to express what they want and to express precisely what is needed they may be sure it will be defeated at the polls, so that the inability to amend will re-act upon the proposers after it goes from their hands to the people. It cannot be amended and the people have to take it as it is, and if there are any defects in it the people will not take it. The result will be that any proposal put before the people, you may be sure, will be carefully studied and carefully prepared. So that objection does not seem to be fatal.

However, my own inclination is to prefer the indirect initiative. I think that all laws should go to the general assembly first and that body should have an opportunity to act upon them, to amend or take such action as they think proper, before they are sent to the people, if it becomes necessary to send them. I prefer that mode of procedure. I hope it will be adopted. I have never taken any part in the preparation of this proposal and have never attended any meeting or caucus about it, but I now suggest to my friends who are in favor of this measure—I suggest to them here and publicly that it will be better to leave out the provision for the direct initiative, at least so far as applicable to statutes. I prefer that form myself, and I have drafted an amendment which I will offer at the proper time providing for that. Leave out the direct initiative as applicable to statutes and provide that all statutes shall first be offered to the legislature, and afterwards to the people if the legislature does not act or does not act properly. That will be the proposal, leaving the direct initiative applicable to constitutional amendments with a reasonably high percentage. With such percentage and applicable only to constitutional amendments, it is

clear that the direct initiative would not often be called into action, but when it is it ought to require a high percentage because of its importance, and there should be a large demand before any change in the constitution is made.

Judge Worthington spoke a good deal about the fetters which the people have put upon themselves in constitutional enactments. There is just one point which he should have remembered. The people have put those fetters upon themselves and he need not be afraid that they are going to throw them off. They put them there and they will keep them there. I have no fear of them throwing off the constitutional provisions which protect men's lives and liberty and property, for those things were put into the constitution by order of the people themselves. They have been kept there for a hundred years, and will be kept there as long as the people live in society. Any attempt to remove them would be repelled by the people with so much indignation that the maker of the attempt would not try it a second time. There is no reason to fear the action of the people when you think of what the people have done for themselves; when you think how patient they have been under all these troubles, and how they have put upon themselves these restraints and fetters, and have maintained bars for the protection of the minority and the protection of the individual. They have thrown around each man, and each farm, and each little piece of property in Ohio, the protection of the constitution, and it will not be taken from the owner except after due compensation first paid. They have thrown around his life, liberty, and everything dear to him, the protection of this constitution, and they are not going to take those defenses away. I have no fear of trusting the people. Trust the people who have done such things as that! Are they going to tear down and destroy them? It seems to me that it is absurd when you consider it. We can leave it to them. They are conservative; they will always seek the safe side rather than the one that is destructive or experimental.

This matter that comes before us is, "Shall the people say, 'We will reserve to ourselves the right to interfere with legislation and to say to the legislature, if in certain matters you go astray and you do not do right, we will reserve to ourselves the power to take them in hand if we choose to do so. You are our general agent for all purposes, but you make mistakes in certain matters; you cannot be trusted in certain respects and as to those matters we propose to take charge of them if we think necessary?'" And the legislature must admit that the people will do what is right. These are the same people who have, through direct initiative, made every constitution under which we have lived, from the constitution of the United States down. None of them could exist an hour if the people did not want them. And now to say the people are seriously opposed to them and to all of these things which our friends praise so highly, all of these things of which Americans boast as guaranties of our liberty, after all of these came directly from the people themselves! It was they who ordained them; of course, they had the assistance of their wise men and their leaders, but they had the final say themselves and they said it. So don't talk to me about not trusting the people. The people gave you everything you have in the way of government, and why should not they have the

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power to make such changes as they deem necessary? Why should you not trust them? Where is there anything better? From what source can you get it? Tell me that, you who are afraid to trust the people. I am not afraid to trust them about any question in the constitution or out of it, because according to my reading of history, especially the history of our own country, they have always been true to themselves and their best interest. They have kept together and they have retained those things which are best for themselves and for their posterity, and for that reason I do not think we can do any better than to go to them with as much confidence as a child would go to its father.

Now one of the evils that I want to mention in connection with the legislature is this discrediting of the legislature, which was alluded to briefly by Senator Burton yesterday, but not in the way I want to call attention to it. The discrediting of our state legislature is leading the people to go to congress for all sorts of legislation. They say, "We can't trust the state legislatures. The trusts and corporations have them by the throat and they make them do as they will and we have to come to congress." They are asking congress to do the very things that the states ought to do, which our forefathers intended them to do. The whole police power and all the power of domestic regulation was reserved to the state under the constitution of the United States, and yet the tendency is to rush from those discredited legislatures to Washington for relief. It belittles the state government. If this process is kept up the states will grow weaker and weaker and the centralized government at Washington will be more powerful until the states will become petty dependencies of the great central government. Have we not already shown a tendency to appeal to the general government for assistance? Remember what was said in the debate on good roads. The states existed before the general government. The general government was made by delegates from the states. The constitution of the United States was framed by delegates from the states and the states and the state government are the fountain and origin of sovereignty. The state of Ohio is a sovereign state. She surrenders certain portions of her sovereignty to the general government. The portions that relate to foreign affairs and to the army and navy she surrendered, but all of her local affairs — in all such matters — she has retained to herself, and now, because the legislature will not do its duty, the tendency is to push these matters into congress and congress has had before it, seriously championed, bills about child labor and other things of that sort which are purely matters of state cognizance. If this process goes on we shall have the whole government concentrated at Washington and our states will occupy the relation to the general government that the counties occupy to the state, mere dependencies, to be dealt with at the will of the higher power. That is one of the dreadful things which is threatened by reason of the condition of our legislative affairs, and one of the things that it is necessary to remedy and which remedy can be had by the initiative and referendum. The people of the state can then assert themselves, and can have the laws and regulations they need put upon their own statute books, and they will not have to go to Washington for them.

I have already spoken of two objections to the initia-

tive and the third one I have some hesitancy about alluding to. I do not want to bring on hysterics about Ashtabula county or Allen county, but I must say a few words about the single tax. I do not think that is a legitimate argument in this case. It is simply a piece of declamation to frighten the people from voting for that which is right. It is totally irrelevant to the subject under discussion. It is an illegitimate argument and no attention should be paid to it. You can trust the people. They will do right in taxation matters as well as in anything. The people made these barriers and they will maintain them as far as necessary and right. The talk about the single tax is simply setting up a man of straw to be knocked down with a great flourish of trumpets and a big hullabaloo, but it is not effective and it is not legitimate as an argument in this matter. Nobody is really afraid of the single tax. There is no agitation for it. There is nobody pressing for it. There is no proposition for it anywhere that I have heard of, and there is no more danger of the single tax than anything that the people are not dreaming of. I do not believe in playing upon imaginary fears. This is a sort of politics that we have had a good deal of in times past. After the Civil War there was a cry raised that if one of the political parties came into power slaves would be re-enslaved and the confederate soldiers would be pensioned and the confederate debts would be paid, and that sort of an agitation and hullabaloo was kept up for ten years and served largely to defeat objects valuable in themselves. I do not regard that as legitimate politics or argument or anything else. It is not a legitimate argument to appeal to imaginary fears, but it is intended here to set up a bogey like that and urge it against the adoption of the initiative. The people will not initiate the single tax any more than any other objectionable fad.

Mr. HALFHILL: May I ask the gentleman a question?

Mr. PECK: You may if it is a real question, but I do not propose to be bandying words with you. If you have a real question I will attempt to answer it.

Mr. HALFHILL: You may pass on the question after it is asked.

Mr. PECK: I have seen so much of the other sort of thing that I do not want to start in on it.

Mr. HALFHILL: Do you recognize that there is a strong and well-organized propaganda to establish the single tax in Ohio?

Mr. PECK: I have never heard of it. I have heard of a few men who go around talking of the single tax, but they were mostly non-residents of Ohio. I have not heard of any propaganda in the state itself.

Mr. HALFHILL: Would the report of the Single Tax Conference on that point in any way convince you?

Mr. PECK: I do not know until I see it.

Mr. HALFHILL: I call your attention to the report for 1910 that a considerable sum was appropriated by the Jos. Fels Fund to aid in establishing the single tax in Ohio.

Mr. PECK: I do not care anything about that or about Joseph Fels or the Joseph Fels Fund or anything connected with Joseph Fels. He is not a resident of Ohio.

Mr. HALFHILL: No.

Mr. PECK: I know nothing about the proceedings. They are very seldom mentioned in the newspapers.

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Mr. HALFHILL: Does not the fact that the State Grange and the farmers generally recognize this as a serious thing in any way justify us in insisting upon the passage of this amendment?

Mr. PECK: I do not believe the farmers of Ohio have thought much about it. I do not believe that one out of ten has given any attention to it. I think there are a few professional farmers in those Granges who are always advocating things to keep themselves to the front, and I think they are making all the noise.

Mr. HALFHILL: You didn't hear the discussion of the officers of the State Grange last night?

Mr. PECK: No; I didn't care to.

Mr. HARRIS, of Hamilton: I will ask you if fifty or one hundred men, or two hundred men, or even as many as five hundred—which in my judgment is the maximum membership of the National Single Tax Association, so-called—if as many as five hundred men in the United States, having a population in excess of ninety million people, were to adopt a high-sounding name and expend with great glee the money of Joseph Fels, would that lead you or any other sensible man to assume that that particular five hundred people represented any considerable sentiment in the United States?

Mr. PECK: Of course the question answers itself. We all know it would not.

Mr. LAMPSON: Will the gentleman yield to a question from me?

Mr. PECK: Another Grange heard from!

Mr. LAMPSON: No, sir; but if the Joseph Fels Fund—

Mr. PECK: I don't care anything about him.

Mr. LAMPSON:—were to write a letter offering to pay for the publication of the single tax articles in a country newspaper, would that suggest to you that there was any effort being made to establish the single tax?

Mr. PECK: You read that and you refused it. I heard that. We all admit that you are honest. You don't need to advertise it.

Mr. LAMPSON: I didn't refuse it. It was not my paper; it was my son's.

The PRESIDENT: Does the gentleman from Hamilton yield?

Mr. PECK: No, I do not. I said at the start that I did not want to indulge in any combat of wits. They are mostly inane and futile and I want to discuss this matter seriously.

I do not think the single tax argument amounts to anything. The mere fact that one newspaper has been offered pay for putting an advertisement in its columns, and that one concern containing about five hundred people is engaged in some sort of propaganda in the United States, does not seem to me to constitute a danger. If you say that you think that is sufficient for us not to adopt this good remedy against the abuses in our legislative bodies, I simply say that I do not agree with you. I do not think they are reasons at all, and I think they are totally irrelevant to the proposition and I shall not vote for any amendment on that subject.

Now as to the referendum. That is a veto power and very little has been said against it. I notice that the gentleman who announced that he was against the whole project, root and branch, was very gentle when he came to

the referendum, and it seems to me that he has considerable feeling in favor of it. I think when he considers the extent of the evils we are suffering from in legislative bodies, which he has admitted, and when he has considered how little harm can be done by the referendum and how much good can be accomplished by it, he ought to vote for it.

We have always had a referendum, more or less. All our constitutions are made by referendum. Many a law has gone into force by virtue of the referendum. It has been the common practice in Ohio ever since I can recollect to refer the question of issuing bonds to the people of the town which is to pay them. All questions as to entering upon new enterprises have been referred to the people who would have to pay. These questions have always been settled by referendum and nobody has ever found any danger in letting the people settle them. So I think the referendum will be a good thing in the wider scope for which we intend it. Let us go to the legislature and say to them, "You pass this act, but whatever does not seem good to us we will submit to the people." If the people want it they will say so, and if they don't want it they will say so. That is what is meant by the referendum. I do not know of any remedy that will be as efficacious in the matter of granting franchises. The people of Cincinnati are tied up with a fifty-year franchise which never would have existed for a minute if it had gone to a vote of the people of that city.

The people of Cincinnati took something like a referendum on the Southern Railway when it was proposed to be sold, and at that time they defeated the nefarious scheme. I call the attention of my colleague [Mr. WORTHINGTON] to the fact that the Southern Railway was built as a result of a referendum. The people of Cincinnati voted to voluntarily tax themselves to the extent, first, of \$10,000,000, then of \$6,000,000, then of \$3,000,000 and then of \$2,000,000, until they got it done. All of these votes were taken and the proposition carried by a majority of the people. But they say, "Oh, you cannot make this thing work in big communities." This is an objection that has been giving me some concern. They say in a little community like Switzerland, with little cantons, the referendum can be easily worked, but in a great heterogeneous community like Ohio, composed of people of many nationalities, speaking different languages, you cannot make it work. I don't see it. We haven't any class of our population that I know of that is not intelligent. I have been among a good many of these recent comers, who have very often been insultingly spoken of—the Italians and the Hungarians and the Southern Europeans generally—and I have talked with them and always found them surprisingly intelligent and well informed about matters in this country, and I have found another thing about them—they are enthusiastically American, every one of them. They want to be considered Americans and they are proud of the fact that they are here, and they are proud of the privileges they have, and they are anxious to do what they can to forward the best interest of the country. We have made no mistake in admitting those people. They are here and are contributing every day to the wealth of the country and its prosperity, and they will contribute by their votes just as much as any other set of people to forward proper regulations of state. So I

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do not think there is any need to be afraid of the initiative and referendum on their account.

I do not want the initiative made direct. I think it will be better to have it indirect. That gives opportunity for amendment in the legislature and it will be discussed publicly, which is of considerable benefit, before it is finally put upon its passage, and those are among the reasons why I am in favor of the indirect initiative and why I hope the proposal will be so changed as to leave the direct initiative applicable only to constitutional amendments.

The constitutional amendment naturally applies to the people. Let it go directly to them when a large per cent of them demand it. Legislation, however, naturally falls to the representative body. Let it go to the legislature first, and then if the legislators don't get it right the people can take it in hand. That is my idea of what should be done, and I have prepared an amendment to the Crosser proposal to effect that purpose which I will now offer, if it is the proper time to present such things.

The PRESIDENT: The amendment is not now in order, but the member will be recognized to offer it when the time comes that it can be offered.

Mr. PECK: I thank you. I want to offer it, and I want a vote on it, and I hope we will stand to it and vote for it. I believe this to be a great reform in our legislative procedure.

The most of us came here pledged to vote for the initiative and referendum, and for one I was elected on a platform which provided for the initiative and referendum, though for the indirect initiative. I want to carry out the pledges of the platform exactly as made, and I am here to so vote if we can get this bill into proper shape, and I propose to stand by it and I hope the whole Convention will stay here and work it out and put it into proper shape, and put it through in such a way that there can be no denial of the propriety and efficiency of the measure. I thank you for your attention.

Mr. HALFHILL: I would like to ask the gentleman a question. Will he yield?

Mr. PECK: Yes, but I don't propose to engage in any combat of wits with you.

Mr. HALFHILL: I want to ask you a question about your argument.

Mr. PECK: Go on.

Mr. HALFHILL: If I understand you correctly, the burden of your argument is that by reason of new industrial conditions and great wealth the legislature now fails of the purpose for which it was created.

Mr. PECK: In certain matters.

Mr. HALFHILL: Is it the purpose of the amendment which you intend to offer to create an initiative and referendum which will aid representative government? If it is, it will certainly help get votes on the outside. What I want to know is, does your amendment reach to the point of excluding any direct initiative?

Mr. PECK: As to legislation.

Mr. HALFHILL: So that all proposals go first to the legislature?

Mr. PECK: Yes.

Mr. HALFHILL: And the legislature has the power to amend?

Mr. PECK: That is in substance what I proposed, but I propose to leave the constitutional amendment go direct under the initiative to the people with twelve per cent.

Mr. HALFHILL: Has it not occurred to you then that you have joined us who are advocating the indirect initiative?

Mr. PECK: I didn't know you were advocating it.

Mr. HALFHILL: We are proposing an indirect measure.

Mr. PECK: But opposing the four per cent.

Mr. HALFHILL: We want the opportunity to amend to be given.

Mr. PECK: In the indirect you must provide for amendment.

Mr. HALFHILL: I would like to have the gentleman's amendment read.

Mr. ROCKEL: I would like to have the amendment read also.

Mr. PECK: I have not the amendment fully completed yet.

Mr. ANDERSON: Does not your proposed amendment permit of amendments going through the legislature by reason of a substitute that can be submitted to the voters at the same time the initiated proposal is submitted?

Mr. PECK: Yes.

Mr. ANDERSON: In that way it admits a full amendment?

Mr. PECK: Yes; that is in the Crosser bill now. There is no trouble about that.

Mr. HARRIS, of Astabula: Do you say the Crosser bill proposes under an indirect initiative to go to the legislature, and that they may there make amendments—

Mr. PECK: They can submit another bill.

Mr. HARRIS, of Ashtabula: They are not required to submit any kind of a bill.

Mr. PECK: The people first propose a bill and the legislature can submit another bill.

Mr. HARRIS, of Ashtabula: That is new. I do not think that the member from Allen [Mr. HALFHILL] understood that from the nature of his remarks.

Mr. PECK: It is there; just read it.

Mr. LAMPSON: Does the gentleman know that the first amendment that is now offered by the gentleman from Allen [Mr. HALFHILL] provides for the indirect method?

Mr. PECK: No; I thought it provided about the single tax.

Mr. LAMPSON: Not at all. I would like to have the secretary read it.

Mr. PECK: I don't think it is important that I should be informed at this point. I can learn later. Because I am not informed, it doesn't follow that the rest of the Convention is not.

Mr. LAMPSON: Perhaps you won't want to offer your amendment.

Mr. KING: Mr. President: Originally I had not thought that I should occupy the time of the Convention in any discussion of this question, but on consideration I feel that no apology is due for taking your time in the discussion of a question which in Ohio is raised for the first time in the one hundred and twenty years of its history, by which it is proposed to make a fundamental

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change in a distinct department of government. Such a question as that is a grave one. If we are called upon to take a new path in representative or in popular government, no length of time is too great for a full and complete discussion of everything connected with it. We should not lightly undertake to alter or change the form of a co-ordinate branch and a distinctly independent branch of our republican fabric except for good reasons and after careful investigation and a most solemn, yea, a most prayerful consideration.

You, gentlemen, and I are but brief sojourners undertaking to carry out a small part in the history of our commonwealth and country. We have received this structure of government from those who preceded us as a sacred trust to have and to hold, to use and transmit unimpaired in effect to those who may come after us. Not necessarily would I say that it is not our duty to improve it, but when improvements are suggested that undertake to change the character of our government they should bear the most careful scrutiny and investigation, that every particle of evidence and light that may be brought to bear upon it may be disclosed. When people come forward with a distinct and radical change in the governmental fabric the obligation to demonstrate at least three things should devolve upon them:

1. That there are real and substantial evils now existing under our form of government.
2. That those evils have grown up under and to a certain extent because of the present existing form of government.
3. That the proposed change is the best and is the only method of eradicating the evil and improving and preserving this sacred trust which has been given to us for a brief possession and which we are bound to transmit to those who come after us in all the perfection that it is possible to preserve it.

When this question was first broached, as I might say, in Ohio, when the question of a constitutional convention came up — of course during the year 1911 we heard a great deal about the initiative and referendum; that it was to be a distinct proposition upon which undoubtedly conflicting minds would disagree, and I, having consented and concluded to be a candidate for this position of delegate, announced early that I was opposed to the initiative and referendum, opposed to it on principle, opposed to it because, so far as I had been able to obtain light upon it, I did not believe there were in existence evils so serious as to demand so radical a change in the governmental policy of our state; that there did not exist such evils that could not be reached under the present and existing forms of constitutional government by adequate and proper legislation, if we did not have that kind of legislation now.

I coupled, however, with that declaration this statement which I make again here as I made it in the fall of 1911, publicly in my county, that if the people of Ohio were of the opinion that there did exist evils that could not be reached and the people wanted initiative legislation I had no objection, provided they would not undertake to depreciate the responsibilities and duties of the legislative departments of government. And I have not changed my mind upon that proposition, and I am glad to say now that, in view of the declaration of Judge Peck, I shall be pleased to support an amendment along those

lines. I stand here to vote for it and it does not require any change in my political convictions, that are as old as I, and because there has existed in the state of Ohio since it was organized as a state a hundred and ten years ago the declaration that the people have a right to assemble together in a peaceable manner; that they have a right to consult together for the common good; that they have a right to instruct their representatives and also to petition the general assembly for redress of grievances. "Instruct their representatives" — that has been the constitutional law of Ohio for one hundred and ten years, and I ask any and every delegate in this Convention to name the time when the people of Ohio have ever acted under that constitutional provision. They have had the right — not only the right, but the constitution expressly directs that they may and shall instruct their representatives what to do, and yet in a hundred and ten years, I undertake to say, they have never exercised that right. If that be so, the evils cannot be very onerous under which we are now living.

Mr. ULMER: Is it not a fact that the people of Toledo sent down here a committee headed by the mayor of Toledo to instruct the legislature — even to pray the legislature — to give the people of Ohio a right to deal with the public utilities as they saw fit?

Mr. KING: I don't know what this Toledo council did or what the Toledo mayor did.

Mr. ULMER: And has not that law which was introduced here been refused by the legislature?

Mr. KING: I don't know anything about that. But notice this language — it doesn't say any "representative" of the people. It says the "people," and that is the very gist and acme of the initiative proposition — that you go to the source of all power with your legislative provision, you go to the electors themselves. The point I make about the constitutional provision is that we have always had the right by petition to frame a law and have the petition signed by such a considerable number that would indicate that there was a general prevailing desire and thus instructing the representatives in the general assembly that we wanted that law.

Mr. STAMM: Is not there a difference between petition and initiative?

Mr. KING: No.

Mr. STAMM: If there any difference between the veto and the referendum?

Mr. KING: Yes, quite a difference; but none whatever between a petition and an initiative. The initiative doesn't take you anywhere; it only starts.

Mr. STAMM: Can you petition the czar of Russia and can you use the initiative on the czar of Russia?

Mr. KING: You are going too far. The initiative in its definition doesn't mean anything at all.

Mr. STAMM: But in its practical application?

Mr. KING: Nothing but to start a proposition.

Mr. STAMM: Now I want to say—

Mr. KING: You are not asking a question. I yielded for questions.

The initiative in its entire meaning does not go to a conclusion. It amounts to nothing but starting a project. That is all. You say there ought to be a conclusion and that is why I say I would be for the amendment of Judge Peck or something along that line. The trouble with this constitutional provision is that while

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we had the right of petition to instruct the legislature what we wanted them to do, there was no remedy if they did not do as we instructed them, but if we never exercised our right under that, we have no business to criticise the legislature and say that they would not have done it anyhow if we had attempted to exercise our rights under the constitution as we have them now. So, as I have said, since we have been here a hundred and ten years and nobody has ever instructed the legislature when the constitutions have always recognized that right then there could not have been any overpowering reason existing in the conduct of our business to demand it, and now we suddenly find out that it is absolutely necessary to change our method of legislation.

I am not going into any extended discussion of this initiative and referendum, I do believe that the direct initiative legislation is absolutely an unmixed evil; I do not think it has one redeeming quality at all, Trust the people? Certainly; I trust everybody—just as far as I will trust myself and no farther. We are here now and our fathers have assembled time and again in similar conventions to enact constitutions for but two purposes—one to delineate the form or style of administrative government, and the other to shackle themselves against oppressing their neighbors. Twenty sections of our constitution are devoted to the preservation of human rights. Against whom? Against the very people who made the constitution. That is all. We contract away and are thereafter forever estopped from the right to do certain things towards our fellow men or with reference to their rights. We agree among ourselves that we will not do these things. We will give every man charged with a crime a full presentiment of it. He may be tried by a jury of his peers, the writ of habeas corpus shall never be suspended, no ex post facto law shall ever be passed, etc.

Mr. WATSON: Is it not a fact that we reserved those powers to ourselves rather than give them over to a legislative body and were we not afraid to trust them?

Mr. KING: No; the agreement is that we will never exercise them in any form, shape or manner. Those are fundamental rights that have followed the Anglo-Saxon people for almost a thousand years, and all the history of our country and in every state and national constitution those things are declared to be fundamental, inalienable—things which you cannot give away.

Mr. DWYER: Personal rights?

Mr. KING: Yes; the right of protection by the government, and I deny that the people all massed—every one of them together—can take away the simplest of those rights from the humblest being under the control of our government. We haven't the right and that is why we have met and put these into the constitution, shackling ourselves against our ambitions, our passions and our desires. We have done that for our protection, for the protection of everybody. Now then, the direct initiative is opening the door; it is taking a step that is dangerous towards undoing and nullifying those great principles and rights that we have so long declared to be fundamental and elemental. Therefore it ought not to be exercised except upon the most careful consideration and for the most important reasons. It ought to

have the utmost publicity and the greatest opportunity for discussion, criticism and amendment.

Another thing, my attention was called to this method of legislation, this cure-all for every evil that can be imagined in the body politic, by a year's residence in the state of Oregon in 1907, where this thing had its first American birth, practically at least. It is the first time it was carried into a constitution in this country. Oregon is a peculiar state. In the first place, it is a state of large distances. The settlements, except in the Willamette valley, are far apart. A single railroad, the Southern Pacific, runs across the western part and its adjunct runs across the northern line, with the great interior portion without a single railroad. There are counties there almost as large as the state of Ohio without a single railroad in them. The settlements are far apart and are inhabited entirely by native-born Americans; most of whom are of middle age and men of education. Oregon up to 1902, in fact even longer than that, was dominated by the politicians at Portland, of whom Senator Mitchell was the successor of those who had preceded him. Mitchell finally became the boss. He owned the legislature and he owned a great deal else in Oregon and was trying to keep on owning things. There was a good deal of criticism and a desire to get away from these conditions, and no practical method seemed to show itself until finally a man by the name U'Ren got into the legislature and he succeeded in hammering away on this proposition until they put it through. It was finally carried by the people and it provides for pure initiative legislation. I would commend the committee having this proposal in charge to read the Oregon proposition drawn by U'Ren and adopted. While they may not agree with it—I don't—still they will find some good English used, so that anybody can read and understand it. That brought about an amendment to the constitution of Oregon in 1902.

The operation of that system in Oregon has been in a great measure absolutely ridiculous. There has not been a law adopted under that provision, I undertake to say, that the legislature would not have been perfectly willing to adopt if it had been asked to do it by any sort of petition that indicated a fair proportion of the people wanted it. I undertake to say another thing in that connection, that there never sat a legislature in the world anywhere when you can bring home the fact that the people want a law that would not absolutely and quickly respond to that wish. The trouble has been, if there has been any trouble at all, the inability to make them understand what the people do want. I want to say again in that connection, that sometimes we get an idea that where half a dozen people think they would like to have a law that that is the voice of the people. They go to a member of the legislature and ask him if he doesn't think it would be a good idea to have a given law. Then he talks to three or four other men and they say they don't see any need for it, and the man who wants it goes off and when he learns that nothing has been done he says the legislature is not responsive to the will of the people. A great many of us have an idea we are important when we are not, and we think if we say anything to a member of the legislature that he is our servant and it is his duty to go and put the thing through, and when his fellow members don't think well of the proposition and

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it is not put through we say the legislature won't do what the people want. Now, if you issue the petitions to the legislature to pass this law and get the required number of signers, you bring directly to the legislature the fact that this law is desired by the legal proportion of voters named in the constitution. You will find that it won't happen once in a thousand times that the legislature would turn that sort of a recommendation down. It may happen that a thing which the petitioner thinks would be a good law—for example Proposal No. 2—is very crudely constructed. It may not express in good grammatical or logical form the things that are wanted. Now I recognize when you put into the constitution the amendment suggested by the gentleman from Ashtabula [Mr. HARRIS]—that you give the legislature the right to take the law named in the petition and work it over and then call it a law that was petitioned for—you would open the door to abuse by the legislature of the thing asked for by the petition. That is the reason I do not see any other remedy when you give the petition to the legislature for a law except to say that they must pass that law, but if they don't want to pass that law they may devise a new one. It may be better than the one proposed. Then, of course, the two must go before the people. That must follow, because if the petitions for the law are turned down by the legislature the people have a right to have it go before them, and if the legislature adopts a different law both should go before the people to enable them to choose the one they want.

Now about this Oregon proposition. I think, and the judgment of the best people in Oregon today is that there ought to be a constitutional limitation upon the number of propositions that may be submitted at any one time. Think of submitting thirty-two at one election! And the Oregon history is that they multiply in an increasing ratio every election. At first they were not accustomed to it and only two were submitted. Then there were more and they kept increasing. That seems to be the trouble, that there is nothing in the constitution to prevent that, and if they have sixty-four they may have one hundred and sixty-four.

Mr. LAMPSON: You are familiar with the Oregon ballot?

Mr. KING: Yes.

Mr. LAMPSON: Have you got one?

Mr. KING: Not here.

Mr. LAMPSON: I have one.

Mr. DOTY: The gentleman says that he is familiar with the Oregon law and the Oregon ballot. Will you take the ballot and tell us how many of those were put upon that ballot by the legislature and not by petitions? How many of those did the legislature put up?

Mr. KING: I cannot tell without an inspection of it and a careful reading, and if anybody looks at it he will see that it is in faint type and the different propositions have no heading. Why, it would take me an hour to tell you how many of those were initiated directly and how many the legislature referred. As a matter of fact I can answer your question because I have the data here. There were thirty-two submitted; twenty-four were by petition for legislation, two by referendum petition and six by legislative referendum, making thirty-two. Of those thirty-two, nine were adopted—all of them by from

3,866 to 16,771 and less than a majority of all the voters voted at that election.

Mr. DOTY: May I interrupt? That is all the information that I wanted to get on that. Now, if the Oregon initiative and referendum were the same as proposed by the Crosser proposal, six of those would not have been on there at all?

Mr. KING: I am not sure. Don't you provide for a legislative referendum?

Mr. DOTY: No.

Mr. KING: I don't know why you should not.

Mr. DOTY: The very reason is exhibited there. It doesn't give the legislators a chance to shirk their duty. So there would be only twenty-six.

Mr. KING: If that is not provided for there would be only twenty-six, but there is no reason why the people of Oregon, who are very busy politically, couldn't have made it a hundred and twenty-six. The percentage out there is eight per cent; the population is in the western part of the state and up the Willamette valley, Portland being the principal city—a city of a population of over 200,000 out of about 700,000 in the state—and Salem and a few other towns running up that valley, so these petitions are naturally collected and signed in that part of Oregon, the western end. There are some fair-sized towns on the eastern border and they could get a lot of signers over there, but the conditions are such that when a man in one part of the state sees something that he thinks should be done by law—for instance, in 1910 they presented a bill with reference to fishing on Rogue river (No one, unless very well versed in geography, knows where Rogue river is; it is a very respectable sized stream in the southern part of the state and flows into the Pacific ocean.) There was a bill initiated regulating fishing in that river in which not one in twenty of the state's inhabitants had the slightest concern or about which they had the slightest knowledge, yet it went upon an initiative ballot to be legislated upon by the people of the whole state, who didn't care a continental and were not in a position to inform themselves about it. You talk about reading two hundred pages! As intelligent a people as they have in Oregon, with a very slight per cent of illiteracy—so small that I cannot remember what it is—I do not believe that one in fifty ever read that pamphlet and the way they voted indicated it. I think in a general way they knew there were certain propositions up. I think there were half a dozen propositions changing county lines. Those, of course, did not affect anybody but the people who lived in the two counties. There were half a dozen of those, and I will say for the people of Oregon that they knew generally from the publications in the press that it was proposed to have them vote the people of a township from one county into another. The press generally opposed that sort of legislation and every one of them was voted down. They didn't have to read a pamphlet. That was a matter of principle. Was it expected to go to the whole people of the state every time they wanted to change a county line? The people said not. On the contrary, they passed a constitutional provision which was all right, providing just exactly how a county line should be changed. That was carried.

Mr. DOTY: Don't you think that shows quite a good bit of discrimination to do that?

Mr. KING: There is no doubt in the world that

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the people of Oregon are intelligent and discriminating, and what I say about them is that they would not take the time to read and study those propositions.

Mr. DOTY: Now, to come back to the people of Ohio. I think we will agree, inasmuch as we have Van Wert county with us, that we are as intelligent as Oregon?

Mr. KING: No.

Mr. DOTY: Then I will agree to that myself for the whole Convention. But the people of Ohio being as illiterate as you say they are—

Mr. KING: I didn't say that.

Mr. DOTY: There is some degree of illiteracy?

Mr. KING: Yes; quite considerable.

Mr. DOTY: Well, they can come to a conclusion on a law after sixty days as readily as the house of representatives sitting in this room can when they are called upon to vote upon sixty-six laws in one day.

Mr. KING: You are stating an extreme case. I am not in favor of having the legislature pass sixty-six laws in one day. I think they should be prevented by the constitution from doing it.

Mr. DOTY: Then find a way to do it.

Mr. KING: You can do it. If you can abolish the legislature entirely, as you want to do, you can devise some way to keep them from passing sixty-six laws in one day.

Mr. DOTY: Didn't the legislature pass sixty-six laws in one day?

Mr. KING: How do I know? You have been there; I have not. You should have gone about and found some way to prevent it.

Mr. DOTY: I was a workman and not a member when that happened. Is it not a fact that in the last week of any general assembly there are frequently two or three hundred bills passed?

Mr. KING: Likely.

Mr. DOTY: Is that a good scheme?

Mr. KING: No.

Mr. DOTY: Don't you think the people of Ohio can be just as discriminating as the general assembly in that?

Mr. KING: Just about. I don't think the people of Ohio will read this pamphlet, and I don't think the people of Oregon read theirs. They decide the general principles largely from the newspapers.

Mr. WOODS: Is it not a fact that while a general assembly may pass sixty-six bills in one day those bills have been introduced months before and have been considered in committees for days and weeks and have been voted on and then come to be voted on on the last day for the third time?

Mr. KING: I expect that is true. Of course I don't know whether the members of the legislature read the bill books or not.

Mr. HARRIS, of Ashtabula: I infer that you speak of Oregon from having visited it?

Mr. KING: I lived there a year.

Mr. HARRIS, of Ashtabula: With a population all told a little larger than the population of the city of Cleveland, you knowing the quality of the people of Oregon, I will ask you whether you think the comparative population can be considered in considering the initiative and referendum?

Mr. KING: I do not at all. There, outside of the city of Portland, you find the country isolated, and those people will not only read the laws, but they read everything they get their hands on. They have the time to do it. But in the cities they are as we are, taken up with their business matters, and therefore they don't want to read them. Now if they were confined to a few propositions, or if the propositions were concisely and clearly stated, then the voter would very soon gather the idea of what was intended to be accomplished and form his opinion as to whether he wanted it or not, but suppose you had a law like the legislature passed a year ago of over one hundred sections, concerning which even lawyers disagree in their construction and parts of which the governor vetoed, would the voter know whether that law in all its entirety is what he wants or not, and would he have any opportunity to form an opinion as to what would be the effect of adopting the thing?

The delegate here yielded to Mr. Doty, who moved to recess until 1:30, which motion was carried.

AFTERNOON SESSION.

The Convention met pursuant to recess and was called to order by the president.

Mr. KING: Mr. President: I had supposed I was nearly through until interrupted by the questions of the gentleman from Cuyahoga, which were all right, but I shall not detain you much longer I hope.

I undertook to particularly illustrate the operation of this matter in the state that has given most attention to it, and in a state where it may be well said that it could have the most efficient operation.

To compare Oregon with Ohio is to illustrate a very wide distinction. The gentleman from Cuyahoga intimated that we were an intelligent people in Ohio. We are. But I need not stop to say that every member of this Convention knows we do have a very large — and I do not care how patriotic they may be — population in Ohio to whom the republican form of government is an absolutely new proposition, a very large number of people who are illiterate, who can not read and study and become efficient legislators; a very large number of intelligent people who would not attend to it no matter what the exigency may be, unless the proposition is one of such wide public interest that everybody pays attention.

Now then, it is not a matter so much to me the number of people that shall sign a petition, except to bring to the attention of the legislature the fact that there is a large number of the electorate, well distributed throughout the state, demanding the passage of a law. So I am in favor of the proposition that the petitioners shall, some of them, come from a majority of the counties of the state, or half the counties of the state. If you leave that unconfined you immediately permit the large cities of the state to absolutely control anything in the way of initiative legislation. That is disclosed in Oregon, where there is no limitation and where a third of the votes of the state are cast in one city. And to have a petition signed by eight per cent. of the electorate of the state is a very simple matter if you have got any kind of a proposition at all. You can confine it there

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to one city, but if you were to confine it to a half dozen it would be equally pernicious, because it is not representative of the public sentiment of a large portion of the state. So it is not so much the number of petitioners, and yet I think the number ought to be made sufficiently high to impress upon the legislature the fact that the people generally want it, or that a goodly number of them generally want it throughout the state.

It certainly can not be a very difficult matter to secure signatures to a petition for a measure of public interest. Take the liquor question. The legislature has required, I think, a percentage of thirty-five per cent of the electors of a county to vote on the Rose local option law. Wherever there is any sentiment in favor of having a local option law operate there has never been any difficulty at all in getting the petitions signed readily—sometimes running over fifty per cent—because that is a question upon which public sentiment is formed one way or the other. So with any other great public question. Whether you have six or eight or ten per cent., all are small enough, so that if your measure has any merit you can easily get the percentage.

Now, I was pleased, as I said before, with the suggestion made by the gentleman from Hamilton county [Mr. PECK], because it seemed to me a sort of vindication of my own stand upon this question.

I see the gentleman from Cuyahoga [Mr. FACKLER] is not in his seat. I wish he were. I have the pleasure of knowing that my position upon this question in the campaign of 1911 was exactly what it is today, and yet the gentleman from Cuyahoga county came into my county and made a very eloquent speech in one of our towns opposing my election, and here I find that we are practically going to stand upon the same platform. I am glad to meet him, even half way. I was a conservative; I was a reactionary; I was practically everything that was iniquitous.

Mr. FACKLER: Did I say any of those things about you?

Mr. KING: That I was any of those things? No; I do not think you did. You opposed me on the ground that I was opposed to the initiative and referendum.

Mr. FACKLER: Mr. President: I would like to ask the gentleman a question.

The PRESIDENT: Yes, sir.

Mr. FACKLER: Have you any information from the address I made to cause you to infer that I did anything except to talk for the man who stood upon the platform that I stood upon?

Mr. KING: I do not know as I can admit that. There were two of them there.

Mr. FACKLER: I mean particularly the one I talked for?

Mr. KING: There were two of them that stood on the platform you approved. Oh, I was informed about it very clearly, and, of course, that was not unpleasant at all. I recognized that that was a part of the price I would have to pay for saying I was opposed to the initiative and referendum just as I am now opposed to it.

But as I said then I say now, that if public sentiment announces to me that the people want it I can see how they can get it and have it. One of my opponents said he was in favor of it, properly saddled and bridled. I

did not go out and ask to be elected on the ground that I was in favor of the initiative and referendum, and then turn around and say I wanted to saddle and bridle it so that nobody could ever use it. I declared my position upon it, and my position was based then as it is now, on the fact that I could not see the necessity for the use of it in the state of Ohio, because if left unlimited I believed it would not operate satisfactorily in the state of Ohio and would be used to foist upon the ballot questions to be decided at the polls by a vote of a large electorate, amounting to something like twelve hundred thousand votes in a population of almost five millions, rapidly increasing, and tend, as it has tended in Oregon and will tend in any state where it is ever adopted, to bring into disrepute and disrespect the legislature; tend to create the feeling in the minds of the community that we can get along without any legislative branch in the government at all, and my mind is so formed and so disciplined that I cannot comprehend a republican form of government with the legislative department eliminated.

I would rather stand on the platform of the eminent men who have lived in our nation from its inception, and who without exception have declared that there was no wise rule of legislation in a republican form of government except by representatives of the people. Their names are by the scores, the ablest men our country ever produced.

And in answer to the suggestion of my friend from Hamilton county [Mr. PECK], that the times have changed, that new problems have arisen, I want to say I deny that. There is no new problem in a question of right and wrong. Corruption has always existed in this and every other country, and it has not been confined to legislators alone. They are not the only men that have gone wrong in this world of ours. Every department of your government, at home and abroad, has exhibited samples of men who have not had a faithful regard for the duties of the offices confided to their care and have sometimes gone wrong. It may be that the legislature has more opportunities of meeting with temptations than other people, and yet I do not know that that is true. They are more in number. That is all. But honesty is not confined to any age or clime or particular character of people, nor is dishonesty. We have always had both. And yet almost every one of the great statesmen of one hundred and twenty years ago declared that there was no other remedy, and even so great a man as he who expects, I think confidently or hopefully at least, to become the next president of the United States, declared before the presidential bee buzzed in his hat and when he was engaged in the high calling of instructing the youth of America in the principles of a republican form of government, that that government must ever remain representative. It can not act unequipped by the masses. It must have a law-making body. "It can no more make law through its voters than it can make law through its newspapers," said Woodrow Wilson a few years ago. He took a trip of three weeks to the Pacific Coast and he was converted, he said, to the principle of the initiative and referendum. I think it would have taken him a little longer than that to study it, but at the time he wrote this he was lecturing every day and he was writing his

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work upon constitutional law, upon governmental economy, and teaching our youth what is a republican form of government. And I would rather take him in the days of his conservative soberness than in the days of his ambition for high office.

I say that the line of authority is almost unbroken, and it resulted from the discussions of the ablest men our country ever produced, men for whom I have respect even if they have been buried a hundred years or more, and we can not afford, gentlemen, to ignore the teachings of past history or the instruction and advice of the great statesmen who builded this republic under which we have prospered so well.

But we have evils. Many of them are minor evils, but exaggerated for present effect. It sometimes seems to me that when you get a system of unrest, no matter what caused it, an impression arises in the minds of the people that something must be wrong. The political quack doctor comes up on every hand to tell us how we are to be cured. Now, one of these nostrums will never instill into the human heart the principles of right living and of honesty. It has got to be ingrown. You cover your statute books with laws, you fill your constitutions with limitations, you direct that legislation shall be put into operation and be passed and still the human being remains just the same through all the ages. And we are human, and we are frail, and we err. And that will always be the situation.

That system of government is the most efficient that is conducted by the most honest men—I do not care what its form may be—the men who have the highest regard for the responsibilities that flow out of the office which they hold, the men who live close to the ideal of honesty and have the highest regard for the rights of all their fellowmen.

Now, even in Oregon, at least three or four years ago, as able a man as I think there is in the city of Portland declared in a public address that it was apparent then, which was after the election of 1908, that the system as adopted in Oregon required certain limitations, and he said that it was necessary that the number of the amendments to the constitution and the number of the initiatory measures that could be voted for at any one election should be limited in the constitution itself. I believe that is true, but that the limitations should go farther and require that all that should be voted upon should be a single proposition in concrete form.

As I stated a moment ago, you take the public utilities bill passed by the legislature, and what voter in Ohio would be able to tell whether he wanted the law or not if he read it? It may take years to determine all the intricacies there are in the measure, for it is a very complicated one. And there are many others.

Judge Carey says that the use of the initiative should be confined to bills that have been introduced and failed to pass the legislature and to all those that have been so introduced and passed and vetoed by the governor, and he said that the referendum should be modified by requiring a larger number of petitioners. They had some curious experiences with the referendum. But that danger I think has been sufficiently guarded against in the Crosser proposal.

The worst thing I noticed in Oregon was that twice they got up petitions in the eastern part of the state

largely to get before the people an appropriation for the support of the state university. The people in the eastern part of the state thought that it was too high. By the constitution of Oregon these propositions are to be voted upon at the general election. The general election was held every two years, at that time in June, but now that has been modified by a constitutional amendment, and all their elections are held in November, on the same day that we hold ours. But a provision appropriating a sum of money for the state university would be passed in January or February. I should say that in Oregon the legislature is limited by the constitution to sit sixty days whether they have passed all their bills or not. It does not make any difference. They have to adjourn. And these bills, these acts, as I say, were passed in January and February. The referendum petition is filed. Not a dollar of that appropriation money can be used until a year from the following June. Now it would be nearly a year from the following November, still later, being nearly two years from the date of the appropriation before the money could be used that had been appropriated. It is clear enough, I think, to everybody that that would present a state of affairs almost impossible. Now, you take it upon that. These professors and instructors lived for a year and a half upon what money they could borrow or get by the aid of charity, until this could be voted upon, and while it was a measure for the benefit of a university in which most of the people took great pride, they came within four thousand votes of defeating it both times, showing how the intelligent people vote. I venture to say that fifty per cent of that negative vote was carelessly cast by men who did not personally wish to defeat that appropriation, and I think that will be true all along the line.

Then, ought not there to be a limitation upon the number of propositions and ought not their submission to be very carefully guarded and ought not you present them to the general assembly and let the general assembly determine whether it will act upon them? The fact that the petition goes to the general assembly brings up the subject publicly for discussion there. The newspapers state it and advertise it and print the news about it. It goes through the regular routine of the general assembly; it is referred to a committee, voted upon for a second reading, and is referred to another committee, perhaps, and voted upon for a third reading, all of which advises the people generally of what the legislature is doing. If they should not pass the law as the initiative proposes it goes before the people and they have an opinion formed while the measure is fresh and in the public's eye, and that will have great bearing on determining the opinions of the people when they go to the polls a year later or whenever it is voted upon. So I say if we are to have the initiative, that is the form in which we should have it. Beyond doubt it is the only proper and efficient way of preserving the integrity and principles of a republican form of government, not reducing the powers of the general assembly, but at the same time if there are evils existing you hold above the heads of the general assembly an efficient reminder to make them perform their duties. That is all it will be, no more than that. If they disagree, as they will have a right to disagree, acting upon their own best judgment as to what ought to be done, they have a right to make another measure themselves and

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submit the two to the people, so they will not be restrained in the performance of their duty by the fact that the people have petitions for a law. They know they may act on their own judgment to pass that law, and if they don't pass it because of inherent defects, yet if they think that the general purpose of the law is good and that they can improve on the bill submitted, let them pass a different law. It costs no more to put two bills up to the people than one, so far as expenses are concerned, and with this I desire to leave the subject. It is an interesting one and one requiring thought and judgment, and I hope that every member in the Convention will act on his own conscience as he believes best, not only for present conditions, but for future generations that will come after us and take of this fabric of government what we are pleased to leave them.

Mr. ROEHM: For my information, how are the petitions signed in Oregon?

Mr. KING: I never saw a petition for an initiative law in Oregon.

Mr. ROEHM: How are they obtained?

Mr. KING: By men who go out and get them. There has gradually grown up in Oregon a set of professional petition getters who go out and get them at so much per name. I think it is a wonderfully bad practice for one to go out and depend on the number of names he gets for his pay. He is liable to get any sort of names and how are you going to determine that those names are the names of electors? I am very much in favor of the idea if it could be worked out—and I don't see why it could not—that a number of places should be named in the law at which petitions should be left and the voters should be required to come there and sign them.

Mr. HARRIS, of Hamilton: Are you in favor of the short ballot?

Mr. KING: That is not germane to the question, but I expect to be when it comes up.

Mr. KNIGHT: Mr. President and Gentlemen of the Convention: In what I shall have to say this afternoon I shall not attempt the conversion of any opponent of the initiative and referendum. It may perhaps be, as seems to have been true within the last two days, that they will be converted by process of gradual absorption. I do, however, want for a few minutes to discuss, with those who believe in the initiative and referendum, some points connected with the present proposition. I think, perhaps, here, as in all other matters, a little reasoning together will disclose the fact that what have seemed to be wide differences of opinion are not such in reality; that they can be made easily to disappear.

Nor do I propose to undertake to say anything with reference to the principle of the initiative and referendum. I believe in it thoroughly. I believe that it is wise, and I believe that we have reached the stage in the state of Ohio where it is desirable that it should be incorporated in a workable form in our organic law. I believe in it however as a reinforcement of representative government, and not as a substitute for representative government.

Favoring a principle does not mean and never has meant favoring any or all possible varieties of it in specific concrete form. There is a great difference between the two. The president of this body told us

some weeks ago that upon the question of the principle of the initiative and referendum there was in the minds of a majority of this Convention no room for argument, but that upon details we were all at sea as to what was the best form of application of it. So the ex-president of the United States who addressed this body some weeks ago spoke heartily in favor of the principle of the initiative and referendum properly safeguarded, but in no wise touched upon any matter in detail. So the distinguished American who has more than once been a candidate for the highest office within the gift of the American people spoke of the principle of the initiative and referendum in the heartiest way and touched not a single matter of detail except to say upon one point that it was his judgment that eight and twelve per cent. were not too low. But as to all other details of it he kept silent. Favoring a principle, therefore, and opposing a particular embodiment and form of it, or suggesting a modification of a particular form or embodiment of it in a specific measure, are not at all inconsistent. It has often been true in legislative matters and in constitutional conventions that the best friends of an idea, who assist in making its specific application the best possible, oppose a too conservative or a too radical application of it.

Now on the specific measure before us, in order that no one may have any grounds for misunderstanding what I shall attempt to say and hope to succeed in saying, and in furtherance of or obedience to what has become a custom in this body, and perhaps a wise custom, that each of us in speaking should show some of his credentials and his right to speak, and what he is here for and what, if anything, he has promised to do—in furtherance of that, permit me briefly, not because it is a matter of any vital concern to the rest of you, but because in doing so it may lead to some of the things that I shall say about the measure, to state the circumstances under which and the platform on which the voters of Franklin county honored me with membership in this Convention; for I agree with Mr. Bryan on one point, among others, that a man who accepts a position on the basis of a specific platform plank, is not only expected to, but ought to, carry out the plank by his subsequent performance so far as it lies in his power so to do.

In company with my present colleagues from this county it was my honor to be nominated by a voluntary organization of civic, labor, farmer and commercial bodies, known in its united capacity as the United Constitution Committees of Franklin County.

Prior to the selection of any candidate the body, after several evenings of deliberation and discussion, adopted a platform of three planks. The plank regarding the initiative and referendum was drafted by the president of the organization of Franklin county, Dr. Washington Gladden, than whom there is not, as we all know, in the state a more progressive citizen nor a warmer or more sincere advocate of the initiative and referendum. That platform is as follows, and I am reading from the original draft in Dr. Gladden's handwriting:

This conference approves of the principle of the initiative and referendum as the fulfillment of democracy and instructs those whom it shall select for its representatives in the Constitutional Convention to secure their incorporation into the new organic law with such prescriptions and safe-

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guards as shall be needful to make them most effective, and to prevent them becoming an obstruction to efficient government.

To that plank I gave my warmest adhesion and subsequently over my signature with those of my colleagues agreed to stand by it in the following language:

We, the undersigned candidates,—

Let me say I am speaking for one of the three only and not for the others in this speech—

We, the undersigned candidates, selected by the United Constitution Committees of Franklin county, as delegates to the Ohio Constitutional Convention, do hereby solemnly pledge ourselves that, if elected, we will unqualifiedly and constantly support and vote for the principles adopted by the United Constitution Committees, as set forth in their platform, including the initiative and referendum, in a form embodying percentages as follows:

For the submission of constitutional amendments on petition, not to exceed twelve per cent. of the electors; of desired laws on petition, not to exceed ten per cent.; of legislative acts, not to exceed eight per cent. All such laws, legislative acts or constitutional amendments shall be adopted by a majority of the votes actually cast upon them.

That left or should have left little doubt as to the status of these candidates. In fact, the Columbus Citizen, concerning whose position on the initiative and referendum there can be no question, editorially approved.

As the campaign progressed the candidates were fought not only by the opponents of the initiative and referendum, but by organizations or parties supporting candidates who were pledged to a flat five per cent. for both initiative and referendum; against this low percentage a large part of the fight was made and the fight was won in favor of these safeguarded initiative and referendum on the basis of eight, ten and twelve as against five per cent. on the ground that the latter was too low.

About two weeks before the election a further and more detailed statement of our position was prepared by one of the candidates and issued over our signatures after it had been read through and approved without change by the executive campaign committee of the county organization. From this permit me to quote in order to make perfectly clear what the voters of Franklin county voted for when they sent me to this body. This was published and sent broadcast over the county under date of October 27, 1911:

In simple terms the referendum is a method by which when any considerable number of voters of the state regard as bad or objectionable a bill that the legislature has passed, the people of the whole state shall have an opportunity within a limited period to approve or veto the bill by direct vote. Similarly where the legislature omits or refuses to act upon a subject that seems to a considerable

body of voters to demand action, the people of the state may, if they so desire, enact a law upon the subject by their direct vote. In brief, the one is a check upon the legislature to prevent or lessen undesirable laws, the other is a spur to induce the legislature to enact desired laws. Neither the one nor the other is a substitute for representative government, but both are methods for making representative government more efficient, and for supplementing it when necessary.

Few legislators will be so far willing to lessen their own importance as willfully to invite an application of the people's veto or the people's spur. With the initiative and referendum in operation, the vocation of the lobbyist will be destroyed, for it will not be worth his while to push a doubtful measure through the legislature if it is liable to run the gauntlet of popular veto; nor to attempt to kill a bill if the people may nevertheless get a chance to enact it despite his efforts. The briber and the bribe taker will be out of business for the same reason. The initiative and referendum are therefore neither revolutionary nor reactionary or destructive of representative government, but, on the contrary, effective devices for making and keeping representative government more truly responsive to the will of the people. Like the veto power, their value is quite as much due to their existence for use when needed as in their constant or frequent use.

Just as there are variations in the form of the governor's veto power in different states, so there are variations in the form and extent of the initiative and referendum. The platform of the United Constitution Committees to which their recommended candidates are publicly pledged, reads:

"This conference approves of the principle of the initiative and referendum as the fulfillment of democracy, and instructs these whom it shall select for its representatives in the Constitutional Convention to secure their incorporation into the new organic law with such prescriptions and safeguards as shall be needful to make them most effective, and to prevent their becoming obstructive to efficient government."

This plank speaks clearly the intent that the people shall have a guaranteed protection against subjection to laws not desired by the bulk of the people, and an equally strong purpose that in securing this it shall not be at the expense of that orderly and efficient government and administration so essential to social, industrial and domestic peace and prosperity. It recognizes that there are some classes of laws to which the initiative and referendum should not apply, as, for example, appropriation bills for regular current expenses of state government and institutions, or such emergency measures as would be necessary in time of a great disaster—flood, insurrection, epidemic, etc. It also recognizes that regulations for the initiative and referendum must be definite and not vague and general.

As to the percentages named in our pledge as candidates, everyone knows that the constitution

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must fix some definite percentage to determine the number of petitioners necessary for application of either of the two remedial devices. An absurdly high per cent. makes them impossible of application; an absurdly low per cent. may make them obstructive instead of remedial.

In most states not only must the required percentage of petitioners in the aggregate be obtained, but that percentage must be obtained in a majority of the counties or congressional districts in the state in order that the petition shall be valid; that is, the petitioners must be so distributed over the state that one section or local interest cannot force a measure to popular vote. The platform and the pledge take cognizance of all these things and allow for them.

Finally, do those in Franklin county who are hesitant about accepting the thoroughly sane platform of the United Constitution Committees appreciate that the three socialist candidates for delegates to the Convention are advocating and stand for a flat five per cent. as sufficient to validate all petitions, even those for constitutional amendments? That to withhold support from a sane progressive platform, such as that of our organization, is one of the surest ways to give the socialists the entire delegation from this county? That many important questions vital to the people and property in this state will need consideration and settlement by the Convention upon which other voices from this county than those of the ultra-radical extremists of any sort, whether of "standpatism" or of socialism should be heard?

This was signed by your present speaker. The only object in reading it is because it contains, as I believe, some sane reasons for the initiative and referendum, and contains still further a square statement of what the voters of Franklin county thought they were doing when they sent me here. Upon this platform and upon this specific issue of a safeguarded initiative and referendum, the bases of eight, ten and twelve, as opposed to a five per cent basis, the voters did me the honor to elect me by a plurality of several thousand votes over the highest of the five per cent candidates and I am here to fulfill my promises in this Convention and to do the will of those who sent me here.

Now, as to the proposition before us, the initiative and referendum is and should be a strengthener of representative government and not a substitute for it. The experience of any institutional reform has always been that its first application is crude. Each subsequent application and each subsequent variety of it is an improvement upon its first application. So the history of the initiative and referendum in this country will develop that in its first form we have not so complete, and not so carefully framed, and not so good a proposition as in the later forms which have been modeled upon it. The first form provided solely for the direct initiative. The next stage provided for distribution of the petitioners, and the next stage provided, as in California, for an alternative between the direct and indirect initiative, and so in the proposed amendment in the state of Washington there is a similar alternative.

The next stage is the pending amendment in the state of Wisconsin, which does away entirely with direct initiative and rests solely upon the indirect; and this Wisconsin measure, as you already know—it has been stated from this place two or three times within the last week—has the full approval and advocacy of another of the most progressive men in the United States, Senator LaFollette. The direct initiative seems then, at this stage of experience with the initiative and referendum, to be far less desirable than the indirect. It seems to me it comes practically to being a substitute for rather than a strengthener of representative government, and for that reason I was delighted to hear our venerable colleague from Hamilton county [Mr. PECK], whom we have all learned to love as well as to honor, express himself in the strong terms he did as hoping that the indirect initiative would be what was to go forth from this body.

It is felt by many of us who want to see the initiative put up to the people of this state in such form as they will adopt it and embody it in the constitution, that the percentages are an important factor, and it is the feeling, I am sure, of some of us that the percentage of four per cent in the present Crosser proposal is quite too low. As a matter of fact it is the lowest percentage that is named in any constitutional provision in any state in this Union.

Now, there is no earthly question that we not only have the desire but that we have the power in this body to put up to the people in the state of Ohio the very best proposal embodying the initiative that can be made, and it seems to me that we should wisely follow and take the benefit of the experience and suggestions and trend in other states. The argument or suggestion made here the other night with reference to the petitions on the two sides of the liquor question, or of the woman's suffrage question, are not quite as conclusive as they might seem, for the petitions on those proposals, or for those measures, like the petitions which come before a legislative body at any time, are not petitions upon which there depends the necessity for legislation or action. They are simply suggestions, and neither law nor custom requires that they be obeyed, and that is just why we want the initiative. The initiative is an improvement upon voluntary petitions in this way, it forces the legislature to act in accordance with the petition, whereas petitions nowadays, as we have them in Ohio, are mere suggestions, which may be put—as frankly we put them, do we not?—into the box yonder without reading the names upon them, or often times, possibly, without reading the heading. They have no force and those who sign them know it, whereas under the initiative they have a legal force to compel action, and, therefore, the voters of the state, knowing that, will be more inclined to sign petitions when they know it is of some use than now when it is of no use.

We were most of us elected on an eight, ten and twelve per cent basis, and the delegates at least from one county, as we know, came here upon a platform calling for an indirect initiative on that basis. Gentlemen, is it not true that one of the most valid arguments in favor of the initiative is that at the present time the members of the legislature are not inclined to live up to their pre-election promises, and therefore the people

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reserve to themselves the right to enact legislation when the legislators forget their promises? And I find myself wondering and have been wondering for some days, whether we would be in the best position to go before the voters of this state, a majority of us having been elected on a specific percentage basis, with a proposal upon some other basis? I have been finding myself wondering whether there was any good reason why we should not come up to the fulfillment of our pledges. I don't mean necessarily up to eight, ten and twelve, but to such a fulfillment of the understood platform that there can not be any attack made upon the proposition submitted to the people on the ground that when we got here we did some of the same kind of things that the legislatures do and it was because the legislatures do those things that we need the initiative and referendum.

It seems to me that we should be able to go before the people from this Convention and urge from the minute the proposition goes through this Convention to the day it is voted upon at the polls, without having to defend or explain ourselves, a proposition that does fulfill in spirit in every way the properties of the platform. I suppose I am too old-fashioned, but some how or other it does seem to me that that is the proper way to do business, and even if we were to put that up to the highest notch called for by the platform we would still have and could still have — I am not advocating it — but we would have and could have the best and most effective initiative proposition in the United States.

That the present proposal does not fulfill these pledges is widely charged over the state, and in my judgment with some reason. I beg here to recall our attention to what some of us may have read within the last week — an interview with the gentleman whose name has already been mentioned, a few moments ago, in connection with the initiative and referendum, Dr. Gladden. Dr. Gladden was the president of the organization in this county. Further than that, Dr. Gladden is and has been for a long time a member of the so-called Direct Legislation League of the state of Ohio, a man who desires above all things to see come from this Convention a proposition that can be supported and will be carried and approved by the voters. Let me read you what seems to be his judgment upon us. This was published in one of the daily papers last Monday morning:

Naturally, I am deeply interested. As the president of the United Constitution Committees which chose the Franklin county delegates to the Convention and laid down the platform on which they are required to stand, I have been very anxious that the action of the Convention on this important matter should be wise and reasonable. I am a strong believer in the principle of direct legislation, not as a substitute for representative government, but as supplementary to it, and I do not want to see this principle endangered by disputes about methods in the Convention. * * * It must be that a very large majority of the delegates were elected on pledges to vote for the incorporation into the constitution of the initiative and referendum, and I have no doubt that there are enough delegates who are heartily in

favor of this measure to secure its submission to the people. It ought to be possible for these men to agree upon a proposition which will command the support of a majority of the voters of the state. It will be a great misfortune if they fail so to agree. But in order that they may agree some concessions must be made by extremists on both sides.

The chief dispute seems to be over the percentages of voters required on the petitions. Our own delegates, and I think most of those pledged to the measure, were instructed to make those percentages eight, ten and twelve — eight for the referendum, ten for the initiative as applied to a statute and twelve for a constitutional amendment. The measure now under discussion provides that only six per cent. shall be required for the referendum, eight per cent. for the direct initiative of a statute or a constitutional amendment, and only four per cent. for the indirect submission of laws or amendments. That is to say, four per cent. of the voters can introduce in the legislature a bill or an amendment; if the legislature rejects it, it must be submitted to the people at the next election.

It is evident that this proposition is quite different from anything which was suggested to us at the time when we were electing delegates, quite different from the platform to which our delegates were pledged. It ought not to be wondered at if some of them are disposed to stand on their pledges.

I suppose that if I were in the Convention I should be inclined to take a conservative view of this question. I doubt if it is best to make the percentages too low. A measure for which the signatures of eight per cent. of the voters cannot be obtained without great difficulty is a measure for which there is evidently no great popular demand.

The plank on which our Franklin county delegates were required to stand was written by myself and was unanimously adopted; and while I have not at hand the exact phraseology, I know that it was made clear that the measure was to be well safeguarded, so that the elective machinery of the state could not be set in operation by any small group of voters. If I were in the Convention I suppose that I should take the same view. It would not be because any corrupt or selfish interests had been trying to influence me, or because I was unwilling to trust the people, but because I thought that these more cautious methods would work best in the long run.

I should also be influenced by my strong wish that this measure, if submitted to the people, might be in such shape as to command their approval. If it is made too radical I fear that it will fail. As now presented it seems to me more radical than any other state has attempted. California has the indirect initiative, but five per cent. of the voters are there required to set it in motion, while the pending proposal calls for only four

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per cent. It seems to me that this is quite too low.

Personally I think the main body of the Crosser proposal, though it is somewhat too loosely drawn in language, is one in which and around which the necessary modifications can be made that shall accomplish what we are all after, the best proposition that can be put up. I would like to see a measure that will be ratified by the people, and one that will mark Ohio as really progressive, taking advantage of the experience of all the other states. It seems to me that the indirect initiative and the indirect initiative alone ought to be embodied in our measure. If our experience during the last few weeks has disclosed anything it must have convinced us of the fact that the chance to thresh out and the chance to modify or whip into shape bills for proposed legislation is necessary in order that we may get the best things and get what we undertake to get. Some of us, college men and teachers, have introduced proposals into this body—I have only introduced one and it is lost in some committee somewhere, so I am not speaking of that one. They have gone to committee, they have been sent out from the committee, they have been adopted by this body and have gone from this body to the committee on Phraseology, and I am of the opinion, being a member of that committee, that little of it has been in correct form. For instance, take the proposal touching the jury system. It is only about three lines long. I am of the opinion personally, and I suspect the other members agree with me, that when that committee reports back the only thing that will be in the proposal which went there will be the first nine words. It may be that that is a wrong guess. All of the language in the proposal after the first nine words will be changed, not necessarily different words, but different arrangement and different expressions, in order to make the thing clear, and that, too, after it has run the gauntlet of college professors and committees and a body of one hundred and nineteen men.

Now, it does seem to me that we accomplish all we want, and we accomplish it in the best way, if we put into the hands of the people of the state the right to force a proposition to a vote, but forcing it by way of a legislature, that shall have opportunity to put up a competing measure, put in the best form that the general assembly knows how to put it—and now and then we will have general assemblies that will know how to do those things—against the initiated proposition, and submit the two to the voters.

Mr. DOTY: Did you ever observe at close range a legislature drafting laws on the floor?

Mr. KNIGHT: Yes.

Mr. DOTY: Did you ever notice any difference in their output and the output as you have observed it in this Convention?

Mr. KNIGHT: Any what?

Mr. DOTY: Any difference.

Mr. KNIGHT: Output in what regard?

Mr. DOTY: So far as arrangement.

Mr. KNIGHT: I thought you might mean quantity.

Mr. DOTY: No. Have you observed in your experience any greater ability in the English used by the

legislature on one or any number of bills than you have observed in this Convention?

Mr. KNIGHT: I have a little hesitancy in answering that. I think, however, that the average statute which comes from the legislature, after being threshed out, runs a good deal higher than the language of the proposals in my proposal book as they are offered and before they are threshed out.

Mr. DOTY: We are not talking about things that are introduced, but about how they come out at the other end.

Mr. KNIGHT: We cannot compare the proposals in our proposal book with the finished statute. The proposals in our proposal book are analogous to what I think we would have under the direct initiative.

Mr. DOTY: Then it is your idea that the bills when introduced in the legislature are in better shape than our proposals when introduced here?

Mr. KNIGHT: You misunderstand me, or I didn't make myself clear.

Mr. DOTY: I thought you said that.

Mr. KNIGHT: I hope it is true as compared with some of these proposals. The direct initiative is the same as a proposal put at the head of the petition without any opportunity for revision anywhere after your petition starts. Is not that so?

Mr. DOTY: Correct.

Mr. KNIGHT: All I undertook to say a moment ago was to take a proposal in the proposal book and imagine one of those in its raw state put at the head of a petition.

Mr. DOTY: That is the point I am coming to. Is it not a fact that most bills introduced in the legislature have been prepared by lawyers? Don't the lawyers write most of the bills introduced in the general assembly?

Mr. KNIGHT: I presume so.

Mr. DOTY: Aren't they better trained in the use of language to express thought from a legal standpoint than the average of this Convention, most of us not being lawyers, and is it not more likely that the routine bills in the legislature are in better form than our proposals? Is it not a fact that trained minds are preparing those bills more generally than our proposals?

Mr. KNIGHT: I could not answer that.

Mr. DOTY: Is not the tendency in that direction?

Mr. KNIGHT: Yes; and yet the proportion of lawyers in the general assembly is hardly higher than here.

Mr. DOTY: I am talking about those who draw bills.

Mr. KNIGHT: I presume a majority of them are.

Mr. DOTY: Would it not be a natural thing for you as a citizen—you are a lawyer, but assume you are not—if you were a citizen, would it not be the natural thing to do to get legal help in framing a measure that you wanted submitted, and would not that be the thing that would be done in framing laws, and is not that the thing that is usually done in all states where they have the initiative and referendum?

Mr. KNIGHT: You have asked me two questions. To the first part I answer yes, and to the second I have no knowledge. If that is true then the legislature should not amend anything.

Mr. HARRIS, of Ashtabula: In your judgment, if

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a measure has been debated in Ohio from one end to another for months, if it has been made largely an issue in the choice of members of the Convention, if it has been in a committee of twenty-one members composed of clergymen and lawyers and everybody else, is there any explanation why it should have mistakes and bad English in it, and after our experience here ought not the people be excused for bad English too?

Mr. DOTY: There is bad English in many things.

Mr. KNIGHT: Replying to Mr. Harris, I am not quite sure at the present moment, in view of my preliminary statement, that you belong to any part of this body except the audience. I said I was talking to the friends of the initiative and referendum.

Mr. HARRIS, of Ashtabula: From my conversation with a good many men in Cleveland, the gentleman over there is from —

Mr. KNIGHT: Are you going to ask a question at the end of this statement?

Mr. HARRIS, of Ashtabula: Maybe I will get it out in that form.

Mr. KNIGHT: I have yielded only for a question.

Mr. HARRIS, of Ashtabula: Ought not we to except members of the Convention to be more familiar with English and to formulate their proposals in better shape?

Mr. KNIGHT: That is a matter of opinion. I do think, however, that our experience here must have convinced us that there is some wisdom in a proposition which gives the best possible opportunity for the very kind of thing which our deliberations show to be essential in order to make propositions that we want the people of the state of Ohio to adopt and live under, and for one I can see no way of accomplishing that under the direct initiative. I have never advocated the direct initiative.

Mr. DOTY: Don't you know you pledged yourself to it?

Mr. KNIGHT: No, sir.

Mr. DOTY: I understood from your reading of the pledge what you referred to was the direct initiative, because in the statement made by Dr. Gladden and read afterwards he calls attention to the fact that the indirect initiative was never thought of.

Mr. KNIGHT: He does not so state.

Mr. DOTY: I have not it here, but I think I can find it. Can I have that?

Mr. KNIGHT: Yes; and it is not there. Let me repeat, the indirect initiative seems to me to possess the qualities and exactly the qualities and exactly the idea and exactly the machinery which is necessary and desirable and which in every way will be helpful to the people of Ohio in the position in which they now are. And I cannot but feel—and I am satisfied there are a good many who are of the same opinion—that in the absence of opportunity for revision of legislation or revision of proposals initiated by petition, we are likely to have an experience of crude, raw and unsatisfactory legislation. Why, then, should we adopt that if we have a better method? Why should we give the alternative when the steady progress has been away from the direct initiative up to the simple, indirect initiative?

Mr. DOTY: I submit that the question I put to you is borne out by this language in this communication:

That is to say, four per cent of the voters can introduce in the legislature a bill or an amendment; if the legislature rejects it, it must be submitted to the people at the next election. It is evident that this proposition is quite different from anything which was suggested to us at the time when we were electing delegates, quite different from the platform to which our delegates were pledged. It ought not to be wondered at if some of them are disposed to stand on their pledges.

Mr. KNIGHT: That refers to the matter of percentages.

Mr. DOTY: That refers to the indirect initiative.

Mr. KNIGHT: Look at the heading.

Mr. DOTY: It is not the percentages; they were not known. It was the indirect initiative that was not known last fall, and therefore you are pledged to the direct initiative, as I understand it.

Mr. KNIGHT: There is nothing in that language which warrants any such interpretation.

Mr. DOTY: I'll leave it to anybody that can read English.

Mr. KNIGHT: It says here:

The chief dispute seems to be over the percentages of voters required on the petition. Our own delegates, and I think most of those pledged to the measure, were instructed to make the percentages eight, ten and twelve—eight for the referendum, ten for the initiative as applied to a statute and twelve for a constitutional amendment. The measure now under discussion provides that only six per cent shall be required for the referendum and eight per cent for the direct initiative of a statute or a constitutional amendment and only four per cent for the indirect submission of laws or amendments. That is to say, four per cent of the voters can introduce in the legislature a bill or an amendment; if the legislature rejects it, it must be submitted to the people at the next election.

You see that the sentence you read is in that paragraph.

Mr. DOTY: Exactly so. I said that.

Mr. KNIGHT: And I don't think anybody can read that whole paragraph and for a moment entertain the idea that you seem to have.

The second point where I think the proposal could be improved, and wisely, is in making a distinction between the percentage necessary for the introduction of laws and the introduction of amendments to the constitution.

We cannot under any process of lawmaking in this country get away from the fact that we must have an organic law underneath and behind and to support all our legislation and it seems to me that the moment we fail to make a distinction between the two, we in effect break down the constitution itself. I would want to see—and the various figures in the pledges indicate a difference in the minds of those who formulated the pledges to start with—I would want to see a difference made in the percentage necessary for the introduction by petition of a constitutional amendment as compared with statutory legislation.

We have today, I fear, all too little regard for the essential characteristics and necessities of a constitution. I

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fear if we make it as easy to amend the constitution as to enact a statute we shall weaken instead of strengthen the very thing which is essential. It seems to me quite as much as anything else that it is necessary to preserve the constitution itself, which in its very first section, deals with the rights of the people which we are attempting still further to conserve. Hence, I feel that there should be a higher percentage for constitutional amendments than for laws. So I hope if opportunity arises I can offer such modification of the present proposal as shall accomplish two things, among others. First, strike out the direct initiative and, second, place the percentages for the indirect at a point where we cannot be open to the charge of having made it the most radical proposition in the United States.

For one I can not at present quite see, after having made a fight against five per cent. as too low, how I can consistently vote for four per cent. as being high enough. That is a mathematical problem in political ethics that I have been working on. Having been elected on eight, ten and twelve per cent. as against five per cent., it is a little difficult for me to get four in between five and eight somewhere.

Do you call this opposition to the initiative and referendum? It is not at all. It is opposition to two features of one specific plan for the initiative and referendum, and I at least have good company in the dean of the delegation from Hamilton county, who is in favor of striking out the direct initiative and in favor, I suspect, of percentages such as will permit no one to say, "You fooled us last fall."

As to the Miller substitute with the single-tax local-option feature in it, it seems to me that that substitute ought to be voted down and that very soon we may have an opportunity to do some of the things which all of us must agree must be done in the modification of at least some of the language of the present proposal and in modifying to the extent of striking out the direct initiative and making the percentages not the lowest in the United States but in harmony with the general trend of development and use of the initiative and referendum, as in the proposed amendment to the constitution of Wisconsin and in the proposed amendment to the constitution of Washington. I find in Wisconsin the percentage for the initiative of laws is eight, and this is the indirect, and for the initiation of constitutional amendments the percentage is ten. In Washington for a legislative statute it is ten per cent. So I apprehend that something above four per cent. would not be regarded as over conservative. I should be glad to see the percentage for the initiation of laws put at eight per cent. and the percentage for constitutional amendments at least at ten, and I hope that opportunity will be given for such modifications as shall bring us all together, because if we can go out from this Convention with an initiative and referendum proposition that has behind it a hundred or a hundred and ten votes of the Convention it will gain us thousands of votes as compared with an initiative and referendum proposition that goes out with seventy or seventy-five votes. Why can't we get together on some of these things? I have only suggested what seemed to me proper modifications that will help get us together, and I have not said that I insist upon those figures, but that I cannot at present and I doubt if I can at all see

my way clear to vote for four per cent. in view of the situation here and in view of the promise made directly to over seventeen thousand voters who did me the honor to vote for me as a member of this Convention.

Mr. HALFHILL: Will the gentleman yield for a question?

The PRESIDENT: Does the gentleman yield?

Mr. KNIGHT: Yes; if he desires to ask a real question.

Mr. HALFHILL: You will have an opinion when you hear the question, what it is, and you can answer it if you think proper to do so.

Mr. KNIGHT: Yes.

Mr. HALFHILL: I want to inquire about your argument: Is it a fair deduction from your argument for one to say that the direct initiative tends to subvert representative government and that the indirect initiative tends to aid representative government?

Mr. KNIGHT: Certainly; the latter is proved. As to the first part of your question I cannot see how a form of initiative which goes around the legislature instead of through it, strengthens the legislature.

Mr. HALFHILL: Does not your experience in the discussion of this question in the caucus bear out the fact that a larger number of the delegates here are insisting upon the direct initiative? Is not that where the difficulty comes in?

Mr. KNIGHT: As I was not a member of that caucus, but merely an invited guest, I do not regard it as a proper thing for a guest to comment on his host any more than I would regard it proper for a host to criticise his guest.

Mr. HALFHILL: From your observation of the discussion then here in the Convention, is it not apparent that the difficulty is upon the insistence of a considerable body of the members upon their views that the direct initiative is the material thing? What I want to get at is where the point of divergence is.

Mr. KNIGHT: I am not a diagnostician, but I do think the place at which the members of the Convention can most easily get together is on a properly framed and carefully framed—I am speaking not entirely of substance, but also of form—initiative proposition upon the indirect basis, but I cannot undertake to say I have diagnosed the situation enough to express a professional judgment on that point.

Mr. HALFHILL: I thought you were making an earnest effort—

Mr. KNIGHT: I am and I am ready to lend all my best strength in that direction, to get together on a proposition for the indirect initiative.

Mr. HALFHILL: I so understood.

Mr. STILWELL: Would you suggest that the delegates who were pledged only to a direct initiative should violate their pledges and support only the indirect initiative?

Mr. KNIGHT: I cannot hear your question.

Mr. STILWELL: I gather from your statement that a majority are pledged only to the indirect initiative.

Mr. KNIGHT: I am not conscious of having made that statement.

Mr. STILWELL: It is a fact that some of the delegates are pledged to the direct initiative rather than the indirect. Now my question is, would you advise the

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delegates in the Convention who are pledged only to the direct initiative to violate their pledges to their constituents by voting only for the indirect initiative?

Mr. KNIGHT: I never undertake to advise any man under any circumstances to violate any pledge he has given. I am not informed how many delegates are pledged only to the direct initiative. So far as I know the majority of them are not pledged to the direct initiative alone. I have not seen the form of the pledges sent to many of the counties throughout the state, but I am of the opinion that in a majority of them it does not pledge them to the direct initiative alone.

Mr. HARBARGER: Do I understand you to say that your understanding was that the Franklin county delegation was not instructed for the direct initiative?

Mr. KNIGHT: No, I did not say anything for the other delegates from Franklin county. I said that I had never personally advocated the direct initiative.

Mr. HARBARGER: I would ask you whether the indirect initiative was ever mentioned in the campaign for delegates?

Mr. KNIGHT: I cannot answer for the others, but it was by me.

Mr. JONES: Mr. President and Gentlemen of the Convention: As I view the question under discussion now, it is one of the most important that has come or will come before this Convention, and its importance lies, to my mind, in the fact that we are proposing now to depart from that method of making and administering laws which has been the inheritance of all English speaking people and has been used and applied by them in one form or another for nearly a thousand years. An appeal is made to make this departure from these methods of legislation in order that we may progress to something better than that to which we have been accustomed.

I am not one of those who are opposed to changes, if for the better. I am always in favor of anything in any line, that will be an improvement over what we already have, but I do hesitate to adopt anything new without being first satisfied that it is going to be an improvement over what we already have. A prophet of old said, "View the ancient paths, consider them well, and be not among those who are given to change unless thou art quite sure the change is for the good." And I think now is an opportune time for us right here on the threshold of the action about to be taken in regard to this question, to view the ancient governmental paths along which the English speaking people have wended their way for a thousand years, to consider them carefully, see what there is in them of merit, ascertain what there is in them that is wrong, or has been wrong, and if we find there is anything wrong apply to it a proper remedy, not necessarily change the paths, but improve them.

The whole proposition of initiative legislation directly by the people is so radically wrong in my view that I could not have the patience to consider it in detail. Have you gentlemen deliberately considered what is involved in this matter of direct legislation? Why, reduced to its last analysis and briefly stated it is nothing more nor less than to have the body of the people as a body propose their laws, pass upon them, enact them, and virtually, if the thing is carried to its legitimate results, exe-

cute them themselves. In other words, it is a proposition, not to progress to something we haven't known of heretofore, not to adopt some new method of legislation, but simply to revert to the primitive methods which were tried thousands of years ago by many people and have been tried and tested among the Anglo-Saxon people for a thousand years and have everywhere been demonstrated to be failures. Instead of being progress, it is simply retrogression, it is simply going back to those methods of legislation which have long ago been discarded. What does it recognize and rest upon as its fundamentals? It recognizes that the average electors of a community are better able to make wise, good and efficient laws than those specially selected for that purpose. It involves the proposition that if you could throw a rope around a crowd in front of this state house and gather in one hundred and nineteen average electors of the state of Ohio you would have a body of men better able to determine what laws are the best and wisest than any one hundred and nineteen men that could be selected out of the whole electorate of the state; in other words that the average judgment of the whole electorate is better than that of any number of the wisest, purest and best of the electorate.

Now let us go back a moment to the primitive conditions and take the community gathered under the shade of a tree to determine upon its form of government and who shall make the laws for it. They are entering into a social compact. They are agreeing that they will be bound by certain rules and laws, and they say, as was said of old, "We will let the whole body of the community pass upon and determine what the laws shall be." That was direct legislation, that was pure democracy. Evolved from that has been this representative system of government under which we have lived, and I want for the purpose of what I have to say to trace a little of the history of representative government.

Away back in the early history of the Anglo-Saxon people they had absolutely pure democracy in England.

A little later in the development of this people they had what was known as the great council. The great council met at stated times, and it was open for every freeman of the realm to enter it. They didn't have to be elected to it, it was open to all. They all came together and deliberated together in the great council. They all determined what laws should be made for their government, and who should be selected to execute and carry out the laws. That was nearly a pure democracy. A little later there was instituted the first parliament in England, which was not made up as the great council was, of all the freemen of the realm, but was made up of certain portions of the freemen, and was a single legislative body; and this for a great many years in the history of the English people was their means of making laws. A little later it was found desirable to have two houses of parliament. There were reasons for all those things, and I want to trace this matter through for the purpose of showing that the very reasons that existed for the development and perfection of representative government exist with us today with greater force than they ever did in the history of the English people. Why was it necessary to divide parliament into two houses, and have the house of commons and house of lords? Why, it was found that after the interests of the people became

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more diverse it was desirable to have two houses to represent these diverse interests, and so they developed the house of lords and the house of commons and made the latter an elective body. We have heard it from this rostrum and upon this floor time after time as the reason why we want to change our representative system of government, that the people's representatives are bad, that they are elected by bribery, that the legislatures can not be trusted, that the city councils can not be trusted, that they seek their positions by fraudulent means and use them corruptly. Why, anyone who has read the history of the early parliaments in England, would say that our condition at present is by comparison a paradise. According to history men seeking election to the early parliaments would openly go out and bid so much per head for votes, no secrecy, no attempt at concealment, but it was regarded as a perfectly legitimate thing that they should use every means at hand to influence votes. Our condition now is not one hundredth part so bad as it was in the early stages of representative government, and how does it happen that it wasn't abandoned hundreds and hundreds of years ago? That evil then, as it may be now, was in time overcome, and representative government still lived and developed and the parliament of England was purified and became more and more truly representative and the effective instrument of the people. They had then — and a long struggle it was too — not only to separate those branches of the legislature, but also to separate and make distinctly apart from them, the judicial branch of the government, originally entirely under the control and power of the king. Finally, after two hundred years or more, it became absolutely independent of both king and parliament. Following that the veto power in the king gradually disappeared and power was concentrated in the house of commons, the veto power having so completely disappeared that for more than fifty years before Blackstone wrote his Commentaries this power had not been exercised by a king of England as it has never been exercised since.

Originally the house of lords had a veto upon the house of commons, but gradually that power got less and less. The king originally created the lords, but that power was gradually taken away from him and vested in the ministry, which was a creature of the house of commons, so that by threats to increase the membership of the house of lords the commons were able to force through the house of lords any measure they wanted. And now, as we have observed, just within the past year, the veto power of the house of lords has been practically entirely taken away, so that you have in England today one actual legislative body, the house of commons. This representative form of government, this government by the people, developed and perfected by centuries of use we all admit has been the model for the rest of the world. The constitutions of every state in this country have within them the principal elements of that system of representative government. Almost every written constitution within the past one hundred and twenty-five years anywhere within the civilized world, has had substantially these same principles in it. Along with the house of commons there developed a detail of representative government which is somewhat different from the similar detail in our country, and I want to call attention to it merely for the purpose of illustrating how the form

of government may be varied among the same people in different parts of the world.

They have in England what is known as government by cabinet. They have all these checks and balances to which I refer, the king with his nominal veto, formerly the house of lords with its veto, the constitution and bill of rights, the check upon the exercise of power even by the house of commons, and the absolutely independent and fearless judiciary.

Mr. BROWN, of Highland: Have they a constitution in England?

Mr. JONES: Yes; and have had for hundreds of years.

Mr. BROWN, of Highland: A written constitution?

Mr. JONES: Not all written, but a constitution whose provisions are just as well defined and known and just as consistently adhered to as any constitution existing anywhere. A part only of the constitution is in writing, the bill of rights and certain other parts. A large body of it has simply grown up as the country recognized fundamental principles and realized the necessity for their application and nobody makes or undertakes to make any question about them now.

In England, as I started to say, with the development of the house of commons, grew up what was known as government by cabinet, a government of party, and in no considerable country on the face of the earth, have you ever had, or will you ever have constitutional government, except largely through the instrumentality of parties. The prevailing party in England has the right to select the prime minister and he is nearly always selected from the leadership of that party. It always has been and always will be that the ablest, strongest and best equipped man, the man in whom the majority of the people have the largest confidence, shall be the prime minister. The prime minister selects the other members of the cabinet. They have a government through and by representatives, but they have certain checks upon those representatives. I want to contrast them with what we have here. In the first place, they don't trust every member of parliament to introduce bills. A member of the house of commons can not introduce a bill. Only such bills come before the house of commons for its consideration as are approved of and introduced by the ministry, by the responsible representatives of the dominant party, by the men to whom the people can point their finger if anything is wrong and say, "It is you who did it; you are responsible for it; it is you we hold accountable for it." And whenever the situation arises that a majority of the members of the house of commons will not pass a vote of confidence in the ministry, they have to do one or two things — either resign and get out and let the other party select the ministry, or they may prorogue parliament and have a new election, in other words a referendum; and they have a referendum on every measure that was in issue at the time the vote of lack of confidence was taken. These elections never occur except upon some issue that causes a sharp division among the members of parliament and among the people of England. The cabinet is selected from the dominant party and whenever any measure it introduces is not approved, they have a referendum back to the people on the issue, and the result of the next election determines what is to be done; if the ministry has been sustained, they

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go back into office, and if the issue has been decided against them, a new ministry representing the opposite ideas is formed and the government proceeds. What is the reason that the people of Great Britain have adopted the plan of government through cabinets or through responsible members of the dominant party? What is the reason that they have insisted that there must be somebody upon whom they can put their finger that shall assume responsibility for the enactment of laws and the policies of government?

Why, they have found by long years of experience that that plan brings the best results, that that plan in the long run comes the nearest to getting what is best for the people, and if you would ask the people of England, who for hundreds of years have lived under that form of representative government, to abandon it and go back to the initiative and pure democracy — the old plan of government, when they all met upon a field or under the shade of a tree, and all engaged in the discussion of what laws should govern them — if you should ask them to return to the experiences of Salisbury plain in the early period of their history, when sixty thousand freemen of England came together in one body to consider what laws should be made to govern them, if you should ask them to return to that sort of a condition they would think you were crazy. They would no more think of doing it than they would of tearing down the whole structure of their government. In fact, that would be doing for the Englishman today exactly what you are asking to be done now in the state of Ohio. You say, "It won't destroy representative government. Oh, no; we don't intend to destroy that. We still expect to have representative government." Yes, you will have representative government when you have said to all of us that we can have something else just the contrary of it. Is not that destroying representative government? Is not that undermining the foundations of representative government?

Now, in this country, when the colonies were established, in the early history of Massachusetts, you all remember who have read the history of the New England colonies, how they brought over from England into Massachusetts that old theory of pure democracy, of direct legislation, and they had what they called and what has existed and continued in modified form as a sort of fossil down to the present day, a direct legislation, or what we might call pure democracy; and in one of the earliest charters of the Massachusetts colony, about 1630, you have this sort of a provision: "That all citizens may attend any general court or general council or town meeting and there propose any law for the government of the colony which they may desire to propose, provided they do it in an orderly and respectful manner." That form of government existed a good while in that colony. It was adopted in some of the other colonies, but in the development of this continent it very soon became apparent that if the colonies were to grow, as it was anticipated, that that form of government would very soon become inadequate, and so we have prior to the federal constitution under which we live, and right at the time of the Declaration of Independence and before it, in some instances, the organization of these colonies into what might be termed states, although they were not strictly states, and the framing of written constitutions,

and you have every one of the original colonies adopting constitutions, you have every one of them adopting the declarations of the English bill of rights substantially as it existed in England for hundreds of years, and you have every one of them with two branches of the legislature, except, as I remember it, one, Pennsylvania, which soon abandoned its unicameral legislature, with the governments organized with three separate branches, legislative, executive and judicial, and had them more or less completely separated, and we have had ever since without exception in all the states, up until within the last few years, when these new ideas have broken loose, governments, which in all their provisions were representative governments, of the character that I have defined, and the country has grown and developed and become great under them. And we all take pride in this growth. We all take pride in this greatness that has developed under these forms of government.

We started out in the state of Ohio, in 1802, with a form of government of the character I have described, but not as complete as we have it today in its representative form. We then had the two branches of the legislature and we had the executive department and the judicial department, but we did not have that complete separation of the legislative, the judicial, and the executive branches of the government which we have now. We did not have those checks and balances as complete as they have been developed in later years. You all remember that under the constitution of 1802, the judiciary were dependent entirely upon the legislature — the supreme court and the common pleas judges, and a large number of the other officers of the state were appointed directly by the legislature. They were responsible to the legislature, and it was contended for a long time, and that issue was sharply made on several occasions between the legislature and the judiciary, that the courts ought not undertake to declare unconstitutional any laws that the legislature had passed. Why, there are instances in the early history of the state where legislatures passed resolutions in regard to the action of the supreme court with reference to certain laws that had been enacted by the legislature.

And without going into detail, because I can not take too much time in going over this matter, the result was that when the constitution of 1851 came to be framed, that there was a further separation of the judicial and the legislative branch of the government and the judiciary was made elective.

Mr. WATSON: You would consider that in violation of representative government?

Mr. JONES: No, sir; that is a development of representative government. The judiciary was made entirely independent of the legislature. It was made an elective office. It could not be interfered with by the legislature. It could not be interfered with by the executive. The executive could remove certain other officers, but he has never been able in any way to interfere with the judiciary since the adoption of the constitution of 1851. We had after that an absolutely independent legislative body, an entirely independent judiciary and an equally independent executive; and after that we had many provisions with reference to the manner in which the legislative power should be exercised and many limitations imposed upon its exercise; and when you come

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to think about it, what were the reasons for all those provisions? First, what was the reason for the provision that laws should be enacted by representatives? Why have we all said in America, and why have the English people always said, that laws shall be enacted by representatives? Simply for the manifest reason that every sensible man knows that out of a body of ten thousand men it is possible to pick one man to make the laws who can do it better than the average of the ten thousand, that he will be better able to do it from every aspect. It is possible out of any body of ten thousand men to pick one man who will be better equipped mentally, better equipped morally, and better equipped in every regard essentially necessary to make an efficient legislator, than the average man of the ten thousand. So, after that provision that the laws shall be made by the very best men who can be picked, or at least opportunity given for the making of the laws by the very best men who can be picked from each community, then what further have we? We have certain restrictions as to the manner in which those laws shall be made by the representatives, and it is not necessary for me to go over those in detail, because we are all familiar with them. After those laws are enacted by one of these legislative bodies, as a further check upon any hasty or ill-advised action, it must go through the other legislative body. It must go through that body after a certain procedure and is subject to criticism, examination, debate, amendment, etc.

Mr. BROWN, of Highland: I want to ask you whether or not you think that the rule of selecting the best men to legislate for us has worked out in practice as to the best men, whether or not that has been a failure and a farce so far as getting the best men is concerned under our system?

Mr. JONES: I don't think it has been a failure and a farce. I do think that it has not always resulted in the selection of the very best men, but I do know the opportunity has been offered every time and is now offered in every county in the state and in every city in the state of Ohio for the people to select the best men. We have had it stated by my venerable friend from Cincinnati that the people haven't any confidence in the city council of Cincinnati and haven't had for years, and that the same thing is true in all the other large cities in Ohio. I concede that the people of Ohio have not the proper confidence in their legislature and in those whom they have sent to represent them, but I ask my venerable friend if he means to say it has not been within the power of the people of Cincinnati to select the very best men in that city to represent them in the city council, and I ask him and others who are to be influenced by any such arguments, if it has not been possible all of this time for the people of Cincinnati to have selected, for instance, the honorable members of this Convention from Cincinnati, Judge Peck, Judge Worthington, Mr. Smith or others of their colleagues, men against whom not a breath or suspicion of scandal could have been raised? Could not they have been selected and put in that council if the people of Cincinnati really wanted that kind of men in their council?

Mr. PECK: Are you asking me?

Mr. JONES: Yes.

Mr. PECK: There has never been a time, that I know of, when I could have been elected for the love of

money in the ward in which I lived — elected to anything.

Mr. JONES: Answer why, and then you get at the solution of the whole thing. Is the form of government under which we live the cause of it?

Mr. PECK: Yes.

Mr. JONES: Is it not the character of the majority of the people of the ward in which Judge Peck lives? Has it not been the people of that ward who have said, when they had the opportunity to give free expression to their sentiments at the polls, "We don't want Judge Peck, the best man in our ward?"

Mr. PECK: They thought the other man was the better man for their purpose.

Mr. JONES: After all what does that amount to? Reduced to its last analysis it is nothing more than to say that the representatives of that ward in the city council of Cincinnati won't be any better than a majority of the voters of the ward. They get just what they want. They could have had good men if they had wanted them, and can have good men now if they want them. If they want to have a council that will command the respect of every man, woman and child, they have nothing else to do except to go to the polls and vote for men of that character. If they want men to take charge of the affairs of the city of Cincinnati as executive officers and in their council in whom the people of Cincinnati will have implicit confidence, and who can not be handled or managed by any boss, they have only to go to the polls and vote for them. If they don't want that kind of men, how can you improve them by changing the form of government?

Mr. WATSON: How would you meet the condition of the people of New Mexico, just entering the Union?

Mr. JONES: I don't know what you are referring to.

Mr. WATSON: A bribery case.

Mr. JONES: Let them work that out in the same way that an awakened conscience of the people of Ohio is employing to meet a similar condition here. In my county, and I know it is no different from other counties, my earliest recollection of politics was that a man didn't have any more show to get into office than he would of flying to the moon unless he stood in with the machine.

Mr. PECK: Now you are getting at it. In my ward I was on the wrong side. I couldn't get the republican nomination and that was all that was necessary. It was national politics.

Mr. JONES: The remedy is to abolish national politics in local elections.

Mr. PECK: How can you do that?

Mr. JONES: It is done in other places. Work it out down there for yourselves.

Mr. HARRIS, of Hamilton: Are you in favor of the short ballot?

Mr. JONES: Yes, I am.

Mr. HARRIS, of Hamilton: Notwithstanding it will be revolutionizing the form of government?

Mr. JONES: It is not revolutionizing the form of government. It will not change representative government at all.

Mr. HARRIS, of Hamilton: Doesn't it take away from the people of Ohio the right to elect their officials

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and give the power to the governor to appoint officials the same as the federal system of government?

Mr. JONES: That is no departure from a representative form of government. That is the highest and best development of representative government.

Mr. HARRIS, of Hamilton: The question of change in the form of government is the question of change in the form of view.

Mr. JONES: It is not any change in the form at all. It is still representative government. As I said a moment ago, speaking with reference to representative government in England, the only man who is voted for there is the member of parliament. The majority party in parliament puts its leader in as prime minister. He then is executing that representative form of government through the ministry he calls around him, but it is none the less representative government because the prime minister, who is the chief factor in the administering of that representative form of government, is selected from the leadership of the dominant party. That government is just as truly representative, although every member of the cabinet is appointed by the political leader who has been selected as prime minister by the dominant party and from which the cabinet is selected by that political leader as if every member of that cabinet had been elected by the people.

Mr. BROWN, of Highland: Don't you know that there has been growing dissatisfaction among the people of England for two decades with their present form of government and has not England deteriorated so far as its integrity as a government is concerned?

Mr. JONES: No; I don't think there is any considerable dissatisfaction nor is there any deterioration. Certainly no one who has read the history of Great Britain can say there has been any deterioration there. It has gone on and on and developed and spread its people and their influence over almost every civilized and uncivilized portion of the globe. It has become the dominant influence everywhere, because it has developed the best system of government the world has ever known, and what you are proposing here right now is a return to the primitive method of a pure or social democracy and an abandonment of those principles which have developed this great people and brought them up to the point where they are the dominant people of the world today.

Now, when this diversion occurred, I was saying that my earliest recollection politically goes back to the time when a man didn't have any show for office at all in the county in which I was born and reared, unless he belonged to the machine. I know that the same thing has been true in other counties. I know that the same thing has been true in cities, and especially true in the large cities, and it has been a great evil. It has been a thing for which a remedy has been sought and is now being sought and a thing that must be put an end to. Now, happily, in our county we put an end to it long before the initiative and referendum was ever suggested as a constitutional provision.

Mr. WATSON: Is it not a fact that, like the growth of coral, when one political machine breaks down another grows up and supplants it and takes its place?

Mr. JONES: The proper thing is for the people to do away with all of them. They will never have any

machines in politics if they will just take the weapons in their hands and destroy them.

Mr. WATSON: We are trying to do that through the initiative and referendum.

Mr. JONES: But while you are using weapons to destroy that thing, which is a mere incident of representative government, in God's name don't destroy the instrument itself, that form of government to which largely the greatness and glory of our people is due, but go after the admitted evil and eradicate it.

And how is that to be done? Why it is easy enough. In the first place, what is the reason that these machines in politics grow up, what is the reason we have corruption in the legislative halls? Right at the bottom of the whole matter, as everyone knows, lies the fact that too large a number of the electorate are not influenced by pure motives.

Mr. PECK: In other words, human nature.

Mr. JONES: That is it. In other words, we have to deal with human nature.

Mr. PECK: As it is.

Mr. JONES: Human nature as it is. A mere form of government is not going to change human nature.

Mr. PECK: And your human nature won't operate as angels. They always use the arch-angels as governors.

Mr. JONES: The thing to do is to strike at the evil laying at the foundation of the whole thing. Some of the members of the Convention have in a boasting way undertaken to say with reference to the constituency in their part of the state that there was not anything of that kind at all.

Mr. PETTIT: Of course none of that in Cuyahoga county at all.

Mr. JONES: And yet they are here trying to overthrow representative government to cure the ills that have grown up founded on that very thing, the evils that could not exist but for that very thing. If that is the foundation of the whole trouble, what manifestly is the way to remedy it? Get at the root of the evil. If too large a per cent. of our voters are so indifferent to the high privilege that they will barter and sell it for a mere pot of flesh, take it away from them. That is one remedy.

Mr. WATSON: Would you let the bribe giver go free?

Mr. JONES: No; I would not. I would supplement what has been done and is being done and is an effective remedy, under the corrupt practices act. I would take away by constitutional provision, some of the protection thrown around men charged with crime when it relates to the elective franchise. I would abrogate the rule against incriminating evidence in criminal cases relating to the elective franchise. In fact I am in favor of abolishing that rule with reference to all crimes. The rule that commends itself to my best judgment is the rule adopted in many parts of Europe and enforced every day. When you enter upon the trial of a criminal case apply the rule that the very best evidence shall be introduced first. What is the very best evidence upon the subject of a man's guilt? Who knows better than he whether he is guilty or not? What better evidence can you get than his own statement about whether he is guilty or not? I would at least abrogate that rule with reference to the elective franchise, so that the man could be put on the stand and be compelled to do one of two

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things, either tell the truth in regard to whether he had sold his vote, or else commit another crime for which he could be sent to the penitentiary, to-wit, perjury. I would also do just as has been done, enforce the provisions of the corrupt practices act that any man who has violated in any way any of the provisions of that law, shall forfeit the office to which he may have been elected and that he shall forfeit his right ever thereafter to be elected to an office or ever to exercise the franchise thereafter. The enforcement of provisions of that kind would remedy the whole thing. Others might also be suggested. Why, to say that the people with an admitted evil of that kind cannot devise a means to correct it and maintain their representative form of government which their best judgment has approved for hundreds of years, is to say that they are not capable of self-government. Instead of trying to eradicate the evil we are now proposing to return to a long ago discarded system of legislating by the whole people. Can any member of this Convention point out any essential difference between legislation by direct initiative and legislation by the early Britons under the shade of the oak tree when they all gathered together and submitted a law and discussed it and voted upon it and determined whether that should be the rule for the government of their conduct? Is there any essential difference? Is there any essential difference between this legislation by direct initiative and by the sort of lawmaking that they had on Salisbury field when the sixty thousand freemen of England were called together in a body to consider the laws they should pass? Is there any essential difference between the direct legislation of the ancient Greeks and Romans and the early Britons and what you are now asking to be done in the great state of Ohio, with its nearly five million people of all races and all classes and all conditions, with its varied industries, without opportunity to a one hundredth part of the people to know with regard to some of the laws that might come before them whether they were wise or not, they being perchance purely local laws relating to a particular condition in some certain locality? Can anyone point out any essential difference between that sort of legislation and the legislation we had six hundred years ago in England or three hundred years ago in the town meeting or in the general court or the general council in the New England colonies? There is no essential difference.

So that the proposition here is not to improve upon our representative form of government, not to make it, as has been announced from this stand from time to time by those eminent men who have addressed us, more representative, a statement that sounds well but has no meaning or sense in it at all, because as I have said it is an absolute change of the whole system of making laws. Representative government, as one gentleman undertook to define it from this rostrum, is a government which represents, a definition with more euphony than sense or meaning. If this proposed measure is to improve representative government or to add something to it, representative government should be preserved along with and as a part of your initiative and referendum system.

Now, in one sense you may say you still preserve representative government. You do in the sense that it will still be permissive — that is, we have agreed among

ourselves that we may if we want have representative government. We have also said that we may if we want have a government which is not representative in any sense. Why, when the people of Oregon, the state to which so much reference has been made here, went out and voted upon all those laws contained on this ballot (holding 1910 Oregon ballot), was that representative government? So far as those thirty-two laws were concerned was not that an absolute abandonment of representative government? Was there a single feature of it in connection with that legislation? Now if they can apply it to thirty-two laws they can apply it to thirty-two hundred, or just as many more as they wish, so that if the thing is carried to its legitimate result it may be an absolute abandonment of representative government. To say the least of it, it is a permissive abandonment of representative government. It is a departure from that principle which we all agree should prevail if best results are to be obtained, that the laws shall be made by those selected from the body of the people who are deemed to be the wisest and the best and the most capable to make the laws. We all agree that if that can be done it is the best form of government. When you adopt this legislation by direct initiative you depart from that principle and you may have laws that won't have any of those safeguards thrown around them. Now, if you can have one law of that kind, you can, if the people so want it, have all your laws of that kind. When we entered into the social compact and agreed to constitute ourselves into the people of the state of Ohio, did we agree — and if it had been suggested at the time would anybody have agreed — that we as citizens would be bound by whatever a majority of the people would do upon a submission directly to them of any question they wanted to act upon? I submit, would the people have entered into any form of government at all if that had been the proposition? You know they would not. We all in our sober moments know what human nature is. We know its weaknesses, we know its frailties, we know the passions of man, we know that unless there are some restraints thrown about the exercise of power, the majority is liable at times to be arbitrary. We all know there is no power that may be so tyrannical on occasion as the power of a mere majority. We all agreed when we entered into this social compact that the mere will of the majority shall not be the criterion by which our rights should be determined. No; in the first instance we said there are certain rights, there are certain privileges, that we will not part with, that are inalienable, among which are our rights to liberty, to the enjoyment of property and the pursuit of happiness. We said that we would never consent that any rule of action shall apply to those rights no matter by whom made, and no matter how great the majority vote; those things we will entirely eliminate from this social compact. Now certain other things we agreed might become the subject of rules of action for the government of our conduct, but we insisted that certain restraints be thrown around the exercise of power by the majority so that the minority, those who may for the time being not be of the majority, will be protected. We will not agree if there are one hundred in this primitive society that fifty-one of you may enact a law that the rest of us shall be governed by, but we will agree if you will make ten divisions

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of yourselves that the best man that you can select from one division may meet with the best man selected from each of the other nine divisions and that we will be bound by the laws or rules of conduct that those ten best of you may prescribe. We want another limitation. We want not only an agreement that it is not to be the majority of the body of the community that is to determine our rights, but that they must be determined by the best you can select from your whole number, but we want further to insist that only a majority of that best can fix the rules and make the laws. So we have in our representative forms of government these provisions everywhere running through them, never any departure from them anywhere—first, that presumably the best shall be selected to go to the legislative body, and, second, the rule that it shall take a majority of the best to make the laws which are to bind the minority. We insist also upon other provisions in reference to the exercise of power over the minority. We did not agree that the majority of the people should decide how the law should be applied to us; we did not agree to have a recall of decisions, or a recall of the judges selected to administer the law. We only consented to this representative form of government upon the condition that you appoint a wise body of men, specially trained in the law to interpret and administer it, whose office, emoluments and decisions should be entirely free and independent not only from your own control during their term of office, but free from the control either of the executive or the legislative branches of the government.

Now these things—first, the representatives in the legislative body, second, not a mere majority of those voting on a measure but a majority of the representatives, shall be necessary to enact a law. But what does this proposed measure provide for? Why, if you can get one man to vote for proposed laws or constitutional amendments and nobody votes against them they become a part of the statute or organic law of the state.

Mr. WATSON: Well, what remedy would you suggest?

Mr. JONES: I will come to that later. We won't agree, and the sober judgment of mankind has said that we will not agree, to be bound by rules made in any such fashion. We will not agree to be bound by rules made by a majority of the people at large, but only by a majority of the best ones from among you that you can select and then under these other restraints; aye, more than that, representative government developed today in Ohio has some other things in it in addition to what I have mentioned. We have now in Ohio in the development of this system of representative government, not only the provisions that you must have two legislative bodies and opportunity to get the best men you can in each as legislators, but we require you to agree that each county in the state shall have at least one representative. Great complaint has been made by the honorable gentleman from Cuyahoga [Mr. FACKLER] that we now have minority representation in the making of laws in Ohio. Yes, we have minority representation and we have very rightly got it; we ought to have it and we ought to continue it, and why? It is one of the essentials of representative government that representatives sent up to the legislative body shall come from all parts of the state and from all districts to which the laws are to apply. That is no

new idea. That is the rule in every state and that is the rule in our national government. Did you ever think of the great compromises that were made on that question when the national government came to be formed more than a hundred years ago? Why, here is the little state of Rhode Island, hardly as big as a county in the state of Ohio, and it has two representatives in the senate of the United States, and the great state of New York has only two. The sparsely settled states of Nevada, Utah, Oregon, Arizona, Colorado, those little states of the west, with a mere fraction of the population of the state of Ohio, have just as much representation in the senate of the United States and just as much voice in making the laws of the United States as the great states of New York, Ohio and Pennsylvania. Is anybody complaining of that? Does anybody say that ought to be changed? Bear in mind no law can be passed except the senate agree to it, and in that senate those little states have just as much power as the biggest states in the Union, and they rightfully have it. Why, you couldn't have gotten these people of the United States together in the form of a government at the start upon any other basis, and you could not hold them together now upon any other basis. That is one of the concessions that must be made to the minority just as the other concessions that I have been pointing out must necessarily be made to the minority under any form of representative government which is to endure.

While I am on that point, what are you proposing to do with that great principle that you must have representatives from all parts of the state of Ohio in the making of laws? You are proposing now by this initiative and referendum scheme, to abrogate that provision and get the people of Ohio into an agreement that the voters of Cincinnati, Cleveland and a few other of the large cities and most populous counties of the state, can make a law which will bind everybody in the whole state. How long do you think our government is going to continue if that is to be the rule? How long do you think the people of the state of Ohio will consent to that sort of thing? Bear in mind in this proposed direct legislation it doesn't require any particular per cent to pass the law, it only requires a certain per cent to initiate. If one county in the state of Ohio has enough votes to do it, that one county could pass a law. There are several single counties in Ohio that have more votes than the total cast on some constitutional amendments in recent years in the whole state.

Now, another thing is to be considered in the development of representative government in this country. In addition to these two branches of the legislature and these requirements with regard to the vote in the legislature, we have a requirement that all laws must receive the approval of the governor of the state. It is true that in Ohio that is a recent provision, but is anybody proposing to abolish the veto power of the governor? Will anybody seriously contend that that is not a wise provision? Will anybody seriously contend that that is reactionary, that it is reverting to old methods and old rules to have a veto in the governor? Why, we have never had it until a few years ago and we have become so well pleased with it that there is nobody now seriously proposing to interfere with it, and more than that it is an almost universal incident of representative government

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the world over. In every state in this Union, except two, it exists as an incident of representative government. In our national government we have it and it is an incident of almost every form of representative government anywhere in the world where the influence of the English speaking people has shaped the form of government. Now that is an additional safeguard that we have thrown around legislation in Ohio, and is it not a wise provision? The governor is not the representative of one county or of any one part or of any one section of the state. He is the representative of the whole people of the state. He has taken a solemn oath of office that he will perform to the best of his ability the duties of the office of governor, which means that he will to the best of his ability perform those duties in the interest of the whole people of the state, and when he does that he must disregard sections, he must disregard localities, he must look only to that which is for the best interests of the people of the whole state and regard nothing but the interests of the people of the whole state.

You are now proposing by this measure, in addition to all the other things which I have mentioned, to destroy the veto power of the governor. Now without taking your further time to go over the various other elements of representative government as we have it today in Ohio, by this direct legislation you are proposing here to strike down and wipe out every single one of these features, and to the extent that you use this direct legislation you will make a complete and absolute departure from representative government. You will completely and entirely abolish it just as far as you want to, and that permits you at least to revert back to the original system of pure democracy. That puts you right back where the English people were a thousand years ago, right back to the position where whatever the majority says in its most frenzied moments the rest of you must be bound by. I am opposed to the whole thing root and branch, because there is no telling how far it will go when it once starts. As I said before, I am not interested in the details of your proposition.

I want to say in this connection that I am not opposed to the referendum such as we have used and may use under our present form of representative government, and I am not opposed to the referendum as it may be further developed.

The referendum is an essential and invaluable feature of representative government. The referendum principle can be applied and developed and made available and still preserve our representative form of government, but the direct initiation of laws, passing laws directly by the people, cannot be employed in any form or in any manner without an abandonment of representative government. We have had the referendum at all times. All English speaking people under all forms of representative government have had the referendum. We have always had it in Ohio and we have it still. It has been used time and time again as has already many times been stated on this floor, and there is no use to elaborate that matter further. We are all familiar with it. It has been applied with this limitation in Ohio so far that there have been general laws made applicable to particular localities upon a vote of the people of that locality, but it has not been applied to general statutory laws, although it has been applied to organic laws, but there is no reason why, if

it is deemed desirable, that it may not be made applicable to laws that are to have general application throughout the state, and if in the judgment of the people of the state they want to extend that feature of representative government, I am fully in accord with it, and it will not only not destroy representative government, but it can, I concede, be used to make representative government more efficient. But there is as much difference upon principle and in the practical workings of the referendum and the initiative as there is between day and night.

I want to say one further thing in conclusion, and that is in reference to the proposition advanced by the gentleman from Cincinnati [Mr. PECK]. He objects to the direct initiative as applied to laws, but says he would not object to it as applied to constitutional amendments.

Upon what theory anybody can take that position I am unable to see. Judge Peck unfortunately didn't give us any reason why the initiative might be desirable for amendments to the constitution and undesirable for laws, and I don't know what led him to make that statement.

Mr. PECK: The constitutional amendments are coupled with a high percentage.

Mr. JONES: But the mere matter of safeguarding the initiative is immaterial, the whole thing is vicious and wrong in principle for the reason that it is an abandonment of representative government.

Mr. PECK: If you think it is all wrong what is the difference as to per cent?

Mr. JONES: There is no difference as to per cent; that is immaterial. A high per cent would not make it any better than a low per cent. In either case it would be an abandonment of representative government and a retrogression to the pure democracy of our ancestors hundreds of years ago which was tried and found unsatisfactory.

Why apply the vicious principle to an amendment of the organic law and in the same breath say that it is vicious as applied to a common ordinary statute?

Bear in mind, gentlemen, what is presented here. I am speaking with reference to our present representative form of government, which we are undertaking to strike down by this measure. What are the provisions of our present representative government with reference to constitutional amendments?

First, you must have not a mere majority but a three-fifths majority of the legislature to agree to the amendment, and then you have to submit that amendment to a vote of the people; you must get not a majority of those voting upon it, but a majority of all the voters voting at the election when the amendment is submitted, and it must be submitted at a general election. If, however, there is a constitutional convention called, the provision is a little different, and there is reason for that. A constitutional convention, in the language of the law, is called not for the purpose, as a good many seem to think, of submitting something to the people, but the language of the provision is that the convention is called for the purpose of amending, altering or changing the constitution, and this Convention makes the change if any is made. This Convention makes the new provisions if any are made. After the people had the opportunity to select the best among them for the special purpose of making a new constitution, and those selected having to consider nothing else, it is but reasonable that a different pro-

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vision with reference to their action should obtain. Three-fifths of the legislature is required to agree to an amendment before it can be submitted to a vote of the people. Why? Because the legislature has other things to attend to. Its members were not selected with the special view to drafting, formulating and hammering out constitutional provisions, but this Convention was formed for that sole purpose. It is provided, therefore, that whatever a majority of us do shall constitute the new constitution or the changes in the old, upon the theory that, we being called here for that special purpose and having nothing else to do, a majority of us are as fully competent and capable as three-fifths of the legislature; and it is not provided that our work shall be submitted at a general election or that it shall be approved by a majority of the electors voting at such election. A majority of them voting on our work is sufficient. Now the proposition is, that after a hundred years or more in the development of representative government with regard to constitution making, not only in the state of Ohio, but in every state of this Union up to the recent advent of this direct legislation craze, and everywhere else that the laws of the English speaking people have gone, during which time we have thrown around both the making and amending of the organic law in Ohio all these safeguards to which I have referred, you will permit the constitution to be amended or entirely remade in any manner that twelve per cent of the voters may indicate in a petition and entirely without regard to the number that may vote for the measure at the polls?

Now do we want to make any such departure as that?

Mr. ROCKEL: Why not?

Mr. JONES: Because we do not want to enter into any such social compact as that, if representative government is to continue to guide the destinies of the people.

Mr. PECK: I thought you said this is a representative body?

Mr. JONES: Yes.

Mr. PECK: If we make it and it is ratified by only one man is not that representative government?

Mr. JONES: Yes, but your proposal is not that. Here we have a representative body a majority of which has to do more than some members think is their duty — merely to pass propositions on to the people — a majority of which give their best judgment as to what the organic law should be and it can not be submitted to a vote of the people until after a majority of a hundred and nineteen men, presumably the best in Ohio that could be selected, have agreed upon it as the best thing. But what are you proposing to substitute in place of this latest and best development of representative government in Ohio in regard to constitution making? You are proposing to substitute a method by which a proposition to amend the constitution that comes from anywhere in the state on a petition signed by a small per cent of the electors shall without opportunity for amendment be submitted to a vote and if only one man votes for it it will become a part of the organic law of the state. The thing would be bad enough if the proposed amendments were required to have a majority of all the votes cast at the election, even after this Convention has deliberated and taken action with reference to these measures which it is proposed shall become a part of the constitution; it is bad enough to have them become part of the constitu-

tion by the vote of a minority of those voting at the election, but what would be our condition if proposals become the organic law of the state without anything being done with reference to them such as has been done and is possible to do in this Convention, if we all do our duty? The people have the right to assume that what we agree upon will be something near what is right and proper, and they therefore could be pardoned when they come to the polls if they should say: "It is no use voting on these new constitutional provisions; I don't care whether I vote or not because these provisions are the expression of the very best judgment of a majority of one hundred and nineteen of the best men that could be selected in Ohio with a special view to improving the constitution. I do not care to vote; I am satisfied with it if it is the result of the honest, deliberate and careful investigation and judgment of a majority of those one hundred and nineteen men." But that is entirely different from the proposition that Judge Peck says he favors for amending the constitution, by direct initiative, as different as night from day; and I submit what kind of a constitution will we have in a little while if you permit amendments to be made without restriction either over the preparation of them, or as to the number required to vote for them — what will be the condition of the constitution of the great state of Ohio in a little while?

I have taken a much longer time than I expected, and I thank you for your attention and will close.

Mr. WATSON: One question: In the submission to the people, I believe you said it required a majority of those voting at the election instead of those voting on the amendment?

Mr. JONES: Yes.

Mr. WATSON: Do you think it is fair to weigh the vote of intelligent men in one balance as against the vote of careless and indifferent men in the other?

Mr. JONES: In regard to that I think in the the first place a constitutional provision that is to be submitted to a vote should be the deliberate and well-digested judgment of a majority of the one hundred and nineteen members of this Convention. It is then not very material whether there is any vote upon it or not, because the deliberate expression of a majority of the one hundred and nineteen members of this Convention, if they will get down to work and will give every proposition before them the very best judgment of which they are capable and not compromise that judgment merely for the purpose of getting a measure through for submission to the people, is very likely to be about right. It will not be very far from right unless you assume that some improper influence will get into the Convention, and I don't think any man would entertain that idea for a moment. But I say the question put here has no application whatever if you mean it in the way you put it. The thing is unthinkable to my mind when you come to it as an original proposition that you should submit to a vote of the people a constitutional provision initiated by anybody who wants to without any chance for deliberation to get it in shape or determine whether it is the best thing for the people or not except what some few people may say about it. I say that to submit that sort of a thing to the people as the organic law of the state and have the people of Ohio bound by it without regard to the number who may have voted on it, is so subversive of representative

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government and so radically and fundamentally wrong that you would find the people in a little while would not submit to it at all, even if it took a revolution to do away with it.

Mr. MILLER, of Crawford: It is quite apparent from the discussion we have had the last day or two that there are some things in the original proposal that need to be corrected; and it is also apparent that there is a disposition upon the part of the members to desire the opportunity to be able to express themselves and vote upon the advisability of taking out the direct initiative and also upon the question of writing into it the inhibition of the single tax. Under the pending substitute that is not possible and therefore in order to clear off questions of this kind, I move that the substitute and the pending amendments be laid upon the table.

Mr. LAMPSON: I understand the purpose of this is to allow a separate vote upon the two propositions mentioned by the gentleman?

Mr. DOTY: Yes.

The PRESIDENT: The question is upon the motion to lay upon the table the substitute and amendments.

The motion was carried.

Mr. FACKLER: I offer the following amendment:

The amendment was sent up to the secretary for reading.

Mr. LAMPSON: Mr. President:—

The PRESIDENT: The member from Cuyahoga [Mr. FACKLER] has the floor.

The amendment offered by the delegate from Cuyahoga [Mr. FACKLER] was read as follows:

Amend Proposal No. 2—Mr. Crosser, by striking out all after the word "proposal" and substituting therefor the following:

To provide for the initiative and referendum and the legislative power.

Resolved, by the Constitutional Convention of the state of Ohio, That article II, section I, shall be as follows:

ARTICLE II.

SECTION I. The legislative power of this state shall be vested in a general assembly consisting of a senate and house of representatives but the people reserve to themselves the power to propose laws and amendments to the constitution, and to adopt or reject the same at the polls independent of the general assembly, and also reserve the power, at their own option, to adopt or reject any law, section of any law or any item appropriating money in any law passed by the general assembly.

SECTION I-a. INITIATIVE. The first afore-said power reserved by the people is designated the initiative, and the signatures of eight per centum of the voters shall be required upon a petition to propose any law, and of twelve per centum upon a petition to propose an amendment to the constitution.

When there shall have been presented to the secretary of state a petition signed by the afore-said required number of voters and verified as herein provided, proposing a law or an amendment to the constitution the full text of which proposed law or amendment to the constitution shall

have been set forth in such petition, the secretary of state, shall submit for the approval or rejection of the voters the proposed law or amendment to the constitution in the manner hereinafter provided, at the next succeeding regular or general election in any year occurring subsequent to ninety days after presentation of such petition. All such initiative petitions, last above described, shall have printed across the top thereof, in the case of proposed laws, the following: "Law proposed by initiative petition to be submitted directly to the voters." Or, in case of proposed amendment to the constitution: "Amendment to the constitution proposed by initiative petition to be submitted directly to the voters."

SECTION I-aa. When at any time, not less than ten days prior to the commencement of any session of the general assembly, there shall have been presented to the secretary of state a petition signed by four per centum of the voters and verified as herein provided, proposing a law or amendment to the constitution the full text of which shall have been set forth in such petition, the secretary of state shall transmit the same to the general assembly as soon as it convenes. The proposed law or proposed amendment to the constitution shall be either passed or approved as the case may be or rejected without change or amendment by the general assembly, within sixty days from the time it is received by the general assembly. If any such law proposed by petition shall be passed by the general assembly it shall be subject to the referendum as herein provided. If any such amendment to the constitution proposed by petition shall be approved by the general assembly it shall be submitted to the voters. If any law or constitutional amendment so petitioned for be rejected, or if no action be taken thereon by the general assembly within such sixty days, the secretary of state shall submit the same to the people for approval or rejection at the next regular or general election in any year. The general assembly may decline or refuse to pass any such proposed law or to approve any such constitutional amendment and adopt a different and competing one on the same subject, and in such event both the proposed and competing law or both the proposed and competing constitutional amendment shall be submitted by the secretary of state to the voters for approval or rejection at the next regular or general election in any year.

All such initiative petitions, last above described, shall have printed across the top thereof in the case of proposed laws, the following: "Law proposed by initiative petition to be first submitted to the general assembly," or in case of proposed amendments to the constitution, "Amendment to the constitution proposed by initiative petition to be first submitted to the general assembly."

Ballots shall be so printed as to permit an affirmative or negative vote upon each measure submitted to the voters.

Any proposed law or amendment to the consti-

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tution submitted to the voters as provided in section 1-a and section 1-aa, if it is approved by a majority of the electors voting thereon, shall take effect thirty days after the election at which it is approved and shall be published by the secretary of state.

If conflicting proposed laws or conflicting proposed amendments to the constitution shall be approved at the same election by a majority of the total number of votes cast for and against the same, the one receiving the highest number of affirmative votes shall be the law or in the case of amendments to the constitution shall be the amendment to the constitution. No law proposed by initiative petition and approved by the voters shall be subject to the veto power of the governor.

SECTION 1-b. REFERENDUM. The second aforementioned power reserved by the people is designated the referendum, and the signatures of not more than six per centum of the voters shall be required upon a petition to order the submission to the voters of the state for their approval or rejection of any law, section of any law or any item, appropriating money in any law passed by the general assembly.

No law passed by the general assembly shall go into effect until ninety days after the same shall have been filed by the governor in the office of the secretary of state, except as herein provided.

When a petition, signed by six per centum of the voters of the state and verified as herein provided, shall have been presented to the secretary of state within ninety days after any law shall have been filed by the governor in the office of the secretary of state, ordering that such law, section of such law, or any item appropriating money in such law be submitted to the voters of the state for their approval or rejection, the secretary of state shall submit to the voters of the state for their approval or rejection, such law, or such item or section of any such law, in the manner herein provided, at the next succeeding regular or general election in any year occurring at a time subsequent to sixty days after the filing of such petition, and no such law, item or section of any such law, shall go into effect until and unless approved by a majority of those voting upon the same. If, however, a referendum petition is filed against any such item, or section of such law, the remainder shall not thereby be prevented or delayed from going into effect.

SECTION 1-c. EMERGENCY MEASURES. Acts providing for tax levies, appropriations for the current expenses of the state and other emergency measures necessary for the immediate preservation of the public peace, health or safety, if the same upon a ye and nay vote shall receive the vote of three-fourths of all the members elected to each branch of the general assembly, shall go into immediate effect, but the facts constituting such necessity shall be set forth in one section of the act, which section shall be passed only upon a ye and nay vote, upon a separate roll call thereon.

A referendum petition may be filed upon any

such emergency law in the same manner as upon other laws, but such law shall nevertheless remain in effect until the same shall have been voted upon, and if it shall then be rejected by a majority of those voting upon such law, it shall thereafter cease to be law.

SECTION 1-d. LOCAL INITIATIVE AND REFERENDUM. The initiative and referendum powers of the people are hereby further reserved to the voters of each city, village, county, township, school district or other political subdivision of the state to be exercised in the manner now or hereafter authorized by law.

SECTION 1-e. GENERAL PROVISIONS. Any initiative or referendum petition may be presented in separate parts but each part shall contain a full and correct copy of the title, and text of the law, section or item thereof sought to be referred or the proposed law or proposed amendment to the constitution. Each signer of any initiative or referendum petition shall also place thereon after his name, his place of residence. Each part of such petition shall have attached thereto the affidavit of the person soliciting the signatures to the same, stating that each of the signatures attached to such part was made in his presence, and that to the best of his knowledge and belief each signature to such part is the genuine signature of the person whose name it purports to be, and no other affidavit thereto shall be required.

The petition and signatures upon such petitions, so verified, shall be presumed to be in all respects sufficient, unless not later than thirty days before election, it shall be otherwise proven and in such event ten days shall be allowed for the filing of additional signatures to such petition, and no law or amendment to the constitution submitted to the voters by initiative petition and receiving an affirmative majority of the votes cast thereon shall ever be held unconstitutional or void on account of the insufficiency of the petitions by which such submission of the same shall have been procured; nor shall the rejection of any law submitted by referendum petition be held invalid for such insufficiency.

Upon all initiative and referendum petitions provided for in any of the sections of this article, it shall be necessary to file, from each of one-half of the counties of the state, petitions bearing the signatures of not less than one-half of the designated percentage of the voters of such county.

A true copy of all laws or proposed laws or proposed amendments to the constitution, together with an argument or explanation, or both, for, and also an argument or explanation, or both, against the same, shall be prepared. The person or persons who prepare the argument or explanation, or both, against any law, section or item submitted to the voters by referendum petition may be named in such petition and the persons who prepare the argument or explanations, or both, for any proposed law or proposed amendment to the constitution may be named in the petition proposing the

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same; the person or persons who prepare the argument or explanation, or both, for the law, section or item submitted to the voters by referendum petition, or for any competing law or competing amendment to the constitution or against any law submitted by initiative petition, shall be named by the general assembly if in session and if not in session then by the governor.

The secretary of state shall have printed the law or proposed law or proposed amendment to the constitution together with the arguments and explanations not exceeding a total of three hundred words for each of the same, and also the arguments and explanations not exceeding a total of three hundred words against each of the same, and shall mail or otherwise distribute a copy of such law or proposed law or proposed amendment to the constitution together with such arguments and explanations for and against the same to each of the voters of the state, as far as reasonably possible. The secretary of state shall cause to be placed upon the official ballots the title of any such law or proposed law or proposed amendment to the constitution to be submitted, and shall cause the ballots to be so printed as to permit an affirmative or negative vote upon each law, section or item referred or proposed law or proposed amendment to the constitution.

The style of all laws submitted by initiative petition shall be: "Be it enacted by the people of the state of Ohio;" and of all constitutional amendments: "Be it resolved by the people of the state of Ohio."

The basis upon which the required number of petitioners in any case, shall be determined, shall be the total number of votes cast for the office of governor at the last preceding election therefor.

The foregoing sections of this article shall be self executing, but legislation may be enacted to facilitate their operation, but in no way limiting or restricting either their provisions or the power therein.

The PRESIDENT: The question is on the adoption of the amendment.

Mr. PECK: I offer an amendment.

The amendment was read as follows:

Amend Proposal No. 2 as follows:

Strike out all of section 1-a and in lieu thereof insert the following:

SECTION 1-a. INITIATIVE. The first aforesaid power reserved by the people is designated the initiative, and the signatures of twelve per centum of the voters shall be required upon a petition to propose an amendment to the constitution.

When there shall have been presented to the secretary of state a petition signed by the aforesaid required number of voters, and verified as herein provided, proposing an amendment to the constitution the full text of which proposed amendment to the constitution shall have been set forth in such petition, the secretary of state shall submit for the approval or rejection of the voters, the proposed amendment to the constitution in the

manner hereinafter provided, at the next succeeding regular or general election in any year occurring subsequent to ninety days after the presentation of such petition. All such initiative petitions last above described, shall have printed across the top thereof: "Amendment to the constitution proposed by initiative petition to be submitted directly to the voters."

The PRESIDENT: The question is on the adoption of the amendment offered by the delegate from Hamilton [Mr. PECK].

Mr. MILLER, of Crawford: I offer an amendment. The amendment was read as follows:

Amend Proposal No. 2 as follows: After line 99 insert the following:

SECTION 1-d. The power herein defined as the "initiative" shall not be used to enact any law providing for the single tax, or for the classification of property for different rates of taxation.

In line 100 change 1-d to 1-e.

In line 104 change 1-e to 1-f.

Mr. LAMPSON: I understood the agreement was that I was to present my amendment.

The PRESIDENT: The question is on the adoption of the amendment offered by the delegate from Crawford [Mr. MILLER] and the president recognizes the gentleman from Stark [Mr. WEYBRECHT].

Mr. DOTY: Will the member from Stark yield for a motion to recess?

Mr. WEYBRECHT: Yes.

Mr. DOTY: I move that we recess until tomorrow morning at nine o'clock.

Mr. LAMPSON: My understanding was that I was to have an opportunity, following Judge Peck, to present my amendment known as the inhibition against the single tax, which was one of the amendments laid on the table.

Mr. MILLER, of Crawford: I only understood that there was to be an opportunity given for an amendment of that kind, and I think the amendment I have offered covers that question.

Mr. LAMPSON: The one referred to was the one which was pending, which was my amendment.

Mr. MILLER, of Crawford: My understanding was that there would only be an opportunity to submit such an amendment.

Mr. LAMPSON: We were talking about the pending amendments when we agreed to lay them on the table, and I would like to hear the amendment offered by the delegate from Crawford read again.

The amendment was again read.

Mr. LAMPSON: That is a very different amendment from my own and I move to lay that on the table, and upon that motion I demand the yeas and nays.

The PRESIDENT: The question is on the motion to recess until tomorrow morning at nine o'clock. All those in favor of the motion will say yea and those against it nay.

The vote was taken viva voce.

The PRESIDENT: The motion is carried—

MANY DELEGATES: Division! Yeas and nays!

The PRESIDENT: The motion is carried and the

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Convention is recessed until tomorrow morning at nine o'clock.

Mr. LAMPSON: I appeal from the decision of the president declaring the motion carried and the Convention recessed.

The president here left the chair.

Mr. ANDERSON: Put the appeal yourself; don't stand for that.

Mr. LAMPSON: I call on Doctor Fess to take the chair.

Vice President Fess here assumed the chair.

The VICE PRESIDENT: The question before the house is whether the decision of the chair in declaring the motion carried and refusing to call for a division of the house shall be sustained.

Mr. ANDERSON: As to the recess.

The VICE PRESIDENT: The gentleman from Ash-tabula [Mr. LAMPSON] appeals from the decision of the president. The question is shall the decision of the president stand as the judgment of this assembly? All in favor will say—

Mr. DOTY: I demand the yeas and nays.

The VICE PRESIDENT: All in favor of sustaining the decision of the president as the judgment of this assembly will answer yes when their names are called and those to the contrary no. The secretary will call the roll.

Mr. ANDERSON: That is only for the recess?

The VICE PRESIDENT: No; the chair will state the matter over again. There was a motion to recess and a viva voce vote was taken. The decision of the president was against recognizing a call for the division of the house on the motion to recess. From this decision of the chair an appeal was taken and the vote now is upon the appeal and the question is shall the decision of the president be sustained?

Mr. DOTY: If a majority vote in the affirmative the Convention is then adjourned?

Mr. FESS: No; if the majority vote is in the affirmative, that supports the decision of the president in refusing to give a division.

Mr. DOTY: And then the decision of the chair would stand and we are recessed.

The question being "Shall the decision of the president be sustained?"

Upon which the yeas and nays taken were regularly demanded, taken and resulted—yeas 40, nays 66, as follows:

Those who voted in the affirmative are:

Beatty, Wood,	Halenkamp,	Moore,
Brown, Pike,	Harris, Hamilton,	Okey,
Cassidy,	Harter, Huron,	Peck,
Cordes,	Henderson,	Roehm,
Crites,	Hoffman,	Shaffer,
Crosser,	Hoskins,	Stalter,
Davio,	Hursh,	Stilwell,
DeFrees,	Johnson, Williams,	Tallman,
Doty,	Kunkel,	Tetlow,
Earnhart,	Leete,	Thomas,
Fackler,	Leslie,	Watson,
Farrell,	Malin,	Wise,
FitzSimons,	Mauck,	
Hahn,	Miller, Crawford,	

Those who voted in the negative are:

Anderson,	Baum,	Beyer,
Antrim,	Beatty, Morrow,	Brattain,

Brown, Highland,	Jones,	Pettit,
Campbell,	Kehoe,	Pierce,
Collett,	Keller,	Riley,
Colton,	Kerr,	Rockel,
Cunningham,	King,	Rorick,
Donahey,	Knight,	Shaw,
Dunlap,	Kramer,	Smith, Geauga,
Dunn,	Lambert,	Smith, Hamilton,
Dwyer,	Lampson,	Stevens,
Eby,	Longstreth,	Stewart,
Elson,	Ludey,	Stokes,
Evans,	Marriott,	Taggart,
Farnsworth,	Marshall,	Tannchill,
Fluke,	McClelland,	Ulmer,
Halfhill,	Miller, Fairfield,	Wagner,
Harbarger,	Miller, Ottawa,	Walker,
Harris, Ashtabula,	Norris,	Weybrecht,
Harter, Stark,	Nye,	Winn,
Holtz,	Partington,	Woods,
Johnson, Madison,	Peters,	Worthington,

The roll call was verified.

The VICE PRESIDENT: The yeas are forty and the nays are sixty-six. The decision of the chair is not sustained.

Mr. LAMPSON: I now move to lay the amendment of the gentleman from Crawford on the table.

Mr. DOTY: A point of order.

The VICE PRESIDENT: The gentleman will state his point of order.

Mr. DOTY: If the appeal is not sustained there is a motion before the house to recess, the member from Stark [Mr. WEYBRECHT] having yielded the floor and yielded it for that purpose only. That is what is now before us.

Mr. SMITH, of Hamilton: Mr. President—

The VICE PRESIDENT: Let the chair state the status of affairs. The ruling appealed from was upon a call for a division as to whether the division should be called for. That is really what the decision was, and from which Mr. Lampson appealed. Now the decision of the chair was not sustained and the whole thing now is to take a rising vote on the question of recessing.

Mr. DOTY: On that I demand the yeas and nays.

Mr. SMITH, of Hamilton: Before that motion is put I move to amend to recess until eleven o'clock. We have some important committee meetings for tomorrow morning.

The VICE PRESIDENT: The chair will state that when the division of the vote was asked for, in my judgment it ought to be allowed. Consequently the chair will put the division upon the vote to recess.

Mr. DOTY: I demand the yeas and nays on that.

The VICE PRESIDENT: You can not call for the yeas and nays on that motion now. All in favor of the motion will please rise.

Mr. SMITH, of Hamilton: Is there any amendment in order?

The VICE PRESIDENT: No; it is in order to take the vote on the division.

Mr. HARRIS, of of Hamilton: What is the distinct question?

The VICE PRESIDENT: Recessing until tomorrow at nine o'clock. I think the members are confused. The judgment of the chair was against ordering a division of the house. That judgment has not been sustained, and now the division of the house must be put upon recessing until tomorrow morning at nine o'clock. All in favor

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will stand to their feet and be counted by the secretary, and all opposed.

The VICE PRESIDENT: The vote is fifty-two for and fifty-four against. So the motion to recess is lost.

Mr. LAMPSON: I now move to lay the amendment of the gentleman from Crawford [Mr. MILLER] on the table, and upon that I demand the yeas and nays.

Mr. FARRELL: The gentleman from Stark [Mr. WEYBRECHT] was recognized and he yielded the floor only for a motion to recess.

Mr. DOTY: I rise to a point of order. I renew the point made by my colleague. The member from Stark [Mr. WEYBRECHT] has the floor.

Mr. HARRIS, of Ashtabula: I suggest that the point of order is not well taken, for if the ruling of the president is not sustained, anything he did after that is out of order and should not be recognized.

Mr. LAMPSON: The control of the floor goes to the side which is sustained, and I move again to lay the amendment of the delegate from Crawford on the table, and if that motion prevails I will offer my same amendment and then we will be willing to recess.

Mr. BEATTY, of Wood: I demand the yeas and nays on that.

The VICE PRESIDENT: The chair must decide that unless the gentleman from Stark [Mr. WEYBRECHT] yields the floor he has it.

Mr. WEYBRECHT: I yield the floor.

The VICE PRESIDENT: Then the motion is in order and the motion is to table the amendment offered by the delegate from Crawford.

Mr. DOTY: And upon that I demand the yeas and nays.

Mr. LAMPSON: I second the demand.

Mr. DWYER: There is nothing there stated what that single tax is on. It is indefinite.

The VICE PRESIDENT: Debate is out of order.

Mr. DWYER: I ask that the amendment be again read.

The VICE PRESIDENT: Now gentlemen, if you will keep your heads you will get along all right.

DELEGATES: Keep yours.

The VICE PRESIDENT: Oh, I will keep mine all right.

The amendment of the delegate from Crawford [Mr. MILLER] was again read.

Mr. DWYER: Single tax on what?

The VICE PRESIDENT: Debate is out of order.

Mr. PETTIT: I rise to a point of order. Mr. Doty is standing up here all the time talking and we can not hear.

Mr. DOTY: I confess I was out of order.

The VICE PRESIDENT: The vote will now be on tabling the amendment offered by the gentleman from Crawford [Mr. MILLER] and all in favor will vote aye and the contrary no. The secretary will call the roll.

The yeas and nays were taken, and resulted — yeas 55, nays 52, as follows:

Those who voted in the affirmative are:

Anderson,	Harris, Ashtabula,	Pierce,
Antrim,	Holtz,	Riley,
Baum,	Iones,	Rockel,
Beatty, Morrow,	Kerr,	Rorick,
Brattain,	King,	Shaw,
Brown, Highland,	Knight,	Smith, Geauga,
Campbell,	Kramer,	Stalter,
Collett,	Lampson,	Stevens,
Colton,	Longstreth,	Stewart,
Cunningham,	Ludey,	Stokes,
Donahey,	Marriot,	Taggart,
Dunlap,	Marshall,	Wagner,
Dwyer,	McClelland,	Walker,
Eby,	Miller, Fairfield,	Weybrecht,
Eison,	Miller, Ottawa,	Winn,
Evans,	Norris,	Woods,
Fess,	Nye,	Worthington,
Fluke,	Partington,	
Halfhill,	Pettit,	

Those who voted in the negative are:

Beatty, Wood,	Harter, Huron,	Okey,
Beyer,	Harter, Stark,	Peck,
Brown, Pike,	Henderson,	Peters,
Cassidy,	Hoffman,	Redington,
Cordes,	Hoskins,	Roehm,
Crosser,	Hursh,	Shaffer,
Davio,	Johnson, Madison,	Smith, Hamilton,
DeFrees,	Johnson, Williams,	Stilwell,
Doty,	Kehoe,	Tallman,
Dunn,	Keller,	Tannehill,
Earnhart,	Kunkel,	Tetlow,
Fackler,	Lambert,	Thomas,
Farnsworth,	Leete,	Ulmer,
Farrell,	Leslie,	Watson,
FitzSimons,	Malin,	Wise,
Halenkamp,	Mauck,	Mr. President.
Harbarger,	Miller, Crawford,	
Harris, Hamilton,	Moore,	

The roll call was verified.

The VICE PRESIDENT: The yeas are fifty-five and the nays are fifty-two and the amendment is on the table.

Mr. LAMPSON: I offer an amendment.

The amendment was read as follows:

Amend Proposal No. 2 as follows: At the end of section 1-c insert the following:

The powers defined herein as "the initiative" and "the referendum" shall never be used to amend or repeal any of the provisions of this paragraph, or to enact a law, or adopt an amendment to the constitution, authorizing a levy of the single tax on land or taxing 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 to personal property or to the bonds of corporations, other than municipal.

Mr. LAMPSON: I now move that we recess until 9 o'clock tomorrow morning.

Mr. STALTER: I move to amend and make it 10:30 o'clock.

Mr. LAMPSON: I accept the amendment.

The VICE PRESIDENT: The gentleman from Ash-tabula [Mr. LAMPSON] accepts the amendment and the question is on recessing until tomorrow morning at 10:30 o'clock.

The motion was carried.