

Dhananjayrao Gadgil Library



GIPE-PUNE-002529

STUDIES IN ECONOMICS AND POLITICAL SCIENCE

EDITED BY PROFESSOR W. A. S. HEWINS, M.A.

**THE REFERENDUM IN
SWITZERLAND**

THE LONDON SCHOOL OF ECONOMICS AND POLITICAL SCIENCE

10 ADELPHI TERRACE, STRAND, LONDON, W.C.

The special aim of THE LONDON SCHOOL OF ECONOMICS AND POLITICAL SCIENCE is the study and investigation of Economic and Political Institutions. Many of the Lectures and Classes are designed to promote a wider knowledge of modern commercial conditions, and to meet the needs of those engaged in the Civil Service, municipal employment, journalism, teaching, and public work. The School provides training in methods of investigation, and affords facilities for original work in Economics and Political Science.

PUBLIC LECTURES AND CLASSES are held on Economics, Statistics, Commercial History and Geography, Commercial and Industrial Law, Railway Economics, Banking and Currency, Finance and Taxation, Municipal History and Administration, and Political Science.

SPECIAL CLASSES, only open to full students of the School, arranged as a three years' course of study, are held in each subject. Students carry on their studies under the **DIRECT PERSONAL SUPERVISION** of the Lecturer.

THE LECTURES are usually given between 6 and 9 P.M. **THE CLASSES** are held both in the evening, between 6 and 9 P.M., and during the daytime.

THE SCHOOL IS OPEN TO MEN AND WOMEN.

THE SCHOOL YEAR commences in October. There are **THREE TERMS**, each about ten weeks in duration, viz.: (1) October to December; (2) January to March; (3) April to July. **STUDENTS MAY JOIN THE SCHOOL AT ANY TIME.**

THE FEES FOR FULL STUDENTS ARE £3 A YEAR, OR £1 A TERM. Students may also be admitted to one or more Courses of Lectures on payment of fees varying in amount with the length of the course.

SCHOLARSHIPS, varying from £25 to £100, are given to enable students of ability to pursue their studies at the School.

STUDIES IN ECONOMICS AND POLITICAL SCIENCE are in course of publication under the Editorship of the Director of the School.

All communications should be addressed to the Director, **W. A. S. HEWINS, M.A.**, The London School of Economics and Political Science, 10 Adelphi Terrace, London, W.C.

THE REFERENDUM IN
SWITZERLAND

By SIMON DEPLOIGE
ADVOCATE

WITH A LETTER ON THE
REFERENDUM IN BELGIUM

By M. J. VAN DEN HEUVEL
PROFESSOR OF INTERNATIONAL LAW AT THE
UNIVERSITY OF LOUVAIN

TRANSLATED INTO ENGLISH

By C. P. TRÉVELYAN, M.A.
TRINITY COLLEGE, CAMBRIDGE

EDITED WITH NOTES, INTRODUCTION, AND APPENDICES

By LILIAN TOMN
GIRTON COLLEGE, CAMBRIDGE

LONGMANS, GREEN, AND CO.
39 PATERNOSTER ROW, LONDON
NEW YORK AND BOMBAY
1898

All rights reserved

STUDIES IN ECONOMICS AND POLITICAL SCIENCE

Published under the auspices of the London School of Economics and Political Science, and Edited by Professor W. A. S. HEWINS, M.A., Director of the School.

1. THE HISTORY OF LOCAL RATES IN ENGLAND. By EDWIN CANNAN, M.A., Balliol College, Oxford. Crown 8vo, 2s. 6d.

"An interesting summary of the development of one element of taxation. It is still more interesting as the first publication of the newly-established London School of Economics and Political Science, which is attempting to do; though on different lines, a work analogous to that which has been for some years carried on by M. Boutmy's well-known Ecole des Sciences Politiques in Paris."—*Times*.

2. SELECT DOCUMENTS ILLUSTRATING THE HISTORY OF TRADE UNIONISM. I. THE TAILORING TRADE. Edited by F. W. GALTON. With a Preface by SIDNEY WEBB, LL.B.

"What Professor Brentano failed to find when he collected the materials for his memorable essay 'On the History and Development of Guilds and the Origin of Trade Unions,' Mr. Galton has discovered in great abundance, setting forth in his introduction the historical sequence and the economic significance of the documents themselves, and the movements they illustrate, with no little skill and insight."—*Times*.

3. GERMAN SOCIAL DEMOCRACY. By the Hon. BERTRAND RUSSELL, B.A., Fellow of Trinity College, Cambridge.

"A history of the movement during the last thirty years, and of the abortive efforts to retard its growth, leads up to the consideration of its present position, which is approached in a fair-minded spirit and discussed with insight and judgment."—*Times*.

4. THE REFERENDUM IN SWITZERLAND. By SIMON DEPLOIGE, University of Louvain. Translated by C. P. TREVELYAN, M.A., Trinity College, Cambridge, and Edited with Notes, Introduction, and Appendices, by LILLIAN TOMN, Girton College, Cambridge.

5. LOCAL VARIATIONS OF RATES OF WAGES. By F. W. LAURENCE, B.A., Trinity College, Cambridge; Adam Smith Prizeman, Cambridge, 1896. [To be published shortly.]

6. THE ECONOMIC POLICY OF COLBERT. By A. J. SARGENT, B.A., Brazenose College, Oxford; Hulme Exhibitioner and Whately Prizeman, Trinity College, Dublin, 1897. [To be published shortly.]

7. SELECT DOCUMENTS ILLUSTRATING THE STATE REGULATION OF WAGES. Edited, with Introduction and Notes, by W. A. S. HEWINS, M.A., Tooke Professor of Economic Science and Statistics at King's College, London; Director of the London School of Economics and Political Science.

[In preparation.]

And other Volumes.

INTRODUCTION

THE Swiss have systematised direct legislation by means of two institutions, the referendum and the popular initiative. The referendum is a popular vote on laws or legislative questions which have already been discussed by the representative body. The popular initiative is a further development of the principle of direct legislation, by which sections of the community are able to draft a law themselves on any subject, or to insist that the Legislature shall do so.

Proposals to establish some kind of direct legislation, and especially the milder form of it, the referendum, have been made in the Belgian and Australasian Parliaments, in the first case as a substitute for the royal veto, and in the second as a way out of deadlocks between the two houses of the Legislature. In the French Parliament various attempts have been made of late years to get certain laws submitted to the people, and to introduce the referendum into the communes.¹ The introduction of a communal referendum has also been proposed in the Italian Parliament.

In the United Kingdom the referendum has been advocated by writers of more or less eminence as a substitute for the House of Lords, and as a corrective

¹ See J. Signorel, *Le Referendum législatif*, pp. 171-181.

for all the evils of party and parliamentary government.¹ The referendum has been extensively used in the British Trade Union world,² and has existed for over a century in many of the states of America in the form of a popular vote on constitutional changes.³ A Direct Legislation League was formed there in 1894 to secure the introduction of the referendum and initiative in the Swiss form, not only in all the American states and municipalities, but also in the Federal Government, as a remedy for the prevalent corruption of political life.⁴

The expediency of direct legislation by the people is therefore more than a question of speculative interest: it has become a question of practical politics.

M. Deploige's objective and impartial study of the historical development and actual working of the referendum and the initiative in Switzerland—the country which has the most extensive experience of direct legislation by the people—will therefore interest not only the student, but the politician and the intelligent citizen. It is, however, most important to bear in mind that direct legislation of the people as practised in Switzerland forms a part of a peculiar and complicated constitution. To study it without considering the people who work it, the system for which it was designed, and the circumstances in which it

¹ See *Contemporary Review*, April 1890, "Ought the Referendum to be introduced into England?" A. V. Dicey; also the discussion on the subject in the *National Review*, 1894, by Professor Dicey, Mr. Curzon, Admiral Maxse, Lord Grey, and Mr. St. Loe Strachey.

² See *Industrial Democracy*, S. & B. Webb, 1898.

³ *The Referendum in America*, E. P. Oberholtzer, 1893, and the *Adoption and Amendment of Constitutions*, C. Borgeaud, 1895.

⁴ The organ of the League is the *Direct Legislation Record*, published quarterly. Editor, J. Eltweed Pomeroy.

originated, is like examining and criticising a set of wheels without inquiring whether they are intended for a perambulator, a coach, or an engine. For we must remember that in Switzerland the people have an Executive which does not resign when out-voted by the Parliament, a Parliament which does not dissolve when its measures are negatived by the people, and an electorate who, whilst constantly rejecting the laws made by their representatives, nevertheless usually send back those same representatives to serve for the same term of years. Party organisation, as we understand it, seems to be almost unknown in the Swiss Republic. The referendum, in fact, exists in Switzerland under circumstances and amid surroundings that are without parallel in any other country. M. Numa Droz, who has been President of the Confederation, and who is one of the most able of the Swiss constitutional writers, has expressed grave doubts as to the possibility of successfully introducing it into other countries without at the same time accepting other parts of the Swiss Constitution. Indeed, it is only by realising the peculiarities of the Swiss Constitution that the referendum appears in its true light as part and parcel of the Swiss ideal of democracy.

The Swiss Republic, though but a speck on the map of Europe, is composed of twenty-two "sovereign" states united in a Confederation, "in order to ensure the independence of the country against foreign nations, to maintain internal tranquillity, to protect the liberty and rights of the confederated citizens, and to increase their common prosperity."¹

¹ See Swiss Constitution, 1874.

Three of the twenty-two cantons are subdivided into demi-cantons, and each of the twenty-five has its own constitution and special laws, its own legislative, executive, and judicial authority. They differ from each other in race, language, religion, and habits of thought. The French occupy the cantons of Vaud, Geneva, Neuchâtel, and parts of Fribourg, the Valais, and Berne; the Italians spread over Ticino and part of the Grisons, which is inhabited for the greater part by Romance-speaking people, and German is spoken by the majority of the people in fifteen cantons.¹ All official documents, laws, and administrative orders issued by the Federal Government are published in three languages—German, French, and Italian—while in a canton like Berne, where the people are partly French and partly German, the cantonal laws and decrees are published in both languages. The cantons can be classified according to religion just as easily as according to race, but the lines of race and religion do not coincide.²

The government of Switzerland could not, under these circumstances, be highly centralised, yet union of some kind is an absolute necessity. The Swiss

¹ According to the last census, 634,613 speak French, 155,130 Italian, and 38,335 Romance, and no less than 2,083,097 German; Zürich, Basle (Rural and Urban), Aargau, Thurgau, Schaffhausen, Appenzell (Inner and Outer Rhodes), Uri, Schwyz, Unterwalden (Obwald and Nidwald), Zug, Glarus, St. Gall, Lucerne, Solothurn, and Vaud are almost entirely German.

² Lucerne, Uri, Schwyz, Unterwalden, Zug, Fribourg, Ticino, Valais, Appenzell (Inner Rhodes), and Solothurn are Catholic; Zürich, Berne, Schaffhausen, Appenzell (Outer Rhodes), Vaud, and Neuchâtel are Protestant; Glarus, Basle, Thurgau, and St. Gall have a Protestant majority; while the Grisons, Aargau, and Geneva are equally divided. According to the census of 1888, there are about 1,716,548 Protestants to 1,183,828 Catholics.

cantons are so small that the population in the largest numbers scarcely half a million, and in the smaller ones about 13,000. To avoid absorption in their powerful neighbours and to preserve their independence, they have entered into an alliance, of which the Federal Government is the political expression. Hence we find in Switzerland an intense local patriotism and a very real national patriotism, great jealousy of any encroachment by the Central Government, and also the firm intention of supporting it at all hazards.

The Swiss citizen is first of all a member of a commune, then a member of a canton, and last of all a member of the Federal Government. The three thousand communes into which the country is divided are, in fact, the basis of the Swiss Constitution, for it is only by being a member of a commune that a Swiss becomes a citizen of the republic. The communes vary in size and extent, those that include the large towns being in a different position as regards wealth and population from those in the purely agricultural districts. Each commune, whether large or small, is practically a state in miniature, with an organised government, consisting of a deliberative and an executive body. In the German parts of Switzerland the deliberative body, known as the Communal Assembly, is composed of all the resident male citizens. They meet together at regular intervals, and decide all questions relating to local police, sanitation, the maintenance of highways, the erection of buildings, and the sale of landed property.¹ At

¹ The descendants of the original settlers alone have the right of managing the communal lands. They are known as the Bürger or citizens, and the assembly in which they discuss these questions is

these meetings they fix the annual budget, pass the accounts, levy new taxes, and elect the Executive Council and other local officials.

Any member of the Assembly may offer motions or amendments at the meeting, but usually these are brought forward by the Executive, or referred to that body before being finally voted on.

The Executive, which is generally known as the Communal Council, consists of a body of three or four members, one of whom is chosen as president or mayor. Their function is to carry on the current business of the commune.

In the towns of Berne and Zürich it has become impossible for the people to assemble together in a mass meeting, owing to the growth of population, and we therefore get the councils elected by the people. In Berne since 1887 there is a Communal Council of nine members, and a Municipal Council, which supervises the Communal Council. The inhabitants of the commune elect these councils annually, but they do not surrender their powers to them. A communal voting by ballot takes place once a year at least, in which the people decide on all important questions, the town being divided into several districts for the purpose of voting.¹ In

called the *Bürgergemeinde*. The difference between this assembly and the Communal Assembly is very slight in practice. When the question of communal lands comes up, the later settlers or "inhabitants" abstain from voting.

¹ At these communal votings the citizens assent to the annual budget, fix the local rates, and decide questions as to the purchase or sale of property the value of which is more than 100,000 francs. On June 28, 1896, the people of Berne rejected a proposal to elect the Communal Council by proportional representation, they rejected

addition to this, any 500 citizens may bring forward any proposal which is submitted by the councils to the people.

The commune of Zürich was reorganised in 1891, and possesses now a council of nine members, which act as the executive, and a "Great Municipal Council," which is the deliberative body. In this case, also, the electors vote finally on all important matters, and on all appropriations over a certain amount.¹

The right of the people to initiate proposals themselves is also recognised in Zürich, and is vested in any 800 citizens.

In most of the French communes the general body of inhabitants elect a council which attends to the matters ordinarily dealt with by the people in the German communes. There are, therefore, two councils, one dealing with general policy and matters of importance, and a smaller executive body with a mayor at its head.

In the canton of Geneva a communal referendum was established, in 1894, much like that of Berne and Zürich. The difference is, that in Berne and Zürich certain questions must go to the people and be voted on, whereas in Geneva a voting only takes place when a demand to that effect has been presented by a certain number of citizens. In the

a plan to organise a fire brigade, they accepted a proposal to lower the price of gas, and a proposal providing for the maintenance of the cathedral tower.

¹ In December 1894 the people of Zürich decided to buy up the existing tramways. In June 1896 they agreed to lay down three more lines, at an estimated outlay of 2,000,000 francs. They also decided on buying up land to the value of 950,000 francs to build artisan dwellings.

municipality of Geneva any 1200 electors may demand a referendum on any resolution of the council within thirty days after it has been passed. The budget is, however, excepted. This is never laid before the people. In the other communes of Geneva the number is fixed at one-third of the voters, and the demand must be sent in within fourteen days. The people of Geneva also have the right of initiative. Any 1200 citizens can either draw up a scheme, which must be sent to the electorate without alteration, or they may suggest a project to the councils in general terms, leaving them to work it out. In the first case, the council has the right of proposing an alternative scheme to the people, or can merely advise that the popular proposal be accepted or rejected.

Besides these communal assemblies there are parish meetings, which are assemblies of all the members of the same confession living within the boundaries of the commune. The people in every canton decide what form of religion shall be the State religion. In nine cantons they have adopted Roman Catholicism, in six others both Roman Catholicism and Protestantism, while in five others there are three State Churches, and Neuchâtel supports an Israelitish society besides three Christian sects. The State denominations are supported by the public treasury,¹ but local matters concerning the Church are considered in the parish meetings. The questions dealt with in the meetings include the election of pastors, the building and main-

¹ The funds are provided by a tax in some states, and in others out of the proceeds of the Church lands taken over by the State. See Vincent, p. 179, and Orelli, *Staatsrecht*, &c., p. 156, for further information on Church matters.

tenance of houses of worship, and the management of Church funds. The members of this assembly also elect the Church officers, who administer the affairs of the society, supervise the work of the pastor, and in some states act as a board of overseers of the poor.

The School District Assembly is another of these local mass-meetings. The members of the commune—or, in the case of the small communes, the members of several communes—meet together to elect a school board, and to exercise a general supervision over all educational matters. The necessary funds are provided partly by the State and partly by a local rate levied by the school assembly when it meets. The amount to which the State subsidises the commune varies according to the wealth of the commune.

It is difficult to exaggerate the importance of these local assemblies upon the development of Swiss democracy. The introduction of the referendum or initiative into the cantonal and federal constitutions is of recent date; but the people have been trained to direct legislation in their local assemblies for half a thousand years. "Democracy in Switzerland," says Mr. Lowell, "is not merely a national or cantonal matter, but has its roots far down in the local bodies, and this gives it a stability and conservatism which it lacks in most other Continental nations."

The connecting link between the canton and the commune is supplied by the district, which is established merely for the convenience of administration, and has no separate political life of its own. The head of the district is the agent of the cantonal government in the territory over which he is placed.

He carries out the laws enacted by the cantonal legislature, and enforces the orders of the cantonal executive. He is usually elected by popular vote and is sometimes assisted by a council.¹

The Swiss cantons are the democratic workshops of Europe.² On their twenty-five anvils are hammered out almost every conceivable experiment in political mechanics; and if a particular experiment proves successful, it is adopted by one canton after another, until it ultimately receives a definite consecration by becoming part of the Federal Constitution, which is, indeed, largely moulded on cantonal experience. The cantons are, so to say, the "seed-trial" grounds of the various forms of popular government, and offer an unrivalled field to those who wish to study the latest phases and expedients of democracy.

The cantons are free to adopt what form of constitution they like, so long as it is republican, and contains nothing contrary to the Federal Constitution. Therefore all the constitutions and constitutional amendments must be "guaranteed," *i.e.* sanctioned by the Federal Assembly.³

¹ In several states of small territory the district is dispensed with altogether, the cantons dealing directly with the communes.

² The Swiss Confederation is said to consist of twenty-two cantons; but three of these are divided politically, and are to all intents and purposes separate cantons. Basle is divided into Urban Basle and Rural Basle, Appenzell into Inner and Outer Rhodes, and Unterwalden into Obwald and Nidwald. These half cantons only differ from whole cantons in that they send but *one* deputy each to the Council of States, and count only as half a vote when the State votes are counted in the case of a federal referendum on constitutional amendments.

³ Constitutional changes are very frequent. Between 1891 and 1895 there were twenty-three revisions, four of which were total revisions.

The spirit of the cantonal constitutions is fittingly expressed by the following phrases: "Sovereignty resides in the mass of the people. It is exercised directly by the electors, and indirectly by the authorities and officials" (The Constitution of Berne, 1893). "The people, in virtue of their sovereignty, give themselves the following constitution" (Constitution of Zürich, 1868).

The Swiss cantons fall into two classes—the cantons with elected legislatures, and the cantons with a system of legislation by mass-meeting.

Eighteen of the cantons have a Legislature consisting of a single chamber, called the Great Council (sometimes the Kantonsrath or Landrath), the members of which are chosen by universal suffrage for periods ranging from two to five years. The usual term is, however, three or four years.¹

¹ In Zurich there is one deputy for every 1200 of the population; in Geneva, one to every 666 persons; and the largest proportion in any canton is one member to 2000 people. In Ticino, Geneva, Neuchâtel, Zug, and Solothurn, proportional representation has been introduced since 1891 for the election of the Great Councils. It was also proposed in St. Gall in 1895, and in Berne in 1896, but was vetoed in each case by the people.

For an account of the different systems of proportional representation tried in each canton, see *Les Lois Suisses de la Représentation proportionnelle comparées et commentées*, par Alphonse Frey, in *Le Bulletin de la Société Suisse pour la Représentation proportionnelle*, Geneva and Basle, Librairie Georg. The system in Geneva is also described in the *Annals of the American Academy*, November 1895, by Professor Wuarin, of Geneva. See also Droz, *Études et portraits politiques; La Suisse Jugée par un Américain*, pp. 500-504. The method of procedure is of a complicated type, as there are usually several parties at Swiss elections. The system varies considerably in the different cantons. It is a subject which would well repay study. The first elections by proportional representation took place in Ticino in 1892.

The work of the Legislature is to pass the laws, vote the taxes and appropriations, and supervise the administration. The people are the check on the Legislature, and they act as a check in three ways.

In the first place, they can veto legislation by means of the referendum, and can make an imperative suggestion as to the subject of legislation by means of the initiative. The different forms which these institutions take are considered in detail by M. Deploige. It is sufficient to say here that the referendum is always compulsory in constitutional amendments, *i.e.* no constitutional change can become law without the popular assent expressly given. In the domain of ordinary legislation there is only one canton, Fribourg, in which the referendum is not recognised in some form or other. It is compulsory in the case of every law in nine and a half cantons, it may take place upon demand in six and a half cantons, and in two it is compulsory for financial questions only.

Every canton, except one, recognises the right of the people to demand, by means of the initiative, either a partial or a total revision of the constitution.¹

Nineteen cantons recognise the right of initiative in ordinary legislation.

The second check on the Assembly is the popular right of bringing about a dissolution, which is, however, only found in six of the German cantons. A petition for a dissolution is signed by the statutory number of citizens and sent in to the Executive, who

¹ Geneva, which is the exception, puts the question of revision to the people periodically every fifteen years. Schaffhausen only recognises the initiative in the case of a total revision.

are obliged to put the question to the whole people, "Shall the Great Council be dissolved or no?" If the people reply in the affirmative, the Council is *ipso facto* dissolved, and a new election takes place. "This device," says Mr. Lowell, "has not, however, proved to be of much importance. Formerly it was sometimes used, and in one case, at least, with success; but owing to the shortening of the periods for which the councils are elected, and the general introduction of the referendum, it is practically obsolete."¹

Another method of getting rid of the Great Council is occasionally tried. In every cantonal constitution, except Geneva, the people have the right of demanding a total revision of the constitution. The law in most cases provides that if the people decide in the affirmative, the Great Council must dissolve, as a sort of penalty for driving the people to extreme measures and not anticipating the general wish. A new Council is then elected to carry out the revision. This exceptional method was last tried in Ticino in 1890. As a rule, however, the life of the Legislature is measured by the constitution, and not by the exigencies of politics. The Executive² is usually elected for the same term as the Legislature, and generally consists of five or seven members.³ It is of the nature of a business committee of the Legislature, and each member has charge of a separate department.

¹ Lowell, p. 230.

² Called sometimes Conseil d'Etat, sometimes Kleine Rath, and Regierungsrath.

³ In Berne, of nine.

It is elected directly by the people in eleven of these cantons, so that there are only eight in which the Executive is elected by the Great Council.¹

The members of the Executive do not sit in the Great Council, but appear there to make reports on the administration, propose measures, and take part freely in debate without voting. They are the motive power in legislation, and yet are quite subordinate.²

The absence of party, which we shall notice at greater length when we come to deal with the Federal Government, is very marked in both the cantonal executives and legislatures. The party in the minority usually have seats allotted to them in the Executive Council, and in Berne and Aargau the constitution expressly directs that this shall be done.³

It is a curious fact that direct popular election does not produce a homogeneous Executive any more than election by the Legislature. The minority is, in fact, represented in the Executive in every canton except two, and these are two of the cantons which leave the choice to the Great Council.

The members of the Executive do not resign when they come into conflict with the Assembly, but submit, retain their places, and carry out the orders of the larger Council. Both the members of the Executive and Legislature enjoy practically permanent tenure, the people seeing no reason why they should not

¹ The eight are—Neuchâtel, Vaud, Valais, Fribourg, Berne, Lucerne, Schwyz, and Aargau. In Ticino, Geneva, and Zug the executive is elected by proportional representation.

² The Council of State in Geneva can, however, send any measure it did not itself introduce back to the Council for reconsideration.

³ "The minority shall be equitably represented in the Executive Council" (Constitution of Berne, 1893).

continue to re-elect a good man, even though his views may not always coincide with their own.¹

In three cantons² the people have the right of dissolving their Executive by presenting a demand to that effect, which is referred to the whole people, as in the case of the Great Councils.

The second group of cantons have a much more historic and picturesque form of government than those we have just been considering. In six small and very conservative cantons, or rather in two cantons and four half cantons,³ there is a system of government known as the *Landsgemeinde*.

These assemblies consist of the whole of the adult male population, who meet once a year, and are the supreme authority of the canton. The power of the *Landsgemeinde* is set forth in the Constitution of Uri (Art. 51) in the following words: "Whatever the *Landsgemeinde* within the limits of its constitution ordains, is the law of the land, and as such shall be obeyed."

Then it continues: "The guiding principle of the *Landsgemeinde* shall be justice and the welfare of the Fatherland, not wilfulness nor the power of the strongest."

It differs from an ordinary mass-meeting, says Mr. Vincent, "in the respect that the voter not only expresses his political opinions, but instantly gives effect to them. The majority does not imply, wish, or demand the passage of a measure, but enacts it

¹ See *Graphisch-statistischer Atlas der Schweiz*, 1897, for the average terms during which the members have sat continuously.

² Schaffhausen, Solothurn, and Thurgau.

³ These are Glarus, Uri, the two Unterwalden, and the two Appenzells. Until 1848 it existed in Schwyz and Zug also.

at once, and the vote is a solemn legal proceeding." ¹

The business to be laid before the Landsgemeinde is carefully prepared beforehand by a Council. This Council is generally known as the Landrath or Kantonsrath. Its members are not elected at the mass-meeting, but by separate electoral districts. It is described by Mr. Lowell as a sort of subsidiary legislature which attends to all the details that cannot well be brought before the people. It passes administrative resolutions, votes the smaller appropriations, examines the accounts, and appoints the minor officials.²

There is also an executive body elected by the Landsgemeinde known as the *Regierungsrath* or *Standescommission*. It is usually composed of from five to nine members, one of whom is President, and is officially known as the Landamman.

Each state has practically an independent judicial system of its own, for the Federal Tribunal is not a regular Court of Appeal. The organisation of the Judiciary varies in the different states. There is a Justice of the Peace or Official Mediator, whose duty it is to try and settle the matter in a friendly way. Then there is the District Court, consisting of a bench of judges, and above that the Cantonal Court. Criminal matters go before special tribunals. In certain cantons the people elect all the judges from the highest to the lowest; in others they elect the

¹ *State and Federal Government in Switzerland*, p. 109.

² Lowell, p. 225, *op. cit.* Mr. Vincent points out that in this body there is one delegate for every 400 inhabitants in Uri; in Nidwald, Appenzell, and Inner Rhodes, one to every 250; and in Obwald as many as one to 187.

Juge de la Paix and the members of the District Court. The tendency is for the people to extend their powers in this direction. The judges are elected for stated periods, generally four or six years, at the end of which they have to be re-elected. In Zug even the judges are elected by the system of proportional representation—a very curious development of the system. The Swiss cantonal tribunals do not, like the American State Courts, try acts of the Legislature. Only in two of the Landsgemeinde cantons, Uri and Nidwald, does the constitution provide that a person injured in his private property or rights by a determination of the Landsgemeinde may protest, and if the meeting disregards the protest, the judge shall decide between the people and the plaintiff.

By the Federal Constitution the Swiss National Government has only power to legislate on a certain number of subjects, and all powers not expressly conferred upon the Federal Government are vested in the States.¹ The constitution provides no special machinery for executing the federal laws or judgments, these are carried out by cantonal authorities; and by cantonal machinery.

The Federal Government consists of a Legislature, an Executive, and a Judiciary. The Federal Legislature or Federal Assembly, as it is called, is composed of two Houses, the National Council and the Council of States. The National Council, consisting of 147 members, is elected for a term of three years by universal suffrage. The Council of States corresponds to the American Senate, and is the final representative of the old Diet of Ambassadors. Each state

¹ See Federal Constitution of 1874 and amendments.

sends two members to the Council, and if the canton be subdivided, each half canton sends one. The Council of States thus numbers forty-four members.¹

The Federal Assembly meets twice a year, in June and December, for about four weeks; and there is usually an extra session in March, which is even shorter still. The debates are not officially reported, and only meagre accounts of them appear in the papers. The whole of the proceedings are very quiet, business-like, and rather informal. The two Houses are exactly equal as to powers. Any proposition, even those of a financial nature, may be introduced in either House. The motions or bills, when discussed and adopted by one Chamber, are then sent to the other. The rejection of a proposal by the House which first discusses it does not prevent the other House taking it up. In 1883, for instance, a law relating to civil status and marriage was rejected by the National Council, taken up by the Council of States, and finally passed by both Houses. Bills amended in either Chamber pass to and fro until some compromise is arrived at, or until both agree that it shall be dropped. Grave conflicts between the Houses never occur. If one Chamber continues

¹ The deputies to the Council of States are elected directly by the people in some cantons, in others they are appointed by the cantonal legislatures. There is no uniformity either of payment or of the length of period for which they are elected, some being sent for a year, others for four. The growing tendency is for the people to directly elect the members of the second Chamber as well as the popular Chamber. Ten cantons and six half cantons have now adopted the system. It is becoming the custom to elect the members for three years, so that both elections should coincide, and both Houses be renewed at the same time. This is now done in nine cantons and four half cantons.

to energetically oppose a project adopted by the other, the latter submits with a good grace.

The two Houses sit together for three purposes: to elect the Federal Council and the commander-in-chief, to exercise the right of pardon, and to decide conflicts of jurisdiction between the cantonal authorities.

The Executive consists of a Federal Council of seven members, who are elected for the three years by each new Federal Assembly as soon as it meets.¹ Each Councillor presides over a separate department, and for the sake of convenience he usually retains the same one continuously, though the re-allotment is supposed to be made every year. One of the seven Councillors is elected each year to the supreme office of President of the Federal Council, and is officially recognised as "President of the Swiss Confederation." Another Councillor is elected at the same time to the office of Vice-President. Neither the President or the Vice-President may hold office for more than one year, and the custom is for the Vice-President to be elected President, so that the office really passes in rotation through the Council. The President receives a salary of £540 a year, the other Councillors £480, and none of them are allowed to pursue any other profession or business while in office. The President has no special powers. He is merely the annual chairman of the committee and titular head of the State, and has charge of any one of the seven departments. His position is very inferior to that of any

¹ The Council cannot contain two men from the same canton, and by tradition certain cantons are entitled to special consideration. Berne and Zürich, for instance, have always been represented.

individual head of any known executive. Apart from his colleagues he has no power, nor has he any power over them. He is, however, one of a body of seven that count for a great deal. The Council has not any direct executive functions, except in the department of foreign affairs, the customs, postal and telegraph services, the polytechnic school, the arsenal, and the alcohol monopoly. It acts by way of inspection and supervision.

The Executive have important legislative as well as administrative functions. The Federal Council as a body have the right of initiating legislation. They also report in practice on all proposals brought forward in the Chambers before these become the subject of serious debate. It is also very common for the Chambers to pass a resolution, called a "*postulat*," requesting the Council to prepare a bill on some subject. Thus the Federal Council can introduce, draft, and report on legislation; but the President has no vote, no power of suspending or annulling laws.

The relations of the Executive and Legislature are peculiar. The members of the Executive are not allowed to sit in the Assembly. They may, however, take an active part in the debates, though, of course, they may not vote. The Executive has no power over the Assembly. It cannot prevent the Assembly meeting, prorogue it or dissolve it, and can only summon it on extraordinary occasions.

The Federal Tribunal, the chief judicial body of the Confederation, does not occupy anything like the position of the American Supreme Court. It is not the guardian of the constitution, and has no power to

pronounce any Act passed by the Federal Parliament unconstitutional and therefore void.

So far we have dealt with the dry bones of the Swiss Constitution. Now we have to consider its two unique and distinguishing marks—on the one hand the absence of the party system, and on the other the direct intervention of the people in the work of legislation by the referendum and the initiative.

The Federal Council represents no one body in the Federal Assembly. It is usually composed of members of the left and centre groups—that is to say, of Radicals and Liberal-Conservatives; but in 1891 a member of the extreme right, Dr. Zemp, the clerical representative of Lucerne, was elected Councillor, and in 1894 was promoted by a three-to-one vote of a dominantly Radical Assembly to the office of President. Nor is it even necessary that the majority of the Council should share the opinion of the majority of the Assembly. From 1876–1883 four of the seven members were Liberals and three Radicals, though the majority of the people's representatives were Radicals.

It follows from this non-party character that the Federal Executive is not expected to be unanimous. No measure, it is true, may be brought before the Assembly unless it has received the votes of the other ministers, but it is a mere matter of form, and a Councillor feels himself in no way bound to support a bill of his colleague because he has been obliging enough to give it his vote in order that it may be debated in the Assembly. What is more, he has no hesitation in opposing it openly, and members of the

Council have even been known to argue against each other in the Assembly.

To Englishmen it would seem impossible that an Executive made up of persons of different political views, and unconnected by any ties of party loyalty, should constitute a strong and efficient administrative body. One would expect such a casual coalition to spend its time in quarrels and fruitless discussions. As a matter of fact, however, it works very smoothly. This is partly due to the placid dispositions of the Swiss Councillors and their readiness to accept a compromise. But such a result could not be possible if the Federal Council were in any sense a "responsible Cabinet," obliged themselves to lay before Parliament and the country a distinct policy, and expected to resign collectively or individually if that policy or any part of it were defeated. No idea of responsible leadership enters into the relationship between the Federal Council and the Federal Assembly. Each minister is elected as an executive official to carry out within his own department the will of the Assembly, and ultimately of the whole electorate. The Councillors are not expected to shine as so many stars in the political firmament. Whatever their politics, they are expected to obey the orders of the Assembly.¹

Thus no minister thinks of resigning if his measure is vetoed either by the Assembly or by the people at a referendum. If either the Legislature, or in the last resort the electorate, show by their vote that they disagree with him, he submits, and prepares another bill more in harmony with the wishes of his em-

¹ See article by M. Numa Droz, "The Election of the Federal Council," in *Études et portraits politiques*.

ployers. Thus a bill on the construction of railways by private enterprise was substituted for a bill in which the Council had proposed that the railways should be a monopoly of the Confederation, and this without any change in the Government. Since 1848 there have been only two cases of resignation on political grounds, and only one of these was caused by a conflict with the Legislature. When M. Welti resigned in 1891 because his project for the purchase of the Central Railway was rejected by a referendum, his resignation created a great sensation, and was even said to be "unconstitutional." To the Swiss democrat it seems irrational for the State to lose a valuable administrator on account of a difference of opinion. No censure is implied by a hostile vote, the servant has merely misunderstood his master's views. The relationship between the Federal Assembly and the Executive is in fact much like that of a man with his old and trusted family solicitor. The solicitor manages his legal business, persuades him for his own good, and is a factor which cannot be neglected although nominally subordinate. The client usually defers to his advice, and takes no important legal action without consulting his lawyer, but he retains full freedom to take his own course without giving offence, and there arises no question of resignation or dismissal on either side. But this analogy from common life hardly does justice to the real power of the Swiss Executive over the Assembly. For whilst a solicitor advises a client how to act, the Federal Council not only advises as to policy, but is itself the only authority charged with carrying out that policy.

Another important outcome of the non-party character of the Government is the tendency for the Federal Council to become a permanent body. From 1848 to 1895 there have been only thirty-three Federal Councillors, the average period of service being over ten years.¹ Only two Councillors who were willing to serve have failed to be re-elected, one of whom lost his seat in 1854, and the other in 1872, when party passions ran high. The Swiss Federal Council is, in fact, far more akin to a body of *elected civil servants* than to the responsible ministry which governs the United Kingdom, or to its analogues in some European countries or in the self-governing British colonies.

The same absence of party spirit characterises the election of members to the Federal Assembly as well as to the Federal Council. The Swiss have it so firmly rooted in their minds, that there is no need to dismiss a good man because you disagree with him, that the certainty of the result prevents the elections from being contested. Only forty per cent. of the seats, for instance, were disputed in 1887. No great effort, therefore, is needed to retain seats; and as the minority know they have no chance of controlling the Government, they cease to agitate, and there is an absence of excitement about elections generally.² M. Borgeaud

¹ Four have served over twenty years; and Herr Carl Schenk, who died in office in 1895, was elected in 1863, served, therefore, thirty-three years, and was six times President. (See *Graphisch-statistischer Atlas der Schweiz*, 1897).

² M. Numa Droz says: "When the people reject a law in virtue of their sovereign right, there is no entering into a state of conflict. The craftsman carries out the work to his satisfaction; the employer who gave the order is of a different opinion, and sends it

has described the motives which influence the average Swiss elector: "If the candidate is obliging and affable," he says, "and if he is a neighbour and a decent fellow generally, and if he belongs to the party from which the elector has been in a habit of choosing, then the elector argues thus: Would it not be an undeserved reproach to turn X out? His opinions may be different from my own, well! what of that! If he does it again, one can always say No."¹ The Swiss elector is, on the whole, more interested in the person of his representatives than in his politics. The rejection of laws by the referendum seems, in fact, to take the place of a change of parties. When the Government is unpopular or times have been bad, and people are generally discontented, they do not give vent to their dissatisfaction by turning their representatives out of office, but they promptly vote down the measures their representatives have prepared. Thus the fate of a law depends a great deal more on the immediate popularity of the Government than on its own merits or defects. It is a novel method of rebuking the party in power, but it is not ineffective. It makes them careful not to offend if possible, and it has the merit of avoiding all violent changes.²

back to be altered. The legislator is not discredited. He is in the position of a deputy whose bill has not passed; there is no want of confidence." (See *Contemporary Review*, March 1895.) This is typical of the way in which the Swiss regard the question.

¹ *Revue du Droit Public*, Nov.-Dec. 1896: "In the elections which took place in October 1896, out of the 160 members in the National Council there were only 25 new ones, and in the Council of States only 8 new ones. Between 1888 and 1896 the National Council has only lost 20 of its members by non-re-election, while 62 retired voluntarily."

² There is also an absence of party machinery and organisation outside the houses of the Legislature. "There are in the Con-

Whether an Executive Government elected on these principles is more or less harmful than a Cabinet representing one party or the other is an interesting problem of political science. One thing is certain, both the Council and the Assembly are less susceptible to popular influence in that they do not change with the changing ideas of the people. The Executive Council in particular pursues its own course, guiding and leading the Legislature in virtue of its superior capacity and experience, telling them what they ought to do, producing the necessary documents, and finally seeing that the orders of the Assembly are carried out. The Council has therefore been called the mainspring or balance-wheel of the constitution.

How far the aloofness of the Executive from the popular currents of opinion in the State is responsible for the desire of the people to intervene directly in public affairs, or, on the other hand, how far such a stable and permanent government is rendered possible by the safety-valve of direct legislation; how far, in short, the absence of party government causes direct legislation, or direct legislation contributes to the absence of party government, is a delicate question for political philosophers to decide.¹

federation," says Mr. Lowell (p. 313), "no national committees, no elaborate system of primary caucuses and general conventions, no men who make a business of arranging nominations and managing campaigns. The Clericals and the Radicals do occasionally hold Congresses, but these are simply intended to prevent disruption by discussing the questions of the day; they take no part in the nomination of candidates." Parties, however, play an important part in getting up demands for the referendum—still more in drafting initiative demands. There are a group of professional politicians, the *neinsager*, who make a business of collecting signatures against federal laws, and raising an opposition.

¹ Mr. Lowell says, "The causes of the peculiar relation of Swiss

With regard to the organisation and actual working of the referendum and the initiative, M. Deploige's careful study will speak for itself. Though the Swiss experiments in direct legislation have, during the last ten years, excited much interest in the United Kingdom to the Government, and of the condition of the parties themselves, may be sought in various directions." He attributes the low development of party to the shortness of the sessions of the Federal Assembly, which give little opportunity for the development of a party policy or the consolidation of party ties; also to the fact that the Government has little patronage to bestow, and that the deputies to the Federal Legislature are elected on local rather than national issues. In the case of all elected representatives, the Swiss votes for men with whom he is personally acquainted, and this obviates the need of party machinery for the selection of candidates. No doubt the fact that Switzerland is divided internally by race and religion also prevents the growth of strong compact parties. The referendum itself, Mr. Lowell considers, "tends in a variety of ways to lessen the importance and increase the stability of parties." It tends to split up the issues. "The referendum entails a decision only on the special measure under consideration, and hence the people are never called upon either at an election or a referendum to judge the conduct of the party as a whole. It is no doubt largely for this reason that Swiss political parties have no very definite programmes and little organisation."

Again, Mr. Lowell points out that the referendum tends to draw attention to measures instead of men, "and it is the personal admiration or dislike of public men that forms a great deal of the fibre of party allegiance."

Moreover, the referendum weakens the motives for a change of parties. "If a law is unpopular the people simply refuse to sanction it, and this prevents an outcry against the party that enacted it. If, on the other hand, the people ratify it, there is clearly no use in trying to persuade them that the men in power were very wrong in passing it, and ought to be turned out for doing so. Nor is there any chance for an opposition to work on the popular fears by foretelling the bad laws the ruling party is likely to pass if continued in power, because the people can always reject measures they do not like. Hence it is not easy to find arguments for electing a new set of representatives drawn either from the past or the future."

dom, they have been more often popularly described than precisely studied. In particular the use of the referendum and the initiative in the government of the canton as distinguished from the Federation has received but scanty notice. In M. Deploige's excellent work the English student will find a more precise and detailed account of these remarkable experiments than in any other volume known to me.

Mr. Lowell, after praising the excellence of the Swiss government, points out that Switzerland is free from many of the difficulties that perplex other nations. Her population is, after all, very small, only three millions in all, "and experience proves that the larger the population the harder is the problem of free government."

These three million inhabitants are not recruited from without by a long line of immigrants which have to be absorbed and to be educated into useful citizens. They are not divided by any glaring inequalities of wealth. There are no very rich or very poor, no millionaires and but few paupers. The Swiss are, therefore, not confronted with the great problem of poverty. There are no eager capitalists always seeking new fields for investment with the attendant result of inflation and crashes. They have no great undeveloped countries to be opened up with untold possibilities of mineral wealth, which arouse all the gambling instincts of a nation. Social equality, too, is very marked. There are no "classes" and "masses," and no great class differences. The people are decidedly stationary, not moving about from one part of the country to another, or rising or falling in

the social scale.¹ Two-thirds of the population are engaged in agriculture, and the manufacturing element is comparatively small. The great industrial struggles which convulse other countries and paralyse trade are therefore non-existent.

There are no very large cities. In 1893 the population of Zürich was 130,000, including suburbs; Geneva, 78,777, including suburbs; Basle, 75,114; Berne, 47,620; Lausanne, 35,626. There are no others with a population over 30,000. There are in consequence no great congested and discontented masses of unemployed with their burden of poverty and vice, with which most modern governments attempt to cope in vain.

For the Swiss foreign policy is a negligible quantity. Their neutrality is guaranteed, and they are not hampered by belonging to the European Concert, and are not obliged to make enormous sacrifices of men and money in order to keep up military appearances.

"The Swiss Confederation," says Mr. Lowell, "is on the whole the most successful democracy in the world. . . . The people are contented; the Government is patriotic, far-sighted, efficient, and economical, steady in its policy, not changing its course with party fluctuations. Corruption in public life is unknown. . . . Officials are selected on their merits, and retained as long as they can do their work, and yet the evils of a bureaucracy scarcely exist. . . . The Swiss statesmen deserve the highest praise for their labours and

¹ Cf. New South Wales, which proposes to introduce the referendum. Fifty thousand were disfranchised in 1893 who had voted in 1892, because they had changed their residence.

the greatest admiration for their success, but we must beware of thinking that their methods would produce the same effects under different conditions. The problem they have had to solve is that of self-government among a small, stable, and frugal people, and this is far simpler than self-government in a great, rich, and ambitious nation." ¹

I have endeavoured in my footnotes to bring up to date the mass of material on the referendum and initiative which M. Deploige has so clearly marshalled, and I have ventured in a few places to add some further references and explanations likely to be of use to the English reader.

L. TOMN.

¹ "Lowell," pp. 335-336.

CONTENTS

	PAGE
INTRODUCTION	v
AUTHOR'S PREFACE	xxxvii
LETTER OF M. VAN DEN HEUVEL ON THE REFERENDUM IN BELGIUM	xxxix

CHAPTER I

THE EVOLUTION OF DEMOCRACY IN SWITZERLAND

§ BEFORE 1798 :—

- I. The Landsgemeinde 3
- II. The Referendum in the Grisons and in Valais—
The Rittinghausen System 27
- III. Popular Institutions in the Canton of Berne. 44

§ AFTER 1798 :—

- I. Public Law in the Federation and in the Cantons
from 1798 to 1830 50
- II. The Growth of the "Rights of the People" in the
Cantons 68
- III. The "Rights of the People" in the Confederation 91

CHAPTER II

THE MODERN ORGANISATION OF "LEGISLATION BY THE PEOPLE"

SECTION I.—THE "RIGHTS OF THE PEOPLE" WITH REGARD TO THE CONSTITUTION :—

- 1. § In the Confederation 124
- 2. § In the Cantons 136

	PAGE
SECTION II.—THE "RIGHTS OF THE PEOPLE" WITH REGARD TO THE ORDINARY LAWS :—	
1. § In the Confederation	144
2. § In the Cantons	171
I. The Optional Referendum	171
II. The Compulsory Referendum	176
III. The Popular Initiative	189

CHAPTER III

THE RESULTS

SECTION I.—THE PRINCIPAL VOTINGS ON FEDERAL AND CANTONAL LAWS	211
SECTION II.—THE REFERENDUM FROM THE SWISS POINT OF VIEW	266

CONCLUSION

APPENDIX—

I. The Popular Initiative in the Federal Constitu- tion	297
II. Constitutional Revision in the Cantons	305
BIBLIOGRAPHY	315
INDEX	323

AUTHOR'S PREFACE

THE letter published at the commencement of this volume absolves me from the necessity of a long explanation as to my motives for undertaking a study of the Swiss referendum.

The Belgian Chambers are about to discuss the important proposal for a *royal referendum*, and I have thought that it might be useful at this juncture to make the Swiss referendum known in this country. Although they differ in certain respects, yet these institutions have one thing in common—they are both concerned with the direct intervention of the electorate in the legislation of the country.

I have endeavoured to describe the historical origin of the referendum, to demonstrate its mechanism, and to set forth its results, without taking a side, or being actuated by any prejudices.

My book would have been very incomplete had I confined myself to the works on the subject. The referendum has attracted but little attention up to the present, and has not hitherto been examined as a whole. I have therefore prosecuted my inquiries in Switzerland in person, in order to become initiated into the working of the institution. I now offer the fruits of this twofold investigation to the public.

I must not omit to express my gratitude to those Swiss gentlemen who have given me both useful

advice and valuable information. My thanks are especially due to MM. Ruchonnet and Droz, Federal Councillors; to MM. Naville and Respini, National Councillors; and to Professors Hilty of Berne, Pedrazzini of Fribourg, and Wuarin of Geneva.

S. DEPLOIGE.

TONGRES, 8th March 1892.

A LETTER ON
THE REFERENDUM IN BELGIUM

BY

M. J. VAN DEN HEUVEL

DEAR SIR,—Your book is most opportune. Yesterday no one spoke of the referendum without a smile. The direct intervention of the people in legislation was looked upon as a democratic dream, which could only be realised under exceptional and transitory circumstances, or in countries where legislation was in a primitive stage. It was clearly understood that a permanent system of popular consultations was quite a different thing from those unfortunate plebiscites which have taken place from time to time in France, and from those solemn ratifications of constitutional reforms which are prescribed by the constitutions of the American States. But quite suddenly one fine morning, in the midst of the din of party strife over electoral reform in Belgium, a powerful voice was heard above the rest, demanding the immediate introduction of the referendum for a reason which had not occurred to any one up to that time, namely, in order to strengthen the royal authority.¹ There was a pause for the moment out of sheer

¹ [On the 27th November 1890, six Liberal members proposed that there should be a revision of the constitution, and the idea was to

surprise. Then the controversy broke out, and discussion began to rage.

Those who are not enamoured of sudden and untried political reforms have had recourse to the legislation of other countries for guidance and instruction. In spite of a thorough and searching examination, however, they have not been able to find a single country with a monarchical government in which any one has thought of establishing the referendum for the sake of strengthening the influence of the sovereign. And, indeed, in no country have they discovered any attempt to combine the rights of a constitutionally limited head with so democratic an institution as the referendum. The only country which afforded a suitable field of observation was

introduce universal suffrage for the election of members of the two Chambers. M. Beernaert, one of the ministers, suggested instead, in March 1891, that the suffrage should be extended, but that it should not be universal, and also that the Executive should be invested with power to consult the electorate on a law which had been proposed but not yet passed, or on a law which had passed but to which the King had not yet given his assent. The idea was that the referendum would strengthen the royal power, and compensate for the practically obsolete veto of the Crown. The proposal was adopted in the two Houses, with the proviso that the conditions under which the King should directly consult the electorate should be afterwards determined by a law. The Belgian constitution directs that the Parliament, after having voted for a revision, should dissolve, and the question be taken up by a new Parliament. When the next Parliament met, a commission to revise the constitution was appointed; but on the 26th of November 1892 the Minister of the Interior declared that, in view of the unfavourable reception which the referendum had met with both in Parliament and in the country, the Government would officially withdraw its proposals. Three members took the referendum proposal up, but the commission of revision rejected it by 15 votes to 3. The question of electoral reform still remained to be solved, and the discussions seemed so inter-

Switzerland, a federation of a group of republican cantons. The referendum has existed there for centuries, in the seclusion of a few cantons, like some rare alpine plant, and needed the atmosphere of modern ideas and the aid of special circumstances to revivify it, develop it, and make it spread over the whole country.

Your work has a twofold merit. It portrays the referendum for us as a living, working institution, with its almost invariable accompaniment and younger sister, the popular initiative. Your observations have been made on the spot, and are taken from life, and every page of your description irresistibly leads our thoughts back to our own country in order to compare the situations, and to prophesy the results of

minable that the people of Brussels determined to undertake a referendum on the subject. They applied to the municipal authorities to organise it, and a referendum was taken in four communes on the five different propositions of electoral reform. There were many protests as to the unconstitutionality of the proceeding, and finally, on the 14th February 1893, the King annulled the proceedings, and commanded the authorities not to interfere. The Liberal Association then took the matter up, and summoned 111,837 citizens of Brussels, over twenty-one years of age, to vote; 60,732 voted, and 56,338 were in favour of universal suffrage, but as the opponents of universal suffrage had recommended their party not to vote, and as 50 per cent. of those summoned did not vote at all, the result cannot be said to be decisive one way or the other.

For a history of the proposed introduction of the referendum, and a discussion of the principles involved, see Arnaud, *La Révision belge*, Paris, 1893; Fuld, *Die versuchte Einführung des Referendums in Belgien*, in the *Archiv für öffentliches Recht*, 1893, pp. 558-567; De Gamond, *De la Révision constitutionnelle en Belgique*, Belgique Judiciaire, 1893; the *Revue générale d'Administration*, November 1893; Wuarin, *Le Referendum belge*, in the *Revue des deux Mondes*, 1st August 1891; Lorand, *Le Referendum*, Brussels, 1890; Deploige, *Le Referendum en Belgique*, *Revue générale*, December 1891; Hauleville, *Le Referendum royal*, Brussels, 1892.—[Ed.]

a referendum in Belgium by the habitual results of the referendum in Switzerland. Your book is a book of living politics, and one which is very suggestive.

Three forms of the referendum are discussed in Belgium. To distinguish them I have ventured to term them—

The Initiative Referendum (*Le Referendum d'Initiative*).

The Referendum of Appeal (*Le Referendum de Partage*).

The Corrective Referendum (*Le Referendum de Correction*).

All these three forms seem to me equally bad, because they all proceed from the same principle, the direct intervention of the people in legislation, which in Belgium at the present day could not but result in a state of things directly opposed to political progress.

Public opinion, however adverse it may be to the referendum in itself, seems to me to vary in its degree of opposition. It is entirely hostile to the referendum of initiative; it regards the referendum of appeal with more or less indifference, but rather unfavourably on the whole; it dislikes and almost fears the corrective referendum.

I. THE INITIATIVE REFERENDUM.

This referendum, according to its supporters, ought to take place before every deliberation of the Chambers. It is an attempt to engraft the popular initiative on to the parliamentary system. What a combination! The people are to be consulted on principles which

are likely to be more vague and dubious than usual, since they are drawn up in general terms, and not elucidated previously by any public discussion between those interested on different sides. The Parliament will moreover be bound to take a certain course without having been first heard. It will be obliged to submit to and accept the vote, however brutally bald and laconic may have been its expression. Such a referendum would resemble an imperative mandate. It would be the immediate ruin of parliamentary government. Popular opinion has been so unanimous, and has opposed the proposal for an initiative referendum with so much energy, that it now seems to be definitely abandoned.

II. THE REFERENDUM OF APPEAL.

Many worthy people then bethought themselves of a compromise, and proposed to utilise the referendum in the case of a conflict between the two Chambers.

“A serious disagreement between the Senate and the Chamber of Representatives,” they say, “is a crisis to be regretted, for it prevents the regular and normal conduct of business. Surely the most natural and simple course is to end the conflict by an appeal to the opinion of the electors, and to make them act as arbiters.”

This concession seems at first sight to be unimportant, but appearances are deceptive, and it is, in reality, an innovation which needs careful consideration.

At the present day conflicts between the two Houses rarely occur. If the majority in the two Houses are

actuated by different principles, both of them try to come to an agreement, and make attempts to find a common ground on which they can meet. They know that the solution of the difficulty depends upon themselves alone, and upon their mutually conciliatory attitude to each other. When once the dispute can be settled by a third party, the position will be immediately changed, the obstinacy of majorities will increase, and the concessions will be less frequent; each Chamber will wish to show that it knows itself to be in the right, and will have fewer scruples in opposing the other, because it knows that there is an easy method of deciding the matter and ending the struggle.

The dominant thought will no longer be that of mutual conciliation. When once the two Houses are certain that they cannot agree, their one object will be to formulate their opinions in those terms which are most likely to win for them the sympathy and favour of the arbiter, the people.

The referendum is not only open to the grave objection of increasing the temptation to disagree, but it is also liable to determine the dispute in such a manner that the result obtained is either bad or at least more incomplete and inadequate than would have been obtained had other means been adopted.

If the two Chambers continue to keep the same electoral origin—which seems to be the wish of the actual majority of the Senate—then, if the matter in question is important, and its solution too urgent to be postponed, the dispute ought to result in a dissolution. The Crown intervenes in this case without incurring any personal responsibility, takes note of

the deadlock, ascertains its gravity and the necessity of ending it by the method laid down in the constitution. If, however, the two Chambers shall be chosen on a different electoral basis—and this seemed to be what the Government desired at first—then, when the revision takes place, some other expedient ought to be devised by which a conflict may be avoided. For instance, mixed commissions might be instituted which should be composed of deputies and senators similar to those which take place in the United States. Were the electoral basis different for each House, a referendum would be an appeal to the electoral body who chose the Chamber, and this would be to subordinate the Senate to the Chamber, and *a priori* to relegate to a second place those authorities who have received the title of senators.

The organisation of the referendum of appeal would moreover be far from simple. Nothing would, in fact, be more complicated. At what precise moment can it be definitely said that there is a conflict? Upon what sort of questions are the people to give judgment? What is to be the result of the popular vote? These are all difficult points.

It might often happen that dispute would not merely arise over the question of maintaining the *status quo* or replacing it by some other definite system. It might not unfrequently be a question of two systems of reform—one desired by the Chamber, the other by the Senate. Can you submit all sorts of projects and counter-projects to the electors? Poor elector! He is to be forced to legislate himself when he has chosen reliable men whose business it is to find the right path in the midst of a labyrinth of controversies.

III. THE CORRECTIVE REFERENDUM.

In reality all the heat of the discussion in Belgium is concentrated in the third form of referendum. It is proposed that the King should have the right to appeal to the referendum after the two Chambers have voted, in order that it may guide him in exercising his right of consent, and enable him effectually to quash the decision of the parliamentary majority.

Your book is principally concerned with the study of the Swiss institution, its legislative vicissitudes, and its relation to the social and economic conditions of the nation.

But when one reads what you have written, and then thinks of our own country, what vital differences there are between the Swiss and the Royal referendum. The mechanism of the political machinery is apparently identical in both cases. But when the institutions are examined more closely, and due attention is paid to the political surroundings of which they form part, it is obvious that the resemblance is merely superficial, and that the two are quite opposed. The Executive, the Parliament, the Ministry, the organisation of parties, the education of the people—all these primordial elements which constitute the characteristic features of a State are utterly and entirely different in Switzerland and in Belgium.

The King.

In Switzerland the right of appealing to the referendum is not confided to the executive power. It is in the hands of permanently organised groups, such as

the cantons, or accidental groups, consisting of a certain number of persons who sign a petition and who are bound by no legal tie. In Belgium the idea is to place the referendum in the hands of the King, who is to be the judge as to whether a solemn appeal to the nation shall or shall not be made.

The justification of this royal referendum is given as follows:—

“The monarch, it is said, does not enjoy in practice the authority which he has in theory and which the texts ascribe to him. By the constitution he has the right to assent to laws, the right of dissolving the Chambers, the right of choosing and dismissing the Ministers. But apart from certain exceptional and unimportant circumstances, it would be morally impossible for the King to avail himself of his prerogative of veto. It would be a power at once too great, too weighty, and too perilous. The King could only refuse his assent, and put himself in opposition to his Parliament, if he felt himself supported by the general will of the country. Every time he refused his assent it would lead to a political upheaval and a dissolution. Every refusal would affect the personal responsibility of the King, and would affect it very seriously should he have wrongly interpreted the state of public opinion, and the same majority be returned after the dissolution. The referendum will solve these difficulties without the necessity of proceeding to extreme measures; it will make the sentiments of the electorate known by national and legal methods. The King will henceforward be able to act with certainty; he will see clearly which side is taken by public opinion, and whether he should or should not refuse his assent.”

Such is the argument. It seems to me, however, that it contains two errors, one of principle and the other of fact.

In principle the King has the right of sanctioning or refusing laws, not only according to the text of the constitution, but according to the ideas which actuated the national Congress. It is for the King to follow the dictates of his conscience and his reason in the exercise of this right. It is certainly an extremely dangerous and undefined power; but it is irrational to conclude that because its character is thorny and difficult it is therefore non-existent. The right of sanction, like the veto, when actually exercised, also affects the moral responsibility of the King—there can never be any question of his legal responsibility—but it is impossible to modify this situation by a reform in procedure, and the notion of right cannot be separated from the notion of responsibility.

Two theories are really advanced here. According to the first, which I consider absolutely untenable, the consent of the King must depend solely upon his interpretation of the true feeling of the country. The opinion of the country will be the opinion of half the citizens plus one who enjoy the franchise, and who have answered either yes or no. It is this majority which decides in the last resort as to the justice and utility of the law.

According to a second theory, which seems to me the only one based on law and on reason, the assent of the King must depend on his personal opinion of the justice and utility of the measure under discussion; but in forming that opinion he must give serious consideration to the opinion of the

country; and the opinion which he ought to regard is the opinion expressed, according to party rules, by the majority of the deputies who enjoy the confidence of their electors, and who have been chosen by legal methods.

As a matter of fact, it is a great mistake to imagine that the referendum is a kind of present to the Crown. The King will gain nothing by this new right. He will neither be free to consult the people when it pleases him, nor will he be able to retain the power of decision in his own hands after the people have been consulted. If no text regulates the conditions under which the monarch shall exercise his right, he will be at the mercy of mass-meetings and petitions organised by the different parties, or even of disturbances and agitations in the street. The King will be obliged to resort to popular consultations every time that he thinks the Government powerless to cope with a difficulty.

A future Parliament, in order to avoid such a state of things, might draw up an explicit text, which should state the conditions under which the right should be exercised, and should limit it to the case in which a preliminary demand has been made either by a certain number of members of Parliament or by certain provincial and local bodies. These persons or bodies would then become "the ruling powers." On the one hand, the King could not appeal to the people unless those authorities were to agitate for it. On the other hand, if they were unanimous, he could not refuse to grant the referendum if they demanded it. Moreover, the people would be excited by parliamentary discussions, the press would become very noisy, and the

party in a minority would move heaven and earth to defeat their opponents.

Various suggestions of a different nature have been put forward by the press. I shall only quote one of them here. It has been proposed that the King should have recourse to the referendum when a law has only passed one of the two Houses by a small majority. Such a provision would be equally disastrous to any freedom of action on the part of the King. Every time that a law is much disputed, and does not obtain a certain specified majority, the monarch must inevitably appeal to the electors, unless he would incur the reproach of being partial.

Laws which bear on matters which are the special province of the King, and which are likely to impose heavy charges on the country, such as military laws and estimates for the construction of fortified works, would in all probability be generally submitted to the electorate, in consequence of the agitation of the opposition.

Let us now turn to another side of the question, and consider the result of the popular consultation. If it is to be regarded as final, then the King has only to submit—he loses all personal freedom in the matter. Supposing, however, that the referendum is only regarded as a solemn piece of advice. Then the monarch is placed in a most embarrassing position. There is no difficulty evidently if there is a large majority; but how is he to decide if the figures are almost equally balanced, or if the number of negative tickets are not equal to half the number of the registered electors? How is he to decide if the total number of electors against the law is less than

the total number of suffrages received by the parliamentary majority at the election? How is he to decide if cases of fraud and undue influence come to light which would be sufficient to annul an ordinary election?

Is it not true, then, to say that the Crown will not gain anything by the referendum, neither power or relief?

The referendum will, moreover, imperil the other powers which the monarch actually possesses.

As to the right of veto, it is not necessary to dwell upon it. This right will be entirely lost.

The right of dissolution will be fatally restricted. Those powers appointed by law to make a demand for the referendum will consider themselves bound to point out in how far the parliamentary majority and the people are at variance. How then can the King tell the country that a dissolution is necessary because the Parliament seems to him opposed to the general opinion of the country, when these authorised powers have made no sign or refuse to declare that the Parliament no longer represents the feeling of the nation on some particular point. The right of dissolution ought especially to be preserved from all new complications just now, as its exercise will become a more difficult matter in consequence of the proposed electoral reform by which general, provincial, and communal elections are to be placed on the same electoral footing. Formerly the results of the local elections were made use of to influence the parliamentary majorities, although the composition of the electoral bodies in each case might be very different. In the future it is to be feared that these attempts will

be renewed with more semblance of reason, unless public opinion comes at last to realise that local elections are principally concerned with administrative questions.

In short, to introduce the referendum in the interest of the Crown is to pursue an illusion. Instead of being a benefit to the monarch who wishes to preserve a strictly constitutional attitude, it can only bring about many unfortunate complications, and lead eventually to loss of power.

The Parliament.

The Swiss Parliament and the Belgian Parliament have nothing in common. The important points of difference must be specially noticed.

The first is a difference in the fundamental ideas of government. My colleague and friend, M. Dupriez,¹ has recently described it to me as follows:—

“Switzerland is a democratic republic. The principle of popular sovereignty applied in its purest form has produced results in the constitutional organism and on political customs which are quite peculiar to that country. Every man who forms part of the Legislature, Executive, or Judiciary, is appointed for a fixed term. Each person elected is imbued with the idea of the sovereignty of the people, and uses the power delegated to him according to what he believes to be the wish of those who sent him. If he has made a mistake as to their wishes, he hastens to repair his error, and does not think of refusing his

¹ Author of that remarkable work, *Les Ministres dans les principaux pays d'Europe et d'Amérique*.

consent. Thus the members of the Federal Assembly whose opinions have been disavowed by their electors do not vacate their seats, the Ministers whose personal wishes are thwarted by the votes of the Assembly or the people nevertheless remain at their posts. In Switzerland the authorities do not resign, they always submit.

The organisation of the Federal Assembly constitutes a second great difference between the two countries. The electoral districts are so mapped out that one of the parties has a great advantage, and the parliamentary majority does not always represent the majority of the electors.

Finally, the third difference consists in the autonomy of the cantons, and in the fact that the Federal Parliament has only very limited powers. On an average it passes about two or three laws a year. The ordinary session only lasts eight weeks. As to the cantonal assemblies, they scarcely sit longer than our provincial councils.

These three striking features of Swiss political organisation explain why the electors consider themselves authorised to interfere in legislation, either by means of the popular initiative or the referendum. According to their theories they are the great motive power, and ought to command the legislative assemblies to halt, or to advance, or to take a certain direction. Turbulent minorities avail themselves of the initiative as a means of dividing parties, and of the referendum as a means of obstruction.

The country, as a whole, only bestirs itself on certain occasions. It then protests against the parliamentary majority, and either gives the Legislature

an imperative mandate to legislate by means of the initiative, or it makes use of the referendum to curb tendencies which are too pronounced. But the electors do not intervene except at long intervals, because they do not live in a unitary country under the direction of a general Parliament whose activity is unceasing. To introduce the referendum into Belgium is to make an attempt to bridge, by means of a badly poised plank, the abyss which separates the system of popular government from the true parliamentary system.

In England and Belgium the deputies are appointed by the electors, but they are not commanded by the electors. They must enjoy the confidence of the country, but they preserve an independence of thought and action. Our political conceptions are opposed to the idea of imperative mandates of any kind whatsoever. The members of the minority as well as the majority represent the nation. They guard between them both private and public interests. The referendum will degrade their position in the eyes of the electorate, who will ask why the choice of representatives is so important when their resolutions are not final. It will weaken their prestige and destroy the principle of their responsibility. Every deputy will realise that his vote is only equivalent to a piece of advice which the electorate may adopt or reject, and that it is the majority of the electors who decide either by tacit ratification or express decision. The position of members and senators will be that of political pioneers, their mission being confined to discovering the land, and to pointing out the advantages and the dangers of the situation.

There are also other drawbacks. If the two Chambers have a different origin, the Senate will be annihilated, and the principle of the duality of the Assembly will only be a hollow mockery.

Again, if the number of electors who are successfully opposed to the Government at the referendum is less than the number of suffrages obtained on the day of the election of the deputies of the parliamentary majority, this majority will be able to say that it is overcome and oppressed by the minority. In this way the dignity and force of Parliament will be irretrievably compromised.

Once a start has been made in the direction of popular concessions, it will not be easy to turn back. Even if the referendum should lead to unfortunate results, it would be difficult to abolish it, because it would be necessary to persuade the people themselves that they have been in the wrong, that they must make a public acknowledgment of the fact, and that they must renounce rights which seem to them to be rights lawfully acquired. No! the step once taken can never be retraced; and when the idea is followed out to its logical consequences by the rival parties, the result will be a series of legislative efforts much more advanced than those proposed to-day.

It will be necessary to revise Article 131 of the Constitution, which relates to constitutional reforms, and Article 85, which deals with the final choice of a new dynasty. These two articles provide a method of popular consultation quite different from the referendum. The country is appealed to for its opinion by means of a dissolution. This system will

have then to be discarded as old-fashioned. It will also be necessary later on to introduce the popular initiative, which is an inevitable consequence of the referendum. The people will not only have the right of putting the drag on the legislative coach, they will also insist on giving it a start. Finally, the referendum and the initiative will be introduced with more show of reason for local, provincial, and communal affairs.¹

The introduction of the referendum into our parliamentary organisation will not be merely a slight modification of the constitution, unnoticeable in its effects: it will be the germ of a new departure, or, to speak more exactly, the commencement of a complete political revolution.

The Ministers.

It is very rare for the chiefs of the administrative departments to resign in Switzerland when they have experienced a rebuff or a check at a referendum.

The attitude of the Belgian Ministers is very different. It is dictated, not by constitutional or legal texts, but by ancient and unchanging traditions.

Let us consider two distinct cases. Suppose, first of all, that an important law is passed by the two Chambers, and is supported by the Ministry, who stake their existence on it either implicitly or in express terms.

As matters stand to-day, should the King refuse

¹ The referendum has nothing in common with the inquiry which the local authorities are authorised to institute by Article 75 of the Communal Law, in order to gain information before making a decision.

his assent to such a law, the logical course for him to pursue is to change the Ministry, or even dissolve the Chambers. But if the referendum is introduced into our constitution, it is quite a mistake to suppose that the situation will be simplified. It will instead be extremely complicated, not only before but after the popular consultation.

When the persons or bodies authorised to demand the referendum from royalty exercise their right, or, to speak more generally, when the specified conditions to be determined by a future Parliament shall be fulfilled, the Cabinet will assemble in all haste; they will discuss the point as to whether they are obliged to give their countersign in order that a work which they regard as most important shall be called in question at a popular consultation.

The parliamentary supporters of the party will be convoked in a special meeting. If they are of opinion that the chances are that the consultation will be favourable to them, they will permit the Ministers to countersign without raising any difficulties. If, on the other hand, they consider that an isolated consultation would be a bad piece of policy, and that they would be more likely to succeed in a dissolution, they will decide upon resistance, and begin the struggle from above. The Ministers will be obliged to openly refuse their countersign and to send in their resignation, or allow themselves to be dismissed. If they fear, however, both the consultation and the dissolution, they will then face the referendum with the courage with which we face the lesser of two evils.

Let us then take one step further and consider a

fresh difficulty. Let us suppose that the people have been appealed to, and that they have answered very clearly, and have rejected the law passed by the Parliament and supported by the Ministers. What course is then open to the Ministers and the deputies? According to our present theories the Ministers must retire before a hostile vote of the Chambers on a Cabinet measure. How much more then must they retire before an unfavourable decision of the country itself? How could the majority remain on the front benches as if nothing had happened? How could these Ministers and this majority discuss and pass any other important law? They would be a mere butt for the witticisms of the Opposition, who would declare the Government to be destitute of all moral support. It would be condemned to a policy of inaction until it acquired renewed strength at a general parliamentary election.

The second case is this: Suppose one of the Chambers has adopted an important law in spite of the opposition of the Cabinet. The Ministers have done all in their power to ensure its defeat; they have agitated both by speech and writing, and all to no purpose: they have been beaten. To-day only one course is open to them: they must give in their portfolios. But when once the referendum appears on the horizon, will there not be a great temptation for these Ministers to resist the Chamber, and to threaten it with an appeal to the electorate?

In some countries the unfavourable vote of the Senate is not regarded by the Ministry as having the same significance as an adverse vote of the Chamber. The Senate seems to be somewhat removed from

the people, while the Chamber seems to be closely in touch with them. But it would surely be going a step beyond this were the people in Belgium to have the right of personally intervening in legislative decisions.

If the parliamentary majority has no fear of a dissolution, it will show its teeth and resist the Cabinet, and make the latter's existence an impossibility. But in a country where the parties are a periodical check on each other, the majority will generally be in doubt as to the results of a dissolution. In this case it will draw in its horns, and the Ministry will remain in power, in spite of the opposition aroused. This will, in fact, be personal government supported by a latent and extra parliamentary force, the force being a popular one, and only manifesting itself at indeterminate intervals, and on questions which have been cleverly chosen.

When the Cabinet shall make the bold experiment of submitting even the budgets to the people, then the Parliament will cease to be a necessary part of our political organisation; the Ministers and those who support them will be "the sovereigns of the plebiscite."

Parties.

In Switzerland there are numerous dismembered and divided groups, there are passing coalitions and a considerable floating mass of unattached members.

In Belgium, on the contrary, the parties form two armies; they have ancient traditions, and an organisation extending throughout the country. They correspond to the tendencies which manifest themselves

in society. The extension of the franchise will perhaps modify their position; it will accentuate the subdivisions. No one, however, expects a radical change to take place in their composition from one day to another. The tendency is for the two existing currents to continue to be the dominant currents for a long time to come without any mingling of the waters.

The advocates of the referendum do not seem to understand the necessity for the existence of parties, and seem also to have no fear of the influence these same parties will exercise upon general opinion. Let us examine the argument advanced with such frequency that it comes only second to the argument we have just examined in connection with the King. They say "that the referendum must have been invented, even if it did not already exist, in Switzerland, that it is indispensable to a representative organisation, and that it is a happy complement of the right of dissolution." If the nation and the parliamentary majority be out of harmony, it is essential, so they maintain, to find out the points on which the two differ. If these points prove to be numerous, or if there be a general disagreement, the dissolution of Parliament must ensue. If the nation and Parliament be merely at variance on some special question, the referendum is the necessary remedy, the people will be consulted on the one subject, isolated from all others, and the issues will be precisely and openly stated. A dissolution leads to a discussion of persons and programmes; the referendum abolishes personal preferences, and restricts the debates to the examination of a particular law. A referendum and a dissolution

are two separate rights, corresponding to two situations which are in reality quite different.

Without raising any doubt as to the competence of the people in legislative questions, this political dilemma is capable of being satisfactorily disposed of in more ways than one. Let us suppose that a party has a large majority, and that the two Chambers pass a bill of the first importance, and that the Crown, before giving its assent, dissolves Parliament. In this case the electoral struggle will surely centre round this particular law. If the Opposition be successful, it is easy to see that the opinion of the country is unfavourable to the politics of the majority. Should the King, instead of dissolving Parliament, have recourse to the referendum, is it not probable that a great many considerations will influence the discussions? Again, if the referendum should result in a negative answer, the real feeling of the people still remains unknown. Did the country only wish to reject the law, or did it wish at the same time to overthrow the majority? One thing is certain, and that is that the electors who supported the majority at the time of the election have now ranged themselves against the law passed by that same majority. The difficulty is to know whether these electors are not discontented with their party as well as with the law. The actual figures obtained at the referendum will always be equivocal in this respect, and the public mind will be full of uncertainty on the point.

The partisans of the referendum shut their eyes to the practical truth. They are ingenuous enough to believe that the electors, when voting, will merely vote on the merits of the question, and that their

judgment will be as unbiassed as that of a stranger who has only arrived in the country the evening before. It is a curious mistake, for it is obvious that the vote of the electors will be a party, and not a theory vote. The electors are instructed by party journals; they attend party meetings, they belong to party associations, they have fought for years on the side of a party, and have debated the party programme within their circle. Is it likely that the elector will be able suddenly to put off "the old man" when a consultation occurs, and learn to think in a new manner? Will not even the most thoughtful and least prejudiced men hesitate before separating themselves from the flag which they habitually follow? The idea is to divide political programmes, but will not these men see a close connection, either logical or historical, between questions which are supposed to be separable?

The supporters of the referendum think that it will be easy to determine whether the discord between the nation and Parliament exists on a whole series of questions or on some special one only. They forget, however, that party programmes are often regarded by the electors in the light of pieces of cloth which have still to be made up. They are the expression of certain tendencies which will be curtailed or developed at length according to circumstances. They include also traditional questions, as well as local questions and questions of organisation. All the articles in the programme do not possess the same characteristics of urgency and importance at any one given moment, but they are all connected by ties of principle or interest. The political crock is always on the bubble,

and sometimes it is one item and sometimes another that rises to the surface. At certain times the whole programme seems to be summed up in two or three points, sometimes in one only. When the party in power has embodied this special point in a law which appears to it of the greatest importance, is it then possible to distinguish, as the advocates of the referendum seem to wish, between the party and the principle of their law, to separate the father and the child, so to say, declaring all the while that to hit the one is not to strike the other?

Each time that he uses the referendum, the King will be obliged to declare that there is no discord between the parliamentary majority and the country, and that it is not necessary to have recourse to a dissolution. But he will nevertheless be obliged to add that he is uncertain whether all the adherents of the party in power are agreed on such and such a special point, and that he thinks in this respect there may be some difference of opinion between them which may have arisen either before or after the election. Such a proceeding would probably be a great strain on a party, and might lead to general confusion and a possible relaxing of party ties. It seems to amount to an appeal against a compact and well-disciplined group of deputies, addressed to all the forces of the opposition, to all the malcontents within the majority itself, and to all those whose interests are more or less affected by this particular law, and whose hopes in the present or in the future may have received a check. The break up of parties into groups would be a grave danger. A government has as much need of energy as a man has of will-

power, and the parliamentary government which does not rest on the solid basis of a faithful majority is a government which is powerless and impotent. Moreover, the horizon is not so clear and cloudless in Belgium to-day that we can afford to weaken our motive powers and content ourselves with representative authorities devoid of force and stability.

Parties are a necessity in a parliamentary system, and in spite of their exaggerations and inconveniences, they are a distinct benefit in our country. They are the intermediaries between the mass of the electors and the leaders. They group and educate the citizens, they register the echoes of general opinion, they subject complaints to a sifting process, they recommend moderation to the turbulent, and tabulate the important matters in the order which seems to them most useful. Once you divide them, break up their ranks, and destroy their programmes, you will have deprived the people of their necessary guides, and you will only have before you a great multitude of errant or indifferent electors.

The People.

The gulf between the Swiss and the Belgians is quite as great as that which separates the Belgians, who have always enjoyed a real independence, from the French, who have been unused to self-government for centuries.

Democracy has had a peaceful existence in Switzerland, for the mountains have afforded it the security of a natural and impregnable fortress. The inhabitants have learnt to regulate their affairs in a patri-

archal manner. Cantons with *Landsgemeinde* still exist there to-day, and the people collect together in the great valleys and decide all civil and political questions as of old. In other places this primitive form of government has had to be abandoned. But the desire to take part in public affairs has become engrained in their natures. They have been accustomed to hear their fathers discuss problems of State, and have received the best of all political educations, that of experience.

The Belgian possesses a great love of liberty. He reasons calmly and with much common-sense, but he is not accustomed to solve administrative and social difficulties by himself. He utilises division of labour, he concentrates his activity on his trade or on his profession, and he confides the task of guiding the politics of the State to the men who seem to share his views. Now all of a sudden, without preparing him in the least for it, it is proposed to consult him directly on the most disputed and difficult questions of legislation.

Two reforms of the first importance are being discussed. On the one hand, the scheme is to extend the suffrage, the result of which will be to summon to the polls considerable numbers of electors who have never taken any part in public affairs, and who have perhaps been rather neglected by the parties and the ruling classes, and who have as yet only vague notions of politics, and aspirations rather than ideas. On the other hand, it is proposed to introduce the referendum, which is an appeal to the people, and which presupposes that their education is already made, and that all classes of society have been in

close touch for a long time. There seems to be here a double danger.

But there is yet another striking fact to be noticed, which is this: The Swiss people themselves, whose political wisdom entitles them to rank foremost among the nations of Western Europe, are somewhat cautious and hesitating in the use they make of the referendum. In the Federal Government experience has shown the wisdom of placing certain laws beyond the possibility of popular intervention. Thus budgets, treaties, and all enactments which Parliament may consider to be urgent, are excepted from the referendum.

In your book there is much that is instructive on the question of the vote itself, you dwell on the many reforms that have been attempted or proposed in Switzerland with a view to lessening the dangers of the referendum.

It has been proposed to enlighten the people before the popular consultation by means of the distribution or publication of messages.

If these documents are business-like, the electors find them long and tiresome, and the majority do not take the trouble to read them. If they consist merely of a short abstract, they are ridiculous, and do not teach anything.

Compulsory discussion has also been suggested. But such a discussion presupposes that the speakers will be clear and eloquent, and the audience complaisant, and well up in the course of events. As a matter of fact, no one speaks at the meetings which are held for purposes of debate.

Others again have thought that it would be wise to defer the referendum until the law had come into

force, and experience had proved its worth. But this would be too great a check on the impatience of the opposition, and in the end the referendum would fall into disuse.

On the voting day abstentions are numerous. Only 61 per cent. of the electors go to the polls in the case of federal laws. In several places the vote has been made compulsory in the case of cantonal votings. The number of voters has increased; but, on the other hand, the number of blank tickets has increased also. The answer obtained at the referendum has proved to be deceptive and enigmatical. The electors are led to give the same vote by motives which are absolutely opposed. This would be remedied, some reformers think, if the answers were accompanied by a statement of reasons. There are others who claim for the elector the right to separate or amend the proposals submitted. What a dreadful muddle there would be were these plans adopted!

Politicians in Switzerland are not slow to take advantage of the general confusion, and have recourse to all sorts of subtleties of procedure. With a view to carrying measures likely to be unpopular with the majority, they make the strangest combinations of independent groups by tacking on provisions to win their favour. When a law is rejected, they return to the task and modify the form, and present the same law again under new colours. At the third attempt the people become tired of resisting, and allow the law to pass.

There is nothing astonishing in this state of things. The people are competent to choose capable men. They are able to declare their general preferences,

and can give judgments on questions which do not require expert knowledge. But to ask them to do more than this is to ask them to do something they cannot perform. They are incapable of making legislative decisions; they have not got the necessary documents, nor the leisure for the necessary study. They are liable to be swayed by special and transitory considerations. Their view is not a trained one, and they naturally cannot see things from the same standpoint as men who have been used to the conduct of affairs.

Moreover, there are certain questions the significance of which would escape them altogether. I will only quote one example which is deserving of special consideration in Belgium, as the Swiss referendum does not reassure us on the point. It is the colonial problem. The founding and development of a colony demand enormous sacrifices of men and money, of activity and devotion, for results which are in the dim future, and which are very difficult to guarantee or even to define. The people, however, are always impressed by present sacrifices, and by reverses which are more or less dramatic. They do not pay any heed to future benefits, and to the development of individual energies. From this point of view it is permissible to think that if the referendum ever became an additional source of power to the King of the Belgians, it would nevertheless be a great weakness for the Sovereign of the Congo.

To sum up what I have been saying at perhaps too great length.

The referendum would be an absolutely new institution in a parliamentary monarchy.

The Crown, whose function it would be to remain neutral between the parties, would not gain in influence, while its authority would be lessened and hampered by many complications.

The Parliament and the Ministry run the risk of being irrevocably transformed. The ancient system of checks and balances would be succeeded by a transitory state of things which might lead either to personal or to popular government.

The unity of parties would be threatened if this sword of Damocles were always hanging over their heads.

Finally, the people, incompetent as they are for the task, would be obliged to come to the polls to give their decision in spite of themselves.

These dangers are not apparent to me alone; they have already been recognised and pointed out by the press and by eloquent party leaders. But the longer one thinks over the question, and the more one reads your book, the more one becomes convinced of the gravity of the situation.

Indeed, in Belgium, it may be said, with a good deal of truth, that if there should ever be a referendum on the referendum, the only voters in its favour would be the authors of the reform.—I remain, yours sincerely,

J. VAN DEN HEUVEL.

LOUVAIN, *March 10, 1892.*

APPENDIX

I

THE POPULAR INITIATIVE IN THE FEDERAL CONSTITUTION

THE popular initiative, as at present organised in the Swiss Confederation, is a very important innovation. The right of initiating laws now belongs to an indeterminate body who are as important as the Government and Legislature put together. When 50,000 citizens use their right of initiative and bring forward a complete bill, it goes to the people as it stands, just as a law would do which has passed the two houses of the Federal Assembly. Thus any chance combination of citizens unknown, and perhaps unskilled, possess the drafting powers of the Federal Council and the legislative powers of the National Council and the Council of States.

By the amendment of 1891, these 50,000 citizens have the right of demanding that a new constitutional article be inserted or an old one altered or abolished. But a constitutional article is nowhere defined. Any proposition of whatever nature may now be submitted to the people if only it be called a constitutional article.

"By means of the initiative," says M. Jacques Berney, Professor in the Lausanne Faculty of Law, "the Swiss people may govern themselves freely in every domain. They may enact laws, adopt a penal code, naturalise foreigners, grant amnesties, contract loans, convert the

public debt, grant subsidies, conclude or reject treaties, declare war, make peace, frame a revenue tariff, abolish duties, try cases, pronounce judgments, annul sentences of the court, condemn citizens to death, &c. They may do anything they will, upon the sole condition that they inscribe it in the constitution." This is, of course, an extreme statement, but it brings out very forcibly the scope of the new initiative amendment. Thus, under cover of a constituent power, the people have secured an important legislative right subject to none of the limitations of ordinary legislation which must move in the groove prescribed by the constitution. There is no existing power in the constitution which can restrict the exercise of the new right to any particular subject, or which can quash any law brought forward by the initiative as unconstitutional.

The right of thus initiating laws or constitutional changes is a very different thing from the right of petition, as M. Depløige has already pointed out. The initiative is an appeal to the people; a petition is a suggestion to the Government. The former must be attended to within the prescribed time and in the specified way, even against the wishes of the Government; the fate of the latter is entirely in the hands of the Government. Any number of people may sign a petition without any formalities and within any time. A petition, moreover, is not submitted to the popular vote. An initiative demand must be signed by 50,000 citizens, *i.e.* by one-fourteenth of the present voting population, and its fate rests with the sovereign people.

There is, however, a certain superficial similarity between the initiative and the optional referendum, which only takes place when 30,000 citizens demand that a law shall be referred to the people. The resemblance lies in the fact that both are the spontaneous movement of a certain number of citizens to determine the vote of the people. The sphere of the optional referendum is, however, confined

to the decisions of the legislative authority, and, as the activity of the State cannot rest for ever in suspense, a certain time is fixed within which action must be taken. After ninety days the people in Switzerland are powerless. They have thus to pronounce on laws before they can estimate their effect. By means of the initiative, however, a law can be repealed at any time.

Again, the referendum places the people in the same position as a sovereign in a monarchy. Their sanction, which may be express or tacit, is a necessary part of the constitutional machinery, and no law can come into force without it. The people invested with the right of initiating laws do not ordinarily co-operate in legislation. They only intervene accidentally, exceptionally, and on extraordinary occasions.

In the federal domain only "laws and decrees of a general character, and which are not urgent, are subjects for the referendum. It has been possible for the Federal Assembly to treat certain decrees as "urgent," or not general in character, and so withdraw them from the popular vote. Treaties and the budget are also outside the scope of the referendum.

By means of the initiative the people are able to obtain a decision on any question whether qualified as "urgent" or "not general," whether it be a treaty or the Federal Budget. Its domain is therefore much wider than the referendum. The initiative can do all that the optional referendum can do, and a great deal more. The optional referendum is therefore practically unnecessary in a State that has the popular initiative.

The organisation of the initiative is much the same as that of the optional referendum. There are the same regulations as to personal signature and attestation. In the demand by initiative each list of signatures must contain the text of the demand, so that each person may know what he is signing; and if this formality be omitted,

all the signatures on that paper are null and void. The signatures have to be collected within six months, or they are not counted in the total.

The demand when ready is sent in to the Federal Council. They examine it and lay it before the Assembly at the next session, with their report on the subject, dealing with both the form and the matter of the demand. The Assembly must decide upon its attitude within a year. If the proposal be by general motion, they decide whether they agree with the proposal, in which case they can practically take their own time in framing the law ; or they may decide against the petition, and consult the people as to whether a revision in this sense shall be undertaken. If the answer be in the affirmative they proceed to draft the law. All they are bound to do, however, is to determine on one course or another within a year. If the formulated initiative be used, they have to decide within a year whether they will accept or reject the popular law, or whether they will present a counter proposal. If they decide on a counter proposal, it has to be ready within the year. The formulated initiative is therefore more expeditious, and it also ensures that the Assembly does not misinterpret the wishes of the people.

The organisation of the voting in the case of the Federal Assembly presenting a counter project, gave rise to a great deal of discussion. The Federal Council proposed to submit the two schemes to the popular vote, and then have a second voting, in which the proposal which obtained the majority should be submitted as opposed to the *status quo*. Another system proposed was that three questions should be stamped on the voting papers : (1) Is there any necessity for a revision ? (2) If so, do you approve the proposal of the initiants ? (3) Do you approve the proposal of the Assembly ?¹ The proposal finally adopted was that of the

¹ These proposals are discussed by M. Jacques Berney, *L'Initiative populaire*, p. 19.

National Council, and the result is that two questions are to be stamped on the voting papers—

I. Do you approve the proposal of the Assembly ?

II. Do you approve the proposal of the petitioners ?

The voters may put a NO against either of them, or a NO against one and a YES against the other. If, however, YES be placed against both, the vote is invalid. This system is favourable to the *status quo* for two reasons : (1) The partisans of the *status quo* possess two votes, the partisans of a reform only one. Those who vote against one proposal because they prefer the other are in reality voting for the *status quo* in preference to the proposal they have vetoed, whereas, as a matter of fact, they might prefer that proposal to no reform at all. They cannot place them in order of merit. Should the proposal they have voted for be rejected, they are in the same position as if they had voted against any change.

(2) It is possible for the Federal Assembly to present a proposal differing but slightly from the popular proposal. This would split the votes of those who wished for a reform, and play into the hands of those who wished for no change. This was brought out very clearly in 1845, when the Great Council of Vaud was discussing the question of the introduction of the initiative. The deputies were pretty generally agreed on the advisability of introducing the initiative, but as each voted for his own system of working it, none of the proposals gained a majority, and the temporary result was no initiative at all.

When the Assembly does not present a counter proposal, it merely advises that the law drawn up by the initiants be "accepted" or that it be "rejected," and the law is printed and sent round to the electors with the voting-ticket, in the same way as a constitutional law which has passed both houses. The elector writes his "Yes" or "No" on the ticket which contains the title of the law, and it is adopted if there is a double majority in its favour—a majority of

the people and a majority of the cantons. If either a majority of the people or a majority of the cantons pronounce against the law, it means that the partisans of reform have failed. The opponents of a constitutional law need only the one majority, the reformers need two.

In theory, of course, the initiative is a logical consequence of the referendum. If you allow the people to say, "We don't want this," you cannot deny that it would be only sensible to let them say what they do want. The actual legislative results of the method have accordingly been described when we discussed the legislative results of the referendum. We saw that between 1893 and 1894 there were three initiative demands, each of which was presented in the form of a "complete bill." In each case the Assembly advised the rejection of the proposed measure. One was eventually carried, and two were voted down. I would merely reproduce here some of the criticisms of the initiative given by writers on the Swiss Constitution.

M. Borgeaud points out that the initiative by bill and not by general motion has greatly increased the power of two factors in public life, viz., political clubs and the press: No one citizen would conceive the idea of drawing up a law all by himself and going round and getting 50,000 others to sign; it would be impossible. A question must either be taken up by the press or by some political association. The evil is that in this case a law proceeds from powers that are anonymous and irresponsible. The article which may one day become an integral part of the constitution of the land, which will stand as a model for future legislation, which judges will have to apply and jurists to expound and interpret according to the intention of the framers—this law may be drawn up behind closed doors, or around the council board of some committee, who are then of as much importance as the regular Government. As soon as there are two signatures the law is unalterable, and goes forth to challenge the suffrages of the Swiss

people. There is no room for compromise, or debate, or mutual concession. (Borgeaud, *op. cit.*, p. 325.)

The same opinion has been expressed very forcibly by M. Droz: "It is now generally agreed," he says, "that the popular initiative might at any time place the country in very considerable danger. From the moment that the regular representatives of the people have no more to say in the matter than an irresponsible committee drawing up articles in a bar parlour, it is clear that the limits of sound democracy have been passed and that the reign of demagoguery has begun. The shaping of a wise constitution must always be a matter of weighing and balancing. It cannot be permitted that the gravest decisions should be the work of impulse or surprise. The generally adopted system of two Chambers and of two or three readings for every bill, is a recognition of this fact. It cannot be denied that the Swiss people have shown a want of wisdom in adopting a system of initiative which places all our institutions at the mercy of any daring attempt instigated by the demagogue, and favoured by precisely such circumstances as should rather incline us to take time for reflection." (*Contemporary Review*, p. 342, Nov. 1895.)

Both these objections are levelled against the system of initiative by completed bill. Mr. Lowell has pointed out that the differences between the initiative by completed bill and by general motion are not always so great as one would suppose, and that when the article is simple the same results would probably be brought about by either method. See p. 289.

The whole of the Federal Constitution is a carefully elaborated compromise, the aim of which was to reconcile opposing interests of canton and Confederation. By the initiative they are now placed at the mercy of any chance majority. The way is opened to both capricious legislation and clumsy legislation. The people, only interfering accidentally in public affairs and on exceptional occasions, cannot take account as well as the legislative body of the

binding character of the engagements entered into by the latter in the name of the state. They cannot perceive the harmony which ought to exist between the different parts of the edifice, or the necessary inter-connection of laws. There is a danger that, by means of the initiative, encroachments may be made upon the rights acquired against the state by other states or by individuals. There is no supreme court, as in America, to quash a law of this kind, and no person or state injured has any redress. When the cantons overstep their limits they can be checked by the federal authorities, but there is no constitutional check except the people in the Swiss Confederation.

M. Droz looks upon the popular initiative as destined to accomplish a work of disintegration and destruction. He considers that whereas democracy ought to rest on a solid basis, it is now put in peril at every moment, and he suggests a total revision by which the representative Assembly may be strengthened, and the whole question put on a more solid basis.

M. Hilty, writing in 1892, says, "The initiative is a two-edged sword, and one does not know against whom it will first be turned." The unfavourable criticisms have been borne out by the results of the initiative in practice. For further criticisms see M. Numa Droz's articles in the *Contemporary Review*, March 1895, in his *Études et Portraits politiques, La Démocratie en Suisse et l'Initiative populaire*, and *La Suisse jugée par un Américain*. Also Borgeaud, *Adoption and Amendment of Constitutions*, pp. 306-332; Signorel, *Le Referendum législatif*, pp. 80-85; Hilty, *Le Referendum en Suisse et l'Initiative populaire*, in the *Revue de Droit International*, 1892, No. 5, 484-489; Berney, *L'Initiative populaire en Droit public fédéral*, and Lowell, *Governments and Parties in Continental Europe*, pp. 280-292. See also *Progressive Review*, July 1897, "The Latest Phase of Direct Legislation," by L. Tomn, and "Some Recent Political Experiments in Switzerland," by L. Waurin, in the *Annals of the American Academy*, Nov. 1895.

II

CONSTITUTIONAL REVISION IN THE CANTONS

I. Every constitution recognises the right of the citizens to demand a revision of the constitution,² and fixes the statutory number of signatures necessary to make such a demand valid.

The numbers are as follows:—

- 1 person in Glarus (8276 electors)³ and in Appenzell, Inner Rhodes (3111).
- 1 person, with support of one-third of the council, in Zürich.
- 50 in Uri (4178).
- 70 in Appenzell, Outer Rhodes (12,314).
- 500 in Obwalden (3643).
- 400 in Nidwalden (2933).
- 1000 in Zug (5746), City Basle (12,450), and Schaffhausen (8123).
- 1500 in Rural Basle (11,516).
- 2000 in Schwyz (12,500 *cir.*).
- 2500 in Thurgau (24,030), and Geneva (18,909).

¹ See Stüssi, *Referendum und Initiativ in den Schweizer cantonen.*

² In Geneva the people are consulted on the question of a total revision every fifteen years. No provision is made by which they can demand a total revision during the interval. Article 152 says that "all projects of amendment"—which would seem to mean partial revisions—"shall be deliberated according to the form prescribed for ordinary laws." In 1891 a constitutional amendment was passed by which 2500 citizens could demand any ordinary law by means of a general motion or by bill. It would seem, therefore, as if the constitution now recognised the right of the people to initiate a partial revision. M. Arnoult (*La Révision des Constitutions*) seems to be of this opinion (see pp. 690-691), but M. Borgeaud (*Adoption and Amendment of Constitutions*) is doubtful. The new law does not in any way refer to Article 152, and the identification of ordinary and constitutional laws, M. Borgeaud thinks, is contrary to the spirit of the constitution.

³ These figures in brackets are the number of registered electors according to the census of 1891.

3000 in Solothurn (18,374) and Neuchâtel (25,407).
 5000 in Zürich (80,317), Lucerne (30,212), the Grisons (21,865),
 and Aargau (39,475).
 6000 in Fribourg (28,733), Vaud (61,258), and Valais (27,414).
 7000 in Ticino (29,500).
 10,000 in St. Gall (51,639).
 15,000 in Berne (112,269).

II. Every constitution, with perhaps the exception of Geneva, distinguishes in some way between partial and total revisions, and allows its citizens to demand either one or the other.

In the case of a total revision the right of the citizens seems to be limited to presenting a general request for a revision, which is carried out by the Legislature. No canton expressly recognises the right of the people to draft a total revision themselves.¹ In every canton, when a total revision is demanded by a certain number of electors, the people are first of all consulted on the general principle, and are asked, "Do you wish for a total revision?" This preliminary question is not always necessary when a total revision is proposed by the Legislature.

In the case of partial revisions two methods of procedure are recognised. In every canton the statutory number of citizens may present a general motion or request for a revision (*einfache Anregung*). In certain cantons they may, if they choose, demand the change by means of a bill on the subject drafted by themselves (*ausgearbeiteter Entwurf*).

(i.) The procedure in the case of a general motion is as follows:—

(a) The partial revision proposed by the statutory number of citizens is laid before the people at once in Glarus, Fribourg, Rural Basle, Appenzell (Outer Rhodes), Obwalden, Nidwalden, St. Gall, the Grisons, Thurgau, Vaud, Valais,

¹ The canton of Appenzell (Inner Rhodes) leaves the matter doubtful: "Any citizen may propose to the Landsgemeinde either the total or partial revision of the constitution."

Neuchâtel, and Zug. In some of these cantons the Legislature reports for or against the popular proposal.

(b) In certain cantons, should the Great Council agree to the popular proposal, they draft the article without more ado; but should they not agree with the reform demanded, they can consult the people. These cantons are Zürich, Berne, Aargau, Lucerne, Basle City, and Solothurn. In the case of an affirmative answer they must carry out the revision.

(c) In Schwyz, Ticino, and in Schaffhausen the Great Council must undertake the revision at once, whether they approve or no, and carry it out in the sense of the petitioners. It comes before the people to be voted on in its final shape.

(ii.) The initiative by bill is only recognised in certain cantons. They are Zürich, Schaffhausen, the Grisons, Ticino, Berne, Solothurn, and probably Geneva. In Schaffhausen, Zürich, and Berne, it is expressly stated that partial revisions may be carried out like ordinary legislation, which may be initiated either by motion or bill. In Geneva the same identification of ordinary and constitutional laws is implied.

In every case the popular bill is voted on as it stands. The Legislature may present a counter proposal in Zürich, Schaffhausen, the Grisons, Ticino, and Solothurn. In Berne the popular proposal must be accompanied by a Government message explaining the views held by the Legislature one way or the other.

III. In many of the cantons the people do not merely decide on the revision of the constitution when they vote; they also decide by what body it shall be undertaken.

(a) In the following cantons the people, when they vote on any revision, total or partial, determine also whether it shall be undertaken by a constituent assembly or by the ordinary legislature: they are Nidwald, Obwald, City Basle and Rural Basle, St. Gall, Thurgau, Vaud, Valais, and Neuchâtel.

(b) In the case of a total revision only do the people in the following cantons decide whether the revision shall be undertaken by the Great Council or by a constituent assembly—partial revisions are undertaken by the Great Council—they are Berne, Schaffhausen, Appenzell (Outer Rhodes), Zug, Ticino, Glarus, and Grisons.

(c) The constitution provides that a total revision shall be undertaken by a constituent assembly, a partial one by the ordinary legislature, in the following cantons—Fribourg, Aargau, Solothurn, Geneva, Lucerne, Uri, and Schwyz.

(d) In Zürich, in the case of a total revision, the Great Council has to be renewed for the purpose of carrying out the contemplated change.

IV. Provision is made in the constitutions of many of the cantons that the initiative demands shall receive due attention from the Legislature, and not be put on one side. In many cases a month is given for the Great Council to decide on its course. In other cases the Great Council has to go into the matter "without delay." Should it be decided that the revision is to take place by means of a constituent assembly, it is often directed that the election of its members must be proceeded with at once. In Zug the maximum time during which the Great Council can consider the demand, the maximum time during which they must appoint a constituent assembly, and the maximum time in which that assembly must have finished the revision, are all fixed. We find various provisions to guard against unwarrantable delays in Zürich, Berne, Lucerne, Solothurn, Zug, St. Gall, Aargau, and Ticino. In the Landsgemeinde cantons the proposals must be laid before the next Landsgemeinde.

V. The Great Councils have also the right to propose revisions either with or without consulting the people.

(a) The Great Councils may undertake a partial or a

total revision on their own authority in Zürich, Zug, Valais, Thurgau, the Grisons, Solothurn, and Appenzell (Inner Rhodes). In the Grisons the councils may, if they prefer it, consult the people first; and in Zug the council must consult the people on the question of revision, if it be only decided on by a relative majority of the members, not by an absolute majority of all the members. The result is, that in every canton, except those just mentioned, the people are always asked, "Do you wish for a total revision?" whenever a total revision is proposed, whether it be proposed by the Legislature or by a certain statutory number of citizens.

(b) The councils cannot undertake either a partial or a total revision without first asking the people, "Do you wish for a revision?" in the following cantons—Fribourg, Obwald, Nidwald, Basle (Rural), and Neuchâtel. Ticino may be classed with the group. The Executive, which is a body of five, chosen directly by the people, can propose either a total revision or a partial revision, but the people must first of all be consulted. In the case of an affirmative answer the revision is carried out by the Legislature if they agree with the proposed revision; if they disapprove, by a constituent assembly. The Legislature has no initiative for a partial revision, only for a total revision, and in that case the people must first be consulted.

(c) In City Basle the council has to consult the people on the question of a total revision, should it wish to undertake it. A partial revision may, however, be resolved on without an appeal to the people; and the council may decide, moreover, whether it will undertake it itself or appoint a constituent assembly. The resolution on the subject is, however, submitted to the referendum upon demand.

(d) A fourth group give the legislative council the power to initiate and carry through partial revisions, but a total revision needs a consultation of the people: these are

Berne, Schwyz, Glarus, Schaffhausen, Appenzell (Outer Rhodes), St. Gall, and Aargau.

(e) In Geneva the Great Council seems to be able to undertake and carry through partial revisions, but does not seem to have any power to bring about a total one.

VI. Certain cantons provide special regulations for the passing of the proposed revision, whether it be undertaken in consequence of a demand by the people, or in consequence of a resolution of the Legislature.

In Berne the constitutional amendment must obtain a two-thirds majority of those voting. In Schwyz, Aargau, and Ticino, the proposal for a total revision needs an absolute majority of the members; in Zug an absolute majority is necessary for either partial or total revisions; and in St. Gall, for partial revisions. In Fribourg six months must elapse between the first and second reading of the revision bill. Valais, Solothurn, St. Gall, Aargau, Berne, Lucerne, Zug, Thurgau, and Zürich, all fix a certain statutory interval between the two readings.

VII. In some of the cantons it is expressly stated, that if a partial revision of the constitution bears on several points, they are to be voted on by the people separately: these are Ticino, Lucerne, Aargau, and Solothurn. St. Gall, however, provides that a total revision shall be voted on *en bloc*, and a partial one according to the articles revised. Zug directs that the constitutional amendments may be presented in groups (*gruppenweise*) or *en bloc*. The different provisions are sometimes separated in practice by a resolution of the Great Council.

VIII. In either the preliminary or the final voting, it is the absolute majority of the electors voting who decide whether the constitution or the amendment shall be accepted or not. Every constitutional change in its final form must be voted on by the people before it can come into force.

IX. If a constitution or a constitutional amendment

be rejected, several constitutions expressly state that the old one remains in force. When it is not expressed, it is understood, unless something else is determined upon. In Obwald and Nidwald the Landsgemeinde decides whether the revision shall again be undertaken or not, and by what body. In Glarus the proposal may be sent back to the Landrath for further consideration.

In Solothurn and Fribourg a second scheme has to be worked out after the first is rejected. If this is again rejected, the people are asked if the revision shall take place. If so, a new assembly is chosen. In Rural Basle, Berne, Zug, a second project is elaborated, and if that is rejected, the old constitution remains in force.

In Schaffhausen the constituent assembly must go on drawing up new schemes until it either satisfies the citizens, or a demand has been made by 1000 voters for its dissolution. It may also itself refer the question of its own dissolution to the people. In Aargau the people are consulted on the question of going on with the revision when the first draft is rejected, and if they still wish a revision, they are asked whether it shall be undertaken by a new or by the old constituent assembly.

X. Many constitutions provide that after a total revision has been accepted, the Great Council is *ipso facto* dissolved, and fresh elections must take place. This is the case in Schaffhausen and Thurgau. The Constitutions of Lucerne, Zug, and Solothurn declare a renewal of the Legislature to be necessary only when the revision has been demanded by the people. The Constitutions of Thurgau and Solothurn not only provide for a renewal of the Great Council, but declare that all officials must be re-elected. The temporary provisions of a new constitution often contain some such provision.¹

¹ See Constitution of Zug, 1894. Such a clause was incorporated into the last Constitution of Rural Basle, and omitted in the present one of 1893.

M. Borgeaud, in his book on the Amendment and Adoption of Constitutions, distinguishes between the popular and the plural initiative in constitutional matters. The distinction has been adopted by M. Arnould in his book on the Revision of Constitutions (Paris, 1896).

The popular initiative is said to be exercised when the people decide as a necessary preliminary that a constitutional revision shall take place. The popular initiative may be invoked by a certain number of citizens or by a specified authority; but when no body is competent to undertake a revision unless commanded to do so by the majority of the people (in practice the majority of those voting), then the initiative may be said to belong to the people.

The plural initiative is exercised when a certain specified number, not a majority of the whole, are sufficient to bring about a revision without any preliminary popular consultation.

There are practically four steps in bringing about a revision by means of the popular initiative:—

(1) A preliminary demand by a certain number of citizens, or by a certain body, that the majority will exercise their right.

(2) The exercise of the right by the majority of those voting.

(3) The drafting of the scheme proposed.

(4) The final voting of the people on the scheme drawn up.

In the case of the plural initiative—

(1) A bill is drafted by one or more persons.

(2) A certain specified number of citizens sign it.

(3) It is sent to the council, who forward it to the people as it stands, and until it comes before the people in this way for final acceptance or rejection they have no voice in the matter.

The plural initiative may, however, be exercised in another way.

(1) A certain number of citizens demand a revision.

(2) The drafting is done by the council upon the petition of this certain number. The council has not the option of refusing to comply with their demand, but must draw up the scheme required.

(3) The scheme is voted on by the people.

The Swiss Constitutions themselves do not seem to grasp or express the significance of the distinction in many cases. There is, nevertheless, a fundamental difference. In the one case the people are the starting-point for the revision; in the other, a fraction of the whole people.

The initiative may be said to belong to the Legislature when the council may decide on a revision on its own authority (*von sich aus*), and carry it through without any popular consultation, only submitting the finished scheme to the people for their acceptance or rejection.

We find in the twenty-five Swiss cantons examples of all three forms. They have been classified by M. Arnoult as follows:—

(1) In certain cantons the initiative in the case of a partial or total revision belongs either to the Legislature or to the people. These cantons are Thurgau and Valais.

(2) The initiative in the case of a partial revision belongs either to the people or the Legislature. The initiative in the case of a *total* revision belongs to the people alone. These cantons are Lucerne, Aargau, St. Gall, Basle City, and Schwyz.

This means that in the case of a total revision there *must* always be a popular consultation. In the case of a partial revision there *may* be a popular consultation.

The great feature of groups 1 and 2 is that the initiative in matters of revision does not belong exclusively to the people; it is shared with the council.

(3) The popular initiative is compulsory in every case in certain cantons. The council can undertake no revision, whether partial or total, without first consulting the people. These cantons are Fribourg, Rural Basle, Neuchâtel,

Vaud, Unterwalden (Obwald and Nidwald). Either the council or a certain number of citizens can provoke the popular initiative by a demand for a total revision.

(4) Certain cantons recognise the popular initiative, the plural initiative, and the initiative of the Legislature.

(i.) They recognise the popular initiative and the legislative initiative in both partial and total revisions.

(ii.) They recognise the plural initiative in partial revisions as well. The plural initiative is exercised by a bill drafted by the electors themselves. Neither the majority of the people nor the Legislature play any part in determining whether the revision shall or shall not be undertaken. The revision comes before the people in its final shape. These cantons are Zürich, the Grisons, Berne, Zug, Solothurn, and probably Geneva.

(5) The fifth group of cantons do not recognise the popular initiative in partial revisions at all; only the initiative of the Legislature and the plural initiative. These cantons are the Grisons, Uri, Appenzell (Outer Rhodes), Schaffhausen, and Schwyz. There is no preliminary consultation whether the initiative be by bill or motion. If the initiative be by motion, the council has no option, but must draft the law demanded.

(6) A revision, whether total or partial, may be proposed by any one single person, and laid before the whole body of electors, in Glarus and Inner Rhodes, and also in Zürich if the demand be supported by one-third of the council. This is the individual initiative group.

BIBLIOGRAPHY

- ADAMS (Sir Francis Ottiwell), and C. D. Cunningham.
"The Swiss Confederation." The French edition, by
H. G. Loumeyer.
"Annuaire de la législation étrangère," from 1872.
- ARNAUD. "La révision belge." Paris, 1893.
- ARNOULT. "Révision des Constitutions." Paris, 1896.
- BANDELIER. "Du referendum au point de vue jurassien."
Porentruy, 1869.
- BAUMGARTNER. "Geschichte des schweizerischen Freistaats
und Kantons St. Gallen."
- BÉCHAUX. "Le referendum," in the "Correspondant" of
the 25th April 1892, p. 247.
- "Une démocratie modèle l'Unterwald." Paris, 1888.
- BENOIST. "Une démocratie historique, la Suisse," in the
"Revue des deux mondes." January 15, 1895.
- BERNET. "Nach zwanzig Jahren." 1868.
- BERNEY, Professor J. "L'initiative populaire en Droit
public fédéral." Lausanne, 1893.
- BLUMER. "Staats und Rechtsgeschichte der schweizerischen
Demokratien." St. Gall, 1850-58.
- "Handbuch des schweizerischen Bundesstaatsrechtes."
Basel, 1891.
- BLUNTSCHLI. "Lehre vom modernen Staat."
— "Geschichte des schweizerischen Bundesrechtes." 1875.
2 vols.

- BONAPARTE (Prince Roland). "*Assemblées démocratiques en Suisse*," in the "*Figaro*" of the 28th May 1890.
- BOREL. "*Étude sur la souveraineté de l'État fédératif*." 1886.
- BORGEAUD. "*Histoire du plébiscite*." 1887.
- "*Adoption and Amendment of Constitutions*." 1895.
- BRISSAUD. "*Le referendum en Suisse*," in the "*Revue générale du droit de la législation et de la jurisprudence*." 1888.
- BRUNIALTI. "*La legge e la libertà*."
- BRYCE. "*The American Commonwealth*."
- BURKLI. "*Directe Gesetzgebung durch das Volk*." 1869.
- CANOVAS DEL CASTILLO. "*Problemas contemporaneos, Discurso del Ateneo, La democracia pura en Suiza*," p. 45.
- CHATELANAT. "*Die Wirkungen des Referendums im Kanton Bern*," in the "*Zeitschrift für schweizerische Statistik*." 1877.
- "*Die schweizerische Demokratie in ihrer Fortentwicklung*." 1879.
- CHERBULIEZ. "*De la Démocratie en Suisse*." 1843.
- COOLIDGE. "*The Early History of the Referendum*," in the "*English Historical Review*." October 1891.
- CRIVELLARI (Galileo). "*Il referendum nella Svizzera*," in "*Serafinis Archivio Giuridico*." Vol. xxxiv.
- CURTI (Th.). "*Geschichte der schweizerischen Volksgesetzgebung*." Zürich, 1885.
- "*Zur Geschichte der Volksrechte*." Zürich, 1881.
- "*Die Volksabstimmung in der Schweizergesetzgebung*." 1886.
- "*Le referendum suisse*," in the "*Revue politique et parlementaire*," for August 1897.
- DAENDLICKER. "*Histoire du peuple suisse*." Paris, 1879.
- DARESTE. "*Constitutions modernes*."

- DEPLOIGE. "*Le vote obligatoire en Suisse*," in the "*Revue générale*." Brussels, March 1893.
- "*Le referendum royal*," in the "*Revue générale*." December 1891.
- DESCHWANDEN. "*Die Entwicklung der Landsgemeinde in Nidwalden als gesetzgebende Gewalt*," in the "*Zeitschrift für schweizerisches Recht*." Vol. vi.
- DESJARDINS. "*De la liberté politique dans l'État moderne*." Paris, 1894.
- DICEY. "*Ought the Referendum to be introduced into England?*" in the "*Contemporary Review*," April 1890. See also the "*National Review*," March 1894.
- DROZ (Numa). "*Études et Portraits politiques*." 1895.
- "*The Referendum in Switzerland*," in the "*Contemporary Review*," March 1895; also articles in the "*Revue politique et parlementaire*," in June and December, from 1894 to 97.
- "*Direct Legislation Record*," published in Newark. Editor, Eltweed Pomeroy. Quarterly.
- DUBS. "*Die schweizerische Demokratie in ihrer Fortentwicklung*." 1865.
- "*Le droit public de la Confédération Suisse*." 1878.
- DUNAND (A.). "*La Législation par le peuple en Suisse*." Geneva, 1894.
- DUPRIEZ. "*Les ministres dans les principaux pays d'Europe et d'Amérique*." Paris, 1893. 2 vols.
- DUVERGIER DE HAURANNE. "*La Suisse et la révision de sa constitution*," in the "*Revue des deux mondes*." 1873.
- ELLERO. "*La sovranità popolare*." 1886.
- ERNST. "*Die Volksrechte im eidgenössischen Bunde*," in the "*Monat Rosen*." 1883-84.
- ESMEIN. "*Deux formes de gouvernement*," in the "*Revue du Droit public*." January and February 1894.

- FAVRE (E.). "*La Confédération des huit Cantons.*" Geneva, 1879.
- FREEMAN. "*The Growth of the English Constitution*" (description of Landsgemeinde).
- FULD. "*Die versuchte Einführung des Referendums in Belgien,*" in the "*Archiv für öffentliches Recht,*" pp. 558, &c. 1893.
- FÜRREK. "*Histoire du Valais.*"
- GAMOND. "*De la révision constitutionnelle en Belgique,*" in the "*Belgique judiciaire.*" 1893.
- GANZONI. "*Beiträge zur Kenntniss des bündnerischen Referendums.*" Zürich, 1890.
- "*Das Referendum im schweizerischen Staatsrecht,*" in the "*Archiv für öffentliches Recht.*" Vol. i.
- GAVARD. "*Les formes nouvelles de la démocratie—Le referendum et l'initiative populaire en Suisse,*" in the "*Nouvelle Revue.*" March 15, 1892.
- GENGEL. "*Aphorismen über Demokratisches Staatsrecht.*" Berne, 1864.
- "*Die Erweiterung der Volksrechte.*" Berne, 1868.
- GROTE. "*Seven Letters from Switzerland.*" 1847.
- HENNE AMRHYN. "*Histoire du peuple suisse.*" 3 vols. 1865.
- HEPWORTH DIXON (W.). "*The Switzers.*" 1872.
- HERZOG. "*Das Referendum in der Schweiz.*" Berlin, 1885.
- "*Öffentliche Vorlesungen über die Helvetik.*"
- HILTY. "*Das Referendum im schweizerischen Staatsrecht,*" *Arch. für öffentliches Recht.*" Vol. ii.
- "*Theoretiker und Idealisten der Demokratie.*" Berne, 1868.
- "*Die Bundesverfassungen der schweizerischen Eidgenossenschaft.*" 1891.

- HILTY. "*Le referendum et l'initiative en Suisse*," in the "*Revue de Droit international*," pp. 384-405, 476-489. 1892.
- "*Politisches Jahrbuch der schweizerischen Eidgenossenschaft*." Annual from 1886.
- HOFFMANN. "*Das Plebiscit als Correctiv der Wahlen*." Berlin, 1884.
- HYMANS. "*Le Referendum dans la Constitution Suisse*," in the "*Revue de Belgique*." January 1892.
- HAULEVILLE. "*Le Referendum royal*."
- KELLER. "*Das Volksinitiativrecht nach den schweizerischen Kantonsverfassungen*." Zürich, 1889.
- LAFITTE. "*Lettres d'un parlementaire*." Paris, 1894.
- LAVELEYE. "*Le gouvernement dans la démocratie*." Paris, 1891. Vol. ii.
- LECKY. "*Democracy and Liberty*." Vol. i.
- LEFÈVRE-PONTALIS. "*Les assemblées plénières en Suisse*." Paris, 1895.
- LORAND. "*Le Referendum*." Brussels, 1890.
- LOWELL (A. L.). "*Governments and Parties in Continental Europe*." Vol. ii. 1896.
- "*The Referendum and Initiative: their Relation to the Interests of Labour in Switzerland and America*," in the "*International Journal of Ethics*." Vol. vi. October 1895.
- MAINE. "*Popular Government*." 1885.
- MARSAUCHE. "*La Confédération Helvétique*." Neuchâtel, 1891.
- MACCRACKAN. "*How to introduce the Referendum and Initiative in the 'Arena'*." Vol. vii. p. 676.
- "*Swiss Referendum*," in the "*Cosmopolitan*," p. 329. 1893.

- MACCRACKAN. "A President of No Importance," in the "North American Review," p. 118. 1896.
- NAVILLE. "Apropos du referendum," in the "Représentation proportionnelle." April 1887.
- "La démocratie représentative." Paris, 1881.
- "La question électorale." Geneva, 1871.
- NIMAL. "Représentation proportionnelle et referendum," in the "Journal des tribunaux." No. 879.
- OBERHOLTZER (E. P.). "The Referendum in America." 1893.
- ORELLI. "Das Staatsrecht der schweizerischen Eidgenossenschaft, Marquardsens Handbuch des öffentlichen Rechtes." Vol. iv. Fribourg, 1884.
- RAGGIO. "La révision constitutionnelle," in the "Revue socialiste." October 1889.
- RAMALHO. "Étude historique sur le referendum," in the "Revue générale d'administration." October and November 1892.
- RAMBERT. "Les Landsgemeinde de la Suisse," in "Les Alpes suisse." Lausanne, 1889.
- "Revue de droit public." September and October 1896.
- "Les constitutions cantonales de la Suisse et leur révision. Le referendum législatif.
- RITTINGHAUSEN. "La législation directe par le peuple et ses adversaires." Brussels, 1852.
- ROSS. "The Referendum and the Plebiscite," in the "Canadian Magazine." August 1895.
- SALEILLES. "Criticism and Summary of 'The Referendum in America,' by E. P. Oberholtzer," in the "Revue du Droit public," p. 345. September and October 1894.
- SALIS. "Le droit fédéral suisse." 1892.

- SEGESSE (VON). "*Sammlung kleiner Schriften.*"
- SHICKLER. "*Schweizerisches Verfassungsbüchlein.*"
- "*Sammlung der Bundesverfassungen und die in Kraft bestehenden Kantonsverfassungen,*" with yearly supplements published by the Federal Chancery.
- SIGNOREL. "*Étude de législation comparée sur le referendum législatif.*" 1896.
- SISMONDE DE SISMONDI. "*Études sur les constitution des peuples libres.*" Paris, 1836.
- SIZERANNE (R. de la). "*Le referendum communal.*"
- "*Spectator*" (*The*), *passim.*
- STURLER. "*Die Volksanfragen im alten Berne.*" Berne, 1869.
- STÜSSL. "*Referendum und Initiativ im Kanton Zürich.*"
- "*Referendum und Initiativ in den schweizerischen Kantonsverfassungen.*" 1893.
- SULLIVAN (T. W.). "*Direct Legislation by the People.*" New York, 1893.
- UN PROGRESSISTE. "*Le referendum en France et le futur du parti progressiste,*" in the "*Revue politique et parlementaire.*" November 1897.
- VINCENT (T. M.). "*State and Federal Government of Switzerland.*" Baltimore, 1891.
- VOGT (G.). "*Referendum, Veto und Initiativ in the Zeitschrift für die gesammte Staatswissenschaft.*" Tubingen, 1873.
- WOLF (P.). "*Die schweizerische Bundesgesetzgebung.*" 2 vols. Basle, 1890-91.
- WUARIN. "*Le contribuable. L'évolution de la démocratie en Suisse,*" in the "*Revue des deux mondes.*" August 1, 1891.
- "*Le referendum belge,*" in the "*Revue des deux mondes.*" August 1891.

- WUARIN. "*The Swiss Referendum*," in the "*Progressive Review*." July 1897.
- "*Some Recent Political Experiments in the Swiss Democracy*," in the Annals of the "*American Academy of Political Science*." Vol. vi. November 1895.
- "*Zeitschrift für schweizerisches Recht*," from 1892-97 (No. 3).
- ZELLWEGER. "*Geschichte des appenzellischen Volks*." Trogen, 1830-70.

INDEX

INDEX

- AARAU, 52 n. 1
Aargau, viii n., xviii, 81, 83,
 88 n. 1, 116, 123, 137, 142, 143,
 154 n. 2, 174 n. 1, 176, 178,
 179 n. 1, 180 n. 1, 181 n. 1,
 184, 186, 187, 188 n. 1, 193
 n. 1, 195, 197, 198, 212 n. 1,
 221, 235, 259, 270, 307, 308,
 310, 311, 313
 Act of Mediation, 20, 58, 59, 60,
 62, 64
 Age of Political Majority, 4, 45,
 165
Allgemeine Tage, 52 n. 1
 Allied Powers, 61
 Ambassadors, 33
 America, United States of, vi,
 285, 286, 290 n. 1, 304
 Amman, 72
 Amnesty, 146 n. 2, 151 n. 1
 Anderwert, M., 105
 Annemaase, 262
 Anti-Semitism, 235, 236
 Appenzell, xiv n. 2, 3, 4 n. 2,
 5 n. 1, 7 n. 1, 15
 — (Inner Rhodes), 5 n. 2,
 9 n. 1, 22 n. 3, 65 n. 1, 117,
 137 n. 3, 212 n. 1, 213, 221
 n. 1, 305, 309, 314
 — (Outer Rhodes), 9 n. 1, 22
 n. 3, 25 n. 2, 116, 123, 137 n. 3,
 212 n. 1, 270, 305, 306, 308,
 310, 314
 Army, control of, 111, 146 n. 2,
 241
 Army, discipline in, 242
 Attestation of signatures, 156,
 160
 Athenian democracy, 257
Ausschreiben auf die Gemeinden,
 29
 Aussersihl, 254
 Australasia, v, 290 n. 1
 BADEN, 12 n. 2, 52 n. 1
 Bailiff, 4 n. 1, 9 *et seq.*
 Bailiwicks, 6, 52 n. 1
 Bankruptcy, 114, 170, 230
 Bankrupts, 4 n. 3, 165, 217
 Basle, xiv n. 2, 51 n. 3, 60 n. 5,
 66 n. 3, 213, 267
 — City, xxxiii, 85, 116, 137,
 140, 143, 148 n. 1, 154 n. 2,
 171, 173, 188 n. 1, 195, 197
 n. 2, 201 n. 1, 212 n. 1, 281,
 305, 307, 309, 313
 — Rural, 72, 75, 83, 88 n. 1,
 116, 123, 137, 139, 142, 175,
 176, 180 n. 1, 186, 187, 188
 n. 1, 195, 196, 197, 198, 201
 n. 1, 212 n. 1, 259, 270, 305,
 306, 309, 311, 313
Basler Volksblatt, 234 n. 2
 Beitag, 30 n. 1
 Belgium, proposed referendum in,
 v, xxxix *et seq.*
 Belgian Communes, 291 n. 2
 Berne, x n. 1, xv, xviii, xxii,
 44 *et seq.*, 51 n. 1, 60 n. 5, 76,
 83, 88 n. 1, 93, 94, 104, 116,

- 137, 139 n. 2, 140, 154 n. 2, 176, 179, 180, 184, 187, 188 n. 1, 195 n. 2, 197, 199 n. 2, 201 n. 1, 212 n. 1, 229, 235, 256 *et seq.*, 269, 270, 275 n. 1, 281 n. 3, 306, 307, 308, 310, 311, 314
- Berne, town of, x, xxxiii, 144
- Berner Volkspartei*, 157
- Berner Volkszeitung*, 166, 234
- Bernese Jura, 221
- Biccoca, 49 n. 1
- Bishoprics, creation of, 114
- Blanc, Louis, 35
- Blank ballot papers, 255, 289
- Borel, M., 104
- Bourdon, 57 n. 2
- Bribery, legislation against, 9 *et seq.*
- Brunner, M., 100, 104, 107, 109
- Budget, cantonal, 84, 172 n. 2, 178, 179, 180
- federal, 146 n. 2, 153, 299
- Bund* (of Berne), 96, 117, 120 n. 2
- Bürgergemeinde, ix n. 1
- Burgundy, 52 n. 1
- Buzberger, 107
- CALVIN, 49 n. 1
- Cantonal chancery, 181
- council, 138
- government, 103
- jealousy, 238
- jurisdiction, attempt to interfere with, 226
- message, 181
- vote. *See* Vote, cantonal.
- Cantons, independence of, xii *et seq.*, 1, 20, 50, 56, 59, 66 n. 1, 78, 93, 109, 191 n. 1, 217, 220, 241, 295
- list of, 61
- population of, ix
- Cantons, representation of, in Council of States, xxii, 79; in Federal Assembly, 79, 282; in Federal Council, xxiii, 80; in Federal Diet, 52 n. 1
- representative government in, 60
- with *Landsgemeinden*, xix n. 3, 3, 25 n. 2, 26, 57 n. 2, 62, 287
- Capital punishment, 220, 252 n. 1
- Carteret, M., 103
- Catholic cantons, viii n. 2, 111, 116, 159, 214, 270
- minority, treatment of, 234 n. 2
- opposition, 108, 113, 116, 117, 141, 156, 216, 224
- Cattle rearing, 256 n. 1
- slaughtering of, 118 n. 1
- trade, 243
- Centralisation, 55, 94, 101, 108, 111, 115, 215, 230
- dislike of, 237, 242, 249
- Challet-Venel, 111 n. 1
- Chancellor, election of, 146 n. 2
- Civil law, 31, 112, 114, 179 n. 1, 295 n. 1
- of persons, 295
- Civil procedure, 112, 114, 179 n. 1, 295
- rights, federal jurisdiction in, 114
- Coire, 29, 33
- Commander-in-chief, election of, xxiii, 146 n. 2
- Commerce, freedom of, 55 n. 1, 67
- regulation of, 92, 114
- Commercial travellers, 225, 226
- Communal assembly, ix, 155; defect of, 99
- council, x, 261
- vote, 57 n. 2
- Communes, independence of, ix, 31, 34, 36, 44, 254, 295

- Communes of Berne, 44
Concilium Générale, 42
 Condorcet, 57 n. 2
 Congress of the Rhetian republic, 33
 Congress of Vienna, 61
 Conseil d'Etat, xvii. n. 2
 Conservatives, 72, 83, 157, 263, 265, 272
 Considérant, Victor, 35
 Constituciones, manipulation of, 113, 130, 221, 228
 — size of, 257
 Constitutions, cantonal, xiv *et seq.*, 21 n. 1, 59 *et seq.*, 71 *et seq.*, 85, 136 *et seq.*; date of, 143 n. 1; guarantee of, 80, 136, 146 n. 2, 152; provisions for revision, 80, 137 *et seq.*, 139, 305 *et seq.*
 — Federal, 50, 78, 109, 192 n. 1, 303
 Constitution, Federal, of April 12, 1798, 2, 18, 55; provision for revision, 55 n. 2
 — of May 20, 1802, 56, 57 n. 2
 — of 1848, 7 n. 2, 79 *et seq.*, 118, 119 n. 1; art. 6 of, 80, 136; provision for revision, 80
 — of May 29, 1894, 114 *et seq.*, 124 *et seq.*, 136, 144, 146 n. 2, 172, 223, 231, 282, 294; arts. 7 and 9 of, 172, 178; art. 27 of, 114, 223, 230 n. 2; art. 89 of, 116, 117, 144, 151, 153, 167; provision for revision of, 125 *et seq.*, 161 n. 1
 Constitutional article, 118 n. 1, 297
 — check, lack of, 86, 304
 — decree, federal, 169
 Consular service, 239
 Convents, 115
 Copyright, literary and artistic, 92, 114
 Councillors of the Legation, 52 n. 1
 Council of States, xvi, xxii n., 79, 109, 115 n. 1, 123, 129, 144
 — xvii n. 2, 7 n. 3, 67, 202, 286
 Counter-proposal, right of submitting, 22, 134, 199, 200, 300, 307
 Court of Appeal, 31
 Criminal law, 31, 112, 179 n. 1, 295
 — procedure, 112, 179 n. 1, 295
 Currency, 52 n. 1
 — (bank-notes), 112, 119 n. 1, 217, 218, 294
 Customs, 111, 232
 — revenue, 238
 DAVOS, 29
 Debts, 114, 230
 Decree, lack of definition, 147
 Delaware, 290 n. 1
 Delay caused by referendum, 162 n. 1
 Democrats, 69, 71, 83, 88, 89, 94, 121, 158, 190, 286, 288
 — proposals of, 84
 Diet of Ambassadors. *See* Federal Diet.
 Democracies, characteristics of old-time, 10
 Democracy, direct, 67, 134
 — evolution of, in Switzerland, 82, 293
 Deputies, rôle of, 133, 134
 Dikes of rivers, 111, 153
 Diog. Major Felix de Rapperswyl, 69, 190
 Diplomatic service, 239
 Directorate, letter to French, 18 *et seq.*
 Direct Legislation League (American), vi

- Disfranchisement, 165
 Dissolution of the Federal Assembly, 120, 129
 Dissolution, right of, 104, 284;
 (in the cantons) 88 n. 1
 Distilleries, 230 n. 1
 District, xiii
 Division of Switzerland, vii,
 viii, xiv, 53, 54, 111
 Divorce, 215, 235
Dicains, 42, 63, 75
 Dorfschaften, 31 n. 2
 Duke of Savoy, 46 n. 1
 Dürrenmatt, M., 158, 166
- EDUCATION, 295
 Education, elementary, 112, 114,
 223, 256 n. 1
 — free, 235
 — sectarian, 230 n. 2
 Educational measures in the can-
 tons, 250 n. 2
Eidgenössische Verein, 157
 Elections, 113, 227, 253, 257
 Electors, number of, 212 n. 1
 Electoral Legislation, 112
 Emigration agents, 111
 England, 155 n. 1, 173
 Epidemics, 32, 222
 Erfurt, 291
 Excise, 179 n. 1
 Excommunication prohibited, 114
 Executive of the Great Council,
 xvii
 Expenditure, dislike of, 179 n. 2,
 247, 249, 256 n. 1, 239, 258
- FACTORY legislation, 111, 219,
 236, 240, 250 n. 2
 Fazy, James, 164
 Federal Agreement, 61, 62, 63,
 77, 78, 79
 — administration, xvi
 Federal Assembly, xxi, xxv,
 79, 94, 100, 110, 114, 120, 123
 n. 2, 127, 128, 129, 133, 134,
 144, 145, 146, 148, 150, 221,
 292, 297, 300
 Federal Chancery, 162 n. 1
 — Council, xxiii *et seq.*, 80,
 92, 108, 111 n. 1, 117 n. 1, 118
 n. 1, 120, 128, 133, 145, 146 n.
 2, 153, 156, 160, 161, 162 n. 1,
 168, 172 n. 3, 234, 294, 300
 — Decree of April 8, 1891,
 123, 124, 125 n. 1
 Federal Diet, xxi, 6, 52, 60 n. 5,
 62, 66 n. 1, 78
 — Executive, xxiii, 79
 Federal government, 103
 — Treasury, 238
 — Tribunal, xxiv, 146 n. 2
Feuille Fédérale, 153, 161, 162 n.
 1, 168, 246 n. 1
Feuille officielle, 22, 173, 181, 203
 Financial affairs, 3, 8, 20, 32, 63,
 75, 81, 82, 84, 108, 153, 172,
 179, 180, 295
 Fishing, 111, 179 n. 1
 First perpetual League, 4 n. 1
 Food stuffs, regulations affecting,
 243
 Forests, 32 n. 1, 111, 179 n. 1, 243
 Foreigners, treatment of, 9, 92,
 152
 Foreign politics, influence of, 63
 France, v, 49 n. 1, 54, 91, 152,
 172 n. 3, 291 n. 2
 — constitution imposed by, 2,
 18, 35, 56
 — revolutionary constitutions
 of, 57 n. 2
 French cantons, viii, 260
 Franchise, 4, 45, 56, 62, 67, 79,
 86, 165, 217
 Franco-German war, 101 n. 2
 Frankfurt, parliament of, 35 n. 2
 Frauenfeld, 52 n. 1, 148 n. 1

- Freedom of speech, 16
- Fribourg, xvi, 60 n. 5, 67, 78
n. 1, 85, 117, 137, 141, 142,
143, 159, 185 n. 1, 188 n. 1,
195 n. 1, 213, 212 n. 1, 221,
260, 269, 306, 308, 309, 310,
311
- Frutigen, 240
- GEMEINDEN, 28
- Geneva, xi *et seq.*, xvi n. 1,
xxxiii, 46 n. 1, 49 n. 1, 61, 85,
116, 137 n. 3, 139, 142, 157,
159, 171, 173, 174, 188 n.
1, 195, 197, 198, 212 n. 1,
219 n. 1, 221, 233 n. 1, 260,
262, 269, 270, 275 n. 1, 281,
287 n. 1, 305, 307, 308, 310,
314
- German cantons, viii, 88 n. 1, 93,
109, 113
- Girardin, Emile de, 35
- Glarus, 3, 4 n. 2, 5 n. 1, 6 n. 2,
8 n. 1, 11 n. 2, 12, 13 n. 1,
16 n. 1, 17, 22, 25 n. 2, 116,
137 n. 2 and 3, 159, 212 n. 1,
213, 305, 306, 308, 310, 311,
314
- Glattfelden, 254
- Gonzenbach, M., 103
- Gotha, 291
- Great Council, xv, xvii, 22 n. 3,
67, 70, 73, 76, 82, 85 *et seq.*, 94,
137 n. 1, 138, 140, 174, 177,
180 n. 1, 187, 198, 284, 307,
308
- Grey League, 28, 29, 31 n. 2
- Grisons, 27 *et seq.*, 38, 51, 60, 63,
67, 81, 90 n. 1, 116, 137, 140,
171 n. 1, 176, 179, 188 n. 1,
195, 196, 197, 198, 201 n. 1,
212 n. 1, 262, 306, 307, 308,
309, 314
- Grütliverein, 203, 238
- HEER, Landamman, 7 n. 3
- Henne, Dr., 70
- Hochgerichte, 31 n. 2
- Hofgericht, 4 n. 1
- Horgen, 254
- Hunting, 111, 179 n. 1
- ILANZ, 29
- Industry, freedom of, 55 n. 1
- Information supplied to voters,
30, 46, 47, 48, 106, 153, 161,
162, 164, 173, 181, 188, 200,
245, 301, 307
- Initiative, popular, v. 3, 189 *et seq.*, 302 *et seq.*
- in cantonal affairs,
14, 15, 49 n. 1, 62, 77, 81, 83,
90, 137, 195 *et seq.*, 252 n. 1,
256 n. 1, 260 n. 1, 262, 263,
294; "formulated," 122 n. 1,
139 n. 3, 199, 197
- in federal affairs,
110, 116, 118, 121 *et seq.*, 127
n. 2, 130, 131, 145, 167, 218,
244, 269, 297 *et seq.*, 312;
"formulated," 122, 132, 134,
300
- Insurance, State, 231, 238
- Insurance, private companies, 112
- International, the, 291
- Italy, v, 155 n. 1, 291 n. 2
- Iowa, 139 n. 1, 290 n. 1
- JAHRBUCH für schweizerische
Statistik, 246 n. 1
- Jesuits, 115
- Jews, xii, 52 n. 1, 92, 93, 152,
233, 235
- Journal de Genève, 270
- Judicial administration, xx, 114
- KANTONSRAH, xv, xx
- Kappeler, Herr, 117 n. 1
- Kappeler Brief, 49 n. 1

- Keel, M., 270, 279
 Kleine Rath, xvii
 Konfessionelle Sondertage, 52 n. 1
 Kriegsgemeinde, 49 n. 1
- LANDAMMAN, xx, 6, 7, 16, 17
 Landamman of Switzerland, 60 n. 5
 Landbuch, 21 n. 1
 Landrath, xv, xx, 7 n. 3, 14 *et seq.*, 15 n. 1, 22, 42 n. 2
 — triple, 7 n. 3
 Landsgemeinde, xix *et seq.*, 3 *et seq.*, 26 n. 1, 27, 31, 59, 67, 68, 76, 81, 103, 137, 190, 194, 264, 276, 287
 Lausanne, population of, xxxiii
 League of the House of God, 28 *et seq.*
 League of the Ten Jurisdictions, 28 *et seq.*
 Legation at Washington, 148 n. 1, 225, 226 n. 1
 Liberals. *See* Radicals
 Lichtensteg, 230 n. 2
 Liège, 155 n. 1
 Louis XI., 52 n. 1
 Lucerne, 49 n. 1, 51 n. 2, 52 n. 1, 60 n. 5, 65 n. 1, 72, 75, 78 n. 1, 88 n. 1, 117, 137, 141, 142, 143, 171, 172, 173, 175, 184 n. 2, 185 n. 1, 188 n. 1, 195 n. 1, 212 n. 1, 213, 231, 306, 307, 308, 310, 311, 313
 Lugano, 52 n. 1
- MAGISTRATES, 20, 26, 63
 Majority in Federal Assembly, xxv, 213, 226
 — effective, how constituted, 57, 72, 75, 76, 81, 82, 108, 136, 141, 142 n. 1, 143, 170, 174, 186, 302, 310
 Malnaison, 56
- Marignano, 49 n. 1
 Marriage, 112, 170, 214, 215
 Maryland, 139 n. 1
 Massachusetts, 57 n. 2
 Match-making monopoly, 240
 Mayors of Communes, 141 n. 3
 Message of 13th June 1890, 131
 Michigan, 139 n. 1
 Military capitulations, 7 n. 2, 46, 49 n. 1, 63, 75
 — service, 55 n. 1, 112, 218, 219
 Minority, treatment of, xviii, 234 n. 2
 Mississippi, 57 n. 2
 Missouri, 57 n. 2
 Municipal Council, x.
- NACHGEMEINDE, 16 n. 1, 17
 Napoleon, 20 n. 1, 43 n. 1, 56, 57 n. 2, 58, 60
 National Council, xxi, 79, 109, 115 n. 1, 123, 129, 144, 227
 — museum, 148 n. 1
 Naturalisation, 9, 63, 75
 Neuchâtel, 51 n. 3, 61, 66 n. 3, 82, 116, 137, 140, 171, 172, 188 n. 1, 195, 197 n. 2, 200, 201 n. 1, 212 n. 1, 221, 229, 260, 262, 270, 281, 306, 307, 309, 313
 New England, town-meetings, 21 n. 2
 — Hampshire, 57 n. 2, 139 n. 1
 — South Wales, xxxiii n. 1, 290 n. 1
 New York, 57 n. 2, 139 n. 1
 Nidwald, xxi, 11 n. 1, 15, 22, 25 n. 2, 137 n. 3, 212 n. 1, 305, 306, 309, 311, 314
- OBWALD, 25 n. 2, 139 n. 3, 159, 212 n. 1, 221 n. 1, 305, 306, 309, 311, 314
 Ochsenbein, Herr, 111 n. 1
 Office, eligibility for, 7, 9 n. 1

- Office, plurality of, 263
 — tenure of, xxiii, xxviii, 7 n. 3
 Officials, removal of public, 65
 — salaries of, xxiii, 146, 235
 Ohio, 139 n. 1
 Old Catholics, 114, 258
 Opposition in Federal Assembly,
 the, 215, 222, 286
- PARDON, right of, xxiii, 146 n. 2
 Parish meetings, xii
 Party system, absence of, xxv
et seq., 296
 Patents, decree concerning, 222
 Patriarch families, 44, 48, 49, 54,
 61, 63, 64, 65, 90 n. 1, 165
 Paupers, 165, 215, 217
 Peace, conclusion of, 33, 46, 62,
 108, 146 n. 2
 Pedrazzini, M., 270, 279
 Pensions, 232, 256 n. 1
 Petition, definition of, 298
 — right of, 67, 110, 191
 Places of burial, 115
 Police, 32, 52 n. 1, 172, 295
 Political societies, influence of,
 106, 302
 Poor law, 179 n. 1
 Population, ix, xxxiii, 25 n. 2
 Postulat, xxiv
 Prefectures, 55
 President of the confederation,
 xxiv
 "Presiding canton," 60 n. 5
 Press, freedom of, 65, 67, 102
 — influence of, 85, 106, 163,
 302; foreign, 247
 Priests, 112
 Primary assemblies, 75
 Privileges, abolition of, 59, 62,
 158 n. 1, 263
 Projet Girondin of 1793, 57 n. 2
 Proletariat, absence of, xxxiii, 247
 Property, law of real, 295
- Proportional representation, xv
 n. 9, xviii, xxi, 60, 67, 122, 234,
 256 n. 1, 279, 280, 281, 286
 Proudhon, 35
 Proxy vote, 186, 256
 Prussia, King of, 66
 Publication of laws, 153, 173
 Publicity, 160 n. 2
 Public meeting, right of, 102
 — works, 295
 Python, M., 151 n. 1
- RADICALS, xxv, 72, 78, 83, 93,
 108, 113, 115, 123, 141, 221,
 223, 225, 227, 264, 266, 269,
 270, 272, 296
 Radical measures, popular dislike
 of, 247, 250 n. 2
 Railway, Jura Simplon, 244
 — St. Gothard, 153 n. 1, 245
 — Swiss Central, 233
 Railways, 82, 83, 111, 233, 244-5,
 256 n. 1, 262
 — accounts demanded, 242
 — Alpine, 220
 — funicular, 245
 Referendary delay, cantonal, 173;
 federal, 154, 299
 Referendum, v, 3, 29 n. 2, 76,
 117 n. 1, 150, 190, 193, 226,
 268, 285
 — at the option of the Legis-
 lature, 174 *et seq.*
 Referendum in cantonal affairs,
 29 *et seq.*, 38, 42, 45 *et seq.*,
 49 n. 1, 60, 63, 75, 76, 81 *et*
seq., 89; compulsory, 45, 75, 84,
 137, 140, 141, 142, 176 *et seq.*,
 188, 262, 278 n. 1, 287;
 optional, 45, 76 n. 2, 171 *et*
seq., 183, 192, 278 n. 1
 Referendum in federal affairs, 52,
 56, 101 *et seq.*, 147 *et seq.*, 295;
 compulsory, xvi, 125 *et seq.*

- 136, 169, 211, 278 n. 1, 287 ;
 optional, 76 n. 2, 169, 192, 278
 n. 1, 298
- Referendum, in financial matters,
 153 n. 2, 275
- conservatism of, 246 *et seq.*,
 250 n. 2, 271
- cost of, 169
- criticisms of, 24, 166, 266 *et
 seq.*
- delay caused by, 162 n. 1
- matter exempted from, 152
 n. 3
- manipulation of, 180, 216,
 248, 273
- procedure, 154 *et seq.*, 174 *et
 seq.*, 180 *et seq.*, 249
- results of, 111, 116, 123 ;
 table of results, 207 *et seq.*, 249
et seq.
- royal, xxxvii, xlvi, 292
- training for, 293
- Reformation, 46
- Regierungsrath, xvii n. 2, xx
- Reiten und Fahren auf die Ge-
 meinden*, 30 n. 3
- Religious orders, 115
- teaching in schools, 223 *et
 seq.*
- Representative system, 35 n. 2,
 60, 67, 68, 77, 81, 83, 85, 87,
 90, 95, 102, 107, 134, 177 n. 1,
 190, 228, 260, 283, 285, 287
- Respini, M., 151 n. 1
- Revision, total, of the Constitution
 of 1848, 91 *et seq.*, 100 *et seq.*,
 113 *et seq.*
- partial, of the Constitution
 of 1874, 123, 229, 231, 235 *et
 seq.*
- of the cantonal constitution,
 xiv n. 3, 62, 68 *et seq.*, 136 *et
 seq.*
- periodical, xvi n. 1, 305 n. 2
- Restoration, effect of, 64
- Revolution of July 1830, 3, 65,
 66 n. 1, 284
- Revue Internationale*, 280
- *Suisse*, 264, 279
- Rhine Valley, 12 n. 2
- Rhetian Republic, 28, 31 n. 2 ;
 Diet of, 29, 33 *et seq.*
- Riesbach, 254
- Right, the, 109, 121, 254 n. 2, 270
- Rittinghausen, 35, 38 *et seq.*
- Roads, 52 n. 1, 153, 179 n. 1
- Rollin, Ledru, 35
- Romance cantons, viii, 108, 111,
 165, 214, 217, 231, 242, 261
- Rousseau, 49 n. 1
- Ruchonnet, M., 230
- St. GALL, 68 *et seq.*, 74, 116, 137,
 140, 143, 171, 173, 175, 186 n.
 3, 188 n. 1, 190, 195, 196, 197,
 198 n. 2, 212 n. 1, 221 n. 1,
 230 n. 2, 260, 267, 281 n. 3,
 306, 310, 313
- Sanitary Legislation, 32, 179 n. 1,
 222
- Schaffhausen, xvi n. 1, 60 n. 5,
 81, 88 n. 1, 116, 137, 140, 143,
 154 n. 2, 171, 172, 173, 184 n.
 2, 188, 195, 196, 197, 198, 201
 n. 1, 212 n. 1, 213, 270, 305,
 307, 308, 310, 311, 314
- Schenk, Karl, xxviii
- Scherer, M., 104, 106, 107, 110
- School District Assembly, xiii
- Schwyz, 3, 4, 11 n. 1, 13 n. 2,
 16 n. 2, 17, 26 n. 1, 78 n. 1,
 81, 117, 137, 142, 171 n. 1,
 172 n. 3, 176, 179 n. 1, 180 n.
 1, 188 n. 1, 195, 197, 198 n. 4,
 212 n. 1, 213, 221 n. 1, 305,
 307, 308, 310, 313, 314
- Secession, attempted, 78 n. 1
- Second Chamber, use of, 283

- Sectarian animosities, 9 n. 1, 25
 n. 2, 46, 49 n. 1, 53, 74, 93,
 108, 111, 112, 114, 235, 258,
 265, 268 n. 2, 296
 Segesser, M., 109
 Settlement, right of, 67, 92
 Siebengeschlechtsbegehren, 16, 21
 Signatures, collection of, 131 n. 1,
 155, 158, 161, 174, 195 n. 3, 202
 Sion, Bishop of, 42
 Slaughter-houses, 236
 Small Council, 67, 72
 Social conditions of Switzerland,
 xxxii, 247
 Socialists, 121, 158 n. 1, 225, 229,
 237, 238, 291
 Solothurn, 60 n. 5, 81, 83, 88 n.
 1, 116, 137, 139 n. 2, 142, 143,
 159, 174 n. 1, 176, 179, 181 n.
 3, 186, 188 n. 1, 195, 197, 198,
 200 n. 2, 201 n. 1, 212 n. 1,
 258, 270, 281 n. 3, 306, 307,
 308, 309, 310, 311, 314
 Sonderbund, 78 n. 1
 Sopra Genere, 266
 Sotto Genere, 266
 South Australia, 290 n. 1
 Spain, 155 n. 1
 Spirituous liquors, law on, 229
 "Spoil's Campaign," 238
 Stabio, 226
Standescommission, xx
 Ständerat, 22 n. 3
 Stanz, 15 n. 1, 16 n. 2
 State bank, 243
 — in Neuchâtel, 262
 State churches, xii
Statistisches Jahrbuch, 212 n. 2
 Stamped envelopes, 148 n. 1
 Subject domains, 9, 10, 54, 59,
 60, 61, 62
 Surplus, division of, 238
 Sword, wearing of, 4
Syndikatstage, 52 n. 1
 THURGAU, 12 n. 2, 81, 83, 88 n. 1,
 116, 123, 137, 140, 159, 176,
 179 n. 1, 181 n. 2, 184, 185 n.
 1, 186, 187, 188 n. 1, 195, 197
 n. 1, 198, 201 n. 1, 212 n. 1,
 213, 270, 305, 306, 309, 310,
 311, 313
 Ticino, viii, 65 n. 1, 66 n. 3, 85,
 117, 137, 138 n. 1, 140, 151 n.
 1, 156, 171 n. 1, 173, 188 n. 1,
 195 n. 2 and 3, 197 n. 1, 198
 n. 2 and 3, 201 n. 1, 212 n. 1,
 221, 226, 230, 231, 265, 281,
 306, 307, 308, 309, 310
 Town meetings, New England,
 21 n. 2
 "Tractandas," 145
 Trade, freedom of. *See* Commerce.
 Trade unions, vi, 7 n. 1, 35 n. 2
 Tramps, 201 n. 2, 252 n. 1
 Treaties, 8, 14, 33, 46, 48, 62, 146
 n. 2, 152, 172, 175, 178, 295, 299
 Triple Council, 22
 ULTRAMONTANES, 74, 115, 117,
 160, 267
 United States. *See* America.
 Universal suffrage, 291
 Unterwalden, xiv n. 2, 3, 5 n. 1,
 78 n. 1, 117, 213
 — Lower. *See* Nidwald
 Urgency, 116, 144, 148, 171, 197,
 275, 295, 299
 Uri, viii, xiv, xxi, 3, 4 n. 1, 5 n.
 1, 15 *et seq.*, 19, 21, 22 n. 1,
 25 n. 2, 78 n. 1, 117, 137 n. 3,
 159, 212 n. 1, 213, 221 n. 1, 35,
 308, 314
 Uster, 254
 VACCINATION, 201 n. 2, 222, 252
 n. 1, 256 n. 1
 Valais, viii, 27 *et seq.*, 32 n. 1, 42,
 43, 61, 63, 66 n. 3, 75, 78 n. 1,

- 81, 90 n. 1, 117, 137, 140, 159, 176, 177, 186 n. 3, 188 n. 1, 195 n. 1, 212 n. 1, 213, 221 n. 1, 231, 262, 306, 309, 310, 313
- Vaud, viii, 46 n. 1, 65 n. 1, 76, 77, 82, 116, 123, 140, 154 n. 2, 159, 171, 172, 188 n. 1, 193 n. 1, 195, 197 n. 2, 198, 201 n. 1, 212 n. 1, 213, 220 n. 2, 260, 263, 270, 301, 306, 314
- Vehmgericht, 52 n. 1
- Veto, 3, 30, 57, 67, 71, 73, 74, 75, 77, 81, 83, 89, 98, 105, 174, 284, 285, 286, 293
- Vetterli, 102
- Vincent, Mr. G. M., xix
- Virginia, 139 n. 1
- Vögelin, M., 167
- Volkstümliche Ansichten, 68
- Votes, cancelled, 160
- Vote, the cantonal, 62, 80, 108, 116 n. 1, 129, 136, 170, 302
- Vote, communal, 48, 57 n. 2
- Vote, compulsory, 5, 174, 186, 254, 257, 260 n. 1, 289, 291
- Voters, number of, 105, 212, 240, 252, 255, 256, 258, 259, 273, 289
- Votes of illiterates, 156
- Voting, arrangements for, 185
- Voting day, 161, 162 n. 1, 164, 185 n. 1, 291
- Voting-paper, form of, 165, 301
- Votings, frequency of, 187, 188
- Waldmannischer Spruchbrief, 49 n. 1
- War, civil, 78 n. 1
- War, declaration of, 33, 46, 48, 62, 108, 146 n. 2
- Weights and measures, uniformity of, 92, 93, 136 n. 1
- Welti, M., xxvii, 101, 233 n. 2
- Workmen's party, programme of, 291
- ZEMP, M., xxv, 234 n. 2, 242, 270, 279
- "Zempacher Sieg," 242
- Ziegler, M., 103
- Zug, viii n. 1, xxi, 4 n. 2, 26 n. 1, 63, 78 n. 1, 81, 117, 137, 142, 143, 171, 172, 173, 174 n. 1, 175, 188 n. 1, 195, 198, 212 n. 1, 213, 221 n. 3, 281 n. 3, 305, 307, 308, 309, 310, 311, 314
- Zurich, viii n., xv, xxiii, 49 n. 1, 51, 52 n. 1, 60 n. 5, 83, 84, 93, 94, 116, 122 n. 1, 137, 151 n. 1, 154 n. 2, 157, 159, 176, 178, 179 n. 1, 180 n. 1, 185 n. 1, 186, 187, 188 n. 1, 195, 197, 198, 199 n. 1, 200 n. 2, 201 n. 1, 212 n. 1, 213, 231, 249 *et seq.*, 275 n. 1, 294, 305, 306, 307, 308, 309, 310, 314
- town of, xi, xxxiii

"A permanent and invaluable contribution to the sum of human knowledge. . . . We commend to the public a book which is a monument of research and full of candour. . . . Indispensable to every publicist and politician."—TIMES, 4th January 1898 (day of publication).

Now Ready. Post 8vo, Two Vols., xxix. and 929 pages, with Two Diagrams. Price 25s. net.

INDUSTRIAL DEMOCRACY.

BY SIDNEY AND BEATRICE WEBB

(Authors of "The History of Trade Unionism.")

ADVERTISEMENT.

In this work the authors of "The History of Trade Unionism" deal, not with the past, but with the present. They describe, with the systematic detail of the scientific observer, and in the same objective spirit, all the forms of Trade Unionism, Factory Legislation, and other regulations of industry to be found in the British Isles. The whole structure and function of Labour Organisation and Restrictive Legislation in every industry is analysed and criticised in a manner never before attempted. The employer in difficulties with his workmen, the trade unionist confronted with a fresh assault upon his standard rate, the politician troubled about a new project for Factory Legislation, the public-spirited citizen concerned as to the real issues of a labour dispute, will find elucidated in this work the very problems on which they are thinking. It is a storehouse of authenticated facts about every branch of the "Labour Question," gathered from six years' personal investigation into every industry in all parts of the kingdom; systematically classified, and made accessible by an unusually elaborate Index.

But the book is more than an Encyclopædia on the Labour Question. Scientific examination of trade union structure reveals, in these thousand self-governing republics, a remarkable evolution in democratic constitutions, which throws light on political problems in a larger sphere. The century-long experience of these working-class organisations affords unique evidence as to the actual working of such expedients as the Referendum, the Initiative, Government by Mass Meeting, Annual Elections, Proportional Representation, Payment of Members, and, generally, the relation between the Citizen-elect, the chosen Representative, and the Executive Officer. The intricate relations of trade with trade have an interesting bearing upon such problems as Local Government, Federation, and Home Rule. Those who regard the participation of a working-class electorate in the affairs of government as the distinctive, if not the dangerous, feature in modern politics, will here find the phenomenon isolated, and may learn how the British workman actually deals with similar issues in his own sphere.

The analysis of the working of Trade Unionism and Factory Legislation in the various industries of the United Kingdom has involved a reconsideration of the conclusions of Political Economy. The authors give a new and original description of the working of industrial competition in the business world of to-day; and they are led to important modifications of the views currently held upon Capital, Interest, Profits, Wages, Women's Labour, the Population Question, Foreign Competition, Free Trade, &c. The latter part of the work is, in fact, a treatise upon Economics.

Finally, it should be stated that the authors, in the Preface, describing their investigations, propound a new view as to the scope and method of Political Science.

LONGMANS, GREEN, AND CO.

LONDON, NEW YORK, AND BOMBAY.

Other Works by the same Authors.

PUBLISHED BY SWAN SONNENSCHNEIN & CO.

THE CO-OPERATIVE MOVEMENT IN GREAT BRITAIN. By BEATRICE POTTER (Mrs. Sidney Webb). Second Edition, 1893. Crown 8vo, with Coloured Map showing Distribution of the Co-Operative Movement, Appendices, and Index. Price 2s. 6d.

"Miss Beatrice Potter's luminous and suggestive volume is not a mere bald, historical outline, but a thoughtful and pregnant study of tendencies, causes, and effects."—*Times*.

"The whole volume is full of suggestion, both to co-operators and to politicians. . . . It is without doubt the ablest and most philosophical analysis of the co-operative movement which has yet been produced."—*Speaker*.

SOCIALISM IN ENGLAND. By SIDNEY WEBB, LL.B. Second Edition, 1893. With new Introductory Chapter. Crown 8vo, price 2s. 6d.

"The best general view of the subject from the moderate Socialist side."—*Athenæum*.

THE LONDON PROGRAMME. By SIDNEY WEBB, LL.B. Second Edition, 1894. With new Introductory Chapter. Crown 8vo, price 2s. 6d.

"Brimful of excellent ideas."—*Anti-Jacobin*.

PUBLISHED BY WALTER SCOTT.

THE EIGHT-HOURS' DAY. By SIDNEY WEBB, LL.B., and HAROLD COX, B.A. Crown 8vo, 280 pp., with Bibliography. Paper covers, price 1s.

"The unique value of this little book lies in its collection of facts. It is likely, for some time, to hold the field as the handbook to one of the chief items in the social politics of the immediate future."—*Pall Mall Gazette*.

PUBLISHED BY GRANT RICHARDS.

LABOUR IN THE LONGEST REIGN, 1837-1897. By SIDNEY WEBB, LL.B. Small 8vo, cloth, price 1s.

PUBLISHED BY LONGMANS, GREEN, & CO.

THE HISTORY OF TRADE UNIONISM. By SIDNEY and BEATRICE WEBB. Second Edition, 1896. Revised (completing 2500 copies). Post 8vo, 574 pp., cloth, with Coloured Map, 18s.

"A masterly piece of work."—*Times*.

"To the politician . . . an invaluable guide."—*Observer*.

PROBLEMS OF MODERN INDUSTRY. By SIDNEY and BEATRICE WEBB. Now Ready. Post 8vo, 286 pp., price 7s. 6d.