## **EXPLAINS INITIATIVE AND REFERENDUM**

One of the important topics of dis, to have a measure submitted, than is i legislatures for many years and each consion at the annual meeting of the new provided by law. Eight per cent of party has succeeded in blocking legisla-National Municipal league, which has the legal voters are now required to tion proposed by the others. At the last election (in June, 1908), each party had been in ression all of the past week propose any measure by petition.

Cincinnati, Ohio, was Oregon's in-Itlative and referendum. At the re- submitted to the legislature with the quest of the officers of the drague a light to pass upon of to amend them, paper on this subject was prepared by J. N. Teal of Portland, and it was read last Wednesday sfternoon. read last Wednesday stternoon. Mr. Tual reviewed the history and of the initiative and is now under pub-

practical workings of the initiative and lie consideration referendum in this state, reciting the occasions on which the people have expreised the powers conferred upon them by these measures, and discussed the results that have been obtained. His paper was in part as follows:

#### Causes for Adoption.

10

the adoption of these powers are the in the legislature and those that have name that are in evidence throughout been vetoed by the governor. the country generally. The people felt the government was getting away from none of the other suggested amendthem and they desired a more direct control, both in the making of laws and in their enforcement than they enjoyed. More potent, however, than this was the failure of the legislature to rend to the demand of the people for the enforcement of laws respecting the control of corporations, taxation and kindred subjects affecting public inter-MOTO. councils were the rule rather than the special interests. legislation, Legislatures and councils were too often more solicitous for spethe people wanted to secure some ef. fective and direct method of making their influence felt and their wishes

#### respected. Difficult to Get Laws.

The difficulty in securing the enactment of the Australian ballot law, and the registration law are examples of

laws the people wanted, and which measures failed repeatedly to pass. The wheimingly cedure. and other public measures' were proposed under it and passed, the copsequence being that the same influences

ture are the coadliest foes of the inillative and referendum, although this is not to say that there are not very many good citizens who are opposed to it, both on principle and in practice.

#### Criticisms of Initiative.

While the powers reserved under the initiative and referendum have a restraining influence on the legislator and operate as a check on vicious, extravagant and special legislation, there is tendency to cause the legislator to feel less personal responsibility and to leave to the people matters which he should act on. It also provides what seems to some too easy and expeditious a method of submitting amendments to the constitution. Indeed, some claim that substantially we have no constitution left in the sense it is generally law.

understood. Formerly it required not only a ma fority of those voting at an election. but a proposed amendment was required to be agreed to by a majority of all the members elected to each house in, two successive legislative assemblies. before submission to the people. Now an amendment may be proposed directly by the people and a majority of those voting on it at any general election is sufficient to carry the proposition.

#### When to File Petition.

The initiative petition for the submission of an amendment must be filed this act, and at the election of 1908 it with the secretary of state not less than four months before the election at it is to be voted upon, and must

2 To have initiative measures first its bill proposed under the initiative, each legislating the other's method of destruction and preserving its own. Th electors, in an access of digust, tinged with sardonic humor, passed both bills by different but decisive majorities. The laws thus passed taken together prac-tically prohibit fishing by either method

Becall Adopted.

provide for proportionate representa-

"corrupt practices" act

passed by a heavy majority. This act

is very long, and, while its object is

good, it is exceedingly complicated, and

it is doubtful if some of its provisions

no question, however, but what its op-

eration was noticeable at elections fol-

lowing its adoption, and it certainly had

Constitutional Amendment.

A constitutional amendment was also

also

There is

tion passed by a large vote.

can, or should be enforced.

The

as far as the legislation of this state 3. Limiting the number of constitualone was competent to do so." tional amendments or laws that may be submitted to vote at any one election A law instructing the members of the 4. Limitation of subject matter to a legialature to vote for and elect the single proposition in concrete form.

5. It has also been suggested that In my opinion the causes which led to have been introduced and failed to pass at the general election, carried by 69,-668 to 21,162.

Except No. 2, so far as I am aware, ments have been reduced to writing or prepared for public discussion,

### Purpose of Referendum.

The referendum is felt to be of great value in operating as preventive of aspecial, extravagant or otherwise obnoxious legislation. This power operates as a strong deterrent against extrava-Boss ridden i-gislatures and gant legislation or that favorable to a, marked effect for the better. The indiscriminate exception, and the people were tired of granting of franchises, the bartering coaxing and pleading to secure desired away of public rights and the granting or special privileges of all kinds which have been so prolific of corruption in mission of a crime or misdemeanor, excial than for the public interests and the past, would not have been indulged in to the extent they have had the peo ple always reserved this power.

There is but little criticism of the Feferendum. About the only change suggested is to provide for a large

number of petitioners. Type of Measures.

It could hardly be said that the pee ple have not voted intelligently, and were enacted grudgingly and after long for what they thought to be for the continued agitation. Other important public interest, upon measures that have been submitted for their consideration. combined effect was to create a senti-ment (as shown by the vote) over- by the people, though possibly differby the people, though possibly differs shown by of the new pro-ing in language or construction, have After its adoption tax laws been rejected by the legislature. The following list is illustrative of measures submitted and votes cast thereon: 1906

.. 36,928 46,971 35,397 45,144 To purchase a private toll road road. For initiative and refer-31,525 44,525

endum on local, sprelal and municipal laws... 47,778 16,735 Prohibiting free passes.. 57,281 16,779 (No enacting clause). Requiring sleeping car, refrigerat.r car and oll computer to the en

companies to pay an nual license upon gross nual license upon gross earnings Requiring express, tele-graph and telephone companes to pay an-nual license upon gross earnings 69,635 6,440

earnings . 70,872 6.360

### No Enacting Clause,

It will be noted that the act prohibiting free passes had no enacting clause. and in consequence falled to become

The act to regulate transportation and commerce, etc., was passed at the legislative session of 1907. Certain provisions of this act, in effect, prohibited the giving of free transportation.

Notwithstanding the vote of the people but recently cast upon the question. the legislature at the same session passed an act requiring the railroads to grant free transportation to state and ounty officials as a consideration precedent to acquiring land for corporate purposes by the exercise of eminent do-

tremely unlikely that it will be repealed. Referendum on Appropriation.

A referendum was also called on an

The appropriation was sus-

appropriation made for the state uni-

as an illustration of its dangers. Per-

sonally, I do not view it in that way, as I think the discussion that followed, and

the better understanding the people in

the end had of the subject, did good

main. A referendum was called upon was defeated by a vote of 59,406 to 28, 856. This exemplifies the use to which the referendum may be put, and is an excellent illustration why it is

jury. Prior to the passage of this act, the district attorney could, upon his which in effect was an indiciment. An analysis of the measures submitted and the vote of the people there-

m would indicate that there is nothing in the vote on these measures which would justify condemnation of the law. or fear of its consequences. At the city election in Portland, held

In June this year, there were 35 mea-sures submitted to the people. As the number of measures submitted at this election is often used as a "horrible example" of what the initiative and referendum may lead to, simple justice demands the facts be stated. There were | against. 35 questions submitted. Of these, 25 were proposed amendments to the

charter, which can be changed only by a vote of the people. Of these, three were submitted by a charter board apcandidate for United States senator who pointed for the purpose of submitting the initiative be confined to bills that receives the highest number of votes a new charter or amendment to the existing charter; 22 were submitted by the council direct, or upon the advice An act authorizing the legislature to of a committee of seven citizens appointed to propose changes and none

#### by petition through the initiative. Ordinances Submitted.

Nine ordinances' were submitted.

have. bassed providing that no person can be submitted had not the council acted. charged in the circuit court with a com-Many of the charter amendments were they can be trusted to act upon meas-then be not in inportance, but, as before ures that may be submitted to them, its potentiality. of slight ept upon indictment found by a grand stated, as the charter can only be and that as a whole they will act fairly

changed by a vote of the people, had to and justly, if they understand them. be submitted. Others were of great ini- They may be Received, but, I do not be own investigation, file an information portance. A commission form of gov Heve any considerable number of peo ernment was defeated by a vote of 10,ple will knowingly be unjust or unfait 770 against to 4903 for. A municipal or act otherwise than what they be-electric light plant was proposed. It lieve to be to the interest of the comwas defeated by \$684 against, to 6039 munity.

Proposed ordinances granting to a Gothenburg association the exclusive Ido not desire to make any compariright to sell spirituous liquors in the sons between laws passed by the legis city of Portland, and a rather stringent excise ordinance were both badly dedirect. would not be unfavorable

feated An amendment requiring franchise report to the city auditor, carried by a vote of 10,302 in its favor and 4444

Twenty-seven of its recommendations were adopted, and eight were not. Of say so, and urge its repeal. At times the eight two at least were of no par- measures are suggested and action the eight two at least were of no particular importance.

Repeal of Initiative and Referendum In my opinion, a proposition in this state to repeal the initiative and referendum, notwithstanding certain defects and disadvantages, would meet with defeat. In the future, defects may develop that will provoke a repeal, but this I doubt. On the contrary, I think it much more probable that the de-

Of fects will be remedied, and the axe will these two were submitted by the coun- not be laid at the root of the tree. It cil and seven by the initiative petition. Is true the initiative and referendum referendum was called against an is a radical departure from our former ordinance passed by the council. It will practices, and imposes a grave respon-thus be seen the people, through the sibility upon the people. Thus far on initiative and referendum, were direct-ly responsible for eight of the measures burden and in my opinion it has worked submitted. However, it is but fair to for good, and nothing is of more imporsay that a number of the others should tance in a government such as ours have, and probably would have been than to place responsibility directly upon the people. It is my belief that

cuss the effectiveness of the initiat and referendum as instruments for recuring a democratic government. sure you do not desire an academi discussion of this question. You are, of course, aware that there are fwo lines of thought. One holding that is destructive of, the other that it is an aid of a democratic form of gov-

ernment. Not Contrary to Constitution

lature and those passed by the peop direct, but the comparison if mad It is asserted, as you know, that un made 10 der it a state does not enjoy the charpassed through the initiative. While acter of government guaranteed by th holders to keep accessible accounts and I favored and still favor the initiative constitution of the United States, and and referendum. I am not a partisan or special pleader for it, and if I bea case involving this point is now pending in the supreme court of the United States on appeal from the su preme court of Oregon. However, thus lieved, or was convinced, it worked for harm rather than for good, 1 would far the courts have held, including th supreme court of this state, that the initiative and referendum as adopted taken thereon that create some doubt in this state is not contrary to the provision of the constitution of the as to the wisdom of the procedure, but when one thinks of what went on under the old system, and how indiffer-ent and worse than indifferent, legisla-United States guaranteeing republican form of governments.

tures have been, and are, both as to It is also asserted that the only the rights and demands of the people, method by which our character of gov one feels that a mistake made now and ernment can be maintained, is through then, does not justify a wholesale conrepresentatives chosen by the people. Very carnest and able men support

both whews, but speaking from our ex-It is urged that the people without perfence thus far, it is my opinior this law have the power to elect only that the initiative and referendum It is urged that the people without honest and qualified men to office, and tends to secure more democratic gov-therefore there is no occasion to inau-gurate what appears to some people to government by the people and for the

be a revolutionary program. This may prople, than be true, but to have a concurrent rempeople, than does the purely represen A number of laws and amendment elect honest men, but let them also to the constitution have been approved retain the power reserved in the initia- by the people when proposed by initiative and referendum. Its benefit will tive petition, after the same measures then be not in its use, but rather in had been rejected by the legislature, its potentiality. and are some evidence of the truth of

edy, can do no harm. Let the people

In your letter you asked me to dis- this statement.

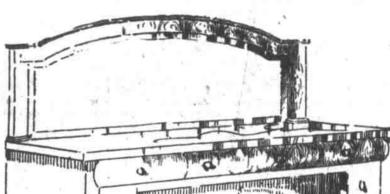
Comparison Pavorable.

demnation of the new system.

Bemedy no Marm.

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submitted at a regutar general election unless otherwise ordered by the legislative assembly. This direct method of amending the constitution unquestionably imposes very grave responsibilities upon the electors.

When originally adopted it was gen-erally thought that only measures of tained by a vote of 44,115 to 40,535. This referendum is occasionally referred to great importance and of limited number would be submitted under the initia-In practice it has been found that tive. is not the case, although this statement is subject to some qualifica-tions. Not unnaturally when it was

rather than harm. I might add that the large negative first adopted quite a number of laws were proposed and nearly all carried. vote does not really represent the feelthe enactment of which had been deings of our people toward the state unimanded over and over again by the people only to be defeated by the legisversity. A number of local conditions and issues swelled this vote, and I think In other words, it was but the I am safe in saying the people of the state generally take a justifiable pride inevitable result of the people having in this institution, which I am glad to the power to carry out their will, which been hitherto thwarted by the failsay is growing in strength and influhad ure of the legislature to act at all, or ence all the time.

versity.

#### if it did act, it acted adversely. Truth in Criticism.

so that they understand them. A popu-

lar demand crystalized into the form of

tion-the details and imperfections be-

ing overlooked in the desire to obtain

hand, it might be urged that to compel people generally to study and under-

stand the conditions under which they

are living could scarcely be called an

Statements Advisable.

However, even if not necessary, it has been found advisable for organiza-

tions of the organization on the particu-

in this work, but it can be readily understood that the printing and circu-

lating of these statements and reports

costs considerable money, and with elec-

Hons every year, one the city the

as are urged by those who are opposed

to it on principle, or the conservatives who view with alarm changes in any

direction, or those who wish to limit

the responsibilities of the people a whole. On the other hand, the

me and changes of policy of enact

rather than colarge either the power

initiative places in the bands of the

Changes Suggested.

those interneted pretty busy

the ultimate purpose.

objection

lar question.

It is also claimed that laws submitted

Among the measures submitted in 1908, and defeated were the following:

Measures Defeated.

under the initiative may be, and are sometimes, prepared from a blased or Increasing the compensation of mem-bers of the legislature to \$400 for a partisan standpoint, and thus are liable regular session and \$10 per day for each to be unfair, ill considered, or poorly extra session, instead of \$3 per day and prepared, and, not being susceptible of mileage. amendment, must be adopted or rejected

An amendment increasing the number as presented. There is truth in this criticism. At the same time there is of judges of the supreme court and changing the jurisdiction of certain considerable expense attached to sub-mitting a law, and the people, if they other courts.

An act appropriating \$25,000 annually aderstand it, will not support an un for four years for purchasing grounds fair or one slded measure. The chief difficulty in this respect, however, is and building armories for the use of the Oregon National Guard: in getting the facts before the public

#### Equal Suffrage Amendment,

An act giving cities and towns within their corporate limits additional and exa law headed by a "catchy" title is clusive power to license and control or too apt to receive favorable considera- prohibit theatres, race tracks and the sale of liquors, etc. This proposal was considered to be something in the nature of a trick to avoid the effect of Another objection is, that it takes too the local much of the time of the people in study-ing proposed legislation. On the other tive votes. the local option law, and received 39,-442 affirmative votes and 52,346 nega-

#### Single Tax Amendment.

The single tax amendment was de feated by a vote of 60,871 to 32,066. The following carried:

Permitting the location of state institutions elsewhere than at the seat of government by act of Jegislature and rote of the people.

tions to issue statements to voters tot ering the questions to be submitted. They generally consist of a short first Monday in June to the Tuesday after the first Monday in November. Two laws prohibiting fishing for salnon, etc., were both passed. One was question. The Taxpayers' league known as the "up river bill," the other this city has been specially active as the "down river bill." The effect of this work, but it can be readily unthe taking of salmon, although such was not the intention of the proposers. They only wanted in each case to restrain the thous every year, one the city the rival interest. While on its face it would indicate that the vote cast is evidence of confusion that may result from I think the foregoing are the chief the use of the initiative, yet if the subobjections to the initiative, except such ject was understood as we understand R

here, the result is not surprising. More-over, it is not uncommon to find contradictory laws as well as acts having irreconcliable provisions passed by the legisisture.

#### Report of Commission.

In the report of the Oregon conservacommission of 1968, the committee prepared the paper on the salmon in connection with this vot

have as they may desire, or be to be to their hest interest. A gere is some anisgoniam among the umber of changes have been suggested, mingst them being the following: / stors of any kinds of gear against sthet. Between the gilinetters of 8.07 wer and the wheemers of the upper the In provide that a larger number of vive- this visce to open hostility. Op ig delegations have met before

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