

THE REFERENDUM IN SWITZERLAND AND IN AMERICA.

So much has been written of late years about the Swiss Referendum, or popular voting upon laws, that anything more would appear superfluous, were it not for a serious movement to adopt the institution in this country, — a movement that has taken positive shape in a number of political platforms. While, therefore, the mechanism of the Referendum has been repeatedly described, a few words on its practical results in Switzerland, and its possible application in America, may not be out of place.

The Swiss Referendum has two distinct forms. One of them is called the facultative, or optional, and this is where a law must be submitted to popular vote if a certain number of voters demand it in writing; the other is the compulsory, and requires, as the name implies, that all laws shall be so submitted, without the need of any demand. Each of these forms is in use in several cantons, but the Swiss statesmen themselves consider the compulsory form preferable, because it avoids the agitation involved in the effort to collect the necessary signatures. It is, however, the more expensive form, for the Swiss have the wise habit of printing and distributing the measures to be voted on, in order that the people may understand them. The cost of this is by no means trifling, as may be judged from the fact that the expense of printing alone, in the case of the recent national bankrupt law, amounted to 47,696 francs (about \$9500), and the total cost to the Confederation of the vote was about 130,000 francs (\$26,000). Nor do these appear to be unusual figures.

A brief survey of the use of the Referendum in the Confederation and in the cantons will serve as a basis for the study of its more important effects.

¹ During the same period there were also eight constitutional amendments submitted to

The compulsory Referendum exists for all amendments to the federal constitution; that is, these must always be submitted to popular vote for ratification. The facultative Referendum, on the other hand, applies to all laws and all other votes of a general nature passed by the Federal Assembly, if thirty thousand voters or eight cantons demand it, unless the Assembly declares the matter urgent, — a power which that body is said to have used arbitrarily at times. As a matter of practice, the cantons never demand the Referendum, but the right is freely used by the people, as is shown by the fact that from the time of its introduction in 1874 to March, 1893, the requisite number of voters demanded a Referendum upon nineteen out of the one hundred and sixty-nine laws to which it could have been applied; that is, on the average, in the case of one law out of eight. Of these nineteen laws, the people ratified six and rejected thirteen, or more than one twelfth of all the statutes passed by the Assembly.¹

These figures are surely enough to show that the Swiss exercise their rights with great sturdiness and independence. Nor do they obey the dictation of party: and this is a point that merits particular attention, for it is essential to the successful working of the system. If, indeed, in a land where the parties are as stable as they are in Switzerland, the people voted as their political leaders directed, the laws passed by a majority of the legislature would almost invariably be ratified at the polls. Not only is this very far from being true, but in many cases the parties as such do not make any campaign or canvass the country on the Referendum, and the popular vote is not cast on party lines, popular vote, of which six were accepted, and two rejected.

— a state of things which is even more marked when the submission of the laws to the people is compulsory. Moreover, as I shall try to prove later, the fact that political parties are less developed in Switzerland than in any other democratic country is due in great measure to this very institution of the Referendum. The relation of a deputy to his constituents is, in fact, very peculiar, and very characteristic of Swiss political ideas. The rejection by them of a measure he has supported is not regarded as an indication of a loss of confidence in him; and throughout Switzerland, in cantonal as well as in federal matters, the people have an almost invariable habit of reelecting representatives whose measures they have refused to sanction. A striking example of this was given ten years ago. During the whole term of the Federal Assembly of that time the Referendum had been demanded with unusual frequency, and every law submitted to popular vote had been rejected. No such general condemnation of the policy of the legislature had been known before, or has been since. It was supposed that the people were disgusted with the autocratic radicalism of their representatives, and it was naturally expected that the next elections would result in a crushing defeat for the party in power; but instead of this the Radical majority of the National Council was returned in nearly as large numbers as before. Such an extraordinary case has puzzled the Swiss themselves, who are not able to give an entirely satisfactory explanation of it.

So much for the Referendum in federal matters. Let us now turn to the cantons. These all require a popular vote for changes in their constitutions, but in regard to ordinary laws the practice varies. One canton alone has no Referendum of any kind for such laws. All the others have adopted it to a greater or less extent, about half having preferred the compulsory, and about half the facultative form.

The proportion of laws rejected differs a good deal in the several cantons; and an examination of the figures in a few of the largest ones will throw some light on the working of the institution. The Referendum was introduced into Berne in its compulsory form in 1869, and from that time to 1888 the people voted on sixty-eight measures (including a few federal laws, and some proposals to amend the cantonal constitution). Of these measures, fifty were accepted and eighteen rejected, so that less than three quarters passed the ordeal of a popular vote; and yet Berne has by no means the reputation of being a canton where the number of laws rejected is peculiarly large. The proportion is about the same in Zurich, the most democratic of the larger Swiss cantons, and one whose constitution expresses the Swiss democratic ideal, and in a singularly direct way, when it says that "the people exercise the legislative power with the assistance of the cantonal council." In Aargau the result is even less favorable. Here, from 1870 to 1889, twenty-five measures out of fifty-six, or nearly one half, were voted down. The proportion of laws rejected by the people, where the compulsory Referendum exists, varies, in fact, in the different cantons, from a little less than a quarter to a little less than a half. The facultative Referendum, on the other hand, which is found in cantons where democracy is less thoroughly developed, has been seldom used.

There is one feature of the Referendum at the same time marked and disappointing, and that is the small size of the vote. A palpable illustration of this is furnished by the half-canton of Rural Basle, where the law requires, for the ratification of any measure by the people, not only that a majority of the votes cast shall be affirmative, but also that a majority of all the persons qualified shall take part. Now, in the twenty years from 1864 to 1884 the people voted on one hundred and two laws, of

which forty-eight were accepted and twenty-eight rejected, while twenty-six failed to be ratified owing to the absence of a majority of the citizens. This result is not due to any peculiar indifference on the part of the inhabitants of Rural Basle. It would be the same in any other canton, if the laws were similar. In Berne, for example, a majority of the citizens have taken part in only nine out of sixty-eight Referenda, and up to 1888 one law alone had received a number of affirmative votes equal to the majority of all the qualified voters in the canton. The vote is, moreover, decidedly fuller at elections than at Referenda. Even in the case of national laws, which excite a greater interest, on the average scarcely more than one half the voters in the Confederation go to the polls. Popular voting in Switzerland furnishes, indeed, another illustration of the truth that under no form of government can the people as a whole really rule; for it shows that, with the most democratic system ever yet devised, the laws are made only by that portion of the community which takes a genuine interest in public affairs.

These statistics are dry, but they give us a very definite idea of the actual working of the Referendum, and prepare the way for a more general consideration of its effects. Several very marked tendencies are observable in the treatment by the people of the various measures submitted to them. The first of these is a tendency to reject radical laws, especially those that are in any way extreme; for in both federal and cantonal matters the people have shown themselves more conservative than their representatives. Such a result was predicted from the beginning by a few shrewd statesmen, and urged as an objection to the introduction of the system. But no party would now be

in favor of giving it up: not the Radicals, because they believe the Referendum to be a necessary feature of true democracy; and least of all the Conservatives, because they like to see a drag on hasty legislation. To some extent, however, the parties have changed their opinions; for while the Radicals cannot propose to do away with the federal Referendum, they are by no means anxious for its extension; and whenever the reactionary party have suggested a compulsory Referendum for all federal laws, they have objected, on the ground that in the hands of the Clericals it would be an instrument for impeding progress. Nor are such fears groundless; for it is clear that in Switzerland a measure cannot pass unless it is so thoroughly ripe that there is a good deal of agreement of opinion about it; and it is equally clear that the people are less willing than their representatives to try experiments in legislation. Labor laws, for instance, and other measures designed to improve the condition of the working classes, although commonly supposed to be very popular with the masses of the community, have not always prospered at the Referendum. Examples of this may be taken from the industrial canton of Zurich, where the people rejected a cantonal law reducing the hours of work in factories, and protecting women and children employed in them; where they voted against the federal factory law, and later refused to sanction a cantonal law providing for the compulsory insurance of workmen, and regulating their relations with their employers. But perhaps an illustration which will give to Americans most forcibly an idea of the conservative influence of the Referendum is to be found in the rejection by the people in Zurich of a law to give daughters an equal inheritance with sons in the estates of their parents.¹

¹ Several of the cantons have, indeed, adopted laws for the progressive taxation of incomes; but this is not quite so radical as it ap-

pears to be, on account of the prevalence of tax-dodging in Switzerland. In one or two of the most democratic cantons the people have,

The people show, further, a dislike of spending money which sometimes crops up in a way that is almost ludicrous, as, for example, when they rejected a bill to provide a secretary of legation at Washington. It is, indeed, a striking fact that the only two federal measures defeated at the Referendum for several years have been bills which entailed expense. It may be remarked in connection with this that two of the cantons, Berne and Aargau, at one time carried the theory of the Referendum so far as to submit to popular vote the budget, or general appropriation bill. The experiment was absurd, and had the natural result. The budget was several times rejected, and all government thereby made well-nigh impossible, until at last it was found absolutely necessary to withdraw the appropriations from popular control. The people might well be expected to object to such a loss of power, but in Berne, at least, they were induced to ratify the repeal by adding to it other provisions designed to make the measure more palatable. Some of the Swiss writers feel that such a tendency towards economy is a cause for reproach, an attempt to minimize it; but an American would naturally think it far preferable to that inclination to squander the public moneys which seems to be a besetting sin with democracies. The fact is, social conditions are comparatively equal in Switzerland, owing to the absence of great cities with an enormous proletariat class, which does not feel the weight of the public burdens, nor realize that an increase of taxation affects its own comfort and prosperity.

How far the Referendum diminishes the sense of responsibility of the deputies it is not easy to say. This is a matter of opinion which cannot be measured by statistics, and hence the answer must depend a great deal on the predisposition of the person who makes in fact, rejected laws that would have revealed the real amount of taxable property.

We should naturally expect a representative to feel less responsibility where his action is not final, and his decision is reviewed by his constituents; and this would appear to be the case to some extent in Switzerland, at least where the Referendum is compulsory. An eminent lawyer in Berne once told the writer that the members of the cantonal legislature would vote for a measure they did not approve, relying on the people to reject it; and that he had known men to vote for a law in the Great Council, and against it at the polls. But this gentleman belonged to a party which was in a hopeless minority, and was, in fact, decidedly out of sympathy with current politics. The truth seems to be that the sense of responsibility is diminished somewhat, but not enough to impair perceptibly the efficiency and conscientiousness of the representatives. It is generally believed that a good many members of the legislature of Massachusetts voted for the prohibitory amendment to the constitution, some years ago, when they did not approve of it, because they wanted to get the question out of the way, and knew that the people would not ratify it. But it would be absurd to found a general charge of levity against the representatives of the Commonwealth on such a ground.

Perhaps the most important effect of the Referendum is its influence on the development of parties. In purely representative democracies, election is the sole political act of the people, who retain no direct control over their representatives. Now, an election under these conditions is in reality only a choice between two or more rival candidates or rival parties, to one of which the destinies of the country must be committed; and hence the parties and their opinions are extremely important. But in Switzerland, where the people vote upon each measure separately, there is no such necessity of choosing between the programmes of opposing parties and of ac-

cepting one of them in its entirety. The Referendum, therefore, deprives political programmes of much of their significance by allowing the people to elect a representative, and then reject any of his measures that they do not like. As a rule, indeed, each law submitted to popular vote is considered on its own merits, with comparatively little regard to the party with which it originated, or any other matters that may come before the people at the same time. The Referendum tends, in short, to split up political issues, and thus to prevent the people from passing judgment at one stroke on the whole policy of the party in power. Its effect is, therefore, precisely the opposite of that of a general election in this country, where, although some one issue may be particularly prominent, the decision of the people is not confined to that issue, but comprehends the broader question which of the two great parties had better, on the whole, be entrusted with power. For this reason a general election helps to consolidate and strengthen the parties. But the Referendum entails a decision only on the special measure under consideration; and hence the people of Switzerland are never called upon, either at an election or a Referendum, to judge the conduct of a party as a whole. It is no doubt largely on this account that Swiss political parties have no very definite programmes and little organization. Now, we have seen that the Swiss are in the habit of constantly reelecting the same deputies, although they may reject a large part of their measures, and what is true of the individual is also true of the party. Both enjoy great permanence of tenure; and a study of Swiss history shows that since the general introduction of the Referendum there has been a very marked increase in the stability of political parties.

Again, the Referendum tends to draw

¹ Before the amendment of 1891, the provision of the constitution was so interpreted as

attention to measures, and away from men; and it is the personal admiration or dislike of public men that forms a great deal of the fibre of party allegiance. So marked is this result in Switzerland that a President of the Confederation once said, that if one were to question ten Swiss, all of them would know whether their country was well governed or not, but nine of them would not be able to tell the name of the President, and the tenth, who might think he knew, would be mistaken. After allowing largely for exaggeration in the remark, one feels impelled to wonder how party leaders can be expected to thrive in such a land.

The Referendum is not the only institution to which democracy has given rise in Switzerland. Far more extraordinary, though much less valuable, is the Initiative. The Referendum merely gives the people power to veto laws passed by their representatives, and has therefore a purely negative effect; but the Swiss have a strong feeling that democracy is not complete unless the people have also a right to propose laws directly, and the Initiative is intended to supply this deficiency. It is a device by which a certain number of citizens can demand a popular vote upon a measure in which they are interested, in spite of the refusal of the legislature to adopt their views. The federal constitution contains a recent provision of this kind, whereby any fifty thousand qualified voters may propose a specific amendment to the constitution, and require the matter to be submitted to the people.¹

The new procedure has already been used once, but the result has not been such as to encourage much hope of its usefulness as a means of progress. The required number of citizens demanded last year an amendment forbidding the slaughter of animals by bleeding. This was not done for the sake of preventing to permit only a demand for a revision of the constitution as a whole.

cruelty, although some of the voters were no doubt influenced by that consideration. The movement was really aimed at the Jews, who are forbidden by their religion to eat meat killed in the ordinary way; the true motive being made evident by the fact that at the final vote the heaviest affirmative majorities were given in those districts where the Jews had made considerable settlements. The Federal Assembly urged the rejection of the measure, and ordinances passed with the same object in a couple of the cantons had already been set aside by the Federal Council as inconsistent with the principles of religious liberty guaranteed by the national constitution; but in spite of the advice of their representatives the majority both of the people and of the cantons voted in favor of the amendment, thus placing Switzerland among the countries that oppress the Jews; and this by a species of petty persecution unworthy of an enlightened community.

The Initiative is not likely to be put in operation with success often enough to produce any marked influence on the politics of the Confederation, for it has not been found effective, even for ordinary laws, in the cantons where it has long existed. In order to understand how small is its practical value we can turn to the great democratic canton of Zurich, where five thousand voters can propose a law, and require it to be submitted to the people. From 1869, when the Initiative was first established, through 1885, a period for which very careful statistics have been compiled, there were eighteen measures proposed in this way. Four of them were approved by a majority of the Council, and of these, two were ratified by the people, and two rejected; in one other case the Council proposed a substitute, which was adopted; while of the remaining thirteen proposals, which were disapproved by the Council, only three were enacted by the people. Of these three, one established cantonal houses of correction for

tramps, a measure considered of doubtful expediency. Another reestablished the death penalty, which had previously been given up; but the people shortly afterwards rejected the statute which provided for carrying it into effect, and the matter was dropped. The third abolished compulsory vaccination. The net direct result of the Initiative in Zurich during sixteen or seventeen years was, therefore, the enactment of only three laws which the regular legislature was unwilling to pass; and of these, one was of doubtful value, about another the people seem to have changed their minds, and the third was distinctly pernicious. In the other cantons the Initiative has been very rarely used.

Even the advocates of the Initiative in Switzerland admit that as yet it has not developed much efficiency, but they hope that with the perfecting of democracy it will become more useful. The experience of the past, however, does not warrant us in believing that it will play any great part among the institutions of the future. It must always be worked against the opposition of the existing legislature, and, what is more important, it gives no room for compromise and mutual concession between different opinions, which is the very essence of legislation. Hence the chance of enacting any measure in this way must always be extremely small. The conception is a bold one, and the idea of direct popular legislation is attractive; but in practice the machinery is at best too imperfect to be of any real value to mankind, if indeed it is not liable to be a source of harm in the hands of extremists and fanatics.

After studying any successful institution in a foreign land, one is always moved to ask how it would work in one's own country; whether it could be grafted into the native system and made to thrive equally well there. Could we adopt the Referendum in America? Would it produce the same fruits here as in its na-

tive soil? Is it consistent with our form of government? I think not. It is to be noticed that we have long had a Referendum for constitutional questions; but our whole political system rests on the distinction between constitutional and other laws. The former are the solemn principles laid down by the people in its ultimate sovereignty; the latter are regulations made by its representatives within the limits of their authority, and the courts can hold unauthorized and void any act which exceeds those limits. The courts can do this because they are maintaining against the legislature the fundamental principles which the people themselves have determined to support, and they can do it only so long as the people feel that the constitution is something more sacred and enduring than ordinary laws, something that derives its force from a higher authority. Now, if all laws received their sanction from a direct popular vote, this distinction would disappear. There would cease to be any reason for considering one law more sacred than another, and hence our courts would soon lose their power to pass upon the constitutionality of statutes. The courts have in general no such power in Switzerland, where indeed the distinction between constitutional and other laws is not so clearly marked as in America. With the destruction of this keystone of our government the checks and balances of our system would crumble, and the spirit of our institutions would be radically changed. The Referendum as applied to ordinary statutes is, therefore, inconsistent with our polity, and could not be engrafted upon it without altering its very nature.

Moreover, the Referendum is contrary to our ideas, our habits, and our traditions, and hence could not be expected to work successfully. We are accustomed to depute all ordinary legislation to our representatives, and to charge them with the duty and responsibility of making the laws. Our people are not in the habit of weighing the merits of particular stat-

utes, or of debating the necessity for the various appropriations. Their experience has been confined to passing judgment upon men and upon general lines of policy. But the reverse of all this is true in Switzerland, where the historical traditions are strongly the other way. It is not, indeed, too much to say that the Swiss had a strictly representative form of government only for a very short period, and were never fully satisfied with it.

There is also a practical objection to the introduction of the Referendum here, arising from the elaborate nature of our laws. The relations of the executive and legislative in Switzerland are very different from what they are in this country, for a great deal of what we should consider legislation falls into the province of the Swiss executive. The laws are passed in a comparatively simple and general form, and the executive has authority to complete their details and provide for their application by means of decrees or ordinances. Partly for this reason, and partly on account of the small size of the country, the number of laws passed in a year is far less than with us. Thus, in the canton of Zurich, where all laws and all large appropriations require a popular vote, the number of questions submitted to the people in a year, including federal matters, averages less than ten, while in the canton of Berne it has averaged only about four. If now we turn to the statutes of Massachusetts, we shall find that the legislature of that State passed last year five hundred and ninety-five separate acts and resolves. It is impossible to say how many of the appropriations included in this list would have required a popular vote, if the Commonwealth had had a Referendum similar to that of Zurich; but any estimate, however moderate, of the number of acts and resolves to be submitted to the people will demonstrate the impracticability of the scheme. Let us call it four hundred. Is it not evident that while a people may vote intelligently on

five or ten laws in a year, it is absurd to suppose that they could vote intelligently on four hundred? How could they be expected to consider independently each one of four hundred different measures? Is it not clear what they would do? They would not attempt to consider each law separately, nor even to understand it at all, but they would vote on them all as their party leaders directed; and hence we should have a mere parody of the Swiss Referendum, — a system which would produce a result exactly the opposite of what we have observed to be the case in Switzerland; for our state legislation would be far more a matter of party lines and party politics than it is to-day.

A general Referendum in the compulsory form is, therefore, entirely out of the question in America; and even in the milder or facultative form it would be likely to do us more harm than good, for it would probably be used only in the case of laws that had aroused a good deal of party feeling, and had been carried as party measures. In such cases, the necessary signatures to the demand for a popular vote could easily be collected by means of the party machinery, without which the task would be extremely difficult. In all probability, therefore, the Referendum would be used almost exclusively as a method of harassing the party in power by delaying legislation, and would become a mere party weapon instead of a cause of the mitigation of party strife. It is, indeed, important to remember that while the Referendum in Switzerland has undoubtedly contributed to the absence of party government, its successful working depends no less certainly on the low development of party spirit; and as in the United States we cannot hope to abolish parties, or even to diminish their activity to any great extent, the conditions are not present under which the Referendum can be expected to succeed.

Moreover, there is not the same need of a Referendum here that there is in

Switzerland. The institution is essentially a limitation on democracy, and is really a means of vetoing the acts of the legislature. Now, the Swiss have no executive veto, no judicial process for setting aside unconstitutional laws, and in the cantons only a single chamber. Hence they are exposed to much more danger of hasty legislation than we are, and have greater need of a veto in the hands of the people. It is the mission of Switzerland to try experiments in popular government for the benefit of the rest of the world, but it does not follow that everything she has found successful can be profitably adopted by other nations, or will bear the same fruit in another soil.

More accurately stated, however, the question in America is not whether we shall adopt the Referendum, but whether we shall adopt it in the Swiss form; for the institution already exists here, and, having developed spontaneously, has probably assumed the form best suited to the nature of our government. Its principal application is in constitutional questions; but the tendency, especially in the newer States of the West, is in the direction of making the constitutions more and more elaborate and inclusive, so that they cover a great deal of the ground formerly within the province of the legislature. The result is that the range of subjects controlled by direct popular vote has been very much enlarged. This tendency has perhaps been carried too far; for, as Mr. Oberholzer remarks in his valuable book on the Referendum in America, "if a constitution is to enter into the details of government, and trespass on those fields of action before reserved to the legislature, it cannot have the character of permanence which it had when it was only an outline to direct the legislature. It must change as laws change, and laws must change as the needs of the people change." But while the increasing scope of the constitutions may render them less

immutable, it does not tend to obliterate the distinction between constitutional and other laws. The extension of the Referendum by this means involves, therefore, no danger to the fundamental principles of our system.

The sanction of a popular vote has, it is true, been required in many of the States for other things than constitutional amendments; but if we leave out local affairs, we shall find that the matters so treated are closely akin to constitutional questions, and are of such a nature that, except for some obvious motive of necessity or convenience, they would be regulated by the constitution itself. The power of the legislature to contract debts, for example, is often limited, with a proviso that any excess above the limit must be approved by the people. The object of this provision is evident. A necessity for exceeding the debt limit may easily arise, and yet it would clearly be absurd to insist on a formal amendment to the constitution on each occasion. It is far more appropriate to require for an exception to the constitutional rule a simple authority from the people who sanctioned the constitution. A similar procedure is established in some States for the alienation of public property, for the levy of certain taxes, and even for the expenditure of money for a specified purpose above a fixed amount. All these cases clearly depend upon the same principle, that of providing a convenient way of making the necessary exceptions to a general rule laid down in the constitution. Another provision to be found in all the new States, and in some of the older ones, declares that the capital shall be selected by a vote of the people, and shall not be changed without their consent. Now, as the seat of government is, naturally and properly, fixed by the constitution itself, such a

provision merely establishes an informal method of completing or amending that instrument. The same thing is even more evidently true of provisions authorizing the legislature to submit to the people the question of woman suffrage or of proportional representation.

These examples substantially include all the cases where a constitution allows a measure to be submitted to the people of the State, with one notable exception.¹ About 1848, when the excitement over wild banking schemes was raging in the West, several States adopted a provision requiring a popular vote upon every act creating banks. This provision differs materially from all the others we have considered, and comes far nearer to the Swiss Referendum. It is hardly within the domain of constitutional law; and instead of involving only a simple question about which the mass of the people can easily form an opinion, it presents to them a complex piece of legislation, whose details cannot be understood without a great deal of study. Curiously enough, the provision has scarcely been copied at all, but has been almost entirely confined to the States which suffered from the banking mania at that time, — a fact which seems to prove that it is not in harmony with our institutions.

There remains to be considered the application in America of the popular vote to local questions. This depends upon quite a different principle. The Referendum means an appeal from the legislature to the whole body of constituents who elected the representatives; but in the practice of leaving local affairs to be decided by the voters of the city, town, or county there is no appeal of this kind. The people of the State, in such a case, are not asked to ratify the act of the legislature; nor

¹ Legislatures have occasionally submitted statutes to popular vote without express authority in the constitution, but the weight of opinion is against the constitutionality of such

a proceeding (Oberholzer, pages 130, 131). At the time this goes to press the Supreme Court of Massachusetts is preparing an opinion for the legislature upon the question.

can they veto it, for, although the vast majority may be strongly opposed to a local option bill, for example, they cannot prevent its becoming a law. The statute acquires a complete validity from the enactment by the legislature, and the only question on which a popular vote is taken is that of the local application of its provisions. With this the people of the State as a whole have nothing to do, for it is decided in each particular town solely by the voters of that town. Local popular voting is, therefore, only a method of local self-government, whereby additional powers are given to the city, town, or county, and their exercise is entrusted to the whole body of inhabitants. It is really an extension of the principle of the town meeting, and not a use of the Referendum at all.

To sum up what has been said, we find that the Referendum in America is applied only to constitutional questions, and to a small number of other matters which are carefully specified. We find also that, except in the anomalous case of the bank acts in a few States, these matters are akin to constitutional subjects, and are of such a nature that the

question submitted to the people is extremely simple. It will, moreover, be observed that the submission to popular vote is always compulsory. Now, these results have an important practical bearing; for if a further extension of the Referendum in America is desirable, it is at least probable that the wisest policy will be to follow the lines on which the institution has spontaneously developed. By such a course alone can dangerous experiments be avoided, and the harmony of our system be insured.

Even if space permitted it would hardly seem necessary to discuss the adoption of the Initiative at any great length. With regard to the Referendum, the question is whether an institution that has proved of great value at home can be profitably introduced here; but the Initiative has not been a success even in Switzerland, and there is no reason to suppose it would work any better elsewhere. Surely we do not suffer so much from sterility in legislation as to make us anxious to add another process for manufacturing laws, without proof that the laws it produces are wise, just, and statesmanlike.

A. Lawrence Lowell.

THE WINDIGO.

THE cry of those rapids in Ste. Marie's River called the Sault could be heard at all hours through the settlement on the rising shore and into the forest beyond. Three quarters of a mile of frothing billows, like some colossal instrument, never ceased playing music down an inclined channel until the trance of winter locked it up. At August dusk, when all that shaggy world was sinking to darkness, the gushing monotone became very distinct.

Louison Cadotte and his father's young seignior, Jacques de Repentigny,

stepped from a birch canoe on the bank near the fort, two Chippewa Indians following with their game. Hunting furnished no small addition to the food supply of the settlement, for the English conquest had brought about scarcity at this as well as other Western posts. Peace was declared in Europe; but soldiers on the frontier, waiting orders to march out at any time, were not abundantly supplied with stores, and they let season after season go by, reluctant to put in harvests which might be reaped by their successors.