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# The Swiss Observer

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# HOW TO WORK THE POLL OF THE PEOPLE.

John St. Loe Strachey, the eminent writer and advocate of *The Poll of the People*, in the March issue of "The Nineteenth Century" prefaces his subsequent detailed description of how the Referendum works in Switzerland, by these sentences:

Many persons who are interested in the Poll of the People, in spite of the fact that it is used so freely and easily in Switzerland and in every State in the United States, and also in Australia and Canada, seem to think that there are somehow insuperable difficulties to applying it in Great Britain. We often hear such expressions as "It would not fit into our constitution," "You could not get people to understand it here," and so forth. As a matter of fact, it would be the simplest thing in the world to establish it in the United Kingdom.

## THE REFERENDUM IN SWITZERLAND.

Before I enter into some of the objections that have been raised against the Poll of the People I desire to draw attention to the actual working of the Referendum in Switzerland.

Democracy, taken as a whole, is a system of government with the fewest drawbacks. It is *per se* the most just, the most reasonable, and the most practical. It is, however, open to certain serious drawbacks, especially when, as in the modern State, it is necessary for Democracy to be worked through representative institutions. These representative institutions tend to produce in effect, if not in name, a governing oligarchy; and this tendency is enormously increased by a strict Party system. Finally, representation and the Party system together are very apt to establish conditions under which Democracy, instead of producing what it was intended to produce and what all honest men desire that it should produce—majority rule, or the Will of the People—produces government by a minority.

The remedy, as the Swiss found and as the States of the American Union have found, is to supplement representation, which is of course necessary in large States, by lodging an ultimate veto power over the work of the representatives of the People in the hands of the People themselves. *This is the Referendum or Poll of the People.*

Though Switzerland did not invent the Referendum, the Swiss stage is a very good one on which to watch the working of the direct application of the will of the majority. The popular veto over Federal legislation is of three kinds. First, there is the obligarchy Referendum

ALL COMMUNICATIONS TO BE ADDRESSED TO—

THE EDITOR, *THE SWISS OBSERVER*,

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under which all alterations in the constitution of the Swiss Federal Republic must be sent to Referendum, i.e., must be submitted to the Yes or the No of the whole body of the citizens. Next there comes the optional or facultative Referendum, under which 30,000 voters, or eight Cantons through their representatives, may apply to the Government to have any law passed by the national legislature submitted to the vote of the electors before it comes into operation.

In addition, there is something which in appearance partakes of the nature of the Referendum or Poll of the People, but which is in essence different. That is the Initiative. Under the Initiative 50,000 voters can petition that a certain Bill set forth either by them or by the Federal Parliament should become part of the constitution. When such a petition is made, the Bill is submitted straight to the Vote of the People without undergoing debate or criticism in the Federal Parliament. I may add that this system, with a slight variation, is to be found in the constitutions of almost all the Cantons as well as in the Federal System.

An excellent account of the working of the Referendum and the Initiative in Switzerland is given by Mr. Robert C. Brooks, an American writer, in a book lately published in America and London, *The Government and Politics of Switzerland*. Mr. Brooks begins by noting that the Referendum in Switzerland does not prevent reform when reform is needed and also desired by the People. During a period of forty years in Switzerland there were twenty-one amendments passed by the Swiss Federal Legislature, and all but five were accepted; that is, sixteen were passed. During the same time only two amendments were added to the Constitution of the United States. There will, of course, be a conflict of view as to whether the Veto of the People as a whole was wisely or unwisely exercised; but it may be said with certainty that the tendency of the Vote of the People was not anarchical, or wild, or Socialistic. On the contrary, it was, I hold, inspired by a wise and yet not obstinate conservatism.

What one may call necessary legislation was never vetoed. When economic and financial subjects were referred to the People they were dealt with in accordance with reason and moderation. The People, for example, showed no tendency to be attracted by unsound finance. But this is not all. A French Swiss jurist has pointed out that the benefits of the Referendum are to be seen not so much in the Bills actually vetoed as in the phantom pile of Bills which were never even introduced into the Legislative Assembly, because it was quite clearly perceived that they would be referred to the People, and that on

Referendum they would be promptly rejected. Log-rolling is a poor business at Berne because the nicest arrangements of "Scratch my back and I'll scratch yours" are liable to a speedy exposure and to discomfiture at the Poll of the People.

It is a very remarkable fact that at a Poll of the People the proposed institution of "*Le droit de travail*" was knocked on the head by an immense majority of the electors. Here was a signal proof that the danger of Socialistic legislation is much less in a constitution fitted with the popular veto than in one which does not possess it.

Dealing with the general results of the Referendum since its formal introduction in 1874, Mr. Brooks gives the following clear and precise summary:

Between 1874 and the end of 1908, 261 laws and resolutions subject to Referendum were passed by the Swiss federal legislature. Of these, thirty were brought to a popular vote, and nineteen were rejected. Stated in bare statistical form, therefore, the net effect of the Referendum was to invalidate slightly more than 7 per cent. of that part of the legislative output to which it applied. During this period a number of weighty measures were passed against which petitions were not even circulated.

That is surely a very striking argument against the allegation that the Referendum destroys the sense of parliamentary responsibility, and side-tracks the representatives of the People. On the suggestion that the Referendum is dangerous because people won't go to the Poll, the facts and figures given by Mr. Brooks are very striking. When the passage of a measure is considered a dead certainty, the voters no doubt do not take the trouble to vote. When, however, there is anything very controversial and also very important to be decided the voting often exceeds 70% of the Electorate—a most notable fact. For example, in the case of the nationalisation of the railways, 76.6 per cent. of the People voted. Remember in this context that at ordinary elections in Switzerland, that is, elections to choose representatives or candidates for office, as a rule only 66.3 per cent of the qualified voters go to the Poll. After noting that according to American ideas the cost of the Swiss Referendum is incredibly low (something between 6 and 13 centimes per voter), Mr. Brooks deals most ably with the most important of the current arguments against the Poll of the People:

A stock argument against the Referendum is that it reduces the legislature's sense of responsibility by placing final decision in the hands of the people. It is a peculiarly difficult argument to discuss, inasmuch as there is no opportunity to observe the conduct of the same legislature acting both with and without the Referendum. One of the greatest authorities on the subject, himself for more than twenty years a representative of the Swiss people, expresses the opinion that "The Referendum prevented but little good that we wished to do, but simply by standing as a warning before us, averted much evil. . . . In spite of possible backward movements, it did not condemn democracy to a halt, but has given steadiness to progress itself." Professor Rappard admits that there may have been some decline of political standards since the adoption of the Initiative and Referendum, but attributes to other causes, chiefly the "anonymous, impersonal committee form of procedure which prevails in all Swiss legislatures." Fear of the popular veto should tend to make legislators timid rather than reckless. If so, the Initiative may be used to galvanise them into activity. In any event, an otherwise popular legislator's support of measures which fall under the ban of the Referendum is not likely to cause his defeat at the ensuing election. According to a humorist quoted by Professor Borgeaud, "the Swiss are a singular people: they disown their representatives, and then they re-elect them." Another argument against direct legislation was that it would make party government impossible. The political atom would supersede the organisation: purely mechanical combinations changing with each issue would dominate the political stage. Without stopping here to discuss the beneficence or maleficence

of party government, it is certain that in Switzerland the Initiative and Referendum have not caused the break-up of political organisations. On the other hand, they have increased somewhat the influence of minority parties. A great many authorities on direct legislation urge its high value as a means of political education. In campaigns for the choice of officials, personalities necessarily play some part, but in Initiative and Referendum campaigns there is a maximum opportunity to hear and decide solely on the basis of the facts and principles involved. The Swiss people have repeatedly shown the ability to learn and to change their opinion upon questions submitted to them. Thus, while the proposals were not identical in the two cases, there is a distinct reversal of popular attitude on the railroad bills of 1891 and 1898, on the uniform industrial legislation amendments of 1894 and 1908, and on the army amendment and army bill of 1895 and 1907, respectively. Admitting the difficulty of deducing general tendencies from so extensive a field of legislation, it seems to be generally agreed that the Swiss people are inclined to react strongly against Initiative and Referendum measures that savour of extravagance or bureaucracy. Professor Rappard also points out their hostility to "ideological legislation"—that is, to legislation "grounded solely or mainly on abstract conceptions of justice," as, for example, the "right to work" Initiative. Certainly the Referendum has at times betrayed a conservative tendency which dismayed its friends. Thirty years ago Sir Henry Maine indulged in an explanation of this tendency, particularly as shown in connection with labour legislation. In the light of Switzerland's subsequent progress towards social legislation and industrial democracy, his theory appears more ingenious than convincing. Direct legislation in Switzerland has not realised all the extravagant anticipations of its friends. But, on the other hand, it has completely falsified the dismal prophecies of chaos and revolution uttered by the conservatives of an earlier period. It has become a vital and freely functioning part of the Swiss political organism. Although changes are sometimes suggested in the form and application of the Initiative and Referendum, there has long since ceased to be any fundamental opposition to them in Switzerland.

The experience of the United States is entirely consistent with Mr. Brooks's account of the working of the Referendum in Switzerland. The only difference is that in America the Poll of the People works under an alias, or rather under several aliases, while in Switzerland it operates in its own name.

## NOTES & GLEANINGS.

It is to be noted with satisfaction that the Swiss propaganda, launched to obtain English support for the creation of a navigable Upper Rhine between Strassburg and Basle, is not falling on deaf ears.

The Manchester *Textile Mercury* (April 9) devotes considerable space to a review of booklets, setting forth Swiss claims and interests, published by R. Gelpke and the Nouvelle Société Helvétique:—

"These booklets are a protest against, and an exposition of the situation created by certain proposals of France, for the Alsatians, to construct a lateral canal on the left bank of the Rhine between Bâle and Strassburg, for the exploitation of the available hydraulic power for electricity, for irrigation purposes, and to serve as a waterway between these two towns. For the Swiss, M. Gelpke maintains that the principal motive of the proposal is the intention to block, partially, or even entirely, the traffic on the Rhine south of Strassburg; the obvious result of this obstruction would be that Strassburg would become the real terminus of the river traffic and the focus and clearing house for Central European inland navigation, in place of Bâle, which is the natural focus.

"The free navigation of the Rhine has up to now been safeguarded by international law (Acts of the Vienna Congress, 1815; the Rhine Navigation Act, October 17th, 1868), but if the French proposals are ever carried out,