

GS 235

Direct Legislation by the People,

VERSUS

REPRESENTATIVE GOVERNMENT.

TRANSLATED FROM THE ORIGINAL SWISS PAMPHLETS BY

EUGENE OSWALD.

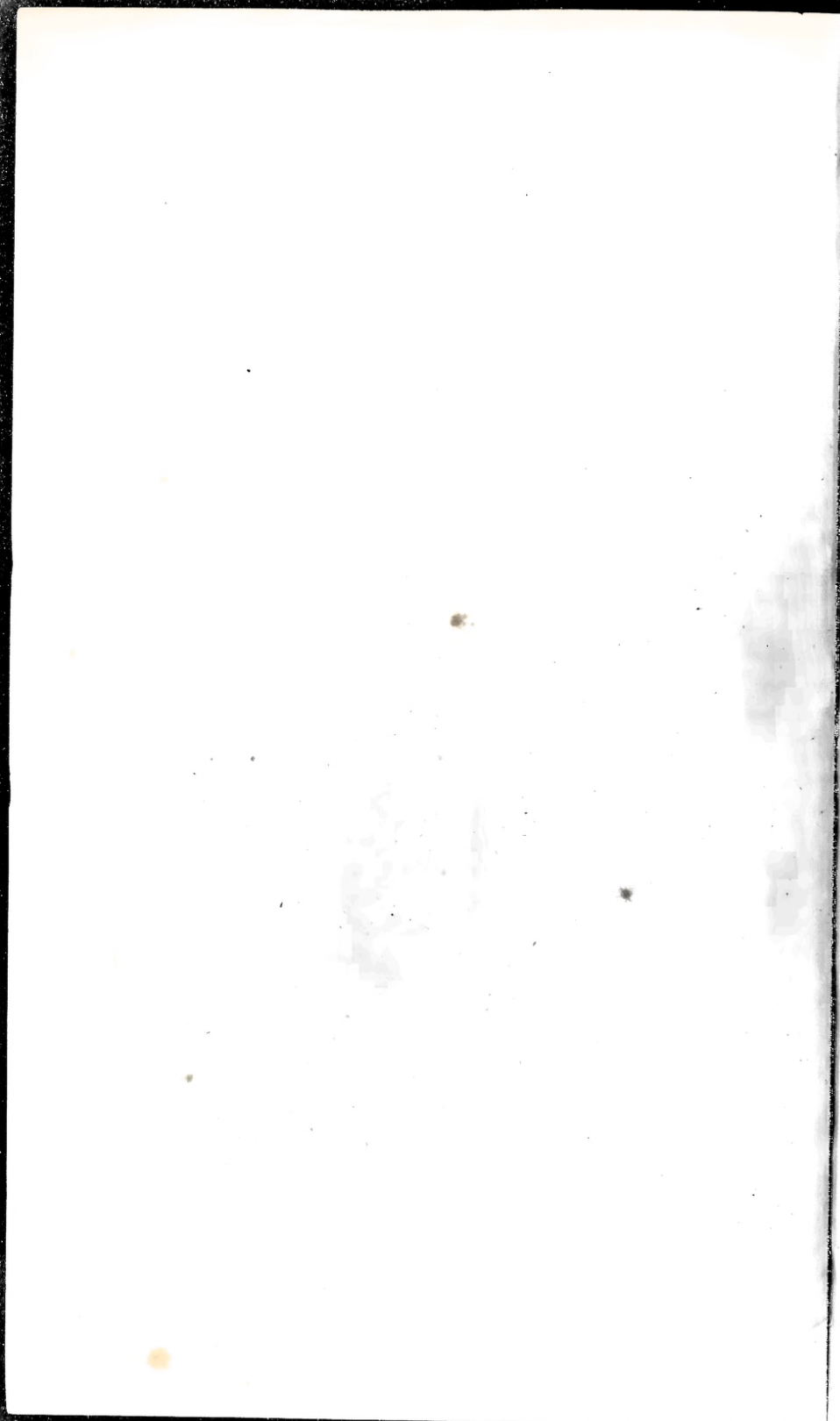
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PREFACE.

It is with the permission of one of the originators of this project, Karl Bürkli of Zurich, that I take the liberty of laying this matter before the English public. It is a subject well worthy of attention, as it has both historical precedence and the advantage of being now practically in existence in several cantons of Switzerland, and open to the inspection of the curious, who may desire to investigate more closely its rejuvenescence, and to those who may doubt the merits of its real practical working. I therefore, without further comment, place it before the English public.

W. F. COWELL STEPNEY.

The translator wishes to add that, while fully aware of the importance of the matter stated in these pages, and thinking it desirable that they should become subject for inquiry and discussion, he does not undertake a joint responsibility for all the views expressed.

E. O.

It is a well-known fact that the English public has long been interested in the history of the United States. This interest has been manifested in various ways, such as the publication of historical works, the holding of lectures, and the formation of historical societies. The English public has also been interested in the political and social conditions of the United States, and has often expressed its views on these subjects. It is therefore not surprising that the English public has been interested in the history of the United States from the beginning.

W. M. GOWENLOCK

The translator wishes to add that while it is desirable to have a translation of the original text, it is equally desirable to have a translation of the original text. The translator should be responsible for the accuracy of the translation, and should not undertake a joint responsibility with the original author.

M. O.

DIRECT LEGISLATION BY THE PEOPLE,

VERSUS

REPRESENTATIVE GOVERNMENT.

THE experience of the last twenty years has entirely cured the working classes of Europe of the idea that Imperial Democracy and Imperial Socialism, that is, the dictatorship of a single person, are capable or even willing to do anything for the social education of the working masses. There have been merely apparent reforms, dust thrown in the eyes of the people, while in reality the workman is more than ever a victim of taxation and food for powder. Since the *coup d'état* of Bonaparte, the belief has, with great astuteness, been spread among the working classes that political or state reforms had nothing to do with social reforms, and that therefore the working man should not occupy his attention with politics, but solely with the improvement of his social position. The ruling classes know only too well by experience what a great advantage they derive from political forms favourable to themselves, and that so long as the working population allows itself to be led without volition in political matters, and has no direct influence upon legislation, it will not devise a form of government favourable to the interests of labour. Socialism, even of the most radical kind, is a mere bugbear, without any danger, because the *political* fulcrum is wanting to its *social* lever, wherewith it may lift from off its hinges the old form of society, with its poverty of the masses and its individual wealth. Social reform is condemned to remain in a state of theory until the right means are found to put it into practice, and these means can be no other than, above all, to bring about a governmental reform of such a nature that the laws shall henceforth be made by the voice of all the citizens, and no longer according to the wishes of the privileged few.

French workmen are thoroughly wearied of the so-called Imperial Democracy of Napoleon, they wish for a social democratic republic. The workmen of Northern Germany are so satiated with the imperialism, the cavalier dictatorship of Von Schweitzer, that

they turn aside with disgust from this misleader of the people, and go over with bag and baggage to the camp of the International Working Men's Association, where waves the banner of the right of self-government, of social democracy, of a Confederate Republic of Europe, and round which the workmen of Southern Germany, of Austria, of Italy, and of Spain, begin likewise to rally in ever increasing numbers.

But how is this socially democratic State to be organized? This is the all-important question for the workman. The International Working Men's Union should be perfectly clear and united upon the point as to which kind of republic it prefers, so that in the event of the breaking out of a revolution the working classes may everywhere know what to do.

The political movement in Switzerland during the last two years, chiefly in the canton of Zurich, is perhaps only a symptom, a prelude to the great and deeply penetrating movement which is about to agitate European politics. The bourgeois republic, or Representative Democracy, is on the point of dying out in Switzerland, for it has been found insufficient to combat the injurious influences of the Jesuitism, as it were, of the great capital. It has neither the strength nor the will to solve the social question, and Pure Democracy now steps forward, by which the people take a direct part in the legislation, and can therefore transform it in accordance with their social requirements.

The idea of direct legislation through the people must be largely spread among the working multitudes of Europe, in order that at the forthcoming crisis of monarchy it shall pass into flesh and blood, and shall create on a large scale, throughout the whole of Europe, political institutions of the same kind as those which already exist in Switzerland.

Representative government is everywhere the same. The workmen of Paris remember only too well how in the days of June, 1848, those middle-class representatives endeavoured to solve the social problem with grapeshot; and, quite recently, the miners in Belgium have found out that their constitutionalists, too, know of no other means than powder and shot. Nay, even in the representative democracy of Zurich, there existed for more than twenty years severe laws against the coalition of workmen, and against the social and democratic press. So long as the workmen allow the laws of the State to be manufactured and forced upon them by those who live by using up the workman, so long will the laws be unfavourable to the toiling masses, and favourable to the masters only. When did a monarch ever make laws in the interest of his people, and against the interest of his dynasty? First comes himself, his interest, his dynasty, and the welfare of the tools who support him in working the commonwealth for his own benefit;

and it is only at last, when all these worthies have had their fill, that the much-squeezed people are thought of at all, and then too often stones are offered to them instead of bread. There are, indeed, so-called Christian monarchs, who, like good-natured riders, stroke or pat the neck of the creature panting under their weight; but that the heavily burdened animals, ridden to soreness, would best be helped if the master and all his train would dismount, is a thing which never occurs to the one above until the one below throws him off.

In the same manner an aristocracy can make excellent laws for themselves, but not for the people. Has the aristocracy of England, perhaps the cleverest body of the kind in existence, ever done anything in the interest of the working man? * No! if they have retained their position until now, it is only because they have not shown over-much obstinacy in strenuously opposing reforms that had become absolutely necessary. But, again, the legislators of the representative state, although elected by the people, are not capable of making good laws for the working classes, but yet are able to make excellent laws for their own class, the middle class. And why? Because, as experience teaches us, the majority of every representative body consists of capitalists and their creatures, and members of the middle classes, hostile to social progress. And even as the slaveholder is, by his very nature, incapable of making laws in the interest of his slaves, so the representative, being a capitalist, is incapable of ever framing laws in the interest of the workman. Representative democracy, though it be, comparatively speaking, a far better form of government than a monarchy or an aristocracy, is therefore not that political form within which the world of workers can attain its proper place and social questions can be solved. It might be more so, if working men, and especially the peasantry, were always to send to the national council the most intelligent of their own class only; but, unfortunately, the experience of every country shows that this is done only in ex-

* NOTE BY THE TRANSLATOR.—Common fairness seems to require some modification of, or exception to, the negative rule which the form of the question implies. For instance, every workman living in or near London enjoys the privilege of proceeding in the morning and evening by rail to and from his work at a greatly reduced rate. The legal enactment which forces the railway companies to make this reduction was originated in the House of Lords. Earl Derby was the mover, and after speeches by Lord Stanley of Alderly, Ellenborough, Grey, and Shaftesbury, the clause was agreed to by the Upper House, on April 22, 1864.—*Vide Hansard*, Vol. 174, p. 1,488. The House of Commons, with about a hundred railway directors among its members, had to adopt it. Nor should individual exertions of many members of the aristocracy be forgotten, such as Lord Ashley, now Shaftesbury's successful efforts in the carrying of the ten hours' bill. One need not share in the party views of the actors to recognize such acts.

ceptional cases. As a rule, the people elect only members of the so-called higher orders, because the pernicious prejudice, an outcome of monarchical periods, leads men to believe that Intellect alone can produce good laws, and consequently highly educated people are all that is wanted, while, in reality, Interest is the determinative cause in matters of legislation. Add to this, that the salary of a member of a legislative body, and the travelling expenses paid to him, are systematically fixed so low that for a member of the working classes it is even economically impossible to fulfil the functions of a representative.

The experience of democracy further teaches us that a people can be far more easily misled when there is a question of *persons* (such as elections for national or municipal councils) than where there is a question of *things* (for instance, voting on laws); and this for the simple reason that it is immeasurably more difficult to probe the heart and character of a person than to go to the bottom of a thing, that is, the meaning and intention of a law; because it is far more easy to judge whether a certain law is made in the interest of the working classes, than whether a councillor will always speak and vote in the interest of the people.

Thus the touchstone by which true gold is to be distinguished from false is this. In a true, pure democracy, or popular republic, the people do not deal with persons only (elections of councillors) but also, and indeed above all, with things (laws.) In false representative democracy or a middle-class republic, the people are only allowed to occupy themselves with persons (election of councillors) who proceed to make laws, and do so according to their own pleasure, profit, and prejudice. What the middle-class democrats want is that they alone are to govern the people, for the benefit of the few. What the social democrats want is that the people should govern themselves, for the advantage of all, by taking legislation into their own hands and attending to it themselves, instead of allowing others to attend to it for them—that is, they want self-help to the fullest extent, and therefore in the domain of politics as well as elsewhere.

The history of the world abundantly proves that the law is only a written expression of the interest of the lawgiver. To express the matter somewhat prosaically, one may say that the spirit of the law lies in the stomach of the lawgiver; the quintessence of laws is determined by the legislator's money-bag. This is all the more true when not only an individual, but a whole class is in question; not the dominion of one man, but the dominion of a class. Never yet has the misusing class emancipated the misused one, or spontaneously issued laws favourable to the latter. Only when the misused class have become masters in the state, and have taken legislation into their own hands, have the laws been made

in their interest, that is, in the general interest, and then only could that class develop itself according to its social needs. But what applies to the third estate, the bourgeoisie, or middle-class, is only the more sure, when there is a question of the working class, of the whole people. Like as the chemical germ, the inner impelling power of a plant requires, in order to prosper, certain physical peculiarities, that is, external circumstances, such as a favourable soil and climate, just so do the inner—and, so to speak, chemical—impulses of society, or social ideas, require, in order to unfold according to their nature, and to germinate in practical life, a peculiar physical form of political life, that is, favourable political circumstances. And these are the social and democratic laws which never could have been made by princes or clergy (who already possess Heaven here below) but can be made only by the working classes, who longingly wish for such a social transformation, an existence, worthy of man, in this world. No saviour will ever redeem the people; they must redeem themselves. Thence proceeds the universal stirring of the nations of Europe towards emancipation. As a plant confined in a dark vault grows towards an air-hole, to get within reach of sunlight, so the working world of Europe struggles to escape from the close, dreary, and dull air of monarchy to the brightness of democracy. When once in a state of freedom, the people will be sure to grope its way instinctively into social redemption, feeling as it does every day its sufferings, which, however, are giving it the necessary impulse to make itself acquainted with the cause of the evil, and its remedy.

In a real democracy—wherein direct legislation gives into its hands the instrument of perpetual motion, and the path for constant peaceful revolution lies open before it—the people will create new forms and laws, not according to preconceived social theories, but according to real wants, as they make themselves practically felt, and it will make its will prevail, as in Switzerland, by a stroke of the pen, and no longer by firearms and bloody revolutions, as in despotic states.

The fear which has been expressed lest the ideal conquests of mankind should, in the social-democratic State, be less attended to and less promoted than in monarchical or representative forms of the commonwealth, is an idle one; for history proves that the freer a nation is the more willing it is to bring sacrifices to the cause of human culture, because it perceives that it is not the spirit-crushing, sterile faith, but only the spirit-raising, fertile science that can redeem the world. Nay, direct legislation by the people is of all political forms the one which is most favourable to the advancement of the education of the people, for every one has an interest in his fellow man, who has co-operated in the making of the laws, giving his vote with conscious knowledge; and above

all the so-called well-educated folks—to whom direct legislation by the people appears in the fancied shape of a ruin of all culture, of a modern irruption of barbarians—will have the greatest interest in the matter, and will readily lend a hand to giving the masses their schooling gratuitously, and, moreover, of as good a kind as possible, and so making the higher institutions of learning accessible to every one that is capable. Besides, direct legislation is in itself a mighty engine of culture, seeing that the people are impelled, by their most immediate interests, to get information, lest they be, after all, bamboozled and misused by the men of so-called higher culture—which really is mis-culture—and their lawyer-like subtleties. Strangely enough these very men—the so-called well educated, who think direct legislation incapable of fostering the ideal wealth of mankind, and who, therefore, point at it as a retrogression—these very men, we say, cannot sufficiently admire the ancient Greeks as the principal supporters of civilization in antiquity, and seem not to recollect that those who had made the greatest strides among the Greeks were the Athenians, who had direct legislation through the people, that is, through the free citizens, and that it was just this political form which contributed most essentially to the development of the Attic spirit; for with the suppression of this political form, with the dominion of strangers, the great minds disappeared.* The ancient Germans, too, had direct legislation by the people in an organization similar to that which has been preserved through the course of many centuries in the “Lands-gemeinden” of the Forest cantons. The Germans did homage to the political principle that every man is to be a legislator, a military defender of the country, and a judge.

Is it not strange that the Romans, so well versed in legislation, in war, and in the administration of justice, could put all the nations of the old world under the yoke except just this nation of Germans, though politically so disunited? And why? For this reason—that a popular legislation, a popular army, and a popular administration of justice had become flesh and blood in them, and had produced men, against whose unalloyed strength the omnipotence of Rome was shattered. Unfortunately in the course of time those Germans became silly enough to prefer the Roman Trinity (God the Father, Son, and Holy Ghost) to the German Trinity (legislator, soldier, and judge in the one person); and they will be punished with scorpions by priests and Cæsars until they re-establish the ancient Germanic institutions: legislation by the people, the army of the people, and the administration of

* *Half suppressed sigh by the Translator.*—The Athenians gave no vote to the immense majority of their working men, who were slaves; and it was democracy that killed Socrates, whom the aristocrats had left in peace.

justice by the people. The ancient democracy which, by monarchical senselessness and ecclesiastical belief, has been torn away from the people, must, by sense and science, be re-conquered and further developed in the spirit of our age. Every one must again become a legislator, soldier, and judge. He must periodically and in his own person exercise the rights and practise the duties appertaining to those dignities. Here no division of labour, no substitution of another person, is possible, if we would not fall into servitude. If the people renounces the right to decide in the last resort on laws, if it hands over this duty to one man or to a few men, then these will soon arrogate to themselves the privilege of making the laws only for themselves and against the general good. If the people abandons the defence of its rights and its country to a number of individuals, specially trained and set apart for this purpose, it creates a standing army—the most terrible tool in the hands of the governors, which is used against its right and its freedom whenever the civilian sheep become restive under the monarchical shears. If the people leaves the right and the duty to pronounce guilty or not guilty to permanent officials in the place of the judge, it runs the risk of a bureaucracy and lawyerdom springing up and growing, which judges us according to Heaven knows what kind of outlandish—say Roman—law, but surely not according to that law which has its basis in the convictions of the people as to what is right.

Little Switzerland, penned in between mighty monarchies whose population is a hundred times larger, has, notwithstanding all pernicious monarchical influences, notwithstanding the miasma of the theory of right divine, still preserved to herself, during centuries, the old Teutonic health, the ever true principles of those Germans, before whom Rome, the enslaver of nations, trembled; at least she has preserved them in part, and especially with respect to the arming of the people. *Because* the Swiss, a recognized defender of his country, always had arms in his home—that is, had the armed right of voting; *because* the Swiss never would hear of a standing army; *therefore* has his republic been preserved; *therefore* could the popular spirit, whenever it was aroused, easily make a path for itself between intervening obstacles.

At present the plan of direct legislation by the people makes way for itself with all that weight which a modern idea can receive by the historical recollection of things as they were in Germanic antiquity and in the heroic ages of the old Confederacy, when the people were asked, and their sanction or rejection required, even in the larger cantons, with respect to such important questions as the making of peace and war, the establishment of the religious reformation, the imposition of taxes and the like. Already this direct legislation has legal existence in the larger

cantons of the German portion of Switzerland, in Berne, Thurgovia, the Grisons, but above all in Zurich, in which latter canton it is laid down in the constitution in the most complete and purest form. Already the movement has begun, which strives to extend even to federal legislation this direct legislation by the people, and to do this in such a form as will admit of its exercise by the people of even the largest states.

Already the French Constitution of 1793, which bears in its preamble the ever memorable Declaration of the Rights of Man, laid down the principle of direct legislation by the people, though in a form less developed than the one in which we have it before us now-a-days. It does so in the form of the so-called veto, a certain number of voters having to raise an objection, previous to a general vote being taken with respect to a proposed law. Article 53 of the French Constitution of 1793 says:—

“The legislative body *proposes laws*” (*propose des lois.*)

Art. 58. The bill is published and sent to all the municipalities (*communes*) of the republic, under the title of proposed law (*loi proposée.*)

Art. 59. If, forty days having elapsed from sending out the bill, no objections have been offered, in the half of the departments plus one, by one tenth of the primary assemblies regularly convoked, the bill has been accepted, and becomes law.

Art. 60. If such objections have been raised, the legislative body has to convoke the primary assemblies (for the purpose of voting on the acceptance or the rejection of the law.)

Unfortunately, this Constitution could never be practically worked, the weight of the difficulties with which the young Republic had to struggle, both at home and abroad, not permitting a peaceful development. But, as in general in the life of nations a good idea never gets lost, and no step towards improvement is made quite in vain, these ideas of 1793 slumbered on in the depths of the heart of the French people. And when the second Republic arose out of the revolution of February, 1848, and the social-democrat Rittinghausen, of Cologne, in the years 1850 and 1851, scattered among the people the idea of Direct Legislation by the People, an idea whose further development and realisation he has made the aim of his life, these thoughts at once kindled, and a mighty movement was produced in men's minds against the representative state; a movement which could not have failed to bear good fruit, had not the beautiful blossom been nipped in the bud by the blasting *coup d'état* of Bonaparte, the so-called saviour of society. For it is the fate of Cæsarism that the grass withers wherever its foot falls. Out of that desert of reaction the seed was wafted to the only remaining republican oasis, the soil of Switzerland, where in the healthy life of the people it has gradu-

ally struck deep roots. Now that Caesarism is decaying, and a new breath of spring is pervading the nations, the seed that has been sown is shooting up everywhere from the soil, fresh and healthy, like a real crop of thought, and the idea of Direct Legislation by the People, germinating so long, takes practical shape in the form of a political institution.

Of course direct legislation cannot be exercised in larger commonwealths in the same mode in which it was once practised in the public square at Athens, in the oak forests of ancient Germany, and is still carried out in those cantons of Switzerland which possess the "landsgemeinde." The essence, that is, the participation in the making of the laws, must continue, only, the form in which the participation takes place must disappear, and give way to quite a different one, because the circumstances have become different, have become enlarged, and will no longer allow the whole people to assemble in one spot for the purpose of consultation. Our century, however, with its magnificent inventions, has, among other things, prepared and rendered possible democracy on a large scale, by nearly annihilating distance, so that an extensive body of people are so connected by steam and telegraph as to allow the existence and movement of any single limb to be at once felt everywhere, and to be received into the consciousness of all the members. Therefore the old form, though venerable on account of its antiquity, must be given up.

The show of hands of the "landsgemeinde," that is, open voting, must now, when every one can write, be replaced by secret voting, (the ballot,) in the municipalities, by means of electoral urns, which, on the day appointed for voting, stand open for every citizen to throw in his voting paper at such time as may be convenient to him. By this plan the influence of capital, with its improper suggestions by employers, whereby open voting is but too frequently impaired, is completely put an end to. The workman, under a system of secret voting, will be able to give a much freer expression to his wishes than if he is subject to intimidation, which is too frequently the case with a system of open voting, where he has often to pay by *social* disadvantages (loss of work, &c.) for the free utterance of his *political* convictions.

The consultation in the "landsgemeinde" will now, when every one can read, be replaced by printed explanations, to be given with the bills, by discussion in the newspapers, and by free meetings whenever the importance of the proposed laws call for such deliberation.

The faculty of bringing a motion before the "landsgemeinde" in the old cantons, will, in more extensive commonwealths, be provided for by a differently organized popular initiative (right of the people to make proposals.) It is proposed, with this aim, that

any fraction of the people, say one tenth or one twentieth, as the Constitution may determine, should be able, by a committee to be elected for the purpose, to formulate its desire in the shape of a bill, and ultimately to bring it before the whole people for decision by popular vote.

Direct legislation by the people consists then in two essential elements: the one of impulse and initiative, the other of determination and decision. Whence we obtain:—

1. The Right of the people to propose laws; also to be called Popular Initiative.

2. The popular vote on the laws, also called Referendum.

Between these two elements the functions of a regular organic body are exercised by the Council, which is, indeed, no longer to be a legislative body, but merely a law-proposing one, that is, simply, a giver of counsel, which counsel the people may adopt or not.

The Council is thus exposed to a cross fire which is calculated to keep it from going to sleep. If the Council propose bad laws (if they are guilty of sins of commission) these laws will be rejected by the popular vote, or Referendum. If the Council do not wish to propose good laws (if they are guilty of sins of omission) the Popular Initiative steps in, making its own proposals.

Taking as an instance the canton of Zurich, the Popular Initiative can manifest itself in two ways:—

1. If the thirteenth part of the people—in Zurich 5,000 initiants out of 65,000 possessors of votes—make a proposal, it must be submitted to the vote of the whole people.

2. If a single individual makes a proposal which is approved of by one third of the Council, such proposal must likewise be voted upon by the people.

Thus there are, in the canton of Zurich, three parties equally entitled to bring proposals before the people for its vote, viz.:—

1. Five thousand initiants.

2. Any individual gaining the assent of the Council of the canton.

3. The cantonal Council itself (consisting of about 220 members.)

Only the Council is the ordinary organ; the two others are extraordinary organs, whose activity begins only when the ordinary one proves inert.

In order to render this matter still more plain, we here insert those articles of the Constitution of Zurich which deal with the Popular Initiative and the Referendum. The Constitution begins with these words:—

“The people of the canton of Zurich give themselves, in virtue

of their sovereign right to determine their own destinies, the following constitution;” and in Chapter iii., *Legislation and Representation of the People*, we read as follows:—

“ART. 28.

“The people, with the co-operation of the Cantonal Council, exercise the powers of legislation.

“A.—*Right of the people to make proposals.*

“ART. 29.

“The right of making proposals which those entitled to vote possess (Initiative) comprises the demand of the passing, repeal, or alteration of a law, or of any such resolution as is not, by the terms of the Constitution, expressly reserved to the competency of the Cantonal Council. Demands of this kind may be made either in the form of simply calling attention to the matter in question, or by offering the details of a bill; and in either case motives are to be adduced for the alteration proposed.

“If a single individual or a constituted authority makes such a demand, and it is supported by one third of the members of the Cantonal Council, the question must be laid before the people for decision. The right of personally advocating in the Cantonal Council the alteration proposed is granted to the individual having made the demand, or to the deputy of the constituted authority moving in the matter, provided that twenty-five members of the Cantonal Council support the request of this personal advocacy of the motion.

“If five thousand persons, having the right to vote, make a demand of the kind aforesaid; or if a number of municipal meetings, in which at least five thousand persons entitled to vote have pronounced in favour of such a demand, the decision of the people is to be equally taken, unless the Cantonal Council have previously responded to the demand. Any demand of this kind, having been handed in early enough, the matter is to be placed before the people for their decision, at the latest, at the second subsequent regular taking of votes.

“The demand or bill has in every case to be submitted, before the vote, to the Cantonal Council, for them to give an opinion in the form of a resolution.

“In any case in which a bill proceeding from popular initiative is submitted to the vote, the Cantonal Council, besides giving its opinion, may place before the people a modified bill for decision between the two.

“B.—*Popular Vote.*

“ART. 30.

“Twice every year, in spring and in autumn, the vote of the people takes place on the legislative acts of the Cantonal Council (Referendum). In urgent cases the Council can order an extraordinary taking of votes.

“There are to be submitted to the popular vote:

“1. All alterations of the constitution, laws, and concordats.

“2. Those resolutions of the Cantonal Council which that Council is not competent to pass definitely (*vide* Art. 31).

“3. Any resolutions which the Council may wish to put to the popular vote.

“The Cantonal Council is entitled on submitting a law or resolution, to order—beside the vote on the totality of the proposal—exceptionally a vote on single points of it.

“The vote takes place by means of the ballot boxes in the municipalities. Participation in it is a citizen's duty, binding on all.

“The vote can only be by affirmation or negation.

“The absolute majority* of affirming or negating votes is decisive.

“The Cantonal Council is not entitled to give provisional validity to any laws or resolutions requiring the popular vote, previous to such vote being taken.

“All proposals to be submitted to the popular vote are to be published and handed to the voters at least thirty days before the taking of the vote.

“C.—*Cantonal Council.*

“ART. 31.

“The competency of the Cantonal Council extends to:—

“1. The discussion and resolution of all questions which are to be submitted to the popular vote.

“2

“3

“4. The control of the entire administration of the country, and of the action of the courts of law.

“5. The final decision on new expenses, occurring but once and for a definite purpose, such expenses not to go beyond 250,000 francs; as well as on annually recurring expenses less than the amount of 20,000 francs.

* That is, one-half of all the votes given, *plus* one, in contradistinction to a vote by a two-thirds' majority; or to a majority which, as being compared with the absolute majority, is only the largest of several minorities.—
TRANSLATOR.

- “6. The fixing of the annual estimates of ways and means, and of expenses, in accordance with existing laws and resolutions. . . .”
 “7. The audit of public accounts. . . .”

We should not like to affirm that the above articles have in every case hit the mark exactly, and that they could be considered as an infallible scheme, so to speak. Variety of individual views will here and there find shortcomings. Yet these articles, as a first serious attempt at realizing the idea, deserve in so far every attention, as they offer a new form of commonwealth—a form proceeding from the discussions and votes of an entire people, a form wherein the community may grow and unfold itself, without let or hindrance, according to its progressive wants.

We are firmly convinced that direct legislation by the people, through the institutions of the popular initiative and the popular vote on laws, can and must be introduced into the largest states; and that without these political institutions the social questions cannot be solved.

The section of Zurich therefore think themselves not only justified in bringing the idea of direct legislation through the people before the forum of the Industrial Working Men's Association, but they consider themselves even under an obligation to do so, convinced as they are that this idea—like the ever memorable Declaration of the Rights of Men—will make its way round the orb of the earth, as being the most effective means of realizing those social rights.

The section therefore move the following resolution:—

“The Congress of the International Workmen's League at Basle, considering that the law is the written expression of the interest of the legislator; that, in legislating, the interest of the community is naturally to be decisive; that experience shows representative bodies to represent capital rather than labour, and laws, therefore, to be made as a rule at the expense of the working multitudes and in favour of capital; that only by direct participation in legislation that politico-social consciousness, which is the first condition for solving the social questions, can efficiently penetrate the people; resolves:

“That it be the chief aim of the working classes to strive towards the realization of the social and democratic republic, in which legislation is exercised directly through the people.”

Everything for the people, and everything through the people!

By order of the section of Zurich,

The Reporter,

Zurich, August, 1869.

KARL BÜRKLII.

THE CONSTITUTIONAL COMMISSION TO THE
ZURICH PEOPLE.

FELLOW CITIZENS:—Four numerously attended popular meetings, followed by a petition of 28,000 citizens, having, towards the close of the year 1867, demanded the revision of the Constitution, the same was decided upon on the twenty-sixth of January, 1868, by the people of the canton of Zurich, by the great majority of 50,786 votes; and, at the same time, by 47,864 votes, the subject was placed in the hands of a Constitutional Commission. After long and thorough consultations, such as were demanded by the great importance of the task, we now herewith lay before you the result of our labours for acceptance or rejection. As our transactions from the beginning were public; and, as they from time to time were accompanied and supported by the active collaboration of circles more or less extended, we can waive for the present an explanation of particulars, and confine ourselves to giving prominence to the most essential points in which the project differs from existing institutions.

Whilst, with the exception of decisions concerning constitutional changes, the people have hitherto exercised their right of voting, and of approbation or rejection, only upon questions of law, henceforth all financial transactions, of more than ordinary importance, shall appertain to the people; and, moreover, the right is to be accorded to each citizen to introduce propositions for laws and decrees, which, if they are supported by five thousand valid votes, or, on the other hand, by a third of the members of the Council of the canton, must be submitted to the decision of the people. At the same time, the Executive Council is to proceed from the direct choice of the people, to whom also a more direct influence is to be conceded in church and school, by the abolition of all life appointments, with all due respect to the vested rights of the actual occupiers of the same.

This decided step, which leads from a representative state to a comprehensive rule of the people, is advocated by us in the confidence of the matured intelligence of the people, and of the predominance of the powers for good within it. And, for the same reason, we do not hesitate to add here a series of propositions which are demanded by the progressive ideas of our age, concerning humanity and human rights, viz., abolition of capital punishment, and of the penalty of chains, abrogation of imprisonment for

debt, and of the degrading consequences of unmerited insolvency, obligation of the State to make adequate compensation to those innocently condemned and those illegally arrested, the lessening of the term of minority, so as to enable persons to embark, at an earlier age, in pecuniary transactions, extension and security of the right of settlement, and facilitation of the right of civil marriage.

Starting from the conviction that only by a more elevated culture those forces can be awakened and maintained which a people needs in order to govern itself, and to develop its external and internal well-being, we have in the project laid down conditions which aim at a seasonable extension of our common school-system, conditions whose execution is reserved to the law, and thus again to the examination and decision of the people.

A series of other articles of our project repose upon the endeavour by a more just division of public burdens, according to the measure of the actual capacity of bearing taxation, by an increase in the means of communication, by protection to health, and by support to be given towards the independence of the workman, to exalt the productive powers of the country, and thereby the material welfare of its citizens. The indirect salt tax is to be materially lessened, and compulsory instruction in the common schools gratuitously imparted. The first military equipment of militia men to be undertaken by the State. The State is to contribute in a more comprehensive manner, and with an enhanced regard to the individual wants of the municipalities, to the burdens of the poor and to the expenses of road-making. On the other hand, those principles of taxation of income from labour, which have been current since the political regeneration, dating from the year 1830, are henceforth to be extended, within equitable and suitable limits, to incomes derived from property; and thereby, as well as by the introduction of a moderate "active-citizen" tax, and a tax upon inheritance, but particularly by a more correct assessment, which justice demands with increasing urgency, means for the remission of burdens and for the liquidation of the new expenditure of the State may be gained.

A Cantonal Bank, long desired by the people, and long promised by the leaders of former political movements, will be conducive to the increase and consolidation of credit, whilst changes in the manner of election and payment of notaries, in conjunction with a contemplated re-organization of the notary system, are calculated to facilitate and surround with suitable guarantees the transfer of landed property.

As to the municipal government, the project aims at securing the progress already attained by the law of the year 1866, and with due consideration of existing relationships and modes of pro-

ceeding, handed down from of old, to open the door for further development.

As to the administration of justice, the Constitution limits itself—as the filling up of the outlines appears to be better left to special laws—to the exposition of a few general propositions, amongst which we particularly call attention to the demand that regulations be made for a more speedy and cheap method of dealing with cases in both civil and criminal proceedings in courts of law, with a view to the greatest possible security of justice being done.

Dear fellow-citizens:—We lay before you the constitutional project as an entirety, to be decided upon by a simple vote, Yes or No! because, by the Decree of the People, of the 26th January, 1868 we received an injunction for a total revision, and for that reason must wish that a decision be come to upon our work as a whole; and further, because the taking of a vote upon each article or upon each chapter would be connected with a chain of difficulties, which might postpone *ad infinitum* the very desirable final decision; and again, because even if voting by portions were to take place, yet another vote of the people would still be required to give to the Constitution validity in its entirety.

We know, indeed, full well, that various shortcomings may be found in the project, and that it cannot satisfy all expectations; but we believe ourselves entitled to express the conviction that within it are laid down the conditions for a decided progress, such as our people themselves have demanded.

It is for you, therefore, to decide whether our work responds to the spirit and the will of the great popular movement, which gave rise to it, and whether it subserves the welfare of the country.

May each one, therefore, on stepping forward to perform the grave act of voting, as a good citizen of the republic, raise himself above his individual interests, and dwell on that only which tends to the advantage of the community. And, if it should please the people of Zurich to accept the proposed Constitution, may the result be that each citizen, finding himself invested with more extended rights than heretofore, shall also become conscious of higher duties to be performed.

If our people in good faith take upon themselves these duties and hold fast to them, then, we confidently hope, will the principle of the rule of the people be approved and develop itself, and tend to the furtherance of the honour, the strength, and the welfare of our country.

In the name of the Constitutional Council,

DR. T. SULZER, *President.*

L. FORRER, *First Secretary.*

Zurich, March 31st, 1869.

CONSTITUTION OF THE CONFEDERATE CANTON
OF ZURICH.

The people of the canton of Zurich give themselves, in virtue of their sovereign right to determine their own destinies, the following constitution:—

I.—*Political Principles.*

ART. 1.

The political power resides in the totality of the people. It is exercised directly by the “active” citizens, and indirectly by the constituted authorities and public functionaries.

ART. 2.

All citizens are equal before the law, and enjoy the same political rights, unless in cases where this constitution itself institutes an exception.

ART. 3.

The utterance of opinion by speech and writing, the right of association and meeting, are guaranteed. The exercise of these rights suffers no other limitations but those which may flow from common rights.

In actions of libel the proof of the truth of the allegation is allowed. If it be shown that the statements complained against as libellous are true, and have been published or retailed with honest motives and an honest aim, the accused is to be found not guilty.

ART. 4.

The State protects honestly acquired private rights. Expropriation is allowable if the public weal demands it. For such forced cessions a just compensation is granted. Disputes concerning the amount of compensation are judged by the courts of law.

ART. 5.

The criminal law is to be modelled according to humane principles. Capital punishment and the penalty of bearing chains are inadmissible.

The person accused of a crime or misdemeanour, as well as the injured party, are to be admitted to all proceedings taking place before the judge of instruction (magistrate), with the faculty of appointing counsel and addressing any questions to the witnesses which may serve to clear up the subject.

ART. 7.

Personal freedom is guaranteed. No one may be arrested, except in the cases foreseen by the law, and with the forms prescribed by the law.

To such as may have been illegally arrested the State has to make proper compensation or satisfaction.

No means of forcing a confession are allowed.

Imprisonment for debt is inadmissible.

ART. 8.

The sanctity of the private dwelling is guaranteed.

A domiciliary visit can only take place either by consent of the resident, or by authorization through a competent functionary, who is exactly to specify the aim and the extent of this measure. Exceptions of this rule are permitted if there should be danger in delay.

ART. 9.

In cases of judicial restitution of persons innocently condemned proper satisfaction is to be made by the state.

ART. 10.

Every functionary is, according to the terms of the law, responsible as well to the State and the municipalities as to private persons for acts done in his official capacity.

ART. 11.

The term of office of the Cantonal Council, and of all administrative authorities and functionaries, is fixed at three years; that of judicial authorities and notaries at six years.

All constituted authorities are to be renewed in their totality.

In no administrative or judicial body may there sit at the same time father and son, father-in-law and son-in-law, two brothers, two brothers-in-law, or the father of a husband and wife.

ART. 12.

Any functionary who is removed from his place within his term of office, and without fault on his side, has a claim for full compensation; and if such removal takes place in consequence of an alteration in the constitution or laws, for equitable compensation.

ART. 13.

All elections by the people of cantonal, county, and district officers are made by means of the ballot box. The municipalities are likewise at liberty to employ this mode of election.

ART. 14.

The citizens of the canton or of Switzerland may, on fulfilling the legal conditions, settle in any municipality of the canton, and acquire the right of local citizenship. Those having settled in any locality may not be subjected to other or higher local taxes than the local citizens (liverymen), with the sole exception of a moderate fee for the permission of settlement. A right (in the municipalities) to refuse or withdraw the right of settlement, where the local documents have been handed in, may, on principle, only be derived from the proof of a manner of life in the person claiming or having obtained settlement dangerous to public safety or morality.

ART. 15.

Marriage has equal civic validity whether it be concluded by the civic ceremony or by the ecclesiastical one.

The functions in this respect of the civil officers as well as of the clergy of the birthplace and domicile of the bride and bridegroom are gratuitous.

ART. 16.

The faculty of entering on valid pecuniary transactions, the right of voting, and the capacity of being elected for all offices, begin simultaneously with the close of the twentieth year of life.

ART. 17.

Swiss citizens, having settled in the canton, are the equals of the citizens of the canton in the exercise of all political rights.

ART. 18.

Suspension of the right of active citizenship, and of the capacity of being elected, takes place—

1. With the loss of the faculty of entering on valid commercial transactions.*

2. On account of degrading crimes or misdemeanours, by judgment pronounced by a court of law.

3. In consequence of bankruptcy, whether the proceedings have been carried to an end, or the bankruptcy has been annulled again, but only in case of fault attaching to the bankrupt, and by a judicial decision. The suspension to continue from one year to ten.

4. On account of continued receipt of public alms, and only whilst such period of assistance lasts.

* By declaration of lunacy, &c.

II.—*Economical Principles.*

ART. 19.

All owing the duty of paying taxes have to contribute to the burdens of administering the state and the municipalities in the measure of the resources at their command.

The income tax and the property tax are to be ordered by classes, according to the principle of a moderate and just progression.

Small fortunes of persons incapable of work, as well as of every income that amount which is absolutely required for existence, are free of tax.

The progressive ratio is not to surpass, as to income tax, the fifth part of the simple ratio; and, as to property tax, the double of the simple ratio.

As to municipal taxation (rates), a progressive tax on property does not take place, but only a proportional one can be claimed. The duty of contributing to rates for the expenses of the municipality is to be regulated by the state.

The right of voting implies the duty of making a moderate contribution to the public burdens, to be distributed equally on all.

The State raises a tax on inheritance, to be progressive according to the distance of the degree of relationship of inheritors, and according to the amount of the sum inherited. The law fixes those degrees of relationship and those minimum sums which are to be exempted from this tax.

Legislation will make those regulations which may appear appropriate to an exact ascertaining of the power of bearing taxation.

Tax privileges in favour of single private individuals or industrial companies are inadmissible.

No new taxes on the consumption of indispensable articles of food can be introduced. The tax on salt is at once to be diminished.

ART. 20.

Cantonal and county officers, as well as notaries, receive, as far as possible, fixed appointments in the proportion to the amount of business to be transacted by them. Any fees and fines are, as a rule, to go to the cantonal treasury.

ART. 21.

The exercise of every profession in art and science, commerce, and industry, is free, providing however such legal and police regulation as the common interest may require.

ART. 22.

The care of the poor belongs to the Municipalities. The State affords appropriate contributions towards rendering the burden of providing for the poor more easy to those localities which are in

need of it. The State supports the efforts of municipalities and societies towards the decrease of poverty, especially towards the education of poor children, improvement in the care of the sick, and reformation of neglected persons.

ART. 23.

The State furthers and facilitates the development of co-operation resting on self-help. It institutes by legislation such conditions as may be necessary for the protection of workmen.

ART. 24.

The State, with a view to the increase of a general system of credit, establishes, as soon as possible, a credit bank.

ART. 25.

The highways, roads, and streets are to be classified according to the importance of the traffic carried on in each.

The burden of making them and keeping them in repair falls to the State and to the political communes (or municipalities).*

The assistance of the State extends to all classes of road, excepting bye-streets and lanes.

ART. 26.

The railways, which, on account of their importance in the economy of the nation, enjoy extraordinary privileges granted by the State, are to be administered under its control, so as to fulfil their destined purpose.

Those portions of the territory of the canton which, in regard to population and traffic, are on the same line with such as have by means of State help been endowed with railways, have likewise a claim to assistance from the State.

ART. 27.

The State undertakes the first military outfit of militia-men. As to the replacement of articles of military furniture which have been used up or lost a law will fix details.

III.—*Legislation and Representation of the People.*

ART. 28.

The people, with the co-operation of the Cantonal Council, exercise the powers of legislation.

A.—*Right of the people to make proposals.*

ART. 29.

The right of making proposals which those entitled to vote

* Query : In what proportion?—TRANSLATOR.

possess (Initiative) comprises the demand of the passing, repeal, or alteration of a law, or of any such resolution as is not, by the terms of the Constitution, expressly reserved to the competency of the Cantonal Council. Demands of this kind may be made either in the form of simply calling attention to the matter in question, or by offering the details of a bill; and in either case motives are to be adduced for the alteration proposed.

If a single individual or a constituted authority makes such a demand, and it is supported by one third of the members of the Cantonal Council, the question must be laid before the people for decision. The right of personally advocating in the Cantonal Council the alteration proposed is granted to the individual having made the demand, or to the deputy of the constituted authority moving in the matter, provided that twenty-five members of the Cantonal Council support the request of this personal advocacy of the motion.

If five thousand persons, having the right to vote, make a demand of the kind aforesaid; or if a number of municipal meetings, in which at least five thousand persons entitled to vote have pronounced in favour of such a demand, the decision of the people is to be equally taken, unless the Cantonal Council have previously responded to the demand. Any demand of this kind, having been handed in early enough, the matter is to be placed before the people for their decision, at the latest, at the second subsequent regular taking of votes.

The demand or bill has in every case to be submitted, before the vote, to the Cantonal Council, for them to give an opinion in the form of a resolution.

In any case in which a bill proceeding from popular initiative is submitted to the vote, the Cantonal Council, besides giving its opinion, may place before the people a modified bill for decision between the two.

B.—*Popular Vote.*

ART. 30.

Twice every year, in spring and in autumn, the vote of the people takes place on the legislative acts of the Cantonal Council (Referendum). In urgent cases the Council can order an extraordinary taking of votes.

There are to be submitted to the popular vote:

1. All alterations of the constitution, laws, and concordats.
2. Those resolutions of the Cantonal Council which that Council is not competent to pass definitely (*vide* Art. 31).
3. Any resolutions which the Council may wish to put to the popular vote.

The Cantonal Council is entitled on submitting a law or reso-

lution, to order—beside the vote on the totality of the proposals—exceptionally a vote on single points of it.

The vote takes place by means of the ballot boxes in the municipalities. Participation in it is a citizen's duty, binding on all.

The vote can only be by affirmation or negation.

The absolute majority* of affirming or negating votes is decisive.

The Cantonal Council is not entitled to give provisional validity to any laws or resolutions requiring the popular vote, previous to such vote being taken.

All proposals to be submitted to the popular vote are to be published and handed to the voters at least thirty days before the taking of the vote.

C.—Cantonal Council.

ART. 31.

The competency of the Cantonal Council extends to:—

1. The discussion and resolution of all questions which are to be submitted to the popular vote.
2. The request that the Federal Council be convoked (*vide* Art. 75, § 2, of the Federal Constitution).
3. The disposal of the military forces of the canton, as far as they are not required by the Confederacy.
4. The control of the entire administration of the country, and of the action of the courts of law, as well as the decision in any conflicts between the executive and judicial powers. For the purpose of impeaching members of the Government Council and of the Supreme Law Court the Cantonal Council may appoint a special procurator (a public prosecutor).
5. The final decision on new expenses, occurring but once and for a definite purpose, such expenses not to exceed 250,000 francs; as well as on annually recurring expenses up to the amount of 20,000 francs.
6. The fixing of the annual estimates of ways and means, and of expenses in accordance with existing laws and resolutions, reserving however the above restrictions under No. 5; and the granting at the same time of the amount of taxes required.
7. The audit of the public accounts, and of the accounts of separate funds, the care for undiminished preservation of the public domains, and for appropriate . (†) . and employment of the income from them.

* That is, one-half of all the votes given, *plus* one, in contradistinction to a vote by a two-thirds' majority; or to a majority which, as being compared with the absolute majority, is only the largest of several minorities.—TRANSLATOR.

† Unintelligible misprint in the original.—TRANSLATOR.

8. The exercise of the right of mercy.
9. The order of such elections as are by legislation placed within its competency.
10. The election of its officers.

ART. 32.

The Cantonal Council is elected in electoral districts whose number and extent the law orders, in such wise that each district receives at least two members.

The number of 1,200 souls gives a district a claim for the election of a member of the Cantonal Council; a fraction of above 600 souls is reckoned as a full number. As to fixing the number of the populations the Confederate census is decisive.

In electing a Cantonal Councillor not more than three successive electoral acts are to take place; in the first two, absolute majority decides, in the third, relative majority.*

ART. 33.

The members of the Government Council cannot be members of the Cantonal Council; yet in it they have a consulting voice, and the right of making motions and presenting reports.

If any members of the Supreme Law Court are elected as members of the Cantonal Council they have a merely consulting voice on the presentation of the reports from their court.

The Cantonal Council can call into its meetings experts with consulting voice.

ART. 34.

The meetings of the Cantonal Council take place at Zurich, and are, as a rule, public. Its members receive during the session a moderate daily pay, and once in the session an appropriate compensation for travelling.

D.—*Cantonal Vote† and Election of Representatives of the Canton.*

ART. 35.

The result of the popular vote in the canton, with reference to the acceptance or non-acceptance of any alteration in the Federal

* *Vide* note to page 27. This is the mode of proceeding:—If the result of the election shows a candidate not to have a number of votes equal to one-half of the votes given, *plus* one, then the election is null, and a new one has to take place, which will be decided on the same principle. If its application has twice failed, then, in a third election, a relative minority is, by force of circumstances, considered sufficient; that is, the person having the highest number of votes is considered elected, though that number may be below the half of the number of voters.—TRANSLATOR.

† In the Assembly of the Swiss Confederation.—TRANSLATOR.

Constitution (Art. 114 of the latter) is at the same time to be considered as the cantonal vote. The right of proposal (initiative) granted by Art. 81 of the Federal Constitution to the different cantons, can be exercised as well by the Cantonal Council as by the mode of a decision of the people.

ART. 36.

The two members of the Swiss Cantonal Council* are elected by the whole electoral body of the canton, forming for this purpose one electoral district, at the same time with the members of the National Council,† and for three years.

IV.—*Executive Power and Administration.*

A.—*Government Council.*

ART. 37.

The executive and administrative authority of the canton, the Council of Government, consists of seven members, who are elected by the people, the whole canton being formed into one electoral district‡ at the same time with the Cantonal Council.

ART. 38.

The Government Council elect their President and Vice-President for a term of one year.

ART. 39.

The office of a member of the Government Council is incompatible with any other appointment bearing a fixed salary. In order to fill the office of a director or member of an administrative council of a joint-stock company a member of the Government Council requires the permission of the Cantonal Council.

Not more than two of the members of the Government Council may belong to either of the Federal Councils.

ART. 40.

Within the competency and the duties of the Government Council are essentially:

1. The right of proposing to the Cantonal Council laws and resolutions.

* This is one of the Federal authorities sitting at Berne, not to be confounded with the Zurich Cantonal Council, and may be compared with the American Senate.

† Another of the Federal authorities, to be compared with the American House of Representatives.—TRANSLATOR.

‡ That is, every elector voting for seven candidates.—TRANSLATOR.

2. The proper publication of all proposals to be submitted to the popular vote, and of all proposals after their being passed into laws, as well as the care for the execution of the laws, and of the resolutions of the people and the Cantonal Council.

3. The intercourse with the Confederation and with the cantons of Switzerland.

4. The control of matters of education, of ecclesiastical affairs, and of the administration of the poor law, as well as of all subordinate authorities and functionaries.

5. The judgment, in the last instance, of all disputes in administrative questions.

6. The drawing up of the estimates of ways and means, and of expenses of the public exchequer, and of the separate funds; the presentation of the annual accounts, as well as of a report, to the Cantonal Council, of the entire activity of the Government Council.

7. The organization of the government offices, and the appointment of all those functionaries and officers whose election has not by constitution or law been entrusted to some other public appointing body.

ART. 41.

The Government Council elects, for the term of office fixed for administrative officers, the public prosecutor, on whom the duty is incumbent of prosecuting, in the name of the State, crimes and punishable offences.

ART. 42.

The functions and business of the Government Council are, for the purpose of furthering their despatch, divided into Directions,* each of which is presided over by a member of the Government Council. Final decisions proceed from the whole Council; however, within certain fixed limits, a final competency may be assigned by law to the different Directions.

The Government Council distributes amongst its members the Directions in such a manner that no member shall fill the office of the same Direction during more than two continuous periods of office.

Standing commissions, appointed by the Government Council, may be added to the single Directions if the nature of their functions require it. In all other respects the law fixes the organization of the Directions and offices as well as the number and salaries of officers.

* Departments.

B.—*Administration of Districts.*

ART. 43.

The canton is divided into Districts; any alterations in the existing distribution of these has to be made by legislation.

ART. 44.

The administration of the District is carried out by a District Council, consisting of a Lieutenant-Governor ("Statthalter") as President, and two District Councillors, to whom are to be added two Deputy-Councillors.

Where local wants require it the number of District Councillors may be augmented. Equally, wherever the extent of a Lieutenant-Governor's business demands it, a part of it may be handed over to an Adjunct, to be transacted by him independently.

The election of these officers belongs to the inhabitants of the district entitled, by Art. 16 to 18, to vote.

ART. 45.

The duty of the District Council is especially:

The control of the administration of the communes and their domains, as well as of matters relating to minors and their guardians; in certain cases, to be determined by law, the decision in the second instance in affairs of guardianship and of the assistance to the poor; finally, the decision in the first instance in disputes referring to administrative matters.

On the Lieutenant-Governor especially is incumbent the execution of the order of the Government Council, as well as the execution of such functions as are laid on him by the criminal law and the police law, and the control of roads and streets.

ART. 46.

Any position in the district administration is incompatible with that of a common councillor or clerk to a Common Council.

C.—*Communes.*

Art. 47.

Communes are ordinarily divided into ecclesiastical communes (parishes), educational communes, and political communes (municipalities).

The parish forms, as a rule, at the same time the educational district.

The formation of new communes, and the union or dissolution of existing ones, belong to legislation.

For special and local aims other associations may take place within the communes, especially the formation of civil communes.

ART. 48.

The communes are entitled to regulate their affairs independently within the limits of the constitution and the laws. Decrees of a commune, barring their being attacked on grounds of informalities, can only be called in question if they evidently transgress the proper sphere of the commune, and at the same time involve the imposition of an appreciable burden on those obliged to pay rates, or if they improperly offend against considerations of equity.

ART. 49.

The administrative organs of the ecclesiastical communes (parishes) and school districts, or educational communes, are:—

- The assembly of the ecclesiastical commune (parish meeting);
- The assembly of the school district and educational commune;
- The Church Council;
- The School Council.

The administrative organs of the political commune (municipality) are:—

- The assembly of the political commune;
- The Common Council;

ART. 50.

In all assemblies of the commune, the citizens of the commune, having a vote according to Art. 16—18, and the cantonal and federal citizens, established in the commune, have the right of voting.

In questions of the administration of relief to the poor, of conferring communal citizenship, as well as in questions of the administration of purely communal separate funds and communes, only communal citizens, residing in the canton, though within or without the commune, are entitled to vote.

In the ecclesiastical communes (parishes or general vestries) on the occasion of discussions on ecclesiastical matters, and of the election of ecclesiastics, of members of the Church Councils, and of church employés, only those of the citizens, and of those established in the commune who belong to the denomination in question, have the right of voting.

ART. 51.

To the general assembly of the commune belong especially:—

The control of such portions of the communal administration as may be assigned to it, the fixing of the annual estimates, the audit of the annual accounts, the granting of rates, the consent to such expenses, as may surpass an amount to be fixed by it, as well as the election of its council, whose composition with respect to citizens proper, and to those having a settlement, the law will determine.

Of the resort of the Common Council are especially:—

1. The preliminary discussion of all affairs which have to be brought before the assembly of the commune.
2. The execution of the resolutions of the commune.
3. The administration of the domain of the community, with reference, however, to Art. 55, § 2.

ART. 52.

The general assembly of the ecclesiastical commune, and the Church Council, have to attend to the ecclesiastical affairs of the commune; and, as a rule, also to the administration of relief to the poor. The communes are free to elect a special authority for the latter purpose.

ART. 53.

To the general assembly of the educational commune, and to the Council of Education, belongs the care for the general national schools.

All other branches of the administration of communal affairs, with the reservation, however, indicated in Art. 47, § 4, are handed over to the political communes and their organs. However, where special circumstances make it appear desirable, a union of several political communes may be formed, in order to carry out in common any special branches of municipal administration, and appoint special organs for that purpose.

The celebration of civil marriage belongs to the Municipal Council, or to a committee of the same.

ART. 54.

The care for minors, and the duty of assistance in case of impoverishment, belong as a rule to the commune where the persons in question are born. (Comp. Art. 22.) However, the legislature may transfer, wholly or partially, these duties, and the rights connected with them, to the commune of residence.

ART. 55.

The communal domains, excepting the citizens' purely separate lands and commons, are in the first instance destined to satisfy the public requirements of the communes.

The municipalities are left free to entrust to the communal councils the administration of all communal property.

V.—*Administration of Justice.*

ART. 56.

A judgment given by competent authority cannot be set aside

or modified either by the legislative or by the administrative power. The right of mercy, however, is reserved to the Cantonal Council.

ART. 57.

Crimes and political offences, including offences of the press, in which the defendant demands it, are tried before juries.

The law may also appoint trial by jury for other portions of the law, both civil and criminal.

ART. 58.

The law determines the number, organization, competency, and proceeding of the courts of law.

Courts of arbitration by mutual agreement are admissible.

ART. 59.

The mode of proceeding is to be regulated with a view to the greatest possible security of right, as well as to speedy and cheap dealing with the cases. For disputes concerning small amounts a summary proceeding will be introduced.

ART. 60.

The officers entrusted with notarial business are elected from among the examined candidates by the inhabitants of the notarial circle entitled to vote according to Art. 16-18.

ART. 61.

Execution for debt is entrusted to an officer of the municipality.

VI.—*Education and Ecclesiastical Affairs.*

ART. 62.

The furtherance of the general education of the people, and of the republican education of citizens, is the care of the State.

In order to increase the professional and industrial worth of all classes of the people the national schools are to be extended so as to embrace a more advanced period of youth. The higher establishments of learning are to be harmonized with the wants of the present age, without doing injury to their scientific character, and are to be placed in organic connection with the national schools.

Primary instruction is obligatory and gratuitous. The state undertakes, with the participation of the communes, to provide the means required.

The teachers of primary schools are to be thoroughly trained with respect to knowledge and management. They are likewise to be especially fitted for managing adult schools.

The communes control, through the local educational authorities,

the management of the schools, and the performance of their duties by the teachers. For every district, besides, a special educational authority, or district school council, is to be appointed.

The organization of an education council—to be attached to the direction of education—and of a school synod, remains reserved for legislation.

ART. 63.

The freedom of belief, of worship, and of teaching is guaranteed. Civic rights and duties are independent of religious confessions.

Every exercise of force against communities, associations, and individuals is excluded.

The national evangelical* church and the other ecclesiastical corporations regulate their affairs independently, under the supreme control of the State. The organization of the former, to the exclusion of all violence done to consciences, is fixed by the law.

The State undertakes, in general, the contributions it has hitherto furnished for ecclesiastical wants.

ART. 64.

The ecclesiastical communes elect their clergy, and the educational communes the teachers of their schools, from amongst those capable of being elected.

The State remunerates the clergy, and—with the participation of the communes—the teachers, in the sense of the greatest possible equality and of a rise in the stipends appropriate to the requirements of the times.

The teachers of the national schools, and the clergy of the ecclesiastical corporations assisted by the State, are subjected to a confirmatory election every six years. If, on taking the vote, the absolute majority of the members of the commune having the right to vote declines to confirm the appointment, the place must be filled up anew.

Teachers and ecclesiastics at the present moment holding positions are to be considered as elected for a new term of office on the acceptance of this Constitution; and in the case of their not being re-elected have a claim to compensation according to their years of office and to their services rendered.

This rule applies also to the clergy of the (Roman) Catholic parishes.

VII.—*Revision of Constitution.*

ART. 65.

The revision of the constitution in its totality, or in single parts, may take place at any time by the mode of legislation.

* Protestant.—TRANSLATOR.

In case the revision of the totality of the constitution be resolved by the action of popular Initiative, a new election of the Cantonal Council will take place, which will have to take in hand the revision.

Bills referring to the revision are subject to a double discussion in the Cantonal Council, and the second discussion is not to take place less than two months after the date of the first.

In the name of the Committee of Constitution,

DR. J. SULZER, *President.*

L. FORRER, *First Secretary.*

Zurich, March 31st, 1869.

TRANSITORY ENACTMENTS.

1. Articles 11, 15, 19-21, 23, 59-62, and 64 of the Constitution will be applied only after the passing of the laws necessary for their execution.

2. Article 14, in so far as it prescribes the abolition of the tax on settlement, is applicable from the beginning of next year.

3. With regard to Article 18, § 3, it is resolved that the rehabilitation of such citizens as have, previous to the acceptance of this constitution, lost their active citizenship in consequence of bankruptcy, shall take place, *ipso facto*, after the lapse of ten years, to be reckoned from the day of the declaration of bankruptcy, unless such rehabilitation have, before the expiration of such term, been declared by a judgment of court.

4. Articles 1-10, 12-14, 16-18, 22, 26, 28-58, 63, and 65, are to be applied even before their principles are further developed by future legislation. Consequently, all existing regulations contained in laws and ordinances, and contradictory to those articles, are herewith abolished.

5. In case of the acceptance of this constitution, the election of the new Cantonal Council, as well as of the Government Council and the two members of the Swiss Council of Cantons, will take place on May 9th, according to the mode prescribed by the constitution. The Cantonal Council will meet on the second Monday after the accomplishment of the third election, and at the same moment the charge given to the Committee of Constitution is to be considered at an end.

After having constituted itself and taken the oath, the Cantonal Council proceeds to swearing in the Government Council, and then issues, before any other business, a provisional set of standing orders.