

YALE LAW JOURNAL

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UPON the suggestion of several of the most devoted supporters of the JOURNAL, it has been decided to introduce a department of MEMORABILIA. Under this title the JOURNAL will gladly publish such items of interest concerning the Alumni of the Yale Law School as may be communicated to its board of editors. As the Law School increases in numbers and influence, the spirit of fellowship among its graduates and students should become stronger. To the promotion of this spirit is this new department of the JOURNAL dedicated. Communications reaching us before March 10th, will be in time for the next issue. We would bespeak the cordial coöperation of our readers.

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THE referendum and initiative, two measures recently advocated in Massachusetts, are designed to remedy certain defects in our representative bodies. The referendum is the right of the people, on petition of any considerable number, to have any act of the legislature submitted to them for approval or rejection at the polls. The initiative is a similar measure whereby the legislature, on petition, is required to submit any desired bill for popular enactment or refusal.

The legislatures of the States and the smaller assemblies of cities are often under the control of political bosses or wealthy corporations, and do not fulfill the ends for which they were created. The representative is getting beyond the reach of his constituents and the people are losing faith in the ability or disposition of the legislature to perform its duties. The initiative and referendum render assemblies truly representative by causing them to reflect more closely the opinions of the people. Its acts can be reviewed

by the whole electorate and its failure to act in any desired manner will subject it to the command of the majority of the people to carry into effect any desired legislation. These measures are simply an extension of the town-meeting idea to the larger field of the city and State in the most practical way. It is no departure from the theory of our government. Constitutional amendments in many States are now referred to the people for approval in the way it is proposed to refer important general legislation by these acts. There would be little occasion for the exercise of this power since its restraining influence would make the legislature more attentive to the desires of the people. The referendum and initiative have been successfully used in Switzerland, and have caused great interest in general legislation to be taken by the people at large. Whether they are adapted to American institutions can only be ascertained by actual trial.

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THERE is a marked tendency among modern jurists to abolish the formalities and technicalities of law, the utility of which has never existed or has passed away. The same feeling which resulted in the substitution of code pleading for the complex system of common law, with its intricacies and absurdities, in twenty-six of our States is manifesting itself in other directions. One instance of this is seen in the decreasing importance with which courts now regard sealed instruments. It is absurd that more solemnity should attach to a signature after which is printed or written in some form or other the word "Seal," than to the signature alone. Yet the highest court in our land a few years since reiterated the old doctrine, "a seal imports a consideration." Other courts have frequently held deeds to be invalid by reason of the want of a seal. The acknowledgment of instruments before magistrates is everywhere provided for, and, except in the case of corporations, every reason for the solemnity of the seal has long ago failed. A recent case, mentioned in the December number of the *JOURNAL*, was the occasion of the court's decision that sealing has become wholly unnecessary except as a means of satisfying the antiquated law requiring it. This seems to us a step in the right direction. With the body of the common law, already great, increasing at its present tremendous rate, it will be almost impossible in a few years for lawyers in general practice to keep abreast of its development. There is a general demand that the way be cleared by cutting out anachronisms and technicalities of this character, and we earnestly hope that this will be the policy of our courts and legislatures in the future.