

The Populist I&R Movement: Democracy in Action

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Ballot initiatives and referenda (I&R) have been means of passing laws on the state and local level for almost one hundred years. From their origins in the populist and reformist ferment of the 1880s and 90s, ballot measures have accurately reflected the most pressing popular concerns in their jurisdictions, and their use has been a barometer of popular discontent with elected officials and bipartisan consensus, both local and national.

After decades of declining use, ballot measures began to appear with greater frequency in the early 1970s, their use spurred by the activism of the 60s. By the late 70s popular causes on both the left and right were finding increasing expression and often success through ballot measures, and this growth in their use has continued through the politically polarized climate of the 80s and the widespread disillusionment of the 90s. Today initiatives and referenda have become highly sophisticated, widely used, and often effective tools for passing public opinion into law. The voter-petitioned initiative process is on the books in 24 states and the District of Columbia with a combined population of more than 120 million, or close to half of the U.S. total.

Populism in the Late Nineteenth Century

Now associated mostly with social, tax, and environmental issues, ballot measures were first conceived as a means of redressing the virtual disenfranchisement of a large part of the voting population. The rapid industrialization, heavy immigration, and westward settlement that followed the Civil War created a new political terrain, one in which both the Democratic and Republican party platforms were built largely upon the interests of industrial, financial and social oligarchs. In the South, blacks were forcibly deprived of their voting rights. In the cities of the Northeast, new immigrants became the political captives of the (usually Democratic) political machines whose bosses had personal control over their lives and prospects. And in the Midwest and West, party politics were shaped by the demands of hugely powerful railroad, mining, timber and agricultural concerns.

During the 1880s, reformers began increasingly to examine the ballot measure as a means to circumvent the monied interests that were vested in state and federal legislatures -- as a way to bring to popular vote issues that would not be given voice by either major party. The People's Power League was organized in 1892 by James W. Sullivan to advocate the writing into state constitutions of provisions for initiatives and referenda, and in the same year both the Socialist Labor Party and the Populist Party included I&R resolutions in their party platforms. The I&R movement soon drew the support of nationally recognized figures, including labor leader Samuel Gompers, socialist standard-bearer Eugene V. Debs, author Edward Bellamy, and populist orator and Democratic presidential candidate William Jennings Bryan.

Growth of the I&R Process, 1897 to Present

Fiercely resisted by the political establishment in the East and South, the campaign for ballot measures had greater success in the more egalitarian Midwest and West. In 1897 Nebraska passed a law permitting ballot measures on the local level, and in 1898 South Dakota became the first state to pass a statewide amendment permitting initiatives and referenda.

The first statewide ballot initiatives were voted on in Oregon, which had approved an I&R provision in 1899. In 1904 Oregonians voted to hold primary elections for candidates for state office, and to permit counties to impose local bans on liquor sales. The moderate and practical nature of these laws (which also foreshadowed the typical scope and substance of subsequent ballot measures), and the demonstrated success of the procedure, provided strong ammunition to advocates of I&R laws in other states. By the end of the First World War, 20 states had passed I&R provisions in some form, usually by enormous popular majorities. Some states provided for referenda -- that is, ballot measures voted on by the electorate but proposed only by the state legislature -- but not for initiatives, which are placed on the ballot by popular petition from registered voters.

Most of the states to pass these laws were in the West. In the Midwest, I&R laws in Michigan and Ohio were passed by atypically close margins, in Illinois the popularly approved law was stalled in the state legislature for 60 years, and in Minnesota and Wisconsin I&R laws failed to win the popular vote. In the South, the power of the Democratic Party and the poisonous influence of racial politics stifled the populist drive for ballot measures, and in the Northeast only progressive Massachusetts and rural Maine passed I&R laws.

The I&R map has not changed significantly since 1918, although Alaska, Florida, Wyoming and the District of Columbia have passed state I&R provisions, and in 1970 Illinois residents finally got the ballot measure provision they had approved in 1910. Mississippi adopted the process in 1994, the first state to do so in more than twenty years. The best prospects for expanding the I&R process in the near future may likely be in Southern states (in spite of legislative opposition dating from the early part of the century), for example, in Louisiana where the new governor supports voter-petitioned ballot measures and has made this one of his legislative priorities.

While a number of organizations track and analyze initiatives and referenda campaigns, results, and trends, only a few are actively working to expand the availability of voter-petitioned ballot measures into the twenty-six states that do not currently allow this process. Two of the more visible groups in this effort are the American Initiative Committee in Carson City, Nevada and the National Referendum Movement in Memphis, Tennessee. (See endnotes for more information about these two groups.)

The Current Scene: Major I&R Issues

The history of ballot measure use in the states that provide for it has been the history of rising and falling contentment with and trust in representative government. Thus a sharp decline in ballot measures occurred during the forties and fifties, and it was not until the early seventies, with newly

energized activists and a government which had lost much credibility, that ballot measures once again became a vital feature of the electoral landscape.

The resurgent popularity of initiatives and referenda has ridden upon three broad areas of issues. The first and, due to the great publicity surrounding the passage of Proposition 13 in California in 1978, best known area is tax relief. The second is a broad range of social and ideological matters, often of global import but, because confined to local or state levels, having the effect of expressions of community opinion. The third area is protection of the environment.

It should be noted that all three areas reflect the old populist anxiety that too much decision-making power has passed out of the hands of local populations and, in effect, beyond their democratic reach. Conservatives tend to think that the federal government is a self-interested entity which is influenced by "special interests" and merely steamrolls local customs and concerns; they do not see their own outlook or opinions adequately represented or written into policy at the federal level. Liberals, on the other hand, cite a flow of power away from democratic and representative institutions (i.e., government) into the hands of private interests, principally landholders and corporations whose financial muscle can bend policy to their own advantage and often to the detriment of local communities.

Ballot measures are seen by activists of all stripes as ways of writing public opinion directly and more or less accurately into law for a given jurisdiction, and thus as ways to circumvent the ulterior interests that usually shape legislation.

Tax Issues

Since Howard Jarvis campaigned successfully to reform California's property tax laws in 1978 (the famous "Proposition 13"), ballot initiatives have been closely associated in the public mind with tax issues. Although Jarvis himself continued to push tax-relief initiatives onto the ballot in California until 1984, voters rejected them, possibly figuring that Proposition 13 had accomplished what they had wanted it to do.

A similar measure ("Proposition 2 1/2") made it onto the ballot in Massachusetts in 1980 and was passed by almost 60% of the voters, but ballot initiatives have subsequently had a less important role in shaping tax structures. One reason for this seems to be that the election of Ronald Reagan in 1980 heralded an era when the tax-cutting debate would shift to the floors of the U.S. Congress, giving those voters who care deeply about the issue a sense, at least, that their concerns were being heard by their representatives.

Nonetheless, with its immediate appeal to the voter's wallet and with the potential financial backing of companies eager to lighten their own tax burden, the ballot measure devoted to tax relief has the potential to be a powerful draw at the ballot box.

Populist Issues

Until the winding down of the arms race, initiatives written to express support for a Nuclear Freeze, or otherwise protest federal military policy, were common and often successful. Related and more substantial measures undertaken by mostly liberal activists were those directed against defense contractor activities within a jurisdiction. The support for such measures was often as much or more due to environmental as to geopolitical concerns, and the environmental component was explicit in measures aimed at halting construction or operation of nuclear power plants, such as Proposition 394 in Washington State in 1981, which stopped the construction of five nuclear power plants. In this case, moreover, since the constructing entity, WPPSS, was a state agency, the issue of public spending was also involved.

The I&R Terrain

Since the mid-1970s, the use of ballot initiatives has increased steadily in jurisdictions where they are permitted. Proponents of a variety of issues have developed sophisticated and specialized strategies for obtaining the signatures needed to put their initiatives on the ballot and for maximizing their chances of success on election day. Equally specialized techniques have likewise been developed to defeat ballot initiatives; indeed, the recent history of such efforts has been subject to close scrutiny, both by those planning to introduce or support initiatives and those hoping to defeat them. As in electoral campaigns, the modern nexus of money, publicity, and perceived communal interest has created a veritable industry of consultants, professional campaigners, and others whose job is to create the most effective ballot initiative campaign, pro or con as the case may be.

While conservative-led ballot initiatives have tended to involve tax reform or so-called social issues -- generally the restriction of minority rights -- in a given jurisdiction, voting rights, nuclear disarmament and environmental issues have been the leading concerns of liberals in the last twenty years of ballot initiatives. Since the mid-1980s, environmental protection and conservation issues have become increasingly prominent.

In many situations environmental activists can find the ballot initiative a useful way to publicize and implement environmental laws in their state or community. In some cases, a ballot initiative presents the only practical way to effect the desired rule or policy.

At the same time, ballot initiative campaigns are being mounted with increasing frequency by industry-sponsored groups and conservative special interests determined to repeal progressive policies and programs. And term limits, probably the most successful of all ballot measures, are dramatically changing the legislative landscape. Environmentalists and other progressives hoping to successfully resist these efforts must make themselves familiar with the tactics and terrain of the current ballot initiative field.

Benefits and Advantages

Ballot initiatives present several theoretical and practical advantages, almost all of which commend them to environmentally concerned citizens. In the first place, the ballot initiative

presents a proposed law or policy to be voted on directly by the public. Thus voters can express themselves specifically on the issue in question, theoretically ensuring that the majority view on the particular proposal will be accurately reflected by the ballot results. This feature is potentially of great significance for issues that have widespread public support, such as environmental protection. Few politicians will campaign on a platform that openly challenges the public's proven concern for the environment; yet once elected, representatives often succumb to pressure from industry or special interests and pass legislation clearly inimical to environmental well-being. So many other factors influence voters' support for an incumbent that such misrepresentation can often be made with impunity. In ballot initiatives, however, the public's clear preference for policies protecting its health and the local environment can be expressed directly.

A second principal advantage of ballot initiatives is that, in theory at least, they educate the public about the specific issues in question. In the case of initiatives put on the ballot by petitions, the signature-gathering campaign itself can be educational, and in all initiatives and referenda the campaign leading up to the election provides an opportunity for both sides to inform voters about the particular proposal and its ramifications. Environmental issues are frequently complex, and the benefits of environmental policies are sometimes long-term and hard to illustrate in advance; such policies often work against immediate or promised rewards (usually economic). Notwithstanding the negative appearance of environmental issues, the process of educating voters is very important for the broad political success of such policies. Even if in the end voters reject the environmental position in a given initiative vote, the campaign preceding it will have helped to alert them to the trade-offs involved in many issues they might not otherwise have considered.

Third, ballot initiative campaigns generally rely upon a core of grassroots support, sometimes to develop the proposal in question, frequently to supply needed signatures (in the case of ballot initiatives), and always to provide volunteers and campaign operatives to get out the vote. Here environmental issues are clearly favored, since in most communities there exists a dedicated (if often unorganized) electoral constituency deeply committed to the principles of environmental protection. Other factors aside, such a core of support can often give the environmental side in an initiative campaign a useful lead in marshaling public opinion. At the same time, initiative campaigns, whether or not they are successful, can be of value to the environmental community precisely because they serve to organize and motivate a potentially strong but otherwise diffuse grassroots constituency.

There is a fourth, indirect benefit which can accrue to ballot initiatives that arouse powerful public sentiments. When a particular proposal is contentious enough to actually bring out voters who would not otherwise come to the polls on election day (and environmental issues are sometimes of this type), there can be a spill-over effect on the other issues or candidates on the ballot. This effect has actually been exploited with considerable success by conservative campaign strategists who, by placing a "hot-button" social or tax issue on the ballot, can draw out voters (not likely otherwise to turn out to vote) who, once in the voting booth, will tend to throw additional support to conservative issues and candidates. Conservatives first used this technique in the early 1980s in California, and it has been refined and promoted in recent years by conservative groups such as, among others, Americans for Tax Reform and the Free Congress Foundation. Under the right conditions, environmentalists could enjoy a long-term electoral benefit by employing the same technique if they could devise a cohesive national ballot measure strategy, put more resources into

obtaining expert guidance from campaign consultants, expand their use of focus groups and polling, and test (for instance through exit polls) whether or not environmental and animal welfare ballot measures can create a "surge vote" that can have an effect on voter turnout and the outcome of candidate races.

Environmental Opportunities

For each of these four potential advantages, however, environmental strategists will find that the ballot initiative process presents corresponding disadvantages, so it is important that they make themselves as familiar as possible with these.

First, the fact that voters have an opportunity to express their views directly on a single proposal or issue makes the presentation of that proposal all the more important. In virtually every ballot initiative campaign, both sides charge that the effects of the proposed policy are being misrepresented and that voters' fears and hopes are being manipulated, and no doubt many of these charges are true. Unfortunately, the power to represent (and especially to misrepresent) an issue is largely a function of available money, and in most ballot initiative campaigns concerned with environmental or health legislation, the anti-environmental side draws overwhelming financial support from corporate and business interests (and sometimes from other special interests). Environmentalists involved in or planning a ballot initiative campaign or trying to defeat an initiative should be aware of the financial interests allied against them and adopt strategies to counter the effects of being grossly outspent -- as well as learn how to identify sources of funding to support their own campaigns.

Second, the educational benefit of a well-planned ballot initiative campaign can be lessened or lost if the other side controls the definition of the issue, which is possible, whatever the real merits of the question, when there is a great disparity in financial resources between the sides. As a very broad example, the false dichotomy of "jobs versus environment" has served to swing a number of economically hard-pressed communities against pro-environment legislation, even when the promised economic bonus was non-existent, fleeting, or accrued solely to companies far outside the local community. Activists engaged in a ballot initiative campaign must present a disciplined and accurate portrait of the issues involved, and use the revelation of hidden funding sources and the ulterior motives of their opponents to neutralize the advantage purchased by the opponents' resources.

Third, the potentially powerful instrument of strong grassroots support can fail if it is improperly recruited, under-employed, or if oppositional exposure in the media or the purchase of "hired guns" offsets its effect. Additionally, many pro-environment positions are seen as direct challenges by conservative activists who, by mobilizing equally dedicated socially conservative volunteers, can match environmental grassroots support for an issue by presenting it as being about something else -- religion, permissiveness, or intrusive government, for instance. With a few exceptions, conservatives have been far more successful than liberals in recent decades in bringing out voters to campaign and vote on a range of issues, and this has been reflected not only in certain ballot initiatives but in candidate elections as well.

Finally, the vast collective resources of the business community, and its ability to pour funds into local campaigns from far outside the voting area, has led to the development of a sophisticated strategy-and-response industry composed of fund-raisers, advertising agencies, pollsters, and campaign consultants, focusing principally on ballot initiatives involving environmental issues. This industry constitutes a formidable opponent in any ballot initiative campaign and activists must proceed with foresight and planning in order to maximize their own potential support in such a campaign and in order to benefit from the several advantages they can enjoy in the ballot initiative process.

Conclusion

Environmentalists have had a good ballot measure track record since the early 1970s. In the past three electoral cycles, environmentalists have been able to win 62% of their ballot campaigns (59 out of 95 measures in several dozen different states in the period 1990-94). This is extremely noteworthy as the overwhelming majority of ballot measures on all issues fail (well more than 60% by some estimates).

Nonetheless, environmentalists and other progressives have good reason to be concerned that in the next several electoral cycles they may well be faced in ballot measure campaigns with increasingly sophisticated and deep-pockets opposition and with external factors such as voter resistance to government, more taxes, and publicly-funded good causes. Corporate and individual contributions to ballot measure campaigns are not constrained by the same ceilings as political campaigns, providing an additional incentive for unlimited corporate and trade association dollars (this is comparable to unlimited "soft monies" poured into political party coffers).

Additionally, the odds against winning a ballot measure are somewhat daunting, for example, of 519 petition efforts in 22 states in 1994 only 76 actually got on ballots that year and only 25 passed. An estimated \$140 million was spent on those two dozen campaigns.

There is encouraging news, however, for environmentalists as research has found some common strengths in winning conservation initiatives: broad public support for basic environmental goals, a large base of grassroots volunteers, bipartisan support, and good use of free media. If grassroots environmentalists are to continue their high win rate with ballot measures, they will need increased technical assistance and financial support from the national environmental community and progressive foundations in order to build on these basic strengths.

For more information about the history and development of the initiative and referendum process in the U.S., the reader may want to consult these three books:

Citizen Lawmakers by David D. Schmidt, 1989, Temple University Press, Philadelphia, 345 pages.

Direct Democracy, the Politics of Initiative, Referenda, and Recall by Thomas E. Cronin, 1989, Harvard University Press, Cambridge, 289 pages.

The Politics of Direct Democracy in the 1980s by Patrick B. McGuigan, Institute for Government

and Politics of the Free Congress Research and Education Foundation, Washington, DC, 140 pages.

Also, a bibliography containing several dozen references about ballot measures can be found in the Americans for the Environment publication Taking the Initiative - II, pages 31-32.

The American Initiative Committee and the National Referendum Movement can be contacted as follows:

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