

# the initiative and referendum

direct democracy

in perspective

1898-1920

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“Political ideology alone is no longer satisfactory evidence to describe social patterns. . . . Behind this contemporary rhetoric concerning the nature of reform lay patterns of political behavior which were at variance with it.”<sup>1</sup> This observation, which dates the introduction of a revisionist approach to the study of municipal reform in the Progressive period, applies with equal force to a reexamination of the initiative and referendum (IR) on the state level during the era of its most extensive use and political observer interest. Traditionally conceived of as placing more government in the hands of the people, in practice the IR frequently became a useful tool in the hands of interest groups to further their own ends. IR supporters, often hamstrung by constitutional restrictions designed to curtail its use, occasionally found themselves on the defensive as their opponents came to recognize the double-edged potential of the device. When placed within the broad context of political change during the pre-World War I period, the IR emerges as one of several adaptations to the shifts induced by a new, mobile, urban-industrial order.

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Historically, one of the results of the colonial and Revolutionary War experience was the emergence of legislative supremacy over the executive and judicial branches of government on the state and federal levels. The negative experience of Americans with proprietary and royal governors resulted in state constitutions that curtailed executive authority, antici-

pated a passive judiciary and provided for the legislature to be the active, innovative branch of government.<sup>2</sup>

During the nineteenth century, however, there was a gradual erosion of the dominant nature of legislative authority. By 1850 state legislatures had lost nearly all of their power to appoint magistrates, and they basically became simple lawmaking bodies. Furthermore, during this century the constitutional convention became an increasingly popular device to amend governmental structure and policy. The constitutional convention was a unicameral body elected outside of the legislature that not only separated the functions of lawmaking from constitution-making, but also began to expropriate legislative functions. These conventions increasingly prescribed legislative tasks, limited their authority in such matters as local government and finance, forbade special laws to which legislatures had become addicted, regulated suffrage and limited the length and frequency of legislative sessions.

An expanded use of the referendum, in which the electorate shared in the lawmaking authority, also symbolized legislative decline. As originally incorporated into state constitutions in the late eighteenth century, the referendum was designed to be a passive instrument, generally required only in amending state constitutions. During the nineteenth century constitutional conventions expanded the categories of compulsory submission to voters to include certain types of statutory issues, such as those involving taxation and finance. Toward the end of the century legislatures began using the referendum optionally, either to seek voter sentiment in an advisory sense, or to pass on to the voters the responsibility of deciding controversial questions. Voter counsel was particularly common on cultural issues that vexed legislatures and parties around the turn of the twentieth century—liquor, woman suffrage, sabbatarian proposals and similar matters which called into question competing value systems. The Republican party in particular discreetly began to disassociate itself from issues that alienated the rising ethnic voting population.<sup>3</sup> Both legislatures and parties preferred to sidestep these issues and to send them directly to the voter for decision—always under the rhetoric of greater democracy for “the people.”

Several other institutional alterations accompanied the decline of legislative authority. One change, the increasing length of state constitutions, symbolized legislative impotence. The original sharp distinction between organic or constitutional law and laws of a more transitory nature became blurred, so that state charters tended to include matters that in the past had been relegated strictly to the statute books. California, for example, in 1879 ratified a constitution of about 22,000 words, compared to the 4000-word United States constitution (exclusive of amendments).<sup>4</sup>

Longer constitutions were in part the result of a gradual easing of the amending process. The legislative approval necessary was reduced from

two consecutive sessions to one. Furthermore, the majority needed for ratification at the polls was gradually lowered from a majority voting at the election, to a simple majority voting on the specific proposal. Since the mean vote on referenda generally varied between 35% and 90% of the vote for the leading office at that election, the possibility for minority legislating was augmented accordingly.

One final thread in this fabric of institutional change was the rise of special-interest organizations in the late nineteenth century. These organizations reflected the realization that common interests took precedence over the reality of common geographic location. For a number of reasons (including the fact that political parties at best represented the most common denominator of potentially antithetical interests) the partisan geographic nature of representative government no longer seemed as responsive to the needs and wishes of various sectors of society. Application of pressure at the state capitol by representatives of a group structured around a specific purpose or interest could better accomplish their objectives. The emergence of pressure or lobby organizations coincided with the decline of the legislature as the sole active agent of government and with the decline of the central role of political parties.

These factors, then—decline in legislative and partisan effectiveness and the rise of legal and constitutional constraints to hamper freedom of legislative operation—occurred at the very time that rapid changes brought on by the transition to an urban-industrial order placed new demands upon a governmental structure designed to serve a pre-industrial society. In part this additional pressure was taken up by the judiciary, who, as a result of increased litigation, began to assume an active, quasi-legislative function through their decisions. Positive benefits from courts as agents of change were limited, however, since judicial philosophy rested largely upon pre-industrial precedents. Relief became possible to some extent by circumventing political, judicial and legislative obstacles through such techniques as the constitutional convention, the expanded use of the referendum, the reliance upon special-interest groups, and the expansion of state constitutions to embrace statutory matters. The increasing role of pressure groups in particular coincided with the nonpartisan movement which also promoted apolitical group activity over party.

Given the gradual erosion of legislative prerogatives, the addition of the initiative petition to the legislative process appears as a logical extension to the expanded referendum. No longer would voters be limited to expressions of opinion based upon constitutional concessions or legislative whims. The principle that legislatures share their functions, already well established by 1900, would be broadened by permitting any group securing the requisite number of signatures to submit a proposal directly to the voters. In attaching the petition feature to the referendum, it became a potentially active check on the legislature by making laws

subject to popular veto. In a sense the IR, together with such other innovations of "direct democracy" as the recall of elected officials, the direct primary, the direct election of senators, and the short ballot, represents the culmination of pre-World War governmental adaptations to urban-industrial society.

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The direct legislation movement dates from the late nineteenth century. According to a spokesman, it began as a literary movement in the 1880s, receiving its first organizational expression in 1892 as the People's Power League in Newark, New Jersey. Within a year the organization went through several name changes and finally settled upon the Direct Legislation League. A monthly journal, *The Direct Legislation Record*, appeared in 1894. In that same year IR or Direct Legislation leagues were established in South Dakota and Kansas, and the following year in Michigan, Colorado and Nebraska.<sup>5</sup> Coinciding with the culmination of Populism, the IR became a popular reform plank in state and national Populist platforms.

Pioneers of the IR conceived of their movement as an umbrella, gathering beneath its cover reformers of all types:

Many other reform movements are merging into this Direct Legislation movement. While the silver men, the fiat money man, the sound money man, the civil service reformer, the civic reformer, the socialist, the prohibitionist, the single taxer, etc. may each think his own special reform the most important and needed, they are all beginning to see that they cannot even get a hearing without Direct Legislation. . . . It is thus proving a real bond of union between heretofore warring economic beliefs.<sup>6</sup>

A dozen years later another IR advocate echoed the same sentiments: "Here is a field for the activity of those who believe in the single tax, in prohibition, in Socialism, in populism, in anti-imperialism and in tariff reform."<sup>7</sup>

Historical examination suggests that at least three groups were particularly active in seeking adoption of the IR: single-taxers; organized labor; and the Grange. In some states disciples of Henry George's single-tax philosophy were closely associated with the IR. Oregon provides the classic example of this connection. Faced with a recalcitrant legislature, W. S. U'Ren, who had become a single-tax convert in the 1890s, labored hard in behalf of IR as the best single means to secure that reform. His efforts were successful, as Oregon voters endorsed an IR amendment to their constitution in 1902.<sup>8</sup>

Parallels to the Oregon experiences can be found in Ohio. As in Oregon, the leading IR proponent, the Reverend Herbert Bigelow, was also an avowed single-taxer. After a dozen fruitless years, the principle

thrust of Ohio's IR movement occurred at Ohio's constitutional convention in 1912, which IR advocates had been partially responsible for calling. When the Reverend Bigelow was elected convention president (with the accompanying power of committee appointments) the outlook seemed bright for both the IR and the single tax. The IR proposal submitted to and approved by the voters, however, was quite restrictive, and specifically prohibited the use of the IR to secure either the single tax or the classification of property for taxation purposes.<sup>9</sup>

Missouri's adoption of IR in 1908 was partly due to Henry George's disciples there. Three of the officers of the Missouri Referendum League, the chief sponsor of IR, were also officers in the St. Louis Single Tax League. As in other states, IR advocates realized at the outset that sponsorship of the IR by single-tax organizations would mean certain defeat; so they organized the Missouri Referendum League and thereby secured the support of many who were actually opposed to the single tax. Delaware single-taxers were less successful; when they discovered that it would take an estimated six years to obtain a direct legislation amendment in that state, they abandoned the project.<sup>10</sup>

In the state of Washington, the People's Party embraced a single-tax faction as early as 1886; and they were particularly noticeable within the state's urban wing of Populism in the 1890s. Their efforts on behalf of municipal IR laid the groundwork upon which others later capitalized in the eventual statewide adoption of IR in 1912.<sup>11</sup>

Both organized labor and state Granges were also early and active IR proponents. Labor support for direct democracy dates from the 1890s; leaders of both the Knights of Labor and of the American Federation of Labor endorsed the concept in what must have been one of the few areas of mutual agreement.<sup>12</sup> Labor and the Grange were the most common components of IR organizations. Where single-taxers initiated the IR movement, as in Oregon, Ohio, and Missouri, they secured labor and (except for Missouri) farmer support. In the state of Washington, the state Grange assumed leadership for statewide IR at the turn of the century. Apparently the Grange and organized labor worked independently until a former Grange official invited trade union representatives and others to a joint conference in 1910. Demand for IR in Arizona was intertwined with the question of statehood, with mine and railroad employers satisfied with the advantages they enjoyed under territorial status. Organized labor was active in seeking constitutional convention delegates committed to IR; and they were joined by woman suffragists and prohibitionists. This coalition inserted IR into the state's initial constitution. Evidence from California suggests a broader base of IR support, embracing, in addition to the Arizona coalition, citizens' organizations and certain business and commercial groups.<sup>13</sup>

Proponents of the IR began to achieve success around the turn of the century. South Dakota was the first to adopt statewide IR in 1898; by

**TABLE I**  
**Percentage Requirements Imposed by States Adopting**  
**Initiative and Referendum, 1898-1920**

State	Year Ratified	Initiative				Referendum	Limitations
		Laws Dir.	Indir.	Amendments Dir.	Indir.		
South Dakota	1898	5		N O N E	5		
Utah	1900 (implemented 1917)	10	5	N O N E	10	Referendum and direct initiative % must reflect majority of counties	
Oregon	1902 (extended 1906)	8		8	5		
Nevada	R=1904 I & R=1912		10		10		
Montana	1906	8		N O N E	5	% from 2/5 counties	
Oklahoma	1907	8		15	5	1 measure require majority of votes at election	
Maine	1908		(12,000)	N O N E	(10,000)		
Missouri	1908	8		8	5	% from 2/3 Congressional districts	
Michigan	1908 (extended 1913)		8	10	5		
Arkansas	1910	8		8	5		
Colorado	1910	8		8	5		
Arizona	1911 (extended 1914)	10		15	5		
California	1911	8	5	8	5		
New Mexico	1911	N O N E		N O N E	10	25% may suspend law. Majority 40% vote at election to reject.	
Idaho	1912	N O N E		N O N E	N O N E	Legislature did not implement till 1933	
Nebraska	1912 (extended 1920)	10 7 <sup>c</sup>		15 N O N E	5 5 <sup>e</sup>	5% from 2/5 counties Yes vote=35% of vote at election	
Ohio	1912		3 <sup>d</sup>	10	6	1/2 signatures from 1/2 counties	
Washington	1912	10 <sup>a</sup>	10 <sup>a</sup>	N O N E	6 <sup>a</sup>	Total vote must equal 1/3 voting at election	
Mississippi	1914	(7,500)		(7,500)	(6,000)		
North Dakota	1914 (extended 1918)	10 (10,000) <sup>b</sup>		N O N E (20,000) <sup>b</sup>	10 (7,000) <sup>b</sup>	% must reflect majority of counties	
Maryland	1915	N O N E		N O N E	(10,000)	Not more than 1/2 from one county or from Baltimore	
Massachusetts	1918		(10 + 25,000 + 5,000)	(10 + 25,000; 2 ses- sions)	(10 + 15,000; 10 + 10,000 for repeal of emergency or other measures)	Vote must equal 30% voting at election. Expressly inapplicable to numerous subjects. Not over 1/4 signatures from one county.	

Parentetical figures indicate provision for number of signatures rather than percentages.

<sup>a</sup> Maximum 50,000 signatures for law, 30,000 for referendum.

<sup>b</sup> Parentetical figures for North Dakota reflect shift from percentages to number of signatures in 1918. Initial percentages appear in line above.

<sup>c</sup> Second row of numbers for Nebraska reflects change in percentages in 1920. Initial percentages appear in line above.

<sup>d</sup> An additional 3% necessary to refer measure to voters.

Table adapted from Illinois Legislative Reference Bureau, **Constitutional Convention Bulletins** (n.p., 1920), 81-82; and from James Pollock, **The Initiative and Referendum in Michigan**, in **Michigan Governmental Studies**, Number 6 (Ann Arbor, 1940), Appendix IV. The two summaries differ in minor areas.

1920 nineteen other states had followed this lead (see Table 1). Analysis of the IR mechanisms incorporated into the various state constitutions reveals almost infinite variations. Greatest uniformity appeared in the percentage figures required to implement IR, based upon the number of votes for a state officer (generally the governor) at the last preceding

general election. Although Table 1 shows some variation (including the use of an absolute number of signatures), the most common figure to initiate a law was 8%; to initiate a constitutional amendment the percentage fluctuated between eight and twenty-five. Referring a law to the voters for decision normally required only 5% of the previous general election votes.

The initiative itself appeared in two forms. In addition to the normal initiative submitted directly to the voters, a few states enacted an indirect version for proposed statutes, in which the proposal was first submitted to the legislature. There it might be altered, amended, or passed in its original form. If the legislative version differed from the original, both were submitted to the voters.

#### IR VARIATIONS AT A GLANCE

Referendum only: New Mexico, Maryland

Initiative:

- Laws only: South Dakota, Utah, Montana, Maine, Washington, Nebraska (1920 revision)
- Direct/Indirect Initiative:
  - Direct I only: South Dakota, Oregon, Montana, Oklahoma, Missouri, Arkansas, Colorado, Arizona, Nebraska, North Dakota (1914 version)
  - Direct and Indirect I:
    - Laws: Utah, Washington, California
    - Indirect I for laws, direct I for amendments: Michigan, Ohio
  - Indirect I only: Nevada, Massachusetts

As Table 1 indicates, various restrictions were often incorporated into IR provisions to inhibit extensive usage. Occasionally the percentage figures were set sufficiently high to preclude frequent utilization, such as the 15% requirement for constitutional amendments in Arizona, Nebraska and Oklahoma. Other states demanded that signatures be dispersed throughout the state, and/or stipulated that the proposal receive a minimum vote. Massachusetts, for example, practically guaranteed limited use of the IR by a combination of a complex petition process, the dispersion of signatures, the determination of the size of the voter response, and the exemption of numerous subjects from its purview.<sup>14</sup>

Most states exempted from the referendum so-called “emergency legislation”—acts dealing with the health, safety or welfare—which would be implemented immediately, rather than awaiting the usual ninety-day lapse to allow time for circulation of a referendum petition. Emergency laws had to be passed by sixty to seventy-five percent of both legislative houses. Few checks initially existed, however, on the legislative definition of “emergency,” so that the potential for annulling the right of appeal through the referendum was considerable, particularly in those states in

which the courts later decided that the determination of such laws rested solely with the legislature.<sup>15</sup>

The end product of these varying forms of IR was a highly differentiated pattern of frequency use among the states. Utilization of the IR apparently peaked in 1914, when a total of 286 legislative and constitutional proposals confronted the voters nationwide. Among IR states referendum proposals ranged in number from four in Ohio to forty-eight in California. Oregon in 1914, with her twenty-nine issues, had voted upon a total of 114 laws and amendments since 1908. Even Arizona and Missouri, with their restrictive forms of IR, sent nineteen and fifteen proposals to their voters respectively.<sup>16</sup>

It is much easier to acquire aggregate data on IR use than it is on IR users; even a list of proposal titles, with certain obvious exceptions, offers little clue as to their sponsors. Nevertheless, certain types of use and users can be distinguished. Among IR implementers were the initial groups active in the enactment of IR. Single-taxers in some instances utilized IR, particularly in Oregon. After an open attempt to amend the tax structure through the initiative failed in 1908, the Oregon single-taxers narrowly succeeded in initiating an amendment two years later that established county-level determination of the tax base. The election was marked with controversy, as opponents charged Henry George's disciples with deliberately masking their true intent by introducing their petition with a clause rescinding the poll tax, already abolished three years earlier. Success was short lived, as the amendment was revoked by initiative in the succeeding general election. Voters defeated their proposal, also submitted in 1912, for a graduated franchise tax, for an exemption of all personal property from taxation, and for limiting improvements on real property to county taxation.<sup>17</sup>

In neighboring California single-tax efforts through the IR failed four times, primarily through organized opposition in the form of the Anti-Single Tax League. Colleagues in Missouri were no more successful in 1918, when an initiative to base all state revenue on the taxation of unimproved land, liquor, and income and inheritances likewise failed.<sup>18</sup>

Organized labor and, to a lesser extent, the Grange also practiced what they had earlier advocated. On occasion both groups worked closely together. In Washington state, for example, they labored through their Joint Legislative Committee, which not only maintained an active lobby at Olympia, but also gathered signatures on initiative petitions. In 1913 they succeeded in getting five of their seven proposals on the ballot, including a measure to prohibit the employment agency fee levied against workmen utilizing their services. Five years later labor reciprocated when the Joint Labor Council initiated a measure to permit towns, counties and port districts to operate mills, warehouses and cold storage plants, and to allow them to market farm products.<sup>19</sup>

The more common pattern was for both organizations to work separately. Grange activity was most prominent in Oregon. In 1906 they successfully sponsored several measures. Two years later they defeated through the referendum a law that would have appropriated \$100,000 for armories. They failed, however, in their attempt to convince voters of the need for a state highway department. In Oklahoma an initiated petition that created an eleven-member state board of agriculture staffed solely by farmers easily gained the necessary majority of votes at the 1912 general election; and it may have had Grange sponsorship or support.<sup>20</sup> For the most part, Grange IR activity in other states, if any, failed to receive much publicity.

IR appears to have been used more extensively by organized labor than by its other initial sponsors. State federations of labor sponsored several labor proposals in Colorado (1912) and Washington (1914); in Arizona they were successful in initiating seven pro-labor laws in 1912 and six in 1914, including the prohibition of blacklisting. Union activities added employers' liability laws to the statute books in Oregon (1910), Nebraska and Washington (1914); and repealed the poll tax in California (1914). Oklahoma miners invoked the referendum successfully against a legislatively-enacted mine law in 1913. Nebraska added workmen's compensation by initiative in 1916, although a similar effort in Montana failed.<sup>21</sup>

Not all labor efforts were successful. California and Washington voters in 1914 rejected labor-sponsored initiatives calling for an eight-hour day for men and women; while Oregon turned down a similar measure applied to women only. Californians even refused to endorse the principle of one day's rest in seven that year. Labor efforts in Colorado to provide for jury trials in certain contempt of court cases were unsuccessful in 1912. Two years later an initiative to codify laws relating to women and children also failed.<sup>22</sup>

Original backers of the IR comprised a minute fraction of those who actually implemented the device. A complete listing of IR users, even if feasible, would be tedious; but selected examples can shed light on the flexibility of IR. At the same time, these illustrations modify IR's image as a device extending the political power of the individual while expanding social and democratic opportunities across the board.

Organizations such as the prohibitionists and the woman suffragists frequently resorted to IR. Prohibitionists, especially the Anti-Saloon League, had utilized the petition referendum locally long before IR was adopted on the state level. The League's usual plan of action was to secure enactment of local option law by referendum on the municipal or township level; extend the local unit to embrace the county (and thus isolate the wet areas); and finally, after a strong prohibitionist base had been established, to seek statewide prohibition. By 1920 a rough calculation shows that at least twenty-nine proposals restricting alcoholic

manufacture or distribution confronted voters in sixteen of the IR states; and that at least ten of them adopted statewide prohibition.<sup>23</sup>

Woman suffragists were also frequent IR users. An incomplete count reveals twenty proposals relating to women voting in ten of the IR states before the adoption of the Nineteenth Amendment to the federal constitution. Oregon finally gave women the suffrage in 1910 on the fourth consecutive initiative petition; and three submissions each in Michigan and Ohio were necessary for suffragists to achieve success.<sup>24</sup>

Moral or cultural issues other than liquor or woman suffrage also faced voters by means of IR. There were some generally unsuccessful efforts to abolish the death penalty in Arizona (1914), Ohio and Oregon (1912), although Arizona briefly approved it in 1916. Voters endorsed various anti-gambling provisions in Oregon (1908), California and Oklahoma (1914), and Arizona (1918). At the same elections in which they were balloting on this issue, voters also approved red-light abatement laws in California and Arizona. Boxing came under adverse scrutiny at the polls in California and Montana in 1914, and divorce in South Dakota (1907) and Arizona (1916).<sup>25</sup>

Some found in IR a convenient tool to express their cultural biases against a specific group, thus illustrating the undemocratic potential of direct democracy. Shortly after achieving statehood, Oklahomans initiated a "grandfather clause" amendment to their constitution, establishing an educational requirement for voting, but in effect applying it to blacks while exempting similarly low-educated whites. In Arizona voters approved an initiated law that required at least 80% of the employees of any person or company within the state employing more than five individuals be American citizens. The California electorate expressed its nativism in 1920 by initiating additional restrictions to the alien land law passed by the legislature in 1913; and by another initiative that placed a four-dollar poll tax upon every alien inhabitant. In that same year Michigan voters defeated an attack on private and parochial education that would have made attendance of school-age children at public schools mandatory.<sup>26</sup>

The initiative provided an alternate means for groups to enact what was not possible through the normal legislative process; while the referendum afforded a second opportunity to defeat what had been legislated over their objections. Owners of a private toll road in Oregon, for example, initiated in vain a proposal for the state to purchase their financially unsound enterprise. In Maine voters demurred when they were called upon to endorse a law passed by the legislature at the behest of the leaders of a summer resort community who wished to establish a separate town organization free from the control of local farmers. An owner of extensive mining interests in Arizona sponsored an initiative to separate Miami County from Gila County. In a petition drive marked by irregularities and fraud the Ohio Equity Association, composed of

some industrial insurance companies, sought to refer a 1913 Ohio law providing compulsory workmen's compensation through a state-administered insurance fund. American Legionnaires in Arizona tried in vain to initiate a law creating a civil service commission that would give preference in their appointments to World War I veterans.<sup>27</sup>

Higher education occasionally became an unwilling political pawn through IR. In 1908 a referendum was held on a legislative bill, passed over the governor's veto, that increased the fixed appropriation for the University of Oregon from \$47,500 to \$125,000 annually. Finances for the university, including faculty salaries, were suspended until loyal alumni helped the school receive a narrow vote of confidence at the polls. Not only was the university financially crippled for some time, but for the next few years the school was required to fight for the retention of its legislative appropriations in the voting booths.<sup>28</sup>

Even political parties in one instance fought out their differences through IR. In Ohio the Republican recapture of the legislature in 1914 resulted in a redistricting pattern that Democrats called a GOP gerrymander, and promptly referred the bill to the voters the following year. Voters sustained their legislature in a campaign predictably fought along partisan lines.<sup>29</sup>

Critics of the IR were somewhat more perceptive than its advocates in recognizing the process as a two-edged sword—one that was just as easily used by the opposition. "Does any experienced observer believe that 'machines' which assemble large majorities for candidates at the bosses' bidding could not pass and defeat laws in the same manner?" inquired one student of the problem. Another observer agreed. "The bosses, as well as the people can initiate bills and make recalls," he remarked to his readers, "and they are far more shrewd and resourceful than the people are in the art of political manipulation."<sup>30</sup>

At times the IR process thus became the arena in which opposing groups competed for public approval. In Oregon rival interests in salmon fisheries on the Columbia River each submitted a law in 1908 restricting the type of fishing engaged in by the other. The issue involved the use of gill-nets as opposed to fish-wheels. Voters approved both measures and thus eliminated commercial fishing in the river! The legislature later responded by providing reasonable regulations and establishing closed seasons. Two years later, in 1910, competition within the fishing industry again spilled over into the polling booth. The Rogue River Fish Protective Association, composed of up-stream fishermen, initiated a petition to ban commercial fishing downstream by limiting all fishing to angling. Representatives of a large cannery at the mouth of the river protested, but in vain.<sup>31</sup>

Labor-management conflicts constituted one type of adversary interaction that tended to overflow from the legislature into the IR area. Oregon provides a case in point. There the Employers' Association vainly

attempted to forestall the state Federation of Labor's employers' liability initiative in 1910 by initiating a proposal creating an investigative commission. Two years later the employers unsuccessfully sought by initiative to prohibit boycott or picketing; and to restrict public meetings by requiring a mayor's permit. In Arizona corporations supported a 1916 initiated amendment that allegedly would have emasculated labor's newly-won workmen's compensation law.<sup>32</sup>

The more common labor-management pattern was to work through the referendum to inhibit adversary advantage. On occasion labor would resort to the referendum, as in the case of Oklahoma, where miners revoked a mining law in 1913 that they felt to be disadvantageous. More commonly labor was on the defensive, as they had to ward off referenda on hard-fought legislative gains. Railroads challenged full-crew laws in Arizona (1912) and Missouri (1914); and laws limiting the number of cars per train in both Colorado and Arizona in 1912. In that same election mine owners in Arizona referred a mine laborers' lien law; while those in Colorado two years later unsuccessfully opposed an eight-hour law in underground mines, smelters and coke ovens. A simultaneous management referral of a Colorado law relieving workers of the common-law principle of assumption of risk failed; but a referendum on a Missouri workmen's compensation law in 1920 succeeded.<sup>33</sup>

Liquor antagonists also used the IR as a forum for their often heated conflicts. Washington state provides a classic example of the Anti-Saloon League's adeptness in utilizing the IR process to perfection. The first petition filed under Washington's IR, adopted in 1912, the prohibition amendment followed the League's pattern of calling simply for an end to the manufacture and sale of alcoholic beverages. As such it did not eliminate its consumption. In the period before the election the League divided the state into precincts of about 120 families each, under the direction of a League captain and ten canvassers. A League "Flying Squadron" arrived in October from out of state, to provide singers, speakers, and to organize parades. Wet forces, hampered by divided attitudes within organized labor, fought the amendment in vain. Washington liquor interests responded immediately. Brewers initiated an amendment to permit the manufacture and sale of beer by brewer to consumer; while the hotel and liquor industries combined to secure passage of a bill permitting restricted liquor sales, particularly in hotels. Both were inundated at the polls in 1916.<sup>34</sup>

Colorado's pattern was somewhat similar. Voters adopted statewide prohibition in 1914 on its second submission. By the following election an initiative appeared that declared beer to be non-intoxicating, and permitted its manufacture and sale. Voter defeat of the measure by a two-to-one margin encouraged dries to submit a "bone-dry" prohibition law in 1918 successfully.<sup>35</sup>

At times competing liquor proposals appeared on the same ballot.

The Greater Oregon Home Rule Association sponsored an initiative calling for local control of liquor traffic at the same time that dries submitted a pair of prohibition amendments. Arizona dries, operating as the Temperance Federation of Arizona, initiated a prohibition amendment in 1914, prompting liquor interests to organize the Arizona Business Men's Home Rule League and so submit a local option amendment. Voters preferred prohibition. Two years later prohibitionists, operating in characteristic fashion, initiated a "bone-dry" amendment. Wets again countered with a local option bill, but dries carried the day.<sup>36</sup>

The Ohio experience shows the role of IR in the liquor question to the fullest extent. In the early twentieth century the Anti-Saloon League followed the usual local option route, with each law embracing a larger geographic unit. The best the League could do in the Ohio Constitutional Convention in 1912 was to see a liquor license amendment submitted for ratification. Although its provisions were stringent, wets were satisfied with the constitutional recognition of liquor's legality, particularly when the potential alternative was prohibition.

The League overcame its initial suspicion of IR to initiate a measure in 1913 prohibiting liquor shipments into dry territory. Wets countered with a proposed amendment to consolidate rural counties into single-member legislative districts in an effort to reduce prohibitionist strength from country areas in the legislature. Neither initiative carried.

Battle resumed in 1914 with the League sponsoring a prohibition amendment. Wets, borrowing a page from dry tactics, submitted an amendment to permit towns and cities, not counties, to be the local option unit. The effect, when voters endorsed the plan, was to make wet all counties which had previously voted dry under the county option law. The following year prohibition was again rejected. At that same election wets proposed to outlaw for six years the resubmission of any amendment previously defeated twice. Voters felt this was too obvious an abuse of IR ideals and defeated the amendment. Dries suffered a further setback in 1915 when a law that decentralized the system of liquor licensing was repealed by referendum. Undaunted by previous defeats, dries submitted a third prohibition amendment in 1917; this time the margin of defeat was reduced to 1137 votes of a total 1,046,517 cast.<sup>37</sup>

The World War I era saw the injection of medical questions into the IR process. An initiated proposal in Oregon in 1914 concerned the regulation of dentists; while laws providing for the regulation of medical practice were referred in Colorado (1916) and Oklahoma (1920). A group in Arizona successfully initiated a ban on vaccination in 1918; and religious groups in California, operating as the Public School Protective League, made an identical but unsuccessful effort in 1920.<sup>38</sup>

Internal conflict among the healing arts fraternity found its fullest expression in California. As early as 1914 one group clearly not associated with the American Medical Association sought to legalize their

art by initiating a measure to create a state board of drugless practice. Six years later voters faced initiatives to establish a separate board of chiropractic examiners, and to prohibit vivisection; and a referendum on a law regulating the use of narcotic drugs which osteopaths claimed discriminated against them. Lumping the anti-vaccination proposal with these three, medical and scientific forces conducted a successful campaign against what they labeled the "Quack Quartet." The state dental association had had its own problems two years earlier. An operator of a chain of dental clinics named "Painless Parker" had sought to ease the licensing of dentists coming in from other states, and to require the presence of a third person when administering an anesthetic.<sup>39</sup>

IR supporters often tried to inhibit opposition tampering by incorporating into the IR reform a clause that exempted an initiative proposal from legislative amendment or executive veto. There was no meaningful way, however, to prevent the enemy from utilizing the initiative or referendum to undo what had been enacted. The 1910 single-taxers' county option plan in Oregon was repealed two years later. In California the initiated petition that banned prize fighting was overturned ten years later. A referred statute in South Dakota in 1912 repealed a law concerning property damages caused by trespassing animals. Arizonans twice changed their minds on the abolition of capital punishment within a decade.<sup>40</sup>

At least two possibilities existed to limit the effectiveness of the IR by one's opponents. One method was the delay technique. California wets sought to suspend the enforcement of the prohibition amendment should voters ratify it at that same election. A second avenue was to restrict the use of the IR, such as Ohio's ban on the use of the IR for the single tax or for the classification of property for taxation purposes. Missouri voters turned down a similar anti-single-tax amendment to their IR process in 1914.<sup>41</sup>

If total restriction were impossible, limiting the frequency of re-submission was a related possibility. In Colorado an unsuccessful initiative would have required a six-year lapse before it could come up for a second referendum vote. Oklahoma's IR included a three-year interval in the original proposal, as did Nebraska. California wets sought an eight-year hiatus between elections on statewide prohibition. Ohio voters were asked to place a six-year limit on resubmitting twice-defeated proposals, aimed primarily at stifling prohibition. When the amendment failed, its sponsors revealed their devotion to its principle by announcing their intention to resubmit the question at the earliest opportunity.<sup>42</sup>

### iii

A re-examination of the IR suggests certain observations about its role and the milieu in which it functioned. First, it is a common practice

when treating this period to lump the recall together with the IR as a package. Many contemporaries of the early twentieth century saw a sharp distinction between the two; and endorsement of IR did not automatically imply acceptance of the recall. The two were officially separated quite early; the National Direct Legislation Convention, meeting at St. Louis in 1896, "by resolution permitted Direct-Legislation and Referendum Leagues to attach the recall and proportional representation to their objects, but expressly stated neither of these was a part of Direct Legislation."<sup>43</sup> President Taft held up the admission of Arizona to the Union in 1911 until the territory deleted the judicial recall provision, which Taft regarded as a threat to judicial independence. Many regarded Theodore Roosevelt's ringing endorsement of the recall of state judicial decisions invalidating social and economic legislation in 1912 as a brave but politically inexpedient act. Analysis of delegate roll calls at the Ohio Constitutional Convention (where Roosevelt made his endorsement) underscores this split among proponents of direct democracy. Only eight of the IR states, excluding Ohio, adopted the recall by 1920; and three of these specifically exempted judges.<sup>44</sup>

Second, attitudes about IR frequently were less shaped by ideological considerations—it extends direct democracy to the people, and thus is inherently good or evil—and more by its perceived relationship to other issues. The fact that IR was either sponsored or used by single-taxers, labor unions, suffragists, and those active in the liquor issue was well-known; its early advocates freely admitted that IR was a tool useful to many. Ohio's Constitutional Convention delegates related IR to single-tax advocates, and prohibited its use for that purpose. Several Ohio delegates saw the IR in terms of rural-urban conflict, and feared that rural dominance of the legislature would give way to urban control. "The city would have the advantage of the country, since the voters are closer together." Another rural delegate foresaw IR petitions being drawn up in some back office and placed in the hands of the "great Cleveland and Cincinnati Initiative and Referendum Trust Company, Limited." "The truth is," he asserted, "it looks very much as though there was a conspiracy on the part of the controlling class of large cities."<sup>45</sup>

Others feared labor would gain an undue advantage through IR. One delegate to the Massachusetts Constitutional Convention, held in 1917-18, paraphrased one of the misgivings expressed by IR opponents to the effect "that organized labor, with the power it has in this Commonwealth, would destroy the government if the I. and R. was adopted. . . ."<sup>46</sup> A pamphlet published by a Roman Catholic organization in Ohio viewed the IR as "the advance guard of Socialism. . . . In this is hidden the taxation of churches and charitable institutions. It is the instrument of denial of the right of education in private schools and colleges. . . ."<sup>47</sup>

Many determined their opinion of IR by its perceived relation to the

liquor question. IR opponents in prohibitionist Kansas saw it as a tool of the wets—"a populist whiskey measure," one legislator termed it in 1897. Fourteen years later a Topeka legislator echoed similar sentiments. The IR would place "into the hands of the brewers [a method] which will enable them to refer the prohibitory law and thereby cause unnecessary contention and strife. . . ."48

The Anti-Saloon League reflected the ultimate in its pragmatic attitude toward IR. Despite its relatively good success with the IR, the League did not hesitate to oppose the measure when its use appeared to be disadvantageous. The League, for example, denounced IR in Illinois in 1912, fearing that Chicago wets would gain an advantage. In other states, particularly in Ohio after 1912, the League used IR extensively. "The first and last business of the Anti-Saloon League is to abolish saloons," a League official reminded his readers. Thus "the Anti-Saloon League has secured and used local option whenever it has been possible to make an advance along temperance lines thereby. It has also, however, consistently opposed the adoption and use of local option where such adoption and use meant a backward step in temperance reform."<sup>49</sup>

Third, despite proponents' insistence that the IR was a truly "progressive" reform in giving "the people" a more direct voice in government, such characterizations inhibit a precise understanding of the device. Neither the reform nor its practitioners can be uniformly considered as "progressive," however defined. Further, in practice the IR proved to be ideally designed for organized group use. For economically-oriented lobby associations (labor, business) an unrestricted IR permitted them to take advantage both of their organization and of their generally urban location, where potential signers were conveniently concentrated. For issue-oriented reform groups (prohibitionists, woman suffragists) the IR came at a time when both major political parties either straddled the issues or ignored them altogether, and when timid partisan legislators avoided vexation issues.

Timing was important for the potential of the IR in another sense. One study strongly suggests that voter turnout at the polls (the proportion voting of the total number eligible to vote) diminished significantly in the first several decades of the twentieth century.<sup>50</sup> Contemporary political analysts expressed constant concern about this decline in turnout; in fact, the perception of lack of interest at the polls was a frequent argument against the IR. The reason is clear: a smaller turnout, combined with the easing of the ratification process to require only a majority of those voting on the issue, enhanced tremendously the possibility for minority rule. In the hands of well-organized groups the potential for their assumption of decision-making was awesome, because under these conditions failure to vote amounted to endorsement of the proposal. The realization of this potential was hindered only by voter tendency to defeat referendum submissions at least as often as to approve them.<sup>51</sup>

The initiative may well have served the added function of fostering and maintaining group cohesion. Woman suffragists, for example, suffered from a chronic lack of funds. Brief, biennial legislative sessions directly involved only a small fraction of the suffrage organization lobbying for their objectives. The initiative, on the other hand, fulfilled the double purpose of providing an energy outlet for all as well as a means of overcoming their small finances. The entire membership could donate their services in collecting signatures on the petition and, later, in the campaign for ratification. Working for woman suffrage through the initiative gave the organization a permanent, continuous reason for existence, providing a more stable base from which to maintain enthusiasm and regular financial support.<sup>52</sup>

Fourth, evidence suggests that the IR was usually the avenue of last, not first, resort. The normal procedure was to begin action in the legislature, and to use the initiative only if the proposal met with legislative obstructions. By the same token, efforts to refer a statute to the electorate would result only from an inability to defeat the measure in the legislature. Even under the most favorable of circumstances, securing tens of thousands of signatures represented an appreciable investment of organizational time and money. Further, it seems probable that the process of referring a statute was used more frequently by groups to oppose change and to maintain the status quo. Moreover, referred measures would probably involve disputes between two specific interest groups (i.e., employers versus labor) rather than laws whose impact would be more general. In any event, both parties would naturally claim to represent the "public interest."<sup>53</sup>

Finally, use of the IR did not stop with the end of World War I. This impression appears to have been fostered in part on the basis of contemporary reporting of the IR. For example, references to IR in the *Reader's Guide* show a dramatic drop in the 1920s from the number of citations in the immediate pre-World War I period. Similarly, *The American Political Science Review*, which began in 1915 to give an annual summary of IR activity nationwide, dropped the practice in the early 1920s. An accurate picture of post-1920 IR usage is further handicapped by a fixation on the part of later IR scholars with the questions of voter interest in IR as expressed in voter turnout, as well as with the liberal or conservative impact of IR upon an individual state.

Scattered evidence suggests that the amount of usage probably declined; it would be rare to see a ballot of twenty, thirty or forty items that confronted Oregon and California voters in 1910-1914. Nevertheless, the number of IR proposals appears to have maintained a relatively stable pattern in the 1920s and 1930s in such states as Washington, Arizona, and Michigan. California and Oregon continued to operate at a lower but fairly stable frequency level. In fact, the Depression period seemed to have acted as a small spur to IR activity.

Certain issues, of course, disappeared. Federal constitutional amendments settled the questions of woman suffrage and prohibition, except for referenda on state repeal in the 1930s. There was little effort after 1920 to alter the IR framework already established. Still there is a strong sense of continuity. Medical issues made an occasional appearance. Taxation matters continued to perplex voters; after 1920 they tended to involve the levying and apportionment of income, sales and fuel taxes. Attempts to close the Rogue River to commercial fishing in Oregon continued at least through 1930. In the 1930s questions of exemptions and of tax and spending lids appeared. Sportsmen, labor, business—all continued to resort to the IR as political expediency demanded.<sup>54</sup>

The IR, then, appears as an adaptation to shifts in the political and economic sectors induced by industrial and urban growth. The emergence of large-scale units of production and distribution challenged a political system based upon small geographical units designed at least in part to preserve local autonomy. Pressures for uniformity resulting from corporate needs precipitated centralized decision-making. One adaptation, the rise of statewide interest groups, coincided with the gradual integration of political party structures. As a result, state legislatures became less responsive to local community interests and more receptive to lobbying efforts representing certain geographically broad segments of the business community. In urban areas corporations sought to solidify their position by such “reforms” as reducing the size of the legislative unit, often combined with an at-large election system; and by imposing upon local government an administrative structure—the city-manager form—that closely simulated the corporate model.<sup>55</sup>

Those who found themselves outside of political decision-making sought other adjustments that would allow them access. Where the obstacle was perceived to be an unholy corporate-political party alliance, the thrust often took the form of the nonpartisan ballot. In other instances the IR was seen as a possible ameliorative device. In both cases the aim was to circumvent the political “ins,” whether they be executives, legislators, or judges, who thwarted the aims of a particular group. The key focus here is on the word “group.” Despite the rhetorical focus upon expansion of individual power, nearly all such political adjustments presupposed organized implementation, thus reflecting the increasingly collectivist nature of society.

The IR accentuated traditional lines of cleavage: management-labor, wet-dry, and rural-urban. At times it even revealed intra-group divisions. Yet no sector of society monopolized its use. Corporations, initially resistant to IR, soon found it to be potentially useful under certain adversarial conditions. Urban and labor interests saw in IR a way to circumvent a rural-oriented legislature whose refusal to recognize state population shifts resulted in a malapportionment increasingly favorable to agrarian power.<sup>56</sup> Nevertheless, rural society could not only blunt the

potential urban thrust by incorporating restrictions as to IR use; but it also was able to utilize the IR to impose its own cultural values upon the city. The device thus subjected both city and country to loss of autonomy.

Although the IR did not disappear from use in the 1920s, the reduced level of implementation provides a striking contrast to the aspirations of its early supporters. Several factors might have contributed to this decline. In the first place, IR was at best a complement to the legislature, not a substitute for it. Thus the legislature remained the body of first instance; and the IR became a safety-valve in case of legislative failure. Secondly, except for scattered volatile issues such as liquor and woman suffrage (both resolved by 1920) the IR did nothing to stem increased voter apathy beginning with 1900 and continuing into the Depression. Ballots often couched in technical language failed to interest voters. Contrary to the hopes of Progressive reformers and muckrakers, an informed electorate is not always a viable one. Thirdly, the very two-edged nature of the IR, usable by enemy as well as friend to undo what had been done, failed to foster stability in an increasingly unstable society. If recent historians are correct in seeing twentieth-century American society and its corporate components as searching for order and predictability,<sup>57</sup> the IR's flexible usage provided no haven from uncertainty. In fact, corporate adeptness at working within the formal political structure may well have made the legislature remain the more reliable instrument of goal-attainment.

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### footnotes

1. Samuel P. Hays, "The Politics of Reform in Municipal Government in the Progressive Era," *Pacific Northwest Quarterly*, LV, 4 (October, 1964), 157. Financial assistance from the University of Kansas General Research Fund contributed to the preparation of this article.

2. The synthesis that follows is the product of many sources; but it relies heavily upon Ellis P. Oberholtzer, *The Referendum in America* (New York, 1911), and upon Samuel P. Hays, "The Social Analysis of American Political History," *Political Science Quarterly*, LXXX, 3 (September, 1965), 373-394.

3. See, for example, Paul Kleppner, *The Cross of Culture: A Social Analysis of Mid-western Politics, 1850-1900* (New York, 1970).

4. *Nation* (December 7, 1911), 543. In 1911 twenty-three amendments totaling nearly 15,000 words confronted California voters. Fear of the perceived monopolistic power of the Southern Pacific Railroad prompted the California Constitutional Convention of 1879 to insert a Railroad Commission, together with specific duties, directly into the constitution; whereas most states were content to leave the creation of such a regulatory body to the legislature. Even this extreme approach failed to solve shipper problems; see Ward M. McAfee, "A Constitutional History of Railroad Rate Regulation in California, 1879-1911," *Pacific Historical Review*, XXXVII, 3 (August, 1968), 265-279.

5. Eltweed Pomeroy, "The Direct Legislation Movement and Its Leaders," *Arena*, XVI, 79 (June, 1896), 29-43.

6. *Ibid.*, 42.

7. *Arena*, XLI, 23 (March-June, 1909), 378.

8. An especially sympathetic account of U'Ren's efforts was provided by Burton J. Hendrick in *McClure's*, XXXVII, 3 (July, 1911), 234-248.

9. Lloyd L. Sponholtz, "Progressivism in Microcosm: An Analysis of the Political Forces at Work in the Ohio Constitutional Convention of 1912" (unpublished doctoral dissertation, University of Pittsburgh, 1969), 18-36, 49-56, 143-150. Kentucky amended her constitution in

1915 to allow the possibility of property classification, and provided for the referendum by petition limited *only* to this issue (Sec. 171). See Charles Kettelborough, ed., *The State Constitutions and Organic Laws of the Territories and Other Colonial Dependencies of the United States of America* (Indianapolis, 1918), 487.

10. N. D. Houghton, "The Initiative and Referendum in Missouri," *Missouri Historical Review*, XIX, 2 (January, 1925), 279-281; Eltweed Pomeroy, "The March of Direct Legislation," *Arena*, XXXV, 196 (March, 1906), 271.

11. Robert Saltvig, "The Progress Movement in Washington" (unpublished doctoral dissertation, University of Washington, 1966), 9-44, 116-178.

12. Pomeroy, "Direct Legislation Movement," 34-35.

13. Sponholtz, "Progressivism in Microcosm," 18-36, 49-56; Houghton, "The IR in Missouri," 268-279; N. D. Houghton, "Arizona's Experience with the Initiative and Referendum," *New Mexico Historical Review*, XXIX, 3 (July, 1954), 183-186; Claudius O. Johnson, "The Adoption of the Initiative and Referendum in the State of Washington," *Pacific Northwest Quarterly*, XXXV, 4 (October, 1944), 291-299; V. O. Key, Jr. and Winston W. Crouch, *The Initiative and Referendum in California*, in *Publications of the University of California at Los Angeles in Social Sciences*, VI (Berkeley, 1939), 426-427.

14. In Massachusetts, ten signatures brought the proposed measure to the state's attorney general, who determined whether the proposal violated any of the numerous restraints placed upon IR use. If certified by him, an additional 20,000 signatures were necessary to submit the proposal to the legislature. A majority of the initial ten signers could make minor corrections, subject to the attorney general's approval. Another 5000 signers (in addition to the above 20,010) would be necessary to submit the measure to the voters in a referendum. A constitutional initiative required 25,000 signatures to present the charter proposal to a joint session of the General Court, three-fourths of whom in such a joint meeting might amend the proposal. One-fourth of all elected members in two consecutive sessions of the General Court had to approve the proposal in its initial or amended form; whereupon it would be referred to the voters in the next general election. The majority of those voting on the amendment had to equal at least 30% of those voting at that general election in order for the amendment to be approved. See Illinois Legislative Reference Bureau, *Constitutional Convention Bulletins*, 85, 93.

15. Judicial "hands-off" relative to determination of emergency clauses had been established by 1920 in Oregon, Arkansas, Colorado and Oklahoma; while judicial intervention had occurred by then in Michigan, South Dakota, Ohio and California; *ibid.*, 90-91. Attachment of emergency-clause status to legislative bills had evolved into a kind of legislative courtesy in Michigan. Between one-third and one-half of all public laws passed in the 1901-1939 period had been implemented immediately. Furthermore, by 1931 the Michigan Supreme Court denied its own competence to determine the immediate necessity of legislative acts. See James Pollock, *The Initiative and Referendum in Michigan*, in *Michigan Governmental Studies*, Number 6 (Ann Arbor, 1940), 11-16.

To forestall a legislative pattern of emergency clause abuse in Oregon, a governor early in the twentieth century used the threat of his veto; Allen H. Eaton, *The Oregon System: The Story of Direct Legislation in Oregon* (Chicago, 1912), 162, n. 3. On occasion legislatures would attach the emergency clause to bills directed at reducing the power or patronage of the governor; see Saltvig, "Progressivism in Washington," 357-358; Robert Cushman, "Judicial Decisions at Public Law," *American Political Science Review*, XIV, 3 (August, 1920), 468-469. In the state of Washington an innocuous amendment in 1952 designed to iron out minor errors of verbiage has been interpreted to expand the legislative power to tamper with initiatives; see Gordon E. Baker, "Legislative Power to Amend Initiatives in Washington State," *Pacific Northwest Quarterly*, LV, 1 (January, 1964), 28-35.

16. Seventeen of the twenty IR states voted on 190 separate legislative and constitutional items, of which 109 involved the petition form of IR. See Robert Cushman, "Analysis of the Popular Vote on Constitutional and Legislative Proposals in the General Election of 1914," *New Republic* (March 6, 1915), Supplement, 18-29.

17. Burton J. Hendrick, "Law-Making by the Voters," *McClure's*, XXXVII, 4 (August, 1911), 442; George S. Haynes, "'People's Rule' in Oregon," *Political Science Quarterly*, XXVI, 1 (March, 1911), 54-55; Haynes, "'People's Rule' on Trial," *ibid.*, XXVIII, 1 (March, 1913), 19-22.

18. Key and Crouch, *The IR in California*, 444; Houghton, "The IR in Missouri," 284-285. These few instances may only reflect a fraction of single-tax activity. Tax proposals were a frequent item in referenda; unfortunately, cryptic and vague proposal titles usually inhibit inferences about their source.

19. Claudius O. Johnson, "The Initiative and Referendum in Washington," *Pacific Northwest Quarterly*, XXXVI, 1 (January, 1945), 31-35; Saltvig, "Progressivism in Washington," 349-351, 458-459. Labor also supported the Socialist-initiated eight-hour day proposal. Of the Joint Legislative Committee proposals, only the ban on employment agency fees passed; and the United States Supreme Court declared the act unconstitutional in 1917; *ibid.*

20. *Arena*, XXXIX, 217 (January, 1908), 99; Haynes, "'People's Rule' on Trial," 22-24.

21. Arthur A. Schwartz, "Suitable Subjects for the Initiative and Referendum, Together with Safeguards on Their Operation," (master's thesis, Ohio State University, 1915), Appendix; Houghton, "Arizona's Experience with IR," 191-192; Frederick Blachly and Miriam Oatman, *Government of Oklahoma*, 2nd edition, revised (Oklahoma City, 1929), 304; Charles F. Todd, "The Initiative and Referendum in Arizona" (unpublished master's thesis, University of Arizona, 1931), 52-54; Frank G. Bates, "Constitutional Amendments and Referred Act, November Election, 1914," *American Political Science Review*, IX, 1 (February, 1915), 104-106; Arthur Connors, "Constitutional Amendments and Referred Measures," *ibid.*, X, 1 (February, 1916), 104-109. The Appendix in Schwartz's thesis contains a listing of IR submissions (title only) alphabetically by state and year for the IR states down through 1914, together with the total vote for and against. There are some omissions, however.

22. Bates, "Constitutional Amendments . . . 1914," 104-106; Colorado Legislative Reference Office, *The Initiative and Referendum in Colorado* (Denver, 1940), 12-16.

23. Schwartz, "Suitable Subjects for the IR," Appendix; Peter H. Odegard, *Pressure Politics: The Story of the Anti-Saloon League* (New York, 1928), 116-119; Ernest H. Cherrington, ed., *The Anti-Saloon League Yearbook, 1912*, 143; Norman H. Clark, "The 'Hell-Soaked Institution' and the Washington Prohibition Initiative of 1914," *Pacific Northwest Quarterly*, LVI, 1 (January, 1965), 6; and his *The Dry Years: Prohibition and Social Change in Washington* (Seattle, 1965), 84-107.

24. Schwartz, "Suitable Subjects for the IR," Appendix; Pollock, *IR in Michigan*, Appendix III; Connors, *American Political Science Review*, X, 1 (February, 1916), 104-109; *ibid.*, XII, 2 (May, 1918), 268-270; Blachly and Oatman, *Government of Oklahoma*, 307.

25. Schwartz, "Suitable Subjects for the IR," Appendix; Todd, "The IR in Arizona," 59, Appendix; Bates, "Constitutional Amendments . . . 1914," 104-106.

26. Cushman, "Analysis of the Popular Vote. . . 1914," 18-29; Schwartz, "Suitable Subjects for the IR," 54, 70; Thomas Reed, "Popular Legislation in California," *American Political Science Review*, XV, 3 (August, 1921), 388-389; Pollock, *IR in Michigan*, Appendix. Oklahoma's "grandfather clause" appears even more questionable when the technicalities of voting upon it are taken into consideration. In order to vote *against* the amendment, the voter had to scratch out with a lead pencil the words "For the Amendment," which appeared in small type at the bottom of the ballot; failure to do so constituted a vote for the proposal. Furthermore, it was alleged that in a number of precincts the requisite lead pencils were not provided. Blachly and Oatman, *Government of Oklahoma*, 300.

27. *Arena*, XXXVI, 201 (August, 1906), 186; William J. Black, "Maine's Experience with the Initiative and Referendum," *Annals of the American Academy of Political and Social Science*, XLVII (1912), 169-170; Todd, "IR in Arizona," 58, 61-62; F. W. Coker, "Safeguarding the Petition in the Initiative and Referendum," *American Political Science Review*, X, 3 (August, 1916), 540-545.

28. Eaton, *The Oregon System*, 62-63.

29. Robert Cushman, "Recent Experience with the Initiative and Referendum," *American Political Science Review*, X, 3 (August, 1916), 536.

30. Oberholtzer, *Referendum in America*, 503; George Kennan, "The Direct Rule of the People," *North American Review*, CXCVIII (August, 1913), 157.

31. *Independent* (June 25, 1908), 1444-45; Haynes, "'People's Rule' in Oregon," 51-52.

32. Haynes, "'People's Rule' on Trial," 29; Hendrick, "Law-Making by the Voters," 448; Houghton, "Arizona's Experience with IR," 192; Todd, "The IR in Arizona," 54.

33. Blachly and Oatman, *Government in Oklahoma*, 304; Todd, "The IR in Arizona," 55-56; Houghton, "Arizona's Experience with IR," 192; Legislative Reference Office, *IR in Colorado*, 12-24; Houghton, "The IR in Missouri," 282-285.

34. Clark, "'Hell-Soaked Institution,'" 6-10; Clark, *The Dry Years*, Chapter 9; Johnson, "The IR in Washington," 38, 54. Although the Hotelmen's Bill was passed by the legislature, under the IR law it had to be submitted in a referendum since it amended a previous initiative.

35. Legislative Reference Office, *IR in Colorado*, 13-17. Whereas the usual prohibition law merely forbade its manufacture and sale, a "bone-dry" law prohibited importation from out of state, as well as instate transportation and possession. Washington state's "bone-dry" referendum in that same year also passed easily; Clark, *The Dry Years*, 135-143.

36. Haynes, "'People's Rule' in Oregon," 50; Todd, "IR in Arizona," 57. Michigan voters faced the alternative of prohibition versus community local option in 1916, and chose the former. Efforts to exempt wines, beer and cider in 1919 failed; Pollock, *IR in Michigan*, Appendix III. Maine wets referred a law that would have defined an alcoholic beverage as anything containing one per cent or more alcohol, and secured its defeat; Black, "Maine's Experience with IR," 168-169.

37. Sponholtz, "Progressivism in Microcosm," 57-68; Hoyt Landon Warner, *Progressivism in Ohio 1897-1917* (Columbus, 1964), 437-438, n. 13, 467-476; Connors, "Constitutional Amendments . . . 1917," 269-270. The significance of having towns, rather than counties, the unit of local liquor determination is shown by the fact that before the adoption of the 1914 amendment forty-five Ohio counties were entirely dry. By 1917 only thirteen counties retained

that status; Odegard, *Pressure Politics*, 120-121. Local option referenda were also held in Oregon, 1906; Oklahoma, 1910; and Missouri and South Dakota, 1914. See Schwartz, "Suitable Subjects for the IR," Appendix.

38. Cushman, "Analysis of the Popular Vote . . . 1914," 26; Blachly and Oatman, *Government of Oklahoma*, 308; Legislative Reference Office, *The IR in Colorado*, 16; Todd, "The IR in Arizona," 69; Key and Crouch, *The IR in California*, 445.

39. Cushman, "Analysis of the Popular Vote . . . 1914," 18; Key and Crouch, *The IR in California*, 451-452; Reed, "Popular Legislation in California, 1920," 388.

40. Haynes, "'People's Rule' on Trial," 19-22; Schwartz, "Suitable Subjects for the IR," 78; William R. Fitzgerald, "Trends in the Use of the Initiative and Referendum in the State of Arizona 1912-1948" (unpublished master's thesis, Arizona State College, 1949), 93-115; Key and Crouch, *The IR in California*, 482. A number of IR repeals occurred in California during the 1920s and 1930s; see 482-485.

41. Cushman, "Analysis of the Popular Vote . . . 1914," 18, 24. Most IR states exempted certain matters from the petition referendum, especially appropriations for current expenses and for the support of state institutions. Furthermore, attempts to attach additional restrictions to the IR were defeated in eight states by 1920. For more details see Legislative Reference Bureau, *Constitutional Convention Bulletins*, 81-82, 91-92.

42. Cushman, "Analysis of the Popular Vote . . . 1914," 18, 20; C. B. Galbreath, "Provisions for State-Wide Initiative and Referendum," *Annals of the American Academy of Political and Social Science*, XLVIII (1912), 100; Warner, *Progressivism in Ohio*, 437-438, n. 13; C. O. Gardner, "Problems of Percentages in Direct Government," *American Political Science Review*, X, 3 (August, 1916), 511.

43. Eltwed Pomeroy, "The Initiative a Democratic Safeguard Against Class Government," *Arena*, XXXV, 194 (January, 1906), 47.

44. Todd, "IR in Arizona," 32; Sponholtz, "Progressivism in Microcosm," 151-156; Legislative Reference Bureau, *Constitutional Convention Bulletins*, 120. As soon as it was admitted to the Union, Arizona restored the recall by initiative. Two states, Kansas and Louisiana, adopted the recall but not IR.

45. Ohio Secretary of State, *Proceedings and Debates of the Constitutional Convention of the State of Ohio, January 9 to June 7, 1912* (2 vols., Columbus, 1912), I, 681-682, 688.

46. *Debates in the Massachusetts Constitutional Convention 1917-18* (4 vols., Boston, 1918), II, 325. Volume II is devoted almost entirely to discussion of the IR.

47. "Suggestions to the Voters," (Catholic Press, [1912]), 6, in Herbert S. Bigelow MSS, Cincinnati Historical Society.

48. Kansas Secretary of State, *House Journal, 1897*, 1171; *1911*, 457, cited in Charles Granger, "Initiative and Referendum in Kansas: A Case of Party Politics" (unpublished seminar paper, 1969, in my possession).

49. Odegard, *Pressure Politics*, 117, 121; Ernest R. Cherrington, ed., *The Anti-Saloon League Yearbook* (Columbus, Ohio), 1912, 168-170.

50. Walter Dean Burnham, "The Changing Shape of the Political Universe," *American Political Science Review*, LIX, 1 (March, 1965), 10.

51. Cushman, "Analysis of the Popular Vote . . . 1914," 6-7, found that voters nationwide rejected 58% of all measures submitted to them in 1914; among the IR states alone the figure was 67%. In the state of Washington, 1914-1944, voters turned down 43% of the submissions; Johnson, "IR in Washington," 62. Rejection figures for comparable periods in Michigan and Colorado are 61% and 69% respectively; Pollock, *IR in Michigan*, Appendix III; Legislative Reference Office, *IR in Colorado*, 26.

52. This group-cohesion possibility is suggested by the analysis of a California-based pressure group composed primarily of the recipients of Old Age Assistance; see Frank Pinner, Paul Jacobs and Philip Selznick, *Old Age and Political Behavior, A Case Study* (Berkeley, 1959), 201-210.

53. This analysis is based largely upon the findings of Key and Crouch, *IR in California*, 487-490, 503-506, 564-576. Sources used in my study seem to substantiate the California experience.

54. See Houghton, "Arizona's Experience with IR"; Pollock, *The IR in Michigan*; Key and Crouch, *The IR in California*; and Waldo Schumacher, "Thirty Years of the People's Rule in Oregon: An Analysis," *Political Science Quarterly*, XLVII, 2 (June 1932), 242-258.

55. James Weinstein, *The Corporate Ideal in the Liberal State 1900-1918* (Boston, 1968), Chapter 4; Hays, "Politics of Reform."

56. Gordon E. Baker, *The Reapportionment Revolution* (New York, 1966), Chapters 3 and 4.

57. See, for example, Weinstein, *The Corporate Ideal in the Welfare State*; Samuel P. Hays, *The Response to Industrialism* (Chicago, 1957); Gabriel Kolko, *Triumph of Conservatism* (New York, 1963); Robert Wiebe, *The Search for Order 1877-1920* (New York, 1967).