

I & R FACTSHEET

Important Facts

- First state to hold a statewide Legislative Referendum to adopt its constitution – Massachusetts in 1778.
- First state to adopt statewide Initiative and Popular Referendum – South Dakota in 1898.
- First state to place a statewide Initiative on the ballot – Oregon in 1904.
- First state to allow cities to use Initiative and Popular Referendum – Nebraska in 1897.
- First state to provide for Initiative and Popular Referendum in its original constitution – Oklahoma in 1907.
- Last state to adopt statewide Initiative – Mississippi in 1992.
- Total number of states with some form of Initiative or Popular Referendum – 27.
- Total number of states that adopted statewide Initiative or Popular Referendum between 1898 and 1958 – 23.
- Total number of states that have adopted statewide Initiative or Popular Referendum since 1958 – 4.

IRI

Initiative & Referendum Institute

Post Office Box 6306
Leesburg, VA 20178
Phone: 703.723.9621
Fax: 703.723.9619

Email: mdanewaters@iandrinstitute.org

M. Dane Waters
President

The Initiative & Referendum Institute is a 501(c)(3) non-profit tax-exempt educational organization dedicated to educating the people on the Initiative and Referendum process.

THE HISTORY OF INITIATIVE AND REFERENDUM IN THE UNITED STATES

Initiative and Referendum has existed in some form in this country since the 1600's when the citizens of New England placed ordinances and other issues on the agenda for discussion and then a vote utilizing town meetings. Thomas Jefferson first proposed Legislative Referendum for the 1775 Virginia State constitution. The first state to hold a statewide Legislative Referendum for its citizens to ratify its constitution was Massachusetts in 1778. New Hampshire followed in 1792.

Jefferson was a strong and vocal advocate of the Referendum process, which in his view recognized the people to be the sovereign. Whereas the King of England spoke of his power to govern being derived from God, Jefferson knew that those chosen to represent the citizenry as envisioned in a republican form of government were only empowered by the people.

Madison, as did Jefferson, knew too well the possibility that in a republic, those chosen to rule can and would on occasion become consumed with their power and take actions not consistent with the Constitution – actions that represented their self-interest and not

the interest of the people. For this reason, a series of checks-and-balances were placed in our Constitution in order to right the errors caused when elected representatives chose to rule unconstitutionally or in their own self-interest. Not only did the Founding Fathers create these checks-and-balances by one branch of government over the next, they created a provision in Article V of the Constitution that allowed the people the right to make change and restore our Constitution absent of action by the Government. Unfortunately this process still relied on some form of action by those in power and therefore has become unusable by the citizenry.

State constitutions mirror the Federal Constitution. They created a republican government on a smaller scale to mirror that of the nation as a whole. In these constitutions a series of checks-and-balances were created to take into account the possible abuse of power by elected representatives and to protect the people from an out of control government - when and if that were to happen. But what the people began to realize in the late 1800's was that no matter what checks-and-balances existed, the people

had no direct ability to reign in an out of touch government or government paralyzed by inaction.

Then came the Populist Party of the 1890's. Their members had become outraged that moneyed special interest groups controlled government, and that the people had no ability to break this control. They soon began to propose a comprehensive platform of political reforms. They advocated women's suffrage, secret ballots, direct election of U.S. Senators, primary elections and Initiative and Referendum. Difficult as it would be to envision modern political systems without these reforms, they were considered quite extreme changes in the 1890's.

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"As the people are the only legitimate fountain of power, and it is from them that the constitutional charter, under which the several branches of government hold their power, is derived, it seems strictly consonant to the republican theory to recur to the same original authority...whenever it may be necessary to enlarge, diminish, or new-model the powers of government."

James Madison, Federalist Paper No. 49

THE HISTORY OF INITIATIVE AND REFERENDUM – CONTINUED

(Continued from page 1)

Perhaps the most revolutionary Populist reform was Initiative (the people's ability to place legislation or constitutional amendments



"I believe in the Initiative and Referendum, which should be used not to destroy representative government, but to correct it whenever it becomes misrepresentative." Teddy Roosevelt

ments, by petition, on the ballot for voter approval) and Popular Referendum (the people's ability to refer newly enacted law, by petition, from the legislature to the ballot for final approval). These forms of Initiative and Referendum, as well as the already established Legislative Referendum (all but three states that entered the union after 1830 established Legislative Referendum and required the voters to approve their proposed constitutions. Congress itself required that voters approve state constitutions proposed after 1857), acknowledged that the authority to legislate and govern was delegated by the people and reaffirmed that the people were the only true sovereign – as Jefferson had envisioned. They rightfully believed that government without the consent of the governed was tyranny and because authority, but not responsibility, can be delegated, a mechanism to un-delegate, when appropriate, was a proper check on the process of legislating. They believed that Initiative and Referendum was another check-and-balance on the power of government, but one that the people could use.

In 1897, Nebraska became the first

state to allow cities to place Initiative and Referendum in their charters. One year later, the Populists adapted methods from the 1848 Swiss Constitution and successfully amended them into the South Dakota Constitution. On November 5, 1898, South Dakota became the first state to adopt statewide Initiative and Popular Referendum. Oregon followed in 1902 when Oregon voters approved Initiative and Popular Referendum by an 11-to-1 margin. Other states soon followed. In 1906 Montana voters approved an Initiative and Popular Referendum amendment proposed by the state legislature. Oklahoma became the first state to provide for the Initiative and Popular Referendum in its original constitution in 1907. Maine and Michigan passed Initiative and Popular Referendum amendments in 1908.

In 1911 California placed Initiative and Popular Referendum in their constitution. Other states were to follow – but even with popular support in many states, the elected class refused the will of the people and did not enact this popular reform. In Texas, for example,

"I most strongly urge, that the first step in our design to preserve and perpetuate popular government shall be the adoption of the Initiative, Referendum, and Recall."

**Hiram Johnson,
in his inaugural speech as
Governor of California in 1911**

the people actually had the opportunity to vote for Initiative and Popular Referendum in 1914, but voted it down because the amendment proposed by the legislature would have required that signatures be gathered from 20% of the registered voters in the state – a number twice as large as what was required in any other state. The proponents for Initiative and Popular Referendum felt it was more important to get a useable process than one that would have maintained the status quo and provided no

benefit to the citizenry. However, the legislature used this defeat as an excuse to claim that Initiative and Popular Referendum was not wanted by the people and therefore effectively killed the movement in Texas.

Eventually, between 1898 and 1918, 24 states adopted Initiative or Popular Referendum – mostly in the West. The expansion of Initiative and Popular Referendum in the West fit more with the Westerners belief of populism – that the people should rule the elected and not allow the elected to rule the people. Unfortunately in the East and South this was not the case. Those that were in power were opposed to the expansion of Initiative and Popular Referendum because they were concerned that blacks and immigrants would use the process to enact reforms that were not consistent with the biased beliefs of the elite ruling class.

In 1959, when Alaska became a state, the citizens had adopted the power of Initiative and Popular Referendum. Then in 1972, Floridians adopted statewide Initiative as did Mississippians in 1992 - the newest and last state to get this valuable tool.

The credit for the establishment of Initiative and Popular Referendum in this country belongs with the Progressives. They worked steadily to dismantle the political machines and bosses that controlled American politics by pushing reforms eliminating the influence the special interest had on political parties and the government. Their goal, as is today's proponents of the Initiative and Popular Referendum, is to ensure that elected officials remain accountable to the electorate.

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For more information on the initiative and referendum process please visit the Institute's award winning website at www.iandrinstute.org.