

Direct Democracy in Oregon

by Richard J. Ellis, PhD

The History of DIRECT DEMOCRACY and POPULIST POLITICS in Oregon

The following series of articles have been adapted from **Oregon Politics and Government: Progressives versus Conservative Populists**, edited by Richard A. Clucas, PhD, Mark Henkels, PhD, and Brent S. Steel, PhD, by permission of the University of Nebraska Press. Available in Spring 2005.

ALTHOUGH THE INITIATIVE AND referendum are often lumped together, their implications for the political system are significantly different. By enabling citizens to force a public vote on recently enacted legislation, the referendum adds an additional check to the normal legislative process. Legislators are still writing the laws and governors are still signing the laws. The referendum only adds one more veto point to the process. The initiative, in contrast, is not an additional check but an alternative law-making process. Through the initiative process, citizens can enact laws with little or no involvement of elected officials. The initiative thus poses a qualitatively different challenge to representative democracy than does the referendum.

Among the earliest initiatives passed by Oregon voters (beginning in 1902) were some of the most important reforms of the Progressive Movement. Laws and amendments were enacted that opened up the primary process, instructed state legislators to select the people's choice for US senator, enabled voters to recall public officials, expanded the initiative process to cities, and established a Corrupt Practices Act. Observers came away from Oregon persuaded that they had glimpsed the future and it worked. Here at last, many thought, was a mechanism to defeat the power of the political bosses and organized wealth. It was from these landmark laws that Oregon's reputation as a progressive state first emerged.

States that did not yet have

the initiative and referendum rushed to get it. By 1918, 19 states had adopted the initiative and referendum. Although Oregon's early experience helped spark national enthusiasm for direct democracy, within the state the euphoria was short-lived. When 25 initiatives qualified for the ballot in 1910 and 28 in 1912, many Oregonians began to question the wisdom of direct legislation. Even erstwhile supporters criticized the initiative's overuse and abuse. The state's special interest groups quickly learned to use the initiative and referendum to advance their own interests. Because there was no requirement that an initiative campaign reveal to the public how much money they had received and from what sources, groups were often able to conceal their involvement. Until 1913 the secretary of state was not even required to record who had filed the petition for an initiative, and so the public often did not know which interests were sponsoring, let alone bankrolling, an initiative.

The less-regulated political environment of the early twentieth century meant that fraud and corruption were widespread in the circulation of petitions. The most infamous case was a popular referendum in 1912 that aimed to overturn the legislature's appropriation for the University of Oregon. The circuit court that heard the case concluded that over 60 percent of the 13,000 signatures gathered for the referendum were fraudulent. Even the defendants themselves conceded that about 30 percent of the signatures had either been forged or fabricated. It is difficult to deter-

mine how typical or pervasive such corruption was because under a 1907 law petitions were verified by the signed affidavit of the circulators. The large number of initiatives combined with stories of fraud and abuse soon cooled voters' enthusiasm for direct legislation. Of the 53 statewide initiatives on the Oregon ballot in 1910 and 1912, only 16 passed. In the following election, in 1914, voters rejected 17 of the 19 initiatives on the ballot. After 1914, initiative use in Oregon declined precipitously. Between 1920 and 1969, Oregonians voted on fewer initiatives than in the five general elections between 1906 and 1914.

Initiative use in Oregon has become institutionalized, driven not by the demands of the public, but by the activists and professionals who supply the initiatives.

Even more striking, the 23 initiatives passed during the five decades and 25 general elections stretching from the 1920s through the 1960s is less than the number of initiatives that were passed in the three general elections between 1906 and 1910. In the 1920s and 1930s, less than one in five initiatives succeeded, and during the 1960s not a single initiative passed, and only seven qualified for the ballot.

Since reaching its nadir in the 1960s, initiative use in

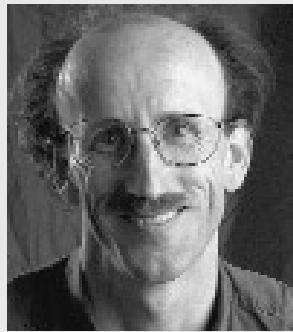
Oregon has climbed steeply with each of the subsequent decades nearly doubling the initiative use of the previous decade. The recent revolution in initiative use reached its apex in 2000 when a modern record of 18 initiatives qualified for the ballot. In that one election, Oregonians voted on more initiatives than they did in the twenty-year period between 1956 and 1975.

Initiative activists often explain the increase in initiative use by pointing to voters' distrust of politicians or to the ineffective performance of government. However, citizens in Oregon are not more alienated from government or distrustful of politicians than voters in low-use initiative states like Idaho or Ohio. The record number of initiatives in 2000, moreover, came at a time when voters' distrust of government was not notably high by modern standards. Nor can the explanation be attributed to poor legislative performance. The Oregon legislature is not any more ineffective or unresponsive than the legislatures in Wyoming or Oklahoma where the initiative continues to be used infrequently.

Part of the explanation for why Oregon has more initiatives than other states is that it is relatively easy to qualify an initiative in Oregon. If Oregon required, as Wyoming does, that petitioners gather signatures equal to at least 15 percent of the total number of votes cast in the preceding general election, initiative use would decline substantially. Also important is the absence of a geographic distribution requirement that requires signatures to be gathered in a certain number of counties or legislative districts across the state. None of the top six initiative states in the 1980s and 1990s

had a geographic requirement. In contrast, all but a handful of the states in the bottom half of initiative use have some form of geographic requirement.

Legal rules and procedural hurdles account for much of the difference among states in initiative use, but they also leave much unexplained. On paper it is easier to qualify an initiative in South Dakota than in Oregon; yet Oregonians have used the initiative process more than six times as often as voters in South Dakota. In California, petitioners have only 150 days to gather signatures for initiative petitions, which is among the most restrictive circulation periods in the nation. However, California typi-



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cally has far more initiatives on the ballot than other states, including states that allow petitioners several years to gather signatures. Nor can signature requirements explain why Arizona, which has a relatively high requirement (10 percent for statutory initiatives and 15 percent for constitutional initiatives), has seen far more initiatives than many states with much lower sig-

nature thresholds.

What separates Oregon from most other initiative states is less its signature requirements than its bevy of experienced initiative activists who are skilled at using direct legislation to serve their political ends. Initiative use in Oregon has become institutionalized, driven not by the demands of the public, but by the activists and professionals who supply the initiatives.

HOW THE PROGRESSIVE MOVEMENT INFLUENCED ELECTION LAWS IN OREGON

by E. D. Dover

Many of the state's most important election laws were enacted during the height of the Progressive Movement in the early twentieth century. The Progressives were particularly worried about the influence of political parties in state politics, believing that parties were inherently threatening to democracy and dominated by corrupt politicians. The Progressives' view of parties was shaped by their belief that a unifying and singular public interest exists that can be attained simply by removing the corrupting influences of politics. The idea that voters could legitimately disagree with one another over such significant matters as the purposes of government and the preferred directions of society was

an alien concept to many Progressives. Moreover, many reformers saw little merit in the idea that political disagreements could be voiced through responsible political parties in ways that might strengthen democracy. Driven to seek change, Progressives enacted several important laws to improve elections, primarily by weakening political parties. Among these laws were the adoption of primary elections, the initiative, and referenda. Progressives also championed the direct election of US senators and the use of nonpartisan elections for many local and statewide offices.

As a consequence of these reforms, two distinguishing features today mark Oregon elections. One is the existence of weak political parties and candidate-

centered campaigns. The other is a strong reliance on the use of direct democracy to enact laws. (See *Richard J. Ellis in this section*).

Although the Progressive reforms of the early twentieth century severely weakened parties, they did not eliminate them altogether. Today, political parties continue to play an important role in structuring elections. To understand electoral politics in Oregon, it is helpful to look first at the role played by parties. From there, we can then examine the character of the election system.

Political Parties

Political parties are non-governmental institutions that attempt to take control of government by contesting elections. “Non-governmental” means they are private entities despite the central role they play in elections. They are institutions in the sense that they are comprised of committees, officers, and individual members whose actions are defined and often limited by state law. Their ultimate goal is to win enough elections to control the institutions of government. The

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formal party organizations do not actually govern, however, for they are much too weak. A party cannot force a governor to act as it wishes. A governor may be strong enough to force a party to act as he wishes, however.

Oregon has a competitive two-party system today. This

means two major parties—the Republicans and Democrats—have enough supporters that both have realistic chances of winning a majority of elected offices. Why are there two major parties in Oregon? Why not one or three? Part of the answer is that it is simply a product of the state’s electoral system. Duverger’s Rule, named after the French political scientist who formulated it during the 1950s, attributes the existence of two-party systems to two different, and independent, features of election law. The presence of both conditions virtually guarantees that a two-party system will dominate elections. The absence of either one provides incentives for minor parties to compete on more equal grounds with major parties. These two features are single-member districts and plurality voting.

A single-member district refers to an election in which the voters cast ballots for only one candidate for a specific office. This is what Oregon uses today, for example, in legislative and gubernatorial elections. In contrast is the multiple-member district in which voters elect more than one candidate from the same district for the same office. Some school boards and city councils use these types of elections. For most of the state’s history, some members of the Legislative Assembly were also elected from multi-member districts. The legislature voted to end the use of multi-member districts, however, during the 1971 special session.

Under a system of plurality voting, the candidate who receives the largest number of votes wins the election, even if it is not a majority of the votes cast. For example, Democrat Barbara Roberts was elected governor in

1990 with 45 percent of the vote. The alternative to plurality voting is majority voting. Under majority voting, a candidate needs to receive more than 50 percent of the votes to win. If no candidate receives a majority, then a second election takes place between the two candidates who received the most votes in the first election.

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Populists Help Shape the Important Issues in Oregon

by Richard Clucas, PhD and Mark Henkels, PhD

OREGONIANS TEND TO BE VERY proud of their state. One particular source of this pride is the perception that “things are different here,” that somehow Oregon pursues a unique course of history. This perception is frequently conveyed in state histories and in the biographies of state leaders. Oregon is often seen as being a policy innovator and the home of maverick politicians. State political leaders and political commentators emphasize this uniqueness by attaching Oregon’s name to state programs; thus, we have the Oregon System, the Oregon Health Plan, and the Oregon Story. The notion that there is something special about Oregon politics has, in many ways, become a part of Oregon political lore.

Oregon’s progressive heritage has often been romanticized,

and it is this heritage that has frequently brought the state national attention. Yet if Oregon is indeed special today, it is not because it is a progressive state. Certainly, the state has an important progressive side to it, one that has long historical roots. Yet Oregon also has a very strong attachment to conservative populism. Despite the lore, Oregon today is a divided state, one in which two different sets of ideals compete to influence state policies.

Contemporary Oregon government and politics remains strongly influenced by the Progressive and Populist movements that arose more than 100 years ago. Although many of the original concerns of these movements have lost significance, their underlying values remain potent and help explain the ideological division between the modern

progressives and conservative populists in Oregon politics.

The Progressive Movement of the 1890s - 1920s embraced a variety of different, and often conflicting goals. Underneath the varying goals, two concerns motivated most Progressive reformers. The first was a desire to reduce the economic and political power of corporate interests. Certainly, this desire helped spur Progressive leaders to champion the initiative and referendum, or what became known as the Oregon System. These procedures were seen as ways to wrest power from the dominant influence of business and corrupt politicians and return it to the people.

Second, the Progressives believed that government should be a positive force in society, one that helps further the common good. Among other things, Progressives advocated that expert officials control government policies. It was this desire for government by experts that led Progressives to advocate civil-service reform and changes in municipal governments, including the introduction of the commission system of government in Portland.

Although the Progressives were to disappear as a distinct force in Oregon politics by 1920, their belief that an open, activist, and pragmatic government could lead the way to a better, more modern society remains influential. We use the term progressive to identify the ideas, policies, individuals, and groups that follow this latter strain of Progressive thought. Progressives, promote the active use of government power to solve societal ills. They support the promotion of experts in government, the use of rational problem

solving, and the adoption of innovative policy solutions.

Progressives of the early 1900s sometimes overlapped and sometimes were in conflict with another reform movement—Populism. The early Populist Movement was based in agricultural areas where farmers and others believed that their well-being was controlled by powerful outside forces, particularly the railroads and banks. Seeing the underlying political problem to be the power

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of the corporate elite, the early Populists sought government policies that supported the interests of farmers and the working class. There was a natural alliance between Populist and Progressives in their early days because both sought to give political power more directly to citizens. The Populist Movement in Oregon peaked in the 1880s and 1890s when supporters helped elect a populist governor (Sylvester Pennoyer) and several state legislators. Like Progressivism, Populism as a formal movement faded early in the twentieth century; yet its core belief also remains a potent political force.

Today, populism commonly describes political movements that believe that powerful elites prevent the common people from achieving what is rightfully theirs. The appeal of this idea goes beyond the rural communities and small businessmen of the original Populist Party, or what was called

the People's Party in Oregon. Populists can be roughly divided into two groups: liberal populists and conservative populists.

Liberal populism and conservative populism are both “populist” because they identify an elite that must be fought to promote what advocates see as the true will of the people. Yet they focus on different elites, public values, and issues. Liberal populists (sometimes referred to as progressive populists) see the will of the people as being denied by the influence of large corporations and a wealthy elite. Accordingly, they advocate government programs that advance the political power and material interests of the less wealthy.

Although occasionally recognizing problems connected to corporate power, conservative populists believe that the core problem of modern politics is how government agencies, politicians, and an elitist media interfere with the popular will. They fear that these groups hinder private economic choice, the effectiveness of the market, and the public's ability to promote broadly shared conservative social values. Thus, conservative populists seek to restrict

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the size of government and to rely more on the free market. There is one area where conservative populists do promote an active government: social regulation. While criticizing the liberal social values presented in the media and academia, conservative populists often support govern-

ment regulations that promote their view of appropriate personal behavior regarding activities such as abortion and homosexuality.

We use the term conservative populism to refer to the ideas, policies, individuals, and groups that want to reduce taxes and limit the role of government in most social and economic contexts, except where the government may serve to promote traditional values.

The term conservative populism emphasizes the strong concern that many Oregonians have for protecting the rights, interests, and values of the people from an overly intrusive government and a morally divergent intellectual and media elite. The plain term “conservative” misses the significance of the anti-elitist nature of this movement.

However, the terms progressive and conservative populist are crude categories for complex movements and sets of values. Oregon has initiative activists and opponents to free trade who demonstrate liberal populist values. There are also traditional conservatives, who value a healthy economic environment more than a conservative social

climate. Yet much of Oregon's political conflict reflects the collision of the progressives' strong support for an active government and the conservative populists' general desire to limit government. This conflict is found in most states and in national politics, but in Oregon, it is so

prominent that we argue that it is the defining characteristic of the state's politics today.

How These Opposing Views Affect Important Issues

The state's recent efforts to ensure adequate healthcare for all Oregonians reflect the state's divided character. In 1989, the state adopted the Oregon Health Plan, which promised to be the first state program in the nation to provide nearly universal healthcare. Designed by John Kitzhaber, then president of the state Senate, the plan was intended to expand healthcare coverage

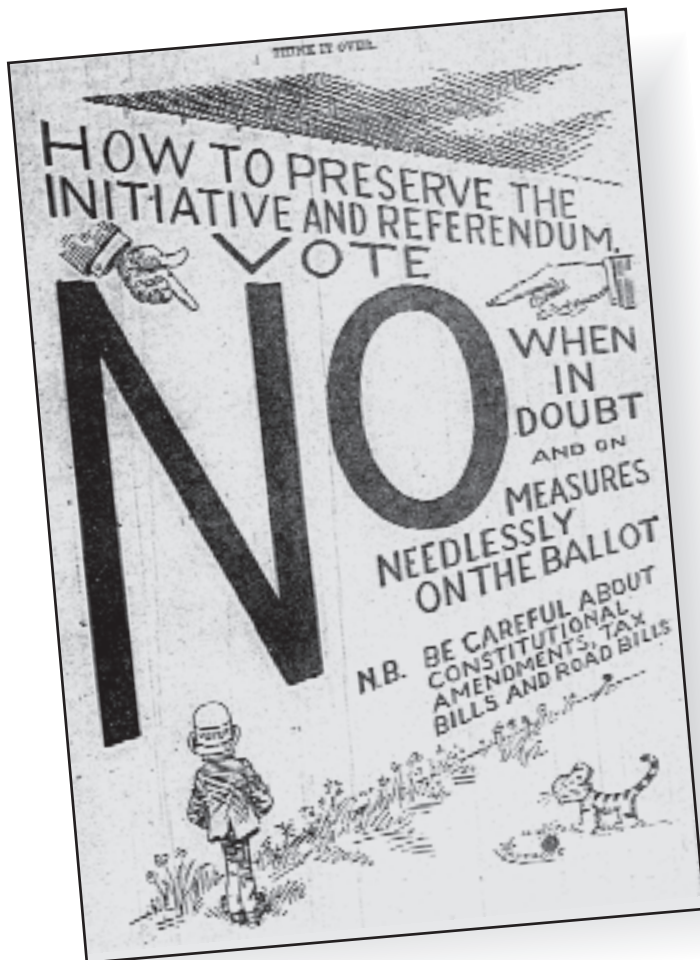
in two principal ways. First, the plan broadened the state's Medicaid program to cover more low-income citizens by setting priorities on what would be covered. Second, the legislation required private employers to provide health-care coverage at least comparable to the state's basic package.

Combined, these proposed changes put Oregon in the forefront of healthcare reform by promising coverage for the working poor. The program never developed as envisioned. In the election of 1990, Oregon voters provided conservative populists

a decisive victory by adopting Measure 5, which strictly limits property taxes and requires the state to compensate school districts for the lost revenue.

Between 1990 and 1996, the state's share of public school k/12 funding rose from about 28 to 66 percent, dramatically squeezing the state funds available to implement the Oregon Health Plan and other progressive programs. This budget pressure was enhanced further by passage of even stricter property-tax controls through Ballot Measure 50 in 1997. The Oregon Legislative Revenue

Office estimated that the state would have to spend \$2 billion per year in the 2001-2002 budget cycle to compensate local school districts for property tax losses due to Measures 5 and 50, thereby removing that much from the pool of money available for programs such as the Oregon Health Plan. Although Oregon still possesses a unique system of rationed healthcare insurance, budget constraints and the 1995 changes in the plan make universal healthcare a distant vision. *(Please see Rationing in the glossary —Ed)*



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This political cartoon comes from the October 7, 1912 morning edition of *The Oregonian*. The cartoonist's name is Edward S. Reynolds.