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THE INITIATIVE AND REFERENDUM

WHAT THEY ARE  
WHERE THEY ARE IN USE  
HOW THEY WORK

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PRESENTED

BY

HON. ROBERT L. OWEN  
OF OKLAHOMA

IN THE

SENATE OF THE UNITED STATES

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Mr. OWEN. Mr. President, I ask permission to insert in the RECORD a memorandum relating to the initiative and referendum, explaining what it is, where it is in use, and how it works.

The VICE PRESIDENT. There being no objection, the request of the Senator from Oklahoma is granted.

The matter referred to is as follows:

THE INITIATIVE AND REFERENDUM—WHAT IT IS—WHERE IT IS IN USE—HOW IT WORKS.

What is direct legislation?

Direct legislation is the right of the people to enact or reject laws by their votes at the polls, just as they now vote upon candidates or constitutional amendments. It is exercised through the initiative and referendum.

What is the "initiative"?

The initiative is a method by which the people can propose a law or constitutional amendment by petition. The petition is filed with the secretary of state four months prior to a general election, and submitted by him to the voters at the ensuing election. If a majority of the voters voting on the question vote "yes," the law is enacted and goes into operation. If a majority vote "no," it is rejected. Example: The people of Maine for years demanded a direct primary law. The legislature refused to pass it. An initiative petition, signed by 12,000 voters, was filed. The law was submitted at the general election of 1911 and adopted by a vote of 65,810 to 21,774. It has since been in operation.

What is the "referendum"?

The referendum is a method by which the people may reject at the polls acts of the legislature which do not suit them. A petition against a law must be filed within 90 days after the legislature adjourns. The law is then suspended and a vote is taken upon it at the next general election. If a majority vote "no," the law is vetoed; if "yes," the legislature is sustained. Example: The Legislature of South Dakota passed a State militia bill. It was opposed because it put an added heavy expense on the taxpayers and because the people were against militarism. A referendum petition was filed, the bill was suspended from operation, and rejected at the general election of 1910 by a vote of 57,440 "no" to 17,854 "yes." And so the law was "vetoed" by the people.

Are the initiative and referendum "new" and "revolutionary" doctrines?

No. From the beginning of our Government, the American people have retained the right to vote on certain questions, such as State constitutions, bond issues, city charters, location of State and county seats of government, boundary lines, local option, etc. Also they have voted on amendments to State constitutions, city charters, and occasional laws, but only when the legislature would permit them. The initiative and referendum give the people the power to vote on any measure they desire and when they want to, without the permission of the legislature.

How large petitions are required?

Eight per cent of the voters of a State are usually required on initiative petitions and 5 per cent upon referendum petitions. A better system is to require a flat number of signatures. The splendid amendment pending in Mississippi requires 7,500 qualified voters upon initiative petitions and 6,000 for the referendum. Maine requires 12,000 for the initiative and 10,000 for the referendum. One man in convention or legislature can make a motion and 10,000 citizens combined should not be denied this right.



Why do we need the initiative and referendum?

"The methods of our legislatures make the operations of political machines easy, for very little of our legislation is formed and effected by open debate upon the floor. Almost all of it is framed in lawyers' offices, discussed in committee rooms, and passed without debate. Bills that the machine and its backers do not desire are smothered in committee; measures which they do desire are brought out and hurried through their passage. It happens again and again that great groups of such bills are rushed through in the hurried hours that mark the close of the legislative sessions, when every one's vigilance is weakened by fatigue and when it is possible to do secret things.

"When we stand in the presence of these things and see how complete and sinister their operation has been, we cry out with no little truth that we no longer have representative government. \* \* \*

"If we felt that we had genuine representative government in our State legislatures no one would propose the initiative and referendum in America. They are being proposed now as a means of bringing our representatives back to the consciousness that what they are bound in duty and in mere policy to do is to represent the sovereign people whom they profess to serve, and not the private interests which creep into their counsels by way of machine orders and committee conferences. \* \* \*

"It must be remembered by every candid man who discusses these matters that we are contrasting the operation of the initiative and referendum not with the representative government which we have in theory, but with the actual state of affairs."—(President Woodrow Wilson, in an address at Kansas City, May 5, 1911.)

Who favor and who oppose direct legislation?

The men of every political party who believe in the American doctrine of government by the people are favorable. It has been adopted in the platforms of all political parties at various times and places. Organizations of the producing classes, such as farm and labor organizations, reform organizations, etc., are especially strong for it. It is strenuously—but often secretly—opposed by all reactionary politicians, all the big trusts and corporations, nearly all the corporation lawyers, and every corrupt political boss in the United States. This is the line-up.

Where are they in operation?

In many States and in a large number of cities throughout the Nation. The following is a table of the 17 States in which initiative and referendum amendments to the State constitutions have been submitted by the legislatures and adopted by the people:

[From Bulletin No. 1, issued by the bureau of information of the National Popular Government League. Compiled by Judson King, executive secretary, Washington, D. C.]

Date of adoption.	State.	Popular vote on amendment.		Character of amendment.
		For.	Against.	
1898.....	South Dakota.....	23,816	16,483	Defective.
1900.....	Utah <sup>1</sup> .....	19,219	7,786	Worthless.
1902.....	Oregon.....	62,024	5,688	Excellent.
1905.....	Nevada.....	4,393	792	Defective.
1912.....	do. <sup>2</sup> .....	9,956	1,027	Good.
1906.....	Montana.....	36,374	6,616	Defective.
1907.....	Oklahoma.....	180,383	73,059	Do.
1908.....	Maine.....	51,991	28,712	Do.
1908.....	Missouri.....	177,615	147,290	Good.
1910.....	Arkansas.....	91,363	39,680	Do.
1910.....	Colorado.....	89,141	28,698	Do.
1911.....	Arizona.....	12,534	3,920	Excellent.
1911.....	California.....	138,181	44,850	Do.
1912.....	Nebraska.....	189,290	13,315	Defective.
1912.....	Washington.....	110,110	43,905	Do.
1912.....	Idaho <sup>1</sup> .....	43,658	13,490	Worthless.
1912.....	Ohio.....	312,592	231,312	Fair.
1913.....	Michigan.....	219,388	152,038	Good.

<sup>1</sup> Amendment not self-executing; legislature has refused to pass an enabling act, hence people have never been able to use it.

<sup>2</sup> Referendum only; initiative added.



Is the movement growing?

Yes; and rapidly. Initiative and referendum amendments will be voted upon at the general election November 3, 1914, in the States of Mississippi, Wisconsin, Minnesota, North Dakota, Texas, and Maryland. It is a live political issue in nearly every other State.

#### BRYAN FOR THE MISSISSIPPI AMENDMENT.

Hon. William Jennings Bryan, Secretary of State, has written a letter indorsing the Mississippi amendment and urging its adoption. It shows his attitude upon the initiative and referendum. He says, in part:

"I am gratified to learn that the Legislature of Mississippi at its last session submitted a constitutional amendment providing for the initiative and referendum. *I have examined the amendment and believe it to be one of the best submitted.* As you know, I have for a number of years been an active advocate of the initiative and referendum. We put it in our State platform in Nebraska 18 years ago, and since that time I have spoken for it in many States.

#### A DEMOCRATIC PRINCIPLE.

"The principles underlying the initiative and referendum are so democratic that these reforms are sure to commend themselves to the Democratic Party. It is commending itself, too, to a large majority of the Republican Party, who at heart have faith in the capacity of the people for self-government. There are only two objections that can be honestly made to the initiative and referendum. One is the aristocratic objection, which is based upon the lack of confidence in the masses, and the other the plutocratic, which is based upon the idea that the masses can not be trusted to deal justly with property interests.

#### THE PEOPLE CAN BE TRUSTED.

"Both of these objections are groundless. The masses have proven, wherever given an opportunity, their ability to deal with questions of government. The aristocratic idea of representative government is that the people themselves are not intelligent enough to decide public questions, but should select a few superior men to think for them and act for them. *This reasoning is, of course, fallacious as well as undemocratic. The people can act more intelligently upon a proposed reform of government than they can upon an individual, because they can understand a proposed reform better than they can a person; and then, too, a proposed reform does not change after the election, while the individual may.*

#### THE PLUTOCRATS ARE WRONG.

"The plutocratic argument against the initiative and referendum is equally unsound. The people are conservative; they can be trusted not to violate the rights of property. Experience will show that violations of property rights are more often traceable to the avarice of those who are able to obtain a monopoly than to the masses, who can have no selfish interest in the doing of injustice.

#### THE DANGER FROM NEGLECT.

"I have no doubt that a majority of those who vote upon the proposed amendment will vote for it; the only danger in Mississippi is the danger that the friends of the initiative and referendum had to encounter in Arkansas, namely, the failure to vote. Your constitution requires that the amendment shall receive not merely a majority of the votes cast upon that subject but a majority of all votes cast at that election, and experience shows that a great many people fail to vote on amendments unless an active campaign is waged to bring the amendment clearly to the attention of the people. I hope, therefore, that those in favor of the initiative and referendum will see to it that every voter is reminded of the fact that the amendment is to be acted upon, so that it will not be lost by failure of some of the voters to express themselves on this particular subject.

"I regard the initiative and referendum as the greatest modern improvement in the strengthening of representative government."

#### SENATOR LA FOLLETTE URGES ADOPTION OF THE INITIATIVE AND REFERENDUM IN WISCONSIN.

United States Senator LA FOLLETTE, of Wisconsin, is a distinguished champion of popular government. In urging the adoption of the pending amendment in his own State he says:

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"For years the American people have been engaged in a terrific struggle with the allied forces of organized wealth and political corruption. Battles have been won and lost. The unequal contest goes on. The lesson is obvious. The people must have in reserve new weapons for every emergency if they are to regain and preserve control of their Government.

"The forces of special privilege are deeply entrenched. Their resources are inexhaustible. Their efforts never relax. Their political methods are insidious. It is impossible for the people to maintain perfect organization in mass. They are often taken unawares and are liable to lose at one stroke the achievements of years of effort. In such a crisis nothing but the united power of the people expressed directly through the ballot can overcome the enemy.

"Through the initiative, referendum, and recall the people in any emergency can absolutely control. The initiative and referendum make it possible for them to demand a direct vote and repeal bad laws which have been enacted, or to enact by direct vote good measures which their representatives refuse to consider. The recall enables the people to dismiss from public service those representatives who dishonor their commissions by betraying the public interest. These measures will prove so effective a check against unworthy representatives that it will rarely be found necessary to invoke them.

"If there is a State in this Nation in which the people are capable of deciding questions for themselves, it is Wisconsin. We should adopt the initiative, referendum, and recall by an overwhelming vote on November 3."

How has direct legislation worked in the States where it has been tried?

It has worked well. Although reactionary politicians in these States would be delighted to have the initiative and referendum abolished, they do not dare to start a movement for their repeal. They know it would spell their political death, because the people believe in the initiative and referendum and value it highly, especially after they have used it a few years. The experience of all these States can be summed up in a recent statement by Mr. William Spence, master of the farmers State Grange of Oregon, in which he said:

*"The common people of Oregon would not give up the referendum. It has done too much good. No one fights against it here but the corporations and grafting politicians it has put out of a job."*

The corporation newspapers and lawyers are trying to convince the people of other States that the initiative and referendum have failed where tried. What hurts them is that the people are using their power for their own benefit and not for the benefit of the interests. The Government is passing from the hands of the bosses into the hands of the people. The bosses do not like it and that is the whole story in a nutshell.

Was not this Nation founded upon the principle of "representative government," and is not the initiative and referendum in conflict with that principle?

Former Senator Joseph W. Bailey, of Texas, made this contention the chief basis of an attack upon initiative and referendum at the time he retired from the United States Senate, and it is being widely used by reactionaries throughout the Nation. Senator Bailey's argument was completely annihilated by Senator ROBERT L. OWEN, of Oklahoma, in reply to Bailey. Here is a quotation:

"This Republic was not founded on any so-called 'representative principle.' The representative is merely a convenience, a servant, an agency, subject of right to the direct control of the people.

"This Republic was founded on the principle that the people were sovereign and had a right, if they pleased, to manage their business directly, a God-given right, vested in them, inalienable and indefeasible, and directly to alter, amend, or abolish any law. Every State constitution declares and exemplifies this fundamental principle. Every State constitution, except one, was established by the direct lawmaking power of the people.

"The option to use the initiative and referendum is not in conflict with the present convenient system of legislating through representatives, but is in harmony with that system and makes it more representative, not less representative."

[NOTE.—Senator OWEN's complete speech entitled "People's Rule vs. Boss Rule" can be had upon application to the National Popular Government League, Washington, D. C.]



## ANSWERS TO OBJECTIONS.

The following are the most familiar objections made to the establishment of the initiative and referendum and answers by eminent public men.

## I. THE PEOPLE ARE NOT INTELLIGENT ENOUGH TO VOTE UPON LAWS.

"The alleged ignorance of the people has been urged in all ages against progress in government. It was the chief argument made against the establishment of the American Republic. Some ultra-conservative people may honestly believe the people are incompetent, but the objection is usually made by those who fear the intelligence, not the ignorance, of the people.

"The judgment of a whole State, expressed at the ballot box, after full discussion and opportunity for information, which the State should furnish, is about the safest guide in the affairs of government I know of.

"Our whole system of government assumes the capacity of the people to judge the worth of legislative acts. We elect men upon the measures they advocate or oppose. We reelect them or not, as we think the measures they have enacted good or bad. Is it not absurd, then, to hold that the people have brains enough to vote upon the men but not intelligence enough to vote upon the measures themselves, printed in black and white? I confess it is a mystery to me how some men can conceive the people to be 'intelligent citizens' just before election and 'an irresponsible mob' immediately after election." (Hon. GEORGE W. NORRIS, United States Senator from Nebraska.)

## II. WHAT IS THE USE OF THE LEGISLATURE IF THE PEOPLE ARE TO ENACT LAWS?

"The initiative and referendum do not abolish the legislature or the need for one. They are called into action only in emergencies, when the legislature fails to accomplish the will of the people, and usually upon important questions. Since the initiative and referendum were established in Oregon over 98 per cent of the laws have been enacted by the legislature. In other States the percentage is higher than this." (Hon. ROBERT CROSSER, Congressman at large from Ohio and author of the Ohio provision for the initiative and referendum.)

## III. THERE WOULD BE TOO MANY ELECTIONS, AND THE COST WOULD BANKRUPT THE STATE.

"Men making this objection are either misinformed or willfully misstating the truth. All initiative and referendum provisions require that questions submitted to the people through popular petition should be voted upon at the regular general elections. Special elections can only be held on questions of immediate moment and magnitude, and then only when especially ordered by the State legislature or by the governor, as may be provided by law. In 11 years the initiative and referendum has cost the people of Oregon but a few cents apiece." (Hon. MOSES E. CLAPP, United States Senator from Minnesota.)

## IV. THERE WOULD BE TOO MANY QUESTIONS ON THE BALLOT, AND THE PEOPLE WOULD BECOME CONFUSED.

"In the last three elections, due largely to the failure of the legislature to carry out the will of the people, a relatively large number of questions have been submitted in Oregon through the initiative and referendum. Political experts have been astonished at the ease and intelligence with which the voters dispose of these questions. The citizens of Oregon are not worried, but there seems to be great alarm among eastern newspaper editors lest the minds of our people be overstrained. I fear that the fact that we are voting on vital issues, which certain people would not like to see raised, is what troubles some. The people of Oregon consider that they are as capable of deciding on 30 measures with 4 months' preparation and more as the legislature is on 824 measures in 40 days." (William S. U'Ren, father of the "Oregon system.")

"Up to 1912, 11 States have secured working State-wide initiative and referendum amendments—6 good ones, the others limited or defective. From 1898, to and including 1912 election, there were voted upon in those States a total of 176 initiative and referendum measures, placed on the ballot by petition, as shown by the following table:

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[From Bulletin No. 4, issued by the bureau of information of the National Popular Government League. Compiled by Judson King, executive secretary, Washington, D. C.]

Adopted.	State.	Number of measures voted on in election of—						Total.
		1904	1906	1908	1910	1911	1912	
1898.....	South Dakota <sup>1</sup> .....			4	6		4	14
1902.....	Oregon.....	2	11	15	27		31	86
1905.....	Nevada <sup>2</sup> .....			1				1
1906.....	Montana.....						5	5
1907.....	Oklahoma.....			1	7		4	12
1908.....	Missouri.....				2		3	5
1908.....	Maine.....				3	1	1	5
1910.....	Arkansas.....						7	7
1910.....	Colorado.....						26	26
1911.....	Arizona.....						9	9
1911.....	California.....						6	6
		2	11	21	45	1	95	176

<sup>1</sup> None from 1898 to 1903.

<sup>2</sup> Had referendum only. Amendments and laws submitted by legislature not included.

#### V. THE SYSTEM IS TOO EXPENSIVE.

"The most expensive government in the world is that managed by a privileged few. The less democratic the more costly—witness Russia or the frightful squandering of the public funds in States controlled by political machines. The referendum is the greatest foe to extravagance in public affairs known—witness the results in Oregon, South Dakota, Montana, and other States. Since measures are ordinarily submitted at general elections the added cost is but slight. If the State adopts the expensive and inefficient system of publishing pending measures in newspapers, this cost will be quite heavy, but if they adopt the Oregon, Arizona, and California plan of sending a pamphlet to the voters the expenses will be but a few thousand dollars for the entire State and the education of the voters by this means is worth a thousand times more than it costs." (Hon. Carl Schurz Vrooman, Assistant Secretary of Agriculture.)

#### VI. HOW WILL THE PEOPLE BE INFORMED SO AS TO VOTE INTELLIGENTLY ON PENDING QUESTIONS? BY PUBLICITY PAMPHLETS ISSUED BY THE STATE TO EACH CITIZEN.

"The problem of educating voters upon questions submitted under the initiative and referendum has been solved in California by having the secretary of state send to the voters through the mails a little pamphlet containing copies of the proposed laws, a reprint of the ballot title, and also with explanatory arguments for and against each measure. In Oregon the system also includes the right of citizens or organization to present arguments, they paying the exact cost of the space taken. These pamphlets are read and studied by an unexpectedly large proportion of our citizens and who are thereby enabled to vote intelligently. I consider the pamphlet system of great importance, as it is far better and cheaper than newspaper advertising." (Dr. John Randolph Haynes, Los Angeles, father of direct legislation in California.)

#### VII. IF WE HAVE DIRECT LEGISLATION, THE COLORED PEOPLE AND FOREIGNERS WILL CONTROL THE GOVERNMENT.

"During our campaign for the initiative and referendum in Arkansas in 1910 every conceivable argument calculated to frighten the voters into rejecting these people's rule measures was brought against us by the reactionary few.

"We were told that 'legalized anarchy' would follow its adoption; that there would be a 'French Revolution'; that we would 'lapse into barbarism'; and as a crowning absurdity we were warned that with the initiative and referendum 'the State would be controlled by negroes.' My answer to this tirade was, and is now, that this is a white man's country and white men will continue to govern it, and that what the



predatory corporations, their lawyers, and politicians feared was the white people's intelligence and not the negro's ignorance. Also that it was foolish to talk about anarchy unless a majority of the people were anarchists, since nothing could be done to which a majority of the voters did not agree and that it was an insult to call the voters anarchists." (Hon. George W. Donaghey, former governor of Arkansas.)

The way to handle that portion of the "foreign vote" which can be purchased, or any other class of purchasable voters, is the enactment of a stringent corrupt-practices act which will put in jail the men who try to bribe them. As a matter of fact, election returns show that the ignorant and careless voters of any class do not vote upon initiative and referendum questions. It requires too much intelligence.

#### THE DANGER FROM "JOKERS."

To work successfully, initiative and referendum provisions must be drawn with exceeding care. The people of Oregon have accomplished great results, because they have the best system produced to 1912. California and Arizona are also good. The chief "jokers" and so-called "safeguards and restrictions" which destroy the efficiency of the "initiative and referendum" are as follows:

First. To require a large number of signatures to petitions or put hampering restrictions upon the people in securing them.

Second. To insert a clause which permits the legislature to deny the people the right of a referendum on anything the legislature declares to call an "emergency."

Third. To deny the right of referendum upon all appropriations.

Fourth. To deny the right of the people to initiate an amendment to the State constitution.

Fifth. To require a majority of the votes cast for candidates "*in the election*" as necessary to enact measures instead of a majority of the vote cast "*on the question*."

Sixth. To require pending measures to be advertised only in newspapers. This is frightfully expensive and inadequate. The pamphlet system is the only cheap and effective plan.

#### WHERE TO GET INFORMATION.

The National Popular Government League, a nonpartisan organization, maintains a bureau of information upon every phase of the initiative, referendum, recall, and other measures designed to place more political power in the hands of the people.

Address Judson King, executive secretary, 1017 the Munsey Building, Washington, D. C.

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