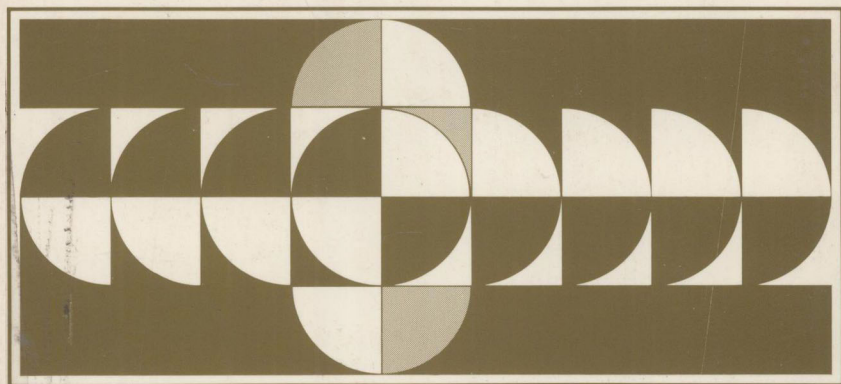


MONEY, MEDIA, AND THE GRASS ROOTS

**State Ballot Issues and the
Electoral Process**

Betty H. Zisk



Sage Library of Social Research 164

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Volume 164

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—Betty H. Zisk

TO Jonathan, Stephen, and Matthew Zisk—
sons, friends, and sometime fellow-activists

INTRODUCTION

This is a comparative study of the campaigns and outcomes on major ballot questions in four states, over a period of seven years—1976 to 1982. It encompasses an in-depth look at expenditures, advertising, grass-roots activity, and voting behavior, in Massachusetts, Michigan, Oregon, and California, on 72 controversies that include almost every major issue of our time. Among these issues are taxes, economic regulation, the environment, the nuclear freeze, and crime control proposals, as well as many less prominent topics like self-service gas, parklands development, and the never-ending argument about fluoridation.

Some of these campaigns were born of citizen wrath at government, at criminals, perhaps at their own helplessness. Some featured colorful or charismatic figures (Cesar Chavez, Jerry Falwell, Tom Hayden) or bizarre campaign techniques or a whole series of court injunctions. But many campaigns were mundane, even boring, and almost neglected by the voters and media alike, in spite of their potential for high costs or for some degree of political and social change. Some proposals saw powerful coalitions of interest groups on opposite sides; others attracted only a handful of poorly organized amateurs. Only two were battles primarily between political parties.

Why would anyone want to study or read about a subject that, at least until the last decade, has been ignored by most scholars, and about which most citizens of all but a few states remain blissfully unaware? A personal odyssey, spanning fourteen years between my involvement in California's open housing referendum in 1964 and later fortuitous choice of a California vacation in late spring of 1978, just in time to see the end of the battle over Proposition 13 (the property tax cap), accounts for this study on the level that is of least direct interest to the reader. The reader should be warned, however, that

I—like many others who write on ballot questions—have been an activist as well as an analyst, with attendant strong feelings. But there are strong scholarly reasons as well. I believe such a focus to be timely and important in at least three ways: for our understanding of several important aspects of the political process itself; on policy grounds; and finally, as a contribution to the discussion about the place of direct (as opposed to representative) democracy in contemporary democratic theory.

First, analyzing campaigns and voting patterns on the initiative and referendum can tell us a great deal about the political process as it operates in the absence of the usually dominant party and candidate activities and cues. Ballot issue campaigns provide (potentially) the purest form of issue voting that exists. Do voters respond by serious information gathering and selfless decision-making, as the reformers hoped, or do they find new shortcuts in reaching their decisions? Where do they get their information? What institutions (if any) substitute for the parties and candidates in organizing and financing their campaigns? How well do media and grass-roots campaigns work in informing the voters?

In short, campaign expenditures and strategies, group decisions about alliances and/or the use of political consultants, the mobilization of volunteers, the use of the media, and the like, are important topics on which too little systematic information has been collected—aside from the well-worked area of presidential, and to a lesser extent congressional, campaigns. My primary focus will be on this subject.

The attempt to answer these questions may also shed light on the range and applicability of some major models of democracy (majoritarian, pluralist, postpluralist) or some of the cyclical arguments over the appropriate role of parties, in the sense that ballot issue campaigns are the most extreme of deviant cases: not only are parties irrelevant to this set of debates over issues (though not illegal, as they are for local nonpartisan government), but so, on the whole, are candidates. Discovering and explaining what fills that vacuum is in itself important. And this study may also cast light on the roles usually played by the missing actors, through their very absence.

Second, although this has not been my main purpose, I hope to reach some conclusions about political activation and recruitment in an issue-oriented and mainly nonpartisan milieu. This analysis may also be relevant to the debate over national primaries or a pro-

posed national initiative, and/or other national mechanisms of direct democracy. I am particularly interested in the political recruitment and communication process of the leaders and followers who first become active as a result of ballot issues.

I have observed, in participating in several grass-roots campaigns on initiatives, a number of activists who have seldom (if ever) participated in traditional interest group activities or in campaigns for partisan office. Many of them stay to fight another day. If this is a very widespread phenomenon, it implies that while the Progressive dream of activating vast numbers of apathetic voters may not have come to fruition, that dream may nevertheless have been partially fulfilled by the provision of an alternative channel for political expression, through (for example) political movements and public interest groups.

Finally, there are also clear policy implications in studying ballot questions. The initiative and referendum process has been one way of broadening the public agenda, and thus of bringing new ideas to the attention of the wider polity. Minimum wage laws, child labor laws, old age pensions, and merit systems for public employees were only a few of the first laws enacted through the process in the early days; the bottle bill and a comprehensive land planning agency are two other recent examples.

An analogous (and valid) argument has been made for the platforms of third parties as a source of fresh ideas that frequently enter the mainstream at a later point (Stedman and Stedman, 1950). The difference in the present argument, however, is that the initiative has been a means of early *enactment* of some of these ideas, often after failing to receive majority support in a state legislature, and thus can furnish concrete evidence of how new and sometimes unorthodox policies can work. Some of these innovations have indeed proved unconstitutional, trivial, or occasionally oppressive (as have some products of legislatures); but from a policy perspective the initiative in particular has helped some states to fulfill one promise of federalism: 50 (or 22) built-in laboratories in which to sort out and test proposals before they are considered or approved on a wider scale. While a discussion of the issues per se has not been my central purpose, I shall consider, in passing, the degree to which some ballot questions have opened up important new areas on the political agenda.

The remainder of this chapter is devoted to four preliminary tasks. First, I shall attempt a very brief history of the origins and adoption of the initiative and referenda mechanisms, in the context of the Progressive reform movement, and a set of definitions of specific devices (direct and indirect initiatives, statutory referenda, constitutional referenda). Second, I will present a summary of my own survey of the ballot questions considered by all states with provisions for the statutory initiative and referendum from 1976 to 1980. Third, I will explain and justify the present research strategy: the choice of states, criteria for selection of major issues, choice of time frame, and the sources of data on campaigns and voting. Finally, I will preview the format and contents of the remaining chapters in this study.

Direct Democracy and the Progressive Reform Movement

Plebiscitary democracy, in one form or another, is at least as old as the Greek city state, although this classical form of participation was limited to free citizens. Referenda, as legitimating devices, appeared in relatively modern times in Switzerland and in France in the fifteenth and sixteenth centuries. Most relevant for the American student of democracy, however, was the consideration, by New England town meetings in the Revolutionary era, of several state constitutions drawn up to replace the colonial charters (Ranney, 1978: 5-21, 68-85).

Although every state but Delaware has used the constitutional referendum (that is, voter approval of amendments to the state constitution) almost from the very beginning, other types of direct legislation were adopted more gradually. It wasn't until the growth of the reform sentiment of the Progressives that some of the states of the Midwest and the Northwest seriously considered and adopted the initiative and statutory referendum. A trend that began with adoption of these devices in South Dakota, Utah, and Oregon between 1898 to 1902 gradually spread to nineteen more states by the end of World War I. All initiative states but Maine, Massachusetts, and Arkansas were, up to that point, still in the West and Midwest. The last four states to adopt both of these mechanisms, however, included Alaska (1959) and Florida (1972) (Ranney, 1978: 69-73).

The Progressive movement had much in common with its immediate predecessor, Populism. (The Populist Party, in fact, was an early advocate of direct democracy.) While the social and political base for the new reform advocates was more urban and middle class, and thus both more inclusive and less mistrustful of Jews, immigrants, or indeed of urban residents in general, the central intellectual thrust of both movements was quite similar. As Eric Goldman (1952: 75) puts it:

. . . to the extent that the two movements concerned themselves with liberty, they shared an emphasis on freeing the avenues of opportunity. . . . Government was to be democratized in order to make it amenable to reform. Reform meant primarily the ending of governmental interventions that benefited large-scale capital and a rapid increase in the interventions that favored men of little or no capital.

Thus the focus, at the national level (and on the whole, the reformers relied more on federal than state action), was on antitrust action, minimum wage laws, a federal income tax, and the fostering of unionism. But unlike the populists, there was no Progressive push for nationalization of industries or a thorough overhaul of the currency, lending, and banking structure. The goal was the *restoration* of economic opportunity for the small entrepreneur, the laborer, and the farmer by using the powers of government to break up, or at least restrain, large institutions that threatened to choke off economic access. In a sense the Progressives were romantics who wanted a return of the era of smallness. The enemy was large organizations, whether public or private.

At the state level one of the main targets was the power of the railroads, particularly in the West and Northwest. Another was a whole set of symbiotic relations between, on the one hand, the dominant "interests" (mining, lumber, meatpacking, utilities) and, on the other, the state legislators who seemed to be in thrall to those with economic power. This led naturally to the other dominant theme of the movement: their preoccupation with procedural reform. While at the national level this took form in the commission as an answer to many evils, for the states and cities the solution was a host of proposals for direct democracy. These included the direct primary and nonpartisanship (both designed to cut the power of parties and

bosses), the recall device, the direct election of judges, and the initiative and referendum.

One key assumption behind these procedural devices was, according to Richard Hofstadter (1960: 259), the possibility that the individual citizen's "contribution to the public weal grew not out of his pursuit in politics of his own needs but . . . out of his disinterested reflection upon the needs of the community." The problem was to devise the machinery through which this public-spirited citizen could effectively wield power. Hofstadter (1960: 261) goes on to point out that whole ethos of individual responsibility, a variant of the Yankee-Protestant ethic, was ill-adapted "to the realities of the highly organized society of the late nineteenth and twentieth century." This is a point, of course, on which I shall be concentrating in later chapters.

More specifically, the reformers hoped that this economically disinterested or neutral citizen impulse could be used to force substantive change on state legislatures that had avoided controversial topics because of their close ties to vested interests. The mere threat of a referendum (a reconsideration of a measure already passed) might prevent passage of inequalitarian legislation. The threat of an initiative petition might force the legislature's hand as well. If this failed, of course the citizens could bring their original proposals directly to the voter. (And other devices, such as the recall and direct election of judges, would in the long run prevent continued obstruction or overruling of the handful of reforms that made their way into law.)

By 1918, then, 22 states had adopted the initiative for constitutional amendments, with four more to follow in the next 54 years. Thirty-nine states have adopted the referendum for statutes (the 39 include all 26 that have the initiative), while 22 allow the statutory initiative. Fourteen, in addition, allow a constitutional initiative, or proposal by petition of a constitutional amendment. And, as mentioned, all but one state provide for voter approval of amendments passed by the legislature (Council of State Governments, 1983-84).

A more detailed definition of these mechanisms may be helpful. I shall specify, in addition, their use (or absence) in the four states of the present study.

(1) The regular *constitutional amendment*, submitted to the voters by the legislature, usually requires an exceptional legislative majority and in some states must be initially approved by two suc-

cessive sessions of that body. Thus it usually has widespread support before reaching the ballot. All four states in this study employ the mechanism, as do all states but Delaware.

(2) The *constitutional amendment by initiative*, in contrast, reaches the ballot by initiative petition, after its advocates obtain a specified number of voter signatures and is used by only 14 states. Michigan, California, and Oregon use the mechanism; Massachusetts does not.

(3) The *statutory initiative*, used by 22 states, allows proposed changes in laws to reach the ballot by initiative petition. In Massachusetts and Michigan (as in five other states) such proposals must first receive legislative approval to reach the ballot, or in lieu of that approval, additional signatures must be collected. This is called the *indirect initiative* and was also employed by California until 1966. At this writing 14 states, including California and Oregon, employ the *direct initiative* instead, whereby petition signatures of a specified number of voters are required for ballot status. The more cumbersome indirect initiative process has been justified as screening out frivolous proposals; it was repealed in California, however, partly because of its infrequent use.

(4) The *statutory referendum* allows voters to pass judgment on laws already approved by the legislature. Thirty-nine states provide for the mechanism; in some cases this is by petition, in others by vote on the legislature itself, and in still others both means are allowed. All four of our states provide for the petition method of statutory referendum; Michigan and Oregon also have the legislative version. (There is probably no significant practical difference for states allowing only the petition form, since dissident legislators as well as citizens can and do use that technique. The petition version, however, is a simpler or more attainable remedy for ordinary citizens.)

The number of signatures required for petitions to qualify varies from state to state, usually consisting of about 5-8% of the number of votes cast in the last gubernatorial election. A few states require some minimal spread of these signatures across counties; most also have a signature verification process that is stiff enough to have fostered the collection of as many as 50-100% in excess of the minimum to be sure of meeting the standards. The legal arrangements for each of the four states studied here will be specified below.

*Use of Ballot Questions and Bond Issue
Submissions in the 1976-80 Period*

In mid-1978 and again in 1980, I contacted all 39 states that provide for the statutory initiative and referendum, requesting copies of the ballot question for the 1976-80 period. After eventually receiving answers from all 39, I found that during the period in question, voters in 27 of these states were asked to decide on constitutional amendments; in 16 states they were presented with statutory initiatives and/or referenda; and in nine (including California) they were asked to approve bond issues. Aside from Wyoming, no reason was given for the lack of ballot questions (even mandatory submissions of constitutional amendments) in 12 initiative-and-referendum states. (A letter from the office of the Wyoming Secretary of State explained that while a few initiative petitions had been circulated, none had qualified for a period of some years. I assume a similar situation in the other 11 states.)

In the following discussion I shall omit the four states on which I will be concentrating for the remainder of this study—Massachusetts, Michigan, Oregon, and California—thus presenting data on 23 states in regard to statutory proposals, 12 on amendments, and eight on bond issues. My purpose is to provide a background “census” of issues that were considered in the late 1970s by the voters in states that encouraged direct legislation.

Table 1.1 presents information on the 12 states that in fact utilized the statutory initiative and/or referenda. Since Virginia and New Jersey voters were asked to consider only *one* issue (gambling), voter opportunities existed on most questions in only 10 other states. Procedural questions of all types arose, as they always do, with great frequency in eight of the states. Next in frequency were environmental questions (in eight states), with bottle bills and proposals for nuclear power regulation the most common. After that, taxes (seven states) and regulatory issues (three states) made up most of the remaining 1976-80 statutory questions.

A glance at Table 9.1 in my conclusion will demonstrate that this set of issues in 12 states is not markedly different from those considered in Massachusetts, Michigan, Oregon, and California, except for the omission of law and order problems from this initial list. The main reason is not, however, a lack of activity in this area but