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WHEN WRITING TO ADVERTISERS PLEASE MENTION THE GUIDE

Direct Legislation

How the Initiative, Referendum and Recall, have Operated in Oregon

By Jas. D. Barnett, Ph. D.

"The operation of the Initiative, Referendum and Recall in Oregon," by James D. Barnett, Ph. D. Professor of Political Science in the University of Oregon, published by The MacMillan Company, New York, is a valuable addition to the literature on Direct Legislation. It is a very readable work and one that has evidently been written by a fair minded man anxious to present the facts rather than advocate or oppose the reform which is the subject of the book. Professor Barnett makes numerous quotations from the published statements of those Oregonians who approve and those who disapprove of Direct Legislation and his book is probably destined to be much misused by persons debating this subject. Its chief value, however, will be to those serious students of public affairs who are anxious to learn from a reliable source how Direct Legislation works out in practice. It is also a guide which will enable those who are drafting Direct Legislation measures to avoid some mistakes and remedy some defects without passing thru the bitter school of experience.

The book is divided into three parts. The first deals with the operation of the Initiative and Referendum in State affairs. The second with the Recall. And the third consists of a very valuable appendix.

The state constitution of Oregon, adopted in 1859, provided that all amendments to that constitution must be referred to a direct vote of the people for their approval or rejection. There was little agitation for the Initiative and Referendum, as it now exists, until 1892, when a movement started under "the remarkable leadership of W. S. U'Ren, which culminated in the adoption of this reform by the people in 1902 by a tremendous majority, 62,024 ballots being cast in favor and 5668 against its adoption. Seventy-two per cent of those voting at the election voted on the amendment.

Prior to its final adoption the measure had been endorsed by the granges, the labor unions, the populists, the Democratic party and the republican party. The cause of the movement is attributed to the fact that "The people felt the government was getting away from them and they desired a more direct control, both in the making of laws and in their enforcement, than they enjoyed." The adoption of the Initiative and Referendum for state affairs was followed by the extension of the same principle to county and municipal affairs in 1906.

Measure used for Reform

A very interesting chapter is devoted to the authors of proposed legislation in which it is indicated that this work devolves mainly upon organized bodies of citizens banded together for the express purpose of securing the adoption or rejection of certain measures. "The methods of preparing initiative measures of course vary with the authorship of the measures. But it seems that usually the principles of the measure are determined only after consideration by a number, and often a large number of men, and that the measure is put into final form by practical lawyers, or under their advice. From a consideration of all the measures which have so far appeared on the ballot it appears that in the great majority of cases the proposal or opposition of measures has been made with a view, whether or not mistaken, to promote the general interests of the state."

Attempts have been made by selfish interests to use the Initiative and Referendum for their own gain. "But," says the author "the ultimate failure of most of these movements which have been actuated by selfish special or local interests discourage such abuses of the system of popular government."

With regard to freak legislation Professor Barnett says "Measures proposing approaches to the single tax, liquor prohibition, woman's suffrage, control of corrupt practices in elections, elimination of free railway passes, the direct primary, proportional representation, the recall, an easier method of amending the constitution, the people's gazette and inspectors of government, the abolition of the state senate, etc., have all alike been given in evidence of the tendency toward 'freak' legislation. The reader is left to draw his own conclusions as to the bearing of such evidence upon the charge made. In the matter of the form of the measures submitted, to quotation. There has been much criticism

of crudely drawn initiative measures. But, altho there has been at times good ground for such complaint, on the whole the measures submitted thru the initiative compare well in form with legislation enacted by the assembly." R. W. Montague, quoted by the author, goes further and says "in all that pertains to the technique of draftsmanship legislation passed under the initiative is markedly superior to the average of the statutes passed by the legislature."

It is admitted that there have been attempts at log-rolling on the part of special interests, that titles of laws have been prepared apparently with intent to deceive, to overcome this the attorney general has been given the power to draft the titles subject to an appeal to the courts; that in the preparation of petitions it has been necessary to employ paid circulators and frauds have occurred. These things coupled with the fact that many more laws have been submitted to the people than was anticipated by the advocates of Direct Legislation has led to a healthy reaction against the indiscriminate signing of petitions and it has become somewhat more difficult to secure signatures to petitions.

Legislature not Superseded

"It appears that the people have voted on sixty constitutional amendments and seventy-six statutes, a total of one hundred and thirty-six measures, of which twenty-seven were referred by the legislative assembly, and one hundred and nine others initiated (ninety-five) or referred (fourteen) by petition." "Only fifty-one of the total of one hundred and thirty-six measures, or a little over one third, were adopted by the voters." When we compare this with the fact that the legislative assembly of Oregon passed three hundred and forty-nine laws in the year 1915 we are compelled to agree with the author that "it is clear that there is no danger that the representative legislature will be superseded by the direct action of the people."

A chapter is devoted to a description of the methods adopted for educating the vote. It is worthy of note in this connection that the state furnishes each voter with a pamphlet containing the full text of the measures to be voted upon with the arguments advanced for or against the measures. This pamphlet is sent to every voter ninety days before the vote is taken. In respect to the effect of this political education the laws passed and rejected corroborate the finding of Professor Barnett that "In spite of the difficulties in the situation, the results of the several elections are, in general, competent evidence as to the intelligence of the vote cast."

Anent the influence of Direct Legislation the author has this to say among other things. "The practical annihilation of party organization has been due more to the operation of the direct primary, a child of Direct Legislation, than to the operation of Direct Legislation itself." Much more of great value is said of the dangers and the benefits of the initiative and referendum, but here is the conclusion of the whole matter.

"It is universally admitted that there are faults in the system, but the principle of the system is very generally accepted."

Abuse of Recall

The Recall, which was adopted in 1908 by a vote of 43,948 against 26,778 provides that public officials may be elected out of office before the end of their term provided twenty-five per cent of their constituents sign a petition asking that a recall election be held and the official is defeated at that election. Professor Barnett believes that the Recall has been abused. "In the seven years since its adoption seventeen recall elections have been held. All but six of them have resulted in the defeat of the officers attacked. Thirty-four officers have been involved, and only nine of them have been allowed to retain office." Perhaps distance lends enchantment to the view but it does not seem that in a state where every officer from a dog catcher to a judge is subject to the recall, the fact that seventeen recall elections have been held in seven years is not an indication of terrible abuse, especially when we think of the salutary effect it may have had upon other officials who have not been recalled. In any event the author admits that the Recall has come to stay in