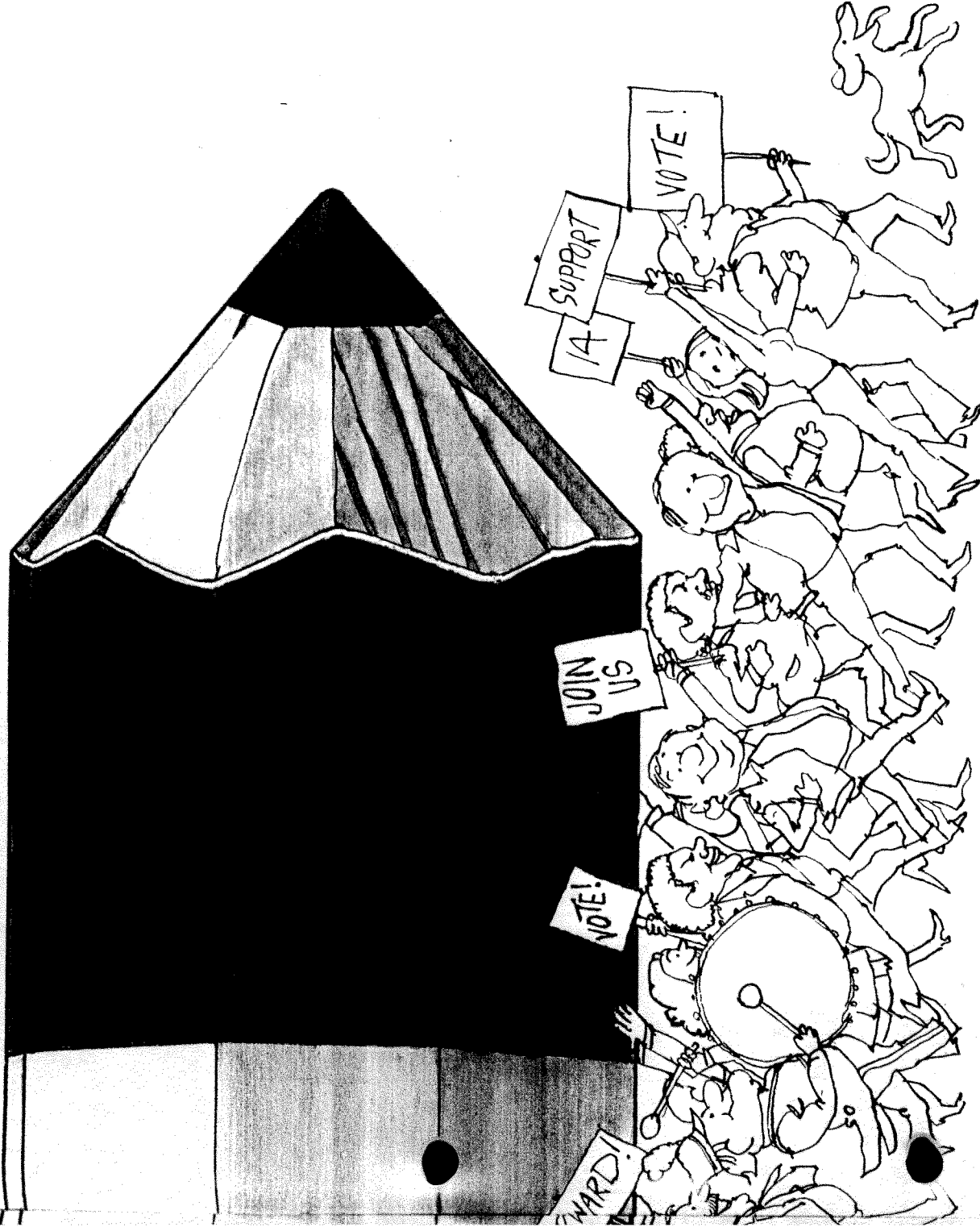


Initiative and Referendum, Tools for Change

The United States is a democracy, of course, but it is also a republic; in most cases the will of the electorate is expressed through the votes cast by chosen representatives. In some states and cities, however, voters can make law directly or have a determining influence on whether a proposal should become law. The devices for such direct expression of the people's will are referendum and initiative issues on the ballot. The initiative

is a relatively recent development: South Dakota was the first state to authorize it, in 1898. Now 23 states and more than 100 cities offer voters the chance to pass on initiatives and a few more states present referenda on issues. Some legislators and organizations are asking Congress to approve a constitutional amendment that would authorize a national referendum. Political scientists have noted that the United States is one of the only nations with an uninterrupted democratic tradition reaching back to the 19th century that has not permitted nationwide referendum.

Political scientist Austin Ranney has explained the difference between referendum and initiative: "The referendum is an arrangement whereby a measure that has been passed by a legislature does not go into force until it has been approved by the voters (in some specified proportion) in an election. The initiative, on the other hand, is an arrangement whereby any person or



group of persons may draft a proposed law or constitutional amendment and, after satisfying certain requirements of numbers and form, have it referred directly to the voters for final approval or rejection. Thus the referendum enables voters to accept or reject the legislature's proposals, while the initiative allows the voters both to make their own proposals and to pass upon the proposals of other voters."

Michael Nelson, another political scientist, reported that at the end of 1979 some 175 initiatives had been presented to voters at the state level since 1970, nearly double the number in the 1960s.

Among the initiatives voters passed in 1978: Michigan raised the legal drinking age from 19 to 21; Oregon restored capital punishment; Alaska set aside 30 million acres of land for small homesteaders; and Montana placed restrictions on nuclear power plant licensing and operations.

Since the referendum is not used on the national level, citizens can vote only on state, city or county issues.

However, an organization called Initiative America is trying to change that. It is seeking a constitutional amendment for a national voter initiative process.

Initiative America was established by John Forster and Roger Telschow in 1977. When they met in 1976, they were working as initiative organizers in those states that permit initiatives. They were both advocates of the belief that people can use the initiative process to overrule action or inaction by their representatives. Forster calls the initiative, "the one tool people have to make sure the representatives they elect really represent them." Telschow put it another way, "A proposition can't change its mind once the polls are closed."

One of the group's first major projects was to establish an initiative procedure in Washington, D.C. Armed with a mere \$10,000 and only three student

interns, Forster and Telschow waged a successful campaign. The District of Columbia City Council approved the initiative measure unanimously, 83 percent of the District's voters said yes, and nearly all members of Congress approved the measure.

To encourage the use of initiatives nationwide, the organization has recruited volunteers in many of the 27 states which do not have an initiative process. Spurred by early success, Initiative America now is concentrating its efforts on establishing a nationwide initiative process. According to a recent Gallup Poll, 57 percent of Americans favor such an initiative.

Although a constitutional amendment to establish a nationwide initiative procedure is still far from being passed by the Congress, there is congressional support for it. More than 30 members of Congress—both Democrats and Republicans—have cosponsored bills to create a national voter initiative.

As would be expected of any measure introducing drastic change into a system with almost two centuries of tradition, the proposal has stirred controversy. Those who favor a national initiative say that it would encourage citizens to exercise more responsibility in governing the nation. They cite statistics that indicated that state initiatives have proved to be an incentive toward greater voter participation in elections. For example, in California more than 700,000 voters cast their ballot on a proposition to cut property taxes than voted for all candidates for governor. Proponents also believe that results of initiatives—as direct expressions of voter's feelings on various issues—will influence legislators to be more responsive to the electorate's needs and would provide debate on issues that might otherwise go unaddressed. Even initiatives that fail at the polls, advocates claim, educate the people and their leaders to the issues. To the charge that initiatives may be manipulated by special interests that pour large amounts of money into campaigns, proponents say that elected officials can also be influenced by contributions and that initiatives are an open process, subject to scrutiny by the public and the media, so that the community will be aware of the forces attempting to pass or block an initiative.

Critics of the proposal argue that an easily intelligible ballot proposition must by its nature be simplistic, that subtleties of law and enforcement which would be worked out by experienced legislators cannot be included in initiatives. They add that once an issue has been voted on by the public, legislators are unlikely to reintroduce it for refinement for years. Another objection by critics is that frivolous or emotional issues that legislators would be obliged to place into perspective after thorough debate are settled in the heat of a partisan election campaign. Voters may choose to cut taxes, for example, without bearing the responsibility for deciding which government services will be eliminated.

The constitutional amendment suggested by Initiative America would work like this: To place an issue on the national ballot, a group of citizens would unite to draft legislation of its own. Once drafted, the bill would go to the U.S. Attorney General, who would make sure of its validity, then prepare a title and summary to appear on

signature-collecting petitions. Citizens then would have 18 months to collect enough signatures to qualify the proposal for a vote. They would need the equivalent of 3 percent of those who voted in the previous Presidential election—or about 2.5 million signatures—plus a distribution of 3 percent in at least 10 states.

With the help of state election officials, the Attorney General would validate the signatures. Since some would be invalidated, the backers would actually have to collect one or two million more than the minimum required to provide a cushion.

When the Attorney General certified that the required number of valid signatures had been collected, the proposal would be placed on the ballot at the next congressional election (provided it was at least 120 days later). A simple majority vote would be needed to pass it, and the law would take effect 30 days after enactment. There are some limitations on initiative use,

however. Constitutional amendments, calling up the militia, and declarations of war could not be addressed by initiative. Any laws passed by public vote would be subject to review by the judiciary. And Congress could amend initiative laws by a two-thirds roll-call vote the first two years after passage, and by a majority vote thereafter. The initiative would therefore be subject to the system of checks and balances that applies to all laws.

One of the best known initiatives voted upon in the United States in recent years was California's Proposition 13. Proposition 13 was a revolutionary tax cutting measure engineered by Howard Jarvis, a conservative who had been fighting for lower taxes for more than a decade, and Paul Gann, a retired real estate man in charge of a taxpayers group called People's Advocate, Inc.

With the help of a consultant firm the two men gathered almost 1.3 million signatures to place Proposition 13 on the ballot in June 1978. The proposal called for cutting property taxes by 57 percent, lowering the tax rate from 3 percent to 1 percent of market value, rolling back assessments to the rate for fiscal 1975-76 (except when the property is new or changes hands), and limiting most future increases to 2 percent a year.

The proposition was an overwhelming success. Sixty-five percent of the states' voters approved the measure.

Howard Jarvis told voters Proposition 13 represented "control of the government again by the people of California." Interestingly, not all tax cutting proposals in states that permit initiatives have succeeded. Sometimes voters have been persuaded that cutting taxes would result in diminishing government services. One public opinion polling organization reported that voters do not object to paying taxes for needed services but they strenuously resist what they perceive as wasteful expenditures of tax money.

Initiative and referendum issues have had a decided impact on public policy in the states and cities where they are permitted. John Herbers noted in *The New York Times*: "The rise of the initiative seems to be part of the general search for more responsive government. Whatever the extent of its future use, it is likely to remain at least as a way to 'send them a message.'"