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THE ORIGINS OF THE INITIATIVE AND REFERENDUM IN SOUTH DAKOTA

THE POLITICAL CONTEXT

STEVEN L. PIOTT

In 1898 South Dakota became the first state to amend its constitution to give its citizens the option of the initiative—in which a given percentage of voters may propose a law, which then must be approved at the polls—and the referendum—in which a law proposed either by initiative or by the lawmaking body must then be approved by a given percentage of voters. These measures, also known as direct legislation, were seen by both voters and legislators as a way to reform democracy by making it more responsive to the people. Exactly what impetus propelled South Dakota to enact these reforms at this time, however, has been a matter of some dispute among historians.

In the “Origins of a Progressive Reform: The Initiative and Referendum Movement in South

Dakota,” published in *South Dakota History* in the fall of 1973, historian H. Roger Grant suggested that the accepted explanation for the enactment of the initiative and referendum in South Dakota—that they were Populist reforms—was too simplistic. Instead Grant emphasized the impact of the depression of the 1890s and the broadening of the reform base to include consumers and taxpayers. According to Grant hard times in the late 1880s triggered farmer protest and the organization of the Farmers’ Alliance. Then, in 1890, as economic discontent spread to the cities as well as the farms, discontented urban and rural citizens joined to establish the Independent/Populist Party and broadened the political discussion to include the initiative and referendum. As economic conditions worsened in the early 1890s, the popularity of the initiative and referendum increased. The depression of the 1890s brought more suffering and injustice and united disaffected farmers and workers with angry consumers and taxpayers behind a successful crusade for the passage of the initiative and referendum at the state level in 1898. This movement provided both the popular base and the democratic focus for the later Progressive movement in South Dakota.¹

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Grant acknowledged an intellectual debt to historian David Thelen, who had previously suggested a framework for understanding the origins of Progressivism in his influential book *The New Citizenship: The Origins of Progressivism in Wisconsin*. In his study of Wisconsin, Thelen persuasively argued that consumers and taxpayers (primarily in an emerging urban-industrial environment), frightened and angry at the apparent failure of industrial capitalism during the depression of the 1890s, came together in search of solutions to problems that the existing political system seemed incapable of addressing. The result was a mass-based, cross-class movement that placed direct democracy at the center of its reform vision and provided the impetus for turn of the century Progressivism.²

The problem with Grant's application of the Thelen thesis is that it does not serve as a satisfactory explanation for events in South Dakota. Economic conditions were certainly important, but so too were political circumstances. If farmers felt economically dependent during the late 1880s and early 1890s, they also felt politically impotent. When they complained of monopoly-controlled transportation, warehouse, and marketing agencies, they also complained of partisan politics, one-party domination, and a state legislature that ignored farmer demands. Eventually farmers believed that changes to the political economy could only come about through political empowerment. In 1890 farmers and workers formed the Independent (later Populist) Party. South Dakota Populists added the initiative and referendum to their platform in 1892, while the national People's Party did so in 1896. The depression of the 1890s did not appear to have a dramatic effect on the popularity of direct legislation—economic conditions had been depressed in South Dakota for nearly a decade—nor did consumers and taxpayers suddenly rise up to lead a reform crusade. Populist victory in South Dakota in 1896 brought the passage of a proposed constitutional amendment for the initiative and referendum, while Populist failure by 1898 convinced a majority of voters that they

should ratify it. There was a growing sense that the way to improve partisan, representative government, with all its seemingly inherent deficiencies, was to adopt a process that enabled people to control the political agenda. Political experience, as much as economic dislocation, provided the impetus for the adoption of the initiative and referendum in South Dakota.

DAKOTA TERRITORY

Dakota Territory in the 1880s, like many states in the agrarian Midwest, was passing through various stages of what might best be described as a boom-and-bust economy. During the early 1880s Dakotans witnessed a surge in the number of immigrants coming into the territory, a rapid expansion in wheat production and generally good harvests, a boom in town construction, and the advance of the first railroads into the territory. ("Dakota the land of promise" was the slogan of the Chicago, Milwaukee and St. Paul Railroad.) Encouraged by these developments, many in the territory began to talk of statehood. But this upward cycle was not to last. As early as 1884 Dakota farmers began to complain that the price for wheat was 20 percent below what it cost them to produce it and that buyers unfairly graded their grain. When drought pinched Dakotans that same year, few realized the danger in their growing dependence on wheat or their lack of crop diversification and livestock. Markets continued to be depressed and farmers increasingly talked of abuses in grain grading and in transportation rates. By 1885 the peak of the Great Dakota Boom had passed. Farmers who had only recently been convinced of unbounded opportunity and the potential for success were now confronted with the specter of distress and possible failure.³

Farmers looking for an explanation increasingly blamed monopolistic transportation, warehouse, and marketing agencies, and a state legislature that allowed such abuses to exist. Many of these farmers joined the newly created Farmers' Protective Union or "Farmers' Club,"

a nonpolitical organization that held territory-wide meetings to discuss questions of farm economics. Others joined the Northern Farmers' Alliance, organized in April 1880 by Milton George, owner and editor of the Chicago-based farm magazine *The Western Rural*. A chapter of the Northern Alliance first appeared in Dakota Territory in February 1881. The organization was envisioned as aiding farmers in their struggle against monopoly and discriminatory railroad rates and grain elevator charges. In December 1884 representatives from the Farmers' Protective Union and the Northern Farmers' Alliance met in Huron and laid the groundwork for the Dakota Territorial Alliance.⁴

At that meeting they agreed to demand the equal taxation of property, the end of free railroad passes for public officials, the regulation of transportation rates, and the enactment of legislation in the interest of farmers. Representatives met for a second time in Huron in February 1885 to formalize the organization, select a slate of officers, and draw up a constitution. The key individual in the new organization was Henry L. Loucks, a recent homesteader from Canada and organizer of the territory's first farmers' club in Deuel County in 1884. Loucks, a born leader, was elected president of the Dakota Alliance at its convention in January 1886. He also edited the Alliance newspaper, *The Dakota Ruralist*. The Alliance sponsored numerous cooperative warehouses and grain elevators. After incorporating as a joint stock cooperative agency, it sold binding twine, coal, barbed wire, farm machinery, and household items at reduced prices and underwrote fire, hail, and life insurance protection.⁵

The Republican Party had controlled Dakota politics from the organization of the territory in 1861. Although farmers made up the majority of the population and predominated in the party, businessmen, lawyers, land speculators, and professional politicians controlled the party. The economic dependence of farmers made them increasingly aware of their political impotence. When local Republican machines refused to put

forth farm candidates, farmers ran as independents and farmers' clubs backed candidates who pledged to bring their demands to the floor of the territorial legislature. Farmers hoped to have a strong enough antirailroad and antimonopoly bloc to present a persuasive case for some type of regulatory legislation when the legislature met in Bismarck in January 1885, but they were only partially successful. The legislature passed a bill creating a Territorial Board of Railroad Commissioners, but the bill was weakened by an amendment that deprived the commission of any power to control freight rates. Two years later (1887), with even stronger farmer pressure, the legislature passed an elevator and warehouse law empowering the railroad commission to license and bond companies engaged in the business of grain storage and to regulate the weighing and grading of grain. But this law also had a loophole exempting so-called "private elevators," almost half the elevators in the territory, many of them large enough to control the grain storage business in their respective areas. Politically inexperienced Dakota farmers had been given painful lessons in their inability to prevent corporate-influenced legislators from either preventing or amending effective regulatory legislation.⁶

THE IDEA OF DIRECT LEGISLATION

Some who were disenchanted with the existing economic and political situation in the territory advocated another form of insurgency. In 1885 W.H. Lyon of Sioux Falls, later an attorney and member of the South Dakota legislature, petitioned the constitutional convention of the Dakota Territory to establish a statewide referendum. He specifically requested that the convention "incorporate a provision in this constitution that all appropriation bills . . . and all laws of general interest to the people should be drafted by the Legislature and submitted for the people to enact or reject . . ." Lyon later stated that his proposal was "too novel and experimental at that time" to be immediately incorporated into the design for a new

constitution, but he undoubtedly started others thinking about the concept of direct legislation.⁷

The individual who is given most credit for conceiving and formulating the idea of direct legislation in South Dakota, however, was Father Robert W. Haire, a Roman Catholic priest from Aberdeen, South Dakota. Active in politics, Father Haire was a member of the Knights of Labor and, later, a Populist and Socialist.⁸ Father Haire began to discuss a variation of the initiative and referendum in 1885 or 1886. His original proposal was for the creation of what he termed the "People's Legislature," which included the principles of the initiative and referendum. Each county in the territory would elect one state representative to this legislature, which would formally draft bills suggested by voters in their respective counties. When more than 25 percent of the counties supported any one bill, copies of the measure would be printed and circulated in pamphlet form to the voters, particularly workers and farmers, who would accept or reject the proposals at the general election. Father Haire thought his plan could bypass both the domineering party caucus and the deceptive legislative committee system. Active in the Knights of Labor, Father Haire continued to promote his views in their publication in Aberdeen and as a delegate to their state assembly. Though nothing immediate resulted from his suggestions, both he and Lyon had enlivened the political debate and suggested a new political direction.⁹

The initiative and referendum did not immediately catch fire in the territory. One possible explanation, aside from the novelty of the proposals, was that even sympathetic listeners, like Henry L. Loucks, were reluctant to break with the traditional two-party culture and abandon any possible political future in the dominant Republican Party. The energetic, reform-minded Loucks hoped that continued lobbying could wrest reforms from the final session of the territorial legislature in 1889 without having to resort to a more fundamental political challenge. Claiming the support of twenty-eight of forty-eight members in the lower house and

seven of twenty-eight members in the upper house, the Alliance looked to have an influence strong enough to overcome the legislative disappointments of 1885 and 1887.

But once again the inability of the Alliance to organize effectively as a pressure group, coupled with apparent Republican unwillingness to alter the status quo, resulted in the failure of significant reform legislation for Dakota farmers. The following summer's severe drought drove many homesteaders, debt-ridden or destitute, to leave the state. Demoralized farmers and frustrated reformers saw an economic and political emergency that demanded resourceful and responsive political action, but politicians ignored Alliance suggestions. Neither major party nominated candidates endorsed by the Alliance, and the Republicans spurned their suggestions for candidates to the U.S. Senate. The South Dakota Alliance, echoing the demands of the national Farmers' Alliance, called for a graduated income tax, governmental ownership and operation of railroads, free and unlimited coinage of silver, and direct election of U.S. senators, but the inaugural South Dakota legislature of 1890 ignored their demands. The defeat of an Alliance-sponsored bill to tax mortgages held by nonresidents exhausted the patience of the Dakota Alliance, who soon met in Pierre and passed a resolution that condemned the legislature for being unresponsive to farmer—Alliance—demands.¹⁰

Having been consistently ignored within the framework of partisan politics in South Dakota, Henry Loucks and other Republicans in the Alliance decided to abandon their role as a pressure group and to resort to direct political action. On 6 June 1890, representatives of the Dakota Alliance and the Knights of Labor met in Huron and founded the Independent Party. A month later they reconvened in the same city to nominate a slate of candidates and embrace the principles of the national Farmers' Alliance. Henry L. Loucks was the party's unanimous choice for governor. One historian of the period has described the Independent movement as "one of principle—one against the abuses of the old parties—one that demanded better terms and

conditions for farmers and other laborers—one that was warranted by the vagaries of politicians and the gag rule of party bosses.”¹¹

In the November election, Loucks ran a strong second to Republican A.C. Mellette in a three-party race, carrying thirteen counties and polling more than 24,000 votes (32 percent). The Republicans enjoyed a one-vote majority in both the House and Senate over the combined votes of the Independents and Democrats, but the minority felt strong enough to challenge Republican dominance for the first time. When the South Dakota legislature convened in January of 1891, a coalition of Independents and Democrats adopted an Australian ballot law and a corrupt practices act but failed to enact any of the far-reaching reforms for which the Alliance and the Independent movement had worked so diligently.¹²

THE REFORM PRESS

Supporters of the newly formed Independent Party realized that before the party could ever become a controlling force in South Dakota politics, they would have to educate and persuade voters. Accordingly the editors of approximately forty newspapers in the state agreed to form the Reform Press Association, which would espouse the Independent platform, urge the dissemination of reform literature through the creation of local circulating libraries, and offer selected books and pamphlets at low cost to readers.

The beacon of the agrarian reform press was the *Ruralist*. The editors of the *Ruralist* claimed to have the largest circulation of any newspaper in South Dakota in 1891, reaching more than 400 South Dakota post offices and averaging publication of 12,000 copies a week. The *Ruralist* published a myriad of reform ideas ranging from Loucks's own theories on monetary reform to Lyon's and Haire's initiative and referendum. The once reluctant Loucks even made Father Haire a regular contributor to his newspaper. On 8 August 1891 the radical priest reiterated his proposal to place the lawmaking power into the hands of the “organic electorate” of the

state. Allowing voters to confirm or reject laws would eliminate what he called legislative “humbugging” and “secret skulduggery.” Father Haire reminded the readers of the *Ruralist* that Swiss voters could veto laws made by their legislature through a referendum. South Dakotans, on the other hand, did not possess this power, and the “people seldom get any law passed they want.” On 5 September 1891, the *Ruralist* announced that the Swiss had modified their constitution to include the initiative. It seemed that Father Haire's ideas could indeed have practical application.¹³

In May and June 1892, the *Ruralist* ran three full pages explaining the initiative and referendum and promoting them as the “latest and fullest development of popular government.” The editors reminded readers that the initiative and referendum were not strange devices but merely the logical extension of referring school levies or constitutional amendments to the voters. Direct legislation would make legislators truly responsible to their constituents, place government directly into the hands of the people, eliminate bribery and boodling, and save tax dollars. It could also be the necessary first step toward other reforms such as the nationalization of telegraphs, railroads, and mines, and the municipalization of street railways, water, gas, electric, and telephone works. Direct legislation would enable voters to control monopolies and prevent class legislation and special privileges.

After selling the idea, the *Ruralist* offered an organizational plan. Every newspaper in the state would be supplied with printed matter pertaining to the initiative and referendum, a few thousand pamphlets would be printed for private distribution, and workers for the cause would be recruited in every school district and voting precinct. The *Ruralist* recommended that the Fourth of July be designated as the date to organize initiative and referendum leagues in every county. It likened the popularity of the initiative and referendum to that of the Australian ballot which, in a short span of five years, had been adopted in thirty-one states. The *Ruralist* requested the names of all those interested in

direct legislation and asked for a membership fee of twenty-five cents.¹⁴

LABOR AND DIRECT LEGISLATION

Advocacy of the initiative and referendum in the columns of the *Ruralist* did much to publicize the merits of those reforms, but direct democracy also gained immeasurable support from organized labor. The principal workingman's affiliation in a state with many railroad workers, coal and metal miners, and telegraph, printing, and construction workers was the Knights of Labor. Although the Knights were declining nationally by the early 1890s, members were still organizing local assemblies throughout South Dakota. Twenty-six Knights of Labor assemblies were organized in the state between 1883 and 1895, while thirteen more appeared between 1890 and 1894.¹⁵

The Knights supported a broadly based reform program that included the eight-hour day, factory and mine inspection, anti-Pinkerton (antistrikebreaking) legislation, child labor laws, government ownership of quasi-public corporations, and an end to land speculation. Their platform made them close allies of the Alliance/Independent movement and enthusiastic supporters of direct legislation. The general assembly of the Knights of Labor formally endorsed the idea, while Grand Master Workman Terence V. Powderly repeatedly spoke in favor of the initiative and referendum. He also recommended a little book entitled *Direct Legislation*, recently published by James W. Sullivan, to the readers of the *Ruralist*. In his book, probably the most influential work on the topic, Sullivan argued, based on his personal observations of the operation of the referendum in Switzerland, that direct legislation would work in the United States as well. The popular *Direct Legislation* maintained an annual sale of 10,000 to 15,000 copies a year until 1895 and became one of the titles on the *Ruralist*'s periodic lists of recommended reform literature.¹⁶

Labor's real involvement with the initiative and referendum, however, occurred at the local level. Assembly 545 of the Knights of Labor in Milbank, Grant County, is credited with or-

ganizing the first Initiative and Referendum League in South Dakota in 1892. A variety of reform types—advocates of women's suffrage, Single-Taxers, Bellamy Nationalists, and Christian Socialists—joined farmers and workers in the ranks of the league. Prohibitionists did not figure prominently in the South Dakota League because South Dakota's Constitution, approved along with statehood in 1889, included a prohibition amendment, repealed, however, by the voters in 1896.¹⁷

W. H. Kaufman, chapter member of the Milbank Knights of Labor, became the first secretary of the league. An active speaker and organizer, he provided first-hand accounts of an emerging grass roots movement. On 9 June 1892, Kaufman reported in the *Ruralist*:

Never before have I known so much enthusiasm for a reform movement. I went out twelve miles; had an audience of fifteen for no one knew what the referendum was; but everyone present signed the petition, and gave me so much silver that I asked the president to bring it to town himself. Another audience of eighteen sent me back with \$8.00. Out at Vernon the little school house was filled with bright, thinking people. Every voter signed the petition, and they gave me \$9.25. . . . Mr. L. Shampine, who drove me to the next town said, 'when I first heard of this movement I thought it a good thing. When I learned a little more about it I said "that is just what we want." When I heard the matter explained last night I could not go to sleep till 2 o'clock.'

Kaufman encouraged anyone interested in the initiative and referendum to ask for a petition blank. Completed petitions would be sent to delegates to the Independent state convention, requesting that they incorporate the initiative and referendum into the state platform.¹⁸

DIRECT LEGISLATION AND PARTY POLITICS

It was impossible for direct legislation not to become linked to the third party movement in

South Dakota and to the emerging People's Party at the national level. Independents, who held their state convention at Redfield on 21 June 1892, recognized the rising popularity of the initiative and referendum and added them to their party demands for the first time. Shortly after the Redfield meeting, Henry Loucks led the South Dakota delegation to the inaugural People's (Populist) Party Convention in Omaha, Nebraska, and was named permanent chairman. At the convention, monetary reforms, particularly free and unlimited coinage of silver and the abolition of national banks, and the subtreasury scheme received major attention and reflected the economic thinking of those present. But the delegates had not abandoned their desire for fundamental political reforms. Included in the "Expression of Sentiments" portion of the platform were demands for a "free ballot and a fair count in all elections," the adoption of the "unperverted" Australian ballot system, and the election of United States senators "by a direct vote of the people." Added to these was a resolution that stated: "We commend to the favorable consideration of the people and the reform press the legislative system known as the initiative and referendum." Though the statement did not go as far as that in the state platform of the Independent Party, it did suggest the increased popularity of direct legislation and its natural affinity with the Populist movement.¹⁹

The 1892 campaign in South Dakota was bitterly contested. The Independents/Populists intensified their attacks on the "standpat" Republican administration, while the Republicans severely denounced the Populist challenge. The Initiative and Referendum League of South Dakota made one last non-partisan attempt to get the Republican and Democratic parties to declare themselves, as the Independents had done, in favor of a constitutional amendment, but both of the old parties remained silent on the subject. It appeared that direct legislation had, in fact, become so much a part of partisan politics that an amendment would only be possible when the Populists gained control of the legislature. That was not to happen in 1892. Republican C.H. Sheldon tallied more than 33,000

votes for governor, a margin of 11,000 votes over the Independent/Populist candidate A.L. Van Osdel and 19,000 votes more than the Democrat Peter Couchman. The Republicans secured all the state offices, and only seventeen Independents were elected to the legislature.²⁰

The reform record of the 1893 South Dakota legislature was a dismal one. Reformers introduced bills for equal taxation of real property and for more effective regulation of railroad rates, but the legislative majority was indifferent to both measures. The only sop to reformers was the passage of a bill requiring the popular election of railroad commissioners. State Senator Louis N. Crill of Union County introduced a referendum bill that, for the first time in South Dakota, received a committee hearing. The proposal provided that after a bill had passed the legislature and before it had gone into effect, 10 percent of the voters could petition for a vote on the measure. Only "a half hour's argument was made upon the merits of the bill, which fell upon ears which had no receptacle for independent doctrines."²¹ Although many apparently spoke in favor of the measure, once party lines were drawn the vote stood at seven for and thirty-one against. The *Ruralist* could do no more than remind its readers: "let the people remember that the Referendum can only be obtained by electing an Independent [Populist] Legislature."²²

As the Populists sought to rally their forces for the upcoming political campaign of 1894, Henry Loucks continued to advocate in the *Ruralist* for direct legislation. In the fall of 1893, as the nation slipped into economic depression, the *Ruralist* charged that special or class legislation was the primary curse of governments. Corruption, bribery, and boodling made truly representative government impossible, and corruption, bribery, and boodling exacted a price. Voters were left powerless politically and exploited economically. "We are paying \$5 more than we ought for each ton of hard coal, 7 cents more than we ought for each gallon of kerosene or gasoline, 25 to 90 cents more than we ought for each telegram, three times as much as we ought for express and easily double a reasonable charge for freight. Why? Simply because we do

not have direct legislation by the initiative and referendum in state and nation." To make the same point in more humorous fashion, the *Ruralist* reprinted a jingle by T.H. Porter called "Let the People Rule."

A Government of the people should the
people's rights protect,
But this cannot be done unless we legis-
late direct.
While we elect our Congressmen and give
them all the power,
Our liberties are endangered—they are not
safe one hour. . . .

Now, have we lost all common sense? Are
we a lot of fools?
Haven't we—the people—got the power
to change these silly rules?
Ain't we the Government ourselves? And
is it not quite true?
That we can make the laws direct, with-
out trusting this boodle crew?²³

To the *Ruralist* the solution was simple. Adoption of the initiative and referendum would end bribery, logrolling, and legislative "dealing," and citizens could regain their rightful sovereignty.

The 1894 campaign was a repeat of 1892. The Populists, at their party convention in the Corn Palace in Mitchell on 12 June, added a strong direct legislation plank to their state platform:

Believing that all laws should emanate from the people and that they alone should have the veto power, we demand that the voters of South Dakota be given the absolute control of all legislation by means of the initiative and referendum at the earliest possible date.²⁴

In the election the Populists ran well ahead of the Democrats but were again defeated by the Republicans. Populist Isaac Howe collected more than 26,000 votes (35 percent) for governor but still trailed incumbent Sheldon by almost 14,000 votes. Only twenty-four Populists were elected

to the legislature. In the 1895 legislature, reformers reintroduced and again lost a bill to give the railway commission real power to regulate passenger and freight rates. This time the indifference of the legislative majority to the railroad rate bill sparked criticism even within Republican ranks. A referendum bill was reintroduced, but it once again failed in committee. Adding insult to arrogance, the Republican Party further embarrassed itself when W.W. Taylor, retiring state treasurer, was found guilty of embezzling \$367,000 from the state. It was beginning to look as if the Republicans were riding for a fall.²⁵

The Republicans' dominant position in South Dakota was not secure for the party was developing a split over the silver issue. During the 1896 campaign, U.S. Senator Richard F. Pettigrew attempted to persuade the state Republican Party to adopt a silver plank at its convention, even though the national convention had already refused to adopt such a statement. When Pettigrew was unsuccessful, he led a group of twenty "Silver Republicans" out of the convention to join the Populists. Senator Pettigrew was present when the Populist state convention, meeting in Huron on 14 July 1896, decided that a ticket joining all the proponents of free silver could finally topple the Republicans. The Populists and Silver Republicans were soon joined by the Democrats, who decided to back the Populist ticket. For governor the "Fusionists" selected Andrew E. Lee, a successful Vermillion merchant, reform mayor, and free silverite. South Dakota Populists once again included a direct legislation plank in their state platform, while the national convention of the Populist Party went beyond its 1892 commendation of the initiative and referendum and formally endorsed the principles, the only national party to do so in 1896.²⁶

The results of the national election are well known—McKinley triumphed over Bryan and the gold standard won over free silver. But in South Dakota, the Fusionists had conducted their campaign "as a struggle of the masses against entrenched privilege, a choice between free institutions of a democratic society and

domination by corporate interests." Nearly 90 percent of qualified voters cast their ballots, and Lee defeated A.O. Ringsrud, his Republican opponent, by a scant 318 votes (41,187 to 40,868). In addition, Fusionists won the attorney general's office, control of the state railroad commission, two congressional seats, and, most important, a majority in the state legislature. Political expediency had triumphed in South Dakota, and voters waited to see how much of the Populist platform—including the initiative and referendum—would be enacted.²⁷

The most important reform issues before the new legislature were railroad regulation and the initiative and referendum. This time, in keeping with Populist campaign pledges, the legislature enacted the Palmer-Wheeler bill, incorporating the provisions of the bill that had been defeated in 1895. The new law placed all railroads under the supervision and rate-setting authority of the State Railroad Commission and provided for the assessment of railroad property by the State Board of Equalization. These victories were short-lived, however. The Chicago, Milwaukee and St. Paul Railroad contested the law in court, received injunctive relief from its effects, and ultimately saw the court declare the rate-fixing powers of the state unconstitutional.²⁸

ENACTING DIRECT LEGISLATION

But the passage of the Palmer-Wheeler bill indicated that reformers might have the votes to enact direct legislation as well. On 15 January 1897 Representative Lars M. Benson, a Populist from Brown County, introduced House Joint Resolution 101, an amendment to the state constitution allowing for the initiative and referendum at both the state and municipal levels of government and requiring a petition signed by 5 percent of the qualified voters to invoke either measure. Representative William E. Kidd, a Populist from Aberdeen and a member of the South Dakota Initiative and Referendum League, is credited with steering the resolution through the House. The bill, which passed the House by a vote of 49 to 32, was championed

by the Populists/Fusionists, who voted unanimously for it, and supported by ten Republicans and six Democrats. The 26 to 17 Senate vote also ran along party lines with 20 Populists/Fusionists, 4 Republicans, and 2 Democrats in favor and 17 Republicans opposed. The only hurdle that remained was for voters to accept the amendment at the 1898 general election.²⁹

No organized opposition to the amendment materialized as the election neared. Now that direct legislation had become popular enough to receive recognition by the legislature, the old parties seemed to be willing to let the issue be decided by the voters. The Initiative and Referendum League and political backers like Governor Lee campaigned for it. Even a few Republicans offered support, while one newspaper, the *Vermillion Plain Talk*, attempted to assess the larger significance. In addition to familiar arguments—direct legislation could eliminate legislated special privileges and the autocratic power of the party, the caucus, or the lobby—the editors emphasized the importance of political empowerment and the opportunity that the initiative and referendum presented for voters to gain control of the political agenda:

The issue of the future is whether or not the people are to rule this country. . . . The socialist, silverite, greenbacker, prohibitionist—in fact every reformer—can unite on a platform which says "give the people a chance to be heard." None of the reforms now contended for can be successful until the people do rule. . . . What then is to be done: Unite the people in an effort to secure the initiative and referendum. . . .

We have never had representative government in this country and shall not have it till some improvements are made in our methods.³⁰

Both the Populist and Democratic party conventions favored the amendment. Henry Loucks wrote Republican party leaders at their August convention announcing his return to the Republican Party and offering his considerable per-

sonal support to the ticket. He asked only that the convention endorse direct legislation, widely regarded as a Populist measure. The Republicans refused endorsement but did recommend that voters give the amendment serious consideration. Loucks later stated that his letter "was the culminating factor that secured its [the amendment's] adoption."³¹

Prior to the election, Representative Kidd, who had championed the measure in the legislature, seemed to think government had become irrelevant: "I care very little who have the offices this year, if we—the people—get the Initiative and Referendum."³² Representative Kidd seemed to speak for others as well. The failure of the dominant political culture, and even hybrid alternatives to that culture, to improve the effectiveness of representative government in South Dakota convinced voters to secure the tools that would enable them to do the job themselves. In the election that fall, voters rejected all Populist candidates except Governor Lee (who won by only 370 votes) but approved the direct legislation amendment by a vote of 23,816 to 16,483. The amendment carried in all parts of the state—in the corn and wheat belts, and in the mining and ranching areas. Of the fifty-nine counties listed as registering votes, only nine—Aurora, Bon Homme, Campbell, Faulk, Gregory, Hutchinson, Marshall, Turner, and Yankton—had majorities against the amendment. The largest bloc in opposition came from four counties (Bon Homme, Hutchinson, Turner, and Yankton) clustered in the southeast corner of the state. The "city" vote in South Dakota also seemed to support the amendment. Yankton County (Yankton) voted 58 percent against the amendment, but Brown County (Aberdeen) and Minnehaha County (Sioux Falls) voted 57 percent and 66 percent respectively for approval.³³

IMPLEMENTATION OF THE INITIATIVE AND REFERENDUM

The transition from passage of the amendment to its actual implementation proved difficult. To begin with, the amendment included

an "emergency" clause that exempted certain laws "necessary for the immediate preservation of the public peace, health or safety or support of the State government and its existing public institutions" from the referendum. This provision allowed the legislature wide latitude as to interpretation. The editors of *Equity* estimated in 1913 that 40 percent of all laws passed in South Dakota during the previous decade had been designated "emergency" measures. An attempt was made to invoke the referendum in 1901. When the legislature revised a statute pertaining to the Board of Charities and dismissed its Populist members in the process, those outraged by the action attempted to have the bill submitted to a popular vote. But the legislature refused, stating that the bill had been passed as an emergency measure and, therefore, was not subject to the referendum. The state supreme court upheld the discretionary power of the legislature. The legislature also exerted its authority over initiated measures. An attempt to invoke the initiative was undertaken in 1904 when more than 8000 voters signed a petition to enact a primary election law. In this case, the senate rejected the petition on technical formalities.³⁴

Voters in South Dakota successfully used the initiative and referendum for the first time in 1908. Between 1908 and 1916 a total of ten initiated measures were decided by popular vote. Measures proposed by the initiative process included a county option liquor law; a direct primary law; a law establishing a state banking board; and a law authorizing a verdict by ten members of a jury in civil cases. Only one initiated measure, however,—the direct primary law—won popular approval. South Dakota voters also petitioned for the referendum thirteen times between 1908 and 1916. Examples of referred laws that met with voter approval included a tougher divorce law; a law prohibiting Sunday theater shows; a law protecting quail; and a law requiring electric headlights on locomotives. Referred bills rejected by voters included a "Czar law" that empowered the governor to dismiss officials at his discretion; a congressional apportionment law; and a law

calling for a constitutional convention. South Dakota voters also used the initiative and referendum in municipal government during this same period. Voters in Pierre successfully used the initiative to permit Sunday moving picture shows. Rapid City voters used the initiative to reduce the number of city commissioners in 1914. Voters in Yankton used the referendum in 1913 to consider a construction bid for steel tanks, and then again to question a permit allowing the sale of intoxicating liquors. Aberdeen voters used the initiative to establish electric light and gas franchises in 1915, and the referendum to question the creation of a detective bureau in 1910. Voters in Sioux Falls used the initiative in an unsuccessful bid to determine the recipient of a city printing contract in 1912 and the referendum to sustain a pool hall ordinance and defeat an ordinance for a viaduct in 1914.³⁵

One reason the initiative and referendum might have been used less frequently than some expected was the increased use by the legislature of the constitutional amendment procedure. Between 1908 and 1916 South Dakota voters were asked to make decisions on twenty-four proposed amendments to the state constitution. Voters used the opportunity to vote down woman suffrage but approved laws for the taxation of corporation stocks and bonds, for road improvements, for the irrigation of public land, for establishing a state system of rural credits, and for prohibition.³⁶

When South Dakota became the first state to adopt an initiative and referendum amendment in 1898, it took a major step in attempting to redefine the meaning of political democracy in America. But events in South Dakota were part of a larger process. From the early 1890s until World War I, American politics at all levels of government were dominated by a discussion of reform. The fundamental demand at the center of this new thinking, and the one thing that Populists and Progressives did have in common, was the insistence that the political system be made more democratic. This could be accomplished, they thought, by the adoption of a number of political reforms—the secret bal-

lot, the direct primary, non-partisan state and local elections, home rule for cities, woman suffrage, direct election of senators, corrupt practices legislation, and the initiative and referendum. With these new reforms, voters could potentially break the power of the political establishment, destroy special privilege, and capture the power to change the political economy. Though they may not have realized the reform potential longed for by some advocates, voters in South Dakota demonstrated that they at least expected their government to be more accountable and more responsive. Other voters increasingly seemed to agree. By 1916 nineteen states had adopted constitutional provisions for both the statewide initiative and referendum, and more than 350 cities had incorporated direct legislation provisions into their municipal charters.

NOTES

1. H. Roger Grant, "Origins of a Progressive Reform: The Initiative and Referendum Movement in South Dakota," *South Dakota History* 3 (Fall 1973): 390-407.

2. David P. Thelen, *The New Citizenship: The Origins of Progressivism in Wisconsin* (Columbia: University of Missouri Press, 1972).

3. Doane Robinson, *History of South Dakota* (Aberdeen: B.F. Bowen and Co., 1904) 1: 294-325; Hal-
lie Farmer, "The Economic Background of Frontier
Populism," *Mississippi Valley Historical Review* 10
(March 1924): 406-27; Terrence J. Lindell, "South
Dakota Populism," (Master's thesis, University of
Nebraska, 1982), pp. 16-24.

4. See Herbert S. Schell, *History of South Dakota*
(Lincoln: University of Nebraska Press, 1968), p.
224.

5. Loucks became president of the National Farmers' Alliance and Industrial Union in 1892 and presided over the first convention of the People's Party in Omaha that same year. He also authored numerous works: *The New Monetary System* (1893); *Government Ownership of Railroads and Telegraphs* (1894); *The Great Conspiracy of the House of Morgan and How to Defeat It* (1916); and "Our Daily Bread" Must Be Freed from the Greed of Private Monopoly (1919). See *Dictionary of American Biography* (New York: Charles Scribner's Sons, 1933) 11: 426-27; *The National Encyclopedia of American Biography* (New York: James T. White and Co., 1937) 26: 455-56; Alden Whitman, ed., *American Reformers* (New York: H. W. Wilson Co., 1985),

pp. 540-51; Robinson, *History* (note 3 above), pp. 319-25; Schell, *History* (note 4 above), pp. 223-25; Kenneth E. Hendrickson, Jr., "Some Political Aspects of the Populist Movement in South Dakota," *North Dakota History* 34 (Winter 1967): 78; Lawrence Goodwyn, *Democratic Promise* (New York: Oxford University Press, 1976), pp. 155-56; Robert C. McMath, Jr., *Populist Vanguard* (Chapel Hill: University of North Carolina Press, 1975), pp. 84-85; Lindell, "South Dakota Populism" (note 3 above), pp. 28-49. For an analysis of what types of farmers joined the Farmers' Alliance in Marshall County, South Dakota, see John Dibbern, "Who Were The Populists?: A Study of Grass-Roots Alliancemen in Dakota," *Agricultural History* 56 (October 1982): 677-91.

6. Larry Remele, "God Helps Those Who Help Themselves: The Farmers Alliance and Dakota Statehood," *Montana: The Magazine of Western History* 37 (Autumn 1987): 24-25; Schell, *History* (note 4 above), p. 225; Hendrickson, "Populist Movement" (note 5 above), pp. 78-79. For the context of territorial politics in Dakota see Howard R. Lamar, *Dakota Territory, 1861-1889* (New Haven: Yale University Press, 1956).

7. South Dakota Constitutional Convention of 1885, *Constitutional Debates* (Pierre, 1907) 1: 113; *Monthly South Dakotan* 1 (September 1898): 72. See also Burton Ellsworth Tiffany, "The Initiative and Referendum in South Dakota," *South Dakota Historical Collections* (Aberdeen: News Printing Co., 1924) 14: 331, 351; Grant, "Progressive Reform" (note 1 above), p. 394.

8. Newspaper clipping, 4 March 1916, Haire Folder, South Dakota Historical Society (SDHS) Pierre. For additional information on Haire see William C. Pratt, "Socialism on the Northern Plains, 1900-1924," *South Dakota History* 18 (Spring/Summer 1988): 11-12.

9. Tiffany, "Initiative and Referendum," (note 7 above), pp. 331-32; Grant, "Progressive Reform," (note 1 above), pp. 394-95; C.B. Galbreath, "Provisions for State-Wide Initiative and Referendum," *Annals of the American Academy* 43 (September 1912): 84; *Equity* 12 (October 1910): 159; Doane Robinson to Henry L. Loucks, 1 December 1911, Doane Robinson Papers (Folder 119), SDHS. See also Edwin C. Torrey, *Early Days in Dakota Territory* (Minneapolis: Farnham Publishing Co., 1925), p. 199.

10. See Hendrickson, "Populist Movement" (note 5 above), pp. 80-83; Robinson, *History* (note 3 above), pp. 335-37; Remele, "Farmers Alliance" (note 6 above), pp. 29, 32.

11. George Martin Smith, *South Dakota: Its History and Its People* (Chicago: S.J. Clarke, 1915) 3: 658.

12. Schell, *History* (note 4 above), pp. 227-29; Hendrickson, "Populist Movement" (note 5 above),

pp. 83-85; Robinson, *History* (note 3 above), pp. 343-46.

13. Lindell, "South Dakota Populism" (note 3 above), pp. 91-92; *The Dakota Ruralist*, 8 August, 5 September 1891. See *American Newspaper Annual* (Philadelphia: N.W. Ayer and Son, 1891), p. 1270.

14. *Ruralist*, 19 May, 2 June 1892.

15. See Jonathan Ezra Garlock, "A Structural Analysis of the Knights of Labor: A Prolegomenon to the History of the Producing Classes" (Ph.D. diss., University of Rochester, 1974), p. 402.

16. Grant, "Progressive Reform" (note 1 above), pp. 398-99; Powderly's comments can be found in the *Ruralist*, 21 June 1892.

17. Grant, "Progressive Reform" (note 1 above), p. 397; Smith, *South Dakota* (note 11 above), pp. 655, 675.

18. *Ruralist*, 9 June 1892.

19. Tiffany, "Initiative and Referendum" (note 7 above), p. 346; Schell, *History* (note 4 above), pp. 229-30; *Ruralist*, 21 July 1892; Grant, "Progressive Reform" (note 1 above), p. 399; Populist Party Platform (1892), Richard D. Hefner, ed., *A Documentary History of the United States* (New York: New American Library, 1965), pp. 197-201.

20. Tiffany, "Initiative and Referendum" (note 7 above), pp. 346-47; Smith, *South Dakota* (note 11 above), p. 665; Schell, *History* (note 4 above), p. 232; Hendrickson, "Populist Movement" (note 5 above), p. 86.

21. *Ruralist*, 23 February 1893.

22. *Ruralist*, 15 June 1893, cited in Grant, "Progressive Reform" (note 1 above), p. 400; Tiffany, "Initiative and Referendum" (note 7 above), p. 352; Hendrickson, "Populist Movement" (note 5 above), pp. 86-87.

23. *Ruralist*, 21 September, 16 November 1893.

24. Tiffany, "Initiative and Referendum" (note 7 above), p. 348.

25. Tiffany, "Initiative and Referendum" (note 7 above), pp. 348-49; Schell, *History* (note 4 above), pp. 232-33; Hendrickson, "Populist Movement" (note 5 above), p. 88.

26. Schell, *History* (note 4 above), pp. 233-36; Hendrickson, "Populist Movement" (note 5 above), p. 88. See also Kenneth E. Hendrickson, Jr., "The Public Career of Richard F. Pettigrew of South Dakota, 1848-1926" (Ph.D. diss., University of Oklahoma, 1962), pp. 181-213; Tiffany, "Initiative and Referendum" (note 7 above), p. 349.

27. Schell, *History* (note 4 above), pp. 236-37; Hendrickson, "Populist Movement" (note 5 above), p. 88.

28. See Schell, *History* (note 4 above), p. 237; Hendrickson, "Populist Movement" (note 5 above), p. 89.

29. Party affiliation is difficult to determine for all members of the 1897 South Dakota legislature. I

have used the *Biographical Directory of the South Dakota Legislature, 1889-1989* (Pierre: South Dakota Legislative Research Council, 1989). See *Journal of the Senate, Fifth Session of the South Dakota Legislature* (1897), p. 997, and *Journal of the House, Fifth Session of the South Dakota Legislature* (1897), pp. 421-23. See also Grant, "Progressive Reform" (note 1 above), pp. 403-4; Tiffany, "Initiative and Referendum" (note 7 above), p. 350; *Direct Legislation Record* 4 (March 1897): 5; 4 (June 1897): 22-23; 6 (June 1899): 17-19. For an account of the overall failure of the Fusionists to take advantage of their legislative majority during the first Lee administration, see Lindell, "South Dakota Populism" (note 3 above), pp. 165-91.

30. *Vermillion Plain Talk*, 17 December 1897, cited in Brian J. Weed, "Populist Thought in North and South Dakota, 1890-1900" (Master's thesis, University of North Dakota, 1970), p. 31.

31. Henry Loucks to Doane Robinson, 28 November 1911, Doane Robinson Papers (Folder 119), SDHS.

32. *Direct Legislation Record* 5 (December 1898): 69.

33. Grant, "Progressive Reform" (note 1 above), pp. 404-5; Tiffany, "Initiative and Referendum" (note 7 above), pp. 353-54, 370-71; Smith, *South Dakota* (note 11 above), pp. 679-80; *Equity* 12 (October 1910): 159-60.

34. *Equity* 12 (October 1910): 159-60; 15 (January 1913): 34-35.

35. See *Equity* 15 (January 1913): 35; 17 (January 1915): 57; 19 (January 1917): 40; Tiffany, "Initiative and Referendum" (note 11 above), pp. 363-64.

36. See *Equity* 15 (January 1913): 35; 17 (January 1915): 57; 19 (January 1917): 40.