

Oregon and the Politics of the Pacific Northwest  
Special Topic: The Initiative and Referendum

Oregon was the first state to use the statewide initiative and popular referendum, and to this day no state has used these tools of direct democracy with greater frequency. So close was the connection between Oregon and the initiative and referendum that in the early decades of the 20<sup>th</sup> century these institutions were widely referred to as “the Oregon system.” After falling into relative disuse in the middle decades of the mid-twentieth century, the initiative began to make a strong comeback in the 1970s and 1980s, not only in Oregon but in many other states as well, particularly in the west. The states that made the greatest use of the initiative process in the 1990s and in 2000--California, Oregon, Colorado, Washington, and Arizona--were all western states. In this course we will be interested in understanding why the initiative process has flourished in the west while making only limited inroads in much of the south and east, and why the number of initiatives has increased so dramatically over the last three decades. We will also explore the consequences of increased initiative use for policy-making in those states that rely heavily on the initiative process. Among the questions we will ask are: Does public policy in initiative states differ in significant ways from public policy in states without direct democracy? Does the initiative process help states enact policies in the public interest or does it advantage special interests? Does the initiative and referendum have an adverse affect on minority rights? In addition we will examine the role of the courts in the initiative process, as well as some of the ways in which the initiative process might be improved, particularly here in Oregon.

The aim of this course is not only to enhance your understanding of the initiative process, but also to enable you to conduct your own research into some aspect of the initiative process, either historical or contemporary. The first two-thirds of the course the course will be conducted as a conventional seminar, with common readings and discussion of those readings. Over the last third of the course, however, there will be little common reading, and class sessions will be centered around your individual research projects and the presentation of your research findings. The first eight weeks will be capped by a roughly 3500 word take-home essay (worth 25% of your grade) that asks you to integrate readings and discussion. The final research project will be worth 40% of your grade, with 3/4 of that based on the prospectus and written research paper (which should be in the neighborhood of 6000 words) and 1/4 based on the oral presentation of that work. The other 35% of your grade will be based on class participation, which will reflect not only participation in class discussion but also various short response papers, in-class writings, or preparation of written questions, all of which are assignments designed to promote class discussion. The first two-thirds of this course is discussion based and thus it is vitally important that you do the reading for each class session. Students who miss a class, whether excused or unexcused, must write a 500 word paper analyzing the reading that was assigned for the day they miss.

Required texts are available for purchase at the Willamette Bookstore. Other items are available on electronic reserve at the Hatfield Library. The books to be purchased are:

Thomas Cronin, Direct Democracy: The Politics of the Initiative, Referendum, and Recall (1989).

Richard J. Ellis, Democratic Delusions: The Initiative Process in America (2002)

Thomas Goebel, A Government by the People: Direct Democracy in America, 1890-1940 (2002)

M. Dane Waters, ed., The Battle Over Citizen Lawmaking (2001)

## INTRODUCTION (week 1)

1-1. Introduction: What the Public Knows about the Initiative Process (Sept. 4)

1-2. Democratic Theory and the Initiative Process (Sept. 6)

Cronin, Direct Democracy, 1-37

Ellis, Democratic Delusions, 1-25

## HISTORY (weeks 2-3)

2-1. The Adoption of the Initiative and Referendum (Sept. 9)

Cronin, Direct Democracy, 38-59

Goebel, A Government by the People, 1-67

Ellis, Democratic Delusions, 26-35

2-2. No class (Sept. 11)

2-3. No class (Sept. 13)

3-1. The Early Years of the Initiative (Sept. 16)

Goebel, A Government by the People, 68-132

Ellis, Democratic Delusions, 177-92

3-2. From Then to Now (Sept. 18)

Goebel, A Government by the People, 133-99

Ellis, Democratic Delusions, 35-43

3-3. 500 word book review of Goebel due (Sept. 20)

## PROCESS AND POLITICS

### *Signature Gathering*

4-1. Signature Thresholds and Geographic Distribution Requirements (Sept. 23)

Ellis, Democratic Delusions, 44-47

4-2. Paid Signature Gathering (Sept. 25)

Meyer v Grant (1980)

Ellis, Democratic Delusions, 47-66

Brittany Schaeffer, "Caveat Signator," Willamette Week Online, April 26, 2002.

4-3. Regulating Paid Signature Gatherers (Sept. 27)

Buckley v. American Constitutional Law Foundation (1999)

Ellis, Democratic Delusions, 66-76

Kris Kobach, "Taking Shelter Behind the First Amendment: The Defense of the Popular Initiative," in The Battle, 167-87

Paul Grant, "The First Amendment Limits State Regulation of Initiatives and Referenda," in The Battle, 189-96

### *Initiative Sponsors and Consultants*

5-1. Interests (Sept. 30)

Ellis, Democratic Delusions, 77-121

Daniel Smith, "Special Interests and Direct Democracy: An Historical Glance," in The Battle, 59-72.

5-2. Money (Oct. 2)

Cronin, Direct Democracy, 99-124

Elizabeth Garrett and Elizabeth Gerber, "Money in the Initiative and Referendum Process: Evidence of Its Effects and Prospects for Reform," in The Battle, 73-96.

### *Majority Rule and Single Subject Rules*

5-3. Supermajorities (Oct. 4)

Ellis, Democratic Delusions, 122-41

6-1. The Single Subject Rule and Separate Vote Rule (Oct. 7)

Anne Campbell, "In the Eye of the Beholder: The Single Subject Rule for Ballot Initiatives," in Battle, 131-64

Ellis, Democratic Delusions, 141-47

Armatta v. Kitzhaber 327 Ore. 250 (1998)

### *The Judiciary and the Constitution*

6-2. Is the Initiative Unrepublican? (Oct. 9)

Hans Linde, "When Initiative Lawmaking Is Not Republican Government: The Campaign Against Homosexuality" Oregon Law Review (1993), 19-45

Robert Natelson, "Initiative and Referendum and the Republican Form of Government," in The Battle, 17-34

6-3. Judicial Review of Initiatives (Oct. 11)

Julian Eule, "Checking California's Plebiscite," Hastings Constitutional Law Quarterly (Fall 1989), 151-58.

Ellis, Democratic Delusions, 148-76

Mads Qvortrup, "The Courts v. the People: An Essay on Judicial Review of Initiatives," in The Battle, 197-210

7-1. Does the Initiative Disadvantage Minority Rights? (Oct. 14)

Cronin, Direct Democracy, 90-99

Barbara S. Gamble, "Putting Civil Rights to a Popular Vote," American Journal of Political Science (January 1997), 245-69

Todd Donovan and Shaun Bowler, "Direct Democracy and Minority Rights: An Extension," American Journal of Political Science (July 1998), 1020-24

### *The Legislature*

7-2. Does Direct Democracy Make for More Responsive Public Policy? (Oct. 16)

Elisabeth Gerber, "Legislative Response to the Threat of Popular Initiatives," American Journal of Political Science 40(February 1996), 99-128.

Edward Lascher, Michael Hagen, and Steven Rochlin, "Gun Behind the Door? Ballot Initiatives, State Policies and Public Opinion," Journal of Politics 58(August 1996), 760-75.

7-3. Legislative Reform of the Initiative Process (Oct. 18)

Paul Jacob, "Silence Isn't Golden: The Legislative Assault on Initiatives," Don Stenburg, "Preserving the Democratic Legacy of the American Frontier," Bill Jones, "Initiative and Reform" and Jennie Drage, "State Efforts to Regulate the Initiative Process," in The Battle, 97-107, 211-35

8-1. Evaluating the City Club of Portland Report (Oct. 21)

The City Club of Portland Report on the Initiative and Referendum in Oregon

8-2. Summary Judgments (Oct. 23)

Ellis, Democratic Delusions, 193-203

Cronin, Direct Democracy, 196-251

8-3 No class: Mid-semester day (October 25)

9-1 Take-home essay due (Oct. 28)

9-2 A National Initiative and Referendum (Oct. 30)

Cronin, Direct Democracy, 157-95

9-3 The 2000 Election (Nov.1)

Ellis, "The States: Direct Democracy," in Michael Nelson, ed., The Elections 2000, 133-59

10-1 The 2002 Election: Predictions (Nov. 4)

10-2 The 2002 Election: Results (Nov. 6)

10-3 The 2002 Election: Analysis (Nov. 8)

11-1 Research Prospectus Due (Nov. 11)

11-2 Individual Research (Nov. 13)

11-3 Individual Research (Nov. 15)

12 (Nov. 18, 20, 22): Individual Research

13 (Nov. 25, 27): Individual Research

14 (Dec. 2, 4, 6): Presentations in Class

15 (Dec. 9, 11, 13): Presentations in Class

Finals (Dec. 16, 8-11am): Presentations in Class (if necessary)