

Swiss and American State Constitutions

*A*s Frank Buchser travelled with his palettes around the United States after the Civil War, he was repelled by the “profane swindlers” who populated American public life. Buchser’s contempt for the politicians of the Gilded Age was shared by millions of Americans who believed that their elected representatives had sold them out to big business and political bosses who together were corrupting the nation’s soul. How, the question was incessantly asked in the 1880s by reformers and average citizens alike, could the country be rescued from the clutches of the “interests”? How could republican government itself be rehabilitated? Reformers thought they found the answer in Switzerland, in the Swiss inventions of the initiative and referendum. By 1912, eighteen state governments had adopted one or the other—or both—of these devices of direct democracy, which their proponents frankly admitted had been copied from Switzerland. “It is fair to say,” wrote one reformer in 1912, “that there would be no modern revival of the initiative and referendum had it not been for the Swiss example.”¹ The president of the People’s Rule League of America agreed: “the influence of the Swiss example on the development of democracy in the United States in this era is beyond words to express.”²

How the “Swiss example” came to America’s attention is something of a mystery. According to W. D. McCrackan, one of the nation’s foremost champions of the initiative and referendum, the “very name” of these devices was unknown in the United States as late as 1888.³ The Library of Congress, it is true, in what may have been an inspired anticipation of research trends, sent an official to Switzerland in 1884 with instructions to collect “everything relating to the history of the sister republic” and Johns Hopkins University undertook a similar initiative three years later,⁴ but there is no indication that the information acquired by these institutions raised the public’s consciousness about Switzerland. The political scientist, E. P. Oberholtzer, hypothesized that America’s sudden

interest in the initiative and referendum was produced by the publication in 1889 of a semi-scholarly work, *The Swiss Confederation*, by the British minister to Bern, Francis O. Adams,⁵ but there is no evidence to support this presumption. Nor is there any evidence that the public paid much attention to dry, scholarly tomes like *The Federal Government of Switzerland: An Essay on the Constitution* (Oakland, California, 1889) by Professor Bernard Moses of the University of California or to John Martin Vincent's *State and Federal Government in Switzerland* (Baltimore, 1891). Whatever set the spark, interest in Switzerland raced like a prairie fire through the United States in the 1890s. One scholar counted at least seventy American publications about the Swiss and their institutions between 1891 and 1898.⁶ The Swiss initiative and referendum were, in fact, "hot" journalistic topics in the 1890s which no editor dared ignore. Consequently, every literate American received some exposure to these devices.

Certain Americans, who were not satisfied with learning about Switzerland secondhand, went directly to the source to study direct democracy. James W. Sullivan, for example, whose *Direct Legislation by the Citizen* (New York, 1892) was the most popular tract written on the subject—at least eighteen thousand copies were in circulation by 1896⁷—spent several months in Switzerland in 1889 studying the "unprecedented progress" there, with the object of learning what "in the Swiss governmental experience may be found of value at home."⁸ Sullivan boasted that the first draft of his best-selling tract had been read and corrected by "Swiss radicals of various schools."⁹ Switzerland became a Mecca for American reformers and political scientists, who "sought inspiration in studying the institutions of the little sister republic."¹⁰ Professor Albert Bushnell Hart of Harvard, for example, travelled to Switzerland in 1894 and reported on direct democracy to the *New York Evening Post*. Another professor, Jesse Macy, visited Switzerland in 1896 and reported his findings to the *American Journal of Sociology*. A certain "Professor" Frank Parsons informed an American journal, after an "extensive" trip to Switzerland in 1906, that "he did not find one man" there who favored repudiation of direct democracy in favor of the "old lobby-ridden system of unguarded representation."¹¹ General Hermann Lieb of Civil War fame visited his Swiss homeland in the 1890s and returned to Illinois a fervent apostle of the initiative and referendum, urging their adoption at mass meetings organized by the Schweizer Club of Chicago.¹²

This deluge of information about Switzerland gave Americans a crash course in Swiss history and a grounding in the intricacies of the initiative and referendum. They learned that in Switzerland there were different kinds of referenda—obligatory and optional—and that as of 1892 all cantons except Fribourg had one



A Swiss Miss, recommending the referendum

Drawing by Dan Beard, *Cosmopolitan Magazine*, July 1893

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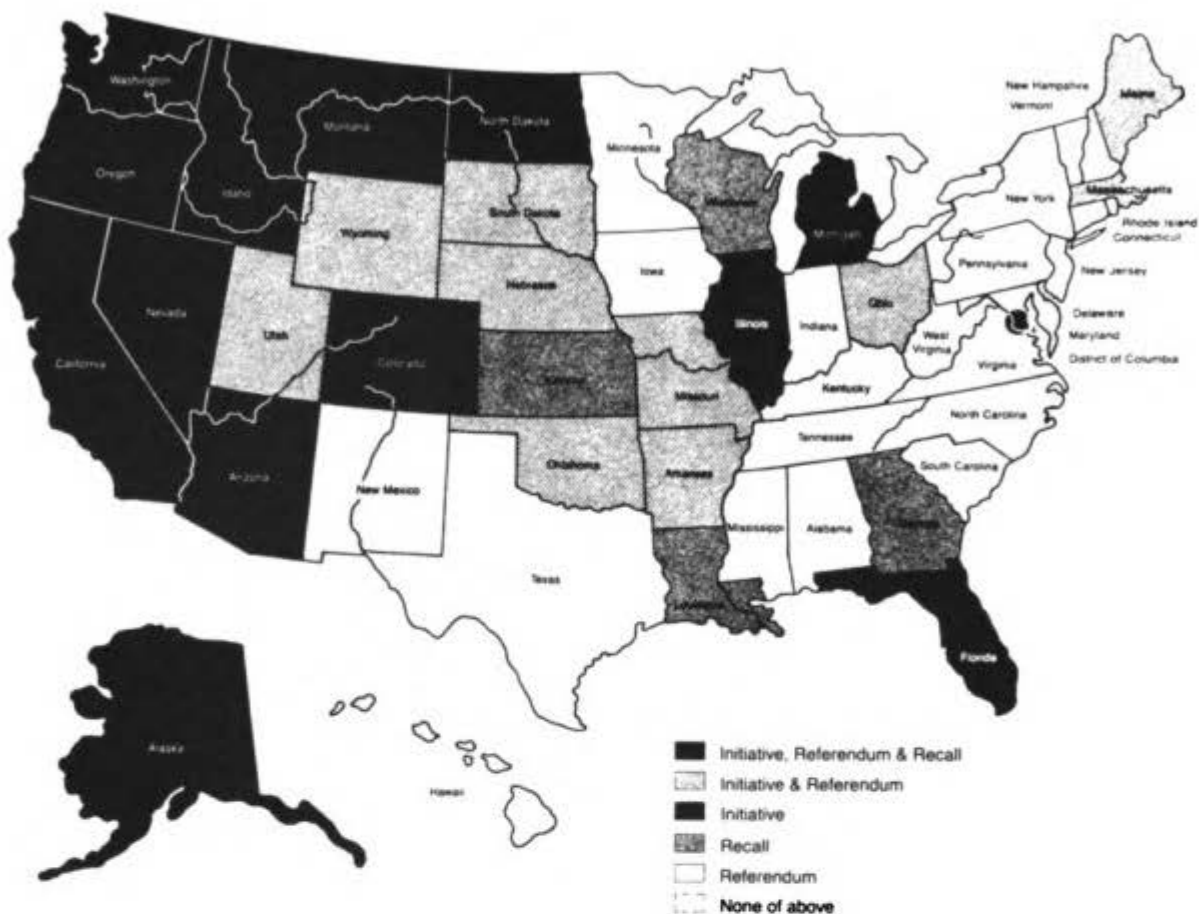
This illustration appeared on the title page of W. D. McCrackan's "The Swiss Referendum, The Ideal Republican Government," one of a flood of articles published in American periodicals in the 1890s, touting the Swiss initiative and referendum as panaceas for American political problems. The Swiss Miss is offering the referendum to Miss America and her eagle as well as to the governments of Britain (represented by the lion), France, and Germany.

or the other. They were further informed that as of that date fourteen of the twenty-two cantons employed the initiative. The Federal Government, it was explained, had used the optional referendum since 1874, but had just acquired the initiative in 1891.

More important were the results that American enthusiasts claimed the Swiss had obtained by using these devices. Sullivan asserted that their introduction in the 1830s had changed the course of Swiss history. Puncturing the idyllic image of Swiss life prevalent in the United States, Sullivan asserted that until the middle of the nineteenth century the Swiss were "ruthless ravagers and despotic masters of serfs"¹³ who were compelled "to revolt against their plutocracy and corrupt politicians who were exploiting the country through the representative system."¹⁴ The results of the revolt, which for Sullivan consisted of adopting the initiative and referendum, were dramatic: "the possibilities for political and social parasitism disappear. The 'machine' becomes without effective use, the trade of the politician is rendered undesirable, and the privileges of the monopolist are withdrawn."¹⁵ The lesson for the United States was obvious: "what the Swiss have done, Americans—even the workingmen—can do, once they learn how."¹⁶

Writer after writer made the same point: once Americans learned to use the Swiss tools of direct democracy they could save their country's political soul. One angry writer, Henry Allen, whose pamphlet *In Hell and the Way Out* was published in Chicago in 1896, charged that the United States had been cast into a living hell by the "organized selfishness" of the banks, railroads, and trusts and by the politicians they had bought. "It is safe to say," exclaimed Allen, "that no other people have been so egregiously plundered by their so-called representatives."¹⁷ The reign of the Money Power, Allen was confident, could be ended by Swiss-style direct democracy. "For several years," Allen observed, "the eyes of nearly all students of political science, the world over, have been turned toward Switzerland, the ideal republic of the old world. The liberty-loving Swiss have been making an actual test of perhaps the most important problem in the experiment of free government namely: the most efficient method for the expression of the popular will."¹⁸ The Swiss test had yielded the happiest results:

They have made it easy at any time to alter their cantonal and Federal constitutions. They have cleared from the way of majority rule every obstacle—privilege of ruler, fetter of ancient law, power of legislator. They have simplified the structure of government, held their officials as servants, rendered bureaucracy impossible, converted their representatives to simple committeemen, and have shown the parliamentary system not essential to law-making. They



The Initiative and Referendum in American State Governments

Map, reproduced from Thomas Cronin, *Direct Democracy* (Cambridge, Massachusetts, 1989)

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This map shows the extent to which American state governments by the mid-1980s had adopted the Swiss devices of initiative and referendum. Note the popularity of these instruments of direct democracy in the western part of the country.

have written their laws in language so plain that a layman may be judge in the highest court. They have forestalled monopolies, improved and reduced taxation, avoided incurring heavy public debts, and have made a better distribution of their land than any other European country. They have practically given home rule in local affairs to every community. They have calmed disturbing political elements,—the press is purified, the politician disarmed, the civil service well regulated.¹⁹

For Allen and millions of other Americans the trail blazed in Switzerland was the way out of the hell of American life.

In the 1890s interest in the initiative and referendum was the keenest where conditions of American life were the harshest: in the factories and on the farms. The American Federation of Labor at its 1892 convention endorsed direct democracy in the following terms: "it finds the principle of direct legislation through the Initiative and Referendum approved by the experience of Switzerland as a most valuable auxiliary in securing an extension of the opportunities of the wage earning class."²⁰ The same year the Populist Party, whose core support was in the agrarian West, passed a similar endorsement at its national convention and became the principal vehicle for the adoption of Swiss direct democracy devices in American state governments.

Most initiative and referendum states, as a glance at a map will show, are in the western United States, in areas where the Populists were strongest. In 1898 South Dakota became the first state to adopt the initiative and referendum. Utah followed in 1900, Oregon in 1902. Of the eighteen states that adopted one or the other of these devices by 1912, sixteen were west of the Mississippi. Oregon reformers corresponded directly with Swiss experts like Professor Charles Borgeaud of the University of Geneva and Karl Burkli of Zurich who assured them that "Our Swiss political trinity—initiative, referendum, and proportional representation—is not only good and holy for hard-working Switzerland, but it would be even better . . . for the great country in North America."²¹ That these testimonials had an impact is affirmed by a leading reformer who asserted: "I believe I do not overstate the fact when I say Oregon is wholly indebted to Switzerland for these tools of democracy."²²

Successful though the movement for the initiative and referendum was in the states, it fared poorly on the national level. From the beginning many of its supporters thought that the size and complexity of the United States precluded direct democracy in the federal government. Reformers like Robert LaFollette and George Norris were willing to give the case for a national initiative and referendum a hearing, however, and in 1909 LaFollette introduced

in the Senate a State Department report on the "Initiative in Switzerland."²³ The preceding year officials of the Initiative and Referendum League of America presented to Congress a memorial advocating federal adoption of these devices and supporting their case by citing the beneficent impact of direct democracy in the canton of Zurich from 1869 to 1893.²⁴ Congress listened, but took no action.

Between 1913 and 1918 five more states adopted either the initiative or the referendum. The First World War and the return to "normalcy" in the 1920s suffocated the reforming spirit in the United States and, according to a scholar writing in 1970, "took the wind out of the sails of the direct legislation movement [which] has not had a revival since."²⁵ This obituary was premature, however, for interest in direct democracy appears to have revived, stimulated, apparently, by the success of California's Proposition 13, an initiative in June 1978 which the residents of the Golden State used to cut their property taxes. Proposition 13 was imitated in other states and prompted politicians in states without the initiative to propose its establishment. In recent years movements for direct democracy have been mounted, with varying levels of popular support, in Alabama, Georgia, Hawaii, Minnesota, New Jersey, New York, Rhode Island, and Texas. In 1988 at least fifty initiatives were on the ballot in eighteen states.²⁶

Contemporary proponents of the initiative and referendum cite successes in sister American states in making their cases. Most have forgotten that the sister republic, Switzerland, first inspired the adoption of these devices in the United States.

NOTES

1. William E. Rappard, "The Initiative, Referendum and Recall in Switzerland," American Academy of Political and Social Sciences, *Annals*, 43 (September 1912), 125-6.
2. *Ibid.*, 126.
3. W. D. McCrackan, "The Swiss Referendum, The Ideal Republican Government," *The Cosmopolitan*, 15 (July 1893), 333.
4. Hans R. Guggisberg, "The Unusual American Career of the Swiss Politician Emil Frey (1838-1922)," Swiss American Historical Society, *Newsletter*, 22 (June 1986), 18-19.
5. Ellis P. Oberholtzer, *The Referendum in America* (New York, 1900), v.
6. Rappard, "Initiative, Referendum and Recall," *op. cit.*, 118-121.
7. *Ibid.*, 123.
8. Sullivan, *Direct Legislation*, iii.
9. *Ibid.*, iv.

10. Heinz K. Meier, *Friendship under Stress: U.S.–Swiss Relations 1900–1950* (Bern, 1970), 18.
11. *Referendum News*, 1 (Aug. 1906), 37.
12. Albert Bartholdi, compiler, *Prominent Americans of Swiss Origin* (New York, 1932), 84.
13. James W. Sullivan, "Direct Legislation in Switzerland," *Direct Legislation Record*, 1 (September 1894), 67.
14. Sullivan, *Direct Legislation*, *op. cit.*, 15.
15. *Ibid.*, 95.
16. Sullivan, "Direct Legislation in Switzerland," *op. cit.*, 67.
17. Henry E. Allen, *In Hell and the Way Out*, (Chicago, 1896), 9–10.
18. *Ibid.*, 13.
19. *Ibid.*, 21.
20. George H. Shibley, *A Brief Review of Organized Labor's Non-Partisan Campaign for Majority Rule* (Washington, 1902), 5.
21. Senate Document, 529, May 29, 1908. *Supplemental Memorial of Initiative and Referendum League of America relating to National Initiative and Referendum*, 18.
22. Rappard, "Initiative, Referendum, and Recall," *op. cit.*, 125.
23. Senate Document 126, July 13, 1909.
24. Senate Document, 516, May 25, 1908.
25. Meier, *Friendship under Stress*, *op. cit.*, 20.
26. Thomas Cronin, *Direct Democracy: The Politics of Initiative, Referendum, and Recall* (Cambridge, Massachusetts, 1989), 3.