

Essay about direct democracy

[Politics](#), [Democracy](#)



In the United States, direct democracy takes its most evident form in ballot initiatives. According to the president of the Initiative and Referendum Institute, M. Dane Waters, a version of this practice was said to have existed as early as the 1600s in New England. The practice then was for proposed ordinances to be placed on the agenda to be discussed by the whole town and later approved by voting on them during their town meetings.

However, Dane Waters continued, ballot initiative as it is known today started during the 1900s - specifically in 1978 when Proposition 13 reduced the property taxes in California from 2.5 percent to 1 percent. That California initiative resulted to limitations in the property taxes of 43 states and a reduced rate in the income taxes in 15 states (Cato Policy Report). A Washington Post columnist, David S.

Broder described ballot initiatives as a tool designed to enable the people to directly write laws and in the process, check the influence being wielded by interest groups in the legislative process. Unfortunately, Broder explained, the initiative process is flawed since the opinion of those who are in disagreement is not being heard. Because of this defect, he maintained, statutes approved through ballot initiatives are not being subjected to checks and balances, effectively robbing the minority of their right to be heard.

Broder argued that this contradicts the intent of the founding fathers (Cato Policy Report). The chairman of the Cato Institute, William A. Niskanen, disagreed. He stressed that the initiative process is actually a system of checks and balances since it regulates the power of legislatures. In other

words, it does not weaken the American system of government. Dane Waters supported the view of Niskanen. He maintained that ballot initiatives were not meant to introduce adverse changes in the American system of government but to enrich it.

In fact, he said, even the founding fathers had recognized its wisdom. To prove his point, he quoted James Madison, one of the founding fathers, who said that As the people are the only legitimate fountain of power, and it is from them that the Constitutional Charter under which the several branches of government hold their power is derived, it seems strictly consonant to the republican theory to recur to the same original authority whenever it may be necessary to enlarge, diminish, or new-model the powers of government (Cato Policy Report).

Ellen Ann Andersen, in "OUT OF THE CLOSESTS & into the Courts, demonstrated how a ballot initiative works. In her search for a suitable illustration, she decided to look at the effects of the initiative process on the civil rights of lesbians, gays and bisexuals (lgb's). Her decision was based on the fact that until 1993, the focus of approximately 60 percent of all ballot initiatives in the country was the civil rights of lgb's.

She therefore concentrated on the most famous of these initiatives - Amendment 2 which was approved by the voters in Colorado in 1992 (Andersen). Amendment 2 was sparked by a proposed ordinance on human rights which was heard by the Human Rights Commission of Colorado Springs in 1991. The proposal sought to prohibit discrimination of any kind based on "race and color, their religion and creed, their national origin and ethnicity, their age, marital status, their sexual orientation, or their disabled condition.

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" It immediately encountered stiff opposition mostly from big fundamentalist Christian groups which included the biggest Christian radio ministry in the country - the Focus on the Family. Due to the relentless assault that they made against the proposed ordinance, it was finally defeated in the city council by a vote of 8-1 (Andersen). Things did not end there, however. The defeat of the proposed human rights ordinance started a statewide campaign against gay rights which culminated to the framing of Amendment.

A group named Colorado for Family Values (CFV) was organized at the behest of three individuals, namely: Tony Marco, an anti-gay activist; David Noebel, head of anticommunist Summit Ministries, and Kevin Tebedo, who was the son of Maryanne Tebedo, a senator of the state of Colorado. CFV was able to establish links with national conservative organizations. It obtained the assistance of the " National Legal Foundation" in drafting Amendment 2 and used the handbook which was written by a lawyer who represented the " Concerned Women for America" as a guide for its efforts to promote the amendment.

The proponents of Amendment 2 appealed to the moral values of the people and capitalized on their lack of adequate knowledge about homosexuality as they painted gays and lesbians as a hazard to society. It distributed a bulletin which alleged that Lately, America has been hearing a lot about the subject of childhood sexual abuse. This terrible epidemic has scarred countless young lives and destroyed thousands of families. But what militant homosexuals don't want you to know is the large role they play in this epidemic.

In fact, pedophilia (the sexual molestation of children) is actually an accepted part of the homosexual community (Andersen)! CFV also declared to the people of Colorado that homosexuals represented a great danger to the overall health of the community because they are the most relentless carriers of “sexually transmitted diseases; they are the most fertile breeders of diseases; and that by the middle of the 1990s, hospital bed would be difficult to come by due to the large number of homosexuals who are infected with AIDS (Andersen).

Black propaganda such as these, coupled with the findings of a poll which was commissioned by the Denver Post which showed that 46 percent of respondents considered homosexuality to be morally wrong, 40 percent tolerated homosexuals, and 14 percent declared their neutrality, enabled the anti-gay sectors of Colorado to deal a crushing blow to the gay militants. The CFV campaign also argued that lgb’s should not be granted protected status or “special rights” because they were not “legitimate” minorities having failed to satisfy the criteria set forth by Supreme Court decisions, namely:

A group wanting true minority rights must show that it’s discriminated against to the point that its members cannot earn average income, get an adequate education, or enjoy a fulfilling cultural life. 2. The group must be clearly identifiable by unchangeable physical characteristics like skin color, gender, handicap, etc. (not behavior). 3. The group must clearly show that it is politically powerless (Andersen). In spite of the sting that black propaganda caused, it was the “no special rights” campaign slogan that dealt the greatest damage to the gay militants.

Lawyer Jean Dubofsky said that The “ no special rights” slogan was very clever, particularly given a time when at least white males don’t like affirmative action. The Amendment 2 people spent a lot of time talking about (how) you don’t want gays and lesbians getting in front of you in line for jobs or scholarships or college. Of course, that wasn’t what Amendment 2 was all about overall, but that’s the way it was sold.... People I talked with voted for it because they felt gay and lesbians should not get affirmative action (Andersen).

In other words, Amendment 2 was ultimately approved by the voters of Colorado, thanks mainly to the underhanded campaign tactics employed by its proponents. Thus ended the political struggle waged by the gay activists. They were decidedly beaten in the political battle. However, it turned out that they were far from accepting defeat. Defeated in the political arena, they then turned to the legal battle. Amendment 2 proponents had only nine days to savor the taste of victory before the lgb’s petitioned the federal district court.

A complaint was filed in the name of the following: Richard Evans (he was a former employee at the Mayor’s office of Denver who was open with his being gay); five other lgb’s; and a heterosexual male who was infected with AIDS. The cities of Boulder, Denver, and Aspen were also included as complainants because they had ordinances which protected the rights of lgb’s which Amendment 2 would effectively nullify (Andersen). The second aspect of the initiative process (the legal battle) turned out to be a different matter altogether.

Prepared even before the election day as a “ fallback” strategy, the complaint included several allegations. First, it argued that Amendment 2 violated the equal protection clause of the constitution. Then it claimed that the amendment denied lgb’s of their freedom of expression as well as association. Finally, it alleged that Amendment 2 was in violation of due process and the “ right to petition government for a redress of grievances” (Andersen). The difference between the political and the legal aspects of the initiative became immediately evident.

Whereas the voters were the center of decision-making in the political exercise, the legal battle transferred the power to decide to the judges. A total of thirteen judges heard the arguments whether Amendment 2 should be considered constitutional. One was a district court judge; three were justices of the Supreme Court of Colorado; and nine justices came from the United States Supreme Court (Andersen). The two sides presented the same arguments that they used during the campaign.

The proponents of the amendment argued that they were simply against granting homosexuals special rights and that they were interested in safeguarding the well-being of children and the family, and allow the state to allocate its resources to assisting the legitimate minorities. The gay advocates, on the other hand, argued that in fact “ special rights” as employed by the proponents of the Amendment was merely a red herring to mislead people and that the Amendment would effectively deprive them of their rights and constitutionally-guaranteed protection.

They further claimed that Amendment 2 was only motivated by the hostility of its proponents towards lgb’s and that homosexuality was in fact not only a

“ life-style choice” but is comparable to race and sexual orientation (Andersen). What happened, however, was while their arguments won for the proponents the battle for the ballot, the same arguments caused them to lose their case in court. Ironically, a dissenting judge claimed that the act of the majority justices from the Supreme Court in striking down the Amendment had been an act “ not of judicial judgment, but of political will” (Andersen).