

WISCONSIN'S RECALL FEVER

SIMMERING LONG BEFORE GRAY DAVIS COULD RISE AGAIN

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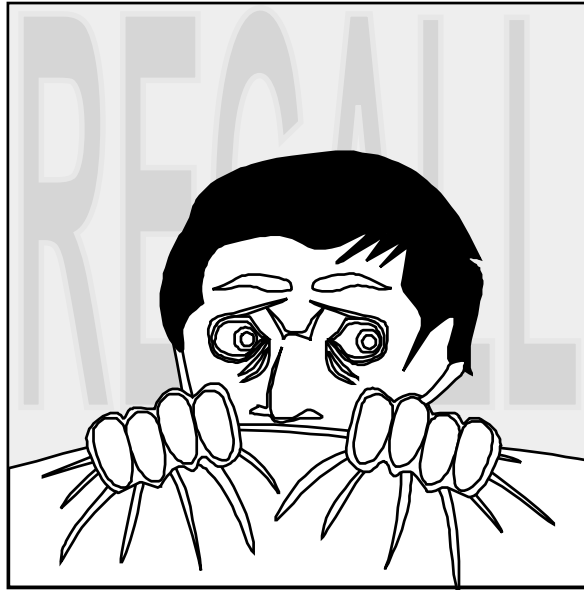
The dominating state of California is said to start important trends that move east. But in the case of political recalls, Wisconsin can be said to be a trendsetter, too.

Long before Arnold Schwarzenegger decided to give elective politics a try, Wisconsin politicians were being targeted and ousted by recall.

Just ask George Petak, the Racine Republican who lost his Senate seat on June 4, 1996 over the Brewers' sales tax that built Miller Park in Milwaukee. He was the state's first legislator ever recalled.

Ponder the fate of Tom Ament, the former Milwaukee County executive forced out of office in early 2002, when recall over a pension scandal seemed inevitable. Remember the seven of twenty-five Milwaukee County board members who subsequently lost seats in the pension scandal.

And look at the November recall of Gary George, the former Milwaukee Democratic state senator recalled over an anti-casino gambling vote and years of drift from his inner-city constituency then indicted on federal charges



that he was part of a kickback scheme that allegedly brought him more than \$400,000 in ill-gotten gains.

The "right of recall" provision of the state constitution dates from 1926. The core provision, revised in 1981, reads:

The qualified electors of the state, of any congressional, judicial or legislative district or of any county may

petition for the recall of any incumbent elective officer after the first year of the term for which the incumbent was elected, by filing a petition with the filing officer with whom the nomination petition to the office in the primary is filed, demanding the recall of the incumbent.

One of the other core provisions: a reason need not be given for the recall except for petitions against city, town or school district officials. Wisconsin isn't alone in having a broad recall law; specific grounds are required in only seven states, including Minnesota, according to the National Conference of State Legislatures (NCSL).

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Wisconsin is one of eighteen states that permit the recall of state officials, according to the NCSL. In 36 states, including Wisconsin, recall elections may be held for local officials, and as NCSL notes in an August 2003 briefing paper, most recall elections are at the local level. According to NCSL, Los Angeles first adopted the recall device — in 1903. Michigan and Oregon were the first states to embrace it — in 1908. And Minnesota became the most recent state to adopt recall — in 1996. Before California voters recalled Gray Davis and elected Schwarzenegger governor, the only successful recall of a U.S. governor took place in North Dakota in 1921, when the governor, attorney general and the agriculture commissioner were all tossed from office.

Legislative recalls are slightly more common. Two California state senators were first recalled in 1913 and 1914 and then in 1995 two California assembly members were recalled, according to NCSL research, while Michigan voters ousted two state senators in 1983 for the first time in state history, and an Oregon lawmaker was recalled in 1988.

According to the Wisconsin Blue Book, the official bible of state government, the recall was seldom used in Wisconsin prior to 1977. In August of that year, five La Crosse school board members were recalled, and in the following month, a Dane County judge, Archie Simonson, was recalled for the first time in Wisconsin history. According to news reports from the time, Simonson called rape a normal male reaction to provocative female attire and modern society's permissive attitude toward sex in attempting to explain why he sentenced a 15-year-old to one year of probation for raping a 16-year-old woman.

Use of the recall is rare no more. These days, recall — or at least the threat of recall — appears to be an important political tool in the boxes of operatives and activists.

Consider that:

- A group of mostly Libertarians is vowing to recall Democratic Governor Jim Doyle, who took office in January. Doyle support-

ers brush off the threat, noting that without serious money behind the effort, chances of getting the required 455,000 valid signatures is remote. But leader Rolf Lindgren, a Libertarian from the Madison area, is organizing nonetheless. And Republican operatives are watching with great interest. Lindgren's No. 1 reason to recall Doyle: "Betrayed the People, vetoed Property Tax Freeze & Anti-Fraud/Voter ID Bill." See more at www.recalldoyle.com.

- Many of those that ousted Ament and Milwaukee County board members over the pension scandal now are setting their sights on state Senator Jeff Plale, D-South Milwaukee, who angered constituents when he appeared to switch positions and back Doyle's veto of the Republicans, "property tax freeze" in the summer of 2003 shortly after getting elected and seeing his former Assembly seat grabbed by Republicans. The Citizens for Responsible Government (CRG) got started with the pension scandal and now has moved on to other missions, with the encouragement of Republicans: <http://www.crgnetwork.com/>.
- Recall has been tossed around as a possible way to oust Democratic Senators Robert Wirth and Roger Breske, who supported Doyle's "property tax freeze" veto. But recall efforts now appear unlikely. Both are up for re-election in November 2004, and more conventional challenges appear in order.

The irony is that Republicans and conservative talk radio hosts are wielding a tool that was popularized by the Progressive movement, which receives constant kudos from Democratic rhetoricians. Democrats in recent times have used it, too. Then Senate Democratic Leader Chuck Chvala proved recalls could be done and achieve a broader political end when he capitalized on the Brewers stadium controversy, helped do in Petak, elected Democrat Kim Plache and won back control of the state Senate for Democrats. Since then the option has been hijacked by Republicans.

Republican operative R.J. Johnson, writing in the WisOpinion.com "Spin" column, reflects the Republican view:

The same media and politicians have long argued that recalls should only occur when there's malfeasance in office bordering on criminality. It was not designed to replace our representative form of democracy, and no single individual should be able to hire workers to gather the necessary signatures to force an election, they say disdainfully.

Get over it.

Rational people understand that it's only sensible and wise to allow citizens to intervene and recall arrogant politicians when they place their personal power above that of the voters who elected them. It has often been said the only thing necessary for evil to exist is for good people to do nothing. Californians understood that when they exercised their constitutionally guaranteed right to hold an elected official accountable. Far from a train wreck, it was democracy at its very best.

Concludes Johnson: "Direct democracy keeps elected officials honest."

Democrat Kent Fitch, writing the opposing viewpoint in the WisOpinion "Spin" column, counters, "There actually is a good reason why we have elections in the first place."

Adds Fitch:

Now we can just find someone who is rich and angry with a politician on as little as one issue to front a recall campaign. That's not representative democracy. Our founding fathers agreed to put in place a system to have the American people represented by elected officials. The elected officials are supposed to protect citizens' interest. When they don't they should get tossed out in the next scheduled election.

Representative democracy has worked pretty well for the past 200-plus years. Recalls subvert the system that has worked and instead invites direct democracy that will be dominated by rich people, celebrities and special interests.

Fitch says that "special interests drive recalls, pure and simple" and that "corporations and people with money will tend to dominate the process."

Concludes Fitch: "Want to insult our founding fathers? Keep voting for the recall of politicians. Keep supporting special interest, single-issue politics."

But that's not what many Progressives thought. Robert M. LaFollette and his Progressive followers spurred reforms in the early part of the twentieth century that weakened political parties, state legislatures, and the bosses who ran them. Among the reforms were direct primary nomination of party candidates, the initiative, the referendum and recall.

"The Progressive reforms, in addition to reducing turnout, lessened the ability of America's electoral system to promote accountability, deliberation and stability," wrote Carleton College political science professor Steven Schier in his 2003 book, *You Call this An Election?* (Georgetown University Press). "Party-centered deliberation in government would eventually be replaced by a constant responsiveness to organized interest groups by politicians operating as independent political entrepreneurs."

He says "recalls are one more addition to an overcrowded election schedule that wears out voters and keeps turnouts overall low." And he notes that "political stability and deliberation can suffer through the use of recall

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elections” by striking fear “into lawmakers who already are running scared.”

Adds Schier:

Ultimately, exercises in direct democracy are exercises in futility.

One partial exception lies in recall elections. They usually feature high turnout and a simple binary choice to keep or reject an elected official — the very definition of an accountability election. The threat of a recall, however, can impede legislative deliberation.

Schier says the origins of the recall and other direct democracy reforms reach back before the Progressive movement. “Use of the recall reaches back to ancient Athens and the Roman republic, and was resurrected by critics of the corrupt, party-dominated politics of the late nineteenth century. His research shows that unlike the Populists who resurrected this electoral option, Progressives didn’t intend for their reforms to undermine representative democracy. But the reforms often did just that.

Concludes Schier: “In sum, the referendum disturbs the liberal democracy of Madisonian republicanism little, the recall somewhat, and the initiative a great deal.”

Schier’s big beef is with the initiative, which Californians have used to excess but which is not available in Wisconsin.

The right to recall, however, is quite available — too available, say the critics. But voters have the ultimate say.

Some incumbent legislators have survived recall votes. In 1932, Senator Otto Mueller, R-Wausau, became the first state legislator to face a recall election, according to the Legislative Reference Bureau; he survived. And in 1990, then-state Representative Jim Holperin, D-Eagle River and now Doyle’s Tourism secretary, easily survived a recall attempt during the controversy over tribal spearfishing rights in the Northwoods.

Some recall attempts have never gotten to a vote.

State Senator Tom Harnisch, D-Neillsville, survived a recall scare in 1981, but his opponents failed to collect the required signatures. His helpful attorney before the state Elections Board was a young lawyer named Russell D. Feingold, who went on to the state Senate and U.S. Senate.

Anti-abortion activists claimed to have collected tens of thousands of signatures against U.S. Senators Feingold and Herb Kohl, both Democrats, during in the mid-1990s, but the signatures were never filed. Feingold subsequently faced a tough challenge from a favorite of the recall organizers, former GOP Congressman Mark Neumann, but Feingold narrowly beat Neumann in 1998.

And those seeking to oust former Senate Majority Leader Chuck Chvala, D-Madison, after he was charged with extortion and other felonies, failed to gather the signatures necessary to force a vote. Chvala is up for re-election in November 2004, but he’s not expected to run.

The upshot of all of this is that even if unsuccessful, recalls can be successful tools to undermine incumbents. And that insures they’ll be of interest to political operatives in 2004 and beyond.

Recalls, meanwhile, can be taken as a sign of the times in Wisconsin politics. The Wisconsin political scene has been buffeted by turmoil and scandal since Tommy Thompson left the governorship in 2001 after fourteen relatively stable years in office during boom times. An economic downturn has further soured the public mood, making the atmosphere ripe for those advocating dramatic change. We have a new governor, a new Milwaukee County executive, a new Brown County executive, new legislative leaders, and new mayors in Green Bay and Madison. Soon, we’ll have a new mayor of Milwaukee, as longtime Mayor John Norquist is leaving. Not

all those changes are because of scandal or voter outrage, but change is in the air.

The highly publicized recall of the California governor has no doubt sparked more interest in the recall option. But while

vulnerable politicians may be looking over their shoulders because of rising recall fever, they most likely will face the ire of angry voters at the traditional mileposts of Wisconsin elections.