

# THE LOST LEFT OF PROPORTIONAL REPRESENTATION

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## INTRODUCTION

Cambridge is the only city in America with two things: a collection of 4,000 glass flowers and a city council elected by proportional representation (PR). Democracy reformers want to change one of these. In a time of democratic crises—gridlock, inequality, budding authoritarianism—some activists seek not just tweaks but a wholesale reconsideration of the way we vote.

One such proposal is PR. In PR elections, voters choose representatives for multi-member districts in proportion to how many people vote for them, rather than having one winner-take-all. PR activists believe the system could—like it does in Europe, where it’s often used—improve representation, boost turnout, end gerrymandering, and support new parties.<sup>1</sup> Democracy may be dying, but if we adopt PR, and get its technical details right—picking the “Droop quota” over, say, the “Cincinnati method”—we can build a better politics.”<sup>2</sup>

Both this democratic crisis and the potential solution is not new. Cambridge may be America’s only PR city today,<sup>3</sup> but from 1915 to 1961, twenty-five other U.S. cities used PR, from quaint Ashtabula, Ohio, to roaring NYC. What little historiography<sup>4</sup> we have of this moment has centered around a standard narrative: America’s PR experiment had its “political roots”<sup>5</sup> as a

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<sup>1</sup> See GRANT TUDOR & BEAU TREMITIERE, *TOWARDS PROPORTIONAL REPRESENTATION FOR THE U.S. HOUSE: AMENDING THE UNIFORM CONGRESSIONAL DISTRICTING ACT 4–5* (2023).

<sup>2</sup> JACK M. SANTUCCI, *MORE PARTIES OR NO PARTIES: THE POLITICS OF ELECTORAL REFORM IN AMERICA 2* (2022) (Describing today’s “new era of political reform”).

<sup>3</sup> Douglas J. Amy, *The Forgotten History of the Single Transferable Vote in the United States*, 34 REPRESENTATION 13, 13 (1996).

<sup>4</sup> Professor Jack Santucci recently charted “four waves” of research on PR. The first “noted adoption campaigns and early PR elections,” “seldom g[iving] information about the partisan identities of reformers.” The second came from the PRL, describing PR as the “key to democracy” or its downfall. The third wave “systematically document[ed]” PR in its main cities, looking at political facts like vote shares and the structure of other institutions. And the fourth wave began to build a narrative of PR as a reform victory over corrupt parties, only to later be reversed from opposition to disfavored minority groups’ victories. Santucci explains PR’s rise and fall, though he turns to “partisan and party-factional interests” rather than Progressivism and ideology. See Jon M. Santucci, *Three Articles on Proportional Representation in American Cities* (Ph.D. Diss., Georgetown University, May 15, 2017), at 3–6.

<sup>5</sup> Amy, *supra* note 3, at 13.

Progressive Era good-government innovation.<sup>6</sup> Seeking a fix for corrupted parties, Gilded Age inequality, and hostile courts, these non-partisan (really anti-partisan) reformers pushed PR to take local government from party bosses to the people themselves.<sup>7</sup> These advocates succeeded in a few cities in age of democracy transformation.<sup>8</sup> Then, however, once reform faded, PR became victim of its own success: racial and ideological minorities won elections, prompting electoral backlash amid post-War anti-Communist, anti-Civil Rights sentiment, leaving Cambridge as the lone PR city by 1961.

This standard story captures part of the moment. But it overlooks the ideological contestation over PR and undersells the uniqueness of America’s one real alternative election experiment. Recent work has brought politics back into PR history, centering the role for party-like groups in making PR politically sustainable.<sup>9</sup> That story, however, remains incomplete,<sup>10</sup> minimizing the key role left parties and labor groups played in making PR possible.

This Article tells this fuller story—aiming to understand why we abandoned this experiment with a potentially transformative election reform. Non-partisan Progressive reformers *were* leaders in the PR movement. But from its inception, the policy had a second group of core

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<sup>6</sup> For one account of PR’s origins as purely Progressive, see Andrew Spencer, Christopher Hughes & Rob Richie, *Escaping the Thicket: The Ranked Choice Voting Solution to America’s Redistricting Crisis*, 46 CUMB. L. REV. 377, 409–15 (2015). The authors describe PR as “part of a package of reforms promoting good municipal governance promoted by the early progressives.” *Id.* at 409. They also note that PR was designed to “safeguard against racial and religious prejudices,” which, ironically, became the reason for its demise. *Id.* at 410.

<sup>7</sup> Amy, *supra* note 3, at 13 (“Progressives wanted to clean up these cities and blunt the power of the party bosses.”).

<sup>8</sup> This paper is not directly concerned with the political effects or PR or its virtue as a political system. Still, many of the scholars writing about its history have viewed the problem through this lens. They have found, among other effects, that PR: generally produced “fairer and more proportional representation of political parties,” including third parties; increased representation of racial minorities; in part undermined the power of political machines; increased the number of effective votes; had uncertain effects on the development of political parties (some cities retained a two-party system, while others had multiple parties emerge); did little to change voter participation; and did not increase political conflict. See Amy, *supra* note 3, at 15–17.

<sup>9</sup> See generally SANTUCCI, *supra* note 2.

<sup>10</sup> It is also true that most historiographies of Progressives overlook generally the role of PR at all in the Progressive movement. See PROPORTIONAL REPRESENTATION AND ELECTION REFORM IN OHIO 4 (Kathleen L. Barber ed., 1995) (“Most accounts of Progressive activity fail even to mention [PR] as an item on the reform agenda.”).

advocates: Socialist parties and labor organizations. The Socialist Party, for example, endorsed PR in its 1896 platform—and in nearly every other one until 1936. Tensions in this coalition then proved key to PR’s fate. By 1915, Socialists and Progressives had different *visions* of PR—the former seeking to strengthen parties, the latter to eliminate them—that became different *versions* of PR policy. The Progressive approach won—in part due to courts nixing alternatives—with the “Hare method” supplanting “list PR”<sup>11</sup> as reform du jour. Local socialists and unions stayed on board, becoming key parts of adoption coalitions in nearly every city. Ultimately, however, by the 1950s and 60s, left parties had faded and labor had turned towards the Democratic Party, leaving PR with a diminished coalition—one that lost in every city but Cambridge.

This addition to PR’s history intervenes in the historiography by uncovering overlooked labor and leftist advocacy that should complicate how we understand reform developing. The Article’s broader goal, however, is to sketch a historical theory of the intellectual, ideological, and institutional considerations that make changing the rules of democracy possible. PR’s story, though short lived, shows it is politically possible—though easily unsustainable—to rethink election systems from the ground up. Telling this story from the perspective of left-labor-liberal coalitions illustrates the limits of a purely good-government reform agenda along with the tensions that come from agreements on policy but not principle.

These insights highlight two ways in which proportional representation has a “lost left” that is worth re-discovering and re-theorizing today: First, histories that treat PR as purely a Progressive innovation miss how crucial and consistent left groups’ support for PR was; a coalition made up just of anti-party idealists could not on their own generate support for democratic

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<sup>11</sup> While List PR “has been the most widely used abroad” of all PR forms, the only system ever used in the US was the Hare system. See Ruth C. Silva, *Relation of Representation and the Party System to the Number of Seats Apportioned to a Legislative District*, 17 THE WESTERN POLITICAL QUARTERLY 742, 757–58 (1964).

transformation. Second, PR itself lost its left by the time it was repealed, as Socialists and labor unions had left the PR coalition by mid-century, leaving goo-goo groups powerless to save their reform.

These “lost lefts” have deep resonance for understanding what makes democracy reform both possible and desirable. First, it shows both the power and limits of cross-ideological coalitions for building economic democracy. Socialists, rather than trying to tear down political systems, here sought to build working-class power within them. For a while, they succeeded, winning more direct power than otherwise would have been possible, even as they had to sand off their edges to work within Progressives anti-party system. Ultimately, however, making this anti-partisan concession put a ceiling on just how much power they could gain—a ceiling which dropped support for PR by delinking it from leftist outcomes.

Second, it gives granular context to the crucial role that labor unions can play in political reform—both as organized interest group and economic advocate. Local unions—especially in smaller cities—were influential in fostering labor representation. But labor’s success under the system was limited: some cities, especially Cincinnati, had a consistent labor presence on the Council. But outside of New York, where labor parties gained power and elected multiple union leaders, election reform failed to transform workers’ political influence. These limits led to labor splits, especially as unions drifted towards the Democrats, highlighting how raw political calculation can stand in opposition to long term democracy-reform gain.

Third, it illustrates how courts and constitutions can shape or constrain election reform even beyond the outcomes of individual cases. Both in direct rulings and the way they shape future advocacy, these legal routes delimit what kinds of democratic institutions seem possible. Multiple state courts struck down early PR policies—nominally on textualist grounds, but often in response

to doubts over PR or opposition to the leftists it helped elect. By the time later courts acceded to the policy, reformers had already narrowed their ambition and tweaked their policy to avoid future challenges. And by ruling in different ways in different states, courts made obvious the ways federalism caps the potential of sweeping reform. Law sanded the partisan edges from the movement through only a handful of state court decisions.

Fourth and finally, the rise and fall of PR should caution reforms against pitches that center solely around “good government” ideas. Democracy reform does need ideas to make government good. But the political and institutional limits of this approach are potentially devastating. In the PR context, as in the frustrations reformers face today, non-partisan ideas were not enough to win election reform; rather, it was coalition building—with minor parties, interest groups, and disaffected citizens—that made new policy possible. PR reform, in other words, was not a magical solution. It was the product of practical and political compromises—with tensions and tradeoffs that made new rules possible while limiting their potency.

Electoral systems are a “niche topic” in “ordinary circumstances.”<sup>12</sup> The story of PR, however, connects to urgent questions of democracy, state-building and political power. The history not just a minor electoral tweak in a few places for a couple years. It is one of resistance to prevailing political problems and a national movement envisioning a new form of representation. And it stands as the prime American example for theorizing the ideas, politics, laws, and institutions go into successful democratic transformation.

This Article proceeds as follows. **Part I** traces the origins of American PR. Beginning in the 1890s, both “goo-goos” and leftists saw PR as a way to improve democracy, but over time, a radical-reformist rift emerged that shaped PR’s path. **Part II** maps this coalition onto campaigns

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<sup>12</sup> See SANTUCCI, *supra* note 2, at 1.

in key cities beginning in 1915. It shows that while early efforts faced problems from judges and voters, nearly every successful coalition had strong left and labor elements. **Part III** charts the trajectory of PR in these cities, identifying the policy’s effects and how those results influenced its future. It argues that broad political shifts—with the left fading and labor joining the Democrats—spurred PR’s demise as a power-building policy. **Part IV** concludes by reflecting on PR since repeal and the lessons its “lost left” has for labor, the left, law, and election reform.

## I. PR’S ORIGINS: 1892–1915

Advocates pushing PR today join a small but long American tradition.<sup>13</sup> Though, the American origins of PR are “somewhat uncertain,”<sup>14</sup> advocacy began early as the 1840s. While no city passed PR until 1915, the idea had deep roots—and contested coalitions. Most histories emphasize how British theorists like John Stuart Mill developed the idea, which was discussed but rejected at mid-century state conventions, and ultimately gained traction with the good-government Proportional Representation League (PRL). Yet this overlooks a key parallel strand of support. Beginning in 1892, the Socialist Labor Party (and later the Socialist Party) endorses PR national in every national convention through the 1930s. These dual ideological origins are core to understanding PR. Goo-goos and leftists had distinct goals and visions for the policy, which bloomed into all-out conflicts by 1915—right when PR was getting off the ground.

This Part mines this origin story—and is the first to chart in detail Socialist advocacy in the period. By studying left and liberal PR supporters together, it emphasizes both intellectual

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<sup>13</sup> In 1904, for example, the Library of Congress issued a bibliography titled *A List of Books (with References to Periodicals) Relation to Proportional Representation*, containing hundreds of entries. CLARENCE GILBERT HOAG & GEORGE HERVEY HALLETT, JR., PROPORTIONAL REPRESENTATION 514 (1926). This entry was even updated in 1919. Additionally, the *Readers’ Guide to Periodical Literature* had a whole header of “Proportional Representation” for over seventy years. See Barber ed., *supra* note 10, at 6.

<sup>14</sup> Note, *Political Combinations in Elections*, 45 HARV. L. REV. 906, 910 (1932).

contests over PR's meaning and the political necessity of cross-ideological coalitions. It also identifies a "rift" in advocacy between the groups which proves crucial to PR's early direction and ultimate demise. Section A discusses 19th century precursors to PR in state conventions; Section B charts the Progressives' creation of the PRL; Section C unearths Socialist support for PR; and Section D explores the radical-reformist rift that arises in the 1910s.

### *A. Progressives and the Proportional Representation League*

PR first drifted to the United States in the early 19th century. After its use in Australia in 1840, Pennsylvania lawyer Thomas Gilpin in 1844 developed "minority representation" for America,<sup>15</sup> an idea debated in mid-century state constitutional conventions and adopted in Illinois.<sup>16</sup> The idea gained further popularity from British thinkers John Stuart Mill and Thomas Hare, who gave PR its modern theory and mathematical rigor.<sup>17</sup> But even as these ideas floated back across the pond, they remained a niche reform idea among elites.

The key turning point in the American PR experiment came in 1893. The long-fragmented movement coalesced into the American Proportional Representation League (PRL). This group, which published the *Proportional Representation Review*,<sup>18</sup> proved "instrumental"<sup>19</sup> in pushing PR. This section recounts the story of the PRL's creation. For the most part, the standard story of

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<sup>15</sup> THOMAS GILPIN, ON THE REPRESENTATION OF MINORITIES OF ELECTORS TO ACT WITH THE MAJORITY IN ELECTED ASSEMBLIES (Philadelphia: John C. Clark, 1844). Gilpin in fact followed a state constitutional in Pennsylvania in 1837 advocating limited voting, which was adopted. See HOAG & HALLETT, *supra* note 13, at 182.

<sup>16</sup> See DEBATES AND PROCEEDINGS OF THE CONSTITUTIONAL CONVENTION OF THE STATE OF ILLINOIS (1870), at 561; 1 OFFICIAL REPORT OF THE DEBATES AND PROCEEDINGS IN THE NEBRASKA CONSTITUTIONAL CONVENTION, ASSEMBLED IN LINCOLN, JUNE THIRTEENTH, 1871, at 304–08 (Addison E. Sheldon ed., 1905); 2 OFFICIAL REPORT OF THE PROCEEDINGS AND THE DEBATES OF THE THIRD CONSTITUTIONAL CONVENTION OF OHIO 1577–82 (1873); JOURNAL OF THE CONSTITUTIONAL CONVENTION OF NEW HAMPSHIRE at 166–69 (1876).

<sup>17</sup> JOHN STUART MILL, CONSIDERATIONS ON REPRESENTATIVE GOVERNMENT (1861). The Hare system is also called the "Single Transferable Vote," or PR–STV.

<sup>18</sup> See HOAG & HALLETT, *supra* note 31, at 184–88.

<sup>19</sup> Amy, *supra* note 3, at 13.



its reformist, wonkish, Progressive origins are correct. Still, PRL supporters had varied goals and tactics—larger fights when these liberals met the left in the policy arena.

At the World Fair in 1893, a group of reformers formalized a budding national movement and create the Proportional Representation League. Among the founders were Progressives William Gove (who pioneered a method of PR vote counting) and John R. Common (a professor of labor history). William Dudley Foulke, a lawyer and reformer, became the group’s first president. This group was at first agnostic as to *which* form of PR to propose, considering both the Hare and Party-List systems.<sup>20</sup> By 1909, however, under the leadership of William Hoag, a Progressive Republican, the PRL aligned on Hare as the ideal form of PR and began pushing its municipal adoption as the most feasible path to reform.<sup>21</sup>

The PRL was then and now seen as a “good government” organization. From the beginning, in 1899, the National Municipal League, a related Progressive “good government” group, included PR in its model city charter as a way to achieve effective governance.<sup>22</sup> One scholar in 1955 cited this longstanding support—from the “most important and most respected national organization interested in the improvement of local government”—as an example that PR advocacy had *no* “affection for extreme or revolutionary causes.”<sup>23</sup> The leadership of the PRL confirms the point: In the 1910s, Hoag’s nephew Clarence joined with George Hervey Hallett—a municipal watchdog and mathematician who believed statistics could fix democracy<sup>24</sup>—to solidify its support for the “Hare” system, taking a “pretty academic” movement to the people.<sup>25</sup> With a

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<sup>20</sup> See HOAG & HALLETT, *supra* note 31, at 187–89.

<sup>21</sup> See *id.* at 191–92.

<sup>22</sup> See RALPH ARTHUR STRAETZ, *PR POLITICS IN CINCINNATI: THIRTY-TWO YEARS OF CITY GOVERNMENT THROUGH PROPORTIONAL REPRESENTATION* 8 (1958)

<sup>23</sup> STRAETZ, *supra* note 22, at 8.

<sup>24</sup> DANIEL O. PROSTERMAN, *DEFINING DEMOCRACY: ELECTORAL REFORM AND THE STRUGGLE FOR POWER IN NEW YORK CITY* 4 (2013).

<sup>25</sup> RICHARD S. CHILDS, *CIVIC VICTORIES* 242 (1952); see also Barber, *supra* note 10, at 48.

governing board including academics Charles Beard and Charles Eliot, along with activists Jane Addams and Margaret Dreier Robins, the PRL became a reformist staple.<sup>26</sup>

These Progressives did not agree entirely on the goals of PR. But most shared a good-government vision for the policy. The Progressives were laser-focused on partisan corruption, with PR one more way to root it out.<sup>27</sup> In Oregon, for example, the People’s Power League, which in 1908 helped to pass a constitutional amendment legalizing the use of PR, did so by “rail[ing] against” partisanship.”<sup>28</sup> Two academic leaders—John Commons of Wisconsin and Charles Beard of Columbia—similarly supported PR because it could represent “all interests and classes,” helping to “defend the masses against the monopolists” who control party bosses.<sup>29</sup> Others emphasized the goal of increasing participatory opportunities for “those considerable classes of voters” who lacked political power, like farmers, mechanics and laboring men.”<sup>30</sup>

Looking back in 1926 on their years leading the PRL, Hoag and Hallett confirmed that their goals were Progressive, broadly defined.<sup>31</sup> To them, PR: secured majority rule, recognized minority representation, including “important” third parties; ended gerrymandering; representing “unorganized groups”; fostered continuity and cooperation; “check[ed] machine rule”; gave freedom for “independent voting” across party lines; raised candidate quality; and decreased fraud.<sup>32</sup> They rejected “objections” that PR helps radical groups, conceding that the PR rightly “gives them a hearing” and “just representation,” but affirming that “extreme parties” like

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<sup>26</sup> See Barber, *supra* note 10, at 48.

<sup>27</sup> See, e.g., TODD DONOVAN & HEATHER SMITH, PROPORTIONAL REPRESENTATION IN LOCAL ELECTIONS: A REVIEW 1–2 (1994) (Progressive era reforms weakened the [party] machines, in party, by . . . eliminating district-based representation.”).

<sup>28</sup> ROBERT D. JOHNSTON, THE RADICAL MIDDLE CLASS: POPULIST DEMOCRACY AND THE QUESTION OF CAPITALISM IN PROGRESSIVE ERA PORTLAND, OREGON 141–45 (2003); see also PROSTERMAN, *supra* note 24, at 34.

<sup>29</sup> JOHN R. COMMONS, PROPORTIONAL REPRESENTATION 200–201, 224–30, 352 (1907); see also Barber, *supra* note 10, at 44–45.

<sup>30</sup> 1 PROPORTIONAL REPRESENTATION REV. 105 (1894); see also Barber, *supra* note 10, at 48.

<sup>31</sup> HOAG & HALLETT, *supra* note 13, at vii.

<sup>32</sup> *Id.* at 90–110.

Socialists [get only] their due” and never more.<sup>33</sup> Similarly, Hoag & Hallett rejected claims that “[e]conomic class interests” dominated PR; rather, where economic issues arose, PR tended to *moderate* their conflict, as in Kalamazoo, where one elected labor leader helped brought workers’ issues to governments far more responsibly after PR passed.<sup>34</sup> In essence, where the PRL tied PR to working-class issues, they did so as a means of fair representation, not economic justice: “A Gompers and a Debs may belong to the same union . . . [but] obviously they cannot both be represented truly by one spokesman.”<sup>35</sup>

A more complete history of the PRL is beyond the scope of this Article; detailed histories have been written by its leaders themselves. But the basic story, generally pitched as the whole story, is that Progressives who hated parties aligned on PR to make representative government work better. This story is true and was crucial for PR gaining the institutional support needed to pass. But it misses the ideological diversity that characterized PR’s early support.

### *C. Socialist and Labor Support for Proportional Representation*

Many scholars have asked why the United States has no successful Socialist Party<sup>36</sup> or labor party.<sup>37</sup> One answer could be the lack of PR elections, which can give discrete interests a seat in politics.<sup>38</sup> This Section shows how early Socialists and laborites fought to achieve this. From the 1890s to the 1930s, working-class parties consistently backed PR as national policy. This Section—the first to center Socialists’ role in PR’s development—highlights a more ideologically

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<sup>33</sup> *Id.* at 134–35.

<sup>34</sup> *Id.* at 130–31.

<sup>35</sup> *Id.* at 160.

<sup>36</sup> See generally, e.g., Eric Foner, *Why Is There No Socialism in the United States?*, 17 HIST. WORKSHOP 57 (1984).

<sup>37</sup> See generally, e.g., ROBIN ARCHER, *WHY IS THERE NO LABOR PARTY IN THE UNITED STATES?* (2010).

<sup>38</sup> See VICTORIA C. HATTAM, *LABOR VISIONS AND STATE POWER: THE ORIGINS OF BUSINESS UNIONISM IN THE UNITED STATES* 24–25 & n.37 (1993).

diverse and pro-partisan PR coalition than standard stories suggest. Doing so shows PR's broad appeal and the link from radical politics to technocratic election reforms.

Socialists in America began advancing PR nearly as soon as they gained influence. The Socialist Labor Party was founded in 1876. By the SLP's 1892 national platform, the party endorsed the secret ballot, referendum, and "the principle of minority representation."<sup>39</sup> By 1896, after the PRL launched, the SLP endorsed the "principle of *proportional* representation."<sup>40</sup> This support had legs: nearly every Socialist platform continued to endorse PR until 1936.<sup>41</sup> As a prominent official wrote in 1913, PR "has been one of the demands of the Socialist party from the beginning."<sup>42</sup> This Section is the first to catalogue that advocacy in detail, showing Socialists' deep engagement with election systems and their plans to build power within them.

In the parties' early PR endorsements, little explanation was given for the purpose of the policy. An 1897 model constitution, for instance, endorsed PR along with eight specific demands without further commentary.<sup>43</sup> PR was lumped in with "direct democracy" policies like the initiative and referendum, an odd strategy given that the "R" in PR contradicts direct democracy. The Social Democratic Party endorsed "Proportional representation and the right of recall" in 1900,<sup>44</sup> while in 1904, the People's Party pushed for the "initiative, referendum and proportional representation" to put all "public questions directly under the control of the people."<sup>45</sup>

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<sup>39</sup> NATIONAL PARTY PLATFORMS, 1840–1972, at 95–96 (Donald Bruce Johnson & Kirk H. Porter eds., 1973)

<sup>40</sup> *Id.* at 111.

<sup>41</sup> *Id.* at 111, 142, 166, 190, 210, 293, 353. The only intervening years where the Party does not endorse PR came during World War I, where the Party was being prosecuted and barely had the means to survive.

<sup>42</sup> CARL D. THOMPSON, THE SOCIALIST PARTY, U.S.A.: INFORMATION DEPARTMENT AND RESEARCH BUREAU: REPORT OF FIRST FIVE MONTHS' WORK, NOVEMBER, 1912, TO MAY, 1913, at 6, 17 (1913). Another document from 1916 claimed that PR, along with other political reforms, is "everywhere a foremost part of the Socialist program." *See* No. 10: The Tactics of Socialism, in APPEAL SOCIALIST CLASSICS (W.J. Ghent, ed., 1916), at 49.

<sup>43</sup> THE SOCIAL DEMOCRACY OF AMERICA, CONSTITUTIONS OF THE SOCIAL DEMOCRACY OF AMERICA (June 21, 1897).

<sup>44</sup> NATIONAL PARTY PLATFORMS, *supra* note 39, at 126.

<sup>45</sup> *Id.* at 136. The 1908 People's Party platform made the same endorsement. *Id.* at 155.

By 1908, however, left parties articulated more precisely how PR fit into their economic and democratic agendas. A 1908 Socialist “Campaign Book” links PR, recall, and the Initiative & Referendum (I&R) as “steps to democratize the machinery of government by which society is ruled,” which “provide a method by which the will of the voters can be directly and effectively expressed.”<sup>46</sup> These Socialists echoed earlier calls by decrying that “a minority party, even though it contains 49 per cent of the voters, may be completely deprived of representation.”<sup>47</sup> But they also identified PR as “measures calculated to increase the power of resistance of the working class to capitalist oppression.”<sup>48</sup> Such goals did not litter typical Progressive pamphlets.

Such democratic themes continued in 1912—cutting against the idea that radical parties aimed more to overthrow the existing political system than perfect it. One 1912 convention delegate feared PR would “only open the way for parties of reform” and “labor parties.”<sup>49</sup> Another agreed, saying “we ought to have *absolute* majority representation”—either capitalism or working-class democracy. And a third maintained the Party’s goal should be “building up a strong, constructive organization, not to elect men occasionally.” A fourth, however, rebuffed that Socialists have “always been in favor” of PR, and that “there is but one party who can really benefit by it, and that is the Socialist Party”—by electing additional representatives.<sup>50</sup>

PR support won the day. Publishing a 380 page “campaign book” in 1912, the party framed support for PR as a crucial “step[] in the program for the capture of political power by the workers.”<sup>51</sup> While other groups backed PR in a “more or less half-hearted way,” for Socialists, it

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<sup>46</sup> JOSEPH MEDILL PATTERSON, SOCIALIST CAMPAIGN BOOK 149 (1908).

<sup>47</sup> PATTERSON, *supra* note 46, at 150.

<sup>48</sup> *Id.* at 150.

<sup>49</sup> THE SOCIALISM OF TO-DAY 523 (William English Walling et al eds., 1916)

<sup>50</sup> *Id.* at 524–25.

<sup>51</sup> SOCIALIST CAMPAIGN BOOK 1912, at 282 (Carl D. Thompson ed., 1912). It is worth noting that the 1900 campaign book, while referencing PR (along with the initiative and referendum), does not elaborate on this program of democratization. See THE SOCIALIST CAMPAIGN BOOK OF 1900 (Nat’l Campaign Comm. of the Soc. Democratic Party ed., 1900).

was not “a means of catching votes, but an essential preparation for the democratic management of the means by which society feeds, clothes and houses itself.”<sup>52</sup> One figure key to full-hearted support was Carl D. Thompson, the party’s Director of the Information Department and Research Bureau.<sup>53</sup> Thompson’s goal was to “help socialists win the class struggle through reason and rationality.”<sup>54</sup> He was a politico, organizing for Socialist candidates in Wisconsin and advocating an evolutionary transition to socialism through the ballot box.<sup>55</sup> It was from this position and belief system that Thompson made his PR push, a “most important and desirable principle.”<sup>56</sup>

Buoyed by the “menace of their steadily growing vote,” the Socialist agenda in 1913 had coalesced into three goals: “to strengthen labor, democratize government, and promote public ownership.”<sup>57</sup> Thompson pushed those aims via yearly campaign books and position pieces.<sup>58</sup> Local groups across the country also peppered Thompson with inquiries; in his first five months at the Bureau, he responded to PR inquiries from nine cities.<sup>59</sup> Two years later, he noted that as Socialist principles were “thrust into the public discussion,”<sup>60</sup> he kept receiving requests for election law help, “*particularly* on proportional representation.”<sup>61</sup> The problem remained that Socialists could not “always rely upon non-socialist organizations for our information.”<sup>62</sup>

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<sup>52</sup> SOCIALIST CAMPAIGN BOOK 1912, *supra* note 51, at 282; *see also* ETHELWYN MILLS, THE LEGISLATIVE PROGRAM OF THE SOCIALIST PARTY 47 (1913).

<sup>53</sup> Jason D. Martinek, *Making the Class Struggle a Struggle Over Facts: Carl D. Thompson and the Socialist Party of America’s Information Department and Research Bureau, 1913–1915*, 30 BEHAV. & SOC. SCIS. LIBR. 16, 16 (2011).

<sup>54</sup> *Id.* at 17.

<sup>55</sup> *Id.* at 21.

<sup>56</sup> THOMPSON, *supra* note 42, at 29.

<sup>57</sup> Martinek, *supra* note 53, at 24 (citing ETHELWYN MILLS, THE LEGISLATIVE PROGRAM OF THE SOCIALIST PARTY (1913)).

<sup>58</sup> *Id.* at 27. Thompson’s bibliography on municipal ownership included one book with a prominent chapter on PR. *See id.* at 27 (citing FRANK PARSONS, THE CITY FOR THE PEOPLE (1901)). Thompson’s position papers included one distinguishing “Political Action vs. Economic Industrial, or Direct Action,” where Thompson advocated for fostering cross-class alliances between workers and other groups. *See id.* at 28–29 (citing Carl D. Thompson, Political Action vs. Economic Industrial, or Direct Action (1914) (manuscript on file with Socialist Party of America papers, reel 6)).

<sup>59</sup> THOMPSON, *supra* note 42, at 21–23. These cities included: Phoenix, AZ, Southington, CT, New Albany, IN, Creskill, NJ, Paterson, NJ, Helena, MT, Ashtabula, OH, Omak, WA, and Chicago, IL.

<sup>60</sup> CARL D. THOMPSON, REPORT OF THE INFORMATION DEPARTMENT (1915).

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

Thompson's continuing advocacy and public role demonstrated that PR was a central Socialist principle. Still connecting PR with democracy, he said it would make government "truly democratic, so that the will and wish of the people may be the law of the land"—sounding like a reform Progressive.<sup>63</sup> But the goal was Socialist-specific power: they estimated that Socialists would be entitled to twenty-six members of Congress under a national PR regime.<sup>64</sup>

As Socialist support increased, the 1916 campaign saw their most detailed engagement. The formal platform again put PR next to the popularizing I&R and recall.<sup>65</sup> The campaign booklet critiqued current systems as leaving "thirty to sixty per cent of the voters entirely unrepresented."<sup>66</sup> Noting other countries' experience and PR's adoption in Ashtabula, Ohio, it called PR "by no means a new and untried idea."<sup>67</sup> The booklet also cited positively to the PRL.<sup>68</sup> This advocacy confirmed what a recent treatise on Socialism had said: "Socialists favor all measures aimed at increasing popular control" — including PR.<sup>69</sup>

1916, however, marked a high point for national Socialist advocacy. World War I crippled the Party and snuffed PR from the 1920 platform.<sup>70</sup> The 1924 platform similarly made no mention of this staple. By 1928, the party's<sup>71</sup> "intelligent voter's guide" only obliquely referenced PR as

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<sup>63</sup> CARL D. THOMPSON, SOCIALIST CONGRESSIONAL CAMPAIGN BOOK 1914, at 8 (1914).

<sup>64</sup> *Id.* at 311.

<sup>65</sup> NATIONAL PARTY PLATFORMS, *supra* note 39, at 210; See JOHN J. DINAN, THE AMERICAN STATE CONSTITUTIONAL TRADITION (2006).

<sup>66</sup> . Right before this discussion, the book listed every state's adoption of the I&R, recall, and women's suffrage. See *id.* at 51–53.

<sup>67</sup> *Id.* at 53–54.

<sup>68</sup> *Id.* at 54 (referencing JOHN H. HUMPHREYS, PROPORTIONAL REPRESENTATION: A STUDY IN METHODS OF ELECTION (1911)). That same work by Humphrey's had also been referenced in a 1913 "Catalog" of readings on socialism that Thompson produced on behalf of the national party; Proportional Representation, including Humphreys' book, was one of the many subjects listed.

<sup>69</sup> THE SOCIALISM OF TO-DAY 33, 59, 64, 128, 150, 348, 351 (William English Walling et al eds., 1916) (cited in INTERCOLLEGIATE SOCIALIST SOCIETY, STUDY COURSE ON SOCIALISM 5–6 (1916)).

<sup>70</sup> A.L. TRACHTENBERG, A POLITICAL GUIDE FOR THE WORKERS: SOCIALIST PARTY CAMPAIGN BOOK 1920, at 55 (1920) (describing that if the "parties were represented in proportion to the vote," five more Socialists would have been elected to congress).

<sup>71</sup> SOCIALIST NATIONAL CAMPAIGN COMMITTEE, THE INTELLIGENT VOTER'S GUIDE: OFFICIAL 1928 CAMPAIGN HANDBOOK OF THE SOCIALIST PARTY, at 11 (1928).

key to “political democracy” and a “modernized Constitution.”<sup>72</sup> At the same time, labor politics grew more contested, as the 1928 Workers Party rejected that workers could ever “seize power by the mere means of the ballot,” rejecting the AFL’s “notorious ‘non-partisan’ policy” and the Socialists belief in the “intelligent use of the ballot.”<sup>73</sup> These more radical labor parties, and the Communist groups that followed them, saw PR as too reformist a reform.<sup>74</sup>

Amid these left splits, and in a changing New Deal coalition, the national Socialist-PR link faded. While the Party’s 1932 platform listed “Proportional Representation” as the first goal for “Constitutional Changes,”<sup>75</sup> its voter guide omitted it in favor of economic concerns.<sup>76</sup> Socialists did continue battling for PR locally. But national leaders lost interest. As the 1936 Roosevelt re-election campaign began, PR disappeared from the national platform—never again to appear. While left parties continued supporting democracy reforms, these often were on suffrage barriers<sup>77</sup> or ballot access problems for minor parties,<sup>78</sup> not structural changes.<sup>79</sup>

This history of PR advocacy—nearly entirely left out from both PR and Socialist Party histories—never won national PR elections. Nor was it the driving cause of Socialists. Still, their consistent support and interest shows PR was not just the province of Progressives. Rather, it was

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<sup>72</sup> THE INTELLIGENT VOTER’S GUIDE, *supra* note 71, at 14. Interestingly, and perhaps reflecting a shift in political eras, this 1928 document did not reference the I&R or recall, though it continued to advocate direct election of the president and limits on judicial review. *Id.* at 14.

<sup>73</sup> NATIONAL PARTY PLATFORMS, *supra* note 39, at 312–13.

<sup>74</sup> *Id.* at 358; *see* Winters, *infra* note 204. It is unclear whether this affected workers’ views on PR, but a few local labor groups had earlier used PR for their own internal elections, including the American Federation of Teachers and the Teachers’ Union of New York City, along with the New York State Labor Party and the Socialist Party of California. *See* HOAG & HALLETT, *supra* note 31, at 287–88.

<sup>75</sup> NATIONAL PARTY PLATFORMS, *supra* note 39, at 353.

<sup>76</sup> A PLAN FOR AMERICA: OFFICIAL 1932 CAMPAIGN HANDBOOK OF THE SOCIALIST PARTY 12 (Edward Levinson & Maynard C. Krueger eds., 1932).

<sup>77</sup> The Socialist Party in 1940 proposed this. *See* NATIONAL PARTY PLATFORMS, *supra* note 39, at 397–98.

<sup>78</sup> The Socialist Workers Party in 1948 proposed this. *See* NATIONAL PARTY PLATFORMS, *supra* note 39, at 465. Similarly, the Socialist Party in 1956 lamented that minority parties “are being driven from the ballot by restrictive legislation.” *See id.* at 564.

<sup>79</sup> The 1956 Socialist Workers Party platform endorsed “liberaliz[ing] the election laws,” the Socialist Party in 1960 endorsed the “Right of ready ballot access in all states to minority political parties,” and the Socialist Workers Party in 1960 (and 1964) wanted to give “minority parties equal time on TV and radio and in the columns of the public press.” *See* NATIONAL PARTY PLATFORMS, *supra* note 39, at 572, 630, 638, 694.



a serious part of working-class groups' effort to democratize government and build economic power. Across multiple political moments, socialism and PR went hand-in-hand.

#### *D. The Radical–Reformist Rift*

For the most part, Progressive and Socialist PR advocacy happened in parallel. Even as Progressives emphasized the reform's anti-corruption effects and Socialists spotlighted its impact on the working-class, both agreed the core principle was democracy. At times, though, the connections and tensions ran deeper. Left leaders were involved in early PRL and related advocacy. And growing divides over the form of PR—and whether it should empower or eliminate parties—sowed a rift in the movement. This fight highlights the risk of aligning on policies but not principles. And it presages difficulties as PR turned from idea to policy.

From the beginning of the PRL, some members straddled Progressive and Socialist ideas; the group always contained “some Populist roots.”<sup>80</sup> Professor Frank Parsons, for example—a leader of the National Public Ownership League (a classic Socialist idea) and the National Referendum League (a Progressive-affiliated policy)—wrote a pamphlet in 1901 on PR decrying that minor parties (like New York's Labor party) lacked proportionate power.<sup>81</sup> Professor John Commons, a PRL board member, blended a critique of party discipline with resistance to “great corporations and syndicates.”<sup>82</sup> And William U'Ren, an arch-Progressive who passed both the I&R and a PR amendment in Oregon, had deep labor ties.<sup>83</sup>

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<sup>80</sup> SANTUCCI, *supra* note 2, at 54–55 (citing William Simon U'Ren, *Direct Legislation. Without Any Constitution Changing—Will Not Do to Wait for That*, 3 DIRECT LEG. RECORD 16 (1896)).

<sup>81</sup> FRANK PARSONS, *THE CITY FOR THE PEOPLE; OR, THE MUNICIPALIZATION OF THE CITY GOVERNMENT AND OF LOCAL FRANCHISES* 77–79, 474 (1901).

<sup>82</sup> John R. Commons, *Proportional Representation*, 1 PROPORTIONAL REPRESENTATION REV. 7 (1893); *see also* SANTUCCI, *supra* note 2, at 54–55.

<sup>83</sup> U'Ren, *supra* note 80; *see also* SANTUCCI, *supra* note 2, at 54–55.

In 1913, the alliance seemed strong. Carl Thompson wrote a 1913 report lauding the advocacy of the PRL,<sup>84</sup> highlighting the PRR's publications as valuable for Socialists, calling the PRL as a "helpful" "Non-Socialist Force[]" deserving "special mention."<sup>85</sup> They even collaborated on legislative advocacy; Thompson offered to send a draft copy of legislation "very carefully drawn with the assistance of the" PRL to cities that inquired.<sup>86</sup> Even as Socialism is "greater than" other advocates, the PRL was a "great movement."<sup>87</sup>

The promise and peril of this alliance shown in Los Angeles in 1913. In the early 20th century, Progressives and Socialists sparred on the city council over labor policy, causing a Socialist-aligned Union Labor Political Club to split off. By 1912, factions from each joined to amend the city charter. Progressives sought to minimize political conflict, while Socialists sought more seats. They agreed on a PR structure that allowed party nominations yet let voters rank candidates individually, a compromise between Hare and List PR.

Once on the ballot, PR took over the news. Supporting the amendment were Socialists, civic leagues, good government types, the Central Labor Council, and women and Black residents. Opponents included the *Los Angeles Times*, which called the plan a "Socialistic Charter Plot," maligning the "Goo-Goo-Socialist Coalition" that pushed a "dangerous, un-American, probably unconstitutional" PR scheme.<sup>88</sup> Also opposed was the radical Socialist Labor Party, which hated the "the cloven hoof of the A.F.L.ised Socialist Party Goo-Goo combination."<sup>89</sup> Progressives too were split, including on whether to align with Socialists, who some feared would ruin government

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<sup>84</sup> *See* .

<sup>85</sup> THOMPSON, *supra* note 84, at 6, 17.

<sup>86</sup> *Id.* at 30.

<sup>87</sup> Carl D. Thomposn, *A Call to the Young*, in No. 11: The Socialist Appeal, in APPEAL SOCIALIST CLASSICS (W.L. Ghent ed., 1916), at 20–23.

<sup>88</sup> *See* Tom Sitton, *Proportional Representation and the Decline of Progressive Reform in Los Angeles*, 77 S. CAL. Q. 347, 350–56 (1995). Such a coalition was not limited to LA. In Dayton, Ohio, for example, Progressives and Socialists aligned on PR/STV in a new city charter. *See* SANTUCCI, *supra* note 2, at 72.

<sup>89</sup> MUNICIPAL NEWS, March 12, 1913; *see also* Sitton, *supra* note 88, at 357.

or destroy the Progressives' political fate.<sup>90</sup> Amid these intra-party, inter-ideology rifts, the PR campaign failed with 48.2% of the vote.<sup>91</sup>

Beginning that summer, and continuing after the defeat in LA, a “major cleavage” opened between the groups over which type of PR to choose.<sup>92</sup> While the Socialists had pushed for party nominations in LA, Progressives had backed the individual-ranking approach of Hare-STV. When PR lost in LA, meant “[e]xpeditious led the movement to side with Progressives.”<sup>93</sup>

The 1913 divide<sup>94</sup> between Socialist and Progressive support for PR erupted in Thompson's writings. First, in a bulletin to Chicago Socialists, Thompson said that the party has “officially pronounced” against “non-partisan” elections in any form.<sup>95</sup> Separately, Thompson wrote that Hoag was right to pitch PR, as it was the “only truly representative system,”<sup>96</sup> but hated the “astonishing fact that our whole host of municipal reformers in America have been swept off their feet with the so-called non-partisan idea.”<sup>97</sup> To him, the *advantage* of PR was that it “permits” or even “presuppose[s]” party voting<sup>98</sup>; Socialists must thus “dissent entirely” from all but partisan ballots—the “best method for securing desirable results.”<sup>99</sup> While Progressives believed politics should identify and represent a unified whole, Socialists knew true opinion ranged from “Marxian

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<sup>90</sup> Sitton, *supra* note 88, at 357–58.

<sup>91</sup> See SANTUCCI, *supra* note 2, at 69.

<sup>92</sup> *Id.* at 52–53.

<sup>93</sup> *Id.* at 52–53.

<sup>94</sup> Around the same time, there was a similar divide between Socialists and the organized labor movement. In a famous debate between Morris Hillquit and AFL leader Samuel Gompers, Hillquit asked whether the AFL supported each plank of the Socialist platform, including PR. While agreeing on the other policies, Gompers was confused what PR meant, though eventually agreed that “Yes, I favor that,” and “The American Federation of Labor does” too. See MORRIS HILLQUIT & SAMUEL GOMPERS, *THE DOUBLE EDGE OF LABOR'S SWORD: DISCUSSION AND TESTIMONY ON SOCIALISM AND TRADE-UNIONISM BEFORE THE COMMISSION ON INDUSTRIAL RELATIONS* 112–13 (1914). However, Gompers argued that Socialists “purloined the demands and the vocabulary of the American Labor movement,” rejecting that Hillquit would take credit for labor's political successes. See *id.* at 112–116.

<sup>95</sup> THOMPSON, *supra* note 84, at 29.

<sup>96</sup> Carl D. Thompson, *The Vital Points in Charter Making from a Socialist Point of View*, 2 NAT'L MUN. REV. 416, 416–18 (1913) [hereinafter Thompson, *The Vital Points in Charter Making*].

<sup>97</sup> *Id.* at 421.

<sup>98</sup> *Id.* at 421.

<sup>99</sup> *Id.* at 422.

socialists ideas” to plutocracy.<sup>100</sup> Running those policies through parties eliminated the advantage famous candidates had over “the common people.”<sup>101</sup> The Socialist goal of PR was “partisan voting,”<sup>102</sup> not non-partisan governance.

PRL leaders defended their vision for PR. At times, they conceded that “where the Socialists are strong,” Hare supporters could “accept instead.” And Hoag and Hallett wrote that List PR beat current election systems.<sup>103</sup> But they mostly wished “the Socialists would come to realize that the Hare system without party names” was fair to parties and factions.<sup>104</sup> The early PRL had pitched PR so that “parties or political groups shall secure representation,” but under Hoag’s leadership, the text cut references to parties.<sup>105</sup> Thompson, of course, believed an anti-partisan vision “cuts the heart out of the idea of PR and makes your League *absurd*,”<sup>106</sup> as PR relies on groups. Hoag rebutted that “PR is entirely feasible without such party lines as we have been accustomed to.”<sup>107</sup> But to Thompson, this rebuttal rang hollow; non-partisan ballots gave “power and influence” to banks, railroads, and major papers.<sup>108</sup>

These debates did not die down. The PRL doubled down on the Hare method as they started taking the reform nationwide. Socialists lacked an overarching response to their LA loss. Some still attacked the “non-partisan fallacy,” writing that it “would take out of civic life the responsibility of fighting together for principles.”<sup>109</sup> Others, however, latched onto Hare PR, like

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<sup>100</sup> *Id.* at at 422.

<sup>101</sup> *Id.* at 422.

<sup>102</sup> *Id.* at 424. They even supported PR *more than* direct democracy initiatives like the I&R, perhaps because they believed that a political system that is truly representative would not need them as often. *Id.*

<sup>103</sup> See, e.g., HOAG & HALLETT, *supra* note 31, at 60. For a more complete discussion that Hoag & Hallett give over the precise workings of List PR, see *id.* at 412–56.

<sup>104</sup> EQUITY, Oct. 1913, 15.4:231–32; see also Barber, *supra* note 10, at 54.

<sup>105</sup> Stoughton Cooley, *The Proportional Representation Congress*, 4 ANAL. AMER. ACAD. POL. & SOC. SCI 112 (1893); see also SANTUCCI, *supra* note 2, at 56–57. Additionally, the leftist reform magazine *Equity* had long published the *Proportional Representation Review*, but around the time of this split, it stopped. See *id.*

<sup>106</sup> Clarence Gilbert Hoag, *A Protest*, 16 EQUITY 51 (1914); see also SANTUCCI, *supra* note 2, at 56–57.

<sup>107</sup> Hoag, *supra* note 106, at 56–57.

<sup>108</sup> Thompson, *The Vital Points of Charter Making*, *supra* note 96.

<sup>109</sup> THE SOCIALISM OF TO-DAY, *supra* note 69, at 551–53.

the Social Democratic League of America.<sup>110</sup> Thompson illustrated how most Socialists took the break: while livid over what he saw as a bad strategic (and democratic) choice, he remained on the PR League Council, perhaps believing some representation was better than none.<sup>111</sup> Progressives set the path; the question for the left was not whether but how much to go along.

The divide could have been avoided. In the late 1930s, political scientist Harold Foote Gosnell concluded PR worked best with a list system and a candidate preference; from his experience, “Non-partisanship is a fiction.”<sup>112</sup> Still, this establishment change of heart was too little, too late, as PR-STV had built a national movement. By the time PR entered the real world, it faced a conflict between the reality of politics and its anti-political vision.<sup>113</sup> The fight over PR-STV and List PR was tiresomely technical. But the rift it revealed highlighted the differences between PR’s two main advocacy groups and set PR on its ill-fated 20th century path.

## II. PR’S PASSAGE: 1915–1945

In the PRL’s early life, proportional representation was more academic than attainable. That began to shift after Los Angeles came within a few hundred votes of adopting PR. And despite spats with Socialists over where the movement should go, 1915 marked a turning point: Ashtabula, a small town in northeast Ohio, became the first U.S. city to use PR elections locally. Over the next 33 years, 24 other cities, from Hopkins, MN, to New York, NY, adopted PR.<sup>114</sup>

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<sup>110</sup> EQUITY, July 1917, 19.3, at 206; Barber, *supra* note 10, at 55.

<sup>111</sup> SANTUCCI, *supra* note 2, at 157–58.

<sup>112</sup> Harold Foote Gosnell, *A List System with Single Candidate Preference*, 33 AM. POL. SCI. REV. 645, 647 (1939). Here, he built on Professor Joseph Harris, who showed that partisan PR was the best solution, shown by even non-partisan PR cities later including partisan candidate slates. *See* Gosnell, *supra* note 112.

<sup>113</sup> *See* SANTUCCI, *supra* note 2, at 166–174; *see also* Kolesar, *infra* note 115 (whereas “previously their arguments had dwelt most strongly on the ‘good government’ aspects of reform,” . . . now [PR advocates] had to emphasize democracy and security).

<sup>114</sup> Leon Weaver, *The Rise, Decline, and Resurrection of Proportional Representation in Local Governments in the United States*, in ELECTORAL LAWS AND THEIR POLITICAL CONSEQUENCES 139 (Bernard Grofman & Arend Lijphart eds., 1986), at 140–41.

This Part tells the story of these adoptions, focusing on the coalitions of Progressives, laborites, and socialists that made it possible. Many of these adoptions are well-documented. But most accounts either emphasize them as “without exception” part of Progressive reform<sup>115</sup> or see the campaigns as outside “traditional ‘right/left’ political boundaries . . . because electoral reform is not itself inherently political.”<sup>116</sup>

Here, however, by showing that labor and left backers were key in nearly every PR city, I aim to universalize lessons about PR’s passage that takes seriously its full ideological support. The Part begins by tracking an early wave of PR campaigns in small cities and discussing how early court cases influenced the direction of the movement. It then discusses the left and labor’s role in four Ohio cities from 1921–1935, New York City in 1936, and five Massachusetts municipalities from 1940–1950. In all, these groups were crucial—to first passage, then repeal.

#### *A. To Ashtabula . . . and Beyond*

Turning PR from possibility to policy came hesitatingly. This section discusses those early efforts in the first four cities to pass PR: Ashtabula, OH, Boulder, CO, Kalamazoo, MI, and Sacramento, CA. In each, the coalitions included third parties, labor unions, or both. But success drew both backlash and reflection. The section thus considers two early state court cases striking down PR, along with how movement leaders changed their advocacy in response.

By 1915, PR supporters had two near-victories. The Los Angeles example suggested that voters of varying stripes were open to new voting systems. Additionally, in Oregon, where the

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<sup>115</sup> *Id.* at 140–41; see also Robert J. Kolesar, *Communism, Race, And The Defeat Of Proportional Representation In Cold War America*, FAIR VOTE (April 20, 1996), <https://fairvote.org/archives/communism-race-and-the-defeat-of-proportional-representation-in-cold-war-america/>. (claiming PR “deriv[es] from the Progressive era of electoral reform,” which later had a “surge of interest” after the “political realignment” of the New Deal and World War II eras).

<sup>116</sup> See Angela Sbrano, *How Should Alaskans Choose? The Debate over Ranked Choice Voting*, 37 ALASKA L. REV. 295, 297–302 (2020). When more attention is paid to the class coalitions, there is often a regional focus. Professor Kathleen Barber’s major work, for example, discusses labor in depth but focuses primarily on coalitions in Ohio, see generally Barber ed., *supra* note 10, while Professor Daniel Prosterman’s account also highlights the role of third parties but mainly just in New York City, see PROSTERMAN, *supra* note 24.

People's Power League had passed an amendment-by-initiative letting cities adopt PR, proved the idea's purchase beyond just insider reformers.<sup>117</sup> Both campaigns had also emphasized that PR could help the left win, with LA Progressives believing Socialists would moderate if they won seats and Oregon advocates trumpeting that Socialists and Prohibitionists would gain power, which drew labor leaders—fearful of direct democracy's dilutions—to the cause.<sup>118</sup>

Learning from these experiences, PRL activists developed a “reform template” for new cities: council-manager government, citywide districts, a non-partisan ballot, and PR-STV.<sup>119</sup> Ashtabula, Ohio, presented the first test case. Clarence Hoag, PRL secretary, fortuitously left his Cleveland train in Ashtabula, where he found an audience reforming the town charter.<sup>120</sup> Hoag's won the cooperation of Councilman William Boynton, a “prominent union” man and “ardent Progressive” who pitched PR to decrease corruption and let the people “govern themselves.”<sup>121</sup> He first won a commission to study PR, including both Chamber of Commerce officials and a Socialist, a party which had long been “organized and vigorous” but rarely won office.<sup>122</sup> With this mixed coalition, PR passed with 60% support in 1915, with “labor elements . . . chiefly responsible” for the win.<sup>123</sup> In that first election, the Socialist R.W. Earlywine won the Socialists' first PR seat. As it turned out, this would be the only minor party victory in all of Ohio.<sup>124</sup>

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<sup>117</sup> Sarah M. Henry, *Progressivism and Democracy: Electoral Reform in the United States, 1888-1919*, at 208–09, 211–214 (Ph.D. Diss., Columbia University, 1995). No Oregon city, however, used the permission they earned.

<sup>118</sup> Henry, *supra* note 117, at 208–09, 211–214.

<sup>119</sup> See SANTUCCI, *supra* note 2, at 75. This anti-party approach took hold almost everywhere. Only one city, New York, made partisan labels an explicit part of the ballot. And only four cities' coalitions were even associated with parties when they passed the policy: Ashtabula, Kalamazoo, Cleveland, and New York. See *id.* at 80.

<sup>120</sup> HOAG & HALLETT, *supra* note 31, at 193. The provision was actually delayed one year and put to vote the year after the new charter was ratified. *Id.*

<sup>121</sup> Ronald J. Busch, *Ashtabula: The Pioneer Community*, in *PROPORTIONAL REPRESENTATION AND ELECTION REFORM IN OHIO* 83, 91 (Kathleen L. Barber ed., 1995); see also HOAG & HALLETT, *supra* note 31, at 193–94. Boynton was a railroad engineer and former city council president. See Barber, *supra* note 10, at 59.

<sup>122</sup> Charles A. Bloomfield, *Ashtabula's Experience with Proportional Representation* (Master's thesis, Columbia Univ., 1926), at 12; Busch, *supra* note 121, at 89, 92.

<sup>123</sup> Busch, *supra* note 121, at 93–94; HOAG & HALLETT, *supra* note 13, at 197.

<sup>124</sup> Busch, *supra* note 121, at 107; HOAG & HALLETT, *supra* note 13, at 197.

Ecstatic about their first win, PR leaders took the reform template westward to Boulder, Colorado. In 1917, Boulder formed a charter convention committee.<sup>125</sup> Four of the twenty-one candidates were labor-affiliated, joining the biggest “Commerce” group.<sup>126</sup> Like in Ashtabula, this business-labor alliance added Hare PR to the charter, here by a five to one margin, “well tutored” by the National Municipal League. Activists’ goals were anti-party: to “insure[] a real representation of like-thinking groups of voters” while “minimiz[ing] also the well-known evils of parties and of excessive campaign funds.”<sup>127</sup> Progressive framing had won.

PR still, however, retained some left elements. The PRL sent representatives to Kalamazoo, Michigan, in 1918, to put a PR question on the ballot, which won with 78% of the vote on the advice of a reform-minded city manager.<sup>128</sup> In the first election, Kalamazoo, which had essentially been a one-party city,<sup>129</sup> elected a “caustic” Socialist.<sup>130</sup> Two years later, Sacramento passed PR by a similar margin, backed by organized labor and the newspapers. The first election saw the first female representative and the first laborite win seats.<sup>131</sup> Around the same time, Massachusetts nearly became the first state to constitutionalize Party List PR, an idea driven by the state’s lone Socialist legislator.<sup>132</sup> He decried under-representation of the Socialist and Socialist Labor parties, a “disfranchisement” that would be cured by the “progressive” and “good” legislation PR would create.<sup>133</sup>

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<sup>125</sup> William O. Winter, *The Long, Unhappy Life of the Hare System in Boulder* (paper presented at the Annual Meeting of the American Political Science Association, Sept. 2–5, 1982).

<sup>126</sup> *Id.* at 5.

<sup>127</sup> *Id.* at 5, 7.

<sup>128</sup> HOAG & HALLETT, *supra* note 13, at 202.

<sup>129</sup> *See* SANTUCCI, *supra* note 2, at 3 n.3.

<sup>130</sup> *Id.* at 202.

<sup>131</sup> *Id.* at 205.

<sup>132</sup> *See* 2 DEBATES IN THE MASSACHUSETTS CONSTITUTIONAL CONVENTION [1917–1919], at 202–06 (1919). Representative Morrill had asked Carl Thompson of the Socialist Party for information on Proportional Representation and had proposed it in legislative session multiple times before.

<sup>133</sup> MASSACHUSETTS DEBATES, *supra* note 132, at 204, 206 (statement of Del. Charles H. Morrill). Though the convention rejected the proposal, they prepared a “Bulletin” on PR, which stated it was “discussed in America” since



This momentum was short-lived. Voters immediately attacked PR politically and legally. Boulder saw (but fought back) a repeal campaign just two years after adoption. Disgruntled residents in Michigan and California soon also brought lawsuits alleging PR violated their state constitutions. Courts in both states agreed.

Prior state court decisions had considered and largely struck down other alternative voting schemes. Cumulative voting,<sup>134</sup> limited voting,<sup>135</sup> and preferential voting<sup>136</sup> each had mixed precedents. One 1897 treatise concluded that “minority representation and cumulative voting can be provided for only by constitutional provision.”<sup>137</sup> By 1915, right before Ashtabula acted, the *Harvard Law Review* noted that courts had been “stricter” when considering the “very nature of the vote,” explaining the split over alternative systems by reference to small differences in constitutional text.<sup>138</sup> Its analysis conceded that untested schemes were in trouble.<sup>139</sup>

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Mill, cited Illinois and Pennsylvania’s minority representation systems along with Oregon’s constitutional enabling amendment. See 2 BULLETINS FOR THE CONSTITUTIONAL CONVENTIONS 1917–1918, at 325–33 (1919).

<sup>134</sup> See, e.g., *Maynard v. Board of Canvassers*, 84 Mich. 228 (Mich. 1890) (unconstitutional); *State ex rel. Shaw v. Thompson*, 21 N.D. 426 (N.D. 1911) (violates state statutes and likely unconstitutional). *But cf.* *People ex rel. Longenecker v. Nelson*, 133 Ill. 565 (Ill. 1890) (constitutional due to explicit constitutional text but assumed limited voting would be unconstitutional).

<sup>135</sup> See, e.g., *Bowden v. Bedell*, 53 Atl. 198 (N.J. 1902) (unconstitutional); *State v. Constantine*, 42 Ohio 4377 (Ohio 1884) (unconstitutional); *Opinion to the House of Representatives*, 41 Atl. 1009 (R.I. 1898) (unconstitutional). *But see* *Commonwealth ex rel. McCormick v. Reeder*, 33 Atl. 67 (Penn. 1895) (constitutional due to long history).

<sup>136</sup> See, e.g., *Brown v. Smallwood*, 153 N.W.953 (Minn. 1915) (unconstitutional); *Fitzgerald v. City of Cleveland*, 103 N.E. 512 (Ohio 1913) (constitutional); *Orpen v. Watson*, 93 Atl. 853, 96 Atl. 43 (N.J. Sup. Ct. 1915), *aff’d mem. on other grounds*, 96 Atl. 43 (N.J. 1915) (constitutional but only after court misconstrues vote-counting system); *see also* *Adams v. Lansdon*, 110 Pac. 280 (Idaho 1910) (constitutional in primary elections); *State ex rel. Zent v. Nichols*, 97 Pac. 728 (Wash. 1908) (constitutional in primary elections).

<sup>137</sup> G.W. McCrARY, A TREATISE ON THE AMERICAN LAW OF ELECTIONS 157–58 (G.W. McCrary & Henry L. McCune ed., 4th ed. ed. 1897). The treatise said these systems had “inherent deficiencies and objections” that rendered them undesirable, including being “too tedious and complex to be generally practicable.” *Id.* at 159–60. Additionally, presaging future criticism of PR, the same treatise suggested that the Hare system of “Preferential voting” (essentially, PR for single-member districts) was “too complicated and intricate to be useful in popular elections, and its theory need not be explained here.” *Id.*

<sup>138</sup> Note, *Are Preferential Voting Systems Unconstitutional?*, 29 HARV. L. REV. 213, 213–14 (1915). The analysis reflected the prevailing concern that legality could hinge on specific constitutional text—namely, whether there was a guarantee of voting “for all officers” or “at all elections.” *Id.* at 214–15.

<sup>139</sup> *Are Preferential Voting Systems Unconstitutional*, *supra* note 138, at 215.

The courts considering Kalamazoo’s and Sacramento’s plans ran with these precedents. In *Wattles v. Upjohn*<sup>140</sup> in 1919, the Michigan Supreme Court held that PR-STV violated the state constitutional guarantee of a right to vote “in all elections.”<sup>141</sup> The court based its ruling on that text and precedents on similar systems. But in a meandering opinion, it also linked with PR with communism, suggested it undermined political stability, and called it too “tedious.”<sup>142</sup> With this ruling—driven by party leaders who disliked Socialists, business leaders who despised the councils’ tax reforms, and a court with ties to local Republicans<sup>143</sup>—PR was on unsteady footing. When the old system was reinstated, the Socialist labor candidate immediately lost re-election.

This trouble continued in California, where *People v. Elkus*,<sup>144</sup> struck down Sacramento’s system. The court again emphasized specific text on the right to vote “at all elections” as the reason to strike down PR’s multi-member-council system.<sup>145</sup> But like in *Wattles* (which it cited repeatedly), the court’s policy objections were unmasked, calling Hare “complicated” and concluding that “however alluring in theory, such intangible, undefined theoretical demarcation” was not a “legal substitute” for geographic representation.<sup>146</sup> Again, like in Kalamazoo, the labor representative immediately lost, along with every non-partisan candidate.<sup>147</sup>

The fact that the first two rulings on PR struck it down caused a crisis.<sup>148</sup> PR leaders needed a strategy to save their prized policy: though each state court and constitution was different, the fact that California had relied on Michigan suggested bad precedents would have legs. So, William Anderson, a PRL-aligned political scientist, spun out 18 pages on the “fairly simple problem in

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<sup>140</sup> 179 N.W. 335 (Mich. 1920).

<sup>141</sup> *Wattles*, 179 N.W. at 338 (citing Mich. Const. of 1908, art. I, § 3).

<sup>142</sup> *Id.* at 339–43

<sup>143</sup> Barber, *supra* note 10, at 63.

<sup>144</sup> 211 Pac. 34 (Cal. Ct. App. 1922)

<sup>145</sup> *Id.*

<sup>146</sup> *Elkus*, 211 Pac. at 38–39.

<sup>147</sup> PROSTERMAN, *supra* note 24, at 34.

<sup>148</sup> Note, *Constitutional Law - Elections - Validity of Hare System of Voting*, 36 HARV. L. REV. 881, 882 (1923).

the construction of state constitutions,”<sup>149</sup> offering a two-step roadmap for beating “doubt[s]” over PR’s constitutionality: First, instead of textualism, show that the historical aim of “all elections” clauses was to establish the “equality of right among voters.”<sup>150</sup> Second, turn the tables, showing that *ordinary* systems voting—not PR—“destroy the equality which should exist.”<sup>151</sup> Even if provisions on a right to elect “all officers” may make multi-member districts impossible,<sup>152</sup> most PR policies could be saved with the right legal arguments. As opposition to PR grew, Anderson’s approach grew in importance.

### *B. The Ohio Wave: 1921–1935*

Initial fears for the future of PR faded as the movement refocused on Ohio. Ashtabula’s plan had withstood a repeal attempt in 1920. Now, activists turned to Cleveland. This section maps the coalitions that brought PR to Cleveland, Cincinnati, Hamilton, and Toledo from 1921 to 1935.<sup>153</sup> Drawing from Professor Kathleen Barber’s study, it shows that a Progressive-labor alliance was key in each city. It also considers the first court case allowing PR.

Ohio, with its strong tradition of Progressivism and embrace of the I&R, was an ideal place for PR to build roots.<sup>154</sup> In Cleveland, Professor A.R. Hatton began the PR in 1921 with the.<sup>155</sup> Sides quickly took shape. Here, the labor movement was split. The Cleveland Federation of Labor, the city’s biggest union and an AFL affiliate, opposed the charter, believing at-large councils would better serve workers than parochial segments.<sup>156</sup> They were joined by both major parties and the

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<sup>149</sup> William Anderson, *The Constitutionality of Proportional Representation*, 12 NAT’L MUN. REV. 745, 745 (1923).

<sup>150</sup> *Id.* at 752–57, 762.

<sup>151</sup> *Id.* at 762.

<sup>152</sup> Anderson, *supra* note 149, at 762.

<sup>153</sup> West Hartford, Connecticut, technically adopted PR in 1921 too, but its system was never used before the state legislature repealed the tiny suburb’s attempt to use it. Wheeling, West Virginia, ended Ohio’s streak at the other end in 1935.

<sup>154</sup> JOHN J. DINAN, *THE AMERICAN STATE CONSTITUTIONAL TRADITION* (2006); *see* Barber, *supra* note 10, at 41–43.

<sup>155</sup> HOAG & HALLETT, *supra* note 13, at 209.

<sup>156</sup> Thomas F. Campbell, *Mounting Crisis and Reform: Cleveland’s Political Development*, in *THE BIRTH OF MODERN CLEVELAND, 1865–1830* (Thomas F. Campbell & Edward M. Miggins eds., 1988), at 313; *see also* Kathleen L. Barber,

Chamber of Commerce, uniting the city’s conservative elements.<sup>157</sup> However, the working class was not united. Fifteen dissenting locals formed a “Union Labor P.R. Club,” led by the Brotherhood of Locomotive Engineers, who spread the pro-PR gospel to workingmen.<sup>158</sup> One local Socialist newspaper even platformed this Club with a column and endorsed PR as a way to “take the ‘lid’ off all the real but now repressed opinions of the voters of this city.”<sup>159</sup>

Voters approved the charter by a 57% margin. Under the first election, a diverse set of interests won representation: labor backed Independents and Democrats, and reformers like NML-affiliated Hatton gained a seat.<sup>160</sup> Frustrated partisans quickly sued. This time, however, the Ohio Supreme Court upheld the system.<sup>161</sup> Part of the ruling turned on Ohio’s home rule provisions, which included fewer constitutional constraints than did those of Michigan and California.<sup>162</sup> But the court went further to defend PR as a system. Judge Florence Allen explained the workings of PR at length, recognizing that voters retained a vote in “all elections,” even if that vote was *effective* for fewer than the full slate of candidates.<sup>163</sup> Despite past Ohio precedent against “limited

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*PR and Boss Rule: The Case of Cleveland*, in PROPORTIONAL REPRESENTATION AND ELECTION REFORM 8 IN OHIO 119 (Kathleen L. Barber ed., 1995),

<sup>157</sup> Barber, *supra* note 156, at 123.

<sup>158</sup> PROPORTIONAL REPRESENTATION REV., 1922, 61:4; *see also* Barber, *supra* note 156, at 122; HOAG & HALLETT, *supra* note 13, at 209 (counting Warren Stone, the “widely respected president” of the BLE, and some “other labor leaders,” among the supporters).

<sup>159</sup> CLEVELAND CITIZEN, 5 Nov. 1921, p. 3; Barber, *supra* note 156, at 122.

<sup>160</sup> HOAG & HALLETT, *supra* note 1313, at 212.

<sup>161</sup> 141 N.E. 27 (Ohio 1923); *id.* at 29–30. The court on the same day upheld the Hare system from a separate challenge in *Hile v. City of Cleveland*, 141 N.E. 35 (Ohio 1923), *dismissed for want of jurisdiction*, 266 U.S. 582 (1924). There, the court rejected arguments that Hare STV violated constitutional protections against suspension of laws, statutory provisions on forms of municipal government, and federal guarantees of equal protection and republicanism. *Id.* at 36–38. Notably, the court defined Republican government as “of the people, for the people, and by the people,” concluding that Hare-STV was a “form of government by express vote of the people.” *Id.* at 37.

<sup>162</sup> *Reutener*, 141 N.E. at 30. *See also* E.L. Bennett, *Is P.R. Constitutional?*, 12 NAT’L MUN. REV. 288, 288 (1923).

<sup>163</sup> Bennett, *supra* note 162, at 290. Judge Allen had also been active in Progressive municipal reforms before serving on the court, including supporting organizations that favored PR—in partisan contrast with the Michigan and California judges who were aligned with parties opposing PR. *See* JEANETTE E. TUVE, *FIRST LADY OF THE LAW: FLORENCE ELLINWOOD Allen* 92–93 (1984); *see also* Barber, *supra* note 10, at 63.

voting,” the court understood Hare PR as a different system needing different constitutional analysis<sup>164</sup>—proving Professor Anderson’s exhortations prescient.

Now, with one of America’s biggest cities in tow, reform spread to Cincinnati. A city dominated by Republican bosses, Cincinnati backers fell into two camps: independent Republicans and progressive Democrats who sought minority representation.<sup>165</sup> Both shared a “growing hostility to bossism.”<sup>166</sup> And they united in 1924 under the City Charter Committee, growing from earlier efforts to decrease partisanship.<sup>167</sup> That committee was largely a “good government” organization and intensely non-partisan.<sup>168</sup> Yet they also practiced coalitional politics, drawing on women’s groups as key organizers, for example, and discussing how Labor Republicans carried nearly half of a recent vote while getting zero party nominations.<sup>169</sup> “Labor elements,” seeing PR’s potential, became “among [its] staunchest supporters.”<sup>170</sup>

This anti-party coalition won the charter in a landslide. Such a strong showing was likely more attributable to local issues than deep Progressive commitments. (The city backed Calvin Coolidge for president in the same year).<sup>171</sup> Charter, now operating like a party, emphasized the “goo-goo” aspects of their new PR system, calling on voters to support them in the inaugural 1925 election “not because they are Republicans or Democrat or La Follette men or Socialists or

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<sup>164</sup> Bennett, *supra* note 162, at 291 (citing *State v. Constantine*, 42 Ohio 437 (Ohio 1884)). It is striking that the Ohio court itself refused to rely on past Ohio precedent, while Michigan and California courts cited the same earlier Ohio case as evidence for the unconstitutionality of PR.

<sup>165</sup> Robert J. Kolesar, *Cincinnati: From “Good Government” to the Politics of Inclusion?*, in *PROPORTIONAL REPRESENTATION AND ELECTION REFORM IN OHIO* 163–64 (Kathleen L. Barber ed., 1995).

<sup>166</sup> W. Donald Heisel, *Abandonment of Proportional Representation and the Impact of 9-X Voting in Cincinnati* (on file with author) (paper presented at the annual meeting of the American Political Science Association, 1982).

<sup>167</sup> Kolesar, *supra* note 165, at 166–68. One such effort was the humorously named “Birdless Ballot League,” organized to keep party labels—In both cases, various avian creatures—from being printed on ballots. *Id.* at 166; *see also* STRAETZ, *supra* note 22, at xvi.

<sup>168</sup> Robert A. Burnham, *Reform, Politics, and Race in Cincinnati: Proportional Representation and the City Charter Committee, 1924-1959*, 23 *J. URBAN HIST.* 131, 131 (1997).

<sup>169</sup> STRAETZ, *infra* note 293, at xvi.

<sup>170</sup> Weaver, *supra* note 114, at 151 n.8.

<sup>171</sup> STRAETZ, *infra* note 293, at xvii; *see also* Kolesar, *supra* note 165, at 169.

anything else . . . but because they are men fitted to govern this city.”<sup>172</sup> Still, recognizing the coalitions that clinched its victory, Charter’s first candidates included Catholics, Jews, women, and labor.<sup>173</sup> For labor at least, backing PR paid off: In 1925, a “leading labor leader” joined the council, along with industrialists, professors, and city employees.<sup>174</sup> More broadly, “Labor’s right to representation under PR was accepted by both parties from the start.”<sup>175</sup> A Progressive, good-government, labor-supportive coalition had formed a new PR hub.

Two more Ohio cities joined the PR trend in the next decade: Hamilton and Toledo. In both, local labor played a key role. In Hamilton, an industrial center kitty-corner from Ashtabula, activists drew on the NML model charter, bringing in Hallett to consult.<sup>176</sup> Some unions opposed PR, but the most powerful Trades and Union Council, whose president had served on the charter commission, lined up support.<sup>177</sup> Here, unlike elsewhere in Ohio, however, labor was slower to see results: the Socialist Party could not elect a candidate in the first election, the Trades Council president lost handedly, and labor-endorsed independent candidates also failed.<sup>178</sup>

Toledo was the last of the Ohio wave. Here reform was more an uphill battle, and delay meant PR was born under different circumstances. Reformers put PR up for election in 1927, aided by PRL staffers. It failed, and took seven years—and a campaign by local college students to

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<sup>172</sup> Henry Bentley, “City Charter Government,” Speech delivered at the 3rd Civic Dinner of the Charter Committee, Jan. 1928; *see also* Burnham, *infra* note 168, at 135.

<sup>173</sup> Burnham, *infra* note 168, at 137.

<sup>174</sup> STRAETZ, *infra* note 293, at 46, 126.

<sup>175</sup> STRAETZ, *infra* note 293, at 126; *see id.* at 92 (“A union man was on the first PR Council, and there have usually been one or two on every Council since.”).

<sup>176</sup> Leon Weaver & James L. Blount, *Hamilton: PR Defeated by Its Own Success*, in *PROPORTIONAL REPRESENTATION AND ELECTION REFORM IN OHIO* 213–14 (Kathleen L. Baber ed., 1995).

<sup>177</sup> Weaver & Blount, *supra* note 176, at 215.

<sup>178</sup> *See* HOWARD WHITE, *CITY MANAGER GOVERNMENT IN HAMILTON [OHIO]* 30 (1940); *see also* Weaver & Blount, *supra* note 176, at 221.

canvass the city for free—for PR to pass.<sup>179</sup> Here, the Central Labor Union, opposed PR, as it did all at-large elections. But academics and good government forces swept in the new charter.

Ohio's odd set of five cities thus made it the country's first widely pro-PR state. Passing these policies in the last dregs of the Progressive Era, anti-party, good-government sentiment predominated, with little role for radical third parties, even as union elements proved crucial. Labor, however, was at times split, reflecting different approaches to power-building in the vacuum of national labor groups' abdication of formal politics. Ohio, unlike LA, Kalamazoo, and Sacramento before, had shown that with supportive courts, and fewer allegations of radical "Goo-Goo Socialist Coalitions," voters were open to new election systems.

### C. *New York City: 1936*

It took twelve years after Cincinnati for another major city to pass PR. What a coup that was: New York City. This Section recounts how PR came to NYC. Similar to other cities, labor and the left played a significant role, but here in a new context: post-War partisan realignments had begun, while the Depression wracked the economy. New York's fight for PR thus came with more ideological and partisan conflict—a window into radical-reformist alliance circa 1936. Courts upheld the city's effort. And the long battle for the control of reform led to a PR system with the biggest partisan impact—presaging challenges that would precipitate its repeal.

Despite decades-long advocacy, it took until the 1930s for the right PR coalition to emerge in NYC. This movement started reformist, aiming at the corrupt Tammany Democrats,<sup>180</sup> who in 1932, comprised 98% of the council.<sup>181</sup> Building the movement around a 1932 report by Samuel

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<sup>179</sup> Dennis M. Anderson, *PR In Toledo: The Neglected Stepchild of Municipal Reform*, in *PROPORTIONAL REPRESENTATION AND ELECTION REFORM IN OHIO* 244 (Kathleen L. Barber ed., 1995).

<sup>180</sup> PROSTERMAN, *supra* note 24, at 3–4, 39–40.

<sup>181</sup> George H. McCaffrey, *Municipal Affairs: Proportional Representation in New York City*, 33 *AM. POL. SCI. REV.* 841, 841 (1939).

Seabury, the PRL's Hallett collaborated with the Socialist-aligned Civic Affairs Committee and a beleaguered Republican Party.<sup>182</sup> Illustrating leftist uptake, the *Nation* endorsed Seabury's plan, saying it "would give minority parties . . . a definite voice" in government.<sup>183</sup> And the Socialist's 1933 municipal platform to include PR to secure "adequate representation for minority political parties and groups as a check on abuse of political power."<sup>184</sup>

Though the Seabury plan stalled, it fostered a new City Fusion Party that by 1935 had won a commission with real power to change the charter. Staffed by technocratic professors and a Socialist official, the commission proposed a Hare PR charter drafted by Hallett.<sup>185</sup> Hearings about the charter proved Hallett right that PR was a chance for "effective representation of minorities": Supportive testimony came from the Socialist Party, the City Affairs Committee, Communist Party, American Labor Party, Teachers Union, Central Trades and Labor Council, and Merchants' Association of New York—all aligned in attacking Tammany.<sup>186</sup>

The 1936 ballot included charter reform and PR adoption.<sup>187</sup> Legal opposition arose immediately. The Democratic Party sought to keep PR off the ballot, challenging both the commission as an unconstitutional delegation of legislative power and the legality of PR. Citing home rule, two local judges rejected the suits, and the Court of Appeals affirmed, saving PR's place on the ballot.<sup>188</sup> Without a backup challenge, the Democrats had little to rally behind. As the

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<sup>182</sup> PROSTERMAN, *supra* note 24, at 40–41.

<sup>183</sup> *The Seabury Plan*, NATION (Jan. 11, 1933), at 32.

<sup>184</sup> SOCIALIST PARTY, SOCIALIST MUNICIPAL PLATFORM 2, 11–12 (1933).

<sup>185</sup> McCaffrey, *supra* note 171 at 843; *see also* PROSTERMAN, SUPRA NOTE 24, at 52–53;

<sup>186</sup> PROSTERMAN, *supra* note 24, at 56; *id.* at 67–70 67–68, 70 (noting a "coalition of good-government groups, labor unions, and smaller political parties," *id.* at 70). There was not perfect unanimity: the socialist Louis Waldman, for instance, switched sides to oppose PR. *Id.*

<sup>187</sup> *Id.* at 66. The one Socialist on the committee objecting to separating the proposals. *See id.*

<sup>188</sup> *See* Mooney v. Cohen, 4 N.E. 2d 73 (N.Y. 1936).



Citizens' Charter Campaign Committee distributed 2 million pieces of campaign literature and holding hundreds of meetings,<sup>189</sup> NYC voters adopted PR by a two-to-one margin.<sup>190</sup>

Democrats, still discontented by this left-labor-reformist win, challenged the policy again in court. Like in other states, they argued it violated the right to vote “in all elections.” Trial courts split, with one believing PR created “greater power of voting” and another saying it “impair[ed] the effectiveness of the individual vote.”<sup>191</sup> Republicans and good government groups aligned to protect the policy on appeal; one lawyer was even a former Socialist legislator who had been kicked out of the legislature in the Red Scare.<sup>192</sup> Ultimately, the state high court in *Johnson v. City of New York*<sup>193</sup> upheld the system by a six to one vote.<sup>194</sup>

The *Johnson* decision provoked a wave of legal commentary, demonstrating PR's national salience. A *Michigan Law Review* Note, for example, citing the split decisions on PR, concluded that the constitutionality of PR now seems “inconclusive,” with “broader grounds of supposed policy” the driving factor in defining “election.”<sup>195</sup> *HLR* also continued its alternative-election coverage, describing Hare as a system that “fairly apportion[s] the representation of each group” and is “clearly consistent” with historical support for minority representation.<sup>196</sup>

The first PR elections prove the advocacy of left parties and labor groups correct. In 1935, candidates from outside the major two parties got 7.5% of the vote and 0% of the council seats; in

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<sup>189</sup> McCaffrey, *supra* note 181, at 844.

<sup>190</sup> *Id.* at 844; . The voters approved the charter by a similar margin. *Id.*

<sup>191</sup> See *Matter of Bowe v. Cohen*, 274 N.Y. 411 (N.Y. 1937); see also *Democrats Fight Proportional Vote; Five Borough Organizations Join in Suit Attacking its Constitutionality*, N.Y. TIMES, Feb. 26, 1937, at 2; *New Election Law Fought as Invalid; Suit Calls it 'Lottery' with Luck Determining the Selections at Polls*, N.Y. TIMES, Feb. 21, 1937, at 21.

<sup>192</sup> PROSTERMAN, *supra* note 24, at 85.

<sup>193</sup> 9 N.E. 2d 30 (N.Y. 1937).

<sup>194</sup> See *Johnson*, 9 N.E. The lone dissenter argued that PR violated the “principle of majority rule which basically underlies the American system of representative government.” *Id.* at 439.

<sup>195</sup> Gerald M. Stevens, *Constitutional Law: Elections: Proportional Representation*, 36 MICHIGAN LAW REVIEW 1192, 1192–94 (1938).

<sup>196</sup> Note, *Preferential Balloting Under Proportional Representation System*, 50 HARV. L. REV. 1314, 1314 (1937) (citing *Johnson v. New York City*, 9 N.E. 2d 30 (N.Y. Sup. Ct. 1937)).

1937, minor parties skyrocketed to 37.5% of the vote and 30.8% of the seats.<sup>197</sup> Chief among those beneficiaries was the American Labor Party.<sup>198</sup> Despite controversy—Socialists despised the ALP backed some major party candidates<sup>199</sup>—the ALP, Socialists, and Communists aligned to sweep ALP members to a twenty-six member council.<sup>200</sup> These results encouraged the left, with a Communist magazine believing even *more* progressive unity could have secured majority control.<sup>201</sup> This leftist alliance shows the political savvy of their parties: if “progressive elements unite and organize effectively,” they had a real shot at real power.<sup>202</sup>

By 1937, then, PR had gone from academic outgrowth to how America’s largest city chose its officials. It had done so thanks to a coalition spanning top-down technocrats to radical partisans. This success made a political difference: putting partisanship on the ballot led minor parties finally winning the PR gains they envisioned. Now that courts, too, had swung in their favor, and the Goo-Goo–Socialist alliance had figured out how to win, PR looked unstoppable.<sup>203</sup>

#### *D. The Massachusetts Ripple: 1940–1947*

The PRL was optimistic after winning in NYC. Their optimism was misplaced. Only Norris, TN, won PR in the next four years. Indeed, no major city outside of Massachusetts passed PR again. This section discusses the seven Bay State cities to pass PR from 1940 to 1947—the last

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<sup>197</sup> Silva, *supra* note 11, at 763. Despite these gains, Democrats retained a strong majority in each election. *Id.* at 764. Leftist parties narrowly missed another seat, as Communist candidate Peter V. Cacchione lost to a Republican by only 367 votes; the candidate who beat him then immediately turned to try passing a loyalty oath to outlaw Communist candidates. PROSTERMAN, *supra* note 24, at 107–108.

<sup>198</sup> HARRY W. LAIDLER, TOWARD A FARMER-LABOR PARTY 37–39 (1938).

<sup>199</sup> LAIDLER, *supra* note 198, at 37–39.

<sup>200</sup> PROSTERMAN, *supra* note 24, at 92. One of those elected ALP candidates was Michal G. Quill, leader of the Transport Workers Union. *Id.* at 101. Quill was later investigated for alleged ties to Communism, disparaged as “Red Mike,” and targeted later by HUAC. *Id.* at 114–15. Another ALP victor was B. Charney Vladeck, formerly elected to the council as a Socialist in 1917, then became a labor leader. *Id.* at 107. Tammany Democrats controlled 13 seats, while Fusion, Republicans, and independent Democrats won the other eight. *Id.* at 92–93.

<sup>201</sup> *PR at Work: How Progressive Unity Could Have Won—and Can Win*, STATE OF AFFAIRS, July–August 1939, at 4 (paper published by the Legislative and Research Bureau of the New York State Communist Party).

<sup>202</sup> *Deadlock in the City Council*, NEW MASSES, Jan. 18, 1938, at 3–6.

<sup>203</sup> See Amy, *supra* note 3, at 14 (noting that after NYC’s adoption, “[i]nterest in PR jumped drastically as a result”).

wave before repeals took hold. Though labor and the left remained supportive, their salience was far lower, illustrating labor's changing priorities and the left's declining power.

Cambridge, Massachusetts, is the only PR city left in the United States. Its path was paved by goo-goo advocates. The work began in 1938, when the state legislature passed a bill enabling "Plan E" government with PR councils. John Landis, then Dean of Harvard Law School, soon formed a "Committee for Plan E," made up of the "elite academic community,"<sup>204</sup> whose "good government" goal was to tackle waste and corruption.<sup>205</sup> Despite painting PR as the "fairest and most democratic form of voting,"<sup>206</sup> the city rejected it in 1938.

Plan E supporters regrouped in 1940, staying academic. In this "gown vs. gown" battle, Dean Landis sparred with Professor Albert Hart over minority representation and Professor Frederick Hermens over European fascism.<sup>207</sup> Opponents further alleged a "Harvard plot" to overrun Cambridge, perhaps why the Cambridge Central Labor Union opposed the elitist plan. Joining supporters was the Communist Party, which backed the "progressive feature" of PR, but opposed Plan E for embracing a city manager; rather than build left alliances, Landis downplayed Communist backing, seeing it as politically toxic. Ultimately, PR won by 7,500 votes, but less for its democratic merits than by for a local budget controversy driving change.<sup>208</sup>

Though the Cambridge coalition was more goo-goo, opponents' response was the same: go to court. Here, state supreme court upheld the plan in *Moore v. Election Commissioners of*

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<sup>204</sup> Rob Winters, *The Advent of PR in Cambridge*, CAMBRIDGE CIVIC J. (1998), <http://www.rwinters.com/CCA/PlanEorigin.htm>.

<sup>205</sup> Leon Weaver, Two Cheers for Proportional Representation in Cambridge, Massachusetts (1982) (unpublished manuscript) (presented at the Annual Meeting of the American Political Science Association, Sept. 2–5, 1982), at 1.

<sup>206</sup> Winters, *supra* note 204.

<sup>207</sup> Winters, *supra* note 204 ("Hart said he would rather have a form of government that would permit [him] to vote between one man or another, one cause or another, and then go home to dinner secure in the knowledge that a majority would decide the outcome.").

<sup>208</sup> Winters, *supra* note 204.

*Cambridge*.<sup>209</sup> The challenge was similar, alleging that PR makes a voter’s choice count in fewer than all elections. The court rejected this idea. Emphasizing deference, it believed “equality” in voting could come from a variety of election systems. As the court put it, a voter “has no constitutional right to elect officers of a particular type,”<sup>210</sup> and the legislature’s “broad power” to “prescribe the form of government of a city” included “broad power” to “prescribe the method of electing” officers.<sup>211</sup> PR was not “unreasonable” and—thus within the city’s power.<sup>212</sup>

*Moore* tipped PR into legal territory. As an *HLR* Note recounted, *Moore* moved state cases toward “equilibrium” and “highlight[ed] a series of state constitutional litigations the very existence of which might surprise the uninitiate,” referencing the PR cases and their predecessors in “unorthodox election” schemes which had long come “under fire.”<sup>213</sup> While citing the “difficult” questions about PR ballot transfers, the Note praised Massachusetts for seeing that the “constitution permits inequalities incident to the use of reasonable election methods.”<sup>214</sup>

Now backed by luminaries like Dean Landis, it was hard to call PR unreasonable. But its academic tinge limited its political potential. In the next six years, only Lowell<sup>215</sup> adopted Plan E. Then, in 1947, five cities acted. Good government forces were mostly responsible. In Revere, the self-proclaimed “‘father’ of Plan E,” supported “good government” and rejected all political entanglements.<sup>216</sup> In Quincy, a “well organized civic association” led the PR push.<sup>217</sup> And in

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<sup>209</sup> 35 N.E.2d 222 (Mass. 1941); *id.* at 133. That trend was only broken by one nonbinding advisory opinion from Rhode Island, which declared that Providence’s proposed use of PR would be unconstitutional against the constitution’s “all officers” clause. *See* Opinion to the Governor, 6 A.2d 147, 148 (R.I. 1939).

<sup>210</sup> *Moore*, 35 N.E. 2d at 321.

<sup>211</sup> *Id.* at 322.

<sup>212</sup> *Id.* at 324.

<sup>213</sup> Note, *Constitutionality of Unorthodox Election Methods*, 55 HARV. L. REV. 114, 114–15 (1941).

<sup>214</sup> *Constitutionality of Unorthodox Election Methods*, *supra* note 213, at 117–119.

<sup>215</sup> Two cities elsewhere also adopted (and then nearly immediately repealed) PR: Coos Bay, Oregon, where it lasted for four years, and Long Beach, New York, which also spanned just four years.

<sup>216</sup> *Gerald Woodland to be Candidate for Re-Election*, REVERE J., Sept. 6, 1951, p. 7; *see also* Dobrusin, *supra* note 221, at 90–91.

<sup>217</sup> Dobrusin, *supra* note 221, at 160.

Worcester, an association of businessmen, professors, and women’s advocates formed a “Plan E coterie” for “good government,”<sup>218</sup> emphasizing complaints about “ties between ward politicians and racketeers” and an “unwieldy council.”<sup>219</sup> Though some non-AFL local unions backed the charter,<sup>220</sup> and candidates “struggle[d] for the organized labor vote,”<sup>221</sup> Plan E was associated with “do-gooders and defeatists”<sup>222</sup>—apparently enough of them for a two-to-one victory.<sup>223</sup>

One common attack line was branding PR as Communist. In Medford, the mayor chosen when PR passed called it “costly” and “un-American,” citing NYC electing Communists.<sup>224</sup> In Quincy, PR’s main opponent was the Anti-Communist League, who sought the “tarring of Plan E with the Communist brush.”<sup>225</sup> And in Worcester, critics called PR “sponsored by the Communists,” who used women as a “front” to pass it.<sup>226</sup> Like in Cambridge, these Communism critiques were not enough to block the policy. But they showed that debate had shifted by the time the PR wave hit Massachusetts. Charges of Communism took on a different meaning by the 1940s, amid the second red scare and Americans’ changing perceptions of radical parties abroad.

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1947 marked the end of PR’s ascendance in American cities. After 24 success stories, driven largely by the PRL, and especially successful when joined by left parties and labor unions, PR ran out of steam. The PR movement had shown Americans were open to democratic experiments; the radical-reformist rift did not keep PR from gaining acceptance where it built the

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<sup>218</sup> BINSTOCK, *supra* note 219, at II-48.

<sup>219</sup> ROBERT H. BINSTOCK, A REPORT ON POLITICS IN WORCESTER, MASSACHUSETTS, at II-1, II-40 (1960).

<sup>220</sup> See *Proportional Representation* NAT’L MUN. REV. Oct. 1954, at 422.

<sup>221</sup> H. Manuel Dobrusin, *Proportional Representation in Massachusetts* (Ph.D. Diss., Boston University, 1955) (manuscript on file with author), at 83.

<sup>222</sup> WORCESTER TELEGRAM, Nov. 3, 1949, at 12; see also Dobrusin, *supra* note 221, at 389.

<sup>223</sup> Dobrusin, *supra* note 221, at 91.

<sup>224</sup> CITY OF MEDFORD, MUNICIPAL REPORT, 1948, at 3 (1948); see also Dobrusin, *supra* note 221, at 140-41; see also MEDFORD MERCURY, Oct. 20, 1947, at 4.

<sup>225</sup> Dobrusin, *supra* note 221, at 160.

<sup>226</sup> WORCESTER SUNDAY TELEGRAM, Oct. 26, 1947, at 17A; see also Dobrusin, *supra* note 221, at 90-91.

right coalition. The real impact of that rift would come when PR started playing out in practice, leaving coalitions with results—not just theories—on which to assess continued support.

### III. PR’S REPEAL WAVE: 1947–1961

The prior two Parts framed the rift in PR and how it played out—largely conceding to Progressive ideals while retaining labor support—in the two dozen cities where PR passed. This Part begins to show the rift widening—and its consequences. In spurts earlier, and quickly in 1947, a “landslide of repeals”—49 referenda between 1920 and 1961—swept the country.<sup>227</sup> By 1962, Cambridge stood alone. The historiography has offered a number of reasons for this decline,<sup>228</sup> including racial prejudice, anti-Communism, and the death of Progressivism.<sup>229</sup> More recently, Jack Santucci offered a partisan explanation, with “vote leakage” leaving PR with no clear set of supporters.<sup>230</sup> This Part extends this partisan emphasis, charting how the results under PR for labor and the left—coupled with national trends—undercut PR’s necessary coalition.

#### *A. Early Repeals: Ashtabula and Cleveland*

Most PR repeals began in 1947. But many repeal *campaigns* preceded that date, and two were successful. In Ashtabula, laborite Boynton had been the centrifuge of PR support, and the Socialist Earlywine won election to the first council. Those successes spurred opponents. In the second PR election, the Central Labor Union endorsed five candidates “fill[ing] . . . the minds of a few good people with visions of bolshevism.” Despite Boynton’s reputation, “many of the ‘better’ citizens” hesitated to “see organized labor” secure representation.”<sup>231</sup> Early repeal attempts

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<sup>227</sup> Silva, *supra* note 11, at 759 & n. 55; Barber, *supra* note 10, at 62 (citing CHILDS, *supra* note 25, at 67).

<sup>228</sup> See Sbrano, *supra* note 116, at 299.

<sup>229</sup> See Spencer et al, *supra* note 6, at 410 (“[T]he story of the *repeal* of ranked choice voting in these cities is, in some ways, intimately tied to the story of its success for racial minorities.”); see also Kolesar, *supra* note 115 (describing anti-PR forces as focusing on communism and racial bloc voting).

<sup>230</sup> See SANTUCCI, *supra* note 2, at 160–61.

<sup>231</sup> Raymond C. Atkinson, *Ashtabula’s Third “P.R.” Election*, 9 NAT’L MUN. REV. 9 (1920).

led by businessmen and partisan Republican fizzled out against PRL resistance. But by 1929, reformers believed minorities were “over represented,” creating the “root evil of bad government in Ashtabula,”<sup>232</sup> which had become “un-American.”<sup>233</sup> 56% of voters agreed. With good-government turned against reformers, PR’s Ashtabula rein ended after twelve years.

Cleveland next abandoned PR two years later in 1931. The first attempt, in 1925, saw local labor divided: the AFL-aligned Cleveland Federation still preferred ward elections, while the Typographical Union, Worker’s Party, and Union Labor P.R. Club believed PR worth it four years in.<sup>234</sup> With help from a PRL national organizer, the city rebuffed repeal.<sup>235</sup> But future alliances were less successful. Labor groups initially supportive of PR soured when the city manager passed anti-union policies,<sup>236</sup> while technocrat Progressives’ critiqued Cleveland’s district-based version of PR. With the core coalition shaken, Cleveland abandoned its charter.<sup>237</sup>

### *B. The Wave Begins: Boulder, NYC, Toledo*

Calm came after Cleveland’s 1931 repeal. The PRL had lost its first major catch, but momentum was building elsewhere.<sup>238</sup> For sixteen years this détente held off repeated repeal referenda. In 1947, however, the dam broke: four cities repealed PR, with four following in the new four years. The kicker was New York City; PR’s crown jewel crumbled a decade after it commenced. This section focuses on three significant repeals of this wave: Boulder, NYC, and

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<sup>232</sup> Busch, *supra* note 121, at 95–96; see ASHTABULA STAR-BEACON, 4 Nov. 1929, at 10.

<sup>233</sup> See ASHTABULA STAR-BEACON, Aug. 7, 1922, at 1.

<sup>234</sup> 76 PROPORTIONAL REPRESENTATION REV. 93 (1925); see also Norman Shaw, *Cleveland’s Proportional Representation Election*, 14 NAT’L MUN. REV. 589 (1925).

<sup>235</sup> See Barber, *supra* note 156, at 127.

<sup>236</sup> See Joseph P. Harris, *The Practical Workings of Proportional Representation in the United States and Canada*, 19 NAT’L MUN. REV. 337, 347 (1930).

<sup>237</sup> Barber, *supra* note 156, at 137; see also 85 PROPORTIONAL REPRESENTATION REV. 19 (1928); 91 PROPORTIONAL REPRESENTATION REV. 49 (1929); 96 PROPORTIONAL REPRESENTATION REV. 76 (1930).

<sup>238</sup> See Kolesar, *supra* note 115 (noting the 1933 PRL annual meeting was “pervaded by a spirit of hope for the future of P.R. as the *sine qua non* of truly representative government”).

Toledo. In each, the practice of PR shifted the politics of supporting it—leaving good government groups fewer leftist or laborite friends to hold the policy together.

1. *Boulder, CO.*—Boulder’s initial PR backers included PRL organizers and local labor leaders. PR had critics from the beginning, including, oddly, charges of KKK influence,<sup>239</sup> leaving a “beleaguered and continuously disputed” system in need of a nine-day advocacy tour from the PRL’s Hallett—joined by ministers, and the Junior Chamber of Commerce—to beat back repeal.<sup>240</sup> That support was unsustainable. Some divisions were technocratic, like complex ballot-counting choices or candidate-listing rules. Others were substantive, as PR failed to elect left candidates backing municipal ownership while empowering conservative businessmen.<sup>241</sup>

This fragmented group thus mounted little defense when in 1947 opponents reared. PR, they said, was “Un-American, Undemocratic,” and a “slick tool of minorities” which supported Hitler, supported only by “self-proclaimed technicians and pseudo-scientists.”. Supporters—by then a “weak labor constituency,” professors, and “evanescent liberal[s]”—fought to preserve PR, emphasizing danger of “faction or party rule.”<sup>242</sup> They failed: in 1947, Hare lost. The same year, all three candidates endorsed by the Labor Political Assembly—“hardly a political force”—lost handedly.<sup>243</sup> After 30 years without big policy wins, PR looked radical *and* ineffective.

2. *New York, NY.* — Boulder’s loss hurt. But seeing 3,159 votes for repeal was much less devastating than what came the same year in NYC. The campaign to end PR in New York began as soon as the policy was introduced. It did not succeed initially. However, in a changing political

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<sup>239</sup> Winter, *supra* note 125, at 6–7.

<sup>240</sup> 22 NAT’L MUN. REV. 613; *see also* Winter, *supra* note 125, at 8.

<sup>241</sup> Winter, *supra* note 125, at 9.

<sup>242</sup> *See* BOULDER DAILY CAMERA, Oct. 29, 1947; BOULDER DAILY CAMERA, Oct. 30, 1947.

<sup>243</sup> Winter, *supra* note 125, at 12–13.



climate—where minor parties proliferated, Communists and radicals won power, and major labor groups fought—it only took a decade for repeal forces to return to ward voting.

The first challenge in NYC was statewide and showed the unity of the PR coalition. At the 1938 constitutional convention, Tammany Democrats and machine Republicans moved to outlaw PR statewide, fearing it would boost minor parties.<sup>244</sup> They faced opposition from all corners. The *Brooklyn Eagle* defended PR as not a “radical[]” idea, but one supported by conservatives and good government organizations alike.<sup>245</sup> Meanwhile, an eclectic group of parties—including the Republicans, Democrats, ALP, Socialist, and Communists—each passed resolutions against the amendment.<sup>246</sup> This united front handedly defeated the effort.

Local challenges proved more persistent. Beyond the *Johnson* lawsuit, opponents pushed repeal on allegations of radicalism. In 1938, the House Unamerican Activities Committee (HUAC), investigated ALP councilman Michael Quill for connections to the Transport Workers Union and Communist Party. They also questioned Communist candidate Peter Cacchione, which opponents emphasized to say parties had been coopted by leftists. The left, however, stood tall, with Communists claiming the policy *protected* democracy against fascism<sup>247</sup> and *The Daily Worker* arguing only a “labor-fusion-progressive coalition” could end Tammany’s corruption.<sup>248</sup> These arguments persuaded the major parties to accept PR, tanking the 1938 campaign.

Anti-Communism, however, remained the foundation of future threats to the left-labor-liberal coalition. In 1940, major party leaders painted political diversity as the road to tyranny. Supporters struggled to respond, since political diversity won them the policy. The Communist

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<sup>244</sup> PROSTERMAN, *supra* note 190, at 111–14.

<sup>245</sup> See Editorial, *The Bold Deal to Kill ‘PR,’* BROOKLYN EAGLE, Aug. 2, 1938.

<sup>246</sup> See McCaffrey, *supra* note 181, at 851–52.

<sup>247</sup> PROSTERMAN, *supra* note 190, at 119–21.

<sup>248</sup> See Editorial, *The Real Trouble,* DAILY WORKER, Dec. 27, 1938.

Party, for example, sought a “Democratic Front,” agreeing with goo-goos who believed machine parties undermined democracy.<sup>249</sup> The ALP, by contrast, was roiled by anti-Communism debates, muddying PR’s virtues.<sup>250</sup> Goo-goos seized the moment to de-link PR from leftists, with Hallett clarifying that “[n]o avowed Communist” had ever won under PR.<sup>251</sup> The policy barely survived.

These rifts, emergent in 1940, erupted in 1941. That year, Communist Peter Cacchione joined the council, along with three ALP candidates. Opponents’ anti-Communism critique was now more than theoretical. Their ammunition grew further in 1943, when Cacchione won re-election next to a second Communist, Ben Davis, the second Black councilman.<sup>252</sup> Communists now controlled twelve percent of the council, trumpeting PR as a way to protect ideological and racial diversity.<sup>253</sup> This support split a coalition already tearing apart from war. Hallett attacked Communists,<sup>254</sup> while the ALP splintered, an anti-radical faction forming the Liberal Party.<sup>255</sup> By 1945, PR had helped minority parties win but left its coalition fractured.<sup>256</sup>

At this point, PR retained its coalition but lost the unity of its rationale.<sup>257</sup> That was not enough to thwart repeal in 1947. Local Democrats capitalized on bipartisan anti-Communist sentiment in a scorched-earth anti-PR campaign. The splintered supporters fought back disjointedly: Citizens Union centered fear of corrupt Tammany power, while pitching that PR kept

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<sup>249</sup> PROSTERMAN, *supra* note 190, at 134–36 (citing Charles Krumbein, “Report for the State Committee to the Tenth New York State Convention, Proceedings, Tenth Convention, Communist Party, New York State (1938) (on file with Tamiment Library at New York University)).

<sup>250</sup> PROSTERMAN, *supra* note 190, at 135–41.

<sup>251</sup> Letter from George Hallett to Editor of the *New York Sun*, July 10, 1940.

<sup>252</sup> PROSTERMAN, *supra* note 190, at 147–159.

<sup>253</sup> *Id.* at 158, 159.

<sup>254</sup> Kolesar, *supra* note 115.

<sup>255</sup> PROSTERMAN, *supra* note 190, at 169. The Liberal Party defended against the repeal campaign, pitching itself to trade unionists as the only “truly democratic, progressive party” in the States, while backing strong national labor law. *Id.* at 170. The Liberal Party also sought to build on the emerging “labor-liberal” alliance in post-war politics, but struggled to toe the right line especially as the laboring left was dividing over Communism. *See id.* at 172.

<sup>256</sup> Zeller & Bone, *supra* note 265, at 1135.

<sup>257</sup> PROSTERMAN, *supra* note 190, at 178–80. Hallett in 1947 wrote to the National Maritime Union defending minority representation as crucial in wartime. But he and others wanted minorities to have just their political due and no more. *Id.*; *see also* Kolesar, *supra* note 115.

leftists limited just to their electoral proportions. The anti-radical Liberal Party framed PR as a way to pass labor legislation within liberalism. Communists, meanwhile, argued their economic program was only possible under PR. And they and the ALP helped fund the CIO, which with other unions distributed two-million leaflets focused on anti-corruption themes.<sup>258</sup>

This wide support may have undermined PR's popularity. Its primary opponents were Tammany Democrats and the businessmen funding them.<sup>259</sup> Without the need to straddle ideological divides, they were laser-focused on Communism, calling PR a vehicle for “un-American” leftists.<sup>260</sup> The influential Robert Moses, seeing the splintered council PR produced, said only the “two-party system” can support a truly “democratic system.” And the AFL Central Trades and Labor Council joined with local Chambers of Commerce to back repeal.<sup>261</sup>

These opponents swept PR from the city by nearly 400,000 votes. Such a dramatic repeal forced a reckoning of the movement's constituent parts. Hallett pushed to resuscitate it, but the leftist parties that had won under PR quickly faded. By 1950, just one minority party candidate, and he no radical, remained in office.<sup>262</sup> When Cacchione died, so did Communist representation, as Democrats sued to prevent a Communist from filling the seat, the court ignoring statutory text to rule that Communists were not a valid party and thus could not replace him.<sup>263</sup>

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<sup>258</sup> *Proponents of PR to Open Big Drive; Thousands of Street and Shop Meetings to Be Held before Nov. 4 to Fight Repeal*, N.Y. TIMES, Oct. 27, 1947, at 22; Committee to Save PR, *Want Grafters in City Hall?*, Cacchione Papers, reel 3; Warren Moscow, *Moses Asserts PR Harms Democracy; Holds it Fosters Bloc System that Is a Threat to Our Form of Government*, N.Y. TIMES, Oct. 28, 1947, at 20; Legislative Bureau, New York State Committee, Communist Party, *The Fight to Save PR* (1947); Peter v. Cacchione, *U.S. Largest Cities Choose PR Voting*, DAILY WORKER, Oct. 15, 1947, at 4; see also Zeller & Bone, *supra* note 265, at 1127; PROSTERMAN, *supra* note 190, at 185–189.

<sup>259</sup> Zeller & Bone, *supra* note 265, at 1128 (citing one Tammany leader telling voters to “throw out this Stalin Frankenstein” and another who reminds that “Hitler used proportional representation to take power unto himself in Germany”).

<sup>260</sup> PROSTERMAN, *supra* note 190, at 193–97.

<sup>261</sup> See N.Y. HERALD TRIBUNE, Oct. 28, 1947; BROOKLYN EAGLE, July 27, 1947; BROOKLYN EAGLE, Aug. 10, 1947.

<sup>262</sup> PROSTERMAN, *supra* note 190, at 198–201. The ALP considered bringing back PR right away in 1948, but decided they lacked the support. See Zeller & Bone, *supra* note 265, at 1147.

<sup>263</sup> PROSTERMAN, *supra* note 190, at 202–203. It is possible that part of this minor party explosion is due to NYC allowing partisan labels on the ballot—a less “Progressive” approach than the typical PR schemes with city manager governments elsewhere.

The NYC repeal presaged the end of PR. The policy had elected “unprecedented numbers of third-party representatives,” with three working-class focused parties gaining representation, and six minor parties in total.<sup>264</sup> But this success also spurred its demise. As it “drew attention to the election of leftists,”<sup>265</sup> opponents leaned into anti-radical, anti-communist, national-security-focused repeal rhetoric.<sup>266</sup> The problem was more than PR “providing minority representation entirely too well.”<sup>267</sup> When reformist, laborite, and leftist PR supporters turned against themselves and framed their goals oppositionally, PR opponents pounced.<sup>268</sup>

3. *Toledo*. —Toledo was an odd PR city: labor had opposed PR, and experience did not change their mind. In the first repeal attempt in 1935, the County Employees Union called PR a “lottery system of voting” and “un-American.”<sup>269</sup> Though that repeal failed, labor remained opposed in a 1937 effort, believing ward-based elections would win them more-than-proportional power, even as some unions thought PR’s “fair deal” enough.<sup>270</sup> Progressivism held again, with PR fighting “enemies of good government” and preventing “boss rule.”<sup>271</sup> By 1945, however, these arguments lost political power. The primary good government organization evolved from a political party to a nonprofit.<sup>272</sup> The local CIO PAC staged repeal to “test” of its electoral

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<sup>264</sup> Silva, *supra* note 11, at 763.

<sup>265</sup> See, e.g., Spencer et al, *supra* note 6, at 413; see also generally Belle Zeller & Hugh A. Bone, *The Repeal of P.R. in New York City—Ten Years in Retrospect*, 42 AM. POL. SCI. REV. 1127, 1133 (1948) (“There is no doubt that the one issue above all others responsible for the repeal of P.R. in 1947 was Communism.”).

<sup>266</sup> PROSTERMAN, *supra* note 190, at 10. Or, more accurately, it gave those opponents proof that their longstanding allegations of radicalism could be true.

<sup>267</sup> Silva, *supra* note 11, at 764.

<sup>268</sup> Kolesar, *supra* note 115. It is worth noting, however, that 1947 also saw the passage of PR in multiple cities in Massachusetts. See *id.* However, the state in 1949 passed a ban on new PR adoptions, which even overruled two cities who had just approved it. See *id.*

<sup>269</sup> Anderson, *supra* note 149, at 245–46.

<sup>270</sup> TOLEDO BLADE, Sept. 8, 1937, at 15; TOLEDO BLADE, Sept. 11, 1937, at 5.

<sup>271</sup> See TOLEDO BLADE, 11 Sept. 1937, at 9; TOLEDO BLADE, Aug. 31, 1937; TOLEDO TIMES, Sept. 9, 1937; TOLEDO NEWS-BEE, 26 Aug. 1937, p. 6.

<sup>272</sup> See 31 NAT’L MUN. REV. 57 (1942).

strength.<sup>273</sup> And as a formerly non-partisan city saw local UAW workers become partisan Democrats, PR seemed less fitting.<sup>274</sup> By 1949, no constituency could stop repeal.

### *C. The Wave Crashes: Cincinnati, Hamilton, Worcester*

By 1950, PRs momentum had flipped. Boulder, New York, and Toledo had turned against the system, along with five other cities. In some cases, labor and reformists were too weak. In others, labor and reformists divided over tactics amid rising fears of radicalism. And in others, labor believed its political fortunes were more promising beyond PR. This section charts how those themes played out PR's last years in the 1950s. There, the final twelve repeals washed in. Focusing on Cincinnati, Hamilton, Worcester, and Cambridge, the section aims to situate the demise of PR with the movement's apparently lethargic left.

*1. Cincinnati, OH.* —In 1957, Cincinnati was the next big PR domino to fall. One of America's leading cities when the policy passed in 1924, its decline was almost as significant a loss as New York's had been. Labor leaders had been the strongest allies to usher in the PR Council. And they had long benefitted from its political representation, winning representation in both major parties. But by the mid 1950s, the loss of reform energy coupled with an AFL–CIO split in labor support proved too much for PR to withstand.

Early elections showed labor's support of PR bearing fruit. The first council swept in a union official.<sup>275</sup> In 1927 and 1929, both major parties (Republicans and Charter) endorsed labor candidates. And in 1931, when a labor faction formed its own ticket, Charter messaged explicitly

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<sup>273</sup> Anderson, *supra* note 149, at 245–46.

<sup>274</sup> *Id.* at 251.

<sup>275</sup> STRAETZ, *supra* note 43, at 92 (“A union man was on the first PR Council, and there have usually been one or two on every Council since.”). Robert A. Taft praised the councils for including “able representative[s] of labor.” *Id.* at 92.

at workers, showing the political sway labor wielded. Back to working within the system, labor's bipartisan power shown in the many candidates that continued winning.<sup>276</sup>

Despite these successes, the first repeal campaign took off in 1936. Some opponents were technocratic, criticizing PR for its complexity and barriers to majority governance.<sup>277</sup> Others emphasized anti-radicalism. They called Charter the "Charter-Bigelow-Communist party," saying the fact "Socialists and Communists are in favor of retaining it" was reason to oppose it.<sup>278</sup> Labor itself was not "extremely active": most agreed with a Clothing Workers unionist who thought PR was labor's best chance to "increase its influence." This position won; repeal failed. As one supporter reflected, "The PR system has given union labor, the Negroes, every minority able to muster a quota genuine representation in Council."<sup>279</sup>

The next PR repeal campaign in 1939 doubled down on anti-radical impulses and dented labor support. Opponents alleged that "radicalism of various kinds [is] using PR to gain a foothold in our city,"<sup>280</sup> making a "wide-flung appeal subtly linking P.R. with Hitler, Mussolini, and the Communists." This charge was bolstered by the support of the local CIO,<sup>281</sup> whose national affiliate was associated with the left. But PR forces pushed back. Charter Republicans stayed aligned with independent Democrats, labor movement, and "various radical groups"<sup>282</sup> to outvote the machine Republicans pushing repeal. Still, labor splits were notable. The Central Trades Council preferred a nonpartisan ballot to PR and sought collaboration with Republicans; the CIO Council, however, unanimously fought repeal, joining with an AFL Committee to Retain PR to

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<sup>276</sup> *Id.* at 126, 127. The Charterite, James Wilson, a Typographical Workers Union leader and a higher-up in the AFL, was the only of the three to win in 1933. *See id.*

<sup>277</sup> Heisel, *supra* note 166, at \*3.

<sup>278</sup> STRAETZ, *supra* note 43, at 202. This was unabashedly hypocritical, as the Republicans' one labor-affiliated representative, Nicholas Klein, had earlier written a book supportive of Socialism. *Id.* at 202.

<sup>279</sup> *Id.* at 106, 128.

<sup>280</sup> *Id.* at 203.

<sup>281</sup> Kolesar, *supra* note 43.

<sup>282</sup> *Id.*

form “Save PR Committees” in the wards.<sup>283</sup> As the new Labor Nonpartisan League intoned, “Every worker who votes against PR is helping to make it harder to elect real labor leaders.” Only under PR would the council have candidates not “deaf to the pleas of labor.”<sup>284</sup>

The next 1947 repeal campaign showed the anti-radical critique gaining steam—with labor’s support now a liability. Communism was dominant in the papers opposing PR, with Professor Hermens flown in to evangelize its connection to fascism.<sup>285</sup> Labor stood more united with the AFL council saying eliminating PR would increase “hostility to the interests of the working people,” while CIO support was even “more enthusiastic.”<sup>286</sup> This support helped preserve PR. But as Harry Proctor, an AFL affiliate, was swept into office, intense media scrutiny showed how labor power drove conservative PR opposition. As one editorial wrote, a past AFL-Charter laborite was “about as revolutionary as the Statute of Liberty,” but the new Charter group embraced “leftist New Deal possibilities.” As another fear-mongered, “RED TINGE SEEN BY GOP AND CHARTERITES HAVING CIO-PAC BLESSING.”<sup>287</sup>

These criticisms carried water as labor became seen as more partisan and more radical. In 1949, a Black Charter candidate Theodore Berry won election, backed by the CIO and Black voters leaving the Republican Party. Two years later, the CIO, harrowed by critique that Charter was hurt by associating with the CIO-PAC leader Jack Kroll, backed out of endorsements. The labor vote fell substantially, the AFL-backed Proctor retired, and the only CIO candidate left by 1953, Albert Jordan, got Charter tarred as radicals and CIO lackeys.<sup>288</sup>

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<sup>283</sup> STRAETZ, *supra* note 22, at 102, 131.

<sup>284</sup> *Id.* at 132.

<sup>285</sup> Kolesar, *supra* note 115; STRAETZ, *infra* note 293, at 204 (noting that thirteen columns written by the *Cincinnati Enquirer* in 1947 referenced Communism and Fascism).

<sup>286</sup> STRAETZ, *supra* note 22, at 137.

<sup>287</sup> *Id.* at 93, 138, 204.

<sup>288</sup> *Id.* at 93, 142–43.

By the time of the 1954 repealer, labor agreed on little except that PR was worth keeping. The repealers argued that PR creates councilmen less responsive to majorities than to “special groups” like “racial, religious, [or] labor” interests.<sup>289</sup> Charter, hanging onto goo-goo themes, called it the key to “corruption-free, efficient city government.”<sup>290</sup> And while the national AFL Convention had recently expressed doubts about PR, local Central Labor Council president said PR has always given labor “fair and able representation.” One newspaper summed up what drove rare AFL and CIO agreement: “Could a worker’s representative be elected to the City Council without PR?”<sup>291</sup> Likely not. That continued belief kept the 1954 campaign at bay—for now.

By 1957, the joint AFL and CIO defenses broke. Political winds were realigning parties nationwide, as Black voters and workers moved more decisively to the Republican party.<sup>292</sup> Crucially, the AFL and CIO merged in 1955, bringing the two wings of the labor movement uneasily together. These shifts made critiques against PR’s bloc voting lethal.<sup>293</sup> The dominant story of Cincinnati’s repeal is that fearmongering over the Black Charterite Berry becoming mayor scared whites into a new system.<sup>294</sup> But the political problems ran deeper. Partisan polarization had led Charter to become the home of Black voters and labor, while the AFL was Democratic. Then, Charter blocked proposals to integrate housing and pass Fair Employment laws, while splitting on collective bargaining and progressive taxes, alienating its constituencies.<sup>295</sup> The CIO’s lone councilman, Albert Jordan, predicted that “PR is gone forever” as Charter will disappear

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<sup>289</sup> *Id.* at 25, 93, 141–43, 209.

<sup>290</sup> *Id.* at 12.

<sup>291</sup> *Id.* at 27.

<sup>292</sup> *Id.* at 154.

<sup>293</sup> Kolesar, *supra* note 115; see also RALPH ARTHUR STRAETZ, *PR POLITICS IN CINCINNATI: THIRTY-TWO YEARS OF CITY GOVERNMENT THROUGH PROPORTIONAL REPRESENTATION* xi (1958) (citing “racial hostility” as the source of the “unusually heavy anti-PR vote in 1957”).

<sup>294</sup> Kolesar, *supra* note 115. Heisel, *supra* note 166, at \*3. Some white racists also feared Councilman Berry would buy a house in a white neighborhood. See Burnham, *infra* note 168, at 152.

<sup>295</sup> SANTUCCI, *supra* note 2, at 127–130.



without its supporters. He was prescient. The AFL-CIO, now seeing no party on its side, decided to support repeal at a meeting of the United Steel Workers convened by the *national* director of the AFL-CIO's Industrial Union Department.<sup>296</sup>

With Republicans, Democrats, and a chunk of labor lost, PR's Cincinnati experiment ended thirty-three years after it began. Critiques of the minorities PR empowered were old hat. But it took until the labor coalition, long divided on candidates while united in support of PR, broke down. As partisanship rose and national labor groups began choosing sides, these political conditions filtered down into local politics to show workers PR no longer guaranteed them a voice. The PRL's last crown jewel had fallen; the final dominoes were soon to come.

2. *Hamilton, Ohio*. —Cincinnati had been the last large PR city left. In the next two years, Lowell, MA, Hopkins, MN, and Oak Ridge, TN, also struck out their voting systems. By 1960, Hamilton was Ohio's last bastion. And like in Cincinnati, a flip by labor helped repeal win.

Labor had been mixed in Hamilton's adoption. The early results were too. Labor-aligned candidates ran through the 1930s, though first won in 1937 with an independent Democrat.<sup>297</sup> Local Socialists, who never won, still backed PR in 1929, though stayed neutral in 1933 after pressure from national leadership.<sup>298</sup> A decade later, unions had built local power, but stayed out of the 1944 repeal campaign amid attacks that PR was "unconstitutional and un-American."<sup>299</sup>

This calculus changed in 1960 as, like in Cincinnati, the labor movement's new politics nudged it away from PR. Labor had long stayed out of electoral politics in Hamilton, even as working-class rhetoric and candidates had grown. That shifted in 1959, where Robert Westfall,

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<sup>296</sup> *Id.* at 157 & nn. 65–66. The CIO, influenced by anti-Communist undertones, did not fight the racist attacks on Berry. *See id.* at 128 & n. 15, 133.

<sup>297</sup> *See White, supra*, at 30; Weaver & Blount, *supra* note 176, at 222.

<sup>298</sup> Weaver & Blount, *supra* note 176, at 232.

<sup>299</sup> HAMILTON J. NEWS, 19 Oct. 1944, pp. 6, 19.

head of the post-merger AFL-CIO Council, lost election in the vote-transfer process and then launched a PR repeal campaign.<sup>300</sup> With Westfall in charge, organized labor—already frustrated by the Council failing to replace a retiring laborite with another<sup>301</sup>—“formally endorsed repeal,” with a local AFL-CIO Council calling it “unfair to minority group.”<sup>302</sup> Reform groups, mainly the LWV, civic organizations, and professors, mounted a weak defense. 56% of voters ultimately backed repeal.<sup>303</sup> Ohio’s early success was driven by the PRL’s alliance with labor and activist groups. Now, as reformers lost their edge and their labor backers, PR left Ohio for good.

3. *Worcester, MA.* —The same year as Hamilton, the last of a wave of Massachusetts repeals occurred in Worcester. Of the seven cities to adopt PR in the 1940s, five had repealed it in short order by 1957—a “somewhat uncritical[]” adoption of the NML Model Charter then “quietly shelved a few years later.”<sup>304</sup> The state legislature too, had quickly moved to restrict PR, banning any future cities from adopting a PR charter. And by 1960, with just Worcester and Cambridge left, a future-sans-PR seemed assured. Never backed by a strong left or labor constituency, but rather the product of individual good-government reformers, PR in most Massachusetts cities lacked the enthusiastic constituency needed to withstand state criticism.

Worcester was no different. The goo-goo Citizens Plan E Association (CEA) influentially endorsed slates of candidates. By contrast, the local AFL-CIO’s endorsement was “apparently meaningless.” Moreover, the CEA rarely backed the same candidates (or any union officials), since its two labor endorsements in the first 1949 election “were creamed.”<sup>305</sup> Worcester PR was goo-

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<sup>300</sup> Weaver & Blount, *supra* note 176, at 222–23.

<sup>301</sup> NAT’L CIVIC REV., Dec. 1960, at 642.

<sup>302</sup> See HAMILTON J. NEWS, 18 Aug. 1960, at 18.

<sup>303</sup> Weaver & Blount, *supra* note 176, at 235–36.

<sup>304</sup> Weaver, *supra* note 114, at 151 n. 8. In one partial exception, Lowell’s 1957 repeal seemed motivated in part by anti-Communist sentiment, as the mayor argued “PR has enabled Communists and fellow travelers to win elections” in places like NYC. See SANTUCCI, *supra* note 2, at 159.

<sup>305</sup> BINSTOCK, *supra* note 219, at II–43, 45.

goo through and through. That coalition made it hard to fight repeal attempts as the charter was “constantly being attacked.” In first 1959 repeal attempt, the CEA backed PR as an upgrade over “politics-ridden municipal administration,” while the LWV chapter praised it for taking “politics out of government.”<sup>306</sup> This repeal attempt failed, leading the CEA to tell the National Municipal League that the charter’s “apolitical character” was what sustained it.<sup>307</sup>

Such good will did not last as the 1960 repeal succeeded. Making familiar arguments, critics tarred PR as “un-American and a divisive force in the community,” which had been “kicked out of every polyglot city except ours,” highlighting ethnic divisions core to the campaign.<sup>308</sup> The CEA’s main defenders were businessmen and technocrats, its literature *bragging* that PR was “thought . . . up” by “a number of political scientists”—lost to political power.<sup>309</sup> Now, flipping positions, the President of the AFL-CIO Labor Council petitioned for repeal, associating PR with business more than workers.<sup>310</sup> Voters decisively backed repeal. Good government could not win without labor.

4. *Cambridge, MA.* —Worcester’s repeal left Cambridge as the only city in the entire country to use PR by 1961. Getting there required the city to beat back five repeal attempts beginning from 1952 to 1965. Cambridge is odd because labor groups did not seem core to a coalition initially dominated by Harvard elites and opposed by working-class immigrants. This may have made it easier for supporters to withstand the labor realignments of the 1950s better than other cities did. Additionally, as one commentator noted, the CCA successfully expanded its base beyond “goo-goos,” by “co-opt[ing] leaders of business, labor, ethnic and other groups to develop

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<sup>306</sup> *Id.* at VI–1, 4.

<sup>307</sup> *Id.* at VI–6–7, 11.

<sup>308</sup> *Id.* at VI–11; Kolesar, *supra* note 115 (noting the salience of “intractable division[s]” by race and ethnicity, even in a place where the “threat of radicalism was negligible”).

<sup>309</sup> BINSTOCK, *supra* note 219, at Supp. A–5; Supp. A–22.

<sup>310</sup> Charles E. Currier, *Study Shows PR Here Attracts Businessmen*, WORCESTER TELEGRAM, Aug. 19, 1955; SANTUCCI, *supra* note 2, at 156.

wide voter support,” while also developing “working class elements” in the party who believed their interest aligned with issue-based good government reformers.<sup>311</sup> Here, unlike elsewhere, an “interlocking network of ‘good government’ organizations”<sup>312</sup> institutionalized itself as a “political organization”<sup>313</sup> capable of mobilizing against repeal.

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As the PRL and local groups won a wave of PR policies in the 1920s and 1930s, the future of this alternative system looked bright. In just two decades, however, nearly the whole movement had been wiped out. This landslide of repeals ended PR’s claim to a new vision of municipal representation. Multiple forces contributed to this demise. The increasing salience of anti-leftist critiques, combined with the decline of good government advocacy and labor’s partisan shift all broke PR’s coalition. The Goo-Goo–Socialist Coalition had lost in LA in 1913 but learned to modify its approach to win elsewhere. When that coalition—long home to contradictions and tensions—lost its unity, PR lost too.

#### IV. PR’S REBIRTH?

This Article has resituated the role of left parties and labor groups in the brief American experiment with proportional representation. Influential in developing the idea, crucial to passing it, and central to its repeal, PR’s left has played an underappreciated role in the policy. This Part draws two lessons from this history. First, it considers how and why PR lost its left—with unions flipping and minor parties fading—that had long been core to the coalition. It also considers the role of law in shaping the movement. Second, it reflects on the left’s missing role in the PR historiography—and what recovering it should do for visions of election reform today.

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<sup>311</sup> Weaver, *supra* note 205, at 4.

<sup>312</sup> *Id.* at 2.

<sup>313</sup> *Id.* at 144 (emphasis added). Weaver also notes the Cincinnati Charter Committee as a similar example of a devoted party having power to stave off repeal. *Id.*

### A. *How PR Lost its Left*

Proportional representation had parallel proponents since its inception. From French Socialists in the 1830s to the Socialist Labor Party proposing “minority representation” in 1892 before the PRL formed, Progressives and their predecessors never had a monopoly on this alternative election system. Left-labor historians were among the founders of the first Proportional Representation League. And the Socialist Carl Thompson was a longstanding and influential member of the PR Council for decades as the movement spread. In functionally every major PR city except Cambridge and Toledo, either unions, left parties, or both were key to making reform a reality. Soon, however, labor either was too weak to prevent repeal or flipped sides to oppose PR. Minor parties, except in New York, gained far more wins than they expected, and they were often quieted by anti-radical criticism. When PR lost its left, PR lost.<sup>314</sup>

Centering this story intervenes in standard accounts of why PR was repealed in the 1940s. The most recent law review treatment of America’s PR history posited that “[t]here is no universally agreed upon reason for the decline of proportional representation.”<sup>315</sup> Some argue the cause was racial prejudices or backlash to Socialists and Communists winning seats.<sup>316</sup> Others emphasize quirks of local politics like an ineffective mayor. Still others offer a more partisan lens, claiming that winning PR “over the heads” of party leaders made it immediately vulnerable to self-interested repeals, especially after individually influential reformers moved on as the Progressive movement petered (and the PRL itself lost steam, merging with the NML).<sup>317</sup>

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<sup>314</sup> Interestingly, the National Municipal League, which had absorbed the PRL, dropped PR from its model charter in 1962 due to concerns about Communist influence. See PROSTERMAN, *supra* note 190, at 204.

<sup>315</sup> See Sbrano, *supra* note 116, at 299.

<sup>316</sup> See Spencer et al, *supra* note 6, at 410 (“[T]he story of the *repeal* of ranked choice voting in these cities is, in some ways, intimately tied to the story of its success for racial minorities.”); see also Kolesar, *supra* note 115 (describing anti-PR forces as focusing on communism and racial bloc voting).

<sup>317</sup> Weaver, *supra* note 114, at 142–44; see Amy, *supra* note 3, at 17–19.

None of these standard stories fully captures the importance of ideology in PR's coalition. They also seem to overlook that "radical" parties rarely actually won in PR elections.<sup>318</sup> Most recently, Santucci's treatment has done the most: while his primary explanation is "vote leakage," he also suggests "organized labor increasingly turned against STV as it found a home in the Democratic Party," especially after the AFL-CIO merger, which gave labor more ability to exact wins through party politics.<sup>319</sup> This Article's history adds to that suggestion and goes further. Labor did not suddenly flip to follow political winds. Non-List PR had never been the ideal way to support working-class interests, many thought, because it made it harder to build labor-specific political organizations.<sup>320</sup> Unions, and third parties they supported, gave PR a chance to produce minority representation. Where it worked, labor groups continued supporting the policy. Where it didn't, they didn't: as PR councils turned against labor, or as PR-enabled parties won power, cracks in the connection between PR and electoral success aided its demise.

This intervention also offers insight into the 20th century labor movement that national histories might overlook. Contrary to the common picture of business unionism, many local unions practiced politics granularly: pushing for changes in how individual ballots are counted and individual candidates chosen. These locals evinced an acute sensibility to how political structures influence worker power. And these debates illustrate how labor navigated competing entreaties from leftists promising direct representation and established parties offering them influence. Labor is not monolithic, and nor were labor group in PR cities. But the experience of PR won some real

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<sup>318</sup> In Cincinnati, for example, where charges of radicalism are often cited as reasons for PR's demise, no Socialist, Communist, or labor party candidate ever won election, and barely any ever ran. See STRAETZ, *supra* note 22, at 184, 201–202.

<sup>319</sup> SANTUCCI, *supra* note 2, at 78, 156. One excellent example Santucci cites is in Waterbury, CT, nearly passed PR in the 1950s. But labor groups, which were initially supportive, won concession from the Democratic Party and decided to oppose the charter. See *id.* at 96–97 (Citing Monti 2011 at 132–33).

<sup>320</sup> The debate over whether labor joining institutions de-radicalizes their most progressive elements has echoes of Karl Klare's invocation formulation of the NLRA's dampening of labor-left ideology. Cf. Karl E. Klare, *Labor Law as Ideology: Toward a New Historiography of Collective Bargaining Law*, 4 INDUSTRIAL REL. L.J. 450 (1981).

gains for workers, with multiple candidates elected, and some of the strongest showings of labor-affiliated parties in NYC under PR. Much good historiography has shown the consequences of labor aligning with the Democratic Party.<sup>321</sup> This story is yet a further example of tradeoffs in power that the shift from independent interest to “interest group” fomented.<sup>322</sup>

Further, the history of left and labor support for alternative election systems adds to our understanding of the American left’s history more broadly. The most recent major history of the Socialist Party mentions zero times that the organization backed PR for nearly forty consecutive years.<sup>323</sup> And more general caricatures of Socialist engagement tend to paint these radicals as more interested in transformations of American policy than tweaks to ballot counting. But Socialist institutions locally and nationally had a detailed democracy, often overlapping in content but not in rationale with prevailing Progressive ideas. This should de-link both PR and direct democracy initiatives from their picture as uniformly goo-goo; Socialists wanted to empower the people because they believed democracy necessary for true working-class government. PR, like the I&R, was one way they saw to accomplish that—recognizing that in the immediate term, building power within the party system was their best opportunity for influence.

Last, this long PR history illuminates a role law can play in the development of social reform.<sup>324</sup> In nearly every city that passed PR, the policy’s “expansion of electoral power outside the Democratic and Republican leadership caused the parties to mount legal challenges.”<sup>325</sup> The results, ultimately, were fairly split in the major states. But the early strike downs may have influenced the direction of the movement. After *Upjohn* struck down PR in Kalamazoo, no city

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<sup>321</sup> See generally, e.g., PAUL FRYMER, BLACK AND BLUE: AFRICAN AMERICANS, THE LABOR MOVEMENT, AND THE DECLINE OF THE DEMOCRATIC PARTY (2008).

<sup>322</sup> Cf. EMILY J. CHARNOCK, THE RISE OF POLITICAL ACTION COMMITTEES: INTEREST GROUP ELECTIONEERING AND THE TRANSFORMATION OF AMERICAN POLITICS (2020).

<sup>323</sup> See JACK ROSS: THE SOCIALIST PARTY OF AMERICA: A COMPLETE HISTORY (2015).

<sup>324</sup> Cf. WILLIAM E. FORBATH, LAW AND THE SHAPING OF THE AMERICAN LABOR MOVEMENT (1991).

<sup>325</sup> PROSTERMAN, SUPRA NOTE 24, at 33.

there tried to enact PR again; the same story held true with *Elkus* in California. The fact these courts were so interpret “all elections” clauses as inconsistent with PR—which they seemed only partially understand—shows the uphill battle of translating new ideas about democracy into legal institutions, especially when those institutions immediately elect laborites and leftists. The rulings further show a dampening effect of bad law: reformers after the rulings obsessed over the legality of PR rather than its merits, preventing activists in New York and elsewhere from proposing it in the 1920s without a constitutional amendment.<sup>326</sup> In a moment where much scholarly ink<sup>327</sup> has spilled on the legality of alternative voting, we should consider the downsides of letting judicial interpretation affect how questions of democracy are debated.

There are many other explanations for the rise and fall of PR. The role of race was large, and advocacy of League of Women Voters chapters deserves more study. No single factor can account for different policies in different cities at different times. But one constant in PR’s success is whether PR kept or lost its left.

### *B. Reviving PR’s Left*

PR lacks a long historiography. That makes sense: the policy lacks a long history. From what has been written, PR is the product of Progressives. Amid a sweep of democracy reforms, PR swept in with city-manager government as reformers believed it would make representation fair and politics less corrupted. Some such work mentioned minor party and labor groups as backing the new system, but rarely as central, and nearly never as core to left visions of democracy.

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<sup>326</sup> PROSTERMAN, SUPRA NOTE 24, at 35. When PR later did pass by ordinance, New York activists later sought to design a “taxpayer’s suit” to functionally set up the question of PR in NY courts to resolve the advocates’ uncertainty. *Id.*

<sup>327</sup> See, e.g., Richard H. Pildes & Michael G. Parsons, *The Legality of Ranked-Choice Voting*, 109 CALIF. L. REV. 1773, 1774, 1802–03 (2021) (arguing that ranked choice voting should be constitutional, while fearing that a recent Maine state court decision holding otherwise could “imperil RCV nationwide”); Brian P. Marron, *One Person, One Vote, Several Elections?: Instant Runoff Voting And The Constitution*, 28 VERMONT LAW REVIEW 343, 344, 368–69 (2004). (calling the constitutionality of instant runoff voting a “novel question that very few courts have approached” and seeking for his analysis to avoid the “pitfalls of the *Hare* system struck down in *Wattles*” and *Elkus*).



More recent work, especially Jack Santucci's book, has shown that PR support went beyond abstract principles to be driven by political self-interest; he suggests, tentatively, that labor and left parties were important to PR coalitions, and their disappearance even more so.

This Article has continued reintegrating the role of labor and the left in our understanding of proportional representation's rise and fall. Doing so should push us to be more honest about the true politics of electoral reform. The early, triumphantly Progressive historiography had motive to de-emphasize PR's left edges; writing in the moments while PR was still being passed, reformers sought to prove the power of their movement while minimizing charges that the policy would lead to irresponsible radicalism. When later historians began diving into the actual results that PR produced, they mostly critiqued the early writers for overstating their good government successes—but did not always challenge the framing that good government was the driving goal.

Here, by showing that nearly all PR cities won the policy thanks in part to groups motivated by more than good government ideology, I aim to take seriously that many viewed PR as a power-building (not party-bucking) tool. The heyday of PR was not a mythical time where swaths of voters, eager to explore the intricacies of the "Gove method" of ballot-counting, embraced PR experimentation on the path to perfecting democratic institutions. Some may have had such motivations. But the reality was likely more partisan, more political, more self-interested, and even more random than a Progressive story could tell. Voters then, like voters today, are driven by more than just good ideas. And their choices are often influenced by not just the theories but the organizations—like unions and parties—that bring politics to daily life.

Such reframing should have consequences for how advocates think about PR today. After the final 1961 repeal, PR was long only sporadically invoked, and often negatively.<sup>328</sup> Supreme

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<sup>328</sup> Where PR was initially mentioned after 1961, it was not in its traditional context. The McGovern-Fraser Commission, for example, in 1971 advocated for proportionality along race and gender in the selection of Democratic

Court cases in the recent of the century raised it as an impermissible “driving principle” of election policies.<sup>329</sup> Defenses in the 1980s were mostly limited to law reviews<sup>330</sup> and niche reform books,<sup>331</sup> with one municipal campaign rejected in Cincinnati.<sup>332</sup> The 1990s saw both uptick and backlash: non-partisan good-government groups such as the Center for Voting and Democracy put PR back on the agenda, joining with cross-ideological minor parties like the Greens and Libertarians to demand PR elections in cities like San Francisco and Seattle.<sup>333</sup> But after Professor Lani Guinier wrote a series of exquisite law review articles proposing PR as a fix to partisanship and racial polarization, she was dismissed as a “quota queen,” anti-radical critics again stifling threatening forms of representation. PR lost its momentum, and for decades since remained largely the province of goo-goo democracy reform organizations seeking to build support for a voting system many voters had trouble grasping.

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convention delegates to help provide “[a]dequate representation of minority views on presidential candidates at each stage.” See COMM’N ON PARTY STRUCTURE AND DELEGATE SELECTION, MANDATE FOR REFORM: A REPORT OF THE COMM’N ON PARTY STRUCTURE AND DELEGATE SELECTION TO THE DEMOCRATIC NAT’L COMM. (1969). Additionally, other forms of semi-proportional representation, such as cumulative voting and limited voting, have had more of a life, especially as remedies in Voting Rights Act cases. See Leon Weaver, *Semi-Proportional and Proportional Representation Systems in the United States*, in CHOOSING AN ELECTORAL SYSTEM: ISSUES AND ALTERNATIVES, (Arend Lijphart & Bernard Grofman eds., 1984), at 195, 198–200; see also generally Pildes & Parsons, *supra* note 327 (charting use of alternative voting systems).

<sup>329</sup> Barber ed., *supra* note 10, at 8.

<sup>330</sup> John R. Low-Beer, *The Constitutional Imperative of Proportional Representation*, 94 YALE L.J. 163, 184–87 & n. 103, 107 (1984). (noting “PR has not found as fertile ground in the United States as abroad,” as it faded due to the election of “undesirables,” but could be revived with a simpler system of “minority representation” under List PR today). For a related discussion in the 1980s over alternative voting systems that briefly discussed the American history of PR, see Akhil Reed Amar, *Choosing Representatives by Lottery Voting*, 93 YALE L.J. 1283, 1289 n.3, 1306 n.126 (1984). (first describing the few cities that used the Hare PR system, then using the *Moore* case in Massachusetts and *Campbell* case for NYC school board elections as support for principle that some element of chance is okay in election systems in pursuit of equality).

<sup>331</sup> George H. Hallett, Jr., *Proportional Representation with the Single Transferable Vote: A Basic Requirement for Legislative Elections*, in CHOOSING AN ELECTORAL SYSTEM, *supra* note 328, at 116–24. Hallett argued that PR would make voting easier, improve campaigning, guarantee majority rule, end primaries, and represent racial minorities. He also rejected Party List PR as “not good enough,” since it demands “complete adherence to one party.” Now, however, he went further than past arguments to say that Hare PR was constitutionally required. See *id.*

<sup>332</sup> DONOVAN & SMITH, *supra* note 27, at 7. This followed an earlier discussion in 1980, where a charter review committee considered but rejected putting PR on the ballot. See Heisel, *supra* note 166, at \*17.

<sup>333</sup> Amy, *supra* note 3, at 19.

Today PR could be at the beginning of a revival. Harvard law School just hosted a conference on alternative election systems, with the activists, academics, and lawyers there largely supportive of PR.<sup>334</sup> Further, Protect Democracy, a respected, bi-partisan nonprofit is seeking to bring the push for PR national, releasing a recent report on the history of single member districts in Congress.<sup>335</sup> And a recent *Jacobin* article argued that Socialists’ “ability to engage in productive political conflict” would be boosted by a multi-party PR system.<sup>336</sup> None of this recent advocacy, however, discussed America’s history much if it all.<sup>337</sup> They would do well to do so. If past is at all like prologue, good government ideology on its own is insufficient to build support for a significant shift in how American elections work. PR has won before—but only at scale when it built cross-cutting coalitions, particularly among minority groups like labor and left parties who could gain more direct representation. This should be not just a strategic intervention. PR can be more than a neutral principle. American politics has long left labor and left outside governing coalitions. Advocates should paint changing that as a benefit in itself.

## CONCLUSION

The idea of PR has re-entered mainstream American political debate. This marks the first time such structural reform is on the table since the Progressive Era. There, a group of non-partisan reformers, teaming with an overlooked group of Socialists and laborites formed left-labor-liberal coalitions that made PR possible in the two dozen cities that adopted it. Yet as that same group lost

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<sup>334</sup> Race and Electoral Systems Reform Conference, Harvard Law School, Sept. 21–22, 2023, Cambridge, MA. The conference was held in part to honor Professor Guinier’s memory.

<sup>335</sup> See TUDOR & TREMITIERE, *supra* note 1.

<sup>336</sup> Neal Meyer & Simon Grassmann, *Why Socialists Should Support Proportional Representation*, JACOBIN (July 26, 2021), <https://jacobin.com/2021/07/democratic-socialism-proportional-representation-multiparty-system-ranked-choice-elections>.

<sup>337</sup> The Harvard conference had one short presentation by Professor Santucci. The *Jacobin* article referenced Socialists’ PR advocacy in *Germany*, but not the United States. And the Protect Democracy report does not discuss municipal reform efforts, nor Socialists’ consistent national campaign planks on PR.

its unity, PR lost its protection, and was repealed in every city but one, with labor turning against it and the left looking on from outside. Accounts of this history that lose this left of PR miss the importance of ideology in election reform, labor and leftists' political involvement, and a case study on law limiting democracy. Election activists and academics moving forward should work to recover this left—in history and today.