

GAY RIGHTS AT THE BALLOT BOX

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CHAPTER 1

**FROM ANITA BRYANT TO CALIFORNIA PROPOSITION 8
THE RELIGIOUS RIGHT'S ATTACK ON LGBT RIGHTS**

If prostitution is the world's oldest profession, antigay politics is among the world's oldest obsessions.

Sean Cahill, *The Politics of Same-Sex Marriage*

DIRECT DEMOCRACY or the proposal and passage of laws through voters rather than legislators, has been a longtime tool of social movements, including those working to derail or restrict minority rights. The anti-gay Religious Right, a movement birthed in the late 1970s that had become a national movement by the early 1990s, has used direct democracy as a tool to effectively roll back LGBT rights. By fighting LGBT rights at the ballot box, the Religious Right has mobilized interested local activists, affected public opinion, and grown as a movement. This chapter documents the history of how the Religious Right used the ballot box to fight LGBT rights from 1974 to 2009. Although the remainder of the book analyzes the LGBT movement, this chapter focuses exclusively on the Religious Right and its long history of using the referendum and initiative process.

This chapter analyzes both the escalation in direct democracy and the increasing tactical innovation of the Religious Right. Many scholars have described the strength of the Religious Right as its constant strategic and tactical innovation.¹ The tactics used by the Right from 1974 to 2009 included everything from the most virulently moralist homophobic attacks to legalistic arguments about changing civil rights laws. Religious Right activists used several different types of direct democracy, from simple referendums that rescind a newly passed law to initiatives that twist legal language to restrict LGBT rights in both the present and the future. Similar to other social movements that use direct democracy to further their goals, the anti-gay Religious Right has used the referendum and initiative process both to further its own goals and to restrict another movement's gains.

The Politics of Direct Democracy

Social movements have used direct democracy since it was spread like wildfire by Progressive and Populist activists, who established initiatives in most western states in the early twentieth century as an attempt to circumvent corrupt, partisan state legislatures and educate voters on social issues. For these activists, citizen-sponsored initiatives would make the legislatures accountable to the general public. And indeed, early initiatives were used to pass laws on child welfare, workday length, and prohibition.² This trend of social movements using the referendum and initiative process has persisted to this day. It has allowed citizens to vote on abortion, medical marijuana, euthanasia, tax laws, environmental preservation, hunting, gun control, living wages, child labor, nuclear freeze, and health care—all initiatives sponsored by single-interest groups within a larger social movement. For example, the November 2008 ballot included statewide initiatives sponsored by the Religious Right, the animal-rights movement, the marijuana legalization movement, and the pro-life movement.³

With direct democracy, citizens can use referendums to overturn existing legislation or can propose new laws with initiatives, including constitutional and charter amendments. Although all states except Delaware allow (and at times require) the legislature to place laws on the ballot, only twenty-seven allow for a citizen-initiated referendum or initiative process. In many cases, this process allows citizens to propose constitutional amendments. Most of these states are located in the western and midwestern part of the United States, as early Progressive and Populist activism focused on these states. However, local cities and towns often have their own referendum and/or initiative process, even if it is not permitted on the state level; for example, Texas does not allow citizens to put referendums or initiatives on the ballot, but residents of Austin and Houston have voted on LGBT-inclusive fair-housing laws and domestic partnership benefits.

The use of the statewide initiative process in particular has changed dramatically over time, as demonstrated in Figure 1, influenced by several social forces. First, the contemporary resurgence in initiative use is often attributed to the success in 1978 of California's Proposition 13 to reduce property taxes.⁴ The initiative process has also been stimulated by the rise of professional consultants and an initiative industry, which makes it easier for local activists to collect petitions for referendums and initiatives.⁵

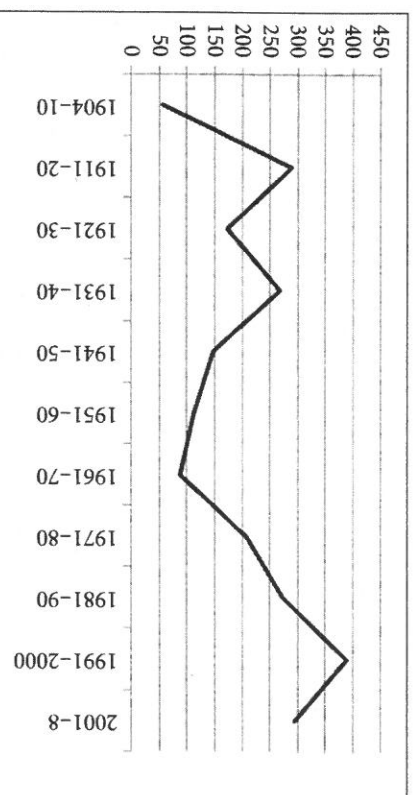


Figure 1. Statewide initiatives by decade, 1904–2008. Data from the Initiative and Referendum Institute.

Other trends, such as the use of initiatives by legislators during campaigning and the increasing use of counterproposals or competing measures, have increased the use of initiative process.⁶ State laws about petition signature requirements, requirements (or lack thereof) for legislative approval, and time to collect petitions make it easy to put initiatives on the ballot in states such as California, Colorado, and Oregon, which boast the highest number of referendums and initiatives.⁷

With this growth in statewide initiatives have come concerns about the impact of direct democracy on civil rights. Direct democracy tends to be devastating for the civil rights of minorities. In general, “civil rights laws seek to shift political power from the majority to the minority, creating a conflict steeped in self-interest. Where the civil rights of a political minority are at stake, the absence of the representative filter opens the door to the tyranny.”⁸ This danger of tyranny has been demonstrated throughout history. In the wake of the Civil War, residents of Georgetown and the city of Washington, D.C., voted on a referendum, the Black Suffrage Bill, to prevent newly emancipated blacks from becoming enfranchised.⁹ A statewide referendum in Ohio in 1917 disenfranchised women from their newly won right to vote.¹⁰ In 1946, a California statewide initiative to create a Fair Employment Practice law to protect racial minorities against employment discrimination lost two to one.¹¹ In 1993, Cincinnati, Ohio, voters decided whether gay men and lesbians would be permanently

exempt from future nondiscrimination laws.¹² Californians voted against affirmative action in 1996, the rights of illegal immigrants in 1994, and bilingual education in 1998.¹³

Direct democracy's effect on minorities can be alleviated through intervention by the legislature or judiciary. When Washington, D.C., and Georgetown voters elected in a landslide to rescind the newly acquired suffrage of black men in 1865, their vote was quickly overturned by Congress. States with little judicial or legislative review of ballot measures, such as California and Oregon, face more extreme ballot measures, such that voters have cast ballots in favor of quarantining individuals with HIV/AIDS, withholding medical treatment from illegal immigrants, and firing gay teachers. Although all of these initiatives either did not pass at the ballot box or were later declared unconstitutional by the courts, votes such as these can have psychological consequences for minorities and divert the resources of social movements.¹⁴

Not all minority rights are rescinded at the ballot box. For example, the women's suffrage movement achieved women's right to vote in many states long before the national suffrage amendment, often through the initiative process. However, LGBT rights are likely to both be on the ballot and be rescinded. Indeed, counting all 158 referendums and initiatives that made it to the ballot box, voters rejected LGBT rights in 70 percent of all direct legislative measures.¹⁵ Although not all of these ballot measures were sponsored directly by the anti-gay Right, the vast majority were.

Direct Democracy and the Religious Right

The Religious Right is a "broad coalition of pro-family organizations and individuals who have come together to struggle for a conservative Christian vision in the political realm."¹⁶ Scholars of the Right have traced the emergence of the New Right to the Cold War and Barry Goldwater's run for president in 1964. The anti-gay Religious Right, however, emerged within the New Right from the rising involvement of evangelical Christians in politics in 1970s, specifically the emergence of the pro-life movement in response to *Roe v. Wade*, the development of the antifeminist movement to defeat the Equal Rights Amendment (ERA), and mobilization to respond to the growth of the lesbian and gay movement.¹⁷ In a

survey of Religious Right literature, Didi Herman notes that evangelical Christian journals did not acknowledge the lesbian and gay movement until the 1960s and then did not encourage countermovement activities against the movement until the late 1980s.¹⁸

Direct democracy is an important arena of contention for interactions between the Religious Right and the LGBT movement because of its frequent use by the anti-gay Right.¹⁹ The Right has achieved more tangible success in its fight against gay rights using the initiative process than either the judiciary or the legislative process.²⁰ At the ballot box, activists can repeal local legislation and create new legislation by mobilizing public opinion and homophobia rather than navigating the complexities of either the courts or legislatures. Beyond changing public policy, "antigay political entrepreneurs compete in a game that involves building political capital, establishing and mobilizing a base of supporters, moving mass opinions about gays and lesbians, and, eventually, constraining the discretion of elected legislators."²¹ Anti-gay leader Kelly Walton, who led an unsuccessful initiative campaign to limit future LGBT rights laws in Idaho, bragged that his campaign was "able to rob left-wing candidates of precious campaign money that was devoted to this initiative."²² Although later chapters explore the ways that ballot measure campaigns can mobilize LGBT activists and create LGBT organizations, Religious Right-sponsored ballot measures also have negative consequences for the LGBT movement. In her book *How the Religious Right Shaped Lesbian and Gay Activism*, Tina Fetter describes how anti-gay activists have effectively diverted the agenda of the LGBT movement for the last thirty years, frequently through the use of direct democracy. Instead of pursuing its own agenda to achieve legislative or public policy advances, the LGBT movement has continually found itself spending time, money, and energy organizing local communities to defeat referendums and initiatives, and many of those campaigns do little to advance gay rights.

One of the ways that the anti-gay Right is so effective at diverting the agenda of the LGBT movement is through the ongoing tactical innovation in its use of the referendum and initiative process. In this tactical innovation, the Religious Right continually tried new techniques to win at the ballot box, spurring the LGBT movement to respond to an array of tactics over the last thirty-five years.

Tactical Innovation

Between 1974 and 2009 the Religious Right attempted more than 245 referendums and initiatives across the country. These included referendums to rescind small town nondiscrimination ordinances that included sexual orientation and/or gender identity, virulent statewide anti-gay initiatives, and initiatives to create constitutional amendments banning same-sex marriage. The Religious Right constantly altered its use of direct democracy during these years, changing the type (e.g., referendums, constitutional amendments), subject (e.g., gay teachers, same-sex marriage), and level (e.g., statewide, local) of referendums and initiatives. This rapid and continuous tactical innovation is common for countermovements that are trying to catch another social movement off guard with new, effective tactics.²³ By continually changing the nature of the electoral battle, the Right may force the LGBT movement to engage in continuous tactical innovation as well.

The largest tactical change was moving from an almost exclusive use of referendums to an almost exclusive use of initiatives to fight LGBT rights. Scholar John Green refers to referendums as “reactive opposition” or a response to the gains of the LGBT movement.²⁴ Nondiscrimination legislation, either at the state or local level, has been an effective tool of the LGBT movement to establish protections against discrimination in public accommodations, employment and housing for sexual orientation and/or gender identity in the absence of federal legislation.²⁵ Religious Right activists respond to this legislation by attempting to rescind it with a referendum, playing “defense” to the LGBT movement. However, initiatives are forms of “proactive opposition” or playing “offense as defense” in the fight against LGBT rights.²⁶ As one anti-gay activist proclaimed, “We want to take the battle to the enemy.”²⁷ With initiatives, Religious Right activists had more options for tactical innovation in the language and type of initiative. Initiatives were also more effective at diverting the agenda of the LGBT movement. However, initiatives were often reactive in their own way, a response to failed Religious Right legislation or advances of the LGBT movement.

Although referendums were a response to existing gains by the LGBT movement, such as domestic partnerships or nondiscrimination ordinances, with an initiative the Religious Right could address a wide range of

subjects, including any of the following: gay adoption, teachers, or foster parents; media depictions of homosexuality; homosexuality in the school curriculum; affirmative action for LGBT individuals; and access to marriage for same-sex couples. Some of these initiatives were attempts to constrain future LGBT rights legislation or provide a radical departure from the state’s existing policies.²⁸ The two most common types of initiatives are “legal-restrictive initiatives” and “marriage or partnership initiatives.” Legal-restrictive initiatives are attempts to constrain future LGBT rights legislation by limiting government support for homosexuality or the possibility of passing LGBT rights legislation in the future, along with typically eliminating any existing protections. Thirty-one percent of all attempted direct legislation by the Religious Right has been the use of legal-restrictive initiatives of one form or another. Marriage or partnership initiatives are attempts to constrain or repeal legislation that granted relationship recognition rights—such as domestic partnerships, civil unions, and marriage—to same-sex couples, which account overall for 25 percent of all attempted direct legislation by the anti-gay Right. Even within both of these commonly used initiatives, there was tactical innovation in the language and legal implications of each initiative. Additional initiative topics include HIV/AIDS (3.3 percent); an exclusive focus on schools, teachers, or adoption (4.4 percent); and other miscellaneous topics (0.8 percent).

Other tactical innovations included the changing level of direct legislation from the local level (i.e., town, city, or county) to the state level. Although most attempted direct legislation occurred on the local level (63 percent), as the anti-gay Religious Right grew in strength and resources, more direct legislation was attempted on the state level (37 percent). Anti-gay activists also experimented with campaign tactics such as political language, coalition building with new groups, and the level of visible homophobia in their messaging and leadership.

Attempted and Successful Direct Legislation

The preceding account of tactical innovation includes both direct legislation that made it to the ballot box and direct legislation that was merely attempted by anti-gay activists. There have been many studies, primarily in political science, on anti-gay referendums and initiatives that come before voters.²⁹ With one exception, existing studies of anti-gay direct democracy

only examine referendums and initiatives that make it to the ballot box.³⁰ I assert that we cannot fully understand the tactical innovation of the Religious Right without analyzing both attempted ballot measures and those that made it successfully to the ballot box.

Attempted ballot measures either were submitted to the relevant city or state clerk for approval (where applicable) or attracted attention in the local newspaper when petitions were publicly collected yet did not make it to the ballot box.³¹ These anti-gay referendums and initiatives included any direct legislation, local or statewide, that either explicitly targeted LGBT rights or was fought by the LGBT movement.³² Successful ballot measures made it to the ballot box. In this chapter, passed direct legislation refers to a positive outcome for the Religious Right.

In general, it is common for direct legislation to not make it past the petition collection process. For example, in California, of all attempted statewide initiatives filed, only 26 percent made it to the ballot, and 8 percent were passed by voters.³³ In this dataset of anti-gay ballot measures, 60 percent of all direct legislation attempted by the anti-gay Right made it to the ballot box. And in a survey of local nondiscrimination ordinances from 1972 to 1993, more than one out of three passed ordinances that include sexual orientation was challenged in efforts to overturn it.³⁴ If anything, this data suggests an underestimation of attempted anti-gay direct legislation.³⁵

Examining only successful referendums and initiatives obscures tactical innovation in both the Religious Right and the LGBT movement. For example, a rash of legal-restrictive initiatives in 1992 has often been described by scholars and activists alike as a new, suddenly developed tactical innovation of the anti-gay Right. However, the Religious Right had been unsuccessfully experimenting with special rights language in initiatives for at least eight years. Even if these attempted initiatives did not appear before voters, they provided the foundation for future tactical innovation by the anti-gay Right. As demonstrated in the remainder of the book, the LGBT movement innovated with pre-ballot legal challenges and other tactics to keep direct legislation off the ballot, an innovation that is lost when only successful direct legislation is examined. And even if the Religious Right could not succeed in getting an initiative on the ballot, the local LGBT community may still have mobilized significant time, energy, and money in anticipation of the initiative.

The Religious Right innovated with direct legislation not just through repeated attempts at new language or type of initiative but also by innovating within a certain geographic area.

Battleground States

Although the Religious Right sponsored referendums and initiatives from Maine to Hawaii, a few states bore the brunt of anti-gay organizing. More than two-thirds of all attempted referendums and initiatives between 1974 and 2009 took place in seven states—Oregon, California, Michigan, Florida, Washington, Maine, and Colorado—as demonstrated by Figure 2.³⁶ In these battleground states, LGBT rights were contested at the ballot box in surges of Religious Right opposition, concentrated in the 1990s. Although other states were the site of critical ballot measure battles—such as Cincinnati, Ohio, in 1993 and Hawaii in 1998—these seven battleground states became center stage. These states were disproportionately targeted owing to the ease of their direct legislation requirements and the strength of the Religious Right affiliate.

According to David Magleby, political scientist and eminent scholar of direct legislation, the different rates of statewide initiatives can be directly attributed to the ease of signature requirements in different states.³⁷ The Religious Right targeted these battleground states because of the ease of getting referendums or initiatives on the ballot. Many of these states have a lax citizen initiative process in which citizens frequently propose initiatives with low signature requirements and limited pre-ballot judicial review. With only one exception, the battleground states for anti-gay activity mirror the states with the most general statewide initiative activity. Oregon, California, and Colorado are the top three states for statewide initiatives. Michigan and Washington fall in the top ten states, and Maine falls in the top twenty.³⁸ Florida does not fit into this pattern; however, most successful referendums and initiatives in Florida have occurred at the local, not statewide, level.

As I will demonstrate later in this chapter, battleground states only developed with the emergence of a strong statewide anti-gay organization, often an affiliate of a larger national organization. Periods of intense anti-gay organizing at the ballot box have historically been led by one strong Religious Right organization within that state; for example, the Traditional

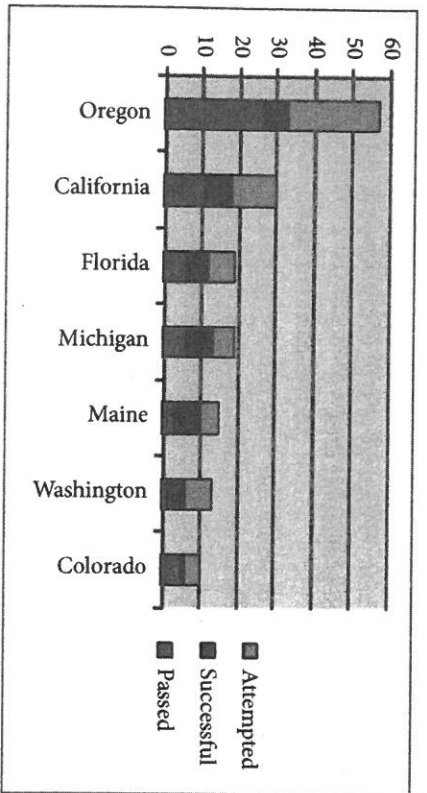


Figure 2. Battleground states, 1974–2009.

Values Coalition in California in the late 1980s, the Oregon Citizens Alliance in the 1990s, and the American Family Association in Michigan and Florida all spearheaded a flurry of local attempted anti-gay referendums and initiatives. In Colorado, Colorado for Family Values and other groups supported by the Colorado Springs organization Focus on the Family led several anti-gay referendums and initiatives. In some of these states, an anti-gay campaign industry developed supporting this organization, such as in Oregon, “where the drafting, circulation, and qualification of antigay initiatives became something of a cottage industry.”³⁹ Through the coordinated efforts of one group, the Religious Right can flood LGBT communities with anti-gay ballot initiatives, depleting resources and dividing group efforts.

Ironically, because of the nature of LGBT campaign tactical development documented in chapters 3 and 4 of this book, battleground states became losing states for the anti-gay Right after 1996. Although Religious Right activists passed the majority of their sponsored legislation before 1996, after 1996 their ability to win in battleground states declined dramatically. In general, the Religious Right passes legislation at a much higher rate in non-battleground states (88 percent) than battleground states (62 percent). And the anti-gay Right has the lowest rate of success in states such as Maine, Washington, and Michigan. Yet, even with the failing rates over time in battleground states, these states were often ground zero for tactical innovation, as anti-gay activists experimented with new ways of passing referendums and initiatives.

A Short History of the Anti-Gay Right at the Ballot Box

As demonstrated in Figure 3, the numbers of attempted, successful, and passed direct legislation waned and waxed as the anti-gay Right grew in strength and organization, focused on the ballot box as an important arena of contention, and innovated with new types of direct legislation. Transitions from one time period to the next are often marked with a significant victory or defeat for either movement. Overall, the Religious Right had periods of consistent success in getting direct democracy measures on the ballot and passed. The movement also had periods of intense tactical innovation in which many referendums and initiatives were attempted but did not successfully end up on the ballot.

The use of referendums and initiatives by the Religious Right can be divided up into five distinct time periods based on the number and type of direct democracy measures. From 1974 to 1987, the anti-gay Right developed into a national social movement, and Right-sponsored ballot measures were primarily referendums that were reactive to the gains of the LGBT movement. From 1988 to 1992, the anti-gay Right grew as a movement, as it sponsored and supported more statewide initiatives and innovated tactically with the development of proactive opposition, the legal-restrictive initiative. From 1993 to 1996, anti-gay activists across the country attempted legal-restrictive initiatives, ultimately abandoning the tactic as a statewide initiative after it was defeated in the Supreme Court

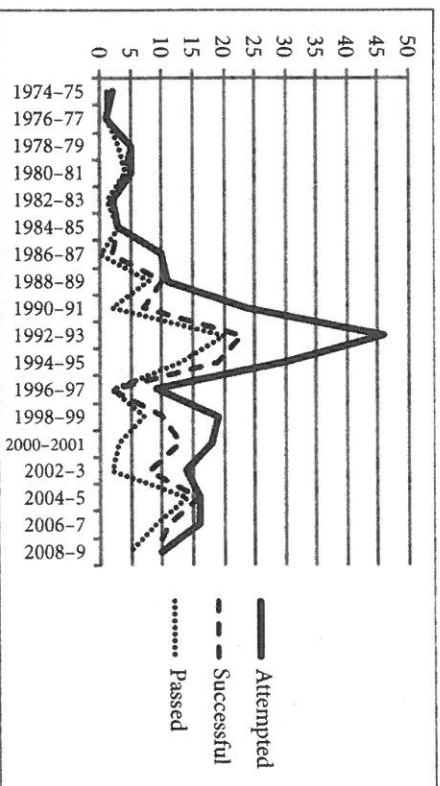


Figure 3. Referendums and initiatives sponsored by the Religious Right, 1974–2009.

case *Romer v. Evans* in 1996.³⁹ From 1997 to 2003, the anti-gay Right tried a wide range of tactics, ultimately growing into the marriage movement focused on restricting access to marriage for same-sex couples. Initiatives to ban same-sex marriage became the primary focus of anti-gay activism from 2004 to 2009. The following sections document the growth and change of the anti-gay Religious Right as a movement and the tactical innovation in its use of direct legislation over time.

1974-87 Referendums

In 1974, the anti-gay Religious Right was not yet a national movement; anti-gay activism grew out of small, localized social networks that ran through Christian churches and radio and television shows. Initially, anti-gay activism was led by dominant figures such as Anita Bryant, and this activism fizzled out quickly when those figures stepped down. But by 1987, an organized anti-gay Religious Right existed, a national movement connected through networks between local and statewide organizations that grew during this period. Anti-gay referendums sponsored by Religious Right activists were both a cause and a consequence of growing anti-gay social networks. As the movement grew in strength, it became less reactive to the gains of the LGBT movement through using referendums and instead began its own tactical innovation to curb LGBT rights. During this time period, of the twenty-nine attempted ballot measures, 75 percent were referendums and 10 percent were legal-restrictive initiatives. These ballot measures were highly likely to get on the ballot box (65 percent) and result in a victory for the Right (73 percent).

The anti-gay Right had not yet mobilized when LGBT activists began passing local, nondiscrimination ordinances that prohibited discrimination based on sexual orientation. In 1972, lesbian and gay college students in East Lansing, Michigan, helped pass the first nondiscrimination ordinance that included sexual orientation. There was little organized opposition, beyond routine objections from conservative community members or the Catholic church, to the first fourteen local gay rights ordinances passed in cities and municipalities across the country between 1972 and 1974.⁴⁰

This time period saw the growth of the New Right, a movement that distanced itself from Old Right politics of segregation and aligned itself instead with big business, moral traditionalism, and the revival of the

Republican party.⁴¹ In the early 1970s, the New Right had not yet mobilized white evangelical Christians who would constitute the majority of anti-gay activists. Although connected through a growing network of radio shows, churches, and television shows like Jerry Falwell's *The Old Time Gospel Hour*, many white fundamentalist Christians at the time refrained from involvement in the secular political world.⁴²

There were signs during this time, however small, that anti-gay Religious Right organizing would grow to challenge the LGBT movement. In 1974, in Boulder, Colorado, a bitterly divisive referendum overturned a newly passed nondiscrimination ordinance that included protection for sexual orientation. Although the referendum led to a recall drive against the city's mayor and a closeted city council member, the opposition was mainly routine, coming from a few outraged individuals and the membership of certain churches. Glenda Russell, a lesbian resident of Boulder, remembers that "there was enough antipathy for homosexuality floating around in general that you didn't need a campaign."⁴³ Unlike Miami Dade in 1977, the Boulder referendum received scant national attention.⁴⁴ The next year, the California Coalition of Concerned Citizens filed petitions for a ballot initiative to overturn the recent repeal of California's sodomy law, alarming local gays into creating their own organization, hiring a campaign manager, and beginning fund-raising.⁴⁵ Neither of these attempts resulted in the rise of prominent leaders on the Right or the growth of an anti-gay organization.

Bryant and Briggs, 1977-79

However, when Anita Bryant, former Miss America contestant and spokesperson for Florida orange juice, mobilized her followers in opposition to the newly passed nondiscrimination ordinance in Miami-Dade County, Florida, her role in the opposition received national visibility.⁴⁶ Bryant's campaign persuaded voters with language about religious rights and influence on local children, implying that all gay men were pedophiles and looking to recruit children. This referendum in 1977 was the beginning of the first wave of anti-gay activism, a series of referendum campaigns that lasted for two years and were led by figureheads like Bryant.⁴⁷

The Dade County victory emboldened Religious Right activists nationally; they sponsored a spate of referendums in cities across the country in 1978, many of which were visibly and economically supported by the

Anita Bryant Ministries, Protect America's Children, with Anita Bryant herself as a spokesperson. Within two years, ordinances were overturned by referendum in Wichita, Kansas; Eugene, Oregon; and St. Paul, Minnesota. Religious Right activists were unsuccessful in their attempt to overturn the Seattle, Washington, ordinance but threatened many more newly passed ordinances across the nation. The media attention garnered by Bryant brought the use of referendums to the attention of local religious activists as a tool to respond to the growing number of local and state laws that prohibited discrimination based on sexual orientation.⁴⁸ Referendums became the most common tactic, accounting for more than 75 percent of all attempted and successful uses of direct democracy by the anti-gay Right between 1974 and 1987.

This initial wave of referendums also gave birth to the first innovative initiative sponsored by the burgeoning anti-gay Religious Right. The California Defend Our Children Initiative was a response to a 1975 California law that protected gay and lesbian teachers from being fired. California State Senator John Briggs, who worked with Anita Bryant in Dade County, sponsored this initiative, popularly called the Briggs Initiative, that would have required the firing of teachers who were lesbian or gay, or who advocated homosexuality.⁴⁹ Overwhelmingly opposed by teachers' unions and then-Governor Ronald Reagan, the Briggs Initiative lost at the ballot box by a million votes.⁵⁰

Despite its successes, this first wave of anti-gay organizing died quickly and left few lasting resources. The first campaigns lacked political sophistication, rarely used new technologies like direct mail, and had difficulty mobilizing politically apathetic fundamentalists and evangelicals.⁵¹ In addition, these campaigns relied too heavily on Bryant and Briggs as figureheads, and faltered as both leaders experienced personal issues such as Bryant's divorce. However, some networks and organizations were created that would become important in the next wave of anti-gay organizing. Activism in California and in Florida strengthened an anti-gay activist network, including the formation of groups like Christian Voice, "a major Christian Right electoral vehicle of the 1980s," and Focus on the Family.⁵² These early organizations rallied against a range of issues, including abortion, sex education, and feminism, but were home to early anti-gay organizing as well. These early campaigns also trained future Religious Right leaders such as Jerry Falwell, who worked in the Dade County campaign and soon founded

the Moral Majority, an anti-gay organization that would mobilize the Right in the 1980s.⁵³ The executive director of the Briggs campaign, California Defend Our Children, was the Reverend Lou Sheldon, who later founded the Traditional Values Coalition (TVC), an anti-gay organization that sponsored referendums and initiatives across California in the 1980s.⁵⁴ Although not yet a national movement, the Religious Right entered the 1980s with more networks among a few key anti-gay religious leaders along with national attention from the Miami Dade and Briggs campaigns.

Growing Organizations, 1980-87

The election of Ronald Reagan in 1980, which combined the mobilization of evangelical Christians with "the political arousal of conservative economic elites," ushered in a new era of Religious Right organizing.⁵⁵ The second wave of anti-gay organizing, from 1980 to 1987, demonstrated the beginnings of a national anti-gay and (increasingly) "pro-family" movement, as national anti-gay organizations grew stronger and more supportive of both local activism and national legislation. As HIV/AIDS spread in the United States, the Religious Right harnessed panic and fear about AIDS to increase fund-raising and anti-gay animosity.

During this time, the New Right started and developed major organizations that contributed to anti-gay activism. Jerry Falwell's organization the Moral Majority "marked the religious right's official entrance into interest-group politics."⁵⁶ Anti-gay organizations drew strength from the growing pro-life and antimilitarist movements, including Phyllis Schlafly's decade-long attack on the Equal Rights Amendment (ERA) through her organization Eagle Forum.⁵⁷ These early Right organizations were able to grow on the voting power and political mobilization of Christian evangelicals. For example, the Moral Majority mobilized and registered evangelical voters in 1980 for Reagan's election.⁵⁸

In the wake of Reagan's election, the initial focus of Religious Right organizations was passing federal legislation to reinstate school prayer, redirect government funding, and restrict abortion. An example of this legislation was the unsuccessful Family Protection Act of 1981, which was sponsored by Nevada Republican Senator Paul Laxalt. Often referred to as a "Christmas tree for the New Right," the Family Protection Act included provisions for school prayer, the restriction of minors' access to abortion, parental control over textbooks, traditional roles for women,

opposing federal statutes on child abuse, and prohibiting the promotion or support of homosexuality by the government.⁵⁹ The bill was "designed to strengthen the American family . . . to preserve [its] integrity to foster and protect [its] viability by emphasizing family responsibilities in education, tax assistance, religion and other areas related to the family and to promote the virtues of the family."⁶⁰ After limited success on the federal level for its "moral issues agenda," the Right moved "from an exclusive focus on making policy change at the federal level and, instead, dug their heels in for a long, multi-faceted struggle" that included direct action protests and local electoral politics.⁶¹

To develop strength for this struggle, growing Right organizations drew on emerging technologies, such as direct-mail fund-raising.⁶² Millionaire Richard A. Viguerie helped develop computer lists of New Right voters to use in innovative direct-mail fund-raising by diverse Right organizations such as the Conservative Caucus and the Committee for Survival of Free Congress, often coordinating fund-raising for local campaigns through letter-writing campaigns.⁶³ Toward the end of the 1980s, Falwell and the Moral Majority sent direct mail that used AIDS and anti-gay sentiments to raise money. For example, in a 1987 fund-raising letter, Falwell asserted that gay men donate blood because "they know they are going to die—and they are going to take as many people with them as they can."⁶⁴

Using fear of AIDS to raise funds was indicative of the growing use of public-health (and eventually legal) messaging during referendum and initiative campaigns. Embedding public-health concerns within a growing pro-family and family values message, the anti-gay Right steered away from explicitly religious justifications for their activism. Paul Cameron, a psychologist who resigned from membership in the American Psychological Association in 1983 while under an ethics investigation, pioneered this public-health approach. Cameron conducted questionable survey research on gay men and their sex habits, generating bogus statistics, including one that reported the average life expectancy of a gay man as thirty-nine years. Cameron made his debut during a 1981 debate over the Lincoln, Nebraska, gay rights ordinance, where he introduced these statistics, along with invented stories about child victims of homosexual pedophiles.⁶⁵ After the Lincoln ordinance was rescinded in a referendum, Cameron assisted other referendum campaigns, including the Committee for Public Awareness,

which was formed to repeal two gay rights laws in Houston in 1984.⁶⁶ Some local activists also experimented with legal messages that claimed gay men and lesbians were trying to usurp civil rights laws. For example, in 1980, a San Jose, California, Religious Right group asserted that two local referendums on gay rights "are not civil rights issues at all. Instead they give gay people special privileges, opportunities, and job considerations because of their sexual lifestyle. Gays feel their sexual choice makes them a special minority deserving of special treatment and protection."⁶⁷

With a new arsenal of language opposing LGBT rights, local anti-gay activists used referendums liberally, and successfully placed nine referendums on the ballot during this time period while attempting four others. Local activists also innovated with initiative language that would prevent gay rights ordinances in the future and restrict support for LGBT rights by public officials. An initiative developed in 1982 in Austin, Texas, would have allowed discrimination based on sexual orientation in housing by using convoluted, confusing language: it stated that "it shall not be unlawful to deny housing on the basis of sexual orientation," thereby preempting a local fair-housing ordinance.⁶⁸ The Austin initiative was not passed by voters, and lost 65–35 in the most dramatic defeat of the 1980s. In 1986, a Washington State group attempted both a statewide and a local initiative in King County that would eliminate "special rights" for gay men and lesbians. The statewide initiative was a response to failed legislation sponsored by State Representative Glenn Dobbs that would have overturned state and local gay rights ordinances and prevented both the government and schools from hiring gays. This failed legislation was likely inspired by the failed Family Protection Act.⁶⁹ The Washington Religious Right was unable to get either of these initiatives on the ballot owing to legal challenges and insufficient petitions.⁷⁰ Consistent with the Briggs initiative, these initiatives were responsive to either successful LGBT legislation or to failed Religious Right legislation.

Reflecting the growing trend of legislative candidates to use the initiative process to garner public attention and advance their own causes, radical activist Lyndon LaRouche sponsored a statewide HIV/AIDS initiative in California in 1986. Proposition 64, commonly known as the LaRouche Initiative, mandated state reporting of individuals with AIDS, the inclusion of AIDS in quarantine and isolation statutes, and a limitation on the occupations open to individuals with AIDS. LaRouche was a campaign

spokesman, and he asserted during a radio interview that "A person with AIDS running around is like a person with a machine gun running around shooting up a neighborhood."⁷¹ Even after the initiative failed at the ballot box, 29 percent to 71 percent, LaRouche asserted that "what I represent is a growing movement . . . the movement is coming strong all the time."⁷²

Although the LaRouche Initiative mimicked the Briggs Initiative in both its radical departure from state policy and its vitriolic language, this wave of anti-gay organizing was stronger than the earlier Briggs and Bryant wave. Even with little coordination of campaigns by national organizations, campaigns shared resources; for example, many campaigns used psychologist Paul Cameron or Judi Wilson, a consultant who had worked on the 1977 and 1980 Miami Dade campaigns.⁷³ Toward the end of this time period, anti-gay activism became more concentrated in a few states, often in response to growing LGBT activism. Some of this organizing in battleground states was coordinated by growing regional organizations, such as the Traditional Values Coalition (TVC) in California. There were also signs of increasing anti-gay tactical innovation in the use of direct mail and development of political messaging.

1988-92 Innovative Initiatives

In 1988, as Ronald Reagan finished his second presidential term, the New Right was left with a void in presidential leadership. The New Right was both growing exponentially and experiencing a decline of such major anti-gay organizations as the Moral Majority and Christian Voice.⁷⁴ In this contradictory period, the New Right became more focused on opposing LGBT rights, particularly through proactive opposition. Through a series of tactical innovations, anti-gay activists developed the legal-restrictive initiative, which would curb government recognition of LGBT rights. This period culminated in two statewide legal-restrictive initiatives in Oregon and Colorado in 1992. Of the forty-one attempted ballot measures during this time period, most were either referendums on nondiscrimination legislation (48.8 percent) or legal-restrictive initiatives (24.4 percent), although the Right also sponsored initiatives to restrict the rights of people with AIDS (14 percent) and to eliminate newly passed domestic partnership laws (9.7 percent). Slightly more than half of the ballot measures made it to the ballot box and 57 percent ended in a victory for the Right.

This activism was led by a new national organization, the Christian Coalition, and a growing anti-gay industry. After Pat Robertson briefly ran for the Republican nomination for president, he used his list of evangelical supporters to start the most important national Right organization of the late 1980s, the Christian Coalition.⁷⁵ To complement the Christian Coalition, a whole industry of anti-gay Religious Right leaders, organizations, and literature arose to address both HIV/AIDS and the growing strength of the LGBT movement. These anti-gay organizations increased their involvement in grassroots politics as part of a shift in focus within the New Right from national to local politics. This local focus included "stealth" campaigns to get Right-supportive city council and school-board members elected.⁷⁶ According to scholar Sara Diamond, "For the Christian Right, the strategic lesson of the 1980s was to keep one figurative foot inside formal Republican Party circles and another planted firmly within evangelical churches."⁷⁷

With the increasing attention to AIDS and growing strength of anti-gay organizations, opposition to LGBT rights became more central to the mainstream Christian agenda, expressed through both anti-gay ballot initiatives and public efforts to curtail any federal funding that was supportive of LGBT rights or individuals. Two examples of the latter trend are opposition to federally funded safer sex materials that express approval of homosexuality and the defunding of the NEA Four, four artists whose National Endowment for the Arts funding was revoked owing to the controversial nature of their art, which in many cases focused on gay or lesbian themes. These activities brought anti-gay politics firmly into mainstream Christianity, demonstrated by the increased space given to anti-gay rhetoric in the early 1990s in mainstream Christian journals.⁷⁸ This anti-gay activism culminated in the 1992 Republican National Convention, where anti-gay rhetoric was subsumed under a focus on "family values."⁷⁹ The Republican convention was a rallying call on the Right to fight LGBT advances supported by the Democratic Party.

The anti-gay Right increasingly sponsored referendums to rescind existing LGBT rights legislation, including domestic partnership rights in San Francisco. In 1988, the LGBT community in Oregon faced the Oregon Citizens Alliance (OCA) for the first time, as the OCA sponsored the first successful statewide initiative to rescind the governor's executive order prohibiting discrimination based on sexual orientation.⁸⁰ The growth of

these referendums and their location in increasingly battleground states demonstrates the growing power and involvement of established anti-gay Right organizations. For example, in California the TVC became involved in anti-gay referendums and initiatives in the late 1980s. It provided support for ballot measures across the state, including three statewide initiatives to target people with HIV/AIDS and the repeal of nondiscrimination protection for individuals with AIDS in Concord, California, in 1989.⁸¹ After the Concord vote, a TVC spokesperson remarked: "This shows that it is possible to repeal the laws. We're not going to go city by city, county by county repealing laws, but there could be a few more soon."⁸² In other cities, groups modeled themselves after the TVC, as in Irvine, where the anti-gay campaign, the Irvine Values Coalition, used the Reverend Sheldon as a public spokesman.⁸³ The Christian Coalition supported a 1990 battle over an anti-gay initiative in Broward County, Florida. It boasted in its national fund-raising letters that it "led the charge" and "won a major political victory" in Broward County, encouraging activists in other states to "duplicate this success in your city and state and throughout the nation."⁸⁴

At the end of the 1980s, the Religious Right shifted focus from the use of referendums to a period of rapid innovation in use of the initiative process. Although the anti-gay Right had experimented with a few unsuccessful initiatives in the 1970s and early 1980s, 1988 to 1992 was an intense four-year period of innovating that resulted in the legal-restrictive initiative. The legal-restrictive initiative was an attempt to create an initiative that would restrict the ability of the government, whether local or state-wide, to pass LGBT rights laws or support homosexuality more broadly. Many of these attempted initiatives included provisions to both eliminate existing LGBT rights laws and prevent future ones. One of the first attempts to restrict future government support of LGBT rights was in 1978 in Seattle, an initiative that both repealed the existing ordinance and prohibited all future action on the part of city officials to grant rights based on sexual orientation.⁸⁵ Rather than respond directly to the growing power of the LGBT movement in passing local legislation with referendums, the use of these initiatives in the late 1980s showed the anti-gay Right going on the offensive.

During the tactical innovation to develop this initiative, anti-gay activists attempted a series of draconian initiatives that were inspired by the failed Family Protection Act in Washington in 1986, and the NEA fight.

In 1991, ten out of eighteen direct-democracy measures were attempted initiatives, the first time that initiatives had outnumbered referendums as a tactic of the Religious Right. These initiatives included unsuccessful attempts to require voter approval for LGBT rights laws in Maine, California, and St. Paul, Minnesota, and to prohibit the government from promoting homosexuality in the California cities of Irvine, Concord, and Riverside. These initiatives were increasingly extreme and draconian, including attempts to make Josephine County, Oregon, an "AIDS-Free Zone" in 1989 and to bar gay and lesbian foster parents in Massachusetts in 1991.⁸⁶ Ultimately, none of these initiatives made it to the ballot box, either because of petition collection problems or because they were defeated during pre-ballot legal challenges.

In 1992, these attempts to craft a legal-restrictive initiative bore fruit as anti-gay activists successfully sponsored legal-restrictive initiatives in two cities and two states.⁸⁷ In Oregon, the Oregon Citizens Alliance (OCA) led by vocal anti-gay activist Lon Mabon, sponsored legal-restrictive initiatives in the cities of Corvallis and Springfield.⁸⁸ These legal-restrictive initiatives were test cases for the Oregon statewide initiative in November 1992, Ballot Measure 9. This was a broad, moralistic initiative that eliminated future and existing gay rights legislation, paralleled homosexuality with sadomasochism and pedophilia, and prohibited government promotion of homosexuality.⁸⁹ Ballot Measure 9 was one of the most extreme anti-gay initiatives in that it required the firing of lesbian and gay teachers in public schools (along with anyone openly supportive of LGBT rights) and the removal of all books approving of homosexuality from government-funded libraries. OCA tactics were virulently homophobic and often connected to the Oregon far Right. For example, one of the OCA flyers suggested that LGBT activists were inspired by *Mein Kampf*.⁹⁰ Although the anti-gay Right did not pass Ballot Measure 9, OCA leader Mabon seemed invigorated by the loss and asserted his plans to pursue future legal-restrictive initiatives.

In the same election, Colorado anti-gay activists sponsored their own statewide initiative. Focus on the Family, a growing anti-gay organization, moved to conservative Colorado Springs in October 1991 and provided support for a new wave of anti-gay ballot initiatives. In 1992, the organization Colorado for Family Values (CFV) sponsored Amendment 2, a legalistic initiative that eliminated future and existing gay rights laws in the state. CFV had originally mobilized to defeat an ordinance in conservative

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Colorado Springs. Colorado Amendment 2 distinguished between "true" minorities and gays by using legal language about "protected classes" and "minority status." This initiative was "not an aberration; rather, Amendment 2 was a logical progression in a national, concerted [Religious Right] antigay effort of over two decades' duration."⁹¹ The advisory board of CFV included anti-gay leaders from all over the country, including representatives from TVC, Concerned Women for America, Focus on the Family, and the Eagle Forum.⁹² When Colorado Amendment 2 passed in a narrow victory, it launched CFV into the limelight.

One innovation that is typically attributed to CFV politics is the use of a secular, legalistic argument about LGBT rights, which gained popularity after Colorado Amendment 2. This legalistic argument about how LGBT rights were "special rights" usurping the rights of others displaced religious language opposing gay rights with a language of "secularism and accommodationist pluralism."⁹³ Religious Right activists had used references to preferential treatment and special rights since the 1970s.⁹⁴ Some of this language was developed when Lou Sheldon of the TVC and Pat Robertson of the Christian Coalition led a "national summit meeting on homosexuality" that addressed the issue of how lesbian and gay individuals want "special protection over and above the equal rights already given to all Americans."⁹⁵ This argument was popularized by a widely distributed article by Tony Marco, mastermind of the Colorado initiative, who questioned whether gays were "oppressed minorities or counterfeits?"⁹⁶ Part of this secular argument about "special rights" was a new image of the Religious Right as supportive of civil rights for "deserving" minorities such as African Americans but opposed to "undeserving" minorities such as LGBT activists. The anti-gay Right used special rights political messaging to divide potential political allies by exacerbating existing tensions about race and class in LGBT politics. Through this messaging, the Right reaffirms gayness as whiteness, creating divisions between a presumed white LGBT movement and the presumed heterosexual African American community. For example, in a 1990 Tacoma, Washington, referendum campaign, Religious Right activists suggested that "the only valid civil rights are determined by race, religion and nationality," and in 1991 anti-gay activists attempting a referendum in Pittsburgh stated that gay rights laws "will make it harder for blacks to get jobs in Pittsburgh (because)

there will be a well-organized and affluent special interest group ahead of them."⁹⁷ The next section gives a more detailed overview of the development of Marco's treatise into racialized political messaging about race and LGBT rights.

The 1992 Republican National Convention sparked a culture war when the Republican "pro-family" platform included a multipronged attack on LGBT rights in legislation, public education, and the arts.⁹⁸ The 1992 Republican convention, together with Colorado Amendment 2 and Oregon Ballot Measure 9, was a sign of growing anti-gay movement power. As national and local organizations coordinated their efforts and shared strategy, the Right moved into the most aggressive period of anti-gay organizing to date.

1993-96 Special Rights Initiatives

Buoyed by a surge of energy at the 1992 Republican Convention and the passage of Colorado Amendment 2, along with the growing opposition to the election of President Bill Clinton and Republican takeover of Congress in 1994, the Right escalated its use of direct legislation from 1993 to 1996, attempting more referendums and initiatives than ever before. Many scholars suggest that this time period marked a resurgence of the New Right, which included large-scale mobilization of anti-gay activists in battleground states.⁹⁹ In the mid-1990s, national organizations like the Christian Coalition swelled to more than 1 million members and a \$25 million annual budget.¹⁰⁰ A growing anti-gay cottage industry produced videos, pamphlets, and books as resources for anti-gay activists. The anti-gay Right gained more public support and visibility than at any other time in U.S. history by addressing federal issues such as gays in the military and the threat of same-sex marriage in Hawaii in 1993. There was also an explosion of political connections between national and state activists owing to the use of the legal-restrictive initiative during this time period.

Between 1993 and 1996, anti-gay activists attempted legal-restrictive initiatives in thirteen states and more than thirty cities and towns.¹⁰¹ Of the seventy-nine attempted ballot measures during this time period, legal-restrictive initiatives (70.9 percent) dramatically outnumbered referendums (19.0 percent).¹⁰² However, only half of all attempted ballot measures made it to the voters. These included initiatives modeled after Colorado

Amendment 2 or Oregon Ballot Measure 9 and attempts to create a new type of statewide "stealth" initiative. Few statewide initiatives made it to the ballot box, but the presence of active Religious Right organizations collecting petitions for legal-restrictive initiatives in thirteen states mobilized LGBT activists across the country.

After the defeat of Ballot Measure 9, Lon Mabon and the OCA began building momentum for a 1994 Oregon statewide ballot initiative, Measure 12, by supporting more than thirty anti-gay initiatives in small towns across Oregon.¹⁰³

Mabon hoped the local ballot initiatives would bring the issue of gay rights to small-town Oregon, the OCA's core constituency, relatively free of the hype and posturing of statewide, media-driven campaigns. He cultivated leaders who were known in their communities, who had broad networks of contacts that they could tap, and learned hundreds of people's names by heart, calling them and writing them personal letters to elicit their support. This "plain folks" populist style appealed to a constituency that distrusted the media, and large institutions in general.¹⁰⁴

The OCA consistently won these rural initiatives, which often took place in areas with little or no visible LGBT community.¹⁰⁵ The new initiatives in 1994 mirrored Ballot Measure 9 but adopted more legalistic language from Colorado Amendment 2 by reducing the parallels between homosexuality and bestiality in favor of prohibiting the government from "advising or teaching children, students, employees that homosexuality equates legally or socially with race, other protected classifications." Even with these changes in language, this initiative did not pass in Oregon.

During this intense period of anti-gay organizing, regional associations like OCA and CFV expanded their influence beyond Oregon and Colorado. OCA created affiliates in Nevada, Washington, and Idaho that attempted statewide legal-restrictive initiatives. Only Idaho's initiative successfully made it to the ballot and was defeated by Idaho voters. Because of the success of Amendment 2, CFV was influential in encouraging activists in other states to use Amendment 2 language for their own statewide initiatives. CFV provided training sessions for activists across the country in 1994 and directly supported both statewide and local initia-

tives, including the infamous Cincinnati Issue 3 in 1993. Cincinnati was the only city outside of Oregon to pass a legal-restrictive initiative during this time period. Using Colorado Amendment 2 language and CFV funding and training, Cincinnati Religious Right activists passed a local legal-restrictive initiative in a contentious campaign.¹⁰⁶ CFV also influenced the activism of the Florida affiliate of the American Family Association (AFA), which became active in ballot initiatives and attempted several statewide anti-gay initiatives. AFA and CFV together influenced other statewide ballot initiatives, such as those in Maine, which were ostensibly run by a Maine-based organization that used the language and tactics of all three other organizations.

The spread of the legal-restrictive initiative as a tactic was owing to the appeal of a proactive strategy that would stymie the LGBT movement's push for rights on the local and state level, eliminating the necessity of referendums. The use of the legal-restrictive initiative, particularly the version that was used in Colorado, marked a shift in anti-gay Right tactics beyond the type of direct legislation. The language used to defend these initiatives became more racialized and secular. The level of homophobia and religious extremism evident in campaigns also changed.

Gay Rights, Special Rights

In the opening of the film *Gay Rights, Special Rights* (GRSR), the well-known footage of Martin Luther King Jr. orating the "I Have a Dream" speech is overlaid with ominous concerns about gay rights usurping civil rights for racial minorities. This video, created by the pairing of the Reverend Lou Sheldon from the TVC with Jeremiah Films in Hemet, California, signaled a shift in Religious Right tactics from using moralistic and religious language to racialized legalistic messaging. Indeed, the premise of most legal-restrictive initiatives was that sexual orientation could not and should not be a protected class status like race. This racialized language sidesteps the history of Old Right support of segregation and the New Right opposition to affirmative action.¹⁰⁷ This racialized language was coupled with dissent within the Religious Right about religious extremism and homophobia.

This racialized argument about special rights, popularized by Tony Marco of CFV, included three arguments for opposition to LGBT rights.

1) The first was that gays did not qualify for minority status because of their wealth, power, and lack of discrimination. Discrimination against gays was portrayed as a deceptive, liberal hoax, and Religious Right literature often used examples of the funding of LGBT initiative campaigns to illustrate the wealth of gays. Anti-gay campaign literature frequently used a graph illustrating the supposed differences in income between African Americans and wealthy gay men, a graph based on literature used by CFV in Amendment 2 (see Figure 4).¹⁰⁸ The emphasis on these traits is because of the Supreme Court definition of a protected class status, which requires a history of political powerlessness and insidious discrimination, along with immutability or inability to change.¹⁰⁹ In this argument, anti-gay activists "sought to portray the lesbian and gay movement as an elite cadre of well-to-do professionals insinuating themselves into the fabric of American institutional life."¹¹⁰ Being gay or lesbian was also changeable, unlike "real" minorities. According to OCA leader Lon Mabon, "I don't think you're ever going to show that homosexuality is an unchangeable characteristic. It's not like being Caucasian or African American, which gender you were born with, or whether you're Irish or German or whatever. Those are things that are immutable."¹¹¹

2) The second argument was that gays wanted more rights than other individuals, or "special rights." These "special rights" would give them more rights than average citizens. Religious Right literature was careful (most of the time) not to position the Right as opposed to civil rights for African Americans, but rather against the special rights of gays. This argument juxtaposes deserving blacks who have experienced discrimination with gays as an undeserving group. For example, in West Palm Beach, Florida, in 1995, opponents asserted that the "U.S. Constitution guarantees equal protection. Anything else is a special right. Some people, like blacks, deserve special rights, such as those in the 1964 Civil Rights Act, because of long history of discrimination. Homosexuals are not deserving of a special law."¹¹² This argument builds on misconceptions about civil rights protections. In this misconception, civil rights inherently take rights away from someone else, in a zero-sum game.

3) The third argument was that not only did gays want special rights but their rights would ultimately usurp rights from legitimate minorities such as blacks by rendering civil rights gains meaningless. To make this claim, campaign literature included civil rights master frames, such as "this is a

"Gay Rights" Opposition to Amendment 2 Boils Down to Three Phony Arguments...

1) FEEL SORRY FOR US... THEN GIVE US SPECIAL RIGHTS.

BUT - are "gays" really hurting? Consider these facts:

	Average Household Income	% College Graduates	% Managerial/ Professional Positions	% Overseas Travel
"GAYS"	\$55,430	59.9%	49.0%	65.8%
AVG. AM.	\$32,144	18.0%	15.9%	14.0%
DISADV. AFRICAN AMERICANS	\$12,166	5.0%	1-2%	1%

(¹⁰⁸ Acc. to U.S. Census Bureau, Simmons Market Research, Statistical Abstract, U.S., 1990)

2) WE GAVE BLACK PEOPLE, WOMEN AND THE HANDICAPPED SPECIAL RIGHTS - NOW, WHY NOT "GAYS"?

BUT -- do "gays" qualify for special rights like these groups do?

To qualify for special rights, groups must be (a) disadvantaged, (b) not defined by behavior and (c) politically powerless. Women, blacks and the handicapped all meet those qualifications. Do you think "gays" meet them? Why shouldn't they have to, like the others did? Homosexuality is behavior or desire. If we give behavior or desire special rights, who'll be next -- drug addicts, pedophiles or prostitutes?

3) "GAYS" SAY THEY DON'T WANT SPECIAL RIGHTS - THEY JUST WANT TO BE LIKE EVERYONE ELSE.

BUT -- are they telling the truth?

Rabbi Steven Foster (Co-Chairman of EPOC, the "gay rights" campaign against Amendment 2) says he thinks homosexuals deserve special minority status. Amendment 2 doesn't change "gays" present status -- it just prevents special rights for "gays." According to Colorado's most prominent Civil Rights leaders, "gays" already have the same basic rights as anyone else. That means they are equal right now. Amendment 2 means they'll stay equal, not special.

VOTE "YES!" ON AMENDMENT 2!

Produced by Colorado for Family Values, Will Perkins, Executive Board Chairman, Kevin Toledo, director.

Figure 4. Political messaging from Colorado for Family Values.

hijacking of the freedom train" and phrases such as "equal rights, not special rights," along with invoking Dr. Martin Luther King Jr. and his family. To reinforce this claim of injury to African Americans, campaign literature began using African American and other racial minority spokesperson in their literature in the 1990s. Anti-gay activists also engaged in their own

racial coalition building with African American pastors. In Cincinnati Issue 3 in 1993, African Americans were targeted by Issue 3 proponents and featured prominently in Issue 3 literature.¹¹³ A leader of the Cincinnati anti-gay campaign noted that "A key ingredient to victory is winning the Black vote. Our spokesperson was the President of the Black Baptist Ministerial Association. Even with a Black spokesperson, the Black vote was split evenly, which was our goal."¹¹⁴ To reinforce the supposed antagonism between African American and LGBT communities, anti-gay literature consistently portrayed white gay men and lesbians, often making white gay men the dominant representation of public LGBT life. The absence of LGBT people of color in anti-gay literature becomes "a telling indication both of the intrinsic whiteness of homosexuality and of the threat that gay rights may pose to the rights of other 'others.'"¹¹⁵

Similar to Cameron's public-health messaging, this legalistic language was often coupled with voyeuristic images from LGBT community events. In videos such as *GRSR*, which were commonly used during initiative campaigns, the perfunctory legalistic arguments about civil rights law were juxtaposed with wild depictions of the "gay lifestyle." Between clips of minority leaders discussing the differences between the LGBT and civil rights movements, *GRSR* includes clips of the March on Washington in 1993 showing kissing gay men, polyamorous bisexuals, queer leathermen, and parading transsexuals and drag queens. In *GRSR*, transgender participants in the march became a spectacle to convince voters of the dangers of LGBT rights. The anti-gay Right had long used marginalized groups within the LGBT movement, such as the North American Man/Boy Love Association (NAMBLA), to bolster arguments against LGBT rights. The specter of cross-dressing teachers and babysitters was occasionally used in anti-gay literature before 1992.¹¹⁶ In the late 1990s, the anti-gay Right used changes within the LGBT movement, such as the increasing inclusion of transgender protections in nondiscrimination legislation, to create effective smear tactics. These tactics often focused on transgender access to bathrooms, suggesting that transgender individuals were really "men in dresses" looking to victimize helpless women in the bathroom. These tactics emerged in the St. Paul, Minnesota, ordinance in 1990 and quickly spread across the country.¹¹⁷ For example, during OCA's 1991 opposition to the Portland, Oregon, antidiscrimination ordinance, activists passed out

flyers at hearings that had a photograph of a male teacher in a dress standing in a classroom, with the following message: "If gay rights becomes law, what prevents this type of thing from happening?"¹¹⁸ Since the mid-1990s, Religious Right groups have begun using these tactics for a week or two during referendum and initiative campaigns, regardless of whether or not there are transgender protections written into local ordinances.¹¹⁹

Some of these shock and awe campaigns were controversial even within the Right, as anti-gay activists re-formed their image to address a mainstream audience. Although scholar John C. Green asserts that proactive opposition like legal-restrictive initiatives are led by the most "hard-core specialists in antigay politics," some Right "organizations publicly downplay hostility to homosexuals, and some Christian Right leaders have criticized their colleagues for their strident antigay rhetoric."¹²⁰ Although many leaders were ministers and evangelical Christians, the image of the Right became increasingly less religious and more "pro-family." Some anti-gay activists criticized the crude tactics and defamatory rhetoric of the OCA and its affiliate, Idaho Citizens Alliance. Many anti-gay activists realized that this extremism could be the downfall of a campaign. The dangers of extremism were aptly demonstrated in Idaho, when the revelation that Jeremiah Films had not only produced *Gay Rights*, *Special Rights* but also a series of anti-Mormon films led to Mormon opposition to the initiative.¹²¹ Some campaigns avoided associations with controversial psychologist Paul Cameron after public criticism of his research during Colorado Amendment 2. And OCA activist Scott Lively's claim that gays were Holocaust perpetrators put the OCA under attack in the Oregon media. When Maine faced an initiative in 1995, the leader of the preeminent group of Maine religious conservatives criticized that anti-gay campaign, remarking that "This must not become a campaign calculated to arouse hatred or fear of any group of our fellow citizens" and suggesting that the campaign should be different than those in Oregon and Idaho.¹²²

This kinder, gentler, civil rights-supportive anti-gay Right was an effective ballot box tactic. The use of special rights language may simultaneously gain the support of African American and liberal voters alike and appeal to the anxiety of working-class voters who did not benefit from the gains of the civil rights movement.¹²³ This special rights messaging "allows the leaders of the right's campaign to present themselves as the defenders

of 'deserving' people, such as people of color and working-class people [which] . . . helps create and maintain a wedge of resentment between groups who might otherwise be political allies."¹²⁴

The "Magic Bullet"?

Although the special rights language was an excellent tactical innovation for the anti-gay Right, the legal-restrictive initiative was not. The legal-restrictive initiative was responsible for a surge of anti-gay activism at this time that encouraged activists all over the country to attempt their own initiative. However, outside of Oregon, legal-restrictive initiatives were difficult to get on the ballot box (only a third were successful) and were rarely passed by voters. Outside of Oregon, only four legal-restrictive initiatives made it onto the ballot, and the legal-restrictive initiative never succeeded again on the state level, only passing in municipalities like Cincinnati and Alachua County, Florida. The difficulty in getting these initiatives on the ballot can be attributed to both lackluster organizing and pre-ballot legal challenges. For example, Florida and Maine activists innovated with a "stealth" legal-restrictive initiative that did not mention sexual orientation but rather created a list of approved categories to include in state and local nondiscrimination legislation.¹²⁵ However, Florida courts would not allow the initiative to go on the ballot because of constitutionality issues.¹²⁶ Other initiatives were voided after the fact, such as the invalidation of Alachua County's legal-restrictive initiative with a post-ballot legal challenge.¹²⁷ The use of Religious Right state-level legal-restrictive initiatives ended abruptly in 1996 with the overturn of Colorado Amendment 2 by the Supreme Court in *Romer v. Evans*, which affirmed the legitimacy of sexual orientation as a minority-group category.¹²⁸ These initiatives were not popular because "Antigay forces have more success asking voters to return to some recent status quo than they have asking voters to depart from it."¹²⁹ However, these initiatives were successful in recruiting anti-gay followers and building a stronger Religious Right movement.

Even with the triumph of *Romer v. Evans*, Religious Right and LGBT activists alike anticipated a new battleground for referendums and initiatives. A prominent LGBT organizer predicted in 1995 that "[the next] big issues will be marriage, adoption and immigration. Politicians are going to pit us against women, infants and children, sodomy or milk."¹³⁰ And indeed, the Right had already begun mobilizing against same-sex marriage

after the 1993 Hawaii Supreme Court case, *Baehr v. Lewin*, which opened the door for same-sex marriage in Hawaii.¹³¹ This decision set off a wave of Right-inspired panic across the country, as the Full Faith and Credit Clause of the U.S. Constitution requires states to recognize marriages conducted in other states. Politicians responded to this panic by passing both the national Defense of Marriage Act (DOMA) in 1996 and fifteen state-level DOMAs in 1995 and 1996 in states such as Arizona, Georgia, Idaho, Michigan, and Utah. These statewide laws against same-sex marriage were successful as "the legislation not only served as a rallying point for conservatives, but also divided liberal legislators from their gay constituents."¹³² Although this mobilization around same-sex marriage rallied anti-gay activists, it had not yet reached the ballot box.

1997-2003: Innovating Same-Sex Marriage Initiatives

Between 1997 and 2003, there were several subtle shifts in the anti-gay Right, including the development of the marriage and fatherhood movements and a growing ex-gay movement. The growing strength of the marriage movement included the use of direct legislation to restrict access to marriage for same-sex couples, culminating in the wave of initiatives in the 2004 presidential election to write same-sex marriage bans into state constitutions. During this period, these marriage bans accounted for more than a third of all attempted ballot measures. However, almost half of all fifty-three attempted ballot measures were still referendums and 15.1 percent were local legal-restrictive initiatives. Almost 60 percent of attempted ballot measures made it to the ballot box; but, for the first time, the Religious Right lost more than half of all such measures.

Welfare reform in 1996 that promoted the formation and maintenance of two-parent households also funded marriage promotion programs and encouraged the development of two overlapping movements, the fatherhood and marriage movements.¹³³ The fatherhood movement is a men's movement that grew through the development of SMOs like the Promise Keepers, a Christian men's organization devoted to traditional gender roles in the family. The Promise Keepers grew throughout the 1990s, had an estimated 3.5 million members in 1999, and waned in influence, membership, and funding shortly after that.¹³⁴ Government-sponsored marriage promotion programs that disproportionately targeted white middle class

Christian families put money into marriage movement coffers.¹³⁵ Organizations devoted exclusively to the promotion of heterosexual marriage and restriction of same-sex marriage arose during this time, including the Alliance for Marriage, a Virginia-based organization founded by Matt Daniels. Both the marriage movement and traditional anti-gay organizations became connected with ex-gay organizations, predominately Christian organizations that promised to convert gays and lesbians to heterosexuality. The most visible presence of the ex-gay movement was the 1998 "Truth in Love Campaign," which included a four hundred thousand-dollar ad campaign in the summer of 1998 in three major newspapers sponsored by a coalition of fourteen organizations, including the ubiquitous Christian Coalition.¹³⁶ The marriage movement also increasingly mobilized Mormon congregations and organizations, as Mormons contributed money and manpower to campaigns against same-sex marriage across the country.¹³⁷

The anti-gay movement was galvanized into action by a series of Right and LGBT victories around marriage. Anti-gay activists were encouraged by the passage of both DOMA and welfare reform in 1996, along with election of George W. Bush to the presidency in 2000. The growing reality of access to marriage for same-sex couples also roused the marriage movement. LGBT advances during this time include the legalization of same-sex civil unions in Vermont in 1999 and the double victory in 2003 of the overturn of sodomy laws in the Supreme Court case *Lawrence v. Texas* coupled with the Massachusetts Supreme Judicial Court ruling in *Goodridge v. Department of Public Health* that established the right of same-sex couples to marry.¹³⁸ Before the Massachusetts verdict, the marriage movement organized the Marriage Protection Week in October 2003, sponsored by twenty-nine organizations, including Concerned Women for America, Focus on the Family, the Family Research Council (FRC), and the TVC. As evidence of the growing monetary power of these organizations, the largest thirteen organizations that sponsored the weeklong event had a combined budget of \$217 million.¹³⁹ The anti-gay Right also began to rally around the Federal Marriage Amendment, a proposed constitutional amendment that would restrict marriage to between a man and a woman. The bill was first proposed in 2002 by the Alliance for Marriage and it gathered steam in 2003 and 2004.

It was inevitable that same-sex marriage would make its way to the ballot box. Indeed, Religious Right activists had been challenging marriage recognition rights like domestic partnerships for a decade. The

first vote on domestic partnership benefits was in 1989 in San Francisco as a referendum to challenge a recently passed ordinance.¹⁴⁰ And some legal-restrictive initiatives in the early 1990s included a prohibition of same-sex marriage as part of their list of demands. However, it was not until the late 1990s that the use of initiatives to ban same-sex marriage proliferated on the state level.¹⁴¹ The first statewide votes on same-sex marriage occurred in Alaska and Hawaii in 1998 in response to state court cases about same-sex marriage.¹⁴² The Religious Right in Alaska and Hawaii framed same-sex marriage as an invasion from the mainland with disastrous consequences for the whole nation. The Alaska Family Coalition sent fund-raising letters across the country, emphasizing that "Ballot Measure No. 2 will *overrule* the liberal judges and *protect* marriage and the family not only in Alaska, but also in your state."¹⁴³ These two initiatives were followed by marriage bans in four states, including the Knight Initiative in 2000 in California and an expansive anti-gay initiative (called a "super-DOMA") that eliminated both same-sex marriage and domestic partnerships in Nebraska.¹⁴⁴

Marriage bans were a winning tactic, as they were more likely to get on the ballot, pass in favor of the anti-gay Right, and mobilize new activists into the marriage movement than either referendums or legal-restrictive initiatives. The Christian Coalition and AFA became increasingly involved in local and statewide referendums at this time, including attempts to revoke recently passed ordinances in Miami-Dade County in 2002 and Ypsilanti, Michigan, in 1998, neither of which was successful. The Christian Coalition was involved in the defeat of Maine's gay rights law in a referendum in 1998.¹⁴⁵ However, there were signs that the anti-gay Right was becoming less effective at winning referendums, as it won only 44 percent of the referendums during this time period that made it to the ballot box.

Religious Right attempts to sponsor and win legal-restrictive initiatives on the local level were also a dismal failure. In 1997, a federal appeals court upheld the language of Cincinnati Issue 3, which created an opening for legal-restrictive initiatives to be passed in cities and towns. From 1998 until 2002, these initiatives were attempted in Michigan, a new site of anti-gay activity with the growth of an AFA affiliate under the leadership of Gary Glen, along with initiatives in Falmouth, Maine, and Colorado Springs, Colorado. The legal-restrictive initiative was abandoned after a triple defeat of initiatives in the Michigan cities of Ypsilanti, Kalamazoo, and Traverse City in 2001 and 2002, coupled with a failed OCA-sponsored

Oregon initiative in 2000 that would have prohibited schools from discussing or encouraging homosexuality.

Besides winning at the ballot box, marriage bans fulfilled the promises that legal-restrictive initiatives never could. They circumvented future LGBT rights, as all initiatives were passed in states that did not yet allow same-sex marriage. Anti-gay activists were successful at sponsoring statewide initiatives either through petitions or through the legislature. And many of these marriage bans took place in non-battleground states, such as Nebraska and Nevada, where voters were unaccustomed to voting on LGBT rights. Anti-gay activists were also able to pass most of these marriage bans as constitutional amendments, a surefire guarantee that statewide DOMAs would not be overturned in state courts as being unconstitutional.

2004-9 Same-Sex Marriage Initiatives

Just as the Massachusetts legislature was preparing to issue its first marriage licenses to same-sex couples in the winter of 2004, a flurry of same-sex marriages took place across the country. The mayor of San Francisco, Gavin Newsom, allowed more than four thousand same-sex couples to marry in February, flooding the media with images of couples marrying at San Francisco City Hall and setting off alarms. The marriages were quickly curtailed by litigation by the Alliance Defense Fund, a national coalition of Right lawyers.¹⁴⁶ But the seeming growing success of the LGBT movement in passing same-sex marriages led to the largest wave of anti-marriage activity ever in 2004. The biggest tactical shift was from legislative statutes that restricted marriage to heterosexual couples to constitutional amendments, passed either by the legislature or by the voters. The Right received an additional boost by the overturning of legalized same-sex marriage by Proposition 8 in California in 2008 and Question 1 in Maine in 2009. Almost all of the forty-five attempted ballot measures during this period were initiatives to restrict same-sex marriage or domestic partnerships (80 percent); most ballot measures easily made it to the ballot box (82.2 percent) and were passed by voters (81.1 percent).

The opposition to same-sex marriage dominated the anti-gay Religious Right agenda during this time period through the push for a Federal Marriage Amendment, legislative activity, fending off LGBT litigation or

sponsoring their own, using marriage as an effective political wedge in the 2004 and 2008 presidential elections, and marriage ban initiatives. Organizations devoted to marriage such as the National Organization for Marriage (NOM)¹⁴⁷ and Americans United to Preserve Marriage have grown as major anti-gay organizations like the Christian Coalition are declining.¹⁴⁸ The success of the Right in fighting marriage benefits for same-sex couples at the ballot box during this time period also encouraged an explosion of statewide initiatives to restrict abortion and affirmative action. In the November 2008 election alone there were five attempted and three successful statewide initiatives to restrict abortion.

This time period has easily been the most successful one for the anti-gay Right. Although it won more direct legislation between 1993 and 1996 (84.6 percent versus 88.1 percent), most of these victories were in small rural towns in Oregon, and all were annulled by the state courts and legislature. However, the anti-gay Right has been able to pass constitutional amendments and initiatives that restrict access to marriage and other relationship recognition benefits for same-sex couples. These initiatives are statewide, difficult to revoke without revisiting the ballot box, and pass by a large margin.

One of the largest tactical shifts was the use of two overlapping draconian tactics: super-DOMAs, which extend restrictions of same-sex marriage to domestic partnerships or anything "like" marriage, and constitutional amendments, which write the definition of marriage into the state constitution. Most super-DOMAs are also constitutional amendments. The use of a constitutional amendment was a powerful Religious Right tactic that stymied the use of the legislative (and in many cases the judicial) system to overturn anti-gay legislation and frequently could only be retracted by a return to the ballot box. In 2004 alone, twelve states voted on constitutional amendments, and in nine states those amendments were a super-DOMA, solidifying the use of both tactics.¹⁴⁹

The Right won all of these marriage bans, with the exception of a super-DOMA in Arizona in 2006 that was narrowly defeated. This was only a temporary defeat. In 2008, Arizona voters passed Proposition 102, the Marriage Protection Amendment, which defined marriage as between a man and a woman. The Right also lost a 2009 referendum in Washington State to repeal domestic partnership benefits.

The two most significant victories by the Right at this time were California Proposition 8 in 2008 and Maine Question 1 in 2009, both of which overturned legal same-sex marriage granted by either the courts or the legislature. The most publicly visible of these constitutional amendments was California Proposition 8, which countered a 2008 decision by the California Supreme Court to allow same-sex marriage. Political Research Associate analyst Surina Khan describes the Proposition 8 campaign as a "shrewd, media-savvy, well-funded and well-organized grassroots movement that understood California's complex geographic and political landscape."¹⁵⁰ With record-breaking fund-raising of more than \$40 million from across the country, the campaign was a "well-funded operation that rivaled any major electoral campaign in its scope and complexity."¹⁵¹ According to Frank Schubert, political operative and campaign manager for the Yes on 8 campaign, the campaign set ambitious goals:

Our ability to organize a massive volunteer effort through religious denominations gave us a huge advantage, and we set ambitious goals: to conduct a statewide Voter ID canvass of every voter; to distribute 1.25 million yard signs and an equal number of bumper strips; to have our volunteers re-contact every undecided, soft yes and soft no voter; and to have 100,000 volunteers, five per voting precinct, working on Election Day to make sure every identified Yes on 8 voter would vote. All of these goals, and more, were achieved.¹⁵²

Yes on 8 grew into the largest anti-gay campaign thus far in history. Part of its power was the coordination of Mormon, Catholic, and Protestant opposition to same-sex marriage.¹⁵³ The tactics used in California were emulated in Maine, and to some extent Washington, as similar political messaging and strategies were used in both states.

King and King

The commercial begins with a young girl in pigtails coming home from school into her kitchen, carrying the children's book *King and King*. She announces to her shocked mother, "Mom, guess what I learned in school today? I learned how a prince married a prince and I can marry a prince."¹⁵⁴ The television ad goes on to warn California voters that in Massachusetts schoolchildren in the second grade have already learned that "gay

marriage" is acceptable, and their parents have no control over what they are learning in school. Building on issues about parental control and sex education, this political messaging used during the California Proposition 8 campaign was one of many strategic messages developed to convince voters to approve bans on same-sex marriage. This marriage messaging rivals special rights messaging in its political effectiveness.¹⁵⁵

In a survey of newspaper accounts of same-sex marriage, scholar Shauna Fisher found that the most common arguments against same-sex marriage are those about the protection of marriage as an institution, morality, public opposition to same-sex marriage, and the importance of heterosexual marriage for raising children. These arguments are often coupled with the depiction of courts and judges as antidemocratic "activists."¹⁵⁶ In more liberal states, these messages included using gay male spokespeople to assert that same-sex couples did not need the rights and benefits of marriage.¹⁵⁷ This messaging often weakened moderate and liberal voters by suggesting that the Right was supportive of civil unions but not marriage for same-sex couples.¹⁵⁸ For example, a political ad on the Yes on 8 Web site depicted a heterosexual family who were close friends with their gay neighbors but opposed extending the benefits of marriage to them. The ad described how the parents, Jan and Tom, were relieved to find out that their neighbors would get the same benefits of marriage with a domestic partnership, and thus they felt comfortable voting for Proposition 8.¹⁵⁹

The most common and lasting arguments are about the sanctity of marriage as an institution and the ways that giving same-sex couples access to marriage would radically alter and/or diminish the institution. However, even Right political organizers admit that in more liberal states "soft supporters" are easily swayed by messaging about children and the unanticipated consequences of allowing the legalization of same-sex marriage. Indeed, in early polling for the Yes on 8 campaign by the firm Lawrence Research, more than 60 percent of "No" supporters polled changed their mind when confronted with information about how health-education teachers would have to teach children about same-sex marriage.¹⁶⁰ The danger of LGBT rights to children is an old political message that can be traced back to the early Miami-Dade County referendum in 1977, where the anti-gay campaign was called Save Our Children. Legal-restrictive initiatives also focused on children, although that was not a central focus. For example, three Oregon statewide ballot initiatives (1992, 1994, and 2000) included

provisions to prevent schools from promoting homosexuality to children. Some of the most popular messaging during marriage bans was using pro-LGBT children's literature, which has always been criticized and attacked by the Right, to demonstrate the perils of same-sex marriage. The first marriage ban campaign in Hawaii aired a commercial showing a young boy reading from *Daddy's Wedding*, a pro-gay children's book. The commercial warned voters about the impact on children of same-sex marriage.¹⁶¹ This messaging was used in other campaigns, including Oregon Measure 36 in 2004 and Maine Question 1 in 2009. This messaging includes warning voters that if same-sex marriage is legal, children will learn about gay sex and be forced to attend their teacher's lesbian wedding. Schubert of Yes on 8 suggested that this messaging was a strategic way of appearing less homophobic and focusing on the unintended "consequences" of same-sex marriage for children rather than criticizing same-sex couples who wanted to get married.¹⁶² Like special rights messaging, messaging about children and marriage represents a trend within the anti-gay Right to target more moderate and liberal voters, raise legalistic or ethical issues rather than moral issues, and engage in "homophobia lite" rather than far-Right attacks on LGBT rights.

Some political pundits have suggested at the close of the decade that the wave of same-sex marriages allowed by courts and state legislatures in 2009 signified the waning influence of the anti-gay Right. For example, in Frank Rich's column in the *New York Times* in April 2009 he remarks that the recently created organization National Organization for Marriage's expensive ad "Gathering Storm" about same-sex marriage "bookmarks a historic turning point in the demise of America's anti-gay movement" as "its release was the only loud protest anywhere in America to the news that same-sex marriage had been legalized in Iowa and Vermont."¹⁶³ There are some concerns in the Right that attention to same-sex marriage may be displaced by the faltering economy, health care legislation, and anti-Obama activity by groups like the Tea Party. The anti-gay movement may be losing traction in the Republican Party, although that was hardly evidenced by the anti-gay rhetoric present in the recruitment of voters by Republican hopefuls at the annual Values Voters Summit in 2010, sponsored by the long-standing anti-gay research think tank Family Research Council.¹⁶⁴ And the National Organization for Marriage began a campaign in 2011 to unseat New York legislators who passed a bill legalizing same-sex marriage.

The future of anti-gay ballot measures is unclear. It is evident that the anti-gay Right may abandon local referendums and initiatives, as it was unable to pass almost all local referendums and initiatives sponsored in this time period, including a defeat of a legal-restrictive initiative in Topeka, Kansas, the home of Fred Phelps's Westboro Baptist Church. As we will see in chapter 5, the Right may face a new round of LGBT-sponsored initiatives to annul these constitutional amendments that restrict access to marriage for same-sex couples.

The anti-gay Right may be innovating with new types of anti-gay ballot measures as well. A successful 2008 initiative against gay and lesbian adoption in Arkansas, which was written broadly to include all cohabiting nonmarried couples, potentially could have inspired a round of anti-gay adoption initiatives outside of battleground states. However, in 2011, the Arkansas Supreme Court unanimously overturned the initiative as unconstitutional. Religious freedom initiatives, which do not explicitly mention LGBT issues, may allow individuals to circumvent statewide or local nondiscrimination protections for LGBT citizens. Religious freedom initiatives were pilot-tested by the Religious Right in North Dakota and Florida in 2012.

A Long, Weary Battle

It took the Religious Right more than a decade to develop a strong anti-gay movement, a movement that only began to use direct democracy systematically in the early 1990s. Yet, direct legislation became a central arena of contention for the Religious Right. This direct legislation served a variety of functions for the movement.

In addition to banning legal protections and family recognition for gay people and same-sex couples, they play a myriad of other roles: they can have a "priming" effect by making gay rights a more salient issue in voter decision making; they can mobilize the Christian Right's base of conservative voters; the mobilization of moderates and liberals to resist antigay ballot questions can starve such candidates of campaign funds; they can make gay rights issues politically radioactive; and they can serve as a hook to bring in new audiences to hear the Christian Right's broader conservative and theocratic policy agenda.¹⁶⁵

Similar to the relationship between the LGBT movement and ballot measure campaigns, campaigns served as a way to build movement power and infrastructure for the Religious Right.

Direct legislation also became an arena that allowed for the continuous development of new tactics to be used against the LGBT movement. These tactics ranged from referendums to annul local ordinances to proactive opposition to eliminate the possibility of same-sex marriage. Over time, the Religious Right repeatedly altered its tactics to more effectively stymie gains by the LGBT movement, changing the subject and level of ballot measures and innovating with more politically sophisticated messaging.

How did the LGBT movement respond to this series of tactical innovations? Scholars such as David Meyer and Suzanne Staggenborg theorize that “interactions between opposing movements prevent the complete institutionalization of tactics by either side.”¹⁶⁶ Doug McAdam suggests that movements have to develop continual new rounds of tactical innovation owing to such innovation by the countermovement.¹⁶⁷

The remainder of this book demonstrates that, contrary to existing theories about movement–countermovement interaction, this tactical innovation propelled the LGBT movement to develop a set of campaign tactics, field programs in national LGBT organizations, and statewide organizations in battleground states. Although these tactics were challenged and slightly altered by the LGBT movement after 2004 when marriage bans became common, dominant models of how to run campaigns were developed and solidified even in the midst of Religious Right escalation and tactical innovation.

CHAPTER 2

AN UPHILL BATTLE IN THE 70S AND 80S BUILDING LGBT MOVEMENT INFRASTRUCTURE

The results in [Miami] Dade County that night roused many homosexuals, and the gay movement, as nothing had before. It was a turning point for gay men and lesbians who years later would trace their own coming out or interest in gay politics to the Anita Bryant victory. In the days after the repeal, there were marches in cities large and small, from Los Angeles to Indianapolis; from San Francisco, where thousands of people marched through to Union Square chanting “Out of the bars and into the streets,” to New Orleans; from Boston to Houston. Gay Pride marches that month saw record turnouts. Jeanne Cordova always marked the vote as the beginning of a migration of lesbians back into the gay rights movement. Gay organizations popped up all over the country; existing ones saw their membership rolls swell. The National Gay Task Force saw its membership double in just four months.

Dudley Clendinen and Adam Nagourney, *Out for Good: The Struggle to Build a Gay Rights Movement in America*

WHEN GAY AND LESBIAN RESIDENTS of Boulder, Colorado, were faced with a referendum on their recently passed nondiscrimination ordinance in 1974, they had no models to look to from previous campaigns. There were no former leaders of LGBT campaigns to call. The campaign had to persuade voters to support gay rights at a time when more than 70 percent of the nation believed that homosexuality was always wrong.¹ The two existing national organizations, Lambda Legal and the Task Force, were weak, poorly funded, and newly created. Indeed, there was not yet a real national LGBT movement; scattered, individual organizations across the country would not coalesce into a national movement until the 1979 National March on Washington for Lesbian and Gay Rights.²