“Hands off my taxes!”: a comparative analysis of direct democracy and taxation

Amleto Cattarin

Available at: https://works.bepress.com/amleto_cattarin/1/
“Hands off my taxes!”: a comparative analysis of direct democracy and taxation

Amleto Cattarin*

Abstract
The purpose of the article is to analyse the phenomenon of direct democracy related to fiscal matters. This research will be based on the experience of a number of European countries compared to one U.S. state, California, which was chosen due to Proposition 13, one of the classic examples of conflict between a state organization and its citizens. Failing a trustworthy relation that legitimates taxation, beyond the employment of rough power, common rhetoric shows the value of direct democracy against and at the expense of representative democracy. Politicians of several European countries have established, somewhat paternalistic legal systems in which direct democracy tools, even though provided, either had not the fiscal matter amongst their objects or were explicitly precluded, as in the case of Italy. The reasons for the exclusion were simple and easily challenged by the representative democracy’s contenders and they were the fear that the people could repeal the tax laws enacted by the legislative bodies, disavowing their representatives and depriving the state of the supposed necessary funds for its running. The California model seems somehow to back up those concerns, by revealing a dark side: that even direct democracy tools often work with inherent pitfalls and shortcomings, held against representative democracy. It is a question of partisanship, shallow knowledge of real issues, manipulability. A Manichean attitude which imputes any sort of disgrace to the representative form of government and exalts the purity and the originality of propositions and referenda – a stark and genuine voice of the people – could be incorrect on both counts. The development of civics, through the new ways that information technology permits, might succeed on implementing the idea of an ‘active society’, theorized about 40 years ago, in which the spaces between the public and the private lessen thanks to greater awareness on the use of both systems by educated citizens.

Table of contents
1) Introduction; 2) The institutions of direct democracy as limit to the parliamentary power to tax; 3) The experience of direct democracy in some European countries; 4) Light and shade of direct democracy in Switzerland and Italy; 5) Direct democracy and taxation in the USA: the myth of Proposition 13; 6) Concluding remarks.

1. Introduction

Taxation is a common and basic feature in wide and structured legal systems. No actual state has ever gathered financial sources from its citizens simply in a voluntary
form. Unlike the ordinary association with which we are familiar, such as private clubs, that get funds from their members through free contributions, the state has this peculiar characteristic: it is an institution with necessary appurtenance and it pursues indefinite goals, some of which may not be shared by the whole community. This condition might create the risk of that community not wanting to pay for them. On the other hand, as Schumpeter stressed, taxation represents a peculiar premise of a democratic state: it is the way through which the creation and working of public bodies and the supply of public services rather than the needs of either a monarch or an elite are funded. As a matter of fact, in the contemporary democracies the exercise of the power to tax is in the hands of the people’s representatives. Modern states seem too large and must follow up too many tasks to allow a continual personal involvement from the citizens and cannot rely just on unforced payments of their members.

Nonetheless, theoretically, the link between taxes and the provision of the services or the redistribution of the produced wealth might be unclear and the levy may appear unjustified or exorbitant. The citizens’ control through elections is little effective, even though they passed a vote of no confidence against the promoters of that specific fiscal policy. First, as elections can be scheduled far from the passage of the attacked act, the memory of constituents can fade. Secondly, as the repeal of a tax law is uncommon, being taxation often linked to tied-up expenses. Accordingly, a massive use of the tools of direct democracy indubitably points out the citizens’ will to participate to the creation of tax law and to the frame of the tax system.


3 North pointed out that the public institutions are “the humanly devised constraints that shape human interaction”. D. C. NORTH, Institutions, Institutional Change and Economic Performance, Cambridge University Press, 1990, 3.

4 As Schumpeter emphasizes in another of his working it’s rather improbable that political decisions will conform to “what people really want”. And the ones he deems to affect harder individual and groups are the ones which involve “immediate and personal pecuniary profit”, 260. J.A. SCHUMPETER, Capitalism, socialism, and democracy, London New York, 2005, 254.
A society which frequently resorts to direct democracy might reveal: 1) a lack of concord between institutions and citizenry; 2) a lack of trust from a certain part of the citizens in the outputs of the legislation; 3) the absence of a social cohesiveness which reflects itself in the dissatisfaction of the majority’s decisions; 4) an ebullient vitality of the civil society directly involved in the politics. However, is the recourse to direct democracy as the way to modify the fiscal policies – actually a sign of mistrust and of the will of part of the citizens to replace the lawmakers by considering referendum and propositions more trustworthy ways to the their ideas and opinions? And if so, is this interpretation corresponding to an empirically verifiable reality? Where the use of the direct democracy is less frequent is it arguable that there is a deeper social and political stake and homogeneity amongst the population with the possible conclusion that the direct democracy exercise expresses a lesser sense of belonging to the whole community, a lesser sharing of principles and values, a bigger fragmentation of the fabric of society?

The direct democracy tools would be qualified more as means at disposal of oligarchies than expression of a supposed general will and as such there might be a dispute between at least two different groups: the parliamentary majority and the committee(s) which organize/s and support/s the referendum.

The representative bodies seem to have another advantage on direct democracy: they can address the needs of the people by employing acts and regulations with more efficiency and speed than a referendum or an initiative could. Moreover, those proceedings supposedly provide rational balance and general completeness.

5 The fiscal phenomenon overall is a symbol of the level of cohesion amongst the citizens, of mutual understanding between institutions and constituents, and in general of the characters of the form of the state.


8 J.G. MATSUSAKA, Direct democracy and fiscal gridlock: have voter initiatives paralyzed the California budget? in State Politics and Policy Quarterly, forthcoming, challenges that initiatives bring about irrationally short-sighted budget policies. In a research reported by T.DONOVAN, S. BOWLER, Voters, candidates, and institutions: can voters make sense of institutions? Can candidates make sense of voters?, in D. McCUAN, S.STAMBOUGH, cit., 17, answers of the citizens on more coherent and well
Where regulations have a collective impact and deals with complex choices, which either require a quick and effective decision or do not admit solutions that can be Manichean and partisan the mediation of a body or of a subject interposed between the act and the needs of the people seems to be the most suitable way to settle and compose expectations, which might be – and often are – conflicting and divergent, within a compromise solution. On the contrary, this result would be barred to a tool like a repealing referendum, per se radical, bipolar and trenchant..

It has been argued that the crisis of the representative democratic bodies due to several factors amongst the others: an ambiguous and insufficient communication between the citizenry and the highest public offices; the inability of tuning the general regulations on the same wave length of people’s expectations; the indifference of the constituents as regard to electoral appointments, in which basically the competition pits against different political personalities rather than between clear and distinct agendas; the very configuration of the districts that penalizes the voters of one party which is minority within it. This crisis commits to the direct democracy phenomenon more exacting tasks, new prospects of developing a civic ethic but, at the same time, raises some potential risks.

The exercise of direct democracy has an unlimited scope in the same sense in which liberal scholars deem that ordinary legislation is allowed to regulate any field where the constitutional norm does not establish limits by sources and topics.

thought out government policies, on better large scale government programs and projects and on more trustful subjects in doing what is right on important government issues resulted leaning on the voting public more than on the elected representatives.

9 It seems proper to highlight that one of the richest region in Italy (Veneto) has arranged a so called ‘Social Budget’ directed to the families, to the companies, to the workers, to the young explaining the financial budget of the region in a way that is defined “citizens’ friendly’.

10 “Direct voter participation in the political decision making process in the form of referenda might be a beneficial condition increasing tax compliance by citizens”. L.P. Feld, J.R. Tyran, Tax evasion and voting: an experimental analysis, in Kyklos, vol.55, 2002, fasc. 2, 218; D.A. Smith, C.J. Tolbert, Educated by initiative: the effects of direct democracy on citizens and political organizations in the American states, Ann Arbor, University of Michigan Press, 2004, 86: “The data suggest that citizens have more positive views of American democracy when governed by both ballot initiatives and legislatures. Matthew Mendelsohn and Andrew Parkin argue that there is a single system rather than two systems: they call this unified system ‘referendum democracy’ and it emphasizes a connection between direct and representative institutions”.

4
Per se, the direct democracy tools – whose notion I leave now intentionally generic – could even have a broader scope if the theory of the popular sovereignty were accepted as founding principle at the basis of the legal system.

If the citizens, as holders of the sovereignty were to decide to use the most immediate means to express their will, even the supreme legal sources (i.e. the Constitution) should be subjected to a modification or revision without the obstacles provided to the parliamentary procedures.\textsuperscript{11}

Amongst the several sectors in which direct democracy is allowed to be exercised, the fiscal area is certainly the most relevant and the one which public bodies overwhelmingly fear to leave in the ‘hands’ of common citizens. Evidence of this is the fact that the prediction of a direct intervention of the citizens is not provided for or it is expressly forbidden in most of the European constitutions\textsuperscript{12} and in numerous state constitutions of the US.\textsuperscript{13}

The power repudiates its own origin, mistrusts and bridles it, and it makes itself the only interpreter and the legal guardian. “We the People” becomes commonly “We the Politicians”.\textsuperscript{14}

To maintain the illusion of sovereignty, the system of power employs a plurality of tools and methods. Some are constitutional provisions; others are procedural provisions,

\begin{flushright}
\textsuperscript{12} The following countries don’t allow a proposal of referendum or popular initiative to the citizens: Slovakia, the Netherlands, France, Spain, Austria, Portugal, Sweden, Norway, Hungary, Poland, Luxembourg, Great Britain, Finland, Estonia, Belgium, Iceland, Germany, Greece, Czech Republic, Romania, Bulgaria, Malta, Cyprus, Turkey.
\textsuperscript{13} Only 21 states in the USA authorize the execution of both initiatives and referenda: Alaska, Arizona, Arkansas, California, Colorado, Idaho, , Maine, , Massachusetts, Michigan, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Utah, Washington, Wyoming.
\textsuperscript{14} Cf., B. ACKERMAN, We the People, Foundations, Harvard University Press, 1991, 42. It is remarkable what the President of the Commission of the 75 within the Italian Constituent Assembly, Meuccio Ruini, answered on October 16th, 1947, to the amendment to the final Art. 75 of the Italian Constitution submitted by the congresswoman Rossi and by other communist congressmen aimed to exclude from the scope of the abrogative (or repealing) referendum the electoral acts. “se c’è qualche cosa in cui il popolo può manifestare la sua volontà, è proprio il sistema elettorale. La sovranità popolare si esprime qui con tutta la sua ragion d’essere ad impedire - in ipotesi - che i membri del Parlamento abusino, nel regolare a commodo loro le elezioni. Non bisogna dimenticare, onorevoli colleghi, che il vero sovrano è il popolo, non il Parlamento”.
\end{flushright}
connected to the existence of a procedural and/or substantive interest to permit the challenge of fiscal rule in front of a court. Another one, more insidious, consists in academic denigration of adversary ideas – rather common in Italy – on the premise of a presumption to possess an elitist ability of identifying the noblest societal interests and expectations. Other methods are dramatically effective in shaping the popular thought: they are planned and organized by the governments and based on a cultural and educational policy, which range from a partial and manoeuvred schooling, to the arrangement of models of a paternalistic society. In this model, even intermediate organizations and associations take the place of individuals on pursuing the protection of personal interests through a sort of endless guardianship.

2. The institutions of direct democracy as limit to the parliamentary power to tax

Perhaps these thoughts of the unsatisfactory working of the representative institutions have raised up the question of whether those tools, which are traditionally identified as expression of participatory democracy and which are so popular in some European countries (Switzerland and Italy) or American states (like California and Oregon), have the inner capacity to tame the ‘leviathan’. This was also the thought of President Roosevelt who declared: “I believe in the Initiative and Referendum, which should be used not to destroy representative government, but to correct it whenever it becomes misrepresentative”.

15 It is the case of the taxpayer standing.
16 Within the general notion of direct legislation live together two different powers of legislative intervention of the electoral body, one identified with the exercise of the law making initiative supported by an autonomous and automatic activation, starting up of the popular vote (initiative), and the latter through the display of a normative will of the constituents coinciding with a statute potentially already thorough (referendum).
Another point must be clarified before addressing the specific analysis of the binomial direct democracy - taxation and it is the very concept of the expression ‘direct democracy’ and of its forms. Several authors emphasize that direct democracy implies, in its original and genuine structure, the collective exercise of several functions related to the popular sovereignty, in a common space without the necessity and the presence of any mediator. Therefore, it is stated, the referendum does not have those features and it can be only deemed to be an institute of the representative regime, just serving a more democratic ideal. However, that was the way that direct democracy was born and took its first steps in the ancient times and between small communities: however, it does not exclude that the immediateness of the voice of public opinion can be expressed in a form which is more suitable to the size of current states and, consequently, that it can be comprised in the direct exercise of popular sovereignty. Rittinghausen, for instance, suggested to split the constituents, for a specific issue submitted to a referendum, into lots of groups made by 1000 people and increasingly scholars and common citizens are persuaded that Internet can prove itself to be the mechanism to bypass the representatives’ intermediation and to carry out a ‘virtual ayopá’-agora.

20 As to James Madison, Federalist, n.10, the pure democracy is “a society consisting of a small number of citizens, who assemble and administer the government in person. […] A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect, and promises the cure for which we are seeking. Let us examine the points in which it varies from pure democracy, and we shall comprehend both the nature of the cure and the efficacy which it must derive from the Union. The two great points of difference between a democracy and a republic are: first, the delegation of the government, in the latter, to a small number of citizens elected by the rest; secondly, the greater number of citizens, and greater sphere of country, over which the latter may be extended.

21 The main purposes of the referendum can be enumerated in the following ones: 1) remedy to the abuse of the majority; 2) limit to the proportional principle; 3) remedy to the partitocracy; 4) tool to enforce the political responsibility of the Parliament and of the Government; 5) limit to the excessive power of the elective assemblies; 6) mechanism of control of the consentaneity between representatives and constituents; 7) tool of political education of the people. Cf., M. LUCIANI, Art. 75, Commentario della Costituzione, Bologna – Roma, 2005, 85 ss.

22 M. RITTINGHAUSEN, Uber die Nothwendigkeit der direkten Gesetzgebung durch das Volk, in Social-demokratische Abhandlungen, Koln, 1869, 10, cit. in M. LUCIANI, Art. 75 Cost., 54.

My focus is restricted to the fiscal area for one exclusive and crucial reason: without taxes and financial means there is no possibility for any organized community to survive and work. Giving the opportunity to citizens to declare directly their support or their disapproval towards some tax law means giving them literally the power to control and give direction to the entire life of the society.

3. The experience of direct democracy in some European countries

Before focusing the attention on the three countries which have the broadest experience with referendum and initiative (Switzerland, Italy and US), I will briefly address the legal system of some European states. The survey aims to verify the existence or the salience of the tools of direct democracy in the matter of taxation, if provided. The choice has been made by analyzing the countries which have either higher population or a longer tradition regarding direct democracy: France, Germany, UK, Austria and Italy.

France

Considered, above all during the III Republic, as a despotic tool good to manipulate the popular will in favour of an usurper power, the popular referendum is rehabilitated in 1946, just as stage to the approval of the New Constitution.24 However, though rehabilitated the referendum does not become constitutive element of the regime of the IV Republic, which is marked by the principle of representative democracy. It is during the V Republic that the referendum gets new life and attention by the legislator. It is bound to a strict procedure – practically committed to the President’s will – and also applied to a rather narrow scope. Article 11 of the French Constitution gives the power to initiate the procedure to the President of Republic, making it conditional to a proposal of the Government or of both the Parliament assemblies. The tendency is not different if the focus is put on the local referendum which has been introduced by the recent constitutional revision (2003): the local referendum is restrained on the side of its initiative, committed to the decision of the institutional organs of the local body.25

---

Article 11 of the Constitution authorizes the President of Republic on the basis of the proposal of the Government or of both the branches of the Parliament to submit to referendum every bill which regards the setting of the public powers, the ratification of international treaties and reforms regarding social and economic policy. There is no direct power of the people to hold a referendum against a tax act included within an economic reform. Arbiters of the situation are the elective bodies (President, Parliament and Government) and there is no space for the common citizens to oppose or to counter a fiscal legislation except through challenging it in front of a court. As far as the local referendum article 72-1 has ushered in some changes: it provides of a petition right that allows constituents to register on the agenda of a territorial assembly of an issue which pertains to the local dimension; the creation of a territorial referendum of abrogative type, which can be held on initiative of the assemblies of the local bodies; the provision of a procedure of talks with the constituents when it is debated about creating a body with special statute or a modify in the statute; and the possibility of asking voters’ opinion regarding the change of the boundaries of the local territory.26 Citizens are deprived of the chance of reacting against an act which has fiscal nature.27 The direct democracy tools in the form of the referendum are meant to be instrument of the elite and not of the ordinary citizens. In an opinion poll published in the magazine Le Figaro in 2000 67% of the people interviewed expressed their favour towards more referenda and the most popular topics which the citizens wanted to decide directly were the issue of taxation and pension reform.28

26 Article 72-1 The conditions in which voters in each territorial unit may use their right of petition to ask for a matter within the powers of the unit to be entered on the agenda of its decision-making assembly shall be determined by statute. In the conditions determined by institutional Act, draft decisions or acts within the powers of a territorial unit may, on its initiative, be presented for a decision to be taken by the voters in that unit by referendum. Where there is a proposal to establish a special-status territorial unit or to modify its organisation, a decision may be taken by statute to consult the voters registered in the relevant units. Voters may also be consulted on changes to the boundaries of territorial units in the conditions determined by statute.


28 Direct democracy in Europe, A comprehensive reference guide to the initiative and referendum process in Europe, edited by B. Kaufmann and M. Dane Waters, Durham, NC, 2004, 62. The right of interest groups to resort to “direct action” has even eclipsed an old prerogative of elected assemblies: fiscal policy. The fuel-tax protests of September 2000 offered a striking example of this. On both sides of the English Channel, independent hauliers spearheaded popular revolts against rising petrol prices and
**United Kingdom**

Referendum and other forms of direct democracy which have found a very fertile ground in the US, Switzerland and Italy have never developed as counterpart of the principle of the sovereignty of the Parliament in UK. The popular referendum, though not unknown, has had episodic implementation in the United Kingdom, restricted to peculiar situations of the life of representative institutions. An act of 1871, which provided the chance of holding local talks regarding licence of sale of spirits, formally acknowledged the exercise of a right of the local communities which was already rather widespread. The practice of local referenda did not concern just matters which involved moral positions but also considerable social, economic and administrative interests: it developed another branch of the direct participation to the local political decision which Prest qualified ‘ratepayers democracy’. The object of the local option was the act of the Parliament, whose implementation was referred eventually to the popular decision territorially localized. The local referendum was not a consultation whose effects were the confirmation or the repeal of an act of the Parliament, but it took shape of a popular (more exactly a ratepayers’ vote) which was intended to adjust national legislation to the specific administrative needs of the local community. This practice was rather common during the Victorian era but it was destined to come to an end as a consequence of the local government administrativization, accomplished by the reforms in 1972 and 1973. In short, the local referendum practice not only allowed the exercise of the right of choosing times and modalities of implementing some acts passed by the national Parliament but sometimes they also provided the right of deciding if the act had actually to be carrying out at the local level. The referendum Act passed in 1975 did not add anything to the powers of citizens in the field of fiscal policy as it had as objective the holding of a referendum on the entry of UK in the EEC.

However, as it was provided by the Regional Assemblies Act of 2003, the recourse to referendum is nowadays a basic element of the self determining process which is at the basis of the devolution, but in the form of consultative and not abrogative referendum, thus leaving the last word to the representative bodies.

attempted to block roads and fuel depots. In England, despite widespread sympathy for the protesters, blockades were resented and seen as a challenge to parliament’s power; to general approval, the government moved to restore free movement. In France, the protesters enjoyed popular support and there was widespread relief when the government caved in to their demands for tax breaks.

Germany

The German legal system is hostile to the referendum, at least at federal level as amongst the institutions deemed responsible of the failed barrier to the dictatorship there has been the referendum, strongly feared by the Constitution of 1949. On the contrary, at the subnational level it plays a relevant role as Bavaria and other northern regions show.

The German constitution declares that state sovereignty emanates from the people who exercise it by elections and voting through specific legislative, executive and judicial bodies. The generic reference to other ‘votings’ recalls forms of direct democracy. However, nowhere else that idea is developed and it remains dead letter. On the other hand, several regional constitutions provide the possibility of resorting to the tools of direct democracy like referendum, popular initiative and popular decision. Direct democracy seems a common characteristic in the regional constitutions: not only the abrogative referendum – which is provided in almost all the regional constitutions but is very seldom used –, but the increasingly used popular voting on two or more alternative bills, the referendum on constitutional revision³⁰ and the popular initiative. Most part of the direct democracy experiences take place at municipal level but as also in Germany, like in the other countries which have been analyzed, the voters do not have any power to set themselves free from undesired tax provisions.

Austria

The supremacy of the representative democracy comprised in the Austrian constitution extends to the regional legal systems, as provided by the general uniformity clause of Art. 97 B-VG. All the regional constitutions provide for some form of direct democracy. Four regions – Lower Austria, Upper Austria, Burgenland, Tyrol – provide for optional referendum and also the referendum repealing regional laws on popular or municipal initiative. Through a constitutional revision in 1984 the article 117 (8) was inserted. This has allowed the regional legislatures to provide for forms of direct democracy at municipal level. This has made possible direct popular decisions, which replace the council resolutions (in the municipalities of Vorarlberg), and a repealing referendum on municipal administrative acts. In 2000 the Vorarlberg Parliament modified the regional constitution providing for the possibility that an act, emerging from popular initiative and confirmed by the majority of the voters, can take effect even against the will of the majority of the Parliament. The Constitutional Court held that such provision, allowing a popular direct legislative model, broke the constitutional principles of the freedom of

³⁰ Specially in Bavaria, Hessen and Bremen.
mandate and of the parliamentary democracy, which are necessary also for the regions according to the principle of homogeneity and repealed it. 31 The Court decision clarifies that the ‘democratic principle’ must be intended as representative democracy.

4. Light and shade of direct democracy in Switzerland and Italy.

Switzerland

Switzerland can be considered a ‘semi-direct’ democracy as direct democracy institutions in the tax domain have played a remarkable role in the national policy for long time. 32 Actually, the federal legislative power must abide by the rights of the people: this gives to the meaning of the popular sovereignty not only formal, but substantial effect. Parliament does not have the last and crucial word in Switzerland. The popular rights comprise referendum and popular initiative. The intervention of the voters at the federal level can concern both constitutional revision proposals and ordinary and generic law of popular initiative. this last category means that the federal assembly will turn the proposal into a bill – regardless the Federal Houses disagreement. The intervention can also occur in the process of passing a bill, after the reading in both houses and before the promulgation by the Federal Council. At cantonal and municipal level, there is recourse to the referendum in conformity with the cantonal Constitutions and the municipal organic acts: it is sometimes mandatory for the passage of an act, especially in the financial field: 33 the optional referendum is always allowed.

The development of the referendum in Switzerland is a consequence of the inapplicability on the federal scale of the ancient forms of direct democracy held at cantonal level. Since 1830, several Cantonal constitutions admitted direct democracy

33 L.P. FELD, J.R. TYRAN, Tax evasion and voting: an experimental analysis, cit., 198, underline that Feld and Frey found out that on the basis of a survey among the Swiss cantonal tax authorities the ones of cantons with well developed direct participation rights are less suspicious if taxpayers report remarkably low incomes.
tools. The St. Gallen Canton and Basel Land provide that the veto which could be exercised against an act passed by the Parliament, in case part of the citizenry asks for the search of approval by the people. Only the opposition by the majority of the cantonal voters will have brought about the annulment of the act. This institution represents a first step towards a popular control of the legislative outcomes. It had been first included, in some Cantonal constitutions and, then, in 1874, in the Federal one. The referendum which has a major impact on the political and social life of the country is the one which intervenes in the process of lawmaking. This kind of referendum has a suspending effect and can show the potential split between the politicians and the common people. It can be requested by 50,000 voters or 8 Cantons in the 100 days following the publication in the Official Journal of a federal bill passed by the two Houses. The acts with normative contents excludable by the popular control carried out by referendum are few: only the acts stated urgent and with force shorter than 1 year, ordinances, simple federal decrees, that have no normative contents (art.141). It must be taken into consideration that the budget is passed by the Parliament through a simple federal decree and therefore it is not subject to referendum. This is so despite a remarkable innovation carried out in 2003 consisting in the inclusion of the federal decrees amongst the acts amenable to facultative referendum., insofar as provided by the Constitution or by the law. The only exclusion regards the simple federal decrees, whereas the scope of the referendum is extended to the administrative acts taken at parliamentary stage. The fiscal matter is on the contrary one of the objects of the citizens’ decisions and they limited the federal income tax in its duration and its maximum rates. Their control is very penetrating and since 1950 no less than seven times the tax had been submitted to a popular vote and five times the proposal was repealed in the first round. 34

The referendum is even more widely used at cantonal and municipal level,35 with traits which can change according to the cantonal constitution provisions and the organic municipal acts. In 14 out of 26 Cantons and Semi-Cantons, the referendum is mandatory also for the passage of the ordinary acts and in 19 it is compulsory for the passage of outlays larger than a certain amount.

**Italy**

Italy is the only country in the European Union which provides explicitly the prohibition of referendum in the field of taxes. Article 75 of the Italian Constitution states:

34 Thus, C.B. BLANKART, A public-choice view, cit., 88.
“A popular referendum shall be held to abrogate, totally or partially, a law or a measure having the force of law, when requested by five hundred thousand voters or five Regional Councils.

Referenda are not admissible in the case of tax, budget, amnesty and pardon laws, or laws authorizing the ratification of international treaties.

All citizens eligible to vote for the Chamber of Deputies have the right to participate in referenda.

The proposal subjected to a referendum is approved if the majority of those with voting rights have participated in the vote and a majority of votes validly cast has been reached.

The procedures for conducting a referendum shall be established by law”.

Reading the preparatory works concerning the above article and its prohibitions, held in the Constituent Assembly and in its subcommittees, it comes out clearly both the disregard towards the common uneducated citizens and the harshness with which the representatives have dealt with the topic.

On January 20, 1947 the II Subcommittee of the Constituent Assembly handled the categories of acts which would have been removed by the scope of referendum. The committee analyzed article 5 of the ‘Mortati plan’ which excepted financial laws, laws authorizing the drawing up and the ratification of international treaties. Messers Einaudi and Perassi declared themselves against the inclusion of financial laws: the former demanded the possibility of keeping a referendum on tax laws but not on budget laws, the latter exactly the opposite. Mr. Fuschini all together with Messers Mortati and Cappi raised the doubt that, admitting the referendum against tax laws, these ones would barely have survived the popular judgment. This is the sole ‘raison d’état’ that led the subcommittee to pass, on January 22, the final wording, which excluded the tax laws from the provision. In other words, the ‘ratio’ of the article 75, (2) would not be to adopt an absolute limit to the popular sovereignty in the tax field, rather to oppose potential forms of fiscal demagogy which might deprive the state of financial sources.

On the contrary, the Italian Constitutional Court\(^{36}\) has stated that through the expression ‘tax laws’ the Constituent Fathers referred to all the provisions which rule the fiscal relation between public bodies and the citizens, even those ones which regard the assessment, the enforcement and the collection of taxes. Therefore, as citizens were not provided with the legal possibility to repeal tax laws deemed unfair and exorbitant,

\(^{36}\) In its recent decisions 51/2000 that recalls also the decisions 11/1995 and 37/1997.
they have found a shortcut: a larger tax evasion.\textsuperscript{37} Naturally, tax evasion does not exclusively rise from the absence of a repealing referendum in the tax field, but the feeling that the common citizen is considered just a ‘cash cow’ contributes to create a relation of distrust and aversion between the state and the electorate.\textsuperscript{38}

Some useful elements can be drawn from the referendum Italian history. Since the passage of the law n.352/1970, which ruled the enforcement of the referendum according to the Constitution provisions\textsuperscript{39}, 59 repealing referenda have been held (see table below). If we want to verify the impact of referenda on the legislation first of all it seems suitable compare two aggregate masses: number of referenda held and number of en force laws.

Though the real quantity of the latter ones is unknown even to the public authorities some calculations speculate that roughly 50,000 acts are currently binding [other authors talk of over 300,000 acts].\textsuperscript{40} Amongst the 59 repealing referenda some have been pronounced void for absence of a quorum with the consequence that only 35 have had any influence on the state legislation. Therefore the ratio between acts of parliament and referenda is equal to 0.07%. However, it is proper emphasizing that these are just the data referring to the referenda requests which were declared admissible by the Constitutional Court.

This organ is actually expressly empowered to assess whether the request for a referendum is not directed to repeal any of the acts expressly excluded by the list of Art. 75 Cost., which comprises also referendum against ‘tax law’. Since its decision 16/1978 the Court has developed a series of parameters that must be present for a request of referendum to be accepted. According to the words of the Justice Livio Paladin who drafted the decision in behalf of the Court the request must be homogeneous, clear, unequivocal and intelligible to the voters and if it passes it should not prevent the working of the Constitutional organs.

\textsuperscript{37}Feld states “‘actually, both experimental as well as econometric, research consistently finds that higher tax rates are associated with larger tax evasion’”. L.P. FELD, B.S. FREY, Trust breeds trust: how taxpayers are treated, in Economics of governance, 2002, 3, 88. See also: L.P. FELD, J.R. TYRAN, Tax evasion and voting, cit., 198: “perception of fiscal inequity increase tax evasion”.


\textsuperscript{39} Art. 75 Const. and Constitutional Act 11/1953.

\textsuperscript{40} F. BRUGALETTA, LEGGI GRATIS SU INTERNET ANCHE IN ITALIA? HTTP://WWW.APOGEONLINE.COM/WEBZINE/1999/12/13/01/199912130101
If we investigate then how many requests were not admitted to the ballot out of the total of 119 filed since 1972, we could in theory add 54 more referenda, whose results are unknown. Assuming for the sake of argument that each reached the quorum, the ratio would have risen up to 0.178% at the most. Amongst the rejected requests three were considered violating the prohibition of repealing tax law: 2/1995; 11/1995; 51/2000. The refusal of the referendum request judged in the decision 51/2000 shows the easiness with which the attempt to start a referendum in the fiscal area is curbed, using the parameters developed in the decision 16/1978. Actually the topic not simply was the repeal of a tax act rather the elimination of a levy mechanism that didn't involve the abolition of the tax. However, fears for deficiency in yielding taxation brought to the employment of an interpretative method which preferred pursuing the interest of the state than the ones expressed by the citizens through their immediate voice. Therefore, “the indirect effect of direct legislation” was to encourage the Court to invent interpretative techniques that prevent citizens from depriving the state from its resources. This appears like a narrow point of view. The Court has never really considered a different approach, but has adopted a standpoint that backed the actual roots of the state and political power.

A bright example of that attitude is the biased approach employed on a capital theme (the control of information) in judging the nature of the sum paid to the state for the broadcasting service of RAI as a tax. In so doing, the Court has withdrawn (better, avoided to consider enforceable to the case) the rules that it had been developing to justify the refusal of some requests of referendum in the tax field. Actually, elements of exclusion for a referendum are the

41 These data are the result of an empirical analysis of all the judgments of the Italian Constitutional Court since the passage of the law 352/1970 ruling the enforcement of repealing referendum.
44 Basically put, Italian legal authors (and so the legislation and the courts) distinguish between two main fiscal patterns: ‘tassa’ and ‘imposta’. The first one is a sort of fee for a service provided by public agencies; the second is a sum levied from the taxpayers to generally support the working of the state without any connection with a specific interest. Its characteristic is to be progressive and to increase on growing of the taxable base.
coercive levy of money and the destination of the resources to the needs and expenses of a public agency (for the services it is supposed to provide to the citizens).

RAI is a PLC (the main stakeholder is the Department of Finance) which uses public money but does not provide any public service different from the one given by private TV channels in contrast with its tasks.45

There is not a continuous live broadcast of parliamentary works, it does not give to the citizens programs which explain the very basic notion of a social life (for instance, definition of a presidential decree, powers of the Constitutional Courts, role of governmental regulations in the law sources system et cet.) RAI does not differ from the thousand private TV stations in the country that broadcast variety and quiz shows.46 Nonetheless it is the only one which gets coercively money from the citizens on the basis that the so called ‘licence fee for the TV public service’47 represents an ‘imposta’ on the property of a TV set.48 However, if the licence fee is an ‘imposta’, then it would have features of unconstitutionality, not being progressive, as Art. 53 Cost. demands, and also it would express a doubtful index of fiscal capacity 49 First of all, if it is understandable that a broad ‘imposta’ like the VAT is not progressive, being the mechanism of control of each customer’s financial situation hard to accomplish at any sale, it should not be so difficult to make the ‘licence fee for TV set’ progressive on the

45 The Constitutional Court in its decision 284/2002 simply recalls RAI’s duties emerging from the agreement with the Department of Communications (d.P.R. 28 marzo 1994) but omits to check if they are enforced.

46 The Constitutional Court states precisely this to justify the role of RAI but in front of the clear non observance of those duties and in front of a reality that doesn’t endorse its words, it doesn’t take any initiative declaring unconstitutional the act that allows RAI to get the ‘licence fee.’

47 Art. 1, par. 1, r.d.l. 246/1938.

48 Before the act 103/1975, art. 15, it was considered a ‘tassa’. But as above said all the authors and even court decisions state ‘tassa’ is a sum of money which is levied in exchange of a public service that a private can’t provide. As we shortly showed this is not the case of RAI.

49 Art. 53. “1. Every person shall contribute to public expenditure in accordance with his/her tax-payer capacity. 2. The taxation system shall be based on criteria of progression”.

I am aware that some authors answer that it’s the system that has to be progressive not the single tax. This argument confirms what I have been saying about the role of subject and not of citizen of the Italian population, as the first value is always the State and its needs and its whims to name a levy tax or imposta or whatever when it is useful, and to claim the progressiveness of another tax when it corresponds to other political interests (hit the supposed richer citizens).
basis of each person’s tax return. Secondly, is actually the property of a TV set a measure of the people’s richness? What if the TV represents a gift? And what if the TV is the fruit of savings for some old people, alone, without children, unable to walk, and spending all their time at home? Isn’t the last one the common situation amongst the elderly? According to the Article 3 of the Constitution, shouldn’t the Republic “the duty to remove those obstacles of an economic or social nature which constrain the freedom and equality of citizens, thereby impeding the full development of the human person and the effective participation of all workers in the political, economic and social organization of the country”? There is no sign of this concern in any decision of the Court.

What are the conclusions of this review? On one hand, there are constitutional provisions that forbid referendum in the tax field and a series of decisions of the Constitutional Court that has further on limited the holding of them. On the other, it has been shown that committees for referendum were often sections of the political parties and the queries on the ballot were intricate and often not corresponding to the propaganda. The risk to face a plebiscite rather than a referendum, namely a vote on a person than on the proposal content\(^{50}\) has always been high. Therefore we can say that not only repealing referenda were rather few but that the Constitutional Court has created some interpretative rules that have lowered their number in the tax area “in the name of the fiscal interest of the state”.\(^{51}\) The first conclusion is that the referendum in Italy has played a role minor than it could have both refrained by the explicit requirements provided by the Constitution and by the decisions of the Constitutional Court which has shown over the decades a lukewarm and suspicious attitude towards the employment of this institute, considered more demagogic than democratic. Just under this last point of view, the analysis has noted that in the early stage of use of referendum promoters were basically members of the Radical Party that had few congressmen and looked for people’s consent through the promotion of fights for enlarging and enhancing the civil rights (basically, right of divorce, of pregnancy interruption and of limits to the personal freedom). If the ways that were used to support the passage of the referendum may have addressed more the heart of people than their rationality (being actually demagogic), emphasizing the need to make Italy a state liberal, which protects the individual freedoms, the very core of the campaign addressed real problems of the Italian democratic form of state.

\(^{50}\) A. di GIOVINE, Referendum e responsabilità politica, in Riv. Dir. Pubb. Int. e Comp, 2005, 2, 1215.

\(^{51}\) Quoting Justice Santosuosso from the decision 51/2000.
However an overall review of the committees which organized the referenda shows that they were mainly composed or inspired by members of the parties that competed in the political arena, sometimes in disagreement with their party leaders. Therefore if those initiatives could have been considered demagogic and have raised concerns in the Constitutional Court for an inappropriate use of the referendum, they would have been in other sense the unavoidable demagogic side of the Italian party politics.

The crucial point is, on the contrary, the third conclusion which can be drawn by the analysis. It consists on the difficulty of having citizens well and enough informed\(^5\) about the contents of referendum more than the structure of referendum as such, that would allow as also Rodotà stressed, only either a positive or a negative answer on a certain subject. Some authors (Rodotà, Baldassarre, Salerno, Luciani) notice that civic education is really an issue in Italy and the manipulation of voters’ preferences seems rather easy.\(^5\) However, they seem excluding both the support to an increased use of technology to bring closer to the voters the issues on the political and social agenda, fearing the violation of secrecy and personality of vote, and also the creation of a virtual arena on internet, where there would be only space for emotions and even games but not for reasoned and logic choices. But an answer should be found soon as also current polls emphasizes a wider gap between citizens and the politics, specially with the representative institutions.\(^5\)

This is the situation in some of the European countries. The outcomes concerning the use and the enhancement of the repealing referendum in the fiscal area, both as means of contrast against laws deemed either unfair or inadequate and as alternative to the parliamentary role, show numerous leaks. This is not due to its own faults or defects rather than to the ways it has been provided in the constitutions. Therefore,

\(^5\) S. RODOTA’, Il valore dei referendum, Il Grillo, 15/2/2000, http://www.emsf.rai.it/grillo/trasmissioni.asp?d=622#educazionecivica. “I cittadini sono in grado di valutare se messi nella condizione di avere le informazioni adeguate per assumere le loro decisioni. Il problema è tutto lì. Occorre fornire al cittadino le informazioni adeguate” “Citizens can judge if they are allowed to obtain the adequate information to take their decisions. That’s the simple problem. It’s necessary to provide citizens with adequate information” (free translation).

here critics and doubts about the referendum are pinned on the organs which
arranged it in the different countries; afterwards, objections will take up how tax
propositions and referenda betray expectations of who placed in them the hope of a
deeper and more transparent control of the public power. Each European experience
of direct democracy (excepted the Swiss one) harbours a congenital defect, a sort of
original sin which prevents to express its tools according to their inner potentiality.
Rather than being concerned to bring up the citizens and to create the premises of a
sympathetic spirit and polity; 55 rather than planning the realization of a common
identity, virtually domestic, in which the needs of the societal life are explained and co-
decided, so that taxation is sensed as the way to provide citizens with services56 and
not as an unendurable theft, those short-sighted amongst the European legislators,
specially within countries in which relations between politicians and citizens are
troublesome, 57 simply minded to clip people’s clutches, by believing to succeed on
taming and subduing it. 58

5. Direct democracy and taxation in the USA: the myth of Proposition 13

American taxpayers have been complaining for the high costs of the state since the
foundation. Therefore, their representatives over the decades have framed and come
up with strategies to becloud people’s mind, bring round its discontent and make its
organized opposition costly and ineffective. Though the fiscal revolts haven’t been

55 Sic, L.P. FELD, J.R. TYRAN, cit., 199: “Some authors argue that a social or psychological
tax contract between the government and the taxpayers going beyond a pure fiscal
exchange emerges more easily if voters can directly determine crucial parameters of
the tax compliance game”.

56 “Recent research shows that social and political trust significantly increases the
chances of citizens paying their taxes”. K. NEWTON, Trust, cit., 205. T. C. HAAB; K. E.
McCONNELL, Referendum Models and Economic Values: Theoretical, Intuitive, and
Practical Bounds on Willingness to Pay, in Land Economics, Vol. 74, No. 2. (May, 1998),
pp. 216-229.

57 K. NEWTON, Trust, cit., 205: “Low trust suggests that something in the political system –
politicians or institutions, or both – is thought to be functioning poorly”. Interesting is the
chart where the author emphasizes the connection between social trust and
confidence in Parliament in 42 countries sketched at p.209. Poland, Latvia, Estonia,
Lithuania, Chile and South Africa have high levels of confidence in Parliament relative
to low levels of social trust.

58 “Social trust is expressed by people who feel they are generally surrounded by
trustworthy people, and political trust is expressed by people who feel that their political
system and its politicians generally perform satisfactorily”. K. NEWTON, Trust, cit., 211.
unusual in the American history, few, if not anyone, succeeded on bringing a real relief to the fiscal burden which bore down on their forwarders. The observation which clearly pops up from an analysis of the fragmented American system (where each state often stands for an original and unique entity) is that only deep or sudden increases in taxes can mobilize voters who were apathetic, indifferent and quiescent so far. 59 Actually, it is usually less demanding and much easier, in terms of personal discomforts, to pay taxes, albeit unpleasant, rather than organizing a political movement or risking some penalty (and even jail) to have disobeyed to the fiscal rules. 60 Episodes like the Shay’s rebellion or the Whisky’s rebellion were completely useless in determining a decrease of the taxes but, on the contrary, they showed to be fundamental for other purposes. First of all, as they were disbanded with the whole strength that the government could use, they made perspective and potential future revolts much less likely. Leland Baldwin deemed that President Washington and Hamilton spent more to repress the Whisky uprising than what they collected from the taxes, but that display of strength accounted for the perfect way to establish the power of the new state fiscal authority. 61 Secondly, on the emerging of such rough rebellions towards exorbitant taxes, the representatives were warned about the risks which will have been faced in trying to increase the fiscal levy and they realized that it would have been needed to devise some imaginative mechanism to abate such a contingency: thus, the tortuous and convoluted American tax system, the taxpayers’ ignorance, the fiscal illusions are to be partially viewed as a contrived legacy, result of the citizens’ original outcries against direct and visible taxes.

Several taxpayer groups on the national scale got themselves organized, at the beginning of the 70s, to review tax changes, to denounce the most immoral loopholes and handouts and to put forward proposals to reform the tax system. 62 In June 1978 in California a new version of the tax revolt stormed in the scene disguised as Proposition

59 I.S. RUBIN, Class, tax, and power. Municipal budgeting in the United States, Chatam, New Jersey, 1998, 9 ss., gathers an anthology of cases of fiscal rebellions from late XIX in Houston and San Francisco, in Ohio and in Chicago, in the 20s, and eventually in California.
60 J.D. REID, The tax revolt in historical perspective, in National tax journal, supplement,, 32, 1979, 68.
Choice to focus on Proposition 13, though numerous are the initiatives and propositions and referenda that have taken place not only in California, 64 is summed in these words: “without question, ballot initiatives have had a profound influence on public policy. As a model of such influence, one need look no further than California’s Proposition 13...By most accounts, the effect on California’s fiscal policies and public sector was monumental”. 65

The Californian state of affairs was, in many ways, unique: the conjunction of soaring rent of the real estate, of efficient assessors and of enormous surplus were features absent in any other area of the country. Proposition 13 constitutes an initiative 66 which aimed to lower, through the popular approval of an amendment to the effective discipline, 67 the overwhelming growth of the property tax’s rates. Numerous factors suggested that taxpayers were more and more discontented in front of the rise of the costs of the civil services. The percentage of citizens who agreed that taxes were too high climbed from 45% in 1962 to over 70% in the 80s.

63 Proposition 13 comprised four sections. In short: Section 1 aimed to limit taxes on real property to 1% of the assessed value of such property. Section 2 restricted inflationary rises in the assessed value of real property, to 2% per year. This section further rolled back the value base of real property to the 1975-76 county assessor’s valuation, subject to various adjustments. Section 3 of Proposition 13 provides that “any changes in State taxes enacted for the purpose of increasing revenues” require a two-thirds vote of all members of both the assembly and the senate. Section 3 also expressly forbid the legislature from imposing any new tax on real property or new taxes on the sales of real property. This provision is meaningful since even a non property tax which obtains the requisite supermajority legislative approval may be struck down if it too closely resembles an ad valorem tax. Section 4 is a key provision in Proposition 13: this section requires a two-thirds vote of the qualified local electorate for any new or increased special tax. A special tax is one which is earmarked for a specific purpose. The goal of section 4 is to prevent local taxing jurisdictions from getting back their losses from decreased property taxes by imposing or increasing other taxes.


67 Proposition 13 became Article XIII of the California Constitution.
According to the surveys of the Advisory Commission on Intergovernmental Relations, resentment converged on high taxes which affected the real property, though the government had cut down by 4.6% the tax rate. In this framework a fiscal revolt in the form of Proposition 13 was backed by two factors: on one side the long Californian tradition of trust on the initiatives and on the other side was Howard Jarvis’ leadership and direction. Proposition 13 was his fourth attempt. By November 1977, his organization – The United Organization of taxpayers – had collected over 1 million and 200 thousand signatures to modify the discipline regarding the property tax law and had received considerable financial support by developer and farmer associations. The main effects which followed the approval of Proposition 13 were the following. The first was the setting of a maximum rate of 1%, which would have lowered the fiscal burden by 57%. Secondly, it limited rises in property tax assessment to 2% per year after rolling them back to March 1975 levels. The net effect was a loss of revenues for about 7 billions in 1978.

The campaign which hemmed Proposition 13 was noteworthy for several reasons. It was covered continuously by mass media and aroused a deep interest in the citizens: more than 6 million and 700 hundred thousands voters poured to the polling and it passed with the highest turnout of voters ever recorded in a popular ballot, despite a concurred opposition of the majority of the elective officers of the state. A second major feature was the behaviour of politicians: altogether with the other elective officers they took side against the initiative and this attitude widened the rift between the representatives and the common citizens (‘rectius’, taxpayers), as that was made out as a corporative defence of caste privileges and oppressive taxation of the mass.

Further to the approval of the initiative, since the fiscal year 1980, California lost its surplus. Property taxes levelled off (diminishing in absolute value) with the result that it turned out to be rather a curb to the wild tax growth and to the wholesale expenditures, than a clean tax cut.

---

It is notable that over 2/3 of the tax reduction regarded the trading business rather than the residential property, with a prank result towards the taxpayers who had crammed the polling. Moreover, the taxpayers were to pay higher income taxes since the property tax exemptions had dwindled.

However, after the sensational success of Proposition 13, a drastic change took place in the tax system, both at state and local level. Californian taxes featured more prominently progressive – particularly as to sales and income taxes – and a wide range of new taxes and fees were imposed for services such as the use of a public library, the access to the beach and to playgrounds, and, above all, tuition fees and other costs connected to the education. In view of these outcomes, Californian taxpayers can hardly be blamed to have felt puzzled (and someone says even betrayed). 78% of them declared in a poll of 1982 that their tax burden was even higher than before the passage of Proposition 13. Yet, Californians did not show willingness to increase the taxes to provide the resources necessary to preserve the level of the public services, in case the proposition had been approved: a large majority consulted in the same polling opposed rises on the income, sales and motor vehicles taxes.

Both among common citizens and in the academic circles the passage of Proposition 13 was greeted as the event which marked the beginning of a national tax revolt. A poll carried out by the CBS and The New York Times, soon after the ballot in California, pointed out that 51% of the public opinion would have supported a measure alike if it had been submitted to the vote, even though it had meant a cut on the public services. Similarly, between 1976 and 1980, fourteen states passed some kind of limitation concerning taxes and expenditures.

No matter how, reality has shown much more complex and deeper explanations to the support for Proposition 13 than the ones based on a selfish personal gain. Counties

73 Lately: W. F. STINE, The effect of personal property tax repeal on Pennsylvania real estate tax growth and stability, cit., 45 ss. “Thus, one hypothesis is that repeal results in higher growth of the real estate tax because these counties inevitably become more dependent upon it. Another possibility is repealing counties might respond to the loss of revenue by cutting expenditures”, 46.


75 J. D. REID, Jr., Tax revolts, cit., 67; D. LOWERY, L. SIGELMAN, Understanding the tax revolt: eight explanations, in American Political Science review, 75, 1981, 963 ss.
where the property tax rate was higher did not express the strongest support to the initiative. High income earners, more educated people who were supposed to have bigger stake in the passage of Proposition 13 gave, on the contrary, minor backing than other social groups.

Numerous have been the attempts to explain the meaning and the impact of Proposition 13. Was it: a revolt against a pervading state and a national trend of protest against the authority of an oppressive government; a harsh answer towards a situation limited to California or a conservative reaction against liberal and social philosophies and against high public expenditures typical of the 1960s? It is likely that all these comments are true and correct and all contribute to give an adequate view of reality. What is considerable to our goals is the change that Proposition 13 created in the relations between the taxpayers and the elected officeholders. The chance which was claimed to participate to the orientation of the fiscal policy (if it did not have the hoped outcomes – reduction of the fiscal burden) helps to explain the recent events in California. 25 years after Proposition 13, the recall of Governor Davis seems embedding just on it: the people sovereign not only at the moment of the creation of the legal system reserves to itself the right to influence anytime (and not just through the elections at the end of the term) the carrying out of political agenda and to adapt it to the will of the majority. 76

Therefore, political more than economic factors explain the reasons of the fiscal revolt and justify the assumption that a redistributing side of income (and of the seat of decisions and of power) rather than the cut down of the fiscal obligation was the main outcome if not the very ground of the popular vote. 77

---


77 The constitutional provision of rules that allow the implementation of initiatives and referenda shows to be the most important factor to put a cap on public spending. Referenda and initiatives are provided by 27 states: Alaska, Arizona, Arkansas, California, Colorado, Florida, Idaho, Illinois, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Utah, Washington, Wyoming.. Cf., P.L. BAUDE, A comment on the evolution of direct democracy in western state constitutions, in 28 N.M.L. Rev.1998, 343.
6. Concluding remarks

The survey so far performed on the use of direct democracy in the fiscal area now requires an overall summary. First of all, as it has turned out clear, the fiscal direct democracy is a perfect stranger in Europe, Swiss excepted. Not provided in the European countries here analyzed, absent also in the other EU countries, it is expressly forbidden in Italy. The underlying reason seems just one: a mixture of contempt, underestimation, haughtiness and paternalism (at best) by which the political class looked at the citizenry and to the electorate. There was the belief on one side that the people would have proceeded to the repeal of any tax or wouldn’t have understood its importance for the running of the state; on the other side, the politicians, particularly in the Northern Europe seemed to rely on the deep mutual wavelength existing with their constituents about the common expectations, denying ‘ab origine’ the need of a popular vote.

From the overall analysis have been at least detected three clichés which stamp the discussion on the initiatives and referenda procedures, specifically in the fiscal domain. The first is the one which counters participatory and representative democracy and claims them to be two inconsistent forms of exercise of sovereignty within the same legal system. The second argument equates the widespread support to cut or diminish taxes expressed at the ballot with the prominent participation of citizens in the referendum campaign. The third assumption deems the tools of direct democracy are the best way to express the people’s will authentically.

These three points have proven to be weak and not backed by unerring evidences. If the representative democracy institutions are often unable to catch the real needs of the people; if they frequently are connoted by features of self referentiality and wallow in the slime of corruption, especially with regard to deliberations taken within inner committees, nevertheless in multiple party systems and pluralistic societies the interposition between the people and the political judgments is unavoidable, even when that decision is imputed to the people itself and to one of its direct expression of will. First since political agenda is only marginally set out by the constituents; secondly, as the questions put on the referendum ballot and the proposition wording are always

settled by others; third, because the interpretation of people’s will, once expressed, is still committed to institutional bodies which perfectly know how and whether manipulate and implement it.80

Moreover, when direct and representative democracy have been performed within the same system,81 it has been frequently noticed there is a deeper involvement of the citizens in the care of the ‘res publica’, a more aware trust in the representative bodies, an increase of public spirit which have come out to be not detrimental to either forms.

The fact that representative democracy is described as easily and negatively characterized by the intrigues of partisan interests and by the factionalism of the elected, whereas referenda and initiatives would be a taintless, sterling and absolute expression of the will of the people is an actual mystification. Likewise it is erroneous – and this emerges from the data regarding the funds needed to carry out a campaign for a referendum or an initiative – holding that groups and lobbies’ interests are negligible and not influential for a direct democracy procedure’s success or failure82 and furthermore is even less correct to deem that its outcomes constantly match people’s desiderata.83 To opine differently means accepting a double delusive reality: that representatives pursue always and in any case voters’ interests (or vice versa that once elected they are concerned just about their own personal advantage) and that propositions and referenda work for general interests by nature. It would mean to fall from an imaginary dimension into another even more fanciful and grotesque: from the ‘Truman Show’ into a ‘double Truman Show’.

Actually, it could be borrowed and applied to people’s attitude, first, towards the beneficial role of the representative government (against the power of a monarch) and then to the salvific direct democracy tools84 what Augustine of Hippo stated in a


81 L.P. FELD, G. KIRCHGÄSSNER, The political economy of direct legislation: cit., 333, address referenda and initiatives as ‘useful supplements to representative democracy’.


83 D.A. SMITH, C.J. TOLBERT, Educated by initiative, cit., 80.

different domain: “Nullus quippe credit aliquid, nisi prius cogitaverit esse credendum”85 (certainly nobody believes something whether before he has thought to have to believe it). It is natural that where predictions end, trust starts, for a set of reasons which find their basis essentially on the complexity of the associated life that does not allow employing the very standards of the interpersonal relations. However, it seems to have come time to stop believing tales, whatever they are, time to abandon any myth and to face the problem of the social community with realism and with little prejudice.86 Whether in a large-sized organized society it seems that there is no space for a relation leaning on the emotional side of the human trust, it is obvious that other constituents are required to set up a different type of confidence.87

The most desirable way – from a common citizen standpoint – should be diminishing the margin of popular ignorance.88 This result might be achieved promoting the civics; increasing the knowledge about the running of representative bodies, the cost of rights

86 M.LUCIANI, Articolo 75, cit., 111 ss., argues that Internet can not be a mean to implement a new form of direct democracy, by recalling the old features of the concept, that he seems to consider a genetic requirement. Contra, D. MORRIS, Symposium: direct democracy and the internet, in Loyola of Los Angeles Law Review, 2001, 34, 1033.

Against positions which seem belonging to a former age, it can be reminded that on February 19, 2007, the European Parliament passed a directive that establishes the possibility of electronic voting by shareholders of companies with a registered office in a Member State and whose shares are admitted to trading on a regulated. In my opinion, this is evidence that information technology can play a determining role in the building of new forms of democracy, even in the business and economic area. The opinion released by the European Economic and Social Committee on the proposal of the directive can be read at: http://eescopinions.eesc.europa.eu/eescopiniondocument.aspx?language=en&docnr=1148&year=2006

88 I have profited quite a lot by reading several works by Amitai Etzioni and especially, The active society. A theory of societal and political processes, New York, 1968, 135. Recently, the Governor of the Federal Reserve, Ben Bernanke, stressed the same concept for the development of a vital economy in brief remarks to the Princeton Prize in Race Relations Awards Program held on Capitol Hill: “The economic importance of education will only increase as technology advances and as the global economy becomes increasingly integrated and complex. By providing us with a broader view of the world, education helps each of us become the most complete person we can be,” he added. http://www.miamiherald.com/business/AP/story/115307.html
and of services provided to the citizens,89 about the efficacy of the checks arranged by some organ over another one. Furthermore, it should be permitted to assert the responsibility of the representatives through repealing mechanisms such as the recall. And finally, through the most widespread diffusion of Internet, citizens should be put in the conditions to decide about the local issues – such as building a pool rather than an incinerator – directly, being protected the secrecy and the personality of their vote.

## Chart 1: The referenda in Italy (1974-2005)

<table>
<thead>
<tr>
<th>Year</th>
<th>Referendum Title and Promoters/Organizing committee</th>
<th>Turnout</th>
<th>Quorum</th>
<th>YES</th>
<th>NO</th>
<th>Outcome</th>
<th>Subject</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 12, 1974</td>
<td>Divorce – Comitato nazionale per il referendum sul divorzio (supported by the IEC, Italian Episcopal Conference, by the Catholic Action Movement, and by the Democratic Christian Party)</td>
<td>87.7%</td>
<td>attained</td>
<td>40.7%</td>
<td>59.3%</td>
<td>NO</td>
<td>Abrogation of act 898/1970 introducing divorce in Italy</td>
</tr>
<tr>
<td>June 11, 1978</td>
<td>Law and Order - Pannella Giacinto Marco, Zanetti Livio e Galli Maria Luisa</td>
<td>81.2%</td>
<td>attained</td>
<td>23.5%</td>
<td>76.5%</td>
<td>NO</td>
<td>Abrogation of act 654/1975</td>
</tr>
<tr>
<td>June 11, 1978</td>
<td>Parties financing - Calderisi Giuseppe, Capuzzo Francesca Romana, Galli Maria Luisa, Mellini Mauro, Aglietta Maria Adelaide, Cristofanelli Laura, Pietrolucci Giuseppe, Pallicca Davide, Spadaccia Gianfranco</td>
<td>81.2%</td>
<td>attained</td>
<td>43.6%</td>
<td>56.4%</td>
<td>NO</td>
<td>Repeal of public financing to the political parties</td>
</tr>
<tr>
<td>May 17, 1981</td>
<td>Law and order - Pannella Giacinto Marco, Zanetti</td>
<td>79.4%</td>
<td>attained</td>
<td>14.9%</td>
<td>85.1%</td>
<td>NO</td>
<td>Abrogation of act 15/1980</td>
</tr>
<tr>
<td>Date</td>
<td>Bill Description</td>
<td>Percentage</td>
<td>Attainment %</td>
<td>Abrogation Result</td>
<td>Details</td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>------------</td>
<td>--------------</td>
<td>------------------</td>
<td>---------------------------------------------------------------------------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>May 17, 1981</td>
<td>Life imprisonment - Pannella Giacinto Marco, Zanetti Livio e Galli Maria Luisa</td>
<td>79.4%</td>
<td>22.6%</td>
<td>77.4% NO</td>
<td>Abrogation of the life imprisonment punishment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>May 17, 1981</td>
<td>Gun Licence - Pannella Giacinto Marco, Zanetti Livio e Galli Maria Luisa</td>
<td>79.4%</td>
<td>14.1%</td>
<td>85.9% NO</td>
<td>Abrogation of laws on gun licence</td>
<td></td>
<td></td>
</tr>
<tr>
<td>May 17, 1981</td>
<td>IVG - Rippa Giuseppe, Chernbini Laura, Passeri Maria Grazia, Pergameno Silvio,</td>
<td>79.4%</td>
<td>11.6%</td>
<td>88.4% NO</td>
<td>Abrogation of law that restrained the procedure of voluntary termination of pregnancy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>May 17, 1981</td>
<td>IVG 2 – Cerletti Giovanni Battista, Achille Antonio, De Marinis Pierluigi,</td>
<td>79.4%</td>
<td>32.0%</td>
<td>68.0% NO</td>
<td>Abrogation of some norms which allowed the procedure of IVG</td>
<td></td>
<td></td>
</tr>
<tr>
<td>June 9/10, 1985</td>
<td>Escalator Clause - Romanelli Stefano, Rinaldi Enrico, Midulla Maria Grazia,</td>
<td>77.9%</td>
<td>45.7%</td>
<td>54.3% NO</td>
<td>Abrogation of the norm which establishes a cut in the escalator clause.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Date</td>
<td>Case Description</td>
<td>Achieved %</td>
<td>Targeted %</td>
<td>Margin %</td>
<td>Outcome</td>
<td>Description</td>
<td></td>
</tr>
<tr>
<td>-----------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>------------</td>
<td>------------</td>
<td>----------</td>
<td>---------</td>
<td>-----------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>November 8, 1987</td>
<td>Judges accountability - Biondi Alfredo et al.</td>
<td>65.1%</td>
<td>80.2%</td>
<td>19.8%</td>
<td>Yes</td>
<td>Abrogation of norms that limit tort liability of judges</td>
<td></td>
</tr>
<tr>
<td>November 8, 1987</td>
<td>Committee of enquiry</td>
<td>65.1%</td>
<td>85.0%</td>
<td>15.0%</td>
<td>Yes</td>
<td>Abrogation of the act that establishes the committee of enquiry and the special treatment for of ministers’ offences.</td>
<td></td>
</tr>
<tr>
<td>November 8, 1987</td>
<td>Nuclear 1 - Ronchi Edoardo et al. (Green Party, Proletarian Democracy Party, al).</td>
<td>65.1%</td>
<td>80.6%</td>
<td>19.4%</td>
<td>Yes</td>
<td>Abrogation of state intervention if municipalities don’t permit settling of a nuclear power station</td>
<td></td>
</tr>
<tr>
<td>November 8, 1987</td>
<td>Nuclear 2 - Ronchi Edoardo et al. (Green Party, Proletarian)</td>
<td>65.1%</td>
<td>79.7%</td>
<td>20.3%</td>
<td>SI</td>
<td>Abrogation of the reparation grants for local bodies due to</td>
<td></td>
</tr>
<tr>
<td>Date</td>
<td>Initiative</td>
<td>Percentage</td>
<td>Reached</td>
<td>Percentage</td>
<td>Reached</td>
<td>Yes/No</td>
<td>Comment</td>
</tr>
<tr>
<td>----------------------</td>
<td>-----------------------------------------------------------------------------</td>
<td>------------</td>
<td>---------</td>
<td>------------</td>
<td>---------</td>
<td>--------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>November 8, 1987</td>
<td>Democracy Party, al).</td>
<td>65.1%</td>
<td>attained</td>
<td>71.9%</td>
<td>28.1%</td>
<td>SI</td>
<td>the settlement in their jurisdiction of nuclear power stations</td>
</tr>
<tr>
<td>November 8, 1987</td>
<td>Nuclear 3 - Ronchi Edoardo et al. (Green Party, Proletarian Democracy Party, al).</td>
<td>65.1%</td>
<td>attained</td>
<td>71.9%</td>
<td>28.1%</td>
<td>SI</td>
<td>Abrogation of the exclusion of the possibility for the National Electricity Board to participate to the build up of nuclear power stations abroad</td>
</tr>
<tr>
<td>June 3, 1990</td>
<td>Hunting 1 - Mezzatesta Francesco Maria ed altri</td>
<td>43.4%</td>
<td>not attained</td>
<td>92.2%</td>
<td>7.8%</td>
<td>void</td>
<td>Abrogation of hunting control</td>
</tr>
<tr>
<td>June 3, 1990</td>
<td>Hunting 2 - Mezzatesta Francesco Maria ed altri</td>
<td>42.9%</td>
<td>not attained</td>
<td>92.3%</td>
<td>7.7%</td>
<td>void</td>
<td>Abrogation of hunters’ access to private fields</td>
</tr>
<tr>
<td>June 3, 1990</td>
<td>Use of pesticides - Russo Ernesto, Galletti Paolo e Ottaviano Mauro</td>
<td>43.1%</td>
<td>not attained</td>
<td>93.5</td>
<td>6.5%</td>
<td>void</td>
<td>Abrogation of possibility of using pesticides in agriculture</td>
</tr>
<tr>
<td>June 9/10, 1991</td>
<td>Unique preferential vote - Augusto Barbera, Antonio Baslini, Willer Bordon ed altri</td>
<td>62.5%</td>
<td>attained</td>
<td>95.6%</td>
<td>4.4%</td>
<td>Yes</td>
<td>Abrogation of the system of three preferential votes for the Chambers of Deputies and adoption of a unique preferential vote</td>
</tr>
<tr>
<td>April</td>
<td>Environmental</td>
<td>76.8%</td>
<td>attained</td>
<td>82.6%</td>
<td>17.4%</td>
<td>Yes</td>
<td>Abrogation of</td>
</tr>
<tr>
<td>Date</td>
<td>Act Description</td>
<td>Success Rate</td>
<td>Attainment Rate</td>
<td>Margin</td>
<td>Outcome</td>
<td>Details</td>
<td></td>
</tr>
<tr>
<td>-----------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>--------------</td>
<td>-----------------</td>
<td>--------</td>
<td>---------</td>
<td>-------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>18/19, 1993</td>
<td>Controls - Mario Signorino, Rosa Filippini, Valter Baldassarri, Vincenzo Di Calogero, Maria Leonia Taranta, Anna Laura Radiconcini, Antonio De Belvis, Gianluca Rossi, Lorenzo Rendi, Alberto Ginocchi e Marilena Liotti</td>
<td></td>
<td></td>
<td></td>
<td>Yes</td>
<td>Committing environmental controls to the Local Health authorities</td>
<td></td>
</tr>
<tr>
<td>April 18/19, 1993</td>
<td>Narcotic – Radical Party</td>
<td>77.0%</td>
<td>attained 55.4%</td>
<td>44.6%</td>
<td>Yes</td>
<td>Abrogation of punishment for possession of light drug for personal use</td>
<td></td>
</tr>
<tr>
<td>April 18/19, 1993</td>
<td>Parties’ financing – Radical Party</td>
<td>77.0%</td>
<td>attained 90.3%</td>
<td>9.7%</td>
<td>Yes</td>
<td>Abrogation of parties’ public financing</td>
<td></td>
</tr>
<tr>
<td>April 18/19, 1993</td>
<td>Savings Banks – Committee for the democratic reform</td>
<td>76.9%</td>
<td>attained 89.8%</td>
<td>10.2%</td>
<td>Yes</td>
<td>Abrogation of acts for appointment of savings banks’ top management</td>
<td></td>
</tr>
<tr>
<td>April 18/19, 1993</td>
<td>State Holdings - Massimo Severo Giannini, Negri Giovanni, Becchi Ada, Dutto Mauro, Calderisi Giuseppe e Lavaggi Ottavio</td>
<td>76.9%</td>
<td>attained 90.1%</td>
<td>9.9%</td>
<td>Yes</td>
<td>Abrogation of the act that established the Department of State controlled corporations</td>
<td></td>
</tr>
<tr>
<td>April 18/19, 1993</td>
<td>Senate Election Acts - Mariotto Giovanni Segni, Augusto Antonio Barbera ed altri</td>
<td>77.0%</td>
<td>attained 82.7%</td>
<td>17.3%</td>
<td>Yes</td>
<td>Abrogation of Senate election Act for the passage of majority system</td>
<td></td>
</tr>
<tr>
<td>April</td>
<td>Department of</td>
<td>76.9%</td>
<td>attained 70.2%</td>
<td>29.8%</td>
<td>Yes</td>
<td>Abrogation of</td>
<td></td>
</tr>
<tr>
<td>Date</td>
<td>Event Description</td>
<td>Achieved Percentage</td>
<td>Voting Percentage</td>
<td>Outcome</td>
<td>Details</td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------</td>
<td>-----------------------------------------------------------------------------------</td>
<td>---------------------</td>
<td>------------------</td>
<td>---------</td>
<td>---------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>18/19, 1993</td>
<td>Agriculture – Regional Councils of Regions Trentino Alto-Adige, Umbria, Piemonte, Valle d'Aosta, Lombardia, Marche, Basilicata, Toscana, Emilia-Romagna, Veneto</td>
<td>76.9%</td>
<td>82.3%</td>
<td>17.7%</td>
<td>Yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>April 18/19, 1993</td>
<td>Department for Tourism – Regional Councils of Regions Trentino-Alto Adige, Umbria, Piemonte, Valle d'Aosta, Lombardia, Marche, Basilicata, Toscana, Emilia-Romagna e Veneto</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>June 11, 1995</td>
<td>Labour Representations 1 - Paolo Cagna Ninchi, Massimo Giancarlo Stroppa, Rocco Papandrea e Giuseppe Benedini</td>
<td>57.2%</td>
<td>49.97%</td>
<td>50.03%</td>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>June 11, 1995</td>
<td>Labour representations 2 - Massimo Giancarlo Stroppa, Marco Lombardi e Vincenzo Miliucci</td>
<td>57.2%</td>
<td>62.1%</td>
<td>37.9%</td>
<td>Yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>June 11, 1995</td>
<td>State employees - Massimo Giancarlo Stroppa, Marco Lombardi e Vincenzo Miliucci</td>
<td>57.4%</td>
<td>64.7%</td>
<td>35.3%</td>
<td>Yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Date</td>
<td>Subject</td>
<td>Support</td>
<td>Margin of Victory</td>
<td>Outcome</td>
<td>Reason</td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------</td>
<td>--------------------------------------------------------------------------</td>
<td>---------</td>
<td>-------------------</td>
<td>---------</td>
<td>--------------------------------------------------------------------------------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>June 11, 1995</td>
<td>Precautionary duty to reside - cittadini elettori</td>
<td>57.2%</td>
<td>63.7%</td>
<td>Yes</td>
<td>Abrogation of the act on precautionary duty to reside for defendants of mafia offences</td>
<td></td>
<td></td>
</tr>
<tr>
<td>June 11, 1995</td>
<td>Privatization of RAI - Calderoli Roberto, Maroni Roberto, Magnabosco Antonio e Leoni Orsenigo Luca</td>
<td>57.4%</td>
<td>54.9%</td>
<td>Yes</td>
<td>Abrogation of the act that qualifies RAI (Italian broadcasting corporation) as completely public</td>
<td></td>
<td></td>
</tr>
<tr>
<td>June 11, 1995</td>
<td>Trade Licence - Calderisi, Lorenzo Strik Lievers e Elio Vito</td>
<td>57.2%</td>
<td>35.6%</td>
<td>No</td>
<td>Abrogation of the acts which require public licence for going into trade</td>
<td></td>
<td></td>
</tr>
<tr>
<td>June 11, 1995</td>
<td>Commercial Business Hours - Calderisi, Lorenzo Strik Lievers e Elio Vito</td>
<td>57.3%</td>
<td>37.5%</td>
<td>No</td>
<td>Abrogation of the act that prohibits the liberalization of commercial business hours</td>
<td></td>
<td></td>
</tr>
<tr>
<td>June 11, 1995</td>
<td>Union dues - Calderisi, Lorenzo Strik Lievers e Elio Vito</td>
<td>57.3%</td>
<td>56.2%</td>
<td>Yes</td>
<td>Abrogation of the act that impose automatic union due to employees</td>
<td></td>
<td></td>
</tr>
<tr>
<td>June 11, 1995</td>
<td>Small Municipalities Election Act – Calderisi, Ottavio Lavaggi, Sergio Augusto Stanziani Ghedini, Elio</td>
<td>57.4%</td>
<td>49.4%</td>
<td>No</td>
<td>Abrogation of election acts that distinguishes between municipalities over and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Date</td>
<td>Topic</td>
<td>Percentage</td>
<td>Reached</td>
<td>Rate (%)</td>
<td>Result</td>
<td>Details</td>
<td></td>
</tr>
<tr>
<td>-----------------</td>
<td>------------------------------------------------------------------------</td>
<td>------------</td>
<td>---------</td>
<td>----------</td>
<td>--------</td>
<td>--------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>June 11, 1995</td>
<td>Vito e Lorenzo Strik Lievers</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>under 15,000 habitants</td>
<td></td>
</tr>
<tr>
<td>June 11, 1995</td>
<td>Tv franchise - Riccardo Guido, Stefano Semenzato, Roberto Di Giovan Paolo e Giampiero Rasimelli.</td>
<td>58.1%</td>
<td>attained</td>
<td>43.1%</td>
<td>56.9%</td>
<td>No Abrogation of acts which permit ownership of three tv channels</td>
<td></td>
</tr>
<tr>
<td>June 11, 1995</td>
<td>Tv Commercial breaks - Riccardo Guido, Stefano Semenzato, Roberto Di Giovan Paolo e Giampiero Rasimelli.</td>
<td>58.1%</td>
<td>attained</td>
<td>44.3%</td>
<td>55.7%</td>
<td>No Abrogation of acts that allow certain number of tv commercial breaks</td>
<td></td>
</tr>
<tr>
<td>June 11, 1995</td>
<td>Tv commercial collection - Riccardo Guido, Stefano Semenzato, Roberto Di Giovan Paolo e Giampiero Rasimelli.</td>
<td>58.1%</td>
<td>attained</td>
<td>43.6%</td>
<td>56.4%</td>
<td>No Abrogation of upper limit of commercial collection for private tv channels</td>
<td></td>
</tr>
<tr>
<td>June 15, 1997</td>
<td>Liberalization - Stanzani Ghedini Sergio Augusto e altri quattro cittadini</td>
<td>30.2%</td>
<td>not attained</td>
<td>74.1%</td>
<td>25.9%</td>
<td>Void Abrogation of special powers of Minister of Treasury on liberalized companies</td>
<td></td>
</tr>
<tr>
<td>June 15, 1997</td>
<td>Conscientious objection to military service - Bernardini Rita e Sabatano Mauro</td>
<td>30.3%</td>
<td>not attained</td>
<td>71.7%</td>
<td>28.3%</td>
<td>void Abrogation of limits to be admitted to community service</td>
<td></td>
</tr>
<tr>
<td>June 15, 1997</td>
<td>Hunting - Bernardini Rita e Sabatano Mauro</td>
<td>30.2%</td>
<td>not attained</td>
<td>80.9%</td>
<td>19.1%</td>
<td>void Abrogation of free hunters’ access to other people’s</td>
<td></td>
</tr>
<tr>
<td>June 15, 1997</td>
<td>Judges’ career - Bernardini Rita e Sabatano Mauro</td>
<td>30.2%</td>
<td>not attained</td>
<td>83.6%</td>
<td>16.4%</td>
<td>void Abrogation of automatic judges’ career progress</td>
<td></td>
</tr>
<tr>
<td>Date</td>
<td>Description</td>
<td>Percentage</td>
<td>Attained</td>
<td>Yes</td>
<td>No</td>
<td>Void</td>
<td>Status</td>
</tr>
<tr>
<td>------------</td>
<td>------------------------------------------------------------------------------</td>
<td>------------</td>
<td>----------</td>
<td>-----</td>
<td>----</td>
<td>------</td>
<td>------------------------------------------------------------------------</td>
</tr>
<tr>
<td>June 15, 1997</td>
<td>Journalists’ association - Bernardini Rita e Sabatano Mauro</td>
<td>30.0%</td>
<td>not attained</td>
<td>65.5%</td>
<td>34.5%</td>
<td>void</td>
<td>Abrogation of Journalists’ Association</td>
</tr>
<tr>
<td>June 15, 1997</td>
<td>Extrajudicial Judges’ Assignments - Rita Bernardini e Mauro Sabatano</td>
<td>30.2%</td>
<td>not attained</td>
<td>85.6%</td>
<td>14.4%</td>
<td>void</td>
<td>Abrogation of possibility for judges to get extrajudicial assignments</td>
</tr>
<tr>
<td>June 15, 1997</td>
<td>Department of Agriculture Policies – Regional Councils of regions Lombardia, Piemonte, Valle d’Aosta, Calabria, Veneto and Toscana.</td>
<td>30.1%</td>
<td>not attained</td>
<td>66.9%</td>
<td>33.1%</td>
<td>void</td>
<td>Abrogation of act that established the Department of Agriculture Policies</td>
</tr>
<tr>
<td>April 18, 1999</td>
<td>Proportional representation share - Mariotto Segni ed altri</td>
<td>49.6%</td>
<td>not attained</td>
<td>91.5%</td>
<td>8.5%</td>
<td>void</td>
<td>Abrogation of the proportional representation share on Chambers of Deputies’ elections</td>
</tr>
<tr>
<td>May 21, 2000</td>
<td>Parties’ financing - Gianfranco Fini e altri; Rita Bernardini e altri</td>
<td>32.2%</td>
<td>not attained</td>
<td>71.1%</td>
<td>28.9%</td>
<td>void</td>
<td>Abrogation of allowance for elections and referendum</td>
</tr>
<tr>
<td>May 21, 2000</td>
<td>Proportional representation share - Segni Mariotto, Fini Gianfranco e Calderisi Giuseppe et al.; Capezzone Daniele, Giustino Mariano, De Lucia Michele e Stanzani Sergio</td>
<td>32.4%</td>
<td>not attained</td>
<td>82.0%</td>
<td>18.0%</td>
<td>void</td>
<td>Abrogation of the proportional representation share on Chambers of Deputies’ elections</td>
</tr>
<tr>
<td>May 21, 2000</td>
<td>Election of the Governing council of</td>
<td>31.9%</td>
<td>not attained</td>
<td>70.6%</td>
<td>29.4%</td>
<td>void</td>
<td>Abrogation of the straight</td>
</tr>
<tr>
<td>Date</td>
<td>Issue</td>
<td>Percentage</td>
<td>Attainment</td>
<td>Percentage</td>
<td>Status</td>
<td>Action</td>
<td></td>
</tr>
<tr>
<td>------------</td>
<td>------------------------------------------------------------------------</td>
<td>------------</td>
<td>------------</td>
<td>------------</td>
<td>--------</td>
<td>--------</td>
<td></td>
</tr>
<tr>
<td>May 21, 2000</td>
<td>the judiciary - Daniele Capezzone, Mariano Giustino e Michele De Lucia</td>
<td>32.0%</td>
<td>not attained</td>
<td>69.0%</td>
<td>31.0%</td>
<td>void</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Abrogation of the acts that don’t provide a sharp separation between judges and prosecutors’ career</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>May 21, 2000</td>
<td>Separation of Judges’ careers - Daniele, Giustino Mariano, De Lucia Michele Cappato Marco, Della Vedova Benedetto</td>
<td>32.0%</td>
<td>not attained</td>
<td>75.2%</td>
<td>24.8%</td>
<td>non valido</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Abrogation of possibility for judges to get extrajudicial assignments</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>May 21, 2000</td>
<td>Dismissal - Art. 18 l.300/1970 - Daniele Capezzone, Mariano Giustino e Michele De Lucia</td>
<td>32.5%</td>
<td>not attained</td>
<td>33.4%</td>
<td>66.6%</td>
<td>void</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Abrogation of Art. 18 l. 300/1970</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>May 21, 2000</td>
<td>Check offs - Daniele, Giustino Mariano e De Lucia Michele</td>
<td>32.2%</td>
<td>not attained</td>
<td>61.8%</td>
<td>38.2%</td>
<td>void</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Abrogation of the possibility of automatic check offs from pay packet or pension</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>June 15, 2003</td>
<td>Employees’ reinstatement - Paolo Cagna Ninchi, Pier Luigi Panici, Giacinto Botti</td>
<td>25.5%</td>
<td>not attained</td>
<td>86.7%</td>
<td>13.3%</td>
<td>void</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Expansion of right to reinstatement for employees</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Date</td>
<td>Case Description</td>
<td>Percentage</td>
<td>Attained</td>
<td>Qualification</td>
<td>Notes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>------------</td>
<td>----------</td>
<td>---------------</td>
<td>----------------------------------------------------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>June 15, 2003</td>
<td>Power line coercive easement - Giuliani Livio, Boscaiano Paola, Lion Marco, Pagliai Adriana Lorenza, Musacchio Roberto e Scotton Natalina</td>
<td>25.6%</td>
<td>not attained</td>
<td>85.6%</td>
<td>14.4%</td>
<td>void</td>
<td>Abrogation of acts that establish power line coercive easement</td>
</tr>
<tr>
<td>June 12/13, 2005</td>
<td>Artificial insemination I - Lanfranco Turci, Antonio A. M. Del Pennino, Rita Bernardini e Barbara M. S. Pollastrini</td>
<td>25.4%</td>
<td>not attained</td>
<td>88.0%</td>
<td>12.0%</td>
<td>void</td>
<td>Abrogation of limits to clinical research on embryos</td>
</tr>
<tr>
<td>June 12/13, 2005</td>
<td>Artificial insemination II - Lanfranco Turci, Antonio A. M. Del Pennino, Rita Bernardini e Barbara M. S. Pollastrini</td>
<td>25.5%</td>
<td>not attained</td>
<td>88.8%</td>
<td>11.2%</td>
<td>void</td>
<td>Abrogation of limits on artificial insemination</td>
</tr>
<tr>
<td>June 12/13, 2005</td>
<td>Artificial insemination III - Lanfranco Turci, Antonio A. M. Del Pennino, Rita Bernardini e Barbara M. S. Pollastrini</td>
<td>25.5%</td>
<td>not attained</td>
<td>87.7%</td>
<td>12.3%</td>
<td>void</td>
<td>Abrogation of some rules concerning rights, purposes, access of people to artificial insemination</td>
</tr>
<tr>
<td>June 12/13, 2005</td>
<td>Artificial insemination IV - Lanfranco Turci, Antonio A. M. Del Pennino, Rita Bernardini e Barbara M. S. Pollastrini</td>
<td>25.5%</td>
<td>not attained</td>
<td>77.4%</td>
<td>22.6%</td>
<td>void</td>
<td>Abrogation of prohibition of heterologous insemination</td>
</tr>
</tbody>
</table>