5. Lessons from direct democracy in practice

Switzerland

Switzerland is the only country, except for the tiny principality of Liechtenstein, which has a highly structured system of direct democracy at the national level. A similar system of direct decision-making by the citizens exists only in certain states of the United States, with California as the typical example. But there is no direct democracy at federal level in the United States, which means that a whole range of powers there lie beyond the reach of the referendum.

“Switzerland is the only nation in the world where political life truly revolves around the referendum. The country of 6.5 million shuns popular leaders, and the division of executive authority among the seven members of its Federal Council further discourages the politics of personality. When individual political figures do happen to rise above the multitude, it is almost always on the shoulders of a referendum campaign. Legislation in the Federal Assembly is an intricate dance of avoiding or winning a popular vote. The great political moments of modern Switzerland have occurred not in the following of bold statesmen but in the national debates that have drawn the masses to the polls to decide their country’s future.” (Kobach, 1994, p. 98)

Direct democracy in Switzerland comes from various sources. First there was the tradition of local and cantonal public assemblies in a part of what is now Switzerland, in which the male citizens met annually in the market square to make the most important decisions (see 2.1). This dates from at least the 13th century. Secondly, there was the effect of foreign revolutions. Similarly to other parts of Europe, the first national referendum in Switzerland was held in 1802 on a new constitution under the protectorate of the invading French. The third factor was new political movements. In the first half of the 19th century, it was mainly the ‘radical’ liberals – who distinguished themselves from the ordinary liberals because they did not believe that representative democracy was sufficient – who expanded the use of referendums in Switzerland. Then, however, the socialists and the Catholics noticed that the liberals certainly did not represent the majority of citizens on all subjects and so they became the most important driving force for the further expansion of direct democracy (Kobach, 1993). An important person in the socialist movement was the German Moritz Rittinghausen. He was the first to elaborate the concept of the citizens’ initiative referendum, in the Neue Rheinische Zeitung newspaper, when Karl Marx was publishing it. When the newspaper was banned, Rittinghausen took refuge in France, where, from 1850 onwards, he wrote a series of articles that promoted direct-democratic decision-making. His views met with great approval, especially with the followers of Fourier. Via this French detour, Rittinghausen’s ideas reached the Swiss workers’ movement. (Weihrauch, 1989, p. 15-16) The socialists played a significant role in the ‘Democratic Movement’, which agitated from 1860 onwards for the further expansion of direct-democratic rights in large parts of Switzerland. A binding popular initiative referendum (where citizens can initiate a referendum on proposals they have written themselves), was held for the first time in the canton of Zurich in 1869.

The ideal of direct democracy was also popular with socialist movements in many European countries. For example, ‘Volksgesetzgebung’ (people’s legislation) had already appeared in the founding programme of the German Sozial-demokratische Arbeiterpartei (social democratic workers’ party) in 1869. In the programmes of Gotha (1875) and Erfurt (1891), direct democracy occupied a key position as well. Karl Marx, on the other hand, expressed strong criticism of the direct-democratic ideal.

Instruments

At the federal level in Switzerland, with around 4.8 million people entitled to vote, the following three direct-democratic instruments are the most important. All Swiss referendums are binding at every level.

The **obligatory referendum** was introduced in 1848. With each amendment to the constitution, the government is obliged to call a referendum, as well as for Switzerland’s accession to international organisations and urgent laws for which the optional referendum is not valid.

The **optional referendum** dates from 1874. If 50,000 citizens give their signatures within 18 months after the official publication of a parliamentary act, they can force a referendum on the law. Initially this did not apply to laws that the parliament had pronounced as urgent. But when the parliament started to misuse this facility and began to declare all kinds of laws urgent, a referendum determined that urgent laws may come into effect immediately, but must always be subject to an obligatory referendum afterwards.

The **constitutional popular initiative** (abbreviated to **popular initiative**), introduced in 1891, enables citizens to obtain a referendum on their own written proposals if they collect 100,000 signatures within 18 months. This proposal can either be generally formulated, and must be then be converted into legislation by a parliamentary commission, or be in the form of precisely defined paragraphs of law to which the parliament cannot make any amendment. If adopted, the proposal becomes part of the constitution. In practice, however, citizens can also use this instrument for subjects that are usually regulated by ordinary legislation. For this reason, the Swiss constitution is a remarkable mixture of national principles and ‘ordinary’ policy. The Swiss are attempting to overcome this problem by introducing the **general popular initiative**. This was approved by referendum in February 2003, but only entered into force in 2006. This allows citizens, after collecting 100,000 signatures, to submit a general proposal to the parliament, which then has the freedom to decide whether to make it into a bill or an amendment to the constitution. This is then subject to a referendum.

The popular initiative enables the Swiss to call for a referendum on virtually any issue. The only substantive exceptions are some binding provisions of international law, such as the prohibition on genocide and slavery. Furthermore, the popular initiative must meet the requirements of unity of form and content (for example, a popular initiative cannot contain two subjects). Finally, the customary law applies that practically unfeasible proposals can also be refused; a popular initiative was once declared invalid because it proposed reducing expenditure for years that would have already ended before the referendum was to be held. The parliament reviews all
On 5 June 2005, there were two optional referendums on referendums. There were three voting days in 2005. Not only in municipal, cantonal and federal elections, but also to actions of the parliament that are still being debated. With the popular initiative, however, they actively determine the political agenda.

Switzerland does not hold referendums that have been drawn up by the parliament or the government – also known as plebiscites. In Switzerland, referendums are either prescribed by the constitution, or initiated by citizens using the method of collecting signatures. With ever-increasing numbers of referendums being held in Europe, the most common form internationally is unfortunately still the plebiscite. These are generally non-binding 'referendums' that are drawn up by politicians in power in order to provide their policy with extraordinary legitimacy, or because coalitions or parties have internal disagreements. The rules of the game are frequently adapted in each case, in the manner that seems best for the politicians at that moment. This has very little to do with real direct democracy.

Direct democracy in practice

From 1848 to the end of 2004, 531 referendums were held at federal level: 187 obligatory referendums, 152 optional referendums and 192 popular initiatives. Turnout averaged more than 50 percent (with exceptions of up to 80 percent) and, moreover, for some time now has been around 10 percentage points higher than the turnout for parliamentary elections. A vast archive of these referendums is maintained on the government website at www.admin.ch. At all levels – municipal, cantonal and federal – more than 200 referendums are held each year in Switzerland.

To illustrate, we will examine the federal referendums of 2005. In Switzerland, all referendums and elections are bundled into two to four national voting days each year. Citizens then vote not only in municipal, cantonal and federal elections, but also on referendums. There were three voting days in 2005.

• On 5 June 2005, there were two optional referendums on the ballot sheet. The first contested the approval by the parliament of the Schengen/Dublin Accords. The Schengen Agreement abolished systematic passport controls. The Dublin Accords seek to prevent asylum hopping, because asylum seekers are now allowed to seek asylum in only one participating country. The parliamentary decision was approved by 54.6 percent of the voters. The second referendum contested an act of parliament that made a registered partnership possible for gay and lesbian couples. The act was approved by 58.0 percent of the voters.

• On 25 September 2005, a single optional referendum was held. The parliament wanted a treaty with the European Union, which controls the free movement of people within the EU, to be extended step-by-step to the 10 new EU member states. At the same time, measures were proposed to prevent low wages and social dumping in Switzerland. This was contested by four committees, which were afraid of uncontrolled immigration and bad working conditions. The citizens approved the extension of the treaty, however, by 56.0 percent.

• On 27 November, there was both a popular initiative and an optional referendum. The popular initiative sought a 5-year prohibition on cultivating plants and keeping animals that had been genetically modified. The government and parliament recommended a 'no' on the grounds that these issues should already be sufficiently covered by existing legislation. However, the popular initiative was adopted by 55.7 percent of the population.

• The optional referendum wanted to block an act of parliament that was aimed at increasing the possibilities for the sale of goods at railway stations and airports on Sundays. The trade unions started an initiative for a referendum on this issue. They were afraid that Sunday was increasingly becoming an ordinary working day. The act of parliament was nevertheless approved by an extremely narrow majority of 50.6 percent.

Laws that were approved by the Swiss parliament and subsequently contested by an optional referendum had about a 50 percent chance of surviving the popular vote during the period from 1874 to 2004. This means that in one out of every two cases the parliamentary act proved to be against the wishes of the majority of the people. There is no reason to assume that the Swiss parliament diverges more strongly from the will of the people than the representative bodies in other countries. The contrary is more likely to be true: precisely because Swiss members of parliament know that optional referendums are possible, they are very prudent in their legislative work. The parliament's proposals for constitutional amendments or membership of international organisations were approved in 73% of cases. Popular initiatives, on the other hand, had only a 10% chance of succeeding during the same period. On the smaller number of occasions when the parliament used its right to make a counter proposal, this was accepted in six out of ten cases. The Swiss are cautious and would not accept proposals that clearly showed weaknesses. At the cantonal level, a higher percentage of popular initiatives is approved.

However, on the basis of these figures, it would be incorrect state that the popular initiative is only window dressing. In particular, popular initiatives often have an effect, even when they do not gain a majority of the vote. One of the functions of the popular initiative is, for example, the opportunity for a minority to make a subject an issue of national attention. This results in issues being discussed in Switzerland, which, elsewhere, would not receive any serious discussion in the debates dominated by the political parties. In Switzerland, this frequently leads to indirect responses from politicians. Even when an issue has been unsuccessful, the parliament or government will still meet the initiators half-way by granting some of their demands. Kaufmann et al. (2005, p. 49) speak of "the country of the satisfied losers" in this context. This is further encouraged because the initiators of a popular initiative have the right to withdraw the initiative prior to the vote. After submission of the signatures, there is quite regularly a negotiation process between parliament and applicants, which leads to popular initiatives being withdrawn by the applicants in a third of all cases. "Anyone who questions initiators, studies sources and analyses the political playing field, reaches the conclusion that approximately half of all initiators of popular initiatives believe that they have achieved something that made the effort worthwhile, and which would not have been possible without the popular initiative." (Gross 1999, p. 93)

One example of the above is the popular initiative concerning the total abolition of the Swiss army, which was started at the beginning of the 1980s and came to the vote in 1989.
Until then, the ubiquitous army had been something of a sacred cow in Switzerland. Almost all men were subject to military service, there was no alternative civil duty and refresher exercises were arranged up until middle age. The popular initiative was started by some young social democrats, not so much because they believed that they could acquire a majority, but because they believed that there was much more resistance to the army than could be inferred from the official debates, and they wanted to prove this. In the beginning, everyone thought that only a handful of the Swiss would vote for this proposal. When the debates in the run-up to the referendum became increasingly heated, the government stated that it would be a disaster for the nation if more than 10 percent of the citizens voted for abolition. All the important parties, except for the social democrats, who refrained from issuing any voting recommendation, spoke out against the initiative; only the extreme left, a very fringe group in Switzerland, supported the proposal. Even the most important socio-economic partners (except for the abstentionist ‘Schweizerische Gewerkschaftsbund’ – the Swiss trade union confederation) and the government and parliament, of course, opposed the initiative. When the referendum was held on 26 November 1989, the 35.6% of ‘yes’ votes in favour of abolition, combined with the high turnout of almost 70%, caused a shock throughout the country. The pacifists celebrated exuberantly, because they had achieved their goal. Various measures were swiftly introduced to soften the now public opposition to the army, such as the introduction of alternative civil duties, which was approved by referendum with an exceptional majority of 82.5% in December 1991. The army was also considerably scaled down during the following years. These actions probably contributed to the opposition to the army diminishing and when, in December 2001, there was another vote on a popular initiative for abolition of the army, the number of supporters of abolition had fallen to 21.9%. The topic of a total abolition of the army would never have been placed seriously on the agenda in a representative system.

A referendum must never be viewed in isolation as something absolute. Referendums are like the beats of the timpani in a symphony. If the vote goes against a proposal at a specific point in time, this can still initiate a process of debate and contemplation that contributes to the same proposal actually being able to obtain majority approval many years later. A social learning process has taken place, and the power of persuasion has turned a minority into a majority. The policy then has broad support. The circumstances may also have changed, so that a proposal that was initially unacceptable now seems to offer good prospects. An example of this is membership of the United Nations. In March 1986, a referendum was held on membership of the United Nations. The government, the parliament and all the significant parties and interest groups argued in favour of membership. But only 24.3% of Swiss voters voted to join. At that time the Cold War was still at its height and the Swiss, who very fiercely defend their independence and neutrality concerning military blocks and conflicts, were afraid that membership of the UN would lead to Switzerland taking sides in conflicts. Years later, supporters started a popular initiative and, when it came to the vote in March 2002, support had grown to 54.6% and Switzerland became the 190th member of the UN. What played a part in the public debate was not only that the Cold War had ended, but also that the Swiss understood that globalisation meant that they could not remain aloof from everything, and that UN membership did not mean surrendering any important democratic rights to an undemocratic international body. The latter is the case with the European Union, however, and therefore there is currently a large Swiss majority against membership of the EU.

Popular initiatives have also played a role in the history of Switzerland by improving and deepening democracy. A very important popular initiative was the one “Für die Proportzwahl der Nationalrates” (‘For proportional representation in the parliament’), which was adopted by 66.8% of the citizens in November 1918 (the Nationalrat is the larger of the two houses of parliament). This replaced the majority electoral system (in which, within each electoral district, the candidate with the most votes represents the entire district, as in Great Britain or the United States) with a proportional electoral system (in which the entire country is considered as a single electoral district). A majority electoral system leads to large distortions, because minorities then have much less representation. After all, because minorities live spread throughout the country, they always come off worst within their electoral district, and they have no representatives in the parliament. The introduction of the proportional electoral system has, together with direct democracy, made a great contribution to the Swiss ‘Konkordanz’ (consensus) system. In this system, all the political parties of any size have a permanent seat in the seven-person strong government. The government has no permanent premier; the chairmanship of the government rotates annually among the seven members. The small parties in the parliament can nevertheless take part in government thanks to the popular initiative. Even if they only represent a smaller group for their entire manifesto, they can still have some individual manifesto issues for which they do have majority support. By threatening a popular initiative they can draw attention to these issues. Up until the Second World War, urgent federal laws were not subject to the corrective referendum. In order to still push through regulations that were contrary to the will of the people, the government and parliament quite often stated that the laws concerned were ‘urgent’ even though that was not actually the case. A popular initiative was launched against this practice: henceforth, ‘urgent’ laws would be subject to a compulsory referendum within the year. Government and parliament argued very strongly against this popular initiative, which would significantly restrict their power. But the proposal was nevertheless adopted in 1946. A referendum in 2003 approved the introduction of the ‘general popular initiative’, with which citizens only submit a general proposal and leave it to the parliament to decide whether to convert this into legislation or into an amendment to the constitution. At the same time, the optional referendum was also made applicable to international treaties that contain important provisions which, in order to be implemented nationally, require new laws or amendments to existing laws.

Because all the referendum rights, including the signature thresholds, the absence of participation quorums, and the specific subject exclusions, are set out in the constitution, and because the constitution can only be changed by a referendum, Swiss citizens are in charge of their own democracy. According to surveys, nine out of ten Swiss people are against any infringement of their direct-democratic rights (Kaufmann et al, 2005, p. 51). The trend in Switzerland is therefore towards an expansion of direct democracy and a lowering of the thresholds. The number of referendums continues to grow. Between 1980 and 1989, there was an average of 6.2 federal referendums per year; an average of 10 referendums a year from 1990 to 1999; and an annual average of 11.4 referendums from 2000 to 2004.
Do citizens by definition always vote for an expansion of direct democracy? No. In 1995, the population of the canton of Berne, which also contains the Swiss capital Berne, approved a reform of direct democracy which meant that the number of obligatory referendums (on, among other things, amendments to the constitution) was considerably limited. There were so many proposals of minor importance on the agenda that the citizens approved a reduction in these. They preferred to concentrate on the most important issues.

Some peculiarities of Swiss direct democracy:

- It can take a very long time before voting on a popular initiative actually takes place. Once the necessary signatures have been collected, the ‘Bundesrat’ (the Swiss government) has two years to prepare the referendum. If the ‘Bundesversammlung’ (both houses of the Swiss parliament) prepares a counterproposal, another six months is added. Moreover, calculating from the time the popular initiative is submitted, the parliament has no less than four years to decide whether or not it accepts the popular initiative. The parliament can, of course, simply approve the legislative proposal for which a popular initiative is submitted. In that case, the initiators have achieved their goal and can withdraw their initiative. If the parliament draws up a counterproposal, the voters can vote for the original popular initiative or for the parliament’s counterproposal. These long times are seen as an advantage by many supporters of direct democracy. They enable sufficient time for a thorough social debate about the pros and cons of the proposal.

- There is no check on the constitutional nature of popular initiatives, neither by the parliament, nor by a court of law. It is true that the parliament does check the popular initiative on a small number of binding provisions of international law (see above), but this is very limited. In Swiss history, only one popular initiative has ever been declared invalid because of such a conflict (as it happens, because of conflict with the ‘non-refoulement’ principle – the sending back of a refugee to a country where he or she would be in danger). It is quite possible to introduce the death sentence by means of a referendum in Switzerland, but this has never been tried. Direct democracy has not led to more violations of human rights than in other European countries. There is a considerable list of rights for minorities that were actually approved by means of referendums.

- Popular initiatives at the federal level, as well as constitutional changes, are only accepted if there is a double majority in favour: there must be a majority for the proposal from both the individual voters and the cantons. The reason for this is that Switzerland is a country of minorities: there are, for example, German-speaking, French-speaking, Italian and Rhaeto-Romance cantons. The double majority means that a few large cantons cannot easily outvote the smaller ones.

- Switzerland does not provide any financial support from the government for groups of citizens who launch a referendum. These citizens’ groups also do not have to open their accounts for public inspection.

- All Swiss people entitled to vote, however, do receive a referendum brochure in their letterbox well before each polling day. This includes, among other things, the complete text of the law on which they will vote, plus a factual summary on a single A4 page, and arguments from both the government and the citizens’ committee that initiated the referendum.

The citizens’ committee has the right to supply its own text. These texts are also always available to read on the federal government’s website at www.admin.ch. A large proportion of this website is dedicated to direct democracy.

- With popular initiatives, citizens have the right to assistance from civil servants with the exact formulation of their proposal.

- Since the general introduction of postal voting, a large majority of Swiss voters use this system. All Swiss people receive their polling cards by post and can decide for themselves whether they will hand them in on the voting day (always a Sunday) in the polling station, or send them in advance by mail. There is a special procedure for this, with two envelopes to safeguard the secret ballot.

Recall

Besides the popular initiative, there is also the recall or ‘Abbersetzung’, which is an interesting direct-democratic procedure. Recall means that an elected or public official (such as a judge, for instance) can be removed from office by a popular initiative. This system does exist in several Swiss cantons, but not at federal level. In Berne, Lucerne, Schaffhausen, Thurgau and Ticino, citizens can recall the cantonal parliament. Recall means that the cantonal government is possible in Schaffhausen, Solothurn, Thurgau and Ticino. After the recall, new elections take place. In practice, however, this has never happened yet.

Local democracy

Besides the federal level, it is chiefly the cantonal and municipal levels that are important in Switzerland.

The cantons levy more or less the same amount of tax as central government does. Their powers are very extensive. Section 3 of the Swiss federal constitution states that the cantons are sovereign; all powers that are not explicitly delegated to the federal level by the constitution automatically belong to the cantons. Among other things, this includes: the police, most education, economic policy legislation and a large proportion of social security.

The direct-democratic institutions vary quite considerably from canton to canton [see 4.2].

In Zurich, the largest canton, 10,000 signatures are sufficient for a popular initiative. An optional referendum only requires 5,000 signatures. Furthermore, all amendments to the constitution, as well as all expenditure of more than 2 million Swiss francs (approx. £900,000) must be approved by the citizens by referendum. During the last decade, there was an annual average of more than nine cantonal referendums (besides the federal and municipal referendums, which are always held simultaneously). The top year, with 19 cantonal referendums, was 1999. Sometimes there are major economic interests at stake, as was the case in the 1996 referendum on the extension of Zurich airport at a cost of 873 million Swiss francs (£400 million).

An unusual institution in the Zurich canton is the so-called individual initiative (Einzelinitiative). A single person has the right to submit a proposal to the cantonal council. When such a proposal receives the support of at least 60 council members, a referendum can be held. In 1995, for instance, citizen Albert Jörger was able to use this process to initiate a change in the way teachers were appointed in the canton’s schools.
The municipalities levy their own taxes on income and property. In Switzerland, the municipalities spend a little less per resident than central government does. Beedham (1996) gives the example of the municipality of Kilchberg (7,000 residents) on the shores of Lake Zurich. The village arranges its own education, has its own fire brigade, an old people’s home, and its own policemen with two police boats on the lake. The municipality gives its few very poor people 3,000 Swiss francs per person a month (more than £1,300 a month), and also helps a handful of refugees, mainly from Sri Lanka. There is a municipal council of seven elected councillors, who monitor the work of the small number of municipal officials. The real power of decision, however, lies with the public assembly that meets four times a year. The public assemblies are usually attended by some 400 municipal residents; sometimes several hundred more when there is something special on the agenda. These meetings set the tax rates, approve new municipal byelaws, discuss the municipal accounts, consider construction plans, etc. These quarterly public assemblies constitute the highest level of municipal authority; the seven-person municipal council presents its recommendations to the meeting. Decisions are made by a show of hands. A written secret ballot can be asked for by one third of the people present, but this option has never been used to date. The citizens who attend have great powers. Fifteen signatures are sufficient to obtain a municipal referendum via the public assembly, but this seldom occurs.

Kilchberg’s public assembly once more illustrates the absurdity of participation quorums (chapter 2). A supporter of the quorum system would probably say that a public assembly at which 400 of the 7,000 residents were present is ‘not representative’. In reality, the public assembly constitutes a super-representative municipal council. This large municipal council has a mandate, just like a traditionally elected municipal council. Anyone who goes to the meeting is a mandatory; anyone who stays at home gives a mandate to the meeting. And Kilchberg is well managed. The allegation that direct popular management leads to failures is disproved there in practice.

Effects of Swiss direct democracy

The many referendums that have been held over more than 150 years in Switzerland provide a goldmine of information on what happens if the people are able to take their destiny into their own hands. A group of economists and political scientists from the universities of Zürich and St. Gallen – Bruno S. Frey, Reiner Eichenberger, Alois Stutzer, Lars P. Feld, Gebhard Kirchgässner, Marcel R. Savioz and others – have for some time been systematically studying direct democracy’s effects on policy and society. To this end, they make use of the fact that large differences exist in the degree of direct democracy that Swiss cantons have. Because the cantons also have major powers – Switzerland is in fact a confederate cooperation between sovereign cantons – it is possible to measure the specific effects of direct democracy in many areas. This means, of course, that in their statistical calculations they always discounted the other factors that could influence the studied relationship (the ceteris paribus principle [other things being equal]). In 1999, Kirchgässner, Feld and Savioz summarised a large number of studies in the study Die Direkte Demokratie: Modern, erfolgreich, entwicklungs- und exportfähig (‘Direct Democracy: Modern, successful, expandable and exportable’). But a lot of new studies have also been published since then. Several of the most striking research results are shown below:

- Feld and Savioz (1997) took an accurate index of the degree of direct democracy in all the Swiss cantons and correlated this with the economic performance of the cantons at various times between 1982 and 1993. After having performed extensive processing and excluding alternative explanations, they concluded that, depending on the point in time, the economic performance in the cantons with direct democracy was between 5.4 and 15 percent higher than in the representative cantons. “The coexistence of representative and direct democracies in Switzerland raises a natural question: if direct democracy is more efficient than representative democracy, why do the representative democratic cantons not adopt the successful strategies of their neighbours?” asked Feld and Savioz (1997, p. 529).

- Pommerehne surveyed the 103 largest towns and cities of Switzerland on the link between direct democracy and the efficiency of the government, with the treatment of waste as the example. In the towns and cities with direct democracy, the treatment of waste was – other things being equal – 10 percent cheaper than in the towns and cities without direct democracy. Moreover, Pommerehne found a considerable cost saving if the treatment of waste was contracted out to a private company. The towns and cities with direct democracy and private treatment of waste had costs that were 30 per cent lower – other things being equal – than in the cities with a representative system and public treatment of waste. (Kirchgässner, Feld and Savioz, 1999, p. 98-100)

- Kirchgässner, Feld and Savioz (1999, p. 92-98) examined 111 of the 137 largest Swiss municipalities to determine the link between direct democracy and public debt, using data from 1990. In the municipalities where referendums on public expenditure were permitted (an example of direct democracy), other things being equal, the public debt was 15 percent lower than in municipalities where this was not the case.

- Feld and Matussaka (2003) studied the link between public spending and direct democracy. Some Swiss cantons have a finance referendum (Finanzreferendum), with which the citizens must approve all local government decisions on expenditure above a certain amount (the average is 2.5 million Swiss francs). In cantons that have such a referendum, public spending between 1985 and 1998 was an average of 19 percent lower than in those without this instrument.

- Benz and Stutzer (2004) studied the link between direct democracy and the level of citizens’ political knowledge, both in Switzerland and in the EU. For Switzerland, they gathered information from 7500 inhabitants and correlated this with the 1 to 6 index of the level of direct democracy for the 26 cantons. The highest level of direct democracy was found in the Basle canton, with an index of 5.69; the lowest level was in the Geneva canton, its index figure being 1.75. Other relevant variables were checked, including gender, age, education, income and whether or not the people were members of a political party. They concluded that, other things being equal, the difference in political knowledge between an inhabitant of Geneva and Basle was considerable and amounted to the same as the difference between being a member of a political party or not, or between the monthly income groups of 5000 and 9000 Swiss francs. For the EU, in which 15 European countries were studied, of which six had held a national referendum in the last four preceding years, they discovered similar results.
Frey, Kucher and Stutzer (2001) studied whether the ‘subjective well-being’ of citizens is affected by direct democracy. Subjective well-being can be measured straightforwardly, in the sense that you can just ask people how happy they consider themselves to be. Frey took the same index of the Swiss cantons as Benz and Stutzer, and correlated this with 6000 Swiss people’s answers to the question: ‘How satisfied are you with your life as a whole today?’ Frey tested for numerous other variables, and level of satisfaction was given a rating on a scale of 1 to 10. Inhabitants of Basle (the most direct-democratic canton) scored 12.6 percentage points higher on the well-being scale than inhabitants of Geneva (the canton with the most representative form of democracy). Frey also examined the difference between the subjective well-being that arises because the policy is more in accordance with the wishes of the citizens (outcome), versus the subjective well-being that arises through participation in voting itself (the process). He did this by including a group of foreigners, who cannot vote at the cantonal level, but who do reap the benefits of the referendum results. The non-voting foreigners were also happier in the direct-democratic cantons, but less so than the Swiss who could vote. Frey concluded from this that taking part in the voting was responsible for two-thirds of the increased subjective well-being, and greater accordance of policy with the people’s wishes for one third.

In Chapter 4, box 4-2, we have already discussed the considerably lower tax evasion that occurs in the direct-democratic cantons.

Frequently-heard objections to direct democracy are discussed in Chapter 6.

**United States: California**

The United States has no federal referendums. The constitutional assembly of 1787, persuaded by Adams and Madison, accepted the principle that the elected people represent the entire nation and not just their own supporters. Direct democracy was not provided for.

Since the last decade of the 19th century, however, the Progressive and Populist Movements have been conducting campaigns to have the citizens’ initiative referendum introduced. They are mainly inspired by the Swiss example. The first state to make a change in this direction was South Dakota in 1898, followed by Utah in 1900 and Oregon in 1912. Interest in direct democracy was created in Oregon shortly after the state was founded, spurred on by a group of Swiss immigrants who had settled in Clackamas County. Another 16 states were to follow these initiatives up to 1918.

Currently, 27 of the 51 states have a form of direct democracy at state level. The regulations differ from state to state, because each state is sovereign on this point. The initiative, comparable with the Swiss citizens’ initiative, is available in 24 states; the popular referendum – the optional referendum with which parliamentary laws can be blocked – is also available in 24 states, mainly the same states that allow the initiative. At local level, direct democracy is even more widespread. Almost half of all US cities have the citizens’ initiative referendum. All in all, 70% of Americans live in a state, town or city in which the citizens’ initiative referendum is available. Furthermore, except for Delaware, all states have the compulsory referendum for constitutional amendments, which means that constitutional amendments must always be submitted to the people. There are very few subjects excluded, and in many states actually none. (Waters, 2003; Matsusaka, 2004)

This has led to an impressive number of referendums being held. Almost 2,000 citizens’ initiative referendums were held at state level between 1904 and 2000. In the peak year of 1996, in the 24 states that have citizens’ initiatives, at least 96 citizens’ initiative referendums were put to the vote. In comparison, the representatives of these states passed more than 14,000 laws and resolutions in the same year. Optional referendums are less important than citizens’ initiatives in the US. On the other hand, very many compulsory referendums are held. The total number of referendums held at state level amounted to some 19,000 up to 1999. Besides these, some 10,000 referendums are held at local level each year. (Effer, 1999)

Although the rules appear to be generally similar to each other, there are considerable differences in the number of citizens’ initiative referendums held in the various states. More than half of all referendums initiated by citizens were held in only 5 states: Oregon, California, Colorado, North Dakota and Arizona. Even though Oregon, with 318 up to 2000, held more citizens’ initiative referendums than California, which held 275 in the same period, we will take the latter state as the example below. The reasons are that California is not only the most important American state – being the most highly populated state and culturally and economically very successful – but also because Californian direct democracy is controversial.

In California, the introduction of direct democracy is closely linked with the name of Dr. John Randolph Haynes, who founded the California Direct Legislation League in 1895. Thanks to his efforts, the opportunity for direct democratic decision-making was introduced in the city of Los Angeles in 1902. At state level, the introduction of the referendum was mainly a response to the stranglehold that one specific company, the Central Pacific Railroad, had acquired on political life in California at the end of the 19th century. In 1901, the book entitled ‘Octopus’ appeared, in which Frank Norris describes the vice-like grip that this railway company had on politics in California. In fact, the company was not only in the business of transport, but also in land speculation, for instance. Almost all the legal rulings at the time were to its advantage. Norris wrote: ‘They own the ballot box (…) They own us.’ When this grip of the ‘octopus’ on public life became known, it was resisted. Hiram Johnson, a public prosecutor, supporter of Haynes and leader of the progressive wing among the Republicans, became Governor in 1910. He conducted his campaign (“the Pacific must keep its dirty paws out of politics”) by car and refused to take the train. In 1911, Haynes, Johnson and their supporters succeeded in introducing the citizens’ initiative referendum. At the same time, the possibility of ‘recall’ – the dismissal by the voters of elected representatives and high-level officials – was introduced. The California Direct Legislation League still had to fend off various attacks on direct democracy. In 1920, opponents of the citizens’ initiative attempted to use the instrument itself to nip it in the bud. This proposal, which contained a heavily increased signature threshold for citizens’ initiatives on tax issues, was nevertheless rejected by the voters (Waters 2003).

**Some characteristics of Californian direct democracy:**

The legislative citizens’ referendum (‘initiative’) differs from the Swiss system in various aspects. The rules have actually remained unchanged since 1912.
People who launch a citizens' initiative can call upon certain government services at an early stage. They can be assisted by the Legislative Counsel in getting the wording of the proposal into the proper legal form. The subject prepared in this way is then passed to a senior judge, the attorney general, who composes the official title and the summary of the proposal. The title and summary are important because they appear in the official ballot pamphlet. Furthermore, in cooperation with the Ministry of Finance, among others, an analysis is made of the fiscal consequences of the new proposal. This all takes four to six weeks. The proposal can then be circulated for the collection of signatures.

All matters that are within the power of the state can be the subject of a citizens' initiative, thus including the budget, taxes, immigration, etc. There is only one formal requirement: there must be unity of subject—a citizens' initiative may not contain two unrelated subjects.

Both constitutional initiatives and statute law initiatives are possible. The signature threshold for the first of these is equal to 8% of the turnout at the last election for the state governor; for the second it is 5% of this turnout. The maximum collection period is 150 days. An approved constitutional initiative cannot be subsequently amended by the state’s house of representatives, but only by a new referendum. Approved statute law initiatives, however, can be amended by the state’s house of representatives.

Californian citizens’ initiatives are direct initiatives. In contrast to indirect initiatives, these are not enacted through the parliament. The parliament, therefore, cannot launch a counter proposal against the citizens’ initiative. Citizens’ initiatives are swiftly submitted to the ballot: if the formal thresholds are achieved in the summer, the citizens’ initiative will already be put to the vote in the November of that year. In principle, there is only one election day every two years, to which a maximum of one additional voting day may sometimes be added. This means that there are frequently very many citizens’ initiatives put to the vote on a single election day. These points, each of which differs from the Swiss system, are criticised by some supporters of direct democracy. According to them, longer periods and the spreading out of citizens’ initiatives across several voting days each year are good for the public debate. The absence of a parliamentary process and a possible counterproposal provides the public with less information and fewer options.

A proposal that is approved by the public can nevertheless still be annulled by the law courts. The risk that a legislative proposal approved by referendum may nonetheless still be annulled by the courts is quite considerable: between 1964 and 1990, this happened to 14 of the 35 citizens’ initiatives that achieved a majority in the ballot box. A successful citizens’ initiative can thus see the results of long, hard work be lost in court. It is clear that the checking of the proposed legislation after the vote has been held is a distinct disadvantage of the Californian system. This problem could be elegantly solved by introducing an intermediate petitionary step: a citizens’ initiative that has gathered a relatively small number of signatures, for instance 10,000, acquires the right to a parliamentary debate on the proposal and to a check by a constitutional court. This provides the people submitting the citizens’ initiative with the right to then revise their proposal in the light of the parliamentary debate. Moreover, the early constitutional check prevents a discouraging legal defeat of the proposal after the entire referendum process has taken place. The annulment of a proposal approved by the people is bad for democracy: the people must not only have the final say, but they must also see that their say is final. An annulment, often on formal grounds, creates the frustrating and frequently justified impression that a powerful elite still ultimately awards itself the final say.

The Ballot Pamphlet: three to six weeks before the vote—the same as in Switzerland—the voters receive a booklet containing the essential documentation about the referendum. This booklet contains, in addition to the official title, summary and analysis mentioned previously:

- the complete text of the initiative;
- arguments for and against from the supporters and opponents, which must be submitted four months before the vote. Supporters and opponents have the right to 500 words; after another two weeks, both sides can submit a further text of no more than 250 words in response to the other party’s text;
- a concise summary of the arguments from both sides.

The fate of referendums in California is variable. Between 1912 and the 1930s, the voters had to deal with an average of more than four referendums a year. In the 1950s, 1960s and 1970s, the citizens’ initiative was rarely used. The people had great faith in the representative system. In the 1960s, only nine initiatives in total were launched. However, thereafter the citizens’ initiative began to gain in popularity, when remarkably enough both progressive and conservative initiatives seemed to have chances of success. ‘Conservative’ initiatives included the introduction of the death penalty, via a referendum in 1972. In the same year, the environmental movement booked a huge success with a bill about protection of the coastal zone which was approved by referendum. Even the threat of a citizens’ initiative was sufficient to force certain important changes, such as the moratorium on nuclear power stations that was approved in 1976.

In 1977-78, the notorious ‘Proposition 13’ initiative was drawn up, which called for a halt to the increase in tax on real estate. The preceding years had seen steep inflation taking hold and the price of land and houses rising even higher than the depreciation in the value of the dollar. The result was that average families were confronted with a double tax explosion. Local taxes that were linked to the value of their homes shot up. And the inflation caused their incomes to move into higher and higher tax brackets, without a commensurate rise of purchasing power in real terms. This mechanism provided the state of California with 2.6 billion dollars extra income in 1976. In 1977, the consensus increased in the Californian parliament for using the additional income to lighten the burden of the small homeowners. However, the politicians just could not agree on a precise scheme. Democrats argued in favour of a scheme that mainly benefited people with lower incomes, while Republicans, such as Reagan, proposed measures that provided high earners with the most benefit.

Nothing happened during the entire spring, and in July two conservative anti-tax activists, Howard Jarvis and Paul Gann, announced the launch of a citizens’ initiative. Their proposal made short shrift of the uncontrolled tax increases that were driving the small homeowners to despair. But Proposition 13 had another hallmark: it made no distinction between homes and businesses, but lumped all real estate into the same category. This meant that the proposal provided the business community with an enormous benefit, where they had not even requested it. This aspect did not attract any attention.
in the autumn of 1977, when the campaign to collect signatures for Proposition 13 was in full swing, while in the political world every path to a solution still seemed to be thoroughly blocked. In December, Jarvis and Gann submitted the signatures for the initiative, more than twice the required number. In the winter, after a whole year of arguing, the parliament had still not reached a consensus about what should happen. In January 1978, the members of the parliament were under tremendous pressure to come up with a solution. Meanwhile, Proposition 13 had already built up tremendous popular support. It was not until around March 1978 that the parliament finally presented an alternative proposal, which would be put to the voters in June as Proposition 8, together with Proposition 13 from Jarvis and Gann. Despite, or perhaps precisely because of the massive support from all the politicians for Proposition 8, the campaign-weary citizens chose Proposition 13 with a crushing majority. Shultz wrote about this in 1997: “Twenty years after the fact, it is important to realise how the tax revolt in California arose. It was about people who lived in small houses, purchased in the 1950s for perhaps 15,000 dollars, and who were suddenly confronted with taxes based on ten times that value. They grabbed at Proposition 13 to protect themselves, and 20 years on they still cling to it steadfastly.”

The breakthrough of Proposition 13 produced two consequences. Tax revolts also arose in other states where forms of citizens’ initiative existed. The success of Proposition 13 made public opinion once more aware of the possibilities provided by the referendum. “Towards the mid-1980s, the citizens’ initiative began to replace representation as the main stage for resolving the major political debates. Outside the representative system, both left- and right-wing activists were inspired by the example of Proposition 13. For good or bad reasons, many dreamed of becoming the next Howard Jarvis. Organisations began to acquire the resources and skills needed to present their goals for direct voting. During the 1980s, the efforts to obtain a citizens’ initiative doubled and the people had already voted on more than 48 measures by the end of the decade. In addition, a citizens’ initiative’s chance of success became greater. Prior to 1980, the Californian voters only approved one in three proposals. Between 1980 and 1990, almost half were approved.” (Shultz, 1996, p. 3) In the 1990s, interest continued to increase. In November 1996, the voters had to decide more measures than during the entire period from 1960 to 1969.

Proposition 13 is often cited by opponents of the referendum to illustrate the irresponsibility of public voting behaviour. In fact, it was the irresponsible passivity of the Californian parliament that caused the tax revolt among the voters.

Criticism was also voiced against the Californian recall regulation as a result of the removal in 2003 of Governor Gray Davis, who was replaced by the actor Arnold Schwarzenegger. The media created the picture that it was much too easy to request a recall and that the sitting politician did not have the slightest chance in such a case. There was further criticism of the fact that the sitting governor could be voted off by a simple majority, whereas his successor could be elected with fewer votes. Furthermore, it was claimed that the recall campaign was a ‘grass roots’ campaign in appearance only: in fact, ‘big business’ was really behind it. And the circumstance that a ‘serious’ politician was being exchanged for ‘just an actor’ showed the type of abuse to which direct democracy leads.

That is mostly incorrect. First, it is not easy to request a recall: at least 900,000 signatures were needed out of an electorate of 15 million in 2003. Nor is it something which happens very often; in fact, only once before has a Governor been forced to resign in the US – in 1921. At local level, the recall is used more often (36 states have local recall), but in the large majority of cases, the politicians survive the recall: councillors survive in 70.8% of cases and mayors in as many as 82.4% of cases.

The reason why a group of citizens collected 900,000 signatures was that Davis – who had earlier been re-elected as Governor by the narrowest of majorities – had already lost considerable authority by his poor response to a severe and long-lasting energy crisis, and subsequently appeared to have lied about an enormous budget deficit. During his re-election campaign, Davis painted a rosy picture of the financial situation, attacked everyone who spoke about a budget deficit, and categorically excluded any new tax increases. Shortly after his re-election, however, Davis revealed a record deficit of 32 billion dollars (more than the combined deficits of all the other US states put together, while two years earlier there was still a budget surplus), and decided on a tax increase worth 8 billion dollars. In addition, it was apparent that Davis was being backed by ‘Big Business’: during the recall, the two most important mouthpieces of Californian business – the California Business Roundtable and the Los Angeles Chamber of Commerce – supported Davis.

The fact that an actor replaced Davis has nothing to do with direct democracy. At federal level, the US does not have a single form of direct democracy – the US is one of the few countries worldwide that has never held a national referendum – and yet the actor Ronald Reagan was able to become President.

It is certainly not good that under the Californian recall system a sitting governor who was elected with 40% of the votes can be forced to stand down, while his successor can be elected with only 50% support. This is because the voters must elect the successor in a single round from a list of more than two candidates. It therefore seldom occurs that the candidate with the most votes also gains an absolute majority. But this is not an inherent element of the recall. This aspect could easily be changed by having more rounds of voting in which ultimately the two candidates with the most votes must stand against each other – exactly the same as in French presidential elections. The people who have previously voted for third and lower-placed candidates must still choose between the two most popular candidates in the last round. Then there will always be an absolute majority for one candidate. (Nijeboer, 2003)

Direct-democratic decision-making has enjoyed more confidence among the voters than indirect decision-making for several decades already. Recent polls in the U.S. confirm this. Half of those questioned have confidence in the people as direct legislators. By contrast, 75% of the people questioned consider that the parliament is managed by a handful of ‘big interest’ representatives, whereas only 15% believe that the parliament keeps the general welfare in mind (Baladassare 2005).

The effect of the citizens’ initiative on taxes and expenditure

In respect of California it is often claimed that direct democracy has led to budgetary disruption, because the people systematically reduce taxes by direct-democratic means to the point at which the state can no longer operate as it should. Proposition 13 is often quoted in evidence (see, for example, Daniel Smith’s book ‘Tax Crusaders’).
Following this criticism, the US political scientist Matsusaka, in his study ‘For the many or the few’ (2004), carefully examined the effect of the referendums on taxes and expenditure in the United States. He gathered an enormous quantity of data from all the American states and some 4,700 American cities about the last 100 years – ‘in essence, all the data that is currently available’ (p. xi). He discovered three effects:

(1) overall public expenditure by states and local councils decreased
(2) expenditure is transferred to a more local level
(3) there is a shift from general taxation to payment for specific services supplied

This means that the people, if they have a chance to do so, demonstrate a tendency to slim down the state – especially the central state – and that they are also inclined to let people pay more for their own consumption. In the US, the government spends approximately 36% of the GNP; about half of this is spent by local councils and states. If the citizens’ initiative referendum is available in a specific state, this leads to an annual average tax reduction, for a four-person family, of $534 and to a drop of $589 in the state’s public spending. This corresponds to around 4% of the state’s income and public spending. It is a significant, but not dramatic, difference in absolute terms.

Matsusaka discovered another remarkable finding. The arrangements for the citizens’ initiative referendum are not the same in all the states concerned. The main variable is the signature threshold that must be achieved, and this can vary from 2% to 10% of the registered electorate. The impact of the citizens’ initiative referendum increases systematically with the decrease in the signature threshold. In states with the lowest signature thresholds, the impact of the referendum on public revenue and public spending is within a range of up to 7%, whereas the impact is insignificant in states with a high threshold (p. 33-35). The easier it is to launch a citizens’ initiative referendum, the lower the level of tax.

The tendency to reduce taxes does not impact on all levels of public administration in the same manner. The overall reduction in tax is the result of a strong trend to reduce spending at state level by approximately 12%, combined with a less marked trend to increase spending at the local level of counties and cities. This trend to decentralisation seems to be statistically very solid. This does not mean, however, that the taxes increase at local level. The higher spending in the cities (to the extent that there is a direct correlation with the provisions of the popular referendum), is paid for by charges for services supplied: “At the state level the initiative led to about a 5 percent reduction in taxes and no change in charges. At the city level, the initiative led to about 14 percent more charges and no change in taxes.” (p. 52).

Finally, one more remarkable finding. The data above concern the period from 1970 to 2000. Most of the states introduced the referendum around the beginning of the twentieth century and the conditions under which referendums take place have been modified very little since then. At the start of the twentieth century, public spending was approximately 6% of GNP (Gross National Product), whereas a hundred years later this figure is approaching 40%. Matsusaka also studied the effect of the referendum during the period from 1902 to 1942, from which it appeared that the referendum led to an expansion of public spending. Matsusaka also found that public spending in that period increased more sharply as the signature threshold for obtaining a referendum fell.

One therefore cannot unconditionally say that the referendum always leads to tax reductions. The only thing one can say is that the citizens’ initiative referendum ensures better implementation of the will of the majority. Apparently the 6% public spending around 1900 was too low in the eyes of most people (Matsusaka relates this to the rapidly increasing urbanisation at that time, which caused demand to increase for all kinds of collective infrastructure), whereas the current approximately 40% is clearly considered too high and too centralised.

Matsusaka devoted an extensive chapter to the question of whether the three shifts that occurred under the influence of the citizens’ initiative referendum also reflect the will of the people. For this purpose he consulted the results of a large number of opinion polls that have been held during the course of the last three decades. Millions of dollars are not needed for opinion polls – a couple of thousand dollars is sufficient to hold a representative opinion poll in the US – and no campaigns costing millions are conducted. Thus there is no distortion as a result of one-sided financing. From the opinion polls it becomes clear that most Americans are indeed supporters of smaller government (which corresponds with the trend to overall tax reduction), that they support decentralisation (spending power shifts to more local governing authorities) and that they generally consider taxes as the least attractive source of public revenue. Even more forcefully: “For every policy I am able to examine, the initiative pushes policy in the direction a majority of people say they want to go. I am unable to find any evidence that the majority dislikes the policy changes caused by the initiative”. (Matsusaka, 2004, p. xi-xii; italicised).

Matsusaka’s conclusion is clear: “Some thoughtful observers (…) have argued that the initiative allows individuals and groups to bring about policies contrary to the public interest. Their argument is based on the observation that the initiative is expensive to use, and appears to be dominated by rich individuals and groups. The evidence here, however, shows that even if wealthy interests are prominent players in initiative politics, their efforts ultimately redound to the benefit of the majority. There is no mystery how this could happen. Without the initiative, voters are forced to accept the policy choices of the legislature. With the initiative, voters are given choices. If the alternative on an initiative is worse than the legislature’s policy, the initiative can be rejected and no harm is done. If the alternative is better, the voters can accept the initiative and are better off. In short, even if there is unequal access when it comes to proposing initiatives, the ability of voters to filter out the bad proposals and keep the good ones allows the process to work to the advantage of the majority (…) I want to emphasize that the evidence is value neutral; it does not tell us whether the initiative process is a good or bad form of government. The evidence simply shows that the initiative promotes the will of the majority” (p. 71).

The role of ‘special interests’

The above is closely linked to the theme of ‘special interests’. A lot of money has been involved with direct democracy in California from the beginning. In the 1922 elections, the total amount invested was already more than a million dollars. During the 1970s, ’80s and ’90s the amount of money spent on campaigns exceeded this many times over. In 1992, campaign committees in 21 states spent an estimated 177 million dollars on campaigns and in 1998 this had already risen to 400 million dollars in 44 states. Of this 400 million, California took the lion’s share with 256 million dollars spent. (Garrett and Gerber, 2001, p. 73) Since the end of the 1980s, more money
has been spent in California on citizens' initiatives than on lobbying in the parliament. The business community provided around 66% of the money in 1990 (individuals: 12%; political parties: 7%; trade unions: 1%). (Shultz, 1996, p. 81)

The citizens' initiatives were professionalised at an early stage. At the time of the First World War, Joseph Robinson had already set up a business that collected signatures for a remuneration. Currently such firms ask for around one million dollars for collecting the required signatures for a Californian citizens' initiative. In 1930, the first firm was founded that actually designed campaigns (Whitaker & Baxter's Campaigns Inc.). Meanwhile, several dozen professional 'consultants' are active in the state, who supervise both the campaign for professional politicians and the campaigns around citizens' initiatives. These consultants usually focus on a single ideological segment of the 'political market'.

One thing and another leads to a frequently invoked argument: financially powerful special-interest groups would abuse the binding citizens' initiative referendum to push through their own agenda, to the prejudice of the 'general interest', which is considered as being served by the people's representative system. This argument is not usually thought through consistently. We have already quoted above Matsusaka's fundamental argument that the referendum proposal that is submitted as an alternative to the intentions of the 'representative system' also increases the options for the voters and thus offers them more room to make decisions that best match their preference. Matsusaka compares this with a family in which the father (= 'representative system') unilaterally 'proposes' what flavour pizza is to be eaten. When the mother (= 'special interests') can also suggest a pizza, after which everyone (also the children = the voters) can vote on the proposals, then this can never make the children's situation worse, even if they cannot suggest a pizza themselves. The option proposed by the father is always available, but if mother has an even better idea, that can be given preference in the voting. "So we can see that allowing everyone in the family to make proposals generally works to the advantage of the majority. The conclusion stands even if the right to make proposals is reserved for certain family members. (...) As long as proposals are filtered through a majority-rule election, the only way initiatives make the majority worse off is if voters can be persuaded to approve policies contrary to their interest." (Matsusaka, 2004, p. 12).

In her study 'The populist paradox' (1999), the political scientist Elisabeth Gerber systematically examined the extent to which 'special interests' can push through their own agenda by using a lot of money. She analysed the cash flows of 168 citizens' initiatives in eight American states. In contrast to what critics claim, powerful commercial interests appear to have relatively little success in obtaining approval of a law they desire by means of popular referendum. Initiatives that were financially supported mainly by individual citizens were almost twice as often adopted as initiatives that were financially supported mainly by economic special-interest groups (in reality, the number of citizens' initiatives that are supported entirely by economic special-interest groups or individual citizens is very small). The large majority of the popular votes relate to citizens' initiatives. (p. 111-112). Gerber concludes: "The empirical evidence provides further basis for rejecting the allegation that economic interest groups buy policy outcomes through the direct legislation process." (p. 138)

Gerber shows that economic special-interest groups, however, do have some success in forcing the failure of citizens' initiatives by other people, by launching a counter-initiative. When a citizens' initiative seems to be very popular and even using large amounts of money does not seem able to turn the tide, wealthy opponents attempt to sow confusion by launching an alternative proposal, a counter-initiative, which appears very similar to the original if viewed superficially. This happened for the first time in 1978, with the anti-tax initiative Proposition 13 already discussed. Several politicians launched a 'moderated' counter-initiative at the last moment, which however was unsuccessful.

A key year was 1990, when several progressive initiatives were high fliers. There was the 'Nickel per drink' initiative, which proposed a higher tax on alcohol (Proposition 134); there was the 'Big Green' initiative, a major environmental initiative drawn up by environmental groups in cooperation with democratic politicians; and there was 'Forests Forever' (Proposition 130), that was specifically aimed at the preservation of the Californian forests.

A leaked confidential memorandum revealed the chemical and petrochemical industry's awareness that the 'Big Green' initiative in particular could not be directly prevented because of its tremendous popularity, so a counter-initiative was launched: 'Big Brown' (Proposition 135). The timber industry countered 'Forests Forever' with 'Big Stump' (Proposition 138). To counter the 'Nickel per drink' initiative, the alcohol industry launched two of their own initiatives: 'Penny a drink' (Proposition 126), which proposed a lower alcohol tax, and a second initiative that would make any subsequent tax increase, including tax increases on alcohol, depend on a two-thirds majority instead of a simple majority.

All these counter-initiatives were designed to sow confusion. The voters were finally confronted with a cluttered list of 27 complicated initiatives and counter-initiatives, which resulted in what became known as the 'Big NO': 23 of the 27 proposals were rejected, also including the original, progressive proposals that could actually count on a lot of public sympathy. This is an example of a common phenomenon: voters are cautious and, if in doubt, will reject a proposal. "Voters simply throw their hands up in despair and vote 'no' on everything." (Shultz, 1996, p. 84)

These experiences teach us an important lesson: if business is able to invoke democratic life, democracy breaks down. During the course of the democratic decision-making process, the citizens must decide the legal boundaries within which the commercial sector can operate. These must be just as inflexible as geographical or geological boundaries, for example; they must protect people's dignity and prevent attempts to corrupt them. The debate or image-forming process is the true centerpiece of democracy and should therefore be played out in an open forum and should not be able to be bought out.

It is not the voters' fault. There have been various attempts to hold at bay the effect of money on the progress of the debate. In 1974, Californians approved a citizens' initiative (Proposition 9) that limited the campaign expenditure for referendums. Two years later, however, this provision was overturned by the US Supreme Court, which argued that putting money into a campaign was part of the freedom of speech guaranteed by the first article of the US constitution. Thus it is currently impossible to impose a limit on campaign expenditure for direct-democratic decision-making in the USA, unless the federal constitution is amended or interpreted differently.
The Supreme Court did accept limits for representative candidate elections, because they are open to the risk of corruption, but corruption cannot play a part in popular voting on a public issue, because it is the voters themselves who decide. On 18 December 1996, the opponents of ‘big money’ gained a surprising victory with the approval of Proposition 208: 61.8% of the turnout voted in favour of the introduction of a ceiling to expenses for representative elections. Up until that time there was no such legal limitation in California. The initiative takers cited the example of a candidate in the Californian parliamentary elections who, having been handed another 125,000 dollars from a tobacco company a week before the vote, finally won by the tiny margin of 597 votes. The Ballot Pamphlet (information booklet) for Proposition 208 stated: ‘When big-moneyed special interests win, the people lose!’ However, Proposition 208 was also subsequently contested in court. During the proceedings, another group launched Proposition 34, wanting to withdraw Proposition 208 and setting less stringent limitations on campaign donations. This was accepted by more than 60% of the voters in November 2000.

Publication of the sources of funding was also targeted. In 1988, the Californian voters accepted Proposition 105, which stipulated that the major financiers must be disclosed in advertisements for an election campaign. This statute remained in force for several years and was extremely effective. For example, advertisements against the ‘Nickel per drink’ initiative always reported: ‘... funded by the Beer Institute, the Wine Institute and the Distilled Spirits Council’. The industry nevertheless succeeded in having Proposition 105 declared legally void. It seems that the industrial financiers of political advertisements often conceal themselves behind meaningless or misleading names (see below). In 1997, however, the Californian senate passed a law (SB 49) that stipulates that each campaign committee that spends more than 100,000 dollars on its citizens’ initiative – in practice that is every committee – should submit an electronic account of its spending, which will be published on the website of the Californian authorities.

An example of the efficiency of objective advertising was provided in 1988, when the tobacco industry came up with an initiative that was aimed at relaxing the restrictions on smoking, which are very extensive in California. However, the tobacco barons presented their initiative as a proposal to limit smoking that came from a fictitious organisation, which was called ‘Californians for Statewide Smoking Restrictions’ (CASSR). When it became clear that a large proportion of the public was threatened with deception, the California Wellness Foundation and the Public Media Center published a plain advertisement that only contained quotes from the Ballot Pamphlet plus the list of the most important sponsors for and against. The Ballot Pamphlet stated: “The proposed measure would lead to less restrictions for smokers than is currently the case under the existing legislation.” Important financiers of the initiative identified included: Philip Morris USA, Reynolds Tobacco Co, and a few other tobacco manufacturers. The most important financiers of the resistance against Proposition 188 identified in the advertisement were: The American Cancer Society, The American Lung Association, The American Heart Association and The American Medical Association. The publication of these plain facts in a clear, graphically well presented full-page advertisement enabled the Californian voters to realise immediately what was going on, and Proposition 188 was squashed with a humiliating 70%/30% defeat. This example demonstrates that a serious danger of deception can arise specifically coming from commercial interests. Exposing the financiers via the Ballot Pamphlet, and distributing this document itself in a neat, readable format by means of newspaper advertisements was an efficient remedy.

Up until 1992, citizens’ initiatives could still rely on the ‘Fairness doctrine’ that was adopted by the Federal Communications Commission in 1949. According to this doctrine, radio and television should provide reasonable opportunities to the representatives of opposing viewpoints on controversial public issues to publicise their points of view. This fairness doctrine was contested for many years by the owners of broadcasting stations, and the FCC finally relented in 1992: the Fairness doctrine was no longer legally applicable to citizens’ initiatives. The ‘ballot pamphlet’, which every voter receives before the citizens’ initiative is voted on, currently remains the only reliable source of reasonably balanced information and the question can be asked whether this is sufficient.

The enactment of approved initiatives

In California (just like in Switzerland) most of the citizens’ propositions are rejected by the voters. Only 34% of the initiatives meet with success.

Remarkably enough, this does not mean that in 34% of cases the approved proposal is also actually enacted. A proposal that has been approved by a majority of the citizens can still be entirely or partially sunk subsequently. Politicians have various means of achieving this. In the first place, a proposal approved by referendum can be contested afterwards in the courts. This frequently happens in California, and in more than a few cases such a legal action results in the whole or partial setting aside of the approved proposal. In other cases, the approved proposal is simply not carried out by the authorities. Elisabeth Gerber and others, in the book “Stealing the initiative” (2001), examine the phenomenon whereby those in power nevertheless emasculate or get round undesirable popular decisions by the use of various manoeuvres. The authors studied the implementation of ten propositions that were approved by the people in California by referendum, in order to conclude: “It is clear that government actors retain a great deal of discretion over what happens to initiatives after they pass” (p. 110). In fact, many popular decisions are only partially converted, and in some cases their execution is even effectively withheld entirely.

A striking example is the ‘English only’ initiative (Proposition 63), which wanted to declare English as the only official language of California, and which was approved by 73.2% of the voters in 1986. Yet the proposal was never implemented. Official election documents in San Francisco remained multilingual, with Spanish and Chinese in addition to English. In 1987, the Democratic Party even launched a legislative proposal for a constitutional amendment which would drastically hamper lodging a legal action against the basis of the approved proposition. However, this legislative proposal was not approved after opponents of it sounded the alarm on the issue and the Democrats, fearing a loss of votes, backed down. The related Proposition 227, also called ‘English only’, was approved by 60.9% of the votes in 1998. Fundamentally, this proposition proposed that the ‘bilingual education’ in many of the state’s public schools must be terminated and that the children who did not speak English (most of whom speak Spanish), must undergo an ‘English immersion’ in the school. In school districts where this measure could count on broad support it was also implemented. But in other places the initiative had absolutely no impact. In San Francisco, for example, only 38.3% of the voters agreed with...