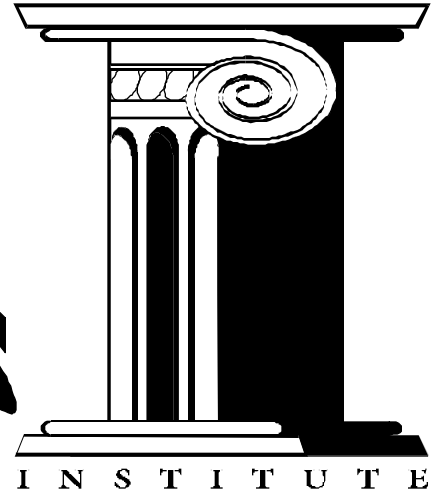


LIMIT



On Power and the Use of Power

Initiative and Referendum in Iowa?

by Amy K. Frantz

Did you know that Iowa voters may have had the power of initiative and referendum, just briefly though, in 1997? If not, I doubt you are alone. A little-publicized law could have provided this power to Iowa citizens, but no longer exists.

In 1997, Iowa Legislators included provisions in a non-controversial election-law update bill to allow a non-binding referendum by local governments. It was included initially to allow Johnson County to hold a county-wide straw poll of presidential candidates. Polk County Legislators also wanted to use the non-binding referendum to determine the views of voters on gambling in Polk County and whether to sell Prairie Meadows.

When drafting the rules to implement the referendum provisions, the Secretary of State's Office determined that the language of the bill went

beyond a simple non-binding referendum. The rules drafted by the Secretary of State potentially would have given voters the power of initiative (allowing voters to place measures on the ballot by collecting enough signatures on a petition) and referendum (allowing elected officials to place measures on the ballot for voters to consider).

The impact and reach of the rules drafted is not known for certain, because Iowa voters did not have the chance to put the provisions into practice. Many State Legislators balked, saying they did not intend to give Iowa citizens this much power over their elected governments.

In 1998, the State Legislature repealed the entire provision, non-binding referendum and all, rather than even try to scale back the law to their original intent — allowing the voters to express their opinions

in a non-binding election. What are some elected officials so afraid of?

Amy K. Frantz is a Research Analyst with Public Interest Institute.

Would you like to learn more about the staff of Public Interest Institute? Read any of the Institute's previous publications? View our "Quote of the Day" from LIMITING LEVIATHAN, a book about limiting government, edited by Institute President Dr. Don Racheter and Institute Advisory Board Chairman Dr. Richard Wagner?

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Dr. Don Racheter

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No Taxation Without Respiration!

by Jefferson G. Edgens

The loss of farmland to nonagricultural uses is a trend that dates back two centuries or more. One big reason for it is the natural growth in productivity: With today's yields, we would be drowning in food-stuffs if almost all of our people were farmers, as was the case when the Constitution was signed and Michigan was still a territory. When farmland loss results not from natural market forces but from bad public policy, however, it ought to become everybody's concern.

A prime example of such bad policy is the estate tax, or "death tax" as it is commonly known. It is a tax paid on a person's entire estate at the time of death. And it is onerous enough that it often forces a family to sell its farm just to pay the tax bill.

The current estate tax system is complex and has evolved. In 1916 the first federal estate tax was implemented for estates larger than \$9 million in today's dollars, with a 10 percent top rate. Many people gave away their estates, but government interpreted generosity as evasion, and the estate tax was augmented with a gift tax in 1924. In 1976 the two tax systems, estate and gift taxes, were combined into one unified tax. The rates begin at 18 percent on taxable estates of less than \$10,000 and go as high as 55

percent on taxable estates over \$3 million.

In a typical recent year, a little over half of the federal government's estate tax revenue came from estates under \$5 million. To Washington, the tax doesn't mean much because it generates less than \$15 billion yearly, or about one percent of total revenues. But to farmers, the self-employed, and small and medium-sized businesses that are often owned by minorities and women, it can hit hard. An estate worth \$400,000 in 1997, for example, faced a liability of \$121,800, or more than 30 percent.

Farmers are hurt because, theirs being a very land- and capital-intensive industry, they typically reinvest most of their earnings in good years into the farm, quickly increasing the worth of the estate. In 1992 the average Saginaw County [Michigan] farm was worth \$286,000; by 1997, the average farm's value had reached \$459,000, nearly a 62 percent increase in five years. Oakland County [Michigan] farm values nearly doubled to \$486,000 or \$5,645 per acre. Washtenaw County's [Michigan] average farm value was \$500,000 in 1997, or \$2,892 per acre.

Multiple studies have concluded that the estate tax is inefficient. Total compliance costs may be as high as 65 cents for every one dollar

collected.

Finally, the estate tax is harmful because it encourages spending, not saving. It sends a powerful signal that the accumulation of even modest wealth will lead to heavy taxes. When an owner realizes that the estate will take a large tax hit, he or she may spend down the estate or remove the business from the family. Economist William Beach of The Heritage Foundation says that "it makes sense to buy vacations in Aspen, Colorado, or a painting by Rubens instead of investing in new productive equipment or expanding a business."

Beach and his fellow economists used two of the nation's best statistical models to forecast what would happen if the death tax were repealed. They found numerous benefits that would likely flow from the increased incentives to save and

invest:

- The U.S. economy would average as much as \$11 billion per year in additional economic output;
- Approximately 145,000 new jobs would be created; and
- Personal incomes would rise an average of \$8 billion per year above current projections.

Gary and Aldona Robbins, economists at the Institute for Policy Innovation, agree. They assert that over time, eliminating the estate tax would actually increase federal revenues above current levels.

But whether or not repealing the estate tax would produce more economic growth and boost federal revenues is not the highest consideration. The *moral* case for repealing the tax is paramount. Any policy that harshly penalizes hard work, thrift, and good husbandry of property is funda-

mentally immoral. Selling the family farm or a small business just to pay sky-high taxes because a loved one died is a tragic practice that has no place in a free society.

America's founding fathers protested British policy with the cry, "No taxation without representation!" The modern equivalent as it relates to the onerous death tax ought to be, "No taxation without respiration!"

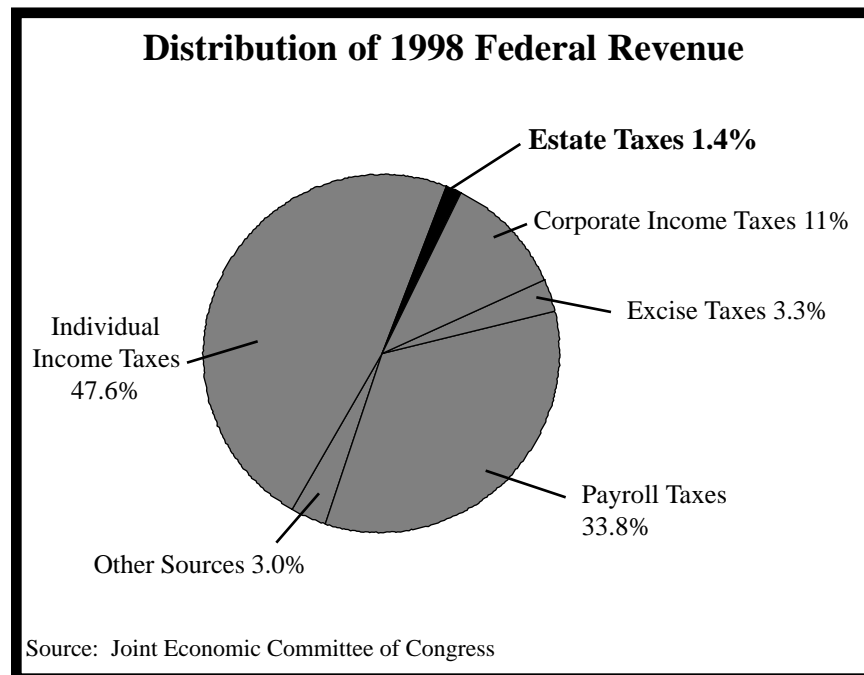
Dr. Jefferson G. Edgens, formerly of Michigan, is a policy specialist in the University of Kentucky's Department of Forestry and an adjunct scholar with the Mackinac Center for Public Policy headquartered in Midland, Michigan. Reprinted with permission from Mackinac Center for Public Policy.

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"If Patrick Henry thought that taxation without representation was bad, he should see how bad it is with representation."

— Farmer's Almanac



The estate tax raises a tiny portion of overall federal revenue but exacts a heavy toll on families who often must sell the family farm or business in order to pay it.

Exploring Initiative and Referendum Issues

by Amy K. Frantz

The Initiative and Referendum Institute held their first national conference, “A Century of Citizen Lawmaking: Initiative and Referendum in America” in May. The conference provided an overview of the initiative and referendum (I&R), with panel discussions that included supporters and opponents of the I&R process.

Mississippi Governor Kirk Fordice, Honorary Chairman of the Initiative and Referendum Institute, welcomed attendees to the conference, and spoke about the initiative and referendum in his state. Governor Fordice worked to adopt the initiative and referendum process in Mississippi in 1992. Since that time, only one measure has made it to the state’s ballot, due to the complex I&R procedures adopted by the State Legislature and interference by the courts, said Governor Fordice.

The first session brought together four panelists from the media to discuss their perspective of the initiative and referendum process. John Fund of the *Wall Street Journal* said initiative and referendum supporters must be doing something right because they are being attacked by both the right and left of the political spectrum. Fund discussed some problems, such as bilingual education, quotas, and campaign finance reform, that

have received attention through an initiative campaign (win or lose) that otherwise might have been ignored by State Legislatures.

Lou Jacobson of *National Journal* said, “As far as media coverage goes, initiatives still don’t get much respect.” He said initiative campaigns are spread out over many states, making them difficult for one reporter to cover, and are often overshadowed by the elections, particularly in presidential election years, also on the ballot.

Panelists for “The History of Initiative and Referendum” program gave a brief historical look at direct democracy from its beginnings in ancient Greece and Rome, its adoption and use in all levels of government in Switzerland starting in the late 13th century, and its use in colonial America and in America today. Direct democracy has evolved from “pure” direct democracy in which participants met face-to-face and debated the issues to “ballot” direct democracy, with a pre-set question for participants to consider.

Andreas Gross, founder of Scientific Institute for Direct Democracy and member of the Swiss Parliament, and Bruno Kaufman, co-founder of “Eurotopia — the paneuropean citizen network for a European constitution with direct demo-

cratic rights,” expanded on the use of direct democracy by the Swiss and its future in Europe in their panel discussion “International Initiative and Referendum.”

The growing use of initiative and referendum by local governments in the United States was also discussed at the conference. Tari Renner, Illinois Wesleyan College Professor and an elected local government official, said most research and writing on the I&R process looks at state-level issues; there is comparatively little research on local I&R. Professor Renner has studied data collected by the International City/County Management Association, and found that local governments reporting the presence of initiative and referendum procedures grew from 49 percent in 1991 to 58 percent in 1996.

Barry Fadem, a San Francisco attorney specializing in campaign and election law, discussed the process of placing a local initiative or referendum on a ballot.

The amount of money spent on initiative and referendum campaigns, particularly on high-profile issues, seems to grow higher with each election cycle. Bob Stern of the Center for Governmental Studies, and co-author of *Democracy by Initiative: Shaping California’s*

continued on page 6

Initiative and Referendum Conference on the Internet

All the sessions and lunch and dinner speeches at the I&R Conference were webcast live by D.C. Orbit, a network

comprised of 16 non-partisan web sites focused on political and public affairs. If you are interested in any of the confer-

ence sessions and speeches, they are now available in the archives on D.C. Orbit's web site, at www.dcorbit.net.

A Century of Citizen Lawmaking: Initiative and Referendum in America

Welcome Reception — Ambassador Alfred Defago, Embassy of Switzerland

Conference Welcome — Governor Kirk Fordice (MS),
Honorary Chairman of Initiative and Referendum Institute

Session 1: Initiative and Referendum: The Media's Perspective
Session 2: The History of Initiative and Referendum
Session 3: International Initiative and Referendum

Lunch: Initiative and Referendum and Federalism — Attorney General Edwin Meese III
(The Heritage Foundation)

Session 4: Local Initiatives in the United States
Session 5: Money in Initiative and Referendum
Session 6: Increasing Voter Participation in Initiative and Referendum

Morning Remarks — Joel Fox, President Emeritus, Howard Jarvis Taxpayers Association

Session 7: Voters and Initiatives: Are They Smart Enough To Decide?
Session 8: Legal Issues: What Regulations Are Unconstitutional?
Session 9: The Courts and Initiatives: What Is Happening?

Lunch: The New Politics and Direct Democracy: Forces of Change — Dr. Ron Faucheux,
Editor-in-Chief, *Campaigns and Elections Magazine*

Session 10: National Initiative and Referendum: Has The Time Come?
Session 11: Initiative and Referendum Legislation: What Are The States Doing?
Session 12: Reforms Made Possible With Initiative and Referendum:
Tax Reform and Term Limits
Session 13: Reforms Made Possible With Initiative and Referendum:
Environmental Reform and Animal Rights

Pre-dinner remarks — Bill Zimmerman, Executive Director, Americans for Medical Rights
Post-dinner remarks — Ron Unz, Chairman, Voters Rights 2000

continued from page 4

Fourth Branch of Government, indicated that the cost of an initiative campaign in California has increased 2,400 percent since 1976.

Elizabeth Garrett of the University of Chicago Law School proposed that “individuals and groups with wealth have a disproportionate ability to place initiatives on the ballot.” Most measures that gain the required number of signatures to gain ballot access use the services of a professional campaign consultant and conduct signature-gathering drives, for which the costs can be very high. Ron Nehring of Americans for Tax Reform argued that it is the restrictions, requirements, and short time tables for ballot access adopted by Legislatures that have forced I&R supporters to use professional petition circulators to collect signatures and driven up the cost of ballot access.

Another current issue discussed during this session was whether to require petition circulators to wear a button disclosing if they are paid or volunteer circulators. This requirement was adopted by the Colorado Legislature, but has been struck down as unconstitutional by the Supreme Court. Some thought a petition circulator wearing a “paid” button would spur voters/signers to ask by whom and how much. Others, many of whom have participated in a signature drive, didn’t think it would

make a difference to most voters, and indicated that in many cases this information is available on the petition itself.

California voters passed a ballot measure in 1988, said Bob Stern, requiring the top two contributors to an I&R campaign to be disclosed in television and radio ads and campaign literature. The requirement was in effect for the 1990 election, but was thrown out by the courts after 1990 because it had been part of a larger measure that was found to violate California’s single-subject rule for ballot measures. With only one election cycle to study, it is impossible to determine if this disclosure rule has an impact on voter decisions.

In session six: “Increasing Voter Participation in Initiative and Referendum,” Marc Strassman of Campaign for Digital Democracy shared his proposal for collecting petition signatures via the Internet. The California Internet Voting Initiative would allow citizens to register their support for initiative petitions over the Internet rather than on paper petitions. Strassman pointed out that one advantage to his proposal is that the signatures would be authenticated immediately, rather than checked by hand later as is done now. California law currently allows individuals to sign documents digitally if doing business with the state government.

Craig Holman of the Center for Governmental Studies, and

author of *Judicial Review of Ballot Initiatives: Restoring Citizen Confidence in the Federal Courts*, discussed what is happening with initiatives and the courts. Holman said public confidence in the initiative process has been undermined in California because the federal courts have thrown out so many initiatives that were supported by the people. He suggested reforms for the courts, including random assignment of cases to judges, which is not the case in California. Cases are currently assigned based on the prior experience of a judge with a certain type and/or subject of a case.

Mike Gravel, a former U.S. Senator from Alaska, discussed Philadelphia II, the organization he founded to promote the direct enactment of a national initiative. Philadelphia II is “...correlated with the earlier event of the People’s ratification of the [U.S.] Constitution in 1787-1789, i.e. ‘Philadelphia I.’ The project for the enactment of the United States Initiative today is appropriately ‘Philadelphia II,’” said Gravel in his overview of the project. His proposal, the United States Initiative (USI), does not require amending the U.S. Constitution. The USI contains a self-enacting clause, if enough signatures in support of the idea are collected.

Jennie Drage of the National Conference of State Legislatures (NCSL) gave an

continued on page 8

Initiative and Referendum in the States

by Amy K. Frantz

Voters in most states won't see initiative and referendum (I&R) questions until the 2000 ballot, but I&R supporters are working to gain ballot access for their proposals.

CALIFORNIA

A recent poll in California asked voters if they would rather have major policy decisions made by the Legislature or by voters on ballot measures. California citizens overwhelmingly prefer their own decisions to those by elected officials. Seventy-five percent of those polled would rather see decisions made by voters, while only 21 percent prefer the Legislature.

Voters in Beverly Hills rejected an initiative on May 11 to require fur merchants to attach a label stating, "Consumer Notice: This product is made with fur from animals that may have been killed by electrocution, gassing, neck breaking, poisoning, clubbing, stomping, or drowning and may have been trapped in steel-jaw leg hold traps." Sixty-three percent of the voters rejected this statutory initiative.

Supporters of the initiative, which included celebrities such as Larry King and Jack Lemmon, said consumers need this information to make informed decisions. Opponents saw the issue as protecting

animal rights more than consumer rights. A Beverly Hills resident, voting against the initiative, said of the issue, "If you don't like it, don't buy it," in a May 14, 1999 Daily News Los Angeles article.

MINNESOTA

Minnesota may become the 25th state with the Initiative process. The Minnesota House of Representatives approved a proposed Constitutional Amendment to allow citizen initiative and referendum. Amendment sponsor Rep. Erik Paulsen (R-Eden Prairie) believes the proposal is fair and balanced. "I don't think we, any of us, need to be afraid of what the voters might propose," said Rep. Paulsen.

The proposed Amendment faces a tough battle in the Senate, but if approved will be on the ballot in November 2000 for the voters to consider. In Minnesota, proposed Constitutional Amendments must be approved by a majority of people voting in an election, meaning that individuals that cast some votes on a ballot, but do not cast a vote on the Amendment, are essentially counted as "no" votes against the Amendment. In 1980, a proposed Amendment to provide for Initiative and Referendum was supported by 53 percent of those voting on

the Amendment, but did not receive support from a majority of all the people voting, so was not approved.

OREGON

An initiative making it harder for the Legislature to amend the Initiative and Referendum process and a campaign finance reform initiative limiting spending on I&R campaigns are two proposals supporters are attempting to certify for the November 2000 ballot in Oregon.

SOUTH DAKOTA

An initiative has been certified for circulation to amend South Dakota's Constitution to eliminate the state's inheritance tax and prevent the Legislature from imposing any inheritance taxes. If the initiative receives enough signatures to be on the ballot and is approved by the voters, its effective date is July 1, 2001.

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continued from page 6

overview of Initiative and Referendum legislation in the session, “Initiative and Referendum Legislation: What the States are Doing.” The NCSL monitors initiative and referendum legislation, but does not take a position on the I&R process. As of May 8, 1999, 142 I&R-related bills had been introduced in 31 states. Only nine of those bills had been adopted. A complete list of I&R legislation in the states is available from NCSL’s web site at www.ncsl.org.

The final two sessions of the conference covered “Reforms Made Possible with Initiative and Referendum,” in the areas of tax reform, term

limits, environmental reform, and animal rights. One panel member was Pete Sepp, Vice President for Communications for National Taxpayers Union. Sepp discussed the findings of National Taxpayer Union Foundation’s Policy Paper — *By Popular Demand: How Citizen-Driven Ballot Measures Have Shaped Tax Policy for the Better*. The initiative and referendum process has helped to create an “effective array of procedural restraints on the growth of state and local government that have even awakened the federal political establishment. Without I&R, citizens almost certainly would be laboring under a more oppressive and unaccountable fiscal regime than they do

today,” said Sepp.

The final speaker of the conference was Ron Unz, leader of the campaign for Proposition 227, the initiative adopted in 1998 to dismantle California’s bilingual education system.

Amy K. Frantz is a Research Analyst with Public Interest Institute.

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or topic you would
like to see covered in
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page two for information
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