

CONTENTS

Preface ix

Introduction	1
PART I. DEMOCRACY ADRIFT	
1 Disconnected by the Administrative State	17
2 Disconnected by Courts	33
3 Disconnected by Legislatures?	41
4 How Disconnected Is Government?	53
PART II. REFERENDUMS PAST AND PRESENT	
5 Direct Democracy Defined	61
6 Direct Democracy in the United States	66
7 Direct Democracy in Europe	79
8 Direct Democracy in Unexpected Places	89
9 The American Anomaly	99
10 A Work in Progress	109

**PART III. THE BENEFITS AND RISKS OF
DIRECT DEMOCRACY**

11	Six Reforms	129
12	A Tale of Two Referendums: Proposition 13 and Brexit	138
13	Potential Benefits of Referendums	154
14	Are Voters Up to the Task?	169
15	The Challenge of Interest Groups	187
16	Protecting Minorities from the Majority	203

PART IV. MAKING DIRECT DEMOCRACY WORK

17	A Framework for Deciding Issues	217
18	Best Practices	228
19	Final Thoughts	236

Notes 241

References 269

Index 289

Introduction

DEMOCRACY IS ordinary people governing themselves. This type of government is the best we know and has served us well for some time. Yet many today have the uneasy feeling that democracy is adrift, slowly slipping from popular control, carried by powerful undercurrents that we can only dimly perceive.

In 2016 this long-simmering anxiety came to the surface in a string of unexpected populist election victories across the world. Donald Trump was elected president of the United States on a platform promising to “drain the swamp.” Democratic socialist Bernie Sanders, running on a promise to make government work for everyone—“not just the 1 percent”—came close to taking the Democratic Party nomination from establishment favorite Hillary Clinton. British voters decided to leave the European Union. Populist parties did unexpectedly well in Austria, France, the Netherlands, and Poland; by 2018, populist parties controlled the government of six European countries and through coalition agreements had a hand in governing six others.

While Trump and Sanders disagreed on just about every substantive policy, they shared a diagnosis about the root problem, and what was needed to fix it:

Our campaign is about representing the great majority of Americans—Republicans, Democrats, Independents, Conservatives and Liberals—who read the newspaper, or turn on the TV, and don’t hear anyone speaking for them. . . . I declared my campaign for the Presidency on the promise to *give our government back to the people*. (Donald Trump)¹

My hope is that when future historians look back and describe how our country moved forward into reversing the drift toward oligarchy, and created *a government which represents all the people and not just the few*, they will note that, to a significant degree, that effort began with the political revolution of 2016. (Bernie Sanders)²

Across the Atlantic, opponents of European integration sounded the same themes. The official slogan of the Brexit campaign was “take back control.” As leading Brexiter Nigel Farage saw it:

Because what the little people did, what the ordinary people did, what the people who have been oppressed over the last few years and seen their living standards go down [did]—they rejected the multinationals, they rejected the merchant banks, they rejected big politics and they said, “Actually, we want our country back, . . . *we want to be an independent self-governing, normal nation.*”³

All of this rhetoric is textbook populism, an appeal to “the people” to take back their government from “elites” that have captured and subverted it.⁴ The identity of the elites varied with the speaker. For Trump, it was “the swamp,” a shadowy combination of government officials, lobbyists, media, and special interests entrenched in Washington, DC. For Sanders, it was plutocrats and their corporate allies. In Europe, it was technocrats in Brussels and other supranational organizations. While the elites may have been different, the claim that the people were no longer in control was the same.

This populist rhetoric was not conjured out of thin air. Politicians were re-tailing a message that voters already believed. Over the past 70 years, voters have grown increasingly skeptical about the responsiveness of government. Figure I.1, based on the University of Michigan’s long-running American National Election Studies (ANES) opinion survey, illustrates this trend. Since 1952, the ANES has asked people whether they agreed or disagreed with the statement “People like me have no say in government.”⁵ The figure shows the percentage of people who *disagreed* with the statement—and while there is some volatility, the downward trend is unmistakable.

In 1952, only a small fraction of Americans felt left out by government; 87 percent of college-educated Americans disagreed with the statement, as did 65 percent of high-school-educated Americans. Since then, public opinion has soured considerably. As of 2016, the worst year yet, only 35 percent of college-educated Americans and 25 percent of high-school-educated American disagreed. We are now in a situation where a large majority of Americans—both more and less educated—believe they have no say in government.

Disaffection is also high in Europe. A 2017 Gallup poll of the 27 European Union member states found that 57 percent of people had “no confidence” in their national government.⁶ Although Europe lacks a long-standing survey like the ANES tracking public confidence in government, a major study of opinion in OECD (Organisation for Economic Co-operation and Development)

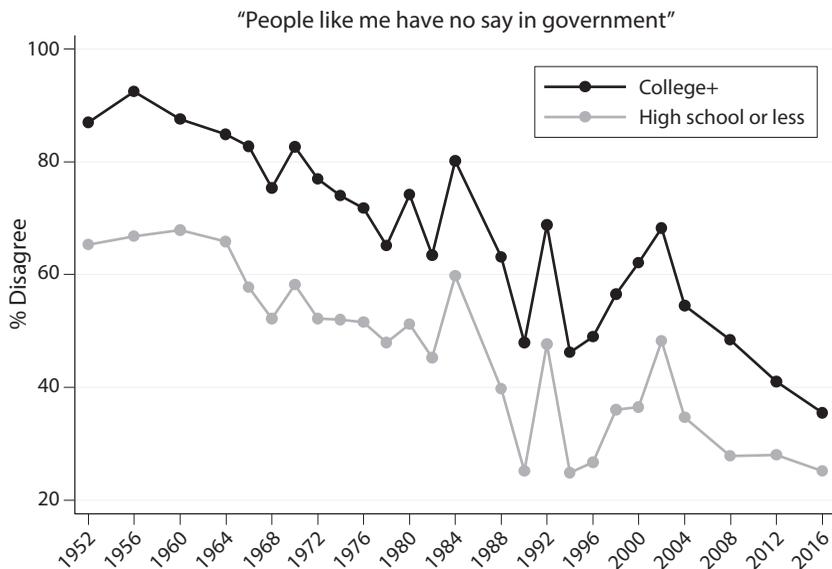


FIGURE I.1. Public Opinion on Government Responsiveness

countries combining a variety of different surveys concluded that “citizens in nearly all advanced industrial democracies [have become] increasingly skeptical toward politicians, political parties, and political institutions” since the 1960s or 1970s (depending on the country).⁷

What explains the long downward slide in public confidence? Why do so many people feel they have lost control of the government?

Two possible explanations dominate public debate.⁸ The “economics view” is that people are frustrated by the government’s failure to shield them from economic dislocation caused by globalization, automation, and the changing demand for skills in the emerging information and technology industries. Looking at the United States, advocates of this view argue that the government has alienated ordinary Americans by catering to the economic winners—large financial institutions and big high-tech firms—especially during the financial crisis, when it bailed out big banks and corporations while watching impassively as ordinary people lost their jobs and homes.

The “cultural view” is that people feel threatened by social and cultural changes associated with globalization and immigration, which they see as undermining their traditional beliefs and ways of life. The people do not see

government as striving to stem the inflow of new people and ideas; to the contrary, they see it as actively promoting open borders, cultural change, and the importation of global social values.

The debate between these two views is the subject of a rapidly growing, empirically sophisticated literature spanning economics, political science, and sociology. To assess the competing arguments, researchers look for statistical connections between support for populist candidates and a voter's exposure to economic or cultural "shocks." For example, if a study shows that people who recently lost their jobs were more likely to vote for Trump, it supports the economics view; if it shows that people in communities with an influx of immigrants were more likely to vote for Brexit, it supports the cultural view.

Both explanations enjoy some empirical support, but the literature shows no sign of converging to a consensus view, and neither explanation seems to account for the broader reality shown in figure I.1. The decline in public confidence is a long-running phenomenon, requiring a long-run explanation; it cannot be attributed primarily to recent economic shocks, such as the Great Recession, or recent surges in immigration. Moreover, both views see populism as a phenomenon involving less-skilled and less-educated citizens, which makes them hard to square with the fact that trust has deteriorated among both more- and less-educated people. If we want to understand the growth of populist sentiment, we need causes that have been at work for nearly a century, and that affect citizens at all levels of education.

One impediment to understanding, it seems to me, is the way this debate has been framed. When considering potential explanations, the one professed by the populists themselves has been largely ignored. The populists, as voiced by the politicians who represent them, say they are frustrated because the government is drifting out of their control and into the hands of elites. Yet contemporary discussion usually treats their words as a façade behind which hides the "true" explanation. The idea that the connection between the people and the government might be fraying, making the system less democratic, is dismissed out of hand.

The first goal of this book is to take the populist argument on its own terms, and seriously consider the possibility that government might well be slipping from popular control. Investigating this possibility leads down a variety of disciplinary paths, into the terrain of political science, economics, history, and law, and involves examining published evidence as well as new data I have assembled specifically for this book. What emerges is a picture of the evolution of government over the past 100 years that lends support to populist claims:

stretching back a century, government in fact has become less responsive and less accountable to the people.

A particularly intriguing part of the story is that loss of popular control came as an unintended consequence of a series of sensible changes in the structure of government. Disconnection has its roots in an increasingly complex world characterized by rapid technological change, globalization, and immense governments that citizens expect to address every important social and economic issue. To deal with these complications, governments have become increasingly reliant on experts to design and implement public policies.

The heart of government was once the small group of elected legislators that passed the laws; it is now the immense technocratic bureaucracy that produces the flow of regulations that constitute most of what we call “law” today. The rise of the “administrative state,” which I chronicle in chapter 1, has tilted the playing field in favor of corporations, industry groups, and other organized interests with the resources to monitor and influence bureaucratic decisions, while simultaneously making it difficult for ordinary citizens to understand and participate in the policy process. It has also empowered the unelected technocrats within the bureaucracies, giving them greater scope to pursue their personal policy interests.

We cannot “cure” the problem simply by rewinding history and rolling back the administrative state. The factors driving the loss of control—growth of the administrative state and reliance on experts—were necessary responses to the growing complexity of the world; reverting government to a simple preindustrial form seems impossible, and would be unwise in any case. To find a solution, we need to think in terms of *augmenting* existing institutions—adding tools that allow more popular control—while maintaining a central role for technocratic expertise.

Nothing would bring policy more directly under popular control than allowing the people to choose the policies themselves. This can be accomplished by cutting out the middlemen that cause the disconnection in the first place, and holding votes on policy issues: in other words, referendums.

Referendums are the best-known form of “direct democracy,” a term that contrasts with “representative democracy” where the people’s role is restricted to choosing their representatives. Referendums take many forms, from advisory votes called by governments (such as Brexit), to votes required by law (such

as Ireland's vote on a constitutional amendment legalizing abortion), to votes on proposals drafted by citizens themselves (such as California's famous "initiatives"). All of these referendums are implemented through "ballot propositions" that give voters the option to indicate their position on a proposed law.

The second goal of this book is to breathe new life into the old idea of using direct democracy to address the problem of democratic drift. During the Populist and Progressive eras a century ago, direct democracy featured prominently in public discussions. It was widely supported by civic leaders, journalists, academics, and leading politicians of both parties—including presidents Theodore Roosevelt (Republican) and Woodrow Wilson (Democrat)—as a way to restore popular control and curtail the power of special interests. From 1880 to 1920, states, cities, and towns across the country incorporated referendum procedures into their governing practices. As a result, the United States now makes extensive use of direct democracy at the state and local levels, more so than any other country except for Switzerland.

At the state level, for example, voters approve amendments to their state constitutions, vote on bond issues, repeal existing laws by petition referendum, and propose and approve new laws via the initiative process. At the local level, school districts in New York State hold votes on their annual budgets; cities and counties in California require voter approval for tax increases; and cities and towns in Alaska, Arkansas, Kentucky, Ohio, Pennsylvania, and Texas vote on whether to permit liquor sales. All told, over 99 percent of Americans vote directly on laws in their state or local governments from time to time.

The Populist and Progressive movements ran out of steam before referendums reached the national level, when the world plunged into the Great Depression and then World War II. This left the country with a rich culture of direct democracy at the state and local levels and a complete dearth of referendums at the national level. The direct democracy deficit at the national level is not for lack of public interest: according to a 2017 Pew Research Center survey, two-thirds of Americans back the idea of "voting directly on major national issues to decide what becomes law," and other surveys show that a majority in every American state favors letting citizens propose and approve state laws by initiative.⁹

The United States today finds itself as one of a dwindling group of democracies in the undemocratic position of never having held a national vote on a policy issue.¹⁰ Elsewhere, countries are increasingly utilizing referendums as a way to gauge public opinion on important policy issues. Prominent recent examples were the United Kingdom's 2016 vote to leave the European Union, Colombia's

2016 vote against a peace treaty with the FARC militia,¹¹ and Ireland's 2015 vote to legalize same-sex marriage and 2018 vote to legalize abortion. The idea of voting on important national issues enjoys majority support in all regions of the world: Europe (70 percent), Asia (67 percent), Africa (64 percent), Latin America (62 percent), and the Middle East (60 percent). Since 1980, a majority of countries in all regions have held at least one national referendum, with the proportion of countries reaching 90 percent in Europe, Latin America, and Africa.¹² Some of these referendums were held by authoritarian regimes and cannot be considered genuine exercises in democracy, but it nevertheless remains the case that many democracies are consulting their people directly on important national issues.

All of this suggests that expanding the use of direct democracy does not require a heroic leap of faith. People are used to voting on policy issues, and we have a rich history across the globe that provides lessons in how to do it right. Explaining more concretely how this might be done so as to reduce democratic drift, and how to capture the potential benefits while mitigating the risks, is the third and final goal of this book.

Giving people more control over policy decisions is the main attraction of direct democracy, but not the only one. A comparison of abortion policy in the United States and Italy points out another potential benefit.

Abortion is one of the most divisive issues in the United States—yet often lost in the polarized debates is the fact that ordinary Americans take a centrist view on the issue. Unlike those on the extreme left who assert that abortion should be permitted in all cases, most Americans believe that abortion should be prohibited in some circumstances, such as to select the sex of the child; and unlike those on the extreme right who believe that abortion should be banned in all circumstances, most Americans believe that there are situations in which it should be allowed, such as rape or when the health of the mother is at risk.¹³ As such, abortion has the appearance of a “normal” policy issue that could be resolved through standard democratic processes. A sizable moderate group would be amenable to development of nuanced policies that balance a woman's right to choose against the value of prenatal life.

The United States appeared to be heading down the path of adopting nuanced policies in the 1960s and early 1970s, as public opinion evolved and individual states grappled with the issue. Abortion had been largely outlawed

throughout the country in the late nineteenth century. In 1967, Colorado became the first state to reconsider, legalizing abortion in cases of rape, incest, or danger to the woman's health, followed by California, Oregon, and North Carolina. The state of Washington legalized early-pregnancy abortions by referendum in 1970. The country seemed to be heading toward an equilibrium that would allow abortion in some circumstances and restrict it in others, with the lines drawn based on each state's distinct values, roughly consistent with public opinion.

The political process, however, was short-circuited by the Supreme Court's *Roe v. Wade* decision in 1973. In that decision, the court declared that abortion was a "fundamental right" that could not be restricted in the first trimester, could be limited in the second trimester for "reasonable" health reasons, and could be prohibited entirely in the third trimester. As a matter of legal reasoning, the decision has been criticized as lacking a grounding in the text of the Constitution; more relevant for this discussion is the fact that it overrode the country's democratic processes with a judicial mandate. The court has been forced to return to the issue again and again over subsequent years to extend and elaborate its original decision, becoming the nation's *de facto* abortion-policy maker.

The backlash against *Roe v. Wade* was swift. It catalyzed the pro-life movement, leading to the formation of interest groups such as the Moral Majority; legislators repeatedly tried to chip away at the right, and there were even isolated cases of bombings of abortion clinics. As time passed, the controversy spilled over to the Supreme Court nomination process, where a nominee's position on abortion became an unstated litmus test for both parties.

The battle has gone on for more than 40 years, with no armistice in sight. Abortion has become one of the most divisive and emotional issues in American politics, and a leading cause of polarization in politics. Instead of letting the states work out the issue as public opinion gradually evolved, nine unelected officials imposed a uniform policy on the entire country. "Abortion is a cause and symbol of the ruination of American politics," observed celebrated political journalist Howard Fineman. "It was the first shot in a culture war that has turned the two-party system into a fractured mess."¹⁴

It did not have to be this way; there was an alternative path in which the court left the issue to be worked out through the democratic process. "It's not that the judgement was wrong, but it moved too far, too fast," reflected liberal Supreme Court justice Ruth Bader Ginsburg, a strong supporter of abortion rights, who at the time of the decision was directing the American Civil Liberties

Union's Women's Rights Project. "My criticism of *Roe* is that it seemed to have stopped the momentum that was on the side of change."¹⁵

A counterexample to the American experience is Italy, a predominantly Catholic country with laws influenced by the values of the Catholic Church. As in the United States, abortion had been illegal in Italy for decades when public opinion began to shift toward a more permissive approach in the 1960s. In 1978, the parliament approved a law that legalized abortion, under a formula similar to the one adopted in *Roe v. Wade*. Political groups on the left and right organized to challenge the law, using the country's petition referendum process to call a national vote in 1981. The left-wing Radical Party proposed to strike language in the law that limited abortion access, in effect liberalizing abortion law; the right-wing Christian Democrats proposed to repeal the core of the law, in effect making abortion illegal except when the health of the mother was endangered. Voters soundly rejected both proposals, the first by a margin of 12 percent to 88 percent, and the second by a margin of 32 percent to 68 percent. The "compromise" policy incorporated in the original law thus prevailed.

This appeared to settle the issue: since then abortion has receded as a point of contention in Italian politics. In contrast to the United States, Italy did not see the emergence of powerful interest groups dedicated to removing or defending abortion rights, nor did abortion policy become the locus of corrosive political polarization. Parties rarely seek electoral advantage by taking positions on the issue, and voters do not choose candidates hoping they will appoint judges to influence abortion law. It seems that most Italians, whether or not they agreed with the referendum outcome, recognized the decision's legitimacy, and it brought a semblance of closure to the issue.

While some Americans believe that abortion is too contentious to resolve through the democratic process, the European experience suggests otherwise. Indeed, precisely the reverse may be true: the US Supreme Court may have *created* contentiousness by short-circuiting the democratic process. As the *Economist* pointed out, "It would be hard to design a way of legalizing abortion that could be better calculated to stir up controversy. . . . By going down the legislative road, the Europeans managed to neutralize the debate; by relying on the hammer-blow of a Supreme Court decision, the Americans institutionalized it."¹⁶

That Italy, a heavily Catholic country, voted to legalize abortion allays the fear that religious voters (or other majority groups) will trample individual rights if the issue is turned over to a popular vote. Referendum votes in Ireland, another Catholic nation, that legalized abortion (2018) and same-sex marriage

(2015) reinforce this point. Referendum voters are more thoughtful and sophisticated than most people realize.

The idea of addressing democratic drift by giving the people more power runs against an alternative view that would give the people *less* power and turn over more decision making to nonelected technocrats. In his book *Technocracy in America*, Parag Khanna goes so far as to hold up Singapore, a one-party authoritarian state with a reputation for technocratic efficiency, as a role model, asserting that “America needs less of its own version of democracy—much less.”¹⁷ Variations on this theme—usually coupled with skepticism about partisan politics and the capabilities of ordinary voters—are increasingly common in public discussions of democracy.¹⁸

A few months after the 2016 elections, I attended a conference of economists, lawyers, government officials, journalists, and activists. The conference was about competition policy, but the issue on everyone’s mind was how to understand Brexit and Trump’s win. The keynote speaker was an eminent scholar with a distinguished public service record. His remarks traced the populist backlash to the failure of elites over the past generation to understand and respond to the economic concerns of less-educated workers who have been buffeted by globalization, automation, and the transition to a knowledge-based economy. After diagnosing the problem, he offered a solution: elites in the policy community should do a better job of listening to and understanding the concerns of ordinary people.

I found it a remarkable blind spot that he did not mention the other possibility: giving the people more of a voice in decisions. His operating assumption, which I suspect was shared by most people in the room, was that elites would continue to monopolize policy decisions. The only question was how they should do it better.

While a worthy aspiration, expecting more responsive behavior from elites does not seem like a realistic approach to solving democratic drift. For one thing, we have reason to believe that political elites misunderstand the preferences of the people they ostensibly represent. A recent survey of empirical research concludes that “political elites often make systematic and self-serving errors about voter preferences.”¹⁹

Moreover, policy elites are a culturally distinct group—highly educated, white-collar professionals clustered in the coastal cities—compared with

Americans living in “flyover country.” In a study of policy preferences, political scientist Morris Fiorina found: “Not only is the political class more extreme in its positions . . . but its priorities do not mirror those of the larger public.”²⁰ Even if elites were able to accurately perceive the interests and values of the rest of the country, to reflect those views would require them to suppress and act against their own preferences.

Prioritizing the views of the general public over one’s own opinion would be difficult for an open-minded person, but is likely to be especially challenging for political elites because survey evidence tells us that they do not respect the judgment of ordinary people. A Pew Research Center survey asked government officials if Americans “know enough about issues to form wise opinions about what should be done.” A total of 47 percent of Congress members answered *no*; 77 percent of presidential appointees answered *no*, and an amazing 81 percent of civil servants answered *no*.²¹

It seems to me that relying on elites to be more conscientious and attentive to popular concerns comes close to hoping that men will be angels, which James Madison famously warned Americans two centuries ago was not a sound basis for government.²² More generally, the speaker’s analysis reflects a common mindset among elites: that they should remain in control but perform better. I want to explore the other possibility, the one that speaker missed: that shifting power to the people is a viable alternative to ever-increasing technocracy.

The book is organized in four parts. In part I, I look closely at the disconnection between ordinary people and policy, and describe the changes in American government over the past century that have contributed to a loss of popular control. I explain the rise of the administrative state, which has shifted policy decisions from elected legislators to unelected technocrats in the bureaucracies, the concurrent shift in policy making to unelected judges, and the tendency of legislators to vote without regard to the preferences of their constituents.

Part II introduces a potential solution: direct democracy. I describe how direct democracy is currently used in the United States and Europe—where it is most prevalent—as well as other regions of the world where it is thriving. I also correct some common misconceptions about referendums, especially that referendums represent a novel and untested practice and that they lead to chaotic and turbulent policies. I then turn to the anomaly of the United States, which almost alone among advanced nations has never held a national referendum.

I trace this back to misunderstandings about democracy during the founding era, and show how (often in response to populist surges) each succeeding generation of Americans has expanded the scope of democracy. Greater use of referendums would follow the time-tested path of updating American democracy to meet the needs of the times.

In part III, I explore the pros and cons of direct democracy more systematically. I start by outlining a menu of concrete reform proposals, some easy to implement (national advisory votes) and others extremely difficult (allowing voters to initiate and approve constitutional amendments). To flesh out how direct democracy works in practice, I tell the story of two prominent and controversial ballot measures, California's Proposition 13 and the United Kingdom's Brexit referendum. With these cases in mind, I then lay out potential benefits associated with referendums as well as potential downsides. I give special attention to three issues that are particular causes of concern: Are voters up to the task of making important decisions? Will interest groups hijack the process? Does direct democracy threaten minority rights?

Part IV turns to the practicalities of making direct democracy work. Voters do not want to micromanage government; they only want to participate in select issues of particular importance. Corraling insights from previous chapters, I present a simple framework that highlights which issues should be put to a referendum and which should be left to representatives and bureaucrats. And because holding a referendum the wrong way can cause more problems than it solves (Brexit comes to mind), I draw together a set of practical suggestions for the proper design and execution of a referendum. Together, the chapters in part IV aim to show how we can make the most of direct democracy.

The success of populist candidates and parties is an alarm sounding with increasing insistence across the globe. Whatever one thinks of the populist agenda, it is finding a receptive audience. That so many people believe government is failing to represent them should concern us all.

The spread of populism is causing some to lose faith in government by the people. A growing collection of books and articles argues that the way to save democracy is to make it less democratic. Ordinary people do not appreciate the benefits they are receiving from existing policies, the argument goes, and their temperamentality is politically destabilizing; our best hope is to turn over more

decisions to technocrats whose disinterested expertise provides a more reliable means to advance the public good.

This book argues that we should not give up so easily on the idea of ordinary people governing themselves—instead, we should double down on democracy and give the people even more control. Previous generations of Americans did exactly this when they faced periods of rising populist sentiment, broadening democracy by extending suffrage to include persons without property, African Americans, Asian Americans, and women; replacing appointed with elected governors and senators; opening up candidate nominations to all voters; utilizing referendums at the state and local levels; and more.

Referendums are a natural next step in the development of American democracy, and offer a direct way to address core populist concerns. People around the world say they would like to vote more often on important national issues, and the evidence shows they are capable of doing so effectively.

I find it remarkable that the United States, the country that pioneered democracy and proved that a government created and controlled by ordinary people could succeed, has never allowed its citizens to vote on a single national issue. While almost every other nation holds referendums to decide matters of national importance, ordinary Americans continue to be kept at a distance from the public issues that most affect their lives. I do not fully understand why this is the case. To be sure, those with power seldom give it up voluntarily, so there may be a self-interest among today's elite to retain its influence. But I like to think there is more to it, that many people have not recognized the opportunity that is available. The broadest goal of this book is to rectify this apparent knowledge gap in the hope that it will enhance public discussions about how to manage the challenges that animate populist sentiment. Our democracy is adrift, but there is a way to put it back on course.

INDEX

- Abe, Shinzo, 93, 241n10
- abortion: American policy path to unending conflict, 7–9; European approaches to, 9–10; public opinion on (*see* public opinion); as self-inflicted wound in the U.S., 163–64
- abrogativo* referendum. *See* petition referendum
- accountability, factors undermining, 29–30
- Adams, Anthony, 258n9
- Adams, John, 100–101, 111–12
- Adams, John Quincy, 254n20
- Administrative Procedure Act (APA) of 1946, 20, 31–32, 242n7
- administrative state, the, 17–18; advisory referendums on rules and regulations, proposal for, 132–33; business competition regulated by, 23–24; capture by interest groups, challenge of, 31–32; controlling, challenge of, 28–31; environmental regulation by, 21–23; in Europe, 80; ideological orientations of executive agencies, 30; international trade regulated by, 24–26; national parks, creation of, 26–27; origins of, 5, 18–20; overview and examples of the current, 21–28. *See also* technocrats
- advisory referendum: called by Congress, proposal for, 130–31; called by petition, proposal for, 131–33; definition of, 62–63; initiatives and, differing impact of, 155; mandatory on specific issues, proposal for, 133–34; mandatory referendums and, differing impact of, 155. *See also* binding referendum
- Aera Energy, 195
- African Americans: civil rights movement, 123–24; constitutional protections of, failures of, 206–7; disenfranchisement of, 123
- Alito, Samuel, 17, 38
- amendments: Asian constitutions, 93–94; city charters, 71–73; European constitutions, 83–88; South American constitutions, 95–96; state constitutions, 6, 12, 63, 67, 70–71, 125, 151, 233–34. *See also* Constitution, United States
- American democracy, historical evolution of, 109, 124–25; the age of Jackson, conflict and change in, 114–18; democratizing movements of the 1950s–1970s, 123–24; the early republic, conflict and change in, 111–14; the industrial age, conflict and change in, 118–23; popular participation, the Founders' hostility to, 99–100 (*see also* United States, distrust of the common man by the Founders); the populist roots, 110; representative democracy, origin of, 105–7
- American National Election Studies (ANES), 2, 53
- Antiquities Act of 1906, 26–27
- antitrust policy, 23–24, 33

- arguments against direct democracy:
 competence of voters (*see* voter competence); the Founders' opposition to popular participation in government, 99–109, 251n4; interest groups, impact of (*see* interest groups); minority rights, dangers to (*see* minority rights, protecting)
- Arrow, Kenneth, 225
- Ashburn, Roy, 160
- Athens, ancient, 103–5, 165, 251n16
- ballot propositions. *See* direct democracy
- banking regulation, the best process for making a decision on, 224
- Bank of the United States (BUS), 115–16
- Batlle y Ordóñez, José, 94–95
- Becker, Gary S., 244n40
- Bellotti, First National Bank of Boston v.*, 189
- benefits of referendum. *See* referendum, potential benefits of
- Bentley, Arthur F., 244n40
- Berman, Sheri, 80
- binding referendum: called by petition, 135; required on specific issues, 134
- Bing, Stephen, 195–97
- Biotechnology Industry Organization, 202
- Bipartisan Congressional Trade Priorities and Accountability Act of 2015, 25
- Blinder, Alan S., 242n18
- Bolivia, 96–97
- bonds, government. *See* debt, government
- Bork, Robert, 243n14, 245n5
- Boston Tea Party, 110
- Bowler, Shaun, 261n19
- Brexit: elected officials as responsible for the problems of, 151–52; legitimacy of the decision, acceptance of, 162–63; overview of events, 145–48; people chose the policy they wanted, 154; post-referendum political turmoil, causes of, 148–51; pre-election polls, inaccuracy of, 156–57; skepticism about European integration represented by, 81; voter competence questioned after the vote, 170
- Broder, David, 61–62, 188
- Broockman, David E., 242n19
- Brown, Jerry, 139–43, 159–61
- Brown, Pat, 140
- Bruce, Douglas, 167
- Bryan, William Jennings, 120
- Buchanan, James, 226
- Bush, George H. W., 177
- Bush, George W., 26
- business: competition, regulation of, 23–24; initiatives and, 188–92; initiatives in California and, 192–98; legislative proposals in California and, 198–99; spending on initiatives, limited impact of, 199–200
- Calhoun, John, 114
- California: auto insurance rates, initiatives addressing, 177–79; business groups and initiatives in, 2000–2016, 192–98; business groups and legislative proposals in, 2000–2016, 198–99; impact of initiatives on the budget of, 182–83; opinion of direct democracy by racial/ethnic groups in, 211–13; Proposition 13 (*See* Proposition 13); side deals vs. public referendum to increase taxes in, 159–61; state revenue, 1955–1990, 139
- Camarillo, Tyler, 259n18
- Cameron, David, 146–47, 152, 257n19
- campaign finance: business contributions to campaigns for and against initiatives, 192–99; contributions and responsiveness of legislators to district opinion, relationship of, 49–50; corporate contributions, ban on, 122–23; public funding, 230
- capitalism, crony, 110, 253n3, 268n1
- capital punishment, the best process for making a decision on, 222
- capture/capture theory, 32, 202
- Chen Shui-bian, 91

- Chevron, 195
- Chiampou, Ken, 160
- Chile, 96
- Chilton, Adam, 206
- Citizens United v. FEC*, 33, 37
- civil rights movement, 123–24
- Clayton Antitrust Act of 1914, 23
- Clean Air Act of 1970, 22–23, 28
- Clean Power Plan, 22–23
- Clean Water Act, 22
- Clinton, Hillary, 1, 35, 199
- Cogdill, Dave, 160
- Condorcet jury theorem. *See* information aggregation
- congruence, 52–56, 247n2, 247n5. *See also* public opinion
- Connerly, Ward, 167
- Constitution, United States: as an undemocratic document, 100; conflict over the adoption of, 111; constitutional amendments, reform proposals and, 129; constitutional amendments, reform proposals regarding, 135–36; as a global outlier, 252n28; initiatives, attempted amendment to allow, 255n1; minority rights protected in, 204–5; ossification of, 36–37; the 14th Amendment, 256n13; the 17th Amendment, 122; the 19th Amendment, 211; the 26th Amendment, 124; veneration for, 99, 107
- corporate governance, direct democracy in, 256n7
- Correa, Lou, 160
- corruption. *See* legislators, corruption and side deals
- Cousteau, Jean-Jacques, 26
- Cummings, Dominic, 152
- Dahl, Robert, 107, 205–6
- debt, government, 68–69, 73, 117, 133–34, 160, 181, 184; best process for making a decision on, 220–21
- deliberation by voters vs. representatives, 174–75
- democracy: direct (*see* direct democracy); disconnection between citizens and government (*see* disconnection between citizens and government); elite proposals for less, 10–11; popular sentiment as a threat to, 56
- democracy vouchers, 166–67, 260n29
- democratic drift. *See* disconnection between citizens and government
- Deukmejian, George, 144
- Devil's Tower National Monument, 26
- direct democracy: aligning policy with majority preferences, effectiveness at, 258n1; allowing communication, 156–58; arguments against/concerns about (*see* arguments against direct democracy); interest groups; minority rights, protecting; voter competence); benefits of (*see* referendum, potential benefits of); in classical Athens and Rome, 102–5; definition of, 62; democratic drift, addressing the problem of, 6; implementing (*see* framework for deciding issues; referendum design); initiatives (*see* initiatives); instinctive reactions to, 137; legitimacy and, 162–64; misconceptions about, 61–62; opinion of by racial/ethnic groups, 211–13; partisanship, evaluating without reference to, 237–38; procedural rules for, 63–64; reducing corruption, 159–62; referendum (*see* referendum); reform proposals advancing (*see* reform proposals); settling issues, 7–9, 162–64, 231; unbundling issues from officials, 158–59
- direct democracy around the globe, 89, 97–98; in Bolivia, 96–97; in Chile, 96; expansion of, 6–7; in Japan and South Korea, 93–94; in Mexico, 97; in the Philippines, 94; public opinion about voting on national issues, 89–90; in Taiwan (Republic of China), 91–93; in Uruguay, 94–96

- direct democracy in Europe, 79, 88; in Ireland, 88; in Italy, 87–88; populism and, 79–81; referendums by autocrats, 82–85; success stories of, 85–88; in Switzerland, 85–86; voting on national issues, public opinion about, 82
- direct democracy in the United States, 66; absence of at the national level, 99–108, 241n10; at the beginning, 66–69; expansion of in the Populist and Progressive eras, 6, 70–71, 118–23; the initiative process, 71–77; in the largest cities, 73; legislative referendums/propositions, 76–77; location of state capitals, referendums on, 69; national level, deficit of at the, 6; populism, as response to, 238–39; prevalence of, 77–78; reform proposals advancing (*see* reform proposals); voter approval required for chartering banks, 69, 117; voter approval required for issuing state debt, 68–69, 117. *See also* American democracy, historical evolution of
- disconnection between citizens and government: the administrative state, 18–28 (*see also* administrative state, the); argument favoring, 56; the courts and, 33–40 (*see also* Supreme Court, United States); dangers of, 56–57; the legislature and (*see* legislators); magnitude, 53–56; public perceptions of, 2–3 (*see also* populism); reasons for, 3–5, 28–32, 38–39, 50–51; role of interest groups, 31–32
- Dodd-Frank Act of 2010, 27, 256n7
- Donovan, Todd, 261n19
- Downs, Anthony, 171
- DREAM Act, 130–31, 222, 255n4
- drug prices, the best process for making a decision on, 222
- Dukakis, Michael, 177
- Durning, Alan, 167
- Economic Recovery Tax Act of 1981, 143
- elections: increasing competition as a reform measure, 47–49; information in (*see* information); median voter theorem, 42; minimal information conveyed by, 29–30; polarization and, 50–51; policy preferences signaled through, 156; secret ballots, 121; snap, 159; of US senators, 121–22; voter competence (*see* voter competence). *See also* suffrage Electoral College, 237
- Environmental Protection Agency (EPA): creation of, 20; education and demographics of employees of, 31; environmental regulation by, 21–23; function of, 18
- Europe: direct democracy in (*see* direct democracy in Europe); populism in, 79–80
- European Citizens’ Initiative (ECI), 64, 81–82, 131–32, 135, 233
- European integration, 2, 80–81, 145–46
- Eyman, Tim, 167
- Farage, Nigel, 1, 146
- Federalist Papers, The*: holy writ, danger of treating as, 107; the legislature referred to as “the popular branch” in, 41; No. 10, 252n29; No. 55, 104; pseudonym used in, 102; public opinion and government officials, proper relationship of, 57
- Federal Trade Commission (FTC), 23–24
- Feld, Lars, 181
- Field Poll, 157–58, 211–12, 258n4
- Fineman, Howard, 8
- Fiorina, Morris, 11, 242n13
- Fleck, Robert K., 252n19–20
- Founders: aristocratic bias, 100–105; lessons from ancient democracies, 102–5; practical reasons for skepticism about democracy, 105–7
- Fraccaro, Riccardo, 88
- framework for deciding issues, 217, 227; applications of the framework, 219–25; decision speed as a missing element of, 267n5; the framework, 217–20; majority rule, justifications for, 225–27
- France, 81

- Frankfurter, Felix, 39
Friedman, Milton, 142
Funk, Patricia, 262n24
- Gailmard, Sean, 30
Gallup poll, 2, 165, 241n9, 249n16, 265n13
Gann, Paul, 141, 144
Garland, Merrick, 35
Gathmann, Christina, 262n24
Gephardt, Dick, 130
Gerber, Elisabeth, 200, 212–13
Germany, 83–84
Gilens, Martin, 55
Ginsburg, Ruth Bader, 8–9
Goebel, Thomas, 263n3
Gorsuch, Neil, 35
government, disaffection with. *See*
 disconnection between citizens and
 government
Great Railroad Strike, 119
Greene, Leroy, 143
- Hajnal, Zoltan, 212–13
Hamilton, Alexander, 102, 111, 179
Hanssen, Andrew, 252n19–20
Hasen, Richard, 260n29
Hayakawa, S. I., 210
Hayek, F. A., 226
Hayes, Rutherford, 119
Hindenberg, Paul von, 84
Hitler, Adolf, 83–85
Howell, William G., 242n18
Huntington, Samuel P., 244n43
- ideology: ideological orientations of
 executive agencies, 30; voting behavior of
 legislators and, 46–47, 50
immigration and trade, the best process for
 making a decision on, 222–23
impossibility theorems, 225–26, 267n10
information: informative elections despite
 uninformed voters, 171–74; rational
 ignorance, 171; technical and preference,
 distinction between, 218
information aggregation: Condorcet jury
 theorem, 165, 259n22; “law of large
 numbers”/“wisdom of crowds,” 165, 174
information “shortcuts”/“cues”/“heuristics”:
 required by voters in a referendum,
 219–20, 229–30; shortcuts, 172–74, 176–79,
 229–30, 261n19
initiatives: advisory referendums and,
 differing impact of, 155; approval rate,
 76–77; business groups/interests and,
 188–92; business groups/interests in
 California and, 192–99; cities with,
 72–73; definition of, 62–63; in Europe, 81;
 initiative and petition referendum, 70–71,
 122; national initiative process as
 unrealistic, 136; process of, a close look
 at, 71–77; prominent topics of, 75–76;
 spending by states with and without,
 180–81; spending on by interest groups,
 limited impact of, 199–201; states with,
 72, 74–75; threat to minority rights posed
 by, 207–11. *See also* referendum;
 referendum design
interest groups, 187–88, 244n40; business
 interests, success and failure in initiatives
 in California by, 192–99; business
 interests and initiatives, 188–92; capture
 of regulatory agencies by, 31–32; direct
 democracy as a tool to control the
 influence of, 201–2; Proposition 13 and,
 141–44; spending on initiatives, limited
 impact of, 199–201
Interstate Commerce Act of 1887, 242n5
Interstate Commerce Commission (ICC),
 18–19, 32
Iran Nuclear Agreement, 26
Ireland, 88, 134
Issacharoff, Samuel, 238
Italy, 9, 87–88, 163
- Jackson, Andrew, 115–16, 118
Japan, 93, 241n10, 250n6–7
Japanese Americans, internment of, 206
Jarvis, Howard, 141–42, 167

- Jay, John, 102
- Jefferson, Thomas, 100, 112–15, 150, 226, 253n10, 254n18
- Johnson, Boris, 152
- Johnson, Tyler, 259n18
- judges: as elites, 38–39; increasing policy importance, 33–35; protection of individual rights, 204–6, 213; as technocrats, 39, 245n14
- judiciary: hostility to labor by, 119. *See also* Supreme Court, United States
- Kahn, Matthew, 176–77
- Kaldor-Hicks efficiency, 267n7
- Kaufmann, Bruno, 92
- Kavanaugh, Brett, 245n7
- Kerry, John, 26
- Khanna, Parag, 10
- Knights of Labor, 119
- Kobylt, John, 160
- Korea, 93–94
- Lau, Richard R., 261n19
- Lax, Jeffrey R., 55, 247n4
- legislative term limits, the best process for making a decision on, 220
- legislators: competition for seats, lack of, 47–48; conditions for effective decisions by, 219; connection to constituents, 41–44, 51–52, 245n4; corruption and side deals, 68–69, 106, 111, 120, 156–62, 232, 259n15, 265n4; deliberation by voters vs., 174–75; fiscal decisions by, short horizons employed in, 184; ignoring constituent preferences, explanations for, 45–47, 242n19; information shortcuts used by, 173; large contributors benefiting from proposals by, 198–99; polarization and population growth as challenges to congruence, 50–51; reforms to increase congruence, potential for, 47–50. *See also* officeholders
- legitimacy, 9, 56, 83–84, 162–64, 259n18
- Lessig, Larry, 166–67
- limit on issues decided by government, 266n1
- Lincoln, Abraham, 36–37, 56, 227
- Locke, John, 110
- Long, Huey, 255n45
- López Obrador, Andrés Manuel, 97
- Louch, Hugh, 212–13
- Lowi, Theodore J., 244n40
- Ludlow, Louis (Ludlow Amendment), 134
- Lupia, Arthur, 177–79
- Macron, Emmanuel, 81
- Madison, James: ancient republics, view of, 251n14; assuming men are angels, problem with, 11; Athenian citizen assemblies, disapproval of, 104; citizen assemblies discussed in *Federalist* No. 10, 252n29; constitutional assembly, preparation for, 101; exclusion of the people from government, celebration of, 100; faction, concerns about, 106; majority rule as the basis for democracy, belief in, 226; master of every public question, regarded as, 252n25; public opinion, regard for, 57; Publius, use of the pseudonym, 102; representation, on the effect of, 265n4; “republic,” argument that the United States is a, 112
- Magnuson Act of 1943, 255n46
- majority rule, 115, 121, 203, 213–14, 265n10; justification for, 56–57, 225–27; slender majorities, 150–51, 231. *See also* congruence; minority rights, protecting
- Maldonado, Abel, 160
- mandatory referendum: advisory on specific issues, proposal for, 133–34; advisory referendums and, differing impact of, 155; definition of, 63; fiscal decisions, impact on, 181; in Italy, 87
- marriage, same-sex, 7, 9, 43–44, 76, 87–88, 92, 194, 208, 210
- Marshall, John, 39, 101
- May, Kenneth, 226
- May, Theresa, 147–49

- Mayhew, David, 244n27
May's theorem, 226, 267n10
McCarran-Walter Act of 1952, 255n46
McCubbins, Mathew D., 179
McKinley, William, 243n22
median voter theorem, 42, 245n2
Metcalf, Lee, 260n29
Mexico, 97
minority rights, protecting, 203–4;
 constitutional protections, 204–5;
 initiatives, assessing the threat of,
 207–10; in initiative vs. noninitiative
 states, 210–11; opinions of minorities
 regarding direct democracy, 211–13;
 restrictions on topics and, 231–32;
 unreliability of parchment protections,
 205–7
Moe, Terry M., 242n18
monetary policy, the best process for
 making a decision on, 224
Monsanto, 202
Morales, Evo, 96–97
Munger, Charles, 193

Nader, Ralph, 178
Napoleon Bonaparte, 83, 85
National Conference of State Legislatures
 (NCSL): *Initiative and Referendum in the
 21st Century*, 202
national parks, creation of, 26–27
Nelson, Ben, 259n15
Nixon, Richard, 20–21
North American Free Trade Act of 1993, 25

Obama, Barack: Clean Power Plan, 22; the
 DREAM Act, executive actions and,
 255n5; Garland, nomination of, 35;
 national monuments created by, 27;
 treaties and trade policy by, 25–26, 131;
 “*We Can't Wait*” initiative, 28
Obama health care plan (“*Obamacare*”/
 Patient Protection and Affordable Care
 Act of 2010), 27–28, 259n15
Ober, Josiah, 104–5, 165, 252n21, 259n23

Obergefell v. Hodges, 210
Occidental Petroleum, 195
officeholders: election of state governors,
 117; election of US senators, 121–22;
 property requirements for, 113. *See also*
 legislators
Olken, Benjamin A., 259n18
opinion polls/surveys. *See* public opinion
Orbán, Viktor, 79
Organization for Economic Cooperation
 and Development (OECD), 2–3

Page, Benjamin, 55, 175
Papahānaumokuākea Marine National
 Monument, 26–27
Paris Agreement on Climate Change, 26, 131
partisanship, 237–38
Pasley, Jeffrey L., 253n12
Patty, John, 30
Peltzman, Sam, 176, 244n42
petition referendum: advisory, proposal
 for, 133–34; binding, proposal for, 135;
 definition of, 63; in Italy, 87; small
 number of compared to initiatives, 76–77
petition rules, 64, 232–34. *See also* signature
 collection
Pew Research Center: opinion survey on
 national referendums, 6, 61, 81–82, 89–90,
 249n5; opinion survey on whether
 elected officials care about what people
 think, 241n4; opinion survey on whether
 government officials believe Americans
 know enough, 11
Philip Morris, 202
Philippines, 94
Phillips, Justin H., 55, 247n4
PhRMA, 202, 222
Pitkin, Hanna Fenichel, 247–48n9
plebiscite, 248n4, 251n12
polarization, 50–51, 155
policy stability, 164
Political Parties, Elections and Referen-
 dums Act (2000; United Kingdom),
 257n18

- popular control, loss of. *See* disconnection
 between citizens and government
- popular referendum. *See* petition
 referendum
- population growth, 51
- populism: concentrations of wealth as
 animating, 187; definition of, 241n4;
 direct democracy as response to, 238–39;
 in Europe, 79–80; explanations for the
 recent rise in, 3–5; in the late nineteenth
 century, 118–23; in the mid-twentieth
 century, 255n45; reemergence of in the
 1820s, 114–18; as roots of American
 democracy, 110; in the twenty-first
 century, 1–3, 12
- Populist Party, 120, 122
- Posner, Richard, 37–39, 244n2
- preference intensity, 54–55, 225, 267n8
- presidential candidates: nomination of, 117,
 121
- presidential electors: selection of, 113–14
- procedural justice. *See* legitimacy
- Proposition 13: the anti-tax legacy of,
 142–44; background leading up to,
 139–41, 156; California as a testing
 ground, 138–39; legitimacy of the
 decision, acceptance of, 162–63; making
 a policy change without removing
 Brown, possibility of, 159; people chose
 the policy they wanted, 154; proposal
 and approval of, 141–42; propositions
 backed by interest groups undermining,
 144–45
- public opinion: abortion, 7, 242n13; ballot
 propositions by race, 211–12; Brexit, 162;
 congruence of policy with, 53–56,
 247n2; congruence of roll-call votes
 with, 43–50; inferred from proposition
 votes, 42–43; Ludlow Amendment, 134;
 national referendums, 61, 81–82, 89–90;
 polls/surveys, 156–58; Proposition 13,
 142, 162–63; responsiveness of
 government, 2–3
- Publius Valerius Publicola, 102
- Rawls, John, 268n3
- Reagan, Ronald, 24–25, 133, 140, 142
- Redlawsk, David P., 261n19
- referendum: addressing populist concerns
 with, 13; advisory (*see* advisory
 referendum); by autocrats, 82–85, 96;
 binding (*see* binding referendum); Brexit
 (*see* Brexit); circumstances required to
 promote the public good via, 84; in
 Europe, 81; mandatory (*see* mandatory
 referendum); opinion polls and,
 differences between, 157–58; petition (*see*
 petition referendum); plural form of
 “referendum,” 64–65; popularity of, 61;
 Proposition 13 (*see* Proposition 13);
 terminology, 62–63, 248n4; types of, 5–6,
 62–63
- referendum, potential benefits of, 167–68;
 citizen trust and engagement, increase
 in, 165–66; helps to “settle” policy
 disputes, 162–64; people can change
 policies without changing representa-
 tives, 158–59; people can choose the
 policy they want, 154–55; people can
 communicate their preferences to
 government officials, 156–58; policy
 competition, innovation, and respon-
 siveness, increase in, 166–67; reduces
 side deals and corruption, 159–62;
 utilizes a wide pool of information, 165.
 See also direct democracy
- referendum design, 228; adequate
 information must be available, 229–30;
 adequate information must be available,
 even if it requires public funding,
 229–30; asking the right question,
 228–29; broad popular support when
 deciding major issues should be
 required, 231; choosing topics, 231–32;
 customization of and the path of
 reform, 234–35; flaws in Brexit, 149–51,
 228; implementation of ballot proposi-
 tions, 64; petitioning requirements,
 232–34

- reform proposals, 129–30, 136; advisory referendums called by Congress, 130–31; advisory referendums called by petition, 131–33; advisory referendums required on specific issues, 133–34; binding referendums called by petition, 135; binding referendums required on specific issues, 134; constitutional amendments proposed by petition, 135–36
- representation/representative democracy: choosing between direct democracy and, framework for (*see* framework for deciding issues); inevitability of at the Founding, 105–7; interest groups and, 187 (*see also* interest groups); population growth and, 51; protection of minority rights by, 207, 213–14; trustee view of, 46
- representatives. *See* legislators
- republic: American democracy as, 112, 252n30; definition, 251n10
- responsiveness: distinction between congruence and, 247n2
- Richard, Carl, 102
- Roberts, John, 33
- Roe v. Wade*, 8–9, 33
- Roman Republic, 102–3, 251n10
- Roosevelt, Franklin, 134
- Roosevelt, Theodore, 6, 26, 118, 121, 203
- Rush, Benjamin, 101
- Safe Drinking Water Act, 22, 243n9
- Sanders, Bernie, 1–2
- Sasse, Ben, 28–29
- Schumpeter, Joseph, 226
- Schwarzenegger, Arnold, 160–61
- Shapiro, Robert, 175
- Sherman Antitrust Act of 1890, 23, 119
- side deals. *See* legislators, corruption and side deals
- signature collection, 63–64, 82, 87, 91–93, 96–97, 132, 136, 141, 232–34, 249n9. *See also* petition rules
- Skovron, Christopher, 242n19
- smoking laws, the best process for making a decision on, 221
- Steyer, Thomas, 167, 193, 196
- Stigler, George J., 244n42
- suffrage: disenfranchisement of African Americans, 123; property requirements for voters, 113, 116–17; reenfranchisement of African Americans, 124; voting age, lowering of, 124; women's, 122
- Sullivan, Andrew, 56
- supermajorities, 151–52, 231
- Supreme Court, United States: appointments to, 34–35, 38; *Bellotti, First National Bank of Boston v.*, 189; bias in application of the Sherman Antitrust Act by, 119; *Citizens United v. FEC*, 33, 37; growing influence of judges, reasons for, 35–38; lawmaking by judges, challenge of, 38–40; laws nullified by, changes over time in, 33–34; *Obergefell v. Hodges*, 210; one-person one-vote principle adopted by, 124; policy-making by, 33–35; *Roe v. Wade*, 8–9, 33
- Switzerland, 85–86, 134
- Taft, William Howard, 35, 120–21
- Taiwan, 91–93
- Tariff Act of 1930, 24–25
- taxes and spending: the best process for making a decision on, 223–24; referendums, 6, 44, 63, 72–76, 97, 125, 133–34, 138–45, 154–63, 167, 180–84, 194–96, 229 (*see also* Proposition 13)
- technocrats: in agencies, 19, 28; disconnection from public, 10–11, 28–31, 80; giving them more power, 10–11, 242n18; as neutral arbiters, doubts, 226, 238
- Thomas, Clarence, 38
- Tiberius Gracchus, 102–3
- Tillman Act of 1907, 122–23
- Tipler, Kathleen, 259n18
- Trade Act of 1974, 25
- Trade Expansion Act of 1962, 25
- trade policy, 24–26

- Trans-Pacific Partnership (TPP) free-trade agreement, 131
- Truman, Harry, 25
- Trump, Donald: Clean Power Plan, executive order to reconsider the, 23; Clinton and, campaign spending by, 199; Clinton and, vote margin between, 35; Gorsuch, nomination of, 35; international agreements withdrawn from by, 26, 131; populist politics of, 1–2; tariffs imposed by, 24
- trust in government, 78, 165–66, 259n24, 260n26
- Tsai Ing-wen, 92
- Tullock, Gordon, 226
- turnout quorums, 87, 91–92, 231, 257n25
- United Kingdom (UK). *See* Brexit
- United States: abortion, controversy over, 7–9, 163–64; direct democracy in (*see* direct democracy in the United States); distrust of the common man by the Founders, 67–68, 100–105; historical evolution of democracy in (*see* American democracy, historical evolution of); as a republic rather than a democracy, 112, 252n30
- Uruguay, 94–96, 250n11
- utilitarianism, 225
- Vermeule, Adrian, 242n4
- Versteeg, Mila, 206, 252n28
- veto referendum. *See* petition referendum
- Villines, Mike, 160
- voter competence, 169–70, 185–86; accuracy of voter expression of interests, 176–79; “competent” vote, definition of, 170–71; conditions for voters to make effective decisions, 219; factors easing the burdens of choice, 184–85; fiscal decisions, irresponsibility regarding, 179–84; irrational voters, 185, 247n8, 263n37; shortcuts and informative elections without informed voters, 171–76, 229–30. *See also* information; information “shortcuts”/“cues”/“heuristics”
- Voting Rights Act of 1965, 124
- Wallace, George, 255n45
- war, the best process for making a decision on, 223
- Warren, Earl, 39
- Webster, Noah, 105, 251n14
- Wilson, James, 251n4
- Wilson, Woodrow, 6, 70, 188, 243n22
- Zackin, Emily, 252n28
- Zingales, Luigi, 268n1