

Cambridge University Press & Assessment
978-1-107-01265-3 — Democracy and its Elected Enemies
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Excerpt
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PART I

THE CHALLENGE OF U.S. POLITOCRACY

ONE

Hard Times

The United States has entered an epoch of protracted paralysis, crisis and decline, mostly of its own doing.¹ The wars of the 2000s, GDP growth retardation, stubborn high unemployment, widening inequality, poverty, stealthy and open inflation, Ponzi finance, speculative bubbles, government overspending and misregulation, the 2008 financial crisis, bailouts, and a gargantuan sovereign debt are all telltale signs of the times. Public officials, Wall Street, and business economists do their best to make this degeneration seem self-healing and never tire of assuring everyone that perpetual prosperity is just around the corner, but the glad tidings are superficial.²

Democracy and its Elected Enemies is an inquiry into the deep causes of America's plight and its prospects. It offers an explanation based on competitive economic theory and the concept of "true democracy" (majority popular rule, subject to minority property and civil-rights guarantees) that primarily attributes the United States' contemporary economic disorders to the violation of Enlightenment principles of democracy (characterized as "true democracy") by federal elected officials collectively pursuing their own interests including private enrichment, power, parochial missions, the creation of supranational political organizations and privilege-seeking world government at the expense of the American people's wellbeing. The U.S. federal government, it will be argued, has degenerated into a system of managed popular consent where avaricious power-seeking elected federal officials arrogate control over public services for themselves and constrict individual and community choice,³ creating a federal balloting regime devoid

¹ Kenneth Rogoff, *The Second Great Contraction*, Project Syndicate (<http://www.project-syndicate.org/commentary/rogoff83/English>), 2011.

² Joseph Stiglitz, *Freefall: America, Free Markets, and the Sinking of the World Economy*, W. Norton & Company, 2010. The same reassurances were given during the 1930s.

³ There is a longstanding debate about the contending claims of communities (connected with the concept of republic) and individuals. We believe that there is ample space for

of democratic substance. We dub these elected politicians “politarchs”⁴ and the system they control in collaboration with “big business” and “big social advocacy” “politocracy.” Politarchs are politicians of a special sort. They feather their nests as politicians always have, but on a grander scale. The distinction at first glance may appear innocuous, but scale matters because bigness strangles competition and separates the electorate from officials who are supposed to serve as the people’s representatives.

The politarchic model postulates that contemporary politicians, big business, and big social advocacy collectively set the national agenda and indoctrinate the public in ways that allow them not only to overtax, but to indirectly serve themselves through fiscal and monetary leveraging, inflation, interest-rate rigging, special-interest mandates, subsidies, preferences, insurance guarantees, “tax-expenditures,” grants-in-aid, bureaucratic layering, and outsourcing at home and abroad.

This insider system applies equally to domestic and foreign affairs and in its entirety diminishes economic competitiveness, efficiency, productivity, and growth potential. Likewise, it places the macro economy in a state of fundamental disequilibrium through policies of perpetual deficit spending, increasing national indebtedness, monetary debasement, excess credit creation, and lax financial regulation. Proof of the thesis is provided by the bloated scale of government in all these dimensions, the system’s inefficiency, waste, fraud and abuse, trans-partisan public-service trafficking, and bipartisan refusal to roll back and retrench in the face of declining economic vitality (including falling real wages, intractable high unemployment, and excessive middle-class taxation), and a looming national-debt-driven mega-financial crisis. Hard times in the United States are not the unfortunate result of bad policies. They are the poisoned fruit of politocracy.⁵

negotiating conflicts of these sorts at the local and state levels within the framework of the U.S. Constitution.

⁴ Politicians by definition are influential individuals who exert power over public policy-making and programming. They exist in all governance systems serving their masters and themselves. The concept of democracy however precludes politicians using their public authority primarily for their self-interest. They are supposed to be the people’s agents and public servants. Contemporary U.S. politicians violate this principle in especially egregious ways and are distinguished in this book by the label politocrats. They can be thought of as criminally entrepreneurial state officials, but we avoid the adjective because entrepreneurship nowadays has a positive connotation.

⁵ For a popular version of this theme see David Roche and Bob McKee, *Democrisis*, London: Lulu, 2012.

TWO

Democracy

True Democracy

Because they conflate popular rule with balloting, Americans do not realize that elected politarchs have usurped American democracy. This lapse is understandable. Democracy is an attractive but elusive concept. It is both an icon and a mirage. Democracy literally means people's rule (*demos kratos*): a governance system where the political sovereignty of every citizen reigns without privilege or special entitlement.¹ The people cast in the role

¹ The Greek word *demos* and the English-language equivalent, "people," are collective singulars (pluralities of human beings) that retain the double sense of heterogeneous individual persons and their oneness. The duality is easily grasped but also can be a source of ambiguity because the sense determines the meaning of *kratos*. If the term is used as a synonym for nation without regard for individuality, then democracy is a shallow concept meaning little more than any kind of governance in the national "interest." Alternatively, if the *demos* is a collection of heterogeneous persons (of the people) who elect representatives and participate in governing (by the people), with the purpose of bettering themselves individually and collectively (for the people), then the term acquires all the modern meanings of freely competitive multiparty, elected, civic participatory state governance serving the heterogeneous needs of minority-rights-protected citizens. *Democracy and Its Elected Enemies* employs the word "democracy" strictly in the latter sense (which also is compatible with neoclassical economic theory), except when the collective meaning is intended or clearly indicated. Democracy, particularly in the American setting, is a type of republic, where the people do not carry out the tasks of government directly by themselves, but delegate this job to elected representatives, controlled by the people through periodic elections and the constitution. See James Madison, *Federalist Paper* No. 10. The American republic is a representative democracy. The term *republic* does not appear in the Declaration of Independence, but does appear in Article IV of the Constitution, which "guarantee[s] to every State in this Union a Republican form of Government." What exactly the writers of the constitution felt this should mean is uncertain. The Supreme Court, in *Luther v. Borden* (1849), declared that the definition of republic was a "political question" in which it would not intervene. In two later cases, it did establish a basic definition. In *United States v. Cruikshank* (1875), the court ruled that the "equal rights of citizens" were inherent to the idea of republic.

of sovereign ruler (*demos*) distinguishes democracy from types of political rule (*kratos*) where power is variously vested in the hands of kings (autocracy/monarchy), tyrants, aristocrats (aristocracy), patricians, religious authorities (theocracy), sects, cults, clans, communities, communes, cooperatives, professions, unions, gangs (mafocracy), or families (patriarchy or matriarchy). The sovereign *demos* is the ultimate authority, superior to any entity claiming to speak for it as is often done by powerful interest groups (describing themselves as the public),² the community, or societal spokesmen (associations of some of the *demos*). The *demos* is not obligated by any group's notion of what the people ought to want.³

The concept of democracy can be traced back more than 2,000 years, but inclusive, fully articulated, jurisdictionally segmented, balanced governance constructs that protect minority rights did not emerge until the age of absolutism. Seventeenth- and eighteenth-century Western intellectuals conversant with autocratic oppression and inspired by rationalism and empirical science devised a self-regulating, popular, representative federal governance system with participatory aspects that maximized every individual's well-being subject to a constitutionally founded social contract.⁴ This ideal can be conveniently dubbed American Enlightenment democracy (democracy of the Enlightenment type), or true democracy for short, to distinguish it from prior and subsequent elected governance regimes with restricted electorates, or leaders (demagogues) that disregard the people's will. The distinction escapes many who are preoccupied with majority balloting or drumming up popular consent for causes that pit minorities against the majority, or the majority of women against the minority of men.

True democracy as conceived by Enlightenment philosophers assumes that humans are sufficiently rational, can master their instincts, forge culturally informed identities,⁵ and abide by an acceptable moral order.

However, the term "republic" is not synonymous with the republican form. The republican form is defined as one in which the powers of sovereignty are vested in the people and are exercised by the people, either directly or through representatives chosen by the people, to whom those powers are specially delegated. In *re Duncan*, 139 U.S. 449, 11 S.Ct. 573, 35 L.Ed. 219; *Minor v. Happersett*, 88 U.S. (21 Wall.) 162, 22 L.Ed. 627. Republicanism is broader than democracy and not a central concern of this book.

² Montesquieu, *Spirit of the Laws*, Bk. II, chs. 2–3.

³ There is an extensive literature debating the contending rights of communities and individuals in democracies. The conflict can be resolved in principle by allowing individuals the right to form communities and subordinating themselves to the group, but communities do not have the right to impose their policies on the majority of other individuals outside the group. The debate essentially is over the interpretation of minority rights.

⁴ John Locke, *Two Treatises on Government*, 1728.

⁵ See Sigmund Freud, *Civilization and Its Discontents*, 1930, on the issue of instincts and mind. See Rene Descartes, *Meditationes de prima philosophia*, 1641, and Georg Wilhelm

Rational faculties allow individuals to form preferences with a clear (albeit fallible) perception of right and wrong, choose consistently to enhance their well-being, and learn from experience. Their moral compass assures that they will mostly forego wrong and do right, allowing true democrats to infer that outcomes will be both individually and socially superior according to the norms of their epoch.⁶

Rational, morally principled men and women should have the right to as much freedom as possible within constraints imposed by the social contract. They, and they alone, know what is best for them.⁷ They are as trustworthy as those claiming to be their “betters,” and they are disciplined by market competition. Their freedom must include secure core private property and business rights because without those people cannot efficiently and exhaustively maximize their well-being. Economic freedom and markets in this way are integral aspects of true democracy.⁸

True democrats understand that private property rights and competition are not panaceas; that conflicts of interest are embedded in human relations and must be resolved by collective bodies and institutions. Government inevitably is a battleground for determining the scale, scope, and particularities of public activities, including the interpretative details of property rights and market rules.⁹

Enlightenment democrats in the eighteenth century failed to find universally best principles for resolving interpersonal conflicts in the

Friedrich Hegel, *Phenomenology of Spirit*, tr. A. V. Miller, 1977, on contending theories of humans as fully self-sufficient individuals and social beings.

⁶ The values of one age are not necessarily the values of the next, and perhaps none are transcendental. Slavery today is a crime against humanity in international law, but was widely accepted three hundred years ago.

⁷ Cf. Sigmund Freud, *Civilization and Its Discontents*, 1930. This supposition holds as well for the relaxed case where elected officials and the people are imperfectly rational in the same degree.

⁸ Competitive economic theory teaches that true democracy, free from misgovernment of any type, will inter-temporally maximize individual and public utility, taking full advantage of the opportunities afforded by science and technological progress. Second-best versions of the same theory that acknowledge the unlikelihood of perfectly competitive outcomes similarly imply that true democracy will provide superior results because politicians do not really know best or care sufficiently about the people's welfare. An America free of bad or antidemocratic elected governance can dramatically outperform all its rivals as they are currently configured. For a thorough analysis of the rational and behavioral bases of this optimal result, together with mathematical proofs and qualifications, see Steven Rosefielde and R. W. Pfouts, *Inclusive Economic Theory*, unpublished draft, 2013.

⁹ Government is not the only means for adjudicating interpersonal conflicts in the public domain. The Japanese rely on a tapestry of contextual shame culture rules for this purpose. See Steven Rosefielde, *Asian Economic Systems*, Singapore: World Scientific, 2013.

public domain,¹⁰ but sought to create the second-best by establishing a Bill of Rights to protect minorities from majority usurpation and by separating branches of government to restrain abuses of power. Legislators were granted authority to write laws for the public good that could favor some citizens or groups over others. The executive, including bureaucracies under presidential authority, was charged with implementing the law, but also had the implicit power to make law through selective implementation and explicitly by emergency decree. The potential for abuse accordingly came with the territory making judicial review of legislative and executive malfeasance the people's last court of recourse.

Enlightenment democracy as it was devised in the eighteenth century consequently was not utopian. It was and remains a vision of a pragmatic ideal guided by practical reason, offering the prospect of outcomes superior to autocracy, and *the bellum omnium contra omnes* (Thomas Hobbes's war of all against all).¹¹ Enlightenment democracy is feasible,¹² only requiring (1) the supremacy of the people's constitutional right to govern over elected officials' penchant for ruling as they see fit;¹³ (2) the supremacy of constitutional writ over legislative desires to trample property rights, misspend, overspend, overtax, and over-borrow;¹⁴ and (3) the supremacy of constitutional writ over free judicial reinterpretation.¹⁵ The infringement of these

¹⁰ "It has always been held, in the most enlightened nations, that a tribunal will decide a judicial question most fairly when it has heard two able men argue, as unfairly as possible, on the two opposite sides of it" (Thomas Babington Macaulay, "History," *Edinburgh Review*, May, 1828).

¹¹ De Cive, 1642, Leviathan, 1651.

¹² For a discussion of the historical nuances see Daniel Quinn Mills, "The Reinvention of the American Constitution," draft, March 19, 2012, where it is argued that Lincoln's rationale for the Civil War and post-conflict constitutional amendments made today's big federal government possible. The Civil War in effect constituted a reinterpretation of the Enlightenment compact in America's 1787 constitution away from states' and citizens' rights toward federal authority.

¹³ Adverse selection refers to a process in which "bad" results occur when buyers and sellers have asymmetric information. Elected officials who are supposed to function as the people's agents are apt to adversely select when the public lacks sufficient information to deter their representatives' misbehavior.

¹⁴ James Buchanan emphasizes this point in his writings on public-choice theory and constitutional economics. See James Buchanan and Robert Tollison, *The Limits of Liberty Between Anarchy and Leviathan*, Chicago: University of Chicago Press, 1975. The public here means both individuals and communities, reconciling conflicts at the local level as best they can.

¹⁵ Judicial defense of constitutional principle can be degraded in two ways. Courts can bend the meaning of constitutional provisions for diverse purposes, and legislatures can overwhelm the system with contradictory laws that give judges license for corruption. The first abuse is connected with the concept of the "living constitution." It asserts that constitutional meanings are dynamic and should be interpreted according to contemporary norms,

principles makes the federal government illegitimate in the eyes of true democrats,¹⁶ although, of course, not in the eyes of politicians who claim to serve as the conscience and voice of the people.¹⁷

True democracy of the sort enshrined in America's constitution has rivals. Some overtly challenge the democratic ideal. Others pretend to support it. Challengers contend that Enlightenment pragmatism is not good

allowing courts to override constitutional protections. The principle is often applied to the equal protection and due process clauses of the Fifth and Fourteenth Amendments to the American Constitution. David Weigel, in "Ruth Bader Ginsburg Makes Banal Point, Destroys the Republic," writes, "I would not look to the US constitution, if I were drafting a constitution in the year 2012" (http://www.slate.com/blogs/weigel/2012/02/03/ruth_bader_ginsburg_makes_banal_point_destroys_the_republic.htm_February_3,2012). A recent poll reveals that most Americans believe that the Supreme Court decided the merit of the Obama administration's healthcare bill on partisan rather than valid judicial grounds. See Greg Holyk, "New Low in Support for Health Law: Half Expect Justices to Go Political," Yahoo! News, April 11, 2012: "Half the public, moreover, thinks the U.S. Supreme Court will rule on the legislation on the basis of the justices' partisan political views rather than the law. Fewer, 40 percent, think impartial legal analysis will carry the day, with the rest unsure."

¹⁶ If these principles are violated, true democracy should be restored by applying Buchanan's and Tullock's concept of "unanimous workable" public consent. James Buchanan and Gordon Tullock argue that taxation and state expenditures should be restricted to activities where there is "unanimous workable" public consent, relaxing Knut Wicksell's concept of strict unanimity. The essence of their position is the judgment that government services are inefficient, cannot be made efficient with social-benefit/cost indicators, and too often are corrupt, which makes them chary of most government programs. Principal-agent theory demonstrates that most government programs are infeasible because objectives are too fuzzy to permit the design of effective disciplinary mechanisms. The concept of unanimous support can be softened, but only to the extent that levels of spending do not violate property right or other constitutional protections. Also, the erosion of individual economic rights must be rolled back, and courts must refrain from improperly bending constitutional safeguards and unscrupulously exploiting legislative loopholes, especially those affecting property rights, competitiveness, and abusive entitlements (for rich, poor, and the middle class). See James Buchanan, *Democracy in Deficit: The Political Legacy of Lord Keynes*. Indianapolis, IN: Liberty Fund, 1999. The rollback in Europe entails pruning "social democracy," reducing mandates (forced substitution), over-regulation, burdensome compliance, over-taxation, and restrictions on entrepreneurship. Opportunities for legislative and executive misconduct, including excessive, bubble-inducing financial and monetary leveraging must be curtailed. "Over the 50-year period from 1954 to 2003, Congress enacted 16,015 laws; state laws, one million laws passed" (Clark Neily, "The Myth of Judicial Activism," *Wall Street Journal*, Sept. 28, 2011). Government straitjackets individual economic freedom by imposing unwarranted regulations, mandates, reporting, and tax obligations.

¹⁷ Douglass North and Robert Thomas, *The Rise of the Western World: A New Economic History*, Cambridge: Cambridge University Press, 1973; Milton Friedman, *Capitalism and Freedom*, Chicago: University of Chicago Press, 1962; Jean-Pierre Chauffour, *On the Relevance of Freedom and Entitlement in Development: New Empirical Evidence (1975–2007)*; Policy Research Working Paper 5660, World Bank, 2011; Chauffour, *The Power of Freedom: Uniting Human Rights and Development*, Washington, DC: Cato Institute, 2009.

enough. They claim the right to rule for the people with people's consent, or subordinate the *demos's* interests to their own, even though this often is said to be for the people's own good (prosperity, social justice, fairness, equitable entitlements, etc.).¹⁸ This means different things to different advocates, but amounts broadly to affirmative action for those claiming privileged status and repression of allegedly socially harmful elements. Socialists champion the cause of the working poor (vulnerable people), and communists the welfare of the proletariat (industrial working class). Fascists promote collectivism, and modern politicians the mediated demands of assorted entitlement seekers.¹⁹

These goals may be compatible with true democracy, but only when approved by the majority on issues that do not infringe constitutional and minority property and civil rights. Otherwise, entities and associations other than the *demos* (understood as the will of heterogeneous persons) rule in their own interest, purporting to represent the will of "society" (socio-crats) as distinct from the will of the people (community of all persons).²⁰ If the American electorate desires affirmative action and chooses to restrict personal liberties for the greater good without violating the Bill of Rights, then "socio-crac" and demo-crac come to the same thing. If not, programs imposed by social advocates (socio-crats) are antidemocratic,²¹ even though champions of particular social causes and shame cultures like Japan's do their utmost to disregard the distinction.

¹⁸ This issue is argued from multiple perspectives. David Hume disputed the existence of a social contract. Rawls and Sandel devised Kantian categorical imperatives for social activism. This has been accompanied by efforts to continuously widen the circle of deserving (privileged) minorities coupled with affirmative action. "Hume, Essays, Moral, Political, and Literary, Part II, Essay XII, Of the Original Contract," Library of Economics and Liberty; John Rawls, *A Theory of Justice*, Cambridge, MA: The Belknap Press of Harvard University Press, 1971; Michael Sandel, *Justice: What is the Right Thing to Do?*, New York: Macmillan, 2010.

¹⁹ Democracy was the darling of Enlightenment political theory until shortly after 1800 when it started to be challenged by socialists like Saint Simon, Robert Owen, and Karl Marx, who began claiming that virtuous causes trumped popular sovereignty.

²⁰ These distinctions are fundamental in economic theory because they affect the scope of unencumbered individual utility maximizing. See Steven Rosefielde, *Inclusive Economic Theory*, unpublished manuscript, 2013.

²¹ The people are free to voluntarily associate. Their associations create societies with distinct characteristics. The merit of these characteristics however is not innate, but derives from the people who in democracies are the true sovereigns. One can admire or reject democratically formed societies as a matter of personal taste, but a single individual's taste does not justify his or her sovereignty over the *demos*. The issue, and the related question of moral imperative, are fixtures of neoclassical welfare economics. See Abram

AMERICAN TRUE DEMOCRACY

America's founding fathers, grasping these essentials and motivated by "the love of humanity,"²² sought to transform theory into practice by constructing a constitutionally based, majority-elected government (the form) acting strictly in accordance with the people's will (the content), upholding an inviolable bill of rights, resting on the Enlightenment premise that mankind is rational, morally disciplined, and willing to abide by a voluntary social contract under the rule of law in the unencumbered pursuit of happiness.²³ They strove to design a government that was the people's instrument,²⁴ not one for the benefit of the elected.

Abraham Lincoln in the Gettysburg Address, on November 19, 1863, described the essence of this democracy as "government of the people, by the people and for the people," meaning that authority derives directly from the people whose will created the constitution; that elected officials are the people's agents, and that agents operate solely for the people's benefit, not their own or that of those seeking supra-constitutional entitlements.

SOCIOCRACY

Early-nineteenth-century European intellectuals starting with Claude Henri de Rouvroy, comte de Saint Simon, admired aspects of Enlightenment democracy but sought to improve upon the vision by transforming the Bill of Rights into a Bill of Entitlements that compel the people to accept a common set of priorities, which too often infringe basic constitutional protections. They demanded that democracy dedicate itself to improving

Bergson, "A Reformulation of Certain Aspects of Welfare Economics," *Quarterly Journal of Economics*, Vol. 52, No. 1, February 1938, pp. 310–34; Bergson, "Social Choice and Welfare Economics under Representative Government," *Journal of Public Economics*, Vol. 6, No. 3, October, 1976, pp. 171–90. Steven Rosefielde, *Inclusive Economic Theory*, unpublished manuscript, 2013.

²² "The love of humanity has become the true concern of government." See Condorcet, *Life of Voltaire*, in *Works*, Vol. IV, pp. 176–77. Condorcet attributes the phrase to Voltaire.

²³ Cf. Michael Lewis, *Boomerang: Travels in the New Third World*, New York: W. W. Norton Company, 2011. Cf. Frank Knight, *The Ethics of Competition and Other Essays*, New York: Harpers and Brothers, 1935.

²⁴ Toward this end, John Adams insisted that the composition of the legislature mirror each representative's constituency. Representatives should be from all walks of life, not predominantly lawyers as they are today. "The representative assembly ... should be in miniature an exact portrait of the people at large" (John Adams, "The Foundation of Government," 1776). Democracies are "good" when balloting is fair, administration is constitutional, and agents are faithful to the people's will. They are "bad" when they violate one or more of these tenets, even if they are well meaning.