Chapter 8

The Urban Diffusion of Local Direct Democracy between Switzerland and the United States

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Introduction

'Similar but different' is how Nicolas Von Arx compares direct democracy in Switzerland and in California.[1] They are in fact the two places in the world with the most intense use of direct democracy.[2] Twenty American states, mostly in the West, have implemented some form of direct democracy. In Switzerland, studies are abundant on ballots at federal level. In the United States, studies are numerous at state level. In both, the local level is only sporadically looked at. Yet, the local is where the ballot originates from, and its use prevails in municipalities.

Nowadays, there are many debates in Switzerland and in the United States on the way that direct democracy influences democratic governance in general. Many scholars engage in public debate expressing contrasting opinions on how the system dysfunctions and how it should evolve. Furthermore, discussions on the ballot are deeply enshrined in the continuous debates on the spatial political organisation of these places. Looking at how the spatial phenomenon of urbanisation played a key role in the emergence and use of direct democracy informs our way of devising the evolution of this form of democracy.

The three instruments of ballot-based direct democracy – initiative, referendum and recall – are the same in Switzerland and the United States.[3]

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1 N. Von Arx, Ähnlich, *aber anders. Die Volksinitiative in Kalifornien und in der Schweiz* (Schulthess, 2002).

2 A. Auer, *Le référendum et l'initiative populaire aux Etats-Unis* (Economica, 1997).

3 I will not describe in detail the procedure in this chapter. See J.F. Zimmerman, *The Initiative: Citizen Law-making* (Greenwood Press, 1999) for the legal provisions in the United States, and S. Duroy, 'Les Landsgemeinden Suisses' in R. Drago (ed.), *Les Procédés de la démocratie semi-directe dans l'administration locale en Suisse*, vol. 15 (Presses Universitaires de France, 1987) for Switzerland. I look only at these instruments when they are triggered by a citizen's petition, not by a legal obligation or a government sponsor. An initiative is a vote on a legislative proposal drafted by citizens. A referendum

Switzerland and the United States both knew some form of assembly-based direct democracy prior to their adoption of ballot-based direct democracy. Between the end of the nineteenth and the beginning of the twentieth century, accelerating urbanisation raised issues that led in both cases to the adoption of the ballot-based form. Switzerland has been the main reference in the United States for the implementation of this form of direct democracy. Today, urban trends are still leading the use of local direct democracy, more intensely in large, urban and diverse communities than in rural, small and homogeneous ones. Moreover, metropolitan areas present new challenges to local democracy. These challenges of size and accountability are analogous to the issues that led to the adoption of the local ballot.

There are two forms of direct participation to law making and public administration labelled as direct democracy. One is the attendance, in person, at assemblies where those decisions are taken. The other is voting on legislative matters, as opposed to voting to elect a representative. The former is the oldest in both countries and continues to function in certain areas. This assembly-based form of direct democracy developed independently in Switzerland and in New England. The second form, direct democracy through the ballot was implemented in the United States between the end of the nineteenth century and the beginning of the twentieth century by reference to Switzerland, the 1848 Constitution of which included legal provisions for it. Many authors see both types as contrasting, if not competing, forms of direct democracy. Joseph Zimmerman, in his synthetic work on direct democracy in the United States published in 1999, describes them in two separate books.[4] He does not integrate the two into a single narrative of direct democracy.

The two countries differ in their way of implementing ballot-based direct democracy. As will be seen, in Switzerland, the ballot was introduced as a solution to keep direct democracy active as it was challenged by urbanisation. Urban communities were getting larger, and could not hold direct assemblies anymore. The ballot was a substitute ushered in around the middle of the nineteenth century. Conversely, in the United States, there was a clear rupture between the Town Meetings and the ballot-based direct democracy. The first ones date from the colonies, the second was inspired by Switzerland as a remedy to corruption and the unresponsiveness of representatives during what became recalled as 'the Progressive Era', at the dawn of the twentieth century.

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is a vote to challenge a piece of legislation adopted by the legislative body. A recall is a vote to repeal an elected official before the end of his mandate. In all three, a petition must be signed by a sufficient number of citizens to place the matter on the ballot. In Switzerland, this number is fixed, while in the United States it is usually defined as a proportion of the electorate.

4   J.F. Zimmerman, *The New England Town Meeting: Democracy in Action* (Greenwood Publishing Group, 1999); Zimmerman (n3).

Before the Ballot, Assembly-based Direct Democracy

Assembly-based direct democracy, that is people gathering together in one place to discuss and take public decisions, developed independently in the United States and in Switzerland.

The Swiss *Landsgemeinde* – the legislative popular assembly – has been traced to the old German institution of the Thing – the judicial assembly of free men – and the *Allmend* – the exclusivity of jurisdiction of a community within its domain.[5] As cantons and communities gained more independence with charters, especially with rights of jurisdiction, the *bailiff*, representing the Lord of the land in the administration of public justice, were replaced by the *Landamann*, elected by the assemblies.[6] These public administrations of justice have progressively gained more legislative and administrative competences to develop into proper assemblies with extensive political power. The *Landsgemeinden* only subsists in two cantons today, Glarus and Appenzell Innerrhoden, both of which have a small population. The direct assembly, however, is still the form of legislative power in 80 per cent of Swiss municipalities today, mainly in the German-speaking part of the country.[7]

In the United States, assembly-based direct democracy started in the English colonies, before Independence,[8] and worked in a way very similar to the Swiss assemblies. Established from 1620 by Puritans, Town Meetings were from the beginning law-making bodies, contrary to the Swiss *Landsgemeinden* that only became so later. Today, Town Meetings are confined to New England and were never implemented further than in the original colonies. Scholars such as Frank Bryan,[9] as well as journalists, such as Amy Crawford,[10] sometimes describe Town Meetings as the 'true form of direct democracy' and even as the 'true form of democracy', in contrast to elected representation. The opposition between assembly and ballot in the United States can be understood because there is no continuity between the two.

On the one hand, Andreas Ladner presents empirical evidence demonstrating that smaller Swiss municipalities are significantly more likely to experience higher

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5 S. Duroy, 'Les Landsgemeinden Suisses' in R. Drago (ed.), *Les Procédés de la démocratie semi-directe dans l'administration locale en Suisse*, vol. 15 (Presses Universitaires de France, 1987) 11.

6 L. Carlen, *Die Landsgemeinde in der Schweiz: Schule d. Demokratie* (Thorbecke, 1976).

7 A. Ladner, *Politische Gemeinden, kommunale Parteien und lokale Politik: eine empirische Untersuchung in den Gemeinden der Schweiz* (Seismo Verlag, Sozialwissenschaften und Gesellschaftsfragen, 1991) 81.

8 Zimmerman (n4).

9 F.M. Bryan, *Real Democracy: The New England Town Meeting and How It Works* (University of Chicago Press, 2003).

10 A. Crawford, 'For the People, by the People' (2013) *Slate*, available at <http://www.slate.com/articles/news_and_politics/politics/2013/05/new_england_town_halls_these_experiments_in_direct_democracy_do_a_far_better.single.html> accessed 2 September 2013.

participation rates in assemblies.[11] The turnout of voters tends to be higher at both ends of the demographic scale, in municipalities with assemblies and no ballot, typically small ones, and in municipalities with no assemblies but with ballot, typically large ones.[12] On the other hand, Frank Bryan presents empirical evidence that small communities are significantly more active in the number of meetings they hold.[13] Consequently, in Switzerland as well as the United States, the vigour of assembly-based local direct democracy is inversely correlated with size. The smaller the community, the more frequent meetings will be (US) and the stronger the attendance will be (Sw).

Too Many to Congregate: Urbanisation and Adoption of the Ballot in Switzerland

Joëlle Salomon-Cavin explains the uprising of direct democracy, first in assembly, and then unassembled by the ballot, by the struggles between urban and rural communities.[14] In the *Ancien Régime*, the political situation in Switzerland was a loose confederation of largely independent communities organised through feudal networks. Unlike the rest of feudal Europe, fealty hierarchies were dominated by cities, and not by lords or *seigneurs*, although wealth was largely generated in the countryside. *Landsgemeinden* appeared in the more independent mountainous rural communities, while cities were largely ruled by corporations. The participation was at first limited to a selective number of burghers,[15] and only progressively extended to the larger number of citizens. It is to be noted that the *Landsgemeinde* of Appenzell Innerrhoden only allowed female participation in 1991, and only as a result of an injunction from the Federal Supreme Court.[16]

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11   A. Ladner, 'Size and direct democracy at the local level: The case of Switzerland' (2002) 20(6) *Environment and Planning C: Government and Policy* 813–28.

12   A. Ladner and J. Fiechter, 'The influence of direct democracy on political interest, electoral turnout and other forms of citizens' participation in Swiss municipalities' (2012) 38 *Local Government Studies* 437, 450.

13   Bryan (n9).

14   J. Salomon Cavin, *La ville, mal-aimée: représentations anti-urbaines et aménagement du territoire en Suisse: analyse, comparaisons, évolution* (PPUR (Presses Polytechniques Universitaires Romandes), 2005) 41.

15   W.E. Rappard, *L'évolution économique et politique des villes et des campagnes suisses depuis la fin de l'ancien régime jusqu'à nos jours: Conférence faite le 3 février 1916 à l'Université de Genève sous les auspices de l'Union des Femmes* (Stæmpfli and Cie, 1916).

16   *Theresa Rohner und Mitbeteiligte gegen Kanton Appenzell* (1990). ATF 116 la 359, available at <http://relevancy.bger.ch/php/clir/http/index.php?lang=fr&type=show_ document&highlight_docid=atf://116–1A-359:fr> accessed 18 July 2014.

Between 1830 and 1900, Switzerland transitioned from a regime of assemblies to a regime of ballot.[17] Parallel to the French Revolution, Switzerland experienced a period of political turmoil leading to the creation of a short-lived centralised Helvetic Republic. As in France, the creation of the Republic carried debates about a radical levelling of political competence with new and equal political wards that would eliminate the relative power of cities on the countryside.[18] But more than the Republic, the revolution of 1830 and the new federal constitution of 1848 consecrated ballot-based popular rights in Switzerland. With the 1830 revolution, suffrage was extended and citizens gained veto rights in many cantons. The constitution of 1848 created the right of initiative and referendum at the federal level. Most of the experimentations in the cantons took place between these two milestones, with the adoption of veto and initiative rights.[19]

Ballot-based direct democracy originated in Switzerland in the urban growth that made the continuation of assemblies of new bodies of citizens impossible because they were too large. Switzerland exhibited a steady growth in the number of larger municipalities from 1800 and throughout the nineteenth and twentieth centuries.[20] But for Joëlle Salomon-Cavin, the initiative and referendum also contributed to the shaping of new urban societies by preventing the establishment of a dominant minority ruling the cities.[21] Formal equality of rights deactivated formal dominations and empowered the working classes. Labour laws, for example, are thus an urban product in Switzerland: they were passed by the ballot.

Autonomy of Local Governments in the United States

Direct democracy started locally in the United States and was driven by urban issues. It was then implemented at state level in 20, mostly Western, states. However, it never made its way to the federal level. In California, San Francisco and Vallejo, in the Bay Area, were the first cities to introduce popular initiatives as early as 1898. They had the power to do so because towns and cities were granted municipal home-rule by California in 1879, only preceded by Missouri in 1875.[22]

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17 P.-A. Schorderet, 'Elire, voter, signer: pratiques de vote, luttes politiques et dynamiques d'institutionnalisation de la démocratie en Suisse au dix-neuvième siècle', doctoral thesis (Université de Lausanne, 2005).

18 F. Walter, 'Echec À La Départementalisation. Les Découpages Administratifs de La République Helvétique (1798–1803)' (1990) 40 *Revue suisse d'histoire* 67.

19 Schorderet (n16).

20 F. Walter, *La Suisse urbaine, 1750–1950*, vol. 3 (Editions Zoé, 1994) 36.

21 Cavin (n14).

22 J.J. Richardson, M. Zimmerman Gough and R. Puentes, 'Is home rule the answer? Clarifying the influence of Dillon's Rule on growth management' (The Brookings Institution Center on Urban and Metropolitan Policy, 2003) 10, available at <http://www.brookings.edu/ES/urban/publications/dillonsrule.pdf> accessed 25 March 2009.

Similarly to Switzerland, municipal law is not a federal matter in the United States: it is defined by the states themselves. Fifty states thus hold 50 different municipal statuses with different levels of autonomy. These statuses have been shaped by urban issues and in return determine the possibility for municipalities to engage in direct democracy. Between 1850 and 1914, the United States experienced a fierce 'urban competition',[23] a race of demographic growth and economic development that profoundly changed the organisation of American cities and urban environments. They became more polarised, between city centres sheltering the lower classes along with old factories and entertainment areas, and newly developed suburban areas with the rising middle class and the new industrial development. This 'reversed exodus'[24] was partly the result of the new services provided by new urban corporations, such as mass public transport, leading to what Samuel Warner identified as the 'streetcar suburbs'.[25] Local government was already overtaken by systematic patronage in utility franchising to private companies.[26] The shift to publicly operated utilities indeed only happened in the twentieth century.[27]

John Dillon, a judge of the Iowa state court in the 1860s, was particularly concerned with the collusion between private companies managing public utilities and local government. He perceived local government autonomy as the major problem. In order to solve it, he ruled in 1868 that every competence that was not explicitly granted to local authorities by the state legislature remained in the hand of the state and municipalities had no legal ground to intervene in it whatsoever. Local governments are thus creations of states, and as such states retain all authority over them.[28] This rule of zero autonomy for local government made its way to other states and is now referred as *Dillon's Rule*.

Almost at the same time, in 1871, Judge Thomas Cooley, of the Michigan Supreme Court, expressed a diametrically opposed view on local autonomy. Local governments have for him an inherent right of self-administration.[29] From 1875 to 1912, 13 Western states adopted the *Home Rule*, granting greater autonomy to local government.[30]

Dillon's Rule and *Home Rule* are two extremes of a scale and not a nominal distribution. Zimmerman makes an ordinal classification of the 50 states ranked by

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23   Z.L. Miller, *Boss Cox's Cincinnati: Urban Politics in the Progressive Era* (Ohio State University Press, 2000) 5.

24   Ibid. 8.

25   S. Warner, *Streetcar Suburbs: The Process of Growth in Boston, 1870–1900* (Harvard University Press, 1962).

26   Richardson, Zimmerman Gough and Puentes (n21) 7.

27   S.E. Masten, 'Public utility ownership in 19th-century America: The "aberrant" case of water' (2011) 27 *Journal of Law, Economics, and Organization* 604, 605.

28   *City of Clinton v Cedar Rapids and Missouri River Railroad Co* 24 Iowa 455 (1868).

29   *People v Hulburt* 24 Mich 44 (1871).

30   Richardson, Zimmerman Gough and Puentes (n21).

their degree of municipal autonomy,[31] as all states know some forms of local autonomy but in none of them are municipalities completely independent from the state. The localisation of the state on this scale can be defined by its state constitution and municipal law, as well as with the ruling of the state supreme court.[32] So, in practice, the legal foundations for municipal autonomy rests on provisions by the state, even though, placed in the state constitution, it can lack impact for the legislature.[33]

With reference to the local autonomy scale, California holds an intermediary position, where charter cities are granted *Home Rule* and general-law cities are submitted to *Dillon's Rule*.[34] On Zimmerman's scale of local autonomy, the state ranks 18th out of 50.[35] Interestingly, states with *Town Meetings* fall to the bottom of the list. *Town Meetings* are described as the only 'true democracy' because of their assembled character by scholars like Frank Bryan.[36] But in these states local governments remain limited in their autonomy from the state and as Charles Péguy remarked of Kantianists, '[they have] pure hands. But [they have] no hands'.[37]

Two different paths led to the adoption of initiative and referendum at the local level, depending on where the state was on the *Dillon's Rule* and *Home Rule* scale. In some states, cities and counties were granted this right by a statute. Nebraska passed such a law for its municipalities in 1897. California passed a similar one for its counties in 1893. In other cases, *Home Rule* provisions afforded a space for cities to experiment with these new instruments of self-government. This is what happened in California where, in 1898, Vallejo and San Francisco were the first in the country to implement ballot-based direct democracy.[38] Municipal initiative then spread quickly and by 1911, cities in 19 states had initiative and referendum at the local level, either granted by the states (in 10 states) or by their own initiative. John Matsusaka recalls that the historical details of the adoption of initiative by the cities, are largely undocumented, compared to the states.[39] However, there is a clear indication that cities were at the core of the initiative adoption trend.

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31   J.F. Zimmerman, *Measuring Local Discretionary Authority* (Advisory Commission on Intergovernmental Relations, 1981), available at <http://www.getcited.org/pub/10227 1059> accessed 1 October 2013.

32   B.A. Garner and others, *Black's Law Dictionary* (West Group (Law), 2011).

33   C.A. Novak, 'Agriculture's new environmental battleground: The preemption of county livestock regulations' (2000) 5 *Drake Journal of Agricultural Law* 429; D. Krane, P.N. Rigos and M. Hill, *Home Rule in America: A Fifty-State Handbook* (Congressional Quarterly Books, 2000).

34   Richardson, Zimmerman Gough and Puentes (n21) 41; M. Albuquerque, 'California and Dillon: The times they are a-changing' (1997) 25 *Hastings Constitutional Law Quarterly* 187.

35   Zimmerman, *Measuring Local Discretionary Authority* (n30).

36   Bryan (n9).

37   C. Péguy, *Solvuntur objecta* (Cahiers de la quinzaine, 1910) 246.

38   J.G. Matsusaka, *For the Many or the Few: The Initiative, Public Policy, and American Democracy* (University of Chicago Press, 2008) 6.

39   Ibid. 7.

Circumventing Elected Officials by Direct Democracy in American Cities

Dillon's Rule provided a framework to limit the opportunities for local corruption. But in the West and in the centre, local governments were granted more autonomy and this autonomy continued to fuel collusion and corruption. This corruption and patronage became organised in a resilient system under the protection of a local political *boss*. In return, at the end of the nineteenth century, opponents of this system, mainly coming from the residential outskirts of cities, also became organised in a *Progressive Movement*. This movement advocated and implemented a new form of direct democracy to circumvent unresponsive elected representation.

On the one hand, from 1850 the growth of cities deeply disturbed the existing political structures and offered new opportunities for the creation of local urban political systems of corruption, patronage and nepotism.[40] Under the protection of a local political figure, the *boss*, this system became known as *bossism*. On the other hand, big corporations arose from cities. Rapidly up-surging needs and technical opportunities for new services – mass transit, water, electricity – created a favourable environment for big corporations managing these services. The size of these corporations made it difficult for any local government to regulate. The conjunction of these two effects created local environments where public services and governments were in the hands of a limited number of people and organisations, with strong incentives to favour each other and to be irresponsive to the demands of the electorate.

As a result, by the beginning of the twentieth century, the political leaders of cities had turned into bosses and created a system of corruption, nepotism and patronage.[41] For Zane Miller,[42] the emergence of bosses and the reform committees trying to solve or circumvent their operations was a consequence of the reshaping of cities, an urban phenomenon. As the old city centres were being abandoned by new middle classes who were building new suburbs, he sees *bossism* as a way of renewing order in a deeply disturbed urban environment. *Bossism* created organised political systems. By contrast, the reform movement was coming from the new residential outskirts of the city.

One of the Progressive Movement's goals was the reformation of the citizen as a means of restoring popular government. Direct democracy was a way of circumventing corrupt representation – the instrumental dimension – but also a way to educate citizens to debate and engage in legislation – the educational dimension. Smith and Tolbert have found evidence for this educational effect.[43] This 'education to citizenship' has been largely driven by urban trends.

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40   Miller (n22).

41   N. Solomon, *When Leaders Were Bosses: An Inside Look at Political Machines and Politics* (Exposition Press, 1975).

42   Miller (n22).

43   D.A. Smith and C. Tolbert, *Educated by Initiative: The Effects of Direct Democracy on Citizens and Political Organizations in the American States* (University of Michigan Press, 2004).

Ballot-based Direct Democracy in the United States, the Swiss Reference

As the United States knew some form of direct democracy with the New England *Town Meetings*, this could have served as a reference for the ballot. On the contrary, I will show in this subsection that Switzerland was the main reference.

In the Federalist Paper no. 10, published in 1787, James Madison explicitly considered and rejected direct democracy.[44] His main argument concerned the importance of representation as a protection from the rule of factions. Madison compared Republican and Democratic forms of governments. These forms are respectively representative democracy, with elected delegates of the people, and direct democracy, where the people in assembly make the law themselves. Madison advocated that the latter presented no escape from the tyranny of the majority while the former provided mutual institutional control as well as control by the voters. Although New England *Town Meetings* were well known by the founding fathers, they explicitly discarded these in favour of representation. By the time the Progressive Movement was looking for a way to circumvent corrupt elected representatives in the cities, it had two possible references for modern direct democracy, New England and Switzerland, but no obvious nationwide solution.

To evaluate which of the two possible references was the most influential in the advocacy of a new form of direct democracy in the United States, a quantitative analysis of the Google Books Corpus is relevant. I calculated the proportion of books mentioning 'direct democracy' and 'United States' and which were also mentioning 'New England' or 'Switzerland'. Figure 8.1 shows that references to Switzerland predate mentions of New England by at least 30 years. References to Switzerland peak between 1890 and 1910, appearing in 70 per cent of the books on direct democracy and the United States. Most American states introduced the popular initiative, referendum and recall, during that time (Figure 8.2). Mentions of New England start to occupy a significant proportion – 50 to 60 per cent – of these books from 1910 to 1960 only, after most states had adopted direct democracy. These findings demonstrate that the reference for the diffusion of ballot-based direct democracy in the United States was Switzerland much more than New England. In effect, if New England were a reference for the Western States, we would see at least a proportion of these books mentioning it. Instead, almost no book mentions New England until 1910. The reference to New England found in direct democracy related literature is used after the implementation in the Western States either as a contrasting example, a non-influential precedent or in a synthesis of the various forms of direct democracy.[45]

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44   J. Madison, 'The Federalist No. 10' (1787) 78 *The Federalist Papers* 80.

45   M. Luehrs Tripp, *The Swiss and United States Federal Constitutional Systems: A Comparative Study* (Librairie sociale et économique, 1940) 43; B.N. Banerjea, *Introduction to Politics* (Jijnasa, 1962).

In 2004, Thomas Gliozzo[46] identified two main sources of inspiration for ballot-based semi-direct democracy in two books published by Nathan Cree[47] and J.W. Sullivan,[48] describing the system recently implemented in Switzerland. For Thomas Gliozzo,[49] the latter is more influential than the former, but the metrics of citations in Google Books points the other way with six times more mentions in the 1900–1910 decade and 31 times more mentions in the 1910–1920 decade (Figure 8.3).
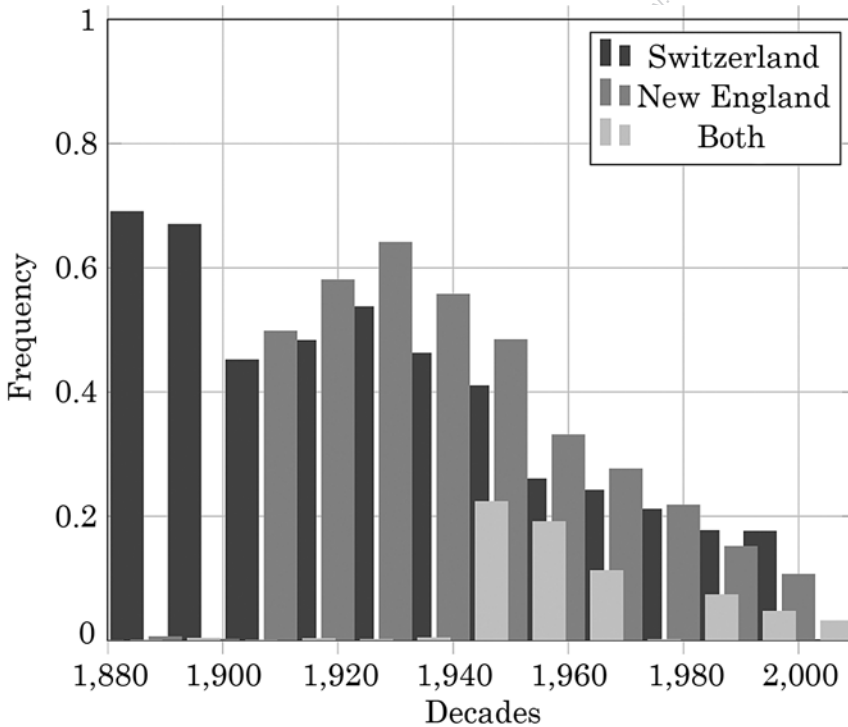

Figure 8.1   Frequency of books in English mentioning 'Switzerland' or 'New England' in the books mentioning 'direct democracy' and 'United States'

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46   T. Gliozzo, *L'état Fédéré Américain* (Atelier National de Reproduction des Thèses, 2004) 471.

47   N. Cree, *Direct Legislation by the People* (A.C. McClurg and Company, 1892).

48   J.W. Sullivan, *Direct Legislation by the Citizenship Through the Initiative and Referendum* (True Nationalist Publishing Company, 1893).
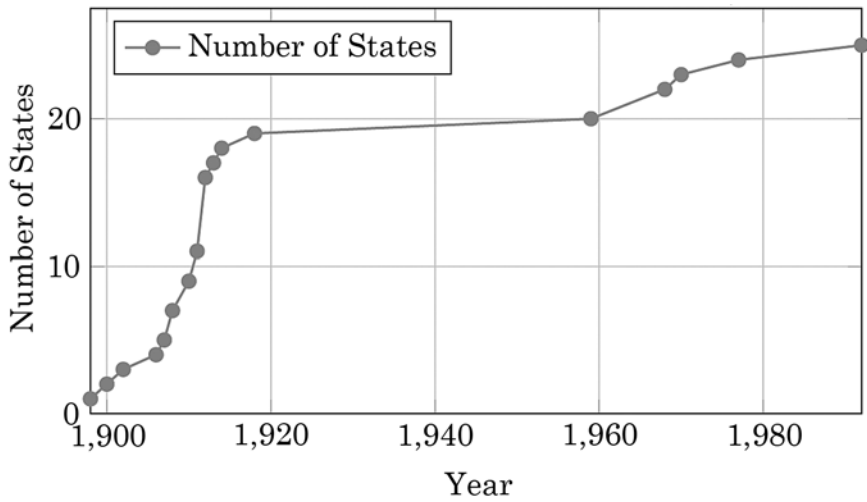
49   Gliozzo (n47) 471.

Figure 8.2   **United States: Number of states with state-wide initiative**

Source: D.A. Smith, *Tax Crusaders: And the Politics of Direct Democracy* (Routledge, 1998) 5.
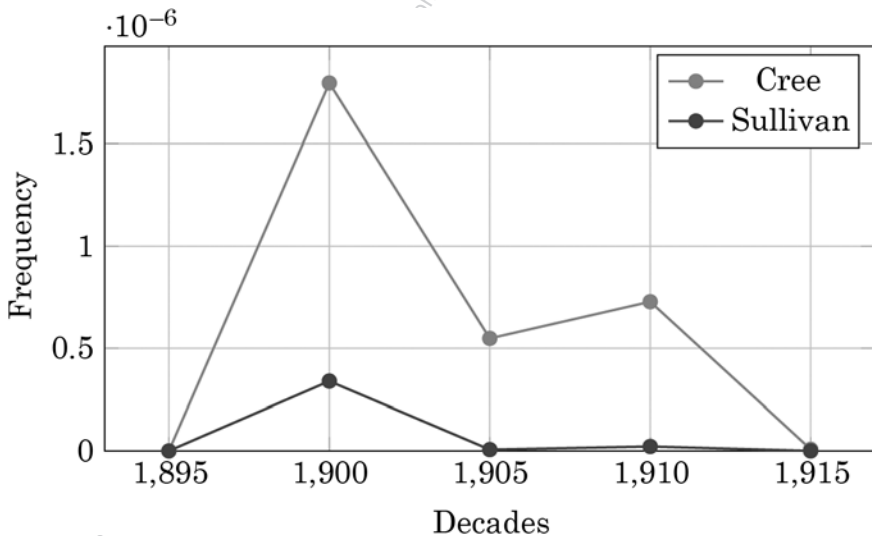

Figure 8.3   **Frequency of books in English mentioning Cree and Sullivan books on the Swiss model of direct democracy in all the books published in English**

The Diffusion of Law

The Urban Gradient of Local Direct Democracy Today

Both in Switzerland and the United States, specifically urban issues drove the adoption of a local form of direct democracy by the ballot. Data on local direct democracy is sparse today in these two countries. Nevertheless, existing studies demonstrate a common pattern, with a use of this form of democracy concentrated in urban environments. After a first rush following its adoption at the beginning of the twentieth century, direct democracy use remained low during most of its history since then. Only from the 1970s has the use of initiative and referendum gained significant momentum, at both local and federal/state levels. However, the number of local initiatives, contrary to the federal/statewide ones, has plateaued since the 1990s.[50] Taking election cycles into account, the number of local measures has been stable in California since 1995. The fact that two comparable trends between Switzerland and the United States can be observed tends to rule out purely local causal explanations that are only present in one of the cases, as for instance the tax revolt in the United States.[51] On the contrary, these comparable trends reinforce the plausibility that urban trends, which are themselves similar in these two cases,[52] feed local direct democracy. Local initiatives are more frequent in bigger, more diverse municipalities. This size and diversity effect exists in California,[53] as well as in Switzerland.[54] Moreover, a large proportion of local initiatives are dedicated to providing or restructuring urban public utilities – water, transport, public facilities – supporting the idea that initiatives are used to keep up with changing urban conditions, especially after growth phases. This interpretation is buttressed in California by the fact that residential mobility is correlated with the use of initiatives,[55] as if changes in population created a need for public policies to realign with people's preferences. In Zürich Canton, municipalities that have experienced population growth in the past years are more likely to see popular initiatives proposed.[56] This urban effect is found only in municipalities. Urban

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50   J. Meyland, 'Modalités et pratiques de la démocratie semi-directe dans les communes suisses' (Office d'études socio-économiques et statistiques, Ville de Lausanne, 1981) 13–14; S. Grodecki, *L'initiative populaire cantonale et municipale à Genève* (Schulthess, 2008) 423–30; T.M. Gordon, *The Local Initiative in California* (Public Policy Institute of California, 2004), available at <http://www.ppic.org/content/pubs/report/R_904TGR.pdf> accessed 17 March 2009.

51   J.B. Weatherby and S.L Witt, *The Urban West: Managing Growth and Decline* (Greenwood Publishing Group, 1994) 6.

52   M. Schuler et al., *Atlas des räumlichen Wandels des Schweiz / Atlas des mutations spatiales de la Suisse* (1st edn, Neue Zürcher Zeitung, 2007).

53   Gordon (n51).

54   Ladner and Fiechter (n12).

55   Gordon (n51).

56   Kanton Zürich, *Direktion der Justiz und des Innern, Statistisches Amt*, available at <http://www.statistik.zh.ch/internet/justiz_inneres/statistik/de/wahlen_abstimmungen.html> accessed 1 October 2013. Schuler et al. (n53) 84–5.

cantons[57] (CH) and counties[58] (US) do not exhibit any more intensive use of direct democracy than their rural counterparts. Therefore, the *urban gradient* – as Jacques Lévy[59] calls the conjunction of density and diversity – and its evolution in time is a good predictor of the use of local direct democracy.

The Metropolitan Challenges of Direct Democracy

Local direct democracy has gained momentum in the past decades. Acknowledging the urban trends that led to the diffusion and rise of this mode of democracy can help to understand the challenges facing it today. Scholars compete on two different interpretations as to why local direct democracy is so linked to bigger, more urban communities.

The first interpretation is simply that direct democracy is extensively used where the other form, namely representative democracy, fails to respond to the policy preferences of citizens. The main reasoning behind this interpretation is that representative democracy is unable to aggregate properly and be responsive to voters' preferences and therefore these voters feel the need to legislate by the ballot.[60] As urban places are more diverse in income, education and race, voters' preferences are also more diverse.[61] They are therefore more difficult to aggregate.[62] Indeed, Swiss elected officials report more consensus in smaller municipalities and deeper differentiation in larger ones.[63] This model is at the core of political prescriptions promoting smaller competing local jurisdictions,[64] in a context where people could 'vote with their feet' and move to another place when they are dissatisfied,[65] thus incentivising local governments to comply with aggregated preferences.

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57 A.H. Trechsel, *Feuerwerk Volksrechte: die Volksabstimmungen in den schweizerischen Kantonen 1970–1996* (Helbing and Lichtenhahn, 2000) 23.

58 Gordon (n51).

59 S. Duroy et al., *Les Procédés de La Démocratie Semi-Directe Dans L'administration Locale En Suisse*, vol. 15 (R. Drago ed, Presses Universitaires de France, 1987) 180.

60 Matsusaka (n38) 138.

61 R.S. Erikson, 'Economic conditions and the presidential vote' (1989) 83 *The American Political Science Review* 567; A.G. Greenwald et al., 'Implicit race attitudes predicted vote in the 2008 U.S. Presidential Election' (2009) 9 *Analyses of Social Issues and Public Policy* 241.

62 N. McCarty and A. Meirowitz, *Political Game Theory: An Introduction* (Cambridge University Press, 2007) 68.

63 T. Huissoud and D. Joye, 'Participation, Insertion Locale et Démocratie Directe Dans Les Espaces Urbains' (1991) 31 *Annuaire Suisse de Science Politique* 109, 126.

64 B.S. Frey and R. Eichenberger, *The New Democratic Federalism for Europe: Functional, Overlapping and Competing Jurisdictions* (Edward Elgar Publishing, 2004).

65 C.M. Tiebout, 'A pure theory of local expenditures' (1956) 64 *Journal of Political Economy* 416.

The second interpretation is that larger communities generate more public debate, and local direct democracy is especially good at determining decisions that are worth a public debate. In Swiss cities, political issues get more complex and this complexity leads to more political activity and a greater use of direct democracy.[66] Following this model, local direct democracy is an efficient system for allocating limited resources (time, campaign money, volunteers) to the most valuable problems. John Matsusaka distinguishes between decisions that have 'Pareto-comparable outcomes'[67] – decisions that do not imply depreciating the position of some actors,[68] which he calls 'good government decisions' – taken by the legislature, and ones affecting distribution of wealth or personal opinions which are resolved through initiatives.[69] A direct democracy system allows consensual issues to take the faster and less resource-consuming track of representative democracy while the less consensual issues that require a more public debate are brought out in a more open public sphere. Consequently, initiatives are the sign of a well-functioning deliberative democracy.

The challenges of size and accountability that led to the diffusion of local direct democracy in Switzerland and the United States from 1848 to 1910 are analogous to the challenge presented to metropolitan governance today: a challenge of scale. Since 1950, metropolitan areas, through commuter and suburban spread, have grown to out-scale existing local governments.[70] How could these two states use the sorting and public sphere enhancing ability of direct democracy to address the scale of metropolitan policies? In Switzerland, proposals have been made to merge cantons together to align their territories with the metropolitan regions.[71] The quest for the perfect scale of governance has a long history.[72] Evolutions of local direct democracy have been largely driven by urban mutations. The rise of cities in the nineteenth century created problems of scale and political functioning

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66 M. Bützer, *Direkte Demokratie in Schweizer Städten: Ursprung, Ausgestaltung und Gebrauch im Vergleich* (Nomos-Verlagsgesellschaft, 2007) 32.

67 Named after the Italian economist Vilfredo Pareto, 'Pareto optimality' is a game theory concept. An outcome is said 'Pareto optimal' when it cannot be improved without hurting at least one player. In the policy context described by John Matsusaka, a decision is said to be 'Pareto comparable' when it improves something without making anybody worse off. Hence, these decisions do not require arbitration between conflicting interests; they are 'good government decisions'.

68 A. Chinchuluun, *Pareto Optimality, Game Theory and Equilibria* (Springer, 2008).

69 J.G. Matsusaka, 'Economics of direct legislation' (1992) 107 *Quarterly Journal of Economics* 541, 569.

70 J.E. Oliver, *Democracy in Suburbia* (Princeton University Press, 2001) 35.

71 P.-A. Rumley, *La Suisse demain: de nouveaux territoires romands, un nouveau canton du Jura: utopie ou réalité?* (Presses du Belvédère, 2010).

72 D. Kubler, *La métropole et le citoyen: les agglomérations urbaines en Suisse vues par leurs habitants* (Presses Polytechniques et Universitaires Romandes, 2005); J. Blatter, *Governance – theoretische Formen und historische Transformationen: politische Steuerung und Integration in Metropolregionen der USA (1850–2000)* (Nomos, 2007).

that led to the adoption of popular initiatives and referendums. In the twentieth century, the growth of urban agglomerations beyond city limits changed the pattern of use of initiatives. The phase being experienced today, since the 1980s, is characterised by less attachment to territories and growing importance of networks in urban functioning.[73]

Joint initiatives could be used in order to transfer the qualities of direct democracy into this new urban environment. The National Tariff System of the Netherlands' public transport system is a good analogy for how joint initiatives could function. The whole country is divided in contiguous zones. A passenger buys a single ticket for all the zones he intends to cross to get to his destination. Local direct democracy today, functions as if a passenger would have to get off the train every time he crosses a zone to buy another ticket, wait for the next train, and board it again. Using joint popular initiatives between several jurisdictions would allow citizens to buy a single policy ticket for several zones.

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[73]   J. Levy, 'La Ville, Concept Geographique, Objet Politique' (1996) *DEBAT-PARIS-111*; G. Pflieger and C. Rozenblat, 'Introduction. Urban networks and network theory: The city as the connector of multiple networks' (2010) 47 *Urban Studies* 2723.