CHAPTER 4

DESPOTIC OR DYNAMIC? HAYEK ON DEMOCRACY AND EXPERTISE

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1. INTRODUCTION

F. A. Hayek delivers one of his most famous claims in the title of a postscript: "Why I Am Not a Conservative." For him, there is much at stake in distinguishing his arguments in *The Constitution of Liberty* (1960) from conservatism, the side of "those who habitually resist change" with a "fondness for authority" out of a "timid distrust of the new as such."[1] Against the so-called timidity of the conservative, Hayek presents his liberalism as a doctrine of courage that enabled cultural evolution. One point of divergence concerned the merits of democracy:

> I believe that the conservatives deceive themselves when they blame the evils of our time on democracy. The chief evil is unlimited government, and nobody is qualified to wield unlimited power. The powers which modern democracy possesses would be even more intolerable in the hands of some small elite …. The advantages of democracy as a method of peaceful change and of political education seem to be so great compared with those of any other system that I can have no sympathy with the anti-democratic strain of conservatism.[2]

Scholars have since underscored Hayek's claims about the compatibility of liberalism and democracy, coupling his scattered endorsements of popular institutions with his sustained defense of the rule of law.[3] Others use his arguments for dispersed, local knowledge to highlight the epistemic benefits of democratic institutions and defend democracy from its detractors.[4] In much of the literature, scholars approach Hayek as he describes himself – as an advocate for popular rule in support of his constitution for a free society.[5]

Yet there are compelling reasons to doubt his self-assessment as an opponent of conservativism and his commitment to political democracy, or at least to revisit those terms as he used them. Hayek locates his thought within the tradition of "true individualism," whose nineteenth-century exemplars identified threats to freedom

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and spontaneous orders from democracy itself.[6] And in his own work, he follows those true individualists – Edmund Burke, Alexis de Tocqueville, and Lord Acton – in equating some of democracy's features (majoritarianism and the demand for equality among them) with the problem of constructivist rationalism and the despotism of a planned society. Against democracy's potential problems, his proposed constitution relies on counterdemocratic elements, particularly the expertise of judicial judgment to articulate cultural rules apart from the popular will. He is therefore not against undemocratic measures as such; in fact, his vision of society requires such measures to avoid lapsing into unrestrained, arbitrary government.

Why, then, does Hayek continue to resist conservative critiques of democracy? To answer this question, this chapter focuses on when and how Hayek is against democracy – and why he ultimately defends it. It argues that Hayek's theory of dispersed knowledge and his description of democracy as a "dynamic process" reveals his reservations about an elitist conservative franchise. A limited franchise forecloses the possibility of cultural evolution by limiting the scope of knowledge to the political insights of the few. In Hayek's ambivalence toward democracy, we can find his novel argument in favor of it: an extended franchise serves as a dynamic process of discovery and cultural evolution, serving as one part of a competitive public sphere that includes a free press and civil-society associations. Democracy's dynamic character, coupled with the benefits of a free public sphere, outweighs any benefit to be had from the political insights of a wise elite.

Section 2 begins by explaining Hayek's distinction between democracy and unlimited government, his rejoinder to the conservative critics. Section 3 argues that Hayek was actually closer to those critics than he claimed. Like the conservative, Hayek associates democratic principles with despotism, and he creates a role for experts in his constitution to prevent the devolution from democracy to planned society. The chapter then turns to Hayek's arguments in favor of a democratic franchise and interprets his comments on the franchise in light of his theory of knowledge (Section 4). I conclude by directing these arguments at one contemporary critique of democracy: the justification for epistocracy. Hayek's claims about democratic dynamism, I argue, offer a persuasive challenge to the epistocrats' binary of political knowledge versus voter ignorance.

2. DISTINGUISHING DEMOCRACY

Hayek elsewhere repeats his statement on democracy from the postscript, distinguishing between democratic rule and the "absurdity" of unlimited government.[7] The conservative's fundamental error, then, was to misidentify her critical target: it was not democracy as such that led to the dissolution of liberty, but institutional failure to limit the arbitrary reach of government, democratic, or otherwise. This error was understandable. Like "justice," the term "democracy" was prone to definitional drift. It had become a generic expression of praise or blame, associated either with popular policies and good outcomes or, for the conservative, the many ills of modernity. To understand democracy properly, Hayek argues that one has to reclaim it from normative misuse and from the "particular form

of representative government which now prevails in the Western world" with "its inherent tendency to lead away from the ideals it was intended to serve."[8] Only by rightly defining democracy can we distinguish it from unlimited power and then diagnose the latter as the real threat to liberty. On this point, Hayek's liberal predecessors had failed along the same lines as his conservative contemporaries. By overlooking the first sources of totalitarianism, by failing to see them in *any and all* claims to omnipotence within *any and all* systems, earlier liberals created weak constitutions that could not restrain the impulse toward central planning.[9]

For Hayek, critiques of democracy are distracting, as they obscure the real problems of centralization and planning. Still, he is only a defender of democracy by default. His aim is not to shield it against its detractors, nor to extol it as the most fair or equitable system, nor even to cast it as a preferred alternative to totalitarianism.[10] When he participates in related conversations about egalitarian justice and wealth distribution, they are addenda to his warnings about using government planning to satisfy specific ends.[11] His goal, instead, is to point out where the real road to serfdom began – in organized interests and the accompanying hubris of rationalism in politics. Along the way, he suggests that his brand of liberal constitutionalism is compatible with democratic ideals since it could limit the impulse toward rationalism without necessarily circumventing popular rule. The Great Society would not require dismantling the status quo to start over with the design of institutions. In fact, the rule of law is "the point where traditional liberalism and the democratic movement meet" and thus an apt starting point for his revised liberalism.[12] On the value of democracy itself, Hayek is consistent: it "is not an ultimate or absolute value, and must be judged by what it will achieve."[13]

Hayek offers judgments of his own, many of which lead us to revisit the distinction between democracy and unlimited government that he offered. At the very least, he is more ambivalent about democracy than his descriptions of conservatism suggest. He elsewhere indicates that certain features of democratic rule were especially, though not uniquely, prone to the limitless exercises of power. At certain points, he finds the beginnings of socialism in democracy's promise of equality. Even if we recognize unlimited government as the true political crisis, as Hayek urges, his own judgments about democratic outcomes offer reasons to be skeptical about the distance between democracy and despotism.

3. MAJORITIES, EQUALITY, AND DESPOTISM

Much of Hayek's ambivalence toward democracy appears alongside his interpretations of intellectual history. He regularly places his ideas in one tradition over another – true individualism, not false; liberalism, not conservatism; Britain, not France.[14] When he aligns himself with true individualists, he aims to revive their understanding of society as the complex product of human action, not omniscient design, all to support a social theory of spontaneous order and cultural evolution. In this project, he recognizes his forebears: John Locke, Bernard Mandeville, David Hume, Adam Ferguson, Adam Smith, Burke, Tocqueville, and Acton.[15]

For all of the work connecting Hayek to the Scottish Enlightenment, scholars have said very little about his engagement with the later part of the individualist

tradition – its manifestation in the work of Tocqueville and Acton.[16] This relative silence is surprising, given that Hayek finds true individualism "represented most perfectly in the work of its greatest historians and political philosophers: Alexis de Tocqueville and Lord Acton" for having "more successfully developed what was best in the political philosophy of the Scottish philosophers."[17] But where, exactly, did Tocqueville and Acton succeed? If the Scottish individualists taught Hayek the theory of spontaneous orders, his study of nineteenth-century thought revealed the threats to those orders, some from democracy itself. In their attention to modern *despotism*, Tocqueville and Acton extended what the Scots began. They adopted and adapted the Scottish version of individualism and view of society but identified new dangers to eighteenth-century principles that originated with popular government. Tocqueville's great insight was to highlight the uncertainty of democracy, a social state that would preserve equality in only one of two directions – freedom or servitude. In that same uncertainty, Hayek recognizes the potential of democratic governance to lead to centralization and possible despotism. Following Tocqueville, Hayek notes that two of democracy's central features made it especially prone to these extremes: its motivating principle of equality and its reliance on majority rule.

Hayek worries that the democratic attachment to equality could become wrongly impassioned and lead to policies that promise to achieve "just" outcomes through central planning. Equality, he argues, drifted from its original meaning, much like the terms "justice" and "democracy". It was originally and rightly linked to equal treatment and the rule of law, but it had become synonymous with egalitarianism or equality of outcome. He ascribes this misuse to humans' most atavistic tendencies, or the will to achieve particular, concrete, uniform results for each member of the tribe. As with justice, however, this "craving [for equality] inherited from the traditions of the small group … is meaningless in the Great Society of free men."[18] A society of spontaneous orders cannot act to achieve particular results for particular people (in fact, it cannot act at all) or guarantee equal outcomes to each of its members.

But democracy emboldens such tendencies. Hayek follows Tocqueville in locating equality as the shared value between democracy and socialism; both regimes promise it, and disentangling those promises from one another proves difficult.[19] And like Tocqueville, he traces democracy in one of two directions. Its promise of equality could lead to equal treatment before the law, a value compatible with liberalism and foundational to the protection of the Great Society. This was, Hayek acknowledges, "the chief expression of what is commonly called the democratic spirit," the rightful manifestation of equality in politics.[20] But that same spirit could easily collapse into its opposites. It was responsible for both the rule of law and the excesses of the French Revolution, for a spontaneous society and a centralized one.[21] Behind the will to plan, he sees the desire to achieve concrete outcomes from social processes, justice and equality among them, and to use coercion for their realization. Just as democracy begins with the same value as socialism, it can end in the same policies and designs. This result was a perversion of the "democratic spirit," an issue of its misdirection, but one built into the primitive constitution of human beings and their desires to achieve certain ends through social planning. Quoting Acton, Hayek hints

that the world had already experienced transitions from democracy to socialism, when "the finest opportunity ever given to the world was thrown away, because the passion for equality made vain the hope of freedom."[22]

Nor is majority rule a sufficient check on that passion, as it too could become a tool for constructivism. Again, Hayek betrays his ambivalence toward democracy, associating its principles with true individualism while cautioning against many of their potential uses. Majority rule, rightly used, is a "method of deciding" what the law will be. But it could be and has often been confused for "an authority for what the [law] *ought* to be," a moral standard embodied in the greatest number instead of a method of decision making.[23] Hayek frames this belief as "democratic dogmatism," but indicates that it is also the prevailing form of democracy in the West. When majority rule establishes itself as the moral standard for societies, "the ideal of democracy, originally intended to prevent all arbitrary power, thus becomes the justification for a new arbitrary power."[24] This kind of democracy simply substitutes the rule of the many in place of the unlimited power of one, creating a moral authority out of the majority.

With these reservations about democracy, Hayek revives the "perfected" individualism of Tocqueville and Acton. But he also offers a novel critique of majority rule, specific to his constitutionalism and its conditions. In order for human beings to adapt and evolve in a society with minimal coercion, we must use the "tools" of cultural evolution, or the traditions and institutions that have developed over time and by adjustment. These traditions, the conditions for a philosophy of freedom, allow humans to cooperate and coordinate without government intervention. Yet such cooperation occurs if and only if we accept those traditions as products of spontaneous order, not as designs subject to deliberate change.[25] The majority, however, regularly resist this kind of passive acceptance, what Hayek repeatedly calls our "submission" to spontaneous processes. The majority aim to bring everything under their control, even those things that are and ought to be, in Hayek's estimation, beyond the power of human reason. Majority rule must be distinguished from spontaneous order, as

> [the will of the majority] differs radically from that free growth from which custom and institutions emerge, because its coercive, monopolistic, and exclusive character destroys the self-correcting forces which bring it about in a free society that mistaken efforts will be abandoned and successful ones prevail.[26]

Democracy thus has the potential to impede the "grown" order of society, in a way perhaps more pernicious than this same process under authoritarianism. The majority can replace the spontaneous forces of society – its organic traditions and institutions – with its own will, all while legitimating its actions by appealing to the moral power of numbers. It can readily displace spontaneous processes with a made order by invoking "the people" it represents. Hayek accordingly cautions his readers against confusing majority deliberation with "those spontaneous processes which free communities have learned to regard as the source of much that is better than individual wisdom can contrive."[27] Hayek again emphasizes the need to distinguish democracy from our normative judgements. Just because an institution is democratic does not mean that it is grown, free, or spontaneous.

Spontaneous processes evolve and adapt; the intervention of the majority, by contrast, impedes whatever progress the grown order might achieve when left untouched. Hayek describes the majority view as "reactionary, stationary," since it can overrule competition and evolution.[28] Again, its influence depends on the direction democracy takes. If a people can accept that the majority is "not the fountainhead of justice," then democracy may complement true individualism with equality before the law and freedom for society. This, however, requires that majorities yield to emergent processes and avoid imposing their own ends through social policy. Taken otherwise, democratic regimes fall into the error that "we mistake a means of securing justice for justice itself."[29] While Hayek discourages his readers from defining democracy in terms of its possibility for error, as the conservatives tended to do, his own descriptions of democracy's central features – monopolistic, stagnant, yet unrestrained – imply that it is at least in need of control. To supply that control, he endorses a circumscribed role for expertise within an otherwise-undirected order.

4. EXPERTISE IN HAYEK'S CONSTITUTION

To keep democracies within the boundaries of a free society, Hayek proposes persuasion and limitation. In this, he is certainly not unique. Earlier liberals similarly sought to constrain government power through constitutional design. But the goal of the Hayekian constitution was specific to his theory of society. Democracy had to be limited by separated powers, a point he shared with the constitutionalism of Montesquieu and Madison. But, for him, democracy also has to be restrained by *society* – that is, by the emergent order that enables human beings to succeed by their own actions without the intervention of a designing mind. Limitation therefore has to be coupled with persuasion to clarify the nature of society (unplanned) and the meaning of order (emergent). The majority must be persuaded that "there are limits beyond which its action ceases to be beneficial and that *it should observe principles that are not of its own deliberate making*."[30] It is not enough for majorities to yield to other government powers, or even to the demands of a minority. Directing democracy means subjecting it to principles entirely apart from politics: the traditions, conventions, and norms of the grown order. Majorities and individuals can make use of these "tools" of culture in their decisions and actions, but such tools ought to be kept beyond the reach of human design, however, popular or benevolent.

This was precisely where prior constitutions failed. They had not done enough to guard tradition – and therefore society – against coercion. They allowed the majority to define justice and enforce its definition through legislation, so long as the entire system conformed to a traditional doctrine of separated powers.[31] To limit government and guard tradition, Hayek calls upon experts. Specifically, he relies on the expertise of judges (elsewhere, even philosophers) to counter democracy's most potentially destructive elements.[32] The best way to maintain democracy is actually by a counterdemocratic turn in constitutionalism, away from the popular will that could distort the emergent order and toward judicial

judgment to discover society's general rules. This is, in part, a way to restrain legislatures, whose power Hayek warns is all-encompassing or could easily become so. Supported by the principle of majority rule, legislatures had historically prioritized policy making to achieve specific ends over respect for the grown order, thereby undermining the general rules that govern social cooperation.[33] By emphasizing the role of judicial power in his constitution, Hayek aims to balance powers and emphasize law (the general rules that govern society) over legislation (policies for specific purposes).[34]

To appreciate the necessity of judicial expertise, we need to understand the nature of general rules, whose virtue is also their greatest weakness. They form the background conditions for human action, set expectations, and "create an order even among people who do not pursue a common purpose."[35] They are at the same time tacit and obscured, so much so that their existence might be easily forgotten or overridden by authorities for other purposes, as we have already seen in the case of majority rule. In Hayek's constitution, the judge upholds the rules' strengths while subverting those potential weaknesses. She "has to find rules that have never been stated and perhaps never been acted upon before," bringing to light what was tacitly understood but not entirely known.[36] Hayek's language clarifies the nature of the judge's task: she articulates, improves, corrects, and applies what already exists. We should think of these corrections and even possible additions to law as outcomes of the emergent order, not rational schemes imposed on it. Even in their most "creative" functions, like when designing language for expressing general rules, judges simply provide meaning and direction to a set of "givens" from the existing order.[37]

In the design of his own constitution, Hayek confusingly locates much of what he defines as "judicial" power in his revamped "Legislative Assembly," a body that is devoted to law and not, as its name implies, legislation. Its members, he claims, should be chosen for success in their private lives, creating "a senate of the wise."[38] Note that they are not appointed on the basis of rationality or creativity and certainly not for their interest in politics; the former qualities are irrelevant given the limits of human knowledge, and the latter is actually a danger.[39] These officials must have the wisdom to stand apart from rule making and legislation while being able to "discover" society's rules within complex spontaneous orders. Hayek compares their activity to that of judges in a common law system, who find the laws of society without imposing their own. Similarly, Legislative Assembly officials do not make law, nor do they represent the will of the people and their interests. Instead, these officials restrain governments and majorities according to the found "principles which ought to govern and restrain individual conduct." Their judgment would enable the "containment of power and the dethronement of politics," an advance over the history of constitutionalism to this point.[40] The Legislative Assembly is necessary precisely because it is neither democratic nor representative. It derives general principles from social processes that are not the product of human design and should not be altered by the democratic process.

We can understand Hayek's endorsement of judicial judgment in terms of his broader claims about safeguarding spontaneous order against demands for a designed society. Officials who act like judges serve as a counterweight to

majority-led legislation and the coercion that it sanctions. The officials' expertise is distinct: narrow, judicial, undemocratic, "intellectual," but still based in the "humility" of true individualism instead of the "hubris" of rational planning.[41] And this expertise serves society, though not in the way that we might expect – not to realize defined outcomes or determine the means to meet them, but to remind society of its rules and ensure that they can be upheld. This is precisely why officials fulfill a role more judicial than legislative, since they are tasked with finding rules instead of making them. In fact, Hayek identifies the judge as "an institution of spontaneous order," part of its corrective, cooperative functions and not an omniscient mind set apart.[42] When he turns to expertise, then, Hayek is clear to keep it within circumscribed limits that would correct for democratic overreach while avoiding any temptation toward constructivist rationalism.

5. DEMOCRACY AS DISCOVERY

As we have seen, Hayek is certainly attentive to democracy's potential threats to a free society. To combat them, he sets judicial judgment against majority will, enabling a role for experts to reinforce processes of spontaneous order by discovering, articulating, and adjusting social rules. Even as he acknowledges this role for expertise, a minimal role for "intellect" in an order of otherwise-dispersed knowledge, we ought to keep in mind Hayek's rejoinder to the conservative. For all of democracy's problems, he maintains that a narrow electorate of the so-called "wise elite" is not the solution. This distinction between legal expertise and elite wisdom points to a larger divide between judicial and political power in Hayek's thought. The place for experts, he suggests, ought to be in constitutional institutions, not in the electoral process. Even though Hayek finds a place for "intellect" in a democratic regime, he still opposes a restricted franchise based on the supposed wisdom of an elite few.

This move seems initially surprising. We know that Hayek is aware of the problems of majority rule and equality under democracy. We also know that he follows the social philosophy of the true individualists, many of whom argued in favor of a restricted suffrage in the nineteenth century, hoping to harness democracy's potential and avoid many of the same abuses that reappeared in Hayek's *The Road to Serfdom* roughly a century later.[43] And like his individualist predecessors, Hayek values democracy instrumentally; in the same text in which he disparages the conservative, he cautions his readers against defending democratic institutions on principle or encouraging an extended franchise on those same grounds. We ought not seriously contend, he writes, that "every possible extension [of democracy] is a gain." Even by his own first principles, universal suffrage is not required, for "it can scarcely be said that equality before the law necessarily requires that all adults have the vote."[44] Hayek thinks it reasonable that we might limit the franchise on the basis of property ownership, literacy, even gender, based on what those limits could allow us to achieve.[45] The size of the franchise could remain a possible point of contention among "reasonable people" who otherwise subscribe to democratic institutions.[46] To argue otherwise, he suggests, is to

commit a definitional error – to equate democracy with a net good and simply assume that more of it is better.[47]

Still, when we weigh all of these options with a view toward democracy's potential outcomes, Hayek concludes that we ought to favor a more inclusive franchise over a restricted one, or universality over the rule of the narrow elite. Of course, this conclusion is not a matter of principle, but of expediency. An inclusive franchise could achieve more than the narrow kind called for by the conservative. This claim highlights Hayek's novel argument in favor of democracy, supported by his theory of knowledge in society. Contemporary scholars of epistemic democracy and democratic reason have captured a Hayekian defense of popular institutions on the basis of his claims about dispersed knowledge. But they have not acknowledged Hayek's related arguments for an extended democratic franchise.[48] He presents an extended franchise as a process of competitive discovery within an active public sphere, a process that could forestall the stifling influence of an entrenched political class.

This understanding of the extended electorate had clear implications for debates in Hayek's own time. But it can continue to serve as an important challenge to recent condemnations of democratic "voter ignorance." By viewing democracy as a competitive discovery procedure, as Hayek does, we ought to reassess the epistocrats' binary of political knowledge versus ignorance. In the sections that follow, I uncover Hayek's claims for the benefits of extended suffrage and the dynamic democratic process, before directing his arguments against philosophic defenses of epistocracy, or what we might call "new conservative" critiques of democracy.[49]

5.1. Extended Suffrage and Competitive Discovery

Initially, Hayek's argument for an inclusive electorate sounds like a simple restatement of claims for political learning. He even frames it as such, for when considering the merits of all democratic institutions, the electorate included, we must observe their effect "on the general level of understanding of public affairs."[50] This characterization brings to mind John Stuart Mill's arguments for the moral and epistemic benefits of representative institutions. Mill insisted that even the common day laborer who exercises the vote "learns to feel for and with his fellow citizens, and becomes consciously a member of a great community."[51] Hayek shares some of Mill's optimism, but his argument for democratic knowledge is more nuanced and specific to his view of society and the nature of knowledge within it. Mill's political-learning claim implied a static model of knowledge: by participating through the act of voting, individuals gain access to information about politics that already exists and that more powerful others already know. Extending suffrage, then, is akin to handing the new voter the keys to the kingdom – to ideas and opinions that circulate in society but have remained unavailable to those left outside of the political process.

Hayek describes democracy and its possibilities differently. It is, "above all, a process of forming opinion," for which there is no Archimedean point of political knowledge or truthful opinion apart from the process itself.[52] To hold otherwise, as

Mill did, is to border on the rationalists' conceit.[53] What is remarkable about this process of opinion formation? Again, Hayek frames it in instrumental terms, for

> its chief advantage lies not in its method of selecting those who govern but in the fact that, because a great part of the population takes an active part in the formation of opinion, a correspondingly wide range of persons is available from which to select.[54]

The virtue of democracy ought not be reduced to its procedures or methods for deciding who governs. Part of its value exists in the various options it allows and the opportunities it extends. A universal franchise presents a range of political opinions and a diverse selection of persons from whom to choose.

Hayek envisions this extended democratic franchise as part of a public sphere that includes a free press, open discussion, and a diverse collection of civil associations. For him, "the case for democracy and the case for freedom of speech and discussion are inseparable," and that same "case" could justify an extended franchise alongside a free press, supported by the fundamental freedoms of thought and discussion.[55] Both kinds of institutions allow for a range of ideas to manifest in debate, enabling a discovery procedure predicated on allowing what is "new" to emerge, to be discussed, and to be tried.

In this way, the public sphere Hayek has in mind (of which the franchise is one part) mirrors some of the benefits of the more familiar market discovery process he identified. The free market "will prevail in comparison" to a top-down, planned economy, as it leaves open an array of possibilities enabling adaptation, adjustment, and discovery of the unknown or unutilized. It does not foreclose new methods or prospects in deference to a "planned order," but acts as a "process of exploration in which prospectors search for unused opportunities."[56] Furthermore, a free market incentivizes potential entrepreneurs to search for and seize previously unrecognized prospects. For Hayek, the advantages of a market system emerge most clearly for underdeveloped nations:

> [The] required changes in habits and customs will be brought about only if the few willing and able to experiment with new methods can make it necessary for the many to follow them, and at the same time to show them the way. The required discovery process will be impeded or prevented, if the many are able to keep the few to the traditional ways.[57]

Of course, even the most diverse democratic franchise cannot enable the *same* competitive discovery process as the market. Democracy does not allow for the range of choice that the free market does. There are only so many institutional arrangements from which we may choose, even with a broader franchise and the many options it might present.[58] Nor does a democracy incentivize entrepreneurs (in this case, ideological entrepreneurs) to the same extent as a system of profit and loss. Democracy, after all, lacks an institution parallel to the price system, which facilitates a process of learning via a nonverbal "message" between buyers and sellers, expressed in the prices they are willing to pay.[59] But on this point, the appropriate comparison is not the difference between the market and the franchise, but between a market and a planned society, and an extended franchise and an elitist one. To use Adam Martin's phrase, it is between the forces of progress and those of decline, the two sides of what Hayek identifies as a perennial struggle of social decision making.[60] A market allows for discovery; a planned society limits it.

Similarly, an extended franchise, for its ability to offer varied opinions and perspectives, serves social discovery better than the elitist alternatives. It supports a public sphere predicated on the free circulation of opinion that allows us to keep options open, to recognize and "experiment" with new methods and ways of living.

When viewed in this way, we can distinguish Hayek's take on political learning from other views in defense of democratic institutions. The benefits of suffrage are not in gaining access to a stock of knowledge already possessed by the voting public, as Mill claimed, but in discovering, experimenting, and reforming what is possible. It enables potential challenges to the "traditional ways" of stationary, elitist politics that stifle evolutionary change. Note that this justification departs from the emphases on truth tracking, political cognitivism, and knowledge aggregation in the existing epistemic-democracy literature, some of which relies on Hayek's theories of knowledge.[61] Though such features serve as defenses of democratic *procedure*, they are not the ones Hayek appeals to when considering what a democratic franchise could do nor those most original to his thought.

If an extended franchise enables discovery, other institutional alternatives foreclose it. Both an entrenched elite and a majority embody those "traditional ways" that impede or minimize discovery. Each group, as we have seen, tends to substitute its own ends for the spontaneous processes of society; an elite political class may exercise the same stationary, reactionary control as a majority, a point that the conservative targets of Hayek's postscript allegedly overlooked. We may admit, with Hayek, "that democracy does not put power in the hands of the wisest and best informed," yet nonetheless prioritize discovery over alleged wisdom. This may mean sacrificing "good outcomes" for the mere promise of the unknown and untried. Still,

> it is in its dynamic, rather than its static, aspects that the value of democracy proves itself … the benefits of democracy will show themselves only in the long run, while its more immediate achievements will be inferior to those of other forms of government.[62]

Elite rule can lead to wise policy, but at the price of political privilege, monopoly, and hierarchy.[63] Just as the achievements of a planned order pale in comparison to spontaneous evolution, even the most "wise" outcomes of expert rule are far outweighed in the long run by the insights gained through the dynamic process of an inclusive franchise.

5.2. Political Knowledge and Voter Ignorance

Hayek's contrast between dynamic and static, between a more universal franchise and a limited one, highlights his conclusion about the costs of a more learned but nonetheless repressive rule of the elite. Other parts of Hayek's thought similarly undermine justifications for the role of "wisdom" in politics. His theory of knowledge leads us to question the very value of a concept such as elite wisdom or political expertise. He famously argues that the economic problem concerned the nature of human knowledge – dispersed, local, "incomplete and frequently contradictory."[64] The real economic problem, then, is not to determine the means for achieving proposed ends, but to arrange institutions to maximize the use and transmission of knowledge that is naturally dispersed and individually held.

We have failed to acknowledge this fact out of pride; society prizes scientific, technical expertise while holding contempt for what is local and circumstantial. Such a "prejudice," Hayek notes, has obscured both the social problem to be solved and the "marvel" of the price system, which acts as its remedy in the free market.[65] It has also unfairly belittled the knowledge of the "the man on the spot … of people, of local conditions, and of special circumstances" that serves as a valuable asset for individuals and, when rightly ordered, for entire societies.[66]

Much of Hayek's discussion of knowledge is framed by a larger explanation of market mechanisms, and we might be tempted to restrict his condemnation of expertise to the economic problem. Yet he specifies that the epistemic challenge is "by no means peculiar to economics and arises with nearly all truly social phenomena."[67] His 1975 Nobel lecture "The Pretence of Knowledge" boldly extends this criticism of the bias toward scientific expertise. It concludes with a warning:

> If man is not to do more harm than good in his efforts to improve the social order, he will have to learn that in this, as in all other fields where essential complexity of an organized kind prevails, he cannot acquire the full knowledge which would make mastery of the events possible. He will therefore have to use what knowledge he can achieve, not to shape the results as the craftsman shapes his handiwork, but rather to cultivate a growth by providing the appropriate environment, in the manner in which the gardener does for his plants.[68]

We may debate whether the political order in fact qualifies as a field of "essential complexity." Nonetheless, Hayek's conclusion is unmistakable: we ought not allow knowledge or expertise to become pride. There is not much that separates the "pretence of knowledge" from "man's fatal striving to control society."[69] This is not to deny the value of expertise in certain fields. But like the judge of Hayek's constitution, the expert ought to recognize herself only as a steward – a gardener – of the grown order and not the craftsman of it.

We can use Hayek's claims on this point to question recent arguments in favor of epistocracy, or what Jason Brennan calls "the rule of the knowers."[70] Following Hayek, we need to ask who the knowers are and precisely what kind of knowledge they have. We can readily admit, as Brennan does and Hayek undoubtedly would, that some are more "competent" than others when it comes to political decisions. But as we have seen, this type of competence is not simply a net good, nor the most conducive to achieving the "best" political outcomes. In fact, Hayek's thought forces us to reconsider what it means to talk about the "best outcomes" of any system, economic or political. In economics, we cannot lose sight of what the decentralized mechanisms of the market have allowed us to achieve. In politics, we have to weigh the value of elite competence against the dynamic character of a democratic franchise as he described it. Epistocratic regimes have the potential to become as stagnant, stationary, and traditional as majoritarian ones. A competent political class is still an entrenched, monopolistic one, whose rule precludes the dynamic discovery process of a universal franchise.

A thoughtful epistocrat might respond by clarifying his thesis. Brennan specifies that the aim of epistocracy is not necessarily to preserve the authority of a competent elite. Instead, its justification relies on *antiauthority*: "When some citizens are morally unreasonable, ignorant, or incompetent about politics, this justifies not permitting them to exercise political authority over others."[71] The aim of epistocratic

rule is protective, to shield "innocent people from incompetence." Bryan Caplan focuses similarly on the political consequences of voter ignorance to support his schema of weighted voting for the economically literate.[72]

Hayek would share many of their concerns, including that about the tendency to overvalue democracy. Still, his description of democratic rule urges us to revisit the very concept of voter ignorance and its justificatory role in epistocratic arguments. To understand democracy correctly, for Hayek, is to recognize a process of opinion formation and dynamism, whose true achievements – and therefore our judgment of their value – take time to unfold. The conservatives' failure, as Hayek put it, was to evaluate democracy moment by moment as a static institution in which wisdom or ignorance can be measured in a single act. If we adopt this short-run view, we are more likely to argue for elite over popular governance.

Hayek emphasizes, however, that "we cannot take the understanding of the issues by the people at any given time as a datum," reinforcing his interpretation of democracy as a dynamic process.[73] If we understand democracy as he did, we have to reconsider the meaning of a term such as voter ignorance. For if democracy is constantly unfolding, such that no single moment can be taken as a datum for or against, then voter ignorance is not quite the problem that Caplan and others present. At the very least, it ought not justify the rule of a competent few. The value of democracy is not that each person (or even most people) knows the truth at any given time, but that the entire process allows for long-run discovery and reform. When coupled with his comments on the pretense of knowledge, Hayek's presentation of democracy can be used to contest the foundations of epistocracy, whose proponents seemingly commit the same error as the conservatives from his postscript. Voter ignorance as a concept is just as misleading as perfect knowledge; neither can justify claims to authority, and when they (wrongly) do, the result might come at the expense of a free society.

6. CONCLUSION: DEMOCRACY AND EXPERTISE

Hayek's scattered reflections on democracy alert us to both the perils of popular institutions and their benefits. Depending on its direction, democracy could become either despotic or dynamic, either destructive or supportive of a spontaneously ordered society. In this respect, he extends the later part of the individualist tradition, initiated by Burke, Tocqueville, and Acton, and is both more ambivalent about democracy *and* more skeptical of political expertise than his interpreters have acknowledged. But this ambivalence also reveals his novel defense of the extended franchise as a discovery process whose long-term benefits outweigh its short-term defects. For Hayek, the franchise serves as part of a dynamic public sphere, supported by the fundamental freedoms of speech and association. The stark choice, as he presents it, is between the political learning of the institutions within this public sphere and the stagnation of a despotic, closed society.

In that same ambivalence toward democracy, we can unearth Hayek's potential contribution to present-day debates about a narrow franchise and epistocratic

authority. His thought reminds us that the prideful bias toward expertise can continue to obscure the importance of free institutions and that wisdom might not be the highest value for a well-ordered liberal society.

NOTES

1. Hayek, "Postscript," 522.
2. Hayek, "Postscript," 525.
3. Bellamy, "'Dethroning Politics'" and Vanberg, "Liberal Constitutionalism, Constitutional Liberalism and Democracy."
4. Boettke, Tarko, and Aligica, "Why Hayek Matters," in *Revisiting Hayek's Political Economy*, ed. Peter J. Boettke and C. Coyne, 163–85; Müller, *Political Pluralism, Disagreement and Justice*; Pennington, "Hayekian Political Economy and the Limits of Deliberative Democracy." Still other epistemic democrats minimize Hayek's contribution. Landemore, for example, sees Hayek's theory of dispersed knowledge in the market as only "orthogonal" to democratic reason. Landemore, *Democratic Reason*, 85–6.
5. For example, John Gray claims to give sustained critical attention to Hayek's "general philosophy" and yet devotes no more than a paragraph to the place of democracy. Gray, *Hayek on Liberty*.
6. Hayek, "Individualism," in *Studies on the Abuse and Decline of Reason*, ed. Caldwell, 46–74.
7. Hayek, *Rules and Order*, 2 and Hayek, *Constitution of Liberty*, 183.
8. Hayek, *Rules and Order*, 3.
9. On Hayek as a critic of liberal constitutionalism, see Boyd, *Uncivil Society*.
10. In fact, Hayek claims that democracy and totalitarianism are not opposites. See Hayek, *Constitution of Liberty*, 166.
11. On justice and social justice, see Hayek, *Mirage of Social Justice*.
12. Hayek, *Constitution of Liberty*, 168.
13. Hayek, *Constitution of Liberty*, 170.
14. Hayek, "Individualism"; Hayek, "Postscript"; and Hayek, *Mirage of Social Justice*.
15. I focus on what Hayek calls the "individualist" tradition of the seventeenth through nineteenth centuries and do not address the Austrian school of economics. On this influence, see Boettke, "Use and Abuse of the History of Economic Thought within the Austrian School of Economics" and Caldwell, *Hayek's Challenge*.
16. Hamowy, *Scottish Enlightenment and the Theory of Spontaneous Order*; Petsoulas, *Hayek's Liberalism and Its Origins*; and D'Amico, "Spontaneous Order," in *Oxford Handbook of Austrian Economics*, eds. Boettke and Coyne.
17. Hayek, "Individualism," 50.
18. Hayek, *Mirage of Social Justice*, 67.
19. Hayek, "Individualism," 73.
20. Hayek, *Constitution of Liberty*, 148.
21. Here, we should note, Hayek's affinity for Burke becomes clear as well. Hayek, "Individualism," 67.
22. Hayek, "Individualism," 73.
23. Hayek, *Constitution of Liberty*, 167.
24. Hayek, *Constitution of Liberty*, 171.
25. See the discussion of cosmos versus taxis in Hayek, *Rules and Order*, ch. 2.
26. Hayek, *Constitution of Liberty*, 176.
27. Hayek, *Constitution of Liberty*.
28. Hayek, "Individualism," 72. See also Hayek on "the traditional ways" of underdeveloped societies. Hayek, "Competition as a Discovery Procedure," in *Market and Other Orders*, ed. Caldwell.
29. Hayek, *Constitution of Liberty*, 183.
30. Hayek, *Constitution of Liberty*. Emphasis mine.

31. Hayek, *Rules and Order*, 2.
32. On the role of a philosopher class, see Hayek, *Constitution of Liberty*, 178.
33. Hayek, *Rules and Order*, 2.
34. Hayek's view of law is beyond the scope of this chapter. For a discussion of Hayek's "confusion" on types of law, see Hasnas, "Hayek, the Common Law, and Fluid Drive."
35. Hayek, *Rules and Order*, 99.
36. Hayek, *Rules and Order*, 97.
37. Hayek, *Rules and Order*.
38. Hayek, *Political Order of a Free People*, 112.
39. Hayek notes that sympathy is actually a liability. Hayek, *Rules and Order*.
40. Hayek, *Political Order of a Free People*, 135.
41. Hayek, "Individualism," 54 and Hayek, *Rules and Order*, 101.
42. Hayek, *Rules and Order*, 95.
43. For example, see Edmund Burke on qualifications for government. Burke, *Reflections on the Revolution in France*, 139–44. On Tocqueville's shifting views on suffrage restrictions, see Gannett, "Tocqueville and the Politics of Suffrage."
44. Hayek, *Constitution of Liberty*, 169.
45. Hayek, *Constitution of Liberty*, 169n4.
46. Hayek, *Constitution of Liberty*, 169.
47. This is one source of Brennan's epistocratic critique of universal suffrage. As we will see, Hayek shares this view with the epistocrats but offers an alternative defense of a large electorate. Brennan, *Against Democracy*.
48. The two issues to which democracy could be extended, he writes, are the franchise and "democratic procedure." The existing literature has focused almost exclusively on the latter.
49. It is likely that Brennan and Bryan Caplan, the two representatives of epistocracy in this chapter, would dispute this characterization. But insofar as their critiques of democracy share central features with those conservative claims that Hayek criticizes – claims of voter ignorance, defenses of an electorate restricted to the "educated" – the comparison is appropriate in this context.
50. Hayek, *Constitution of Liberty*, 174.
51. Mill, *Considerations on Representative Government*, ed. Robson, 400.
52. Hayek, *Constitution of Liberty*, 174.
53. Hayek often criticizes Mill for lapsing into rationalism. See, for example, Hayek, *Constitution of Liberty*, 174n11.
54. Hayek, *Constitution of Liberty*, 174.
55. Hayek, *Constitution of Liberty*, 175.
56. Hayek, "Competition as a Discovery Procedure," 305, 312.
57. Hayek, "Competition as a Discovery Procedure," 313.
58. Scholars have proposed polycentric governance as a means of approximating market competition under political arrangements. See Ostrom, Tiebout, and Warren, "Organization of Government in Metropolitan Areas"; Kogelmann, "Justificatory Failure and Moral Entrepreneurs," in *Exploring the Political Economy and Social Philosophy of FA Hayek*, ed. Peter J. Boettke, Jayme Lemke, and Virgil Henry Storr, 79–99; and Müller, "Epistemic Democracy."
59. Pennington notes this as one of the limits of democratic deliberation from a Hayekian perspective since democracy relies on verbal communication. Pennington, "Hayekian Political Economy and the Limits of Deliberative Democracy," 731–2.
60. Martin, "Limits of Liberalism."
61. On truth tracking, see Estlund, *Democratic Authority*; on cognitivism, see Landemore, *Democratic Reason*. For an overview of this literature, see Schwartzberg, "Epistemic Democracy and Its Challenges."
62. Hayek, *Constitution of Liberty*, 174.
63. Hayek, "Postscript," 524.
64. Hayek, "Use of Knowledge in Society," 93.

65. Hayek, “Use of Knowledge in Society,” 101.
66. Hayek, “Use of Knowledge in Society,” 95.
67. Hayek, “Use of Knowledge in Society,” 101.
68. Hayek, “Pretence of Knowledge,” 371–2.
69. Hayek, “Pretence of Knowledge,” 372.
70. Brennan, *Against Democracy*, ch. 8.
71. Brennan, *Against Democracy*, 17.
72. After reading “The Pretence of Knowledge,” we have to question what that literacy amounts to and how it would be used. Caplan, *Myth of the Rational Voter*, 100.
73. Hayek, *Constitution of Liberty*, 174.

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