

### **Democracy: Problems, Yes: Solutions, No?**

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Democracy is the favored form of government in today's world. It is assumed by most theorists, rather than argued for, and its problems are scarcely acknowledged. Indeed, many of what I shall present as "problems" will be regarded by many as non-problems, or even as virtues. Those problems have to do, generally speaking, with liberalism, but of the old-fashioned "classical" type rather than with what has come to be so called in contemporary Anglo-American philosophical circles. And so the need to reargue for the superiority of the classical type arises. I will not, for the most part, engage in that needed project here, though I hope that many readers will find these criticisms important as they are presented.

Insofar as democracy is actually argued for, I think it fair to say that the main theme of supporters is along the lines of the famous remark by Winston Churchill (among several others): that democracy "is a very bad system of government, except that all the others are worse." There is indeed some question just what defines a "system," but I shall suggest several points on which democracy can be improved - though perhaps the net effect of the improvements might be viewed as throwing out the baby with the bath water: what remains will perhaps not be recognizable as 'democracy.'

#### **Definition    Definition**

Despite no end of inchoate discussion alleging that precise definitions of such a concept are impossible, the notion of democracy lends itself to ready definition: it is Rule by The People. The ancients distinguished rule by "the one, the few, and the many"; democracy is the third of these. And it lends itself to a more precise and refined statement:

*Democracy is the equal distribution of fundamental political power.*

That the *equality* of the possession of political power is the basic idea of democracy is clear enough. Democracy is generated by mistrust of the leaders. If there is just one such leader, then all the rest will be concerned about tyranny; if there are several, then that still leaves a very large percentage who are simply ruled and must put up with it. The solution proposed by democracy is to give everybody a share in the power. But if it were greatly unequal, that would be little if any improvement; and to the extent that it is unequal, it is problematic from the point of view of those coming out on the short side of the inequality. If the members of subgroup S1 have a hundred votes each while the rest, S2, have but one each, we may be sure that the S2s will be aggrieved.: as a claim that this is "democracy" it is a farce. Giving the S1s five votes and the S2s four would be much less unequal, but it would also be bizarre and pointless. So we achieve the solution, abstractly, when everyone is given an equal amount. But just how to do this remains a question, to be sure.

The word 'fundamental' here is intended to accommodate the fact of *representative* government, where each citizen elects the basic lawmaking group, which in turn generates the laws but does so subject to the will of the voters. The argument that a "New England Town Meeting" is a better instantiation of democracy may be allowed a certain plausibility, but when the "town" has thousands, even, let alone millions, the idea is impractical in the extreme. Voting for someone who will devote much or all of his time and energy to lawmaking is arguably a good substitute, and the argument will be simply accepted for present purposes.

## Variants Variants

Perhaps those who have doubts about ready definition are really descending one level, and asking whether the idea of rule by the people, even as explicated along these lines, is itself clear. That is a reasonable question, and some different ideas are possible here. I will distinguish three, among which the first is very clearly, and not surprisingly, the standard idea:

1. Government by election, in which all citizens (of age) have the vote, and majority or plurality determines the outcome.
2. Government by each, everyone taking turns at political office, equally.
3. Self-government, in the literal sense that each person rules over himself/herself.

The first idea is so familiar and pervasive that we may sympathize with a charge that the other two are of essentially academic interest. It is not so, in fact - they are of real interest. However, it may be agreed that when people use the word 'democracy' today they essentially always mean the first, and might be puzzled at the others. But each can be defended, in ways that raise interesting issues. The second of the three angered Plato and Aristotle: one needs, on this view, no "qualifications" to occupy public office, which is determined by lot. We might refine this to ensure that everyone has an equal stay in office. But with nation-states whose populations run to many millions, that idea is utterly impossible. In America there once was a radio program called "Queen for a Day," the title being self-explanatory. But to adopt all-take-turns democracy in America today would make each person the monarch for about 0.1 seconds.

But if we instead interpret this in terms of contending political groups in the community, then we have the source of a great deal of very serious political concern: that elements of the community of different sizes should nevertheless each be able to exercise serious rule in some proportion to their numbers or their importance along some other dimension is a widely accepted idea. We will advert to that issue later in this essay [see 'Majoritarianism'].

The third recalls John Stuart Mill's observation, that "The "people" who exercise the power are not always the same people with those over whom it is exercised; and the "self-government" spoken of is not the government of each by himself, but of each by all the rest."<sup>1</sup> But he offers this in the spirit of complaint, as will I. The idea that each person should in truth be regarded as the ultimate authority over himself or herself is fundamental to liberalism. Taken to an extreme, however, it arguably implies the equal distribution of political power *at zero*: strictly speaking, *no one* should have *political power* over *anyone* else on this view, and that is anarchy rather than democracy as normally understood. And that is so different from what democracy is ordinarily understood to involve that it is best to retain the separate word 'anarchism' to designate the theory that this is the fundamental truth of the matter, rather than to insist that anarchism is what democracy strictly speaking consists in or leads to.

For present purposes, then, 'democracy' will be used only in the first of these three understandings. But it will not be taken for granted that it is the only legitimate type. That remains as an open question here.

## Institutionalizing Democracy

It is familiar to find democracy defined in terms of voting, and for good reason. The argument that

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<sup>1</sup> Mill, *On Liberty*, Ch. 1.

we achieve democracy by giving everyone the vote and then doing things by majority rule, or if that is lacking by some kind of plurality procedure, proceeds quickly enough from our general conception. If “the people” are indeed to *rule*, then a mechanism is required for translating this abstract idea into a practically workable form. That the *equality* of political power is the basic idea of democracy is clear enough, as noted above. Voting, on a basis of one vote for each person, has the inestimable merit that votes are countable, and the one-each formula provides an interpretation of equality that is as literal as one can get<sup>2</sup> (with some qualifications, to be discussed below).

But why *majority* rule? Here again there is an elegant answer. If the number required to “pass” or “elect” is less than 50%, then rival candidates or measures could both be certified, which is nonsense. If it’s significantly more, however, then those who vote “against” would seem to have more power than those who vote “for” and that appears to contradict equality.

Obviously there is a question of who is eligible at all. An intelligent youth of 13 might easily be more “capable” of exercising political power than an ungifted person of 30; yet the typical 30-year-old will be more competent than the typical 13-year-old. I shall not be concerned about this practical issue, though it certainly is one, as are issues about criminals, the insane, and the senile, plus innumerable questions about what is to constitute ‘citizenship.’ But nothing of consequence in this essay will turn on such questions.

### **Democratic Stability and the “Agenda” Question**

Now suppose that all we have so far is government by majority vote where each and every person in the polity has one vote. The issue of whether there should be restrictions on what we can *do with* this vote is the *agenda* question. Let’s consider first the obvious idea that the agenda should be absolutely unlimited: that is, that there are *no* restrictions on what people may vote *about*. Now suppose that it is proposed to disenfranchise 49% of the voters, and the remaining 51% vote solidly for this. Then those 49 would in future have no votes. Of course, this newly smaller constituency could repeat the process: 51% of the former 51% could vote to disenfranchise the remaining 25% - and so on. The limit of this process is something like a two-person voting public, which would effectively be a dual monarchy. Perhaps this is enormously unlikely. Less unlikely, however, is that the public votes in a party which then does away with all future voting - the Nazi victory in 1933 being an unhappily realistic case in point.

This leads, at least conceptually, to the need for a distinction, between what we might call “democracy at a moment” and *stable* democracy, democracy that continues on indefinitely into the future. What constitutional measures might be necessary to ensure that our public remains a democratic one? The most obvious one would call for viewing the citizen’s vote as something to which he is *entitled by right*, and specifically, that this right can *not* be overturned by majority vote. Thus in America, after a bitter and extremely bloody civil war, a constitutional amendment (No. 15) was added, to the effect that “The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.” Six hundred thousand people do not die in a fracas over definitions, one would think. But wise heads always saw that the institution of slavery was problematic in a nation claiming to be a democracy. This wisdom, alas, was not generally enough shared to prevent disaster.

<sup>2</sup> The number of votes each could, of course, be greater yet preserve the equality idea, but normally that is pointless and will be ignored here.

The right to vote quickly brings up another, in view of the Nazi example: the right to frequent elections. How frequent? Obviously that would have to be considered in light of empirical developments, but the general idea is that once a government is voted in, it must be possible to vote it out again, and to do so at a time consistent with its “proving” itself, either positively or the reverse. If the government is seen to be doing well, the public should be able to confirm this; if it is seen as doing badly, the public should be able to remove it from power before more damage (as it sees it) is done. Once we have no more elections, democracy is at an end.

Thus far, then, we have two essential rights:

- 1) the right to vote
- 2) the right to reasonably periodic elections

To these we may add some further, subtler but likewise essential provisions:

- 3) the right to run for office
- 4) the right to freedom of *political* speech
- 5) the right to non-intimidation for *political* reasons<sup>3</sup>

Each of these is called for by the idea of political equality. If some people are forbidden to run for office, then obviously those people have less political power than those who are allowed. For example, members of the Communist Party of the Soviet Union were the only persons who could occupy political positions in that regime - and the CPSU had something like 2% of the populace.<sup>4</sup> Obviously the votes of the remaining 98%, even though they were “allowed to vote,” were a farce. The near-100% votes routinely achieved by “candidates” in that regime meant nothing, and no one would account the Soviet regime as a genuine democracy.

Suppose that while all are permitted to run for office, some are not permitted to *say what they think*, or their access to relevant political information is significantly abridged? Again, those not subject to such restrictions obviously have *more* political power than those not so restricted. This point is of real-life importance in democracies everywhere. Where governments impose silence or refuse permission to libraries and archives, and other sources of potentially relevant information for politics, then we may again criticize those governments on specifically *democratic* grounds.

And of course, if those who are “allowed” to run for office are also pointedly reminded that they will be put in jail if they try, or their incomes confiscated, or their families threatened, then we again have significant inequalities of political power, and the democratic idea is violated.

So far, then, the point is that we have a democracy that can endure only by virtue of embedding in the constitution certain constraints on the operation of the majority principle. If we regard the majority principle as, in a sense, embodying the very essence of democracy, then these restrictions can without

<sup>3</sup> Footnote on a source referring to Robert A. Dahl ?????

<sup>4</sup> The percentage varied from less than 1% to a high of about 10% by the time of the Soviet Union's dissolution). It is fascinating that Communist parties typically described, and often renamed themselves, as “democratic,” as for example “people's democracies.” Prima facie, this sounds like rhetoric of a particularly aggressive kind. Did something further lie behind it? That question will be addressed later in this essay. See [http://en.wikipedia.org/wiki/Communist\\_Party\\_of\\_the\\_Soviet\\_Union](http://en.wikipedia.org/wiki/Communist_Party_of_the_Soviet_Union).

excessive rhetoric be described as restrictions or constraints *on democracy*. It would be excessive rhetoric, perhaps, to go on in the style of some of the romantic idealists and proclaim that democracy is internally self-contradictory, or some such. But it is not excessive to say that there's more to democracy than *just* voting. How much more? The list we have just generated is concerned exclusively with maintaining democracy over time, and especially with its idea of equality of the division of political power. We will refer to those rights as *democratic* rights, which in turn are *political* rights. From here, the plot thickens, as will be seen next. Political rights, in this sense, are not all that we want in a polity.

### **Liberalism and Democracy: Civil Liberties**

The expression 'liberal democracy' is often used as if it were strictly redundant. *Of course* democracy is liberal - what else? - so it might be thought. But there is ample room to be dubious about this. To be sure, the word 'liberal' is itself the subject of much discussion, and of much expansion and redefinition. I will be concerned to suggest a definition of 'liberal' for political purposes, shortly, but without doing this it is safe to point out that with political liberalism has always gone, especially, an idea of *civil liberties*. The American constitution famously includes a set of specifications of citizen rights, in the so-called Bill of Rights, originally the first ten amendments to the main document. Included in this bill were freedom of speech and religion, rights against arbitrary searches, seizures, convictions and punishments, and a "right to bear arms" which has since become controversial. The Canadian Charter of Rights and Freedoms - adopted in 1982, over a century after its original constitutional structure was established (1867) - adds explicitly some items that was taken for granted prior to the new Charter, and more or less taken for granted by Americans as well: the "right to life, liberty and security of the person," of "peaceful assembly" and of "freedom of association."<sup>5</sup>

What is significant about these hallowed liberal rights is that none of them is clearly entailed by the institution of democracy in the narrow sense identified above. Clearly it is perfectly possible for a democracy to establish a state religion (as exists to this day in Great Britain, for example), to censure or prohibit the publication of books and newspapers, or the making of various speeches, and to outlaw various "lifestyles" such as homosexual relations, polygamy, abortions, the wearing of this or that kind of clothing, or none. Precisely which of these is compatible with *liberalism* is indeed an interesting question, but no one seriously supposes that liberalism would permit, say, the beheading of someone on the ground that he had renounced a particular religion,<sup>6</sup> or the incarceration of people for being homosexuals.

If these and others are genuinely rights, then it seems that they are rights that are not necessarily ensured by democracy in the narrow sense identified above. Indeed, this is putting the matter much too mildly. For as a matter of historical fact, nations claiming to be democracies have generated, by the familiar procedures of honest elections, restrictions on all of the above. How much in the way of civil liberty we will enjoy in a democracy is *up to the majority*, not a matter of basic rights.

<sup>5</sup> Texts of both of these documents are easily found on the internet, via Google or other standard search engines.

<sup>6</sup> There is a fascinating discussion of the case of religion by Anthony Ellis ("What is Special about Religion?," in *Filozofski Godisnjak, Godina XV, 2002 (The Philosophical Yearbook vol. XV, 2002 (Belgrade, 2002)*, pp. 99-116. Ellis asks what is special about religion that might give it the sort of special isolation from politics, etc., often proclaimed for it. He does not, however, think that it is perfectly OK for states to engage in beheadings on religious grounds!

Which is more important - the right to vote, or the right to practice a religion of one's own preference? The right to vote, or the right to publish novels with detailed descriptions of sexual activities? The right to vote, or the right to assemble with fellow anarchists? The point is not that the answers are obvious, but rather, that they do not obviously favor the right to vote, if one really had to take one's choice. More precisely: the right to vote, without further restrictions, *is* the right to deprive fellow citizens of almost any civil liberty, short of those specifically required by democracy.

It may be said that conspicuously missing from the list more or less assembled above is anything about a right to *equality*. That is true, and the omission is intentional. The role of notions of "equality" in liberalism is a matter of much debate, of course. But note that democracy is itself an equality right. It calls for the equal distribution of political power. On the other hand, the connection between, say, freedom of religion and "equality" is unobvious, unless by a right of freedom of religion, one merely means that *everyone has it*. To proclaim such a right is certainly not to imply that one religion is "just as good as" another, for example. No sincere practitioner of any religion is going to agree with that. But of course equality is meant to imply *universality*, a property that is often enough equated with equality. But the equation is a mistake, as will be especially evident in our next discussion, where we turn to *economic* rights.

### Economic Rights

It is no surprise to anyone that the economic rights of citizens are a subject of great controversy. The most obvious and natural reading of the idea is that we have freedom to engage in *economic transactions*, specifically of buying and selling. Buying and selling what? Anything that we own. But what do we "own"? Again, there is a fairly familiar account here, starting with the freedom to use one's body and mind as one wills, consistently with the like freedom of all others. If these freedoms are converted to *rights*, we have the classically liberal idea of economic rights. We are, on this view, to be permitted to engage in exchanges so long as they are voluntary to all participants, and provided that they not inflict damage on those not parties to the exchanges. The hallmark here is liberty, in the sense of voluntariness. No one is to make his or her way in the world by using violence, theft, or fraud against others; within those restrictions we may do as we like.

On this understanding of economic rights, we soon find a clash not only with democracy, but with government in general. To see this, consider the insufficiently noted dictum of John Locke:

135. Though the *Legislative*, whether placed in one or more, tho' it be the *Supreme* Power in every Commonwealth; yet,  
*First*, It is *not*, nor can possibly be absolutely *Arbitrary* over the Lives and Fortunes of the People... *Secondly*, the *Legislative* ... cannot assume to itself a power to Rule by extemporary Arbitrary Decrees ... *Thirdly*, The *Supreme Power cannot take* from any Man any part of his Property without his own consent."<sup>7</sup>

It is the third of these that should make us sit up and take notice. For if we assume, as we surely should, that one's *income* is one's "property" in the relevant sense, then the effect of Locke's third stricture would be to outlaw *taxation*. For after all, taxation is precisely the taking of people's money without their consent. Not, of course, without the consent of the *majority*, that being the defining feature of democracy - just without "his" consent, that is, the consent of the individual whose money is taken by taxation. But that is the individual who *has* this right, if the classic view of liberalism is to be

<sup>7</sup> John Locke, *Second Treatise of Civil Government*, #136-138.

taken seriously.

I need hardly add that it is not “taken seriously” by very many writers today. The legitimacy, the need for government is asserted, assumed, and in short simply taken for granted by almost all. Should it be? Not if we think that the purpose of government is to respect the rights of citizens. If those rights come first, and government is subordinate to them, then it can *never* be simply taken for granted that a given dictum of government is legitimate. Only if one person’s right collides, somehow, with another’s would government be permitted to act.

But all of this would mean nothing if citizens have rights substantially different from those proclaimed by the classical liberal, to be sure. For example, if people have the right to “economic equality” in the sense of something like equal income or equal property, irrespective of the way in which one might have earned whatever he has, then indeed taxation and much else would be justified. And certainly *democracy* is easily capable of assaulting the economic liberties advocated by Locke (and by today’s “libertarians,” among whom this author may be counted.<sup>8</sup>)

### “Two Foxes and a Chicken”

A famous quip attributed to the American writer H. L. Mencken has it that “Democracy is two foxes and a chicken, sitting down to decide by majority vote what they shall have for lunch.”<sup>9</sup> If what democracy gives us all is the vote, along with the set of strictures developed above, then the attribution is perfectly apt. What indeed is to prevent the majority - presumably the 51% of the people with incomes less than those of the remaining 49% - from transferring income from the “aboves” to the “belows”? In the absence of economic rights, the answer is, quite evidently - *nothing*. It will be difficult to find any democratic legislature anywhere in which any member objects to a proposed measure that it would involve *theft* against some class of citizens. The State’s presumed right to tax “for the general welfare” or whatever, is now taken utterly for granted, among those holding political power. In a democracy, as usually understood, all citizens have a hand in every other citizen’s pockets.

That’s hardly surprising, since in the absence of a right to tax, there *is no* political power. It does not follow, however, that all of these politicians, or their philosophical apologists, are in the right. In any case, we do well to explore the case for democracy when, as it almost always is, it is in conflict with the classic view of liberal rights.

### Majoritarianism

Democracy subjects everyone to the will of the majority. The familiar term ‘majoritarianism’ is generally taken to imply that this is a problem. But, which problem? There are two, really: a well-recognized one, and another that is more fundamental and not enough queried.

The first is what we may call Stable Majoritarianism. Suppose the community to be divisible, however messily, into two (or more) subgroups of distinct ethnic or cultural or perhaps religious type: say, Catholic and Protestant. And suppose that one of these subgroups is substantially bigger than the other (for example, anglophones and francophones in Canada, the former outnumbering the latter by

<sup>8</sup> See for example Jan Narveson, *The Libertarian Idea* (Broadview Press, Canada, 2001)

<sup>9</sup> I have been unable to find the precise source of this saying in Mencken’s writings. It is widely attributed to him, and certainly characteristic. Perhaps, like Haydn’s famous “serenade” from the Quartet, Op. 3, No. 5, which is apparently not by Haydn, we should settle for conventionally ascribing it to Mencken on the ground that it is so like him that we’ll just declare it to be by him.

some three to one). If there is a correlation of political interests with these group divisions, then in a democracy, we will expect that the larger group will *always* get its way. For in a democracy, the numbers are what count, and here the numbers substantially favor one group. In this circumstance, surely, the smaller group has a complaint. Harkening back to our distinction of three Variant understandings of equality of political power, the problem here is that while each has one and only one vote, the common interest of the dominant group is such that the other group may as well have no vote at all!

This surely appears to be an inequality of political power. Democratic theory tacitly presumes, we may say, that the distribution of significant, politically pursuable interests among the populace is essentially random; but this presumption can easily prove to be false in a given case, and this is by no means a purely hypothetical possibility, as we have seen. What can be done about it? Certainly civil wars and dissolution of states can be motivated by this circumstance. Less drastic palliatives include constitutional assurances or other understandings that, say, the chief political office will be rotated between persons from the two communities. Whatever, the point is that democratic theory as such does not obviously offer any solution.

This brings us to the more general version of the problem: whatever the case with *stable* majorities, the effect of democracy, inherently and necessarily, is that, in regard to any particular elective matter, a minority - those who vote with the losing side - is subordinated to the majority. Democracy divides *political power* equally; but political power is the power to make enforceable laws. Those who lose are *compelled* to toe the line. This basic feature of democracy, as usually understood, raises the question: why? Most people do think there is something basically wrong with the practice of larger groups beating up on smaller ones. Most think that theft is wrong, when practiced by individuals or small groups of thieves. Why, in principle, does it become right when practiced by a united 51% of one's fellows? That is the basic problem of democracy. We will be concerned with that problem in the last part of this essay. It surely needs an answer.

### **Is Voting Rational?**

It is easy to wonder whether voting makes much sense for any given individual. Suppose the point of voting is to put the Good Guys in office. Will your vote do this, or even help to do it? It will if all the other voters are evenly divided. It won't if they aren't. Win or lose, *your* vote will have done nothing for this end, except in the one case where you break the tie.

The likelihood of this happening, especially in a large constituency with tens of thousands of voters, is of course extremely small. Suppose that the value you attach to your preferred side's winning is quite high; still, when multiplied by the probability of actually being any help, the net value of voting is typically going to be very, very low. It is easy to see that staying home and reading a good book, or watching TV, or whatever, might have a higher value to you than voting. And, of course, in typical elections apparently many agree: voter turnouts in democracies tend to be far short of 100% and in the U.S. are often around 50% and sometimes lower still. The point is that this isn't surprising.

Along with this, as Russell Hardin points out, we have a pretty good incentive for not making ourselves very well acquainted with the issues, and thus with the reasons for voting one way or another.

Why do much work along that line, if your vote means nothing anyway?<sup>10</sup>

This is particularly important because voter ignorance could lead to disaster. Hardin cites a particularly awful example: “Results of referendum votes on even relatively simple issues suggest astonishing misunderstanding by voters (see further, **Hardin forthcoming ?????**). California voters displayed cavalier irresponsibility in a recent referendum on a so-called three-strikes sentencing law that mandates harsh minimum prison terms for repeat offenders (**Estrich 1998 ?????**). In an early case to which the new law was applied, a one-slice pizza thief was sentenced to a term of 25 years to life, with no possibility of parole before serving at least twenty years, for his “felony petty theft” (New York Times, 5 March 1995).”<sup>11</sup> Below I shall expand on the point implicit in this striking example.

### **Democracy and Government by Special Interests**

The central idea of democracy is that everyone is equal, in respect of political power. It is thus especially ironic that perhaps the most serious problem of democracy is its tendency to lead to legislation for special interests. The story is familiar to students of political science. When the legislator is approached by representatives of some special group promising to bring him votes in return for legislative favors, the legislator is highly likely to respond favorably. Why? Because he *can* do this, and he can get away with it because the costs are diffused widely among the entire citizenry, whereas the benefits are concentrated to the members of the special interest group. And so the auto workers’ unions, the milk farmers, the exporters of this, the importers of that, and so on, each get special protections or favors - all at the cost of the public at large. (Not all of these costs are monetary.)

Legislation ought to be for the *common* good. Any use of the powers of government to favor some people *at the expense* of others surely looks to be wrong. Or so a lot of us think, and so most people think if you ask them point blank. Not very many people think that if a gang of thieves descends on Mr. Jones and takes his money and hands it to Ms. Smith (with a big cut for themselves, of course), that that’s perfectly all right. It surely looks as if that’s exactly what government of this kind is doing.

But we’ll return to that later. What is important here is that democracy is not only compatible with this sort of thing, but positively generates it, to a degree quite unprecedented by most sorts of government. (Not all: a real “kleptocracy” takes money from all and distributes it to relatives of the dictator, such as Mr. Mugabe in Zimbabwe. The resultant impoverishment of the country differs in degree from the relative impoverishment of the favored democracies. Does it differ otherwise? That’s the question!)

### **Government by “Sound-Byte”**

Plato fulminated, for good reason, about democracy as ruling on the basis of what is fancied rather than what is real. Ordinary people, he thought, were cave-dwellers, looking at shadows on the wall, not knowing what the true source of the shadows was. This charming story has its point, though. In democracies, politicians want to get elected. They make speeches and send out, perhaps, leaflets, and nowadays perhaps most of all, run television commercials of quite remarkably brief length. How much

<sup>10</sup> Russell Hardin, “Street-level Epistemology and Democratic Participation,” *Journal of Political Philosophy*, Vol. 10, No. 2, 2002, pp. 212-229.

<sup>11</sup> Hardin, op. cit., p. 215.

of real importance is the citizen going to learn from a 40-second speech? Can we expect wisdom from a multitude that has little or no time to study the issues? Can we expect it from the successful candidates for elections by those people? To ask these questions is to answer them. Democratic leaders are but rarely people of enormous intellect, learning, culture, or general wisdom. That is hardly surprising, of course, and it is not clear just how important would be a complaint to the effect that this is what we can expect from Democracy. No political system can guarantee the production of great statesmen, after all.

Can it even generate competent civil servants? This is another interesting issue. The tentative answer here is in the affirmative. But democracy doesn't get any real credit for this result. Competent civil servants have been frequent for centuries, even millennia. The reason is that they have jobs to do which simply *require* savvy, expertise, and an appropriate kind of knowledge. But civil servants are indeed *servants* and the question is, who are their masters? Part of the answer is: their bosses in the bureau they work in. Democracy's more fundamental answer, though, is "the people." But is it a plausible answer? Or do they instead serve their political bosses who, after all, hired them in the first place? And, in what sense do they "serve the people"?

The problem is that the elected legislators have an *interest* in appearing to do something for the public. That is how they get elected, after all. But are the things they propose to do things that really do serve our interests? Now the problem is that the legislator in a democratic system has a penchant for misstating and warping the truth, so as to favor *more expansive programs*. These catch the public eye, whereas merely letting people get on with their lives is unexciting. Thus the democratic candidate is only too happy to embrace the thesis that the world is suffering from Global Warming, and that in order to counteract this we must all be ready to restrict our output of CO<sub>2</sub> or whatever. This sells. He then gets his country to sign the Kyoto Accords - even though scientists have shown that they will actually do no good at all for counteracting global warming even if it is caused by CO<sub>2</sub>. Try to interest any politician in that fact - even though it completely undermines the point of the Treaty. This is one of innumerable examples that could be produced. The general point is that it is intrinsic to democracy that these kinds of developments are only too likely.

### **Democracy and War**

A more promising tendency, on the other hand, is the one discerned by Immanuel Kant in his celebrated essay on "Perpetual Peace." Kant argued that if all the world's states were *Republics*, then there would be no more wars. That is roughly because if the people had any real say on the matter, they would have no interest in foreign adventures, but would only sanction wars that were necessary for defending their country. If all wars are only defensive, then there will be no wars, apart from mistakes (which admittedly can happen. The present war in Iraq is often enough cited as a case in point.)

Kant does have a point, I think, though the scholarly ink is still flowing on the matter. There is impressive empirical support for his view.<sup>12</sup> Now, Kant did not actually think that democracy was the right form of a republic - indeed, he rails against it. We can table the general issue for the moment, because his argument appeals to the central idea of the people determining policy rather than a king or a small class of people who might have different interests about wars, and that is pretty close to democracy.

<sup>12</sup> Notably, see Michael Doyle, "Kant, Liberal Legacies, and Foreign Affairs," in *Philosophy and Public Affairs*: Part 1, 12 (Summer 1983), 205-35 ; Part 2, 12 (Fall 1983), 323-53

That is a decent argument for democracy, provided that no other sort of political system would have the same tendency. We'll revert to that question later on.

### Democracy and Liberalism

In the current era, the nearest thing we have to a consensus about political matters is that the way for any society to go is to embrace democracy *and* the accepted range of liberal freedoms, including, more or less, the free market. Those are the institutions figuring in Fukuyama's celebrated thesis of the "end of history."<sup>13</sup> Fukuyama summarizes that final form in the expression 'liberal democracy.' He also uses, in the same context, the expression 'the twin principles of liberty and equality' saying that they are the principles "on which modern democracy is founded."<sup>14</sup> The thesis that history was "at an end," he explains, is not the thesis that nothing happens any more, but rather than, ascending to the grand levels at which we are encouraged to think by the likes of Hegel and Marx, "there would be no further progress in the development of underlying principles and institutions, because all of the really big questions had been settled."<sup>15</sup>

My purpose in mentioning this intriguing and notorious intellectual thesis is not to enter into the debate whether he is right, but rather to point out that the mix Fukuyama pronounces to be the final stage in political development, and whose general plausibility is quite difficult to deny, seems on the face of it to be incoherent. Specifically, if we have democracy, then we do *not* have liberty. Those who insist that we do generally do so by, as we may put it, conceptual sleight-of-hand - in a word, by cheating. For if we *define* 'democracy' to include familiar liberal principles, then indeed the expression 'liberal democracy' becomes pleonastic. The trouble is that you don't establish the compatibility of p and q by defining another expression, 'r' as follows: 'r' = 'p & q.' It is easy enough to state the expression 'square circle' and one could go further and define a new term, say 'squirecle' to refer to anything that is both square and circular. But since it is logically impossible for there to be any such thing, one's fancy new expression isn't going to be of much use. People have been talking about "liberal democracy" for quite a long time, and the work of John Rawls,<sup>16</sup> in particular, which has made an unprecedented impression on social philosophy in the world, has done a great deal to solidify the grip of the idea on thousands of professional philosophers and hundreds of thousands of others in the past few decades. But, alas, none of this overcomes the fundamental problem. *If* indeed 51% of your fellows, simply by putting a mark on a piece of paper, may *compel* us to do something whether we like it or not, just how, please, are we *free*?

If we add to our liberal constitution that there are various cases for which the above does not hold - mere majorities in legislatures are *not*, after all, enough to impose these restrictions on you, then what has happened to "rule by the people"? An answer, of sorts, would be this: that we still have rule by the people in the sense of a constitution that is endorsed by *all rational persons*. But while that is not only

<sup>13</sup> Francis Fukuyama, "The End of History?," *The National Interest* 16 (Summer 1989), 3-18.

<sup>14</sup> Francis Fukuyama, in his introduction to his later book, *The End of History and the Last Man* (New York: Free Press, 1992), p. xi.

<sup>15</sup> Fukuyama, *op. cit.*, p. xii.

<sup>16</sup> See especially, John Rawls, *A Theory of Justice* (1st edition, Harvard University Press, 1971). See also, importantly, Rawls' later works, *Political Liberalism* (Columbia University Press, 1996); and *Justice as Fairness: A Restatement* (Harvard University Press, 2001)

an important and promising idea, and indeed one that I accept, it is not, as it stands, *democratic*. For the question is whether democracy is the political system that *would* be endorsed by all rational persons, and the trouble is that it seems pretty clear that it would not, insofar as democracy has anything to do with majority rule - that being, however, the familiar defining feature of the institution.

It is time, clearly, to raise the question, “what is liberalism”? While this has been the subject of enormous discussion and controversy, many writers being impelled to pronounce it an indefinitely “contestable” notion, I believe that we can set aside much of that discussion, which is really about which general institutions we should accept as being truly liberal rather than what is the liberalism claimed to be instantiated by this or that institution. If we ask, simply, what is liberalism - that is, among general theoretical outlooks on political and moral matters, what identifies the ones said to be “liberal”? - then I believe we have a reasonable answer available.<sup>17</sup> We can get at this by asking, what is it that government ought to be doing? What is it *for*? To this, I think, there are three general answers that make sense.

(1) We may answer in the spirit of Plato’s character Thrasymachus who says that “justice is the interest of the stronger party!” That is: the rational ruler will use his powers to enhance *his own* good, whatever the implications for the ruled, or anybody else. All of us, reasons such a theorist, are fundamentally self-interested, rulers as well as others; so of course, what else will they do but line their own pockets? *Kleptocracy* - that is the hallmark of rational government!

Needless to say, we all reject this first option. That is, we reject it as a *normative* idea, a proposed standard that we should all cheer for. On the contrary, of course: we stand ready to condemn any government, any minister of any government, indeed any official anywhere acting in a governmental capacity, who uses the powers of his office to promote his own good at the expense of others. The Thrasymachus idea may make very good sense as a working hypothesis about what to expect from actual governments - but not as an ideal to be instilled in the ruler. Just the reverse

What, then, do we say instead? We say, of course, that government ought to be aimed at the *good of the governed* - *not* - the good of the *governors*. We do indeed say this - but there is a fundamental and radical ambiguity in what we say, and this comes out in the distinction between my second and my third theories.

(2) Next there is what I take to be Plato’s own view. Clearly, what the good ruler will do is to figure out what *is* good for people, and then try to accomplish *that*. He will, for example, write Aristotle’s *Ethics*, according to which governments ought to *compel people to be virtuous*, along lines so interestingly developed in that famous treatise. Of course, as time goes on, various other theorists had quite other ideas about what constitutes the “human good.” Some of them identify this, for example, in the terms of some religion: the human good is eternal felicity as described by, perhaps, St. Augustine, or by Mohammed, or ... Secular variants will also abound. Recent supposed liberal governments, for example, have decided that *health* is so important that you, the individual, may be compelled to refrain from smoking, and indeed that everyone may be compelled to pay the medical bills of everyone else. They have decreed that “recreational drugs” are evil, and outlawed them accordingly. And so on.

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<sup>17</sup> This idea is developed in Jan Narveson, “Liberal/Conservative: The Real Controversy” in *Journal of Value Inquiry*, 2000, special issue on Liberalism, guest-edited by Jan Narveson and Susan Dimock vol. 34 nos. 2-3 (Sept. 2000), pp. 167-188.

(3) The trouble with view (2), as my examples are intended to show, is that people will differ about what's good. And when they do, who, then, is right? Here we come to *liberalism*, the dominant political outlook of our day. Liberalism responds to this question by saying that in the case of *your* life, *you* are. More precisely, it says that *we*, the rest of society, will regard *you*, any particular individual, as having the final say, the ultimate authority, on *your* good.

Notice that liberalism that *my* views about *your* good have no particular status whatever. If you say you want chocolate, and I think you should have vanilla, then society's institutions are to side with you, not with me. Will you devote your time to contemporary pop music? Or should you study and revere the works of Haydn and Brahms and Bartok? Any cultured person will say, of course, the latter. However, that very same cultured person, if he is a liberal, will quickly add that it's *your choice*, and that *my* tastes, or the tastes of the cognoscenti, have no bearing on the matter, except in the context of what we advise you to do. But as liberals, we think that governments should not be compelling people to support ways of life that are not *theirs*. Or if they should, then they will have to justify this by showing that it is somehow in the interest of *the persons compelled* to do this, despite their apparent lack of interest in that particular item. This, needless to say, is not easy to do - although it seems to be widely regarded as astonishingly easy, among politically ambitious persons at least!

Liberalism does not immediately entail the allegedly more radical view known as *libertarianism*, though that is certainly one liberal view, and the one advocated, at least as a political principle, by many of the great classic political philosophers (Hobbes, Locke, Kant, Mill ...) The libertarian holds that people may be compelled to do things only in order to prevent those compelled from doing what would, in turn, harm or coerce still other people. In a brief statement, it espouses the Non-Harm principle (sometimes called the "harm principle," perversely enough): that we may impose on people only in the interests of protecting others from damage, and not in order to promote any number of worthy causes. In sum, it's that we may not do good for some by doing evil to others.

It is controversial whether libertarianism is the only really rational version of liberalism. Most writers to day do not think so. Insofar as they deny the libertarian idea, they tend to do so on grounds of affirming some or other kind of *egalitarian* theory. There are as many versions of egalitarianism as there are factors to equalize, and as there are degrees of backing away from the full implications of the idea, which can easily be draconian in the extreme. In the present essay, we have been concerned with one particularly important and, popular kind of equalization, namely of *political power*.

And this is where, as young people would put it, the fun begins. For if it is meant to equalize political power in a sense compatible with *having quite a bit of it*, then the incompatibility between liberty and equality is glaringly obvious. *If* democracy is understood to be a system allowing that people may indeed pass laws, for any or no reasons, imposing on the civil and economic liberties of citizens, then it is plainly not compatible with liberty in the abstract. It is, of course, possible that the electorate will themselves be liberal, so that they would not in fact use their democratic powers to do things like that. But it is certainly not required that they be liberal in that way, nor is it expected. Indeed, it is specifically envisaged that people will be of innumerable different political and personal persuasions, despite which democracy hands them this sizable amount of power over their fellows.

Of course, we could look at it another way and suggest that political power should indeed be equal - but equal, as I put it above, at *zero*: *no one* may use *any* of his coercive capability to motivate people to do anything that they are not persuaded, on their own advice, that they'd like to do. But this, as I have insisted elsewhere, is not what egalitarians generally have in mind. And if it isn't, then the

incompatibility in principle remains.

### Democracy and The Market

Fukuyama, and many others, single out the free market as one of the lynchpins of the “end of history” format, and for very good reason, so far as it goes. We have every reason to think that insofar as there is economic prosperity in the world, and especially insofar as there is economic *progress* in the world, it is due to the operation of fairly free markets. In the present inquiry, though, we are not mainly concerned about empirical matters, but about conceptual ones. And here again it becomes painfully clear that there is no necessary connection between, and indeed a basic tension, even incompatibility, between democracy and the market.

Markets are distinguished by the presence of independent agents in command of desirable resources - capacities to perform services, and perhaps especially the service of entitling other people, at the will of the original possessor and by agreement with the new possessor, to the use of “goods”: consumer and capital goods alike. The possessors are usually characterized by economic theorists as “self-interested,” but that is highly misleading. Though all of us are to various degrees self-interested, nothing about the market requires that we be acting with a view to promoting our *own* good, in any sense in which that good can be identified as one’s own independently from all others. Almost always, we act for goods involving various others - loved ones, friends, associates, fellow enthusiasts for causes, and so on. What does matter is, first, that the agent be *in control* of whatever is exchanged, and likewise those with whom he makes the exchanges; and, second, that he be acting on a distinguishable set of interests, not identical with those of all others, thus rendering exchanges between them meaningful. When those conditions obtain (as they almost always do), then the agents’ and his interactees’ transactions are done with a view to their respective advantages, in the sense that the point of the exchange for each person is to enable promotion of something valued by *that* actor. It is not assumed that A has an interest in B’s good, or vice versa, nor that either of them has any particular interest in the *public* good, at least so far as these particular types of goods and services are concerned. It *is*, on the other hand, taken that there is a requirement to respect the rights of outsiders as well as fellow traders: transactions of A with B are not to impose harms on C. In the cases where this does happen, and happens independently of the will or permission of C, we have what economists call “negative externalities” and any liberal must agree that such eventualities are problems. We must either refrain from exchanges having such effects, or we must somehow compensate those upon whom they fall, so that in the end they do not, overall, suffer from our exchanges.

What’s essential about the market is that these outsiders need not *benefit* either. They *can* benefit, and typically, given a pretty substantial incidence of true market exchanges in the neighborhood, *do* benefit - enormously, in the longer run. That brings us to the famous “invisible hand” thesis of Adam Smith: an institution not designed to benefit the public - not, indeed, particularly “designed” at all, by anyone - nevertheless redounds, and redounds hugely, to the public benefit (“as if guided by an invisible hand,” as Smith famously says.)<sup>18</sup> Improved levels of wealth for A and B in general enable C to do better. They do not guarantee it, but they do make it both possible and likely.

What is particularly interesting about the market is that it has nothing to do with democracy.

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<sup>18</sup> For a fuller exposition, see Jan Narveson, “The Invisible Hand,” *Journal of Business Ethics*, Volume 46, Number 3 (September 2003), 1-19.

Worse, it appears to be pretty violently allergic to democracy. If you and I must await the approval of 51% of our fellows every time we think to make a deal, we will soon enough run out of patience and cease to do business. And if some legislature decides to favor Mr. Jones's business at the expense of Mr. Smith's, then not only will Mr. Smith be understandably annoyed, but members of the public will either be suffering from paying the taxes required to support this maneuver, or from the higher prices that inevitably follow from restraints and distortions of trade. None of which, however, will keep the typical legislature or its economically ignorant voting public from intervening in the business activities of Jones, Smith, and pretty much everybody else.

Democracy enables politicians to impose *uniformities* on communities. When, if ever, do we need to do this? That will shortly be seen to be the basic question about democracy. What the free market provides is an alternative way of getting things done in society, a way that normally requires *no* imposition of uniformities, except insofar as the requirement to respect other people's lives and properties is such. With the market we proceed, not by taking votes and imposing on everyone the will of the majority or plurality that wins the vote, but simply by confining *all* dealings to those who are voluntarily party to them. Writers on democracy often enough observe that the likelihood of a unanimous preference for some candidates is virtually zero, pointing to it as a fact of life and drawing the inference that a lot of people will simply have to put up with it. We can't all win in an election.

Well - no, we can't: but the question is, *why have* an election on that subject? Why not let the people who want to do x do x, while those who want y do y? For in the market, there is indeed unanimity among relevant parties. Those who don't like the available offers don't take them, and that's that; those who do, and who consequently engage in transactions, do so because on the whole it's in their best interest to do so - and not because someone is in a position to put them in jail if they do not. The free market enables us to have the best of many worlds. Getting a couple of hundred more or less public-spirited individuals together to debate whether we should all have chocolate or instead all have vanilla is, on the face of it, pointless, and of course, far worse than pointless, being arrogantly offensive to all. It is pointless because if Smith can have chocolate while Jones has vanilla, and if people can be found who are happy to sell chocolate to Mr. Smith and vanilla to Ms. Jones. We don't need to impose one on all. And as to arrogance: what possible justification can there be for compelling one of the two to eat the one he or she does not prefer? Or for preventing those who would supply him or her, on terms agreeable to Smith or Jones, to do so?

Here's a fairly timely and suitably illustrative example. In the author's city, a few years ago, the City Council decided to build an enormous sports facility, to be financed by a combination of taxes and loans; they proceeded to borrow quite a huge amount of money to build this facility and now it stands out in its remote location, huge and modestly used. We the taxpayers of the city are, of course, paying for it - paying a lot, and for a long, long time, and doing so whether we have any intention of ever using the facility (as the writer does not - along with about 95% of my fellow citizens, from information provided in the press.) The question is: *why?* All those interested in exercise could have patronized a facility erected by some hopeful entrepreneur, or could have saved up their money and pooled their resources to build it themselves. Meanwhile the rest of us could spend our money on the things that interest us, such as better cars, concerts, university study for our children, and so on.

One significant point illustrated by my example is that probably far less than a majority of my fellows would have voted for this if they had known precisely how much it was going to cost *them*, given their interest (or, more usually, lack of interest) in the kind of sports engaged in in the facility. It is, I think, perfectly clear that from any strictly economic point of view, the new facility is a disaster. It

has caused an enormous amount of money to be spent on something few want or use, and at a price far beyond what most would have been willing to pay, given their choice. And why weren't they given that choice? Or were they? Well, of course, they were *not* given it *as individuals*. They were instead "given it" insofar as they had it, as a collectivity. But this collectivity was ill-informed and ill-advised. It consisted of individuals who are reasonably competent to run their own affairs, but whose competence at spending other people's money is, to put it mildly, open to question.

But surely this is a question of principle, not competence. Democracy, in this case, consisted of one fox outvoting ten chickens, and having them all for lunch. As a fairly representative example of democracy at work, it surely raises a question, which we address in the final portion of this essay. That question, to put it bluntly, is whether democracy makes sense. Democracy divides the community into winners and losers, with the winners imposing on the losers. Social thinkers have long deplored "class divided societies." The Marxist variant of this complaint is particularly misguided, since the "classes" he discerned were in fact enormously beneficial to each other, and moreover, movement between classes had nothing to do with birth or political connections, but of interests and abilities. But the division created by democracy is not a "class" division except in the occasional case of stable majorities, as discussed above. Rather, it is a division on this, that, and the other particular matter, and regarding the matter in question, the one class is indeed oppressed, in the sense that the winners do so *at their expense*. If there are alternatives, this is no way to run a community. A community at peace, rather than one rent by divisions unnecessarily imposed by its government, is surely preferable.

### **Is Democracy Rational?**

Rational choosers select the option that does best for them, in light of their interests and goals. Let's assume that they are also able somehow to appraise those interests and goals, and to decide what those are - which are the ones that are truly *theirs*. With regard to any given choice of action or policy, then, the option in question can be regarded either as something the chooser *essentially wants*, as being a part of the fundamental goals sought by that chooser, or else as in one way or another conducing to the achievement of those goals.

Most people have a range of familiar interests: to remain alive in good health, to reproduce and enjoy family life, to engage in a variety of activities found interesting, and so on. Some, perhaps many, also have intrinsic goals of community. They are ready to sacrifice much, and perhaps even their lives, in order to promote the realization of certain kinds of social arrangements. Some profess such readiness on behalf of goals defined by certain religious or other ideological beliefs. In these cases, there is a major likelihood that this orientation will bring them into serious conflict with others. If A's goal is such that it can be accomplished only if person B converts to a different religious or social belief, and A is ready to sacrifice the lives of both B and A in the process of attempting to achieve A's desired state of affairs, then A's action will leave B, as B sees it, no reasonable option short of using violent means to defend himself. We leave aside the question whether to regard persons like A as *irrational*. But they espouse a set of goals that make conflict inevitable. It is possible to have sets of goals that do not have this property. If we take it that doing x is a great thing, but x is the sort of thing such that A can do it without B's also doing it - and that it's perfectly possible for B to do y or z, say, at no appreciable cost to A, and vice versa - then there is no inherent reason why A and B cannot live in peace in a community.

Democracy presents a serious problem in this regard. Democracy puts everyone under the power of everyone else, in a certain systematic way. Several of those ways have been listed above. a majority of one's fellows in a given political community could decide that no one shall practice religion R, or engage

in activity X, even though X is inherently quite capable or being done without substantial effect on anyone else. Given democracy, the mere fact that a lot of people *don't like your way of life* is enough to motivate them to *outlaw* that way of life. Given democracy, the mere fact that a lot of people think they would improve their incomes by depriving you of the proceeds of your work, even though that work was not only innocent in the above sense, but positively beneficial to many people, is enough to motivate them to deprive you of those proceeds. And so on.

Why would anyone consent to live with a political system having these properties? For the moment, let's set aside the possibility that he or she simply didn't have any choice in the matter. That is, of course, the fact of the matter in regard to almost all of us - but also, it is the fact of the matter no matter what the political system of our society may be. Hardly any of us is in a position to have a really significant effect on the structure of our surrounding societies; we must make our way, somehow, with what we have. Still, it is possible, in some cases, to make a considerable fuss, and almost always it is *possible* to stir up a certain amount of trouble, say by deciding to kill certain people whom one takes to be significantly involved in a system one doesn't like. And in a democracy, of course, it is always possible to cast one's vote - for what that is worth, which, as noted above, is in general just about nothing.

And another reason why people would go for such arrangements is that they expect or hope to be among the power-wielders in these arrangements. They *like* being able to compel people. They enjoy political powers. And such people are occasion for worry. We must be ever mindful of the famous dictum of Lord Acton, that "all power corrupts, and absolute power corrupts absolutely." The amount of power available to officials in democracy is never absolute, but it is extensive, and ample.

However, as I say, we will set aside such considerations for the moment, and pose our question in the grandly hypothetical manner that has become popular among theoreticians of the present. If we *did* have our choice what sort of political system to have, *would we* select democracy, given the general properties of ourselves and our fellows?

Here are two really bad arguments for doing so:

(1) the fact that 51% of our fellows *want* x is a good and sufficient reason why I should consent to being compelled to provide them with x.

(2) the fact that 51% of our fellows think that political theory P is a good *theory* is a good and sufficient reason for thinking that P *is* a good theory, hence for putting up with whatever P entails in the way of treatment of the chooser .

No reader, I suppose, will disagree that these are, as I put it, "really bad arguments." Still, they call for a few further remarks. In the case of (1), it is fairly clear that this would make each of us slaves to all the rest, as not a few critics of democracy have put it. The slave, after all, is the person who is compelled to do whatever his master bids, just because the master bids it. He lacks an effective will of his own, as regards any matter on which his master has a contrary view of what to do. We should agree that there may be some people who are, as Aristotle held, "natural slaves." But - are *you* one of those? I presume not, and I don't suppose that you think you are.

What about (2)? On the face of it, this seems if anything even worse. Political theory is a fairly rarefied subject. Those who work at it night and day are highly educated persons who devote huge amounts of time to the study. Yet they disagree with each other, strongly and persistently. Supposing that 51% of my much-lesser-educated fellows are somehow gifted with insights into politics that make

their views preferable to my own is like supposing that molecules should be experts on chemistry or that ordinary speakers of English are thereby equipped to write treatises on English grammar.

### Communitarian Capers

Somewhere between (1) and (2) we have “communitarian” views. These have the distinction of being vague enough to be scarcely amenable to precise discussion, to be sure. Very generally, communitarians uphold the virtues of community, their model being, inevitably, the small, closely knit community with strongly shared interests and a high degree of efficacious overlooking of each other’s activities. But the difficulty in general with such views is that communities, in the sense in which such theorists mean them, are *specific*, in ways that assure us that in any given polity there will be large numbers of specifically different communities, and what’s more, that people are typically members of more than one, and usually of quite a number of communities. Now, those who are fully members of community X are, we may be sure, ready to make sacrifices for each other, and ready too to agree with their fellows as to the special purposes of political institutions. But for precisely this reason, we may be sure that those who are committed members of community X, where  $X \neq Y$ , will *disagree*, quite possibly vehemently, with members of Y, and will not share in all those nice community values espoused by the Y’s. The community is, indeed, a terrible model for the national state, and in the worst case scenarios invites us to compare with fascism, the gulag, and other horrible cases.

There is, perhaps, this connection between community and democracy: that within a given community, there are many matters on which there will be a majority approaching 100%. In such communities, the few who do not wish to conform are likely to be in real trouble - subject, say, to stonings by self-righteous committees of their neighbors. Enthusiasts for democracy need to avoid such implications. But it is hard to see how they will do so if they are serious about contending that what a majority of our fellows wants or thinks should thereby serve as rules for all. And that, after all, is the point at immediate issue.

### Participatory and Deliberative Democracy - A Fix?

Recent writing on democracy has included a considerable entry under the general banner of “deliberative” or the closely related idea of “participative” democracy. This appears to be offered as something of a fix for the type of problems expounded above. A brief discussion may be enough to persuade readers that hopes along that line are soon quashed. While as usual there is a goodly variety among exponents, we seize on recent work of one highly regarded writer, Joshua Cohen,<sup>19</sup> as sufficiently representative. Cohen defines a “deliberative democracy” as “roughly, an association whose affairs are governed by the public deliberation of its members.” Cohen wants to make this itself a “fundamental political ideal and not simply as a derivative ideal that can be explained in terms of the values of fairness or equality of respect.” (17 ???) Cohen does not say whether deliberative democracy is supposed to continue to be democracy in the more familiar sense that everybody has a vote, with equal weight in affecting choice of government or policy or both. The idea of deliberation suggests that votes would be on policies, rather than persons. This is a pretty significant omission. Does the reflective democracy theorist envisage government by consensus, perhaps? We are told that deliberative democracy is supposed to “provide a distinctive structure for addressing institutional questions.” But distinctive *how*? Is it meant that we are *not*, after all, going to do things by voting? What is the alternative? Is it supposed that with enough intelligent discussion we shall all agree about everything?

<sup>19</sup> Joshua Cohen, “Deliberation and Democratic Legitimacy,” in James Bohman, William Rehg, eds., *Deliberative Democracy: Essays on Reason and Politics* (MIT Press, 1997), pp. 67-92

Let us suppose not. In that case, what do we do after lengthy discussion, when disagreement still remains? How will the situation differ if I am imposed upon by 51% of my fellows *after* a lengthy discussion in which we all had access to lots of relevant information but, somehow, the rest failed to see the wisdom of *my* view? Is Cohen saying that *now* it's OK for them to steamroller my interests? Why? Or if not, then what *is* he saying?

Consider this nice compendium of enthusiasms for participatory democracy:

“First, civic engagement enhances the quality of democratic governance.

“Second, the promise of democratic life is not simply that government by the people yields the most excellent governance. It is also - and perhaps mainly - that government is legitimate only when the people as a whole participate in their own self-rule....

“Third, participation can enhance the quality of citizens' lives.”<sup>20</sup>

The problem with all three assertions is that it is far from obvious why and how we get better government or better lives when we participate in *democratic* self-rule. The second claim, that government “is legitimate only when the people as a whole participate in their own self-rule” simply recapitulates the general problem of democracy. Everyone's “ruling” himself is a very different matter from everyone's ruling *everyone*, and it is precisely because the first idea, supposing it to express a political possibility, is so evidently incompatible with the second that there is a problem about democracy. Formulations such as this succeed only in sweeping the problem under the carpet.

The authors of that study deplore what they argue to be a decline in the extent of citizen engagement. Let's suppose that there has been such a decline. The question is: why not? What indeed is the point of civic engagement? Ordinary people have better things to do. In fact, it is a premise of liberalism that they do. The point of government is to enable us to live our *own* lives well. It is not to turn us all into civic debaters. Beethoven's time was *better* spent than Abraham Lincoln's.

That is all in addition to the obvious and overwhelming objection that there simply is, absolutely, no way that a constituency of a hundred thousand is going to practice “deliberative association.” We are, surely, permitted only a very small measure of fanciful daydreaming in political philosophy. In the business of politics, push does, every now and then, come to shove, and whether it does so before or after any amount of discussion we could in reason suppose the public to be ready or able to participate in, the issue of democracy will remain right where it started: with some people, by virtue of superior numbers, able to impose their will on the rest, and the attendant question of how that can be thought to be just.

### “Who Would Win in a Fair Fight”

An answer, of a sort, to this major question may be forthcoming from quite a different quarter. John Locke argues that a community must be moved by its “greater part.” though without telling us just why the community, as such, needs to “be moved” at all.<sup>21</sup> If we put aside that delicate question, then we are confronted with a considerably tougher-minded idea. A former colleague invokes the idea in a pithy saying of which he was fond - that “All democracy shows is who would win in a fair fight.” He meant this as a put-down, and indeed, it probably is. But, still: if push does come to shove and the issue is in the end to be decided by main force, it might make a good deal of sense for us to agree, before bloodshed

<sup>20</sup> Stephen Macedo, ed., *Democracy at Risk*, Wash: Brookings 2005, p. 4

<sup>21</sup> John Locke, *Second Treatise of Civil Government*, #96.

begins, that instead of fighting we will simply make a count and declare the side with the superior numbers to be the victors. If we assume that all are more or less equal in capacity to fight, this could strike us as a greatly superior substitute for the real thing.

Before we reach that point, however, we should be concerned about the matter of which occasions are suitable for trading in our capacity to do real damage to each other. Thomas Hobbes sets a very, very low bar for the purpose, urging acceptance of any and all government; but most of us, I dare say, will think he sets it very much too low - having regard to the cases of Stalin, Mao, Hitler, and the rest. It's a matter of values, after all. When is knuckling under the course of wisdom, even for a person of principle?

Without pushing too hard on this latter issue, all of us, no doubt, will recognize that there are matters where *not very much is at stake*. Consider the kind of issues for which the game-theoretic case of Pure Coordination applies. If both take option x, both are happy; if both take option y, both are happy; but if one takes x and the other y, things are bad for both. If we all drive on the left, that's fine; if we all drive on the right, that too is fine. But if half of us go left and the other half right, we are in for major chaos - the highway as junkyard plus mass funeral! Clearly, rational people will be ready to coordinate on x or y. Yes, but *which*? The point is that it really doesn't matter very much. In such circumstances, the flip of a coin could decide the issue. So, suppose that 55% of my fellows somewhat prefer the Left, and 40% the right, with the remaining 5% in the don't-care category. Then surely all will be willing to go with the majority. Little is at stake.

Does this apply to politics? Perhaps it comes closer than one might think. Certainly on many minor issues, it does: on many issues of local politics, I daresay, few people much care which side wins. And even on what we may think as very major ones, there is a rather surprising observation we can make. Thus, a nearly equal number of Americans voted for Mr. Bush and for Mr. Kerry in 2004. Suppose that the numbers were reversed, so that Mr. Kerry had ended up with 1% more instead of 1% less? So long as they were sure that the ballots had been pretty accurately counted, all voters would have gone along with the other candidate as President. No one would have formed up a platoon of fellow adherents and descended on some hapless public official with pitchforks or Kalashnikovs. Even though many Americans thought that it really mattered *a lot* who won, yet virtually all think that it is better to have a peaceable change of government on the basis of the ballot than to decide the matter by force of arms. Who wins matters, yes - but it doesn't matter *that* much. Far fewer, perhaps, would have said the same had the contestants included, say, Adolph Hitler. But then, American politics is such that that is extremely and happily unlikely - just as it is also, if less happily, unlikely that one of the candidates would have been, say, Pericles or William Pitt. The point is that Americans, and the citizens of all stable democracies, prefer to go along with whoever wins rather than take to the barricades. And, as the world at present is only too unhappily aware, if this preference is absent, we are in for major trouble.

Very well. But this case for democracy crumbles when we realize that there are innumerable issues on which there simply is no case for allowing majorities to impose on minorities. One would think that there is another way to avoid war besides putting up with the impositions of majorities: simply respecting the persons and properties of one's fellows, for example, seems a much better idea - we don't fight because no one has done us any wrong. Minorities have not in general done any wrong to the majorities who extract their acquiescence by force. Why, then, is that extraction thought to be acceptable?

## Public Goods

The most nearly standard case for democracy concerns what have come to be called *public goods*. These are usually defined in some such loose way as goods such that *no one can have them unless everyone has them*. That this characterization is “loose” is an understatement, for there are no public goods at all if such a definition is literally employed. Take such familiar areas as pollution or even global warming. Nothing pollutes everyone; the globe does not warm perfectly uniformly with each increment of greenhouse gases. And in both cases, some people benefit from it, while others are affected for the worse. The correct solution is a negotiation between those who gain and those who lose from a given action, so that the beneficiaries pay the sufferers sufficiently to compensate. That is a far better solution than having a government committee decide whether to allow anyone to pollute.

The proper understanding of public goods is that they are goods such that someone gets it *at the involuntary expense* of someone else. In the case of pollution, the bystanders have their lungs exposed to smoke, while the smokers enjoy their cigarettes, or the manufacturers are able to reduce costs and increase profits from their pollutive productive processes. But if smokers smoke only in areas where those affected are themselves smokers, and the manufacturers pay the non-customers to compensate for their losses, we are all better off than if a rigid prohibition of smoking is enforced, or a rigid prohibition of pollutive manufacturing processes. In these ways, either the expense is eliminated *or* its involuntariness is avoided by making the compensation sufficient to induce the victims to accept the result. This also induces manufacturers to find ways of producing that economically avoid the pollution.

Democracy is inherently susceptible to excess. When majorities can do what they like, ignoring the minorities at whose expense they gain, life for the group will be inefficient - it will be ridden with dissatisfied people who need not have been dissatisfied. Is there a cure?

## A Constitution for Taming Democracy

Government claims to provide services to its people - or at least, decent governments make that claim. But as things stand, it is governments themselves which decide whether what it provides are truly “services” rather than disservices, and it is governments which decide whether the costs, in the form of taxes, are a good deal from the point of view of the citizen. Eventually there may be a “tax revolt” and, at last, a party may be elected that proposes actually to reduce expenditures. Of course, this party will normally claim that it will do so without reducing the benefits whose provision causes these expenditures. Critics of democracy may now quote Mencken to good effect. Democracy operating this way is a scam - it is the Mafiosa at work.

Cynical theorists may argue that the majority is being perfectly rational when they proceed in that way - just as they would argue that Thrasymachean dictators are being perfectly rational when they regard government as a wonderful means for enriching themselves at the expense of the people. We could, of course, suggest that morality is hardly the same as this kind of “rationality.” But we can argue differently as well. For majoritarianism is not confined to the first of the two kinds distinguished earlier. The kind of majoritarianism that is involved in *all* legislation does not benefit, constantly, a certain unchanging 51% or more of the public. Rather, each legislative assault on our liberty benefits a particular constituency at the expense of everyone else. All of us are in the minority most of the time. Most of us are losers rather than winners almost all of the time. Even on Thrasymachus’s reasoning, democracy is not rational by comparison with the market.

A partial step toward curing this major problem is to require all legislation to be accompanied by an

estimate of its costs. Another is to insist that when government imposes costs on otherwise innocent citizens, those costs be born by the general taxpayer, and not by the individual in question. Thus if a law is imposed which would make farming impossible, the government would have to compensate the farmers thus deprived of their livelihoods, and that compensation would have to be paid by taxpayers, not by the unfortunate farmers thus affected.<sup>22</sup> This would at least give the voters en masse their choice whether to bear the huge costs often imposed by ill-considered legislation, or at the next election to reject the legislators who impose them. But there is still the question whether they should even have that choice, given that the costs to taxpayers fall on them quite disproportionately to any benefits. It will still be quite possible, indeed very likely, that some will pay for others' benefits.

The most radical cure for the ills of democracy would be to eliminate taxes. This would compel those who claim to be providing services with the need to make those services worthwhile to the people who buy them, for on a free market, if the customers decide they are not worthwhile, then they don't buy, and it doesn't matter what everyone else does. If you want my business, you offer the right product at the right price. You don't have the option of compelling everyone to deal with you.

Governments, as things stand, are monopolies, constrained only by the extremely insensitive device of the general election. Imagine having to buy eggs, or automobiles, or real estate, on that basis: you "buy" only if 51% of your fellows conclude that everyone should have this item, and if *you* don't like it, well - too bad for you! Hardly a rational way to buy your eggs. The same should be seen to be the case with schools, roads, hospitals, and all the other contemporary arenas that have become the stomping ground of politicians rather than honest merchants.

As things stand, this option is most unlikely to be adopted by voters. Why? Voters think of themselves as the foxes. They are wrong. We are all chickens, and we all are being had for lunch, day in and day out. So long as democracy is understood as a system in which every hand picks every pocket, that is likely to continue.

Oddly enough, then, the cure for democracy is something we saw to be unlikely to the point of impossibility: general rationality among the voters, or rather, a general level of awareness among the voting population that their system of government works badly by comparison with an alternative that is really available. Given that most voter information comes, more or less, from the very people who extract their wealth from them, this is perhaps unsurprising.

But perhaps one can hope.

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<sup>22</sup> I owe the proposal and the example to Mr. Scott Reid, M.P. for Lanark-Frontenac-Lennox and Addington (Ontario) in the Canadian Parliament.