

## Dewey and Hayek on Democratic Experimentalism

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Michael Dorf and Charles Sabel invoke John Dewey’s “pragmatist account of thought and action” as the “backdrop” for their theory of *democratic experimentalism*, an approach to governance emphasizing judicially monitored local decision making within a system of decentralized administrative authority. Little credit for influence is given to the Austrian economist Friedrich Hayek and his classic liberal ideas. Indeed, Sabel has been highly critical of Hayek’s ideas. Yet, an argument can be made that (i) democratic experimentalism is at least *loosely* Hayekian and (ii) a combined Deweyan-Hayekian analysis of Dorf and Sabel’s theory reveals some critical mistakes. Dewey and Hayek’s ideas are more compatible than most democratic theorists and political philosophers will admit, allowing the creation and evaluation of democratic experiments within a Deweyan-Hayekian theoretical framework, as well as extending the framework to other areas of political inquiry.

...for Dewey, it [democracy] was a method for identifying and correcting through public debate and action the unintended consequences of coordination among private actors. He was concerned to know what democracy, so understood, could learn from the methods of public scrutiny and experimentation by which science discerned and adjusted unworkable ideas about the natural world.  
– Michael Dorf and Charles Sabel (1998, 286)

Spontaneous orders are not necessarily complex, but unlike deliberate human arrangements, they may achieve any degree of complexity. One of our main contentions will be that very complex orders, comprising more particular facts than any brain could ascertain or manipulate, can be brought about only through forces inducing the formation of spontaneous orders.  
– Friedrich Hayek (1973, 38)

Michael Dorf and Charles Sabel (1998) invoke John Dewey’s “pragmatist account of thought and action” as the “backdrop” for their theory of *democratic experimentalism*, an approach to governance emphasizing judicially monitored local decision making within a system of decentralized administrative authority

(284).<sup>1</sup> Little credit for influence is given to the Austrian economist Friedrich Hayek and his classic liberal ideas. Indeed, Sabel has been highly critical of Hayek's ideas. Yet an argument can be made that democratic experimentalism is at least *loosely* Hayekian. Hayek's notion of a *spontaneous order* bears some resemblance to what Dorf, Sabel and others call a *democratic experiment*. Minimizing democratic experimentalism's debt to Hayek may seem unsurprising given the tendency among democratic theorists to bifurcate the forum and the market, preferring deliberation to catallaxy.<sup>2</sup> However, Dorf and Sabel gladly embrace the model of flexible economic entrepreneurship in their theory of democratic experimentalism. By preferring Dewey to Hayek, they make two mistakes though. First, they ignore a key lesson of Hayek's epistemology, namely, that implicit knowledge lends invaluable support to the efficacy of decentralized information systems. Second, they underestimate the threat of strategic action to the dialogic process of rule-making. Institutions other than markets can spontaneously evolve once a legal framework is in place, thereafter structuring experimental problem solving and democratic decision making in a Deweyan-Hayekian spirit, that is, by choosing means in the absence of predetermined ends or preferred end-states. One implication of my analysis is that Dewey's and Hayek's ideas are more compatible than most democratic theorists and political philosophers will admit. Evidence of this compatibility opens the door for creating and evaluating democratic experiments within a Deweyan-Hayekian theoretical framework, as well as extending the framework to other areas of political inquiry.

The article is organized into five sections. In the next section, I examine the few sympathetic treatments of Hayek's work by liberal political theorists as well as the sparse literature comparing Dewey and Hayek's ideas. The following section outlines Dorf and Sabel's Deweyan argument for democratic experimentalism. In the third section, I present Hayek's theory of spontaneous order and explain how it differs from Dorf and Sabel's model of democratic-experimentalist governance. The fourth section argues that Sabel and Dorf's decision to favor Dewey over Hayek proves problematic insofar as it blocks a robust understanding of democratic experimentalism. Finally, the article concludes by considering the implications of the previous analysis and argument as they relate to two key points: one, Dewey and Hayek share more common intellectual ground than most scholars concede; and, two, constructing a Deweyan-Hayekian framework promises to clarify not only the concept and operation of democratic experimentalism but also the theory and practice of a multitude of other areas in political studies ripe for inquiry.

### 1. Dewey and Hayek

One possible objection to my argument is that the philosophical approaches of Dewey and Hayek are *prima facie* incompatible. Dewey was a guild socialist, liberal democrat, advocate of progressive education and a staunch critic of

laissez-faire capitalism. Hayek was a free marketer, right-libertarian, defender of individual freedom and a fierce opponent of centralized economic planning and socialism. Though Dewey argued for a new ideal of American individualism in *Individualism Old and New* (1930), his vision was decidedly more collectivist than Hayek's. Dewey diagnosed America's consumerist culture, rampant economic exploitation and the disjuncture between individuals and groups as leading causes of the Great Depression. Hayek, on the other hand, identified the rising cost of labor and commodities, which had made business investment unprofitable, as critical antecedents to the economic downturn. Dewey's solution was a new form of socialism in which industry would become democratically managed and worker owned, while Hayek's was an austerity plan to lower wages and prices in order to return the market to healthy state.

Despite the perceived incompatibility between Hayek's and Dewey's approaches, two liberal political theorists have sought to usher Hayek into the liberal fold. Andrew Gamble (1996) indicates how thinkers on the political Left overlook Hayek's ideas:

Hayek is one of the most important thinkers of the twentieth century, but there has always been a tendency for intellectuals on the left to neglect or belittle his achievement. He has been frequently dismissed as a right-wing ideologue, whose energies were spent in a crusade against socialism and an attempt to revive an obsolete creed, economic liberalism. His arguments have often been regarded as exaggerated and polemical. (46)

According to Gamble, "intellectuals on the left" can learn much from Hayek if they are willing to set aside their initial prejudices. With other members of the Austrian School of Economics (including Israel Kirzner, Ludwig Lachmann, Ludwig von Mises, and Murray Rothbard), he is committed to classical liberal view that individual economic liberty enlarges while government power shrinks. Unlike some contemporary right-libertarians, though, he envisioned a more generous "steering role for governments," not restricted to a night-watchman state, but encompassing "responsibilities in education, health and many other fields, as well as ensuring a minimum standard income" (51).

Similar to Gamble, Stephen Macedo (1999) insists that Hayek's contribution to liberal society is underappreciated by Left-leaning intellectuals. "Hayek emerges as a figure squarely in the liberal tradition," Macedo notes, "when one considers his confidence in the power of public ideas, his commitment to an ever wider extension of liberal institutions, and his faith in human progress" (289). For Hayek, social progress is evolutionary. Individual values, group norms, moral traditions and political institutions arise out of localized human interaction and distributed systems of knowledge (especially economic exchange or catallaxy), enabling societies to successfully adapt to changing social, cultural and economic conditions. More recent right-libertarians appeal to the value of market efficiency and individual initiative divorced from

morality and collective concerns. In contrast, “Hayek’s vision of the free society is infused by an implicit set of moral standards, judgments about many aspects of the social system as a whole” (297).

While Gamble and Macedo draw Hayek into the liberal fold, two other scholars explicitly relate Hayek’s and Dewey’s ideas, thereby countering the perceived incompatibility of their philosophical views. Robert Mulligan (2006) highlights the shared features of Hayek’s radical subjectivism and Dewey’s transactional epistemology as they affect distributed or networked systems of human interaction. Transaction integrates rigid dualistic categories, such as subject and object (or subjective knowledge and objective information), into functionally related wholes. According to neoclassical economics, subjective (i.e., individual preference-based) knowledge is more real than objective (i.e., scientific fact-based) information, since the former cannot be disputed (*de gustibus non est disputandum*), while the latter is either true or false. According to Hayek’s radical subjectivism, the assumption that “knowledge is subjective” does not privilege its ontological status relative to informational networks, for “the subject-object distinction is only a tentative, ad hoc construct,” not a fixed dualism (66). In this way, Hayek’s model of distributed knowledge (what he calls a ‘spontaneous order’) imitates Dewey’s transactional epistemology, integrating subjective preferences and objective information into a thorough understanding of reflective action: “Subjectivism in the social sciences is a technical approach which emphasizes the subjective bases for human behavior, but clearly does not deny the reality of objective characteristics or phenomena” (68). Colin Koopman (2009) takes a slightly different tack, seeing Hayek and Dewey as political theorists with complementary insights into the relationship between morality and markets.

According to Koopman, “[t]he time is ripe for Deweyans to take another look at Hayek. That Hayek has been inexplicably neglected by pragmatists for so long is perhaps due to his being neglected more generally by the overwhelming majority of liberal democratic philosophers ... Deweyan ethical democrats might benefit from certain strategies or techniques developed in the context of Hayekian liberalism” (152). One of these Hayekian strategies that Deweyans might find beneficial, Koopman acknowledges, is conceiving political rationality as an uncertain and practical process of information exchange. It is marked by skepticism that any human-designed system (or rational order) can express the evolving complexity of a plurality of agents acting in a decentralized fashion. Koopman speculates that “Dewey would have found particularly attractive Hayek’s reproach of attempts to replace bottom-up cultural evolution with top-down rule of expert planning” (156). In other words, Dewey would have been attracted to Hayek’s notion of a spontaneous order, or a naturally evolving system resulting from the unplanned interaction of multiple actors rather than the willful design of a central planner.

## 2. Deweyan Democratic Experimentalism

Dorf and Sabel's (1998) law review article "A Constitution of Democratic Experimentalism" offers a visionary model of decentralized administrative decision making. Institutions of governance should no longer resemble Max Weber's (1978) description of a bureaucratic organization as highly formalized, hierarchically structured, rationally managed and inefficient by right of its own purportedly efficient mechanisms (956–958). Instead, governing structures ought to embody the value of localized knowledge, citizen participation, regional experimentation, distributed methods of information gathering, shared systems of monitoring and problem solving as well as minimal rules and regulatory structures for coordinating the whole. The authors discuss how the early United States Forest Service exemplified democratic experimentalism, "for its ability to adjust complex policy goals to extraordinarily diverse local settings, largely through controlling, and learning from, the exercise of discretion by its lowest level operating agents, the forest rangers" (364). While the first Chief of the Forest Service, Gifford Pinchot, was certainly a pioneer of democratic experimentalism, at the approach's core are the ideas of at least three other major figures: (i) James Madison, specifically his notion that government power should be limited and decentralized, (ii) Franklin Delano Roosevelt, particularly his New Deal federalism linking Congressional delegations of authority to a web of regulatory agencies, as well as courts to adjudicate conflicts between agencies and citizens, and (iii) John Dewey, whose pragmatism infuses all cooperative human activity and thinking with a concern for resolving shared problems (267–268, 284–286).

Deweyan pragmatism is a useful "backdrop" for Dorf and Sabel's (1998) "design" because of its multiple emphases on flexible problem solving, the interchangeability of means and ends, anti-foundationalism, the irreducibly social quality of the doubt-inquiry process, and democracy as an experimental method. Pragmatist aesthetic theory factors into the democratic experimentalist framework to the same degree as scientific inquiry: "Art epitomized for Dewey the essentials of pragmatist investigation, because in art means *become* ends, and the relation between them commands attention because of this immediacy" (285). The doubt-inquiry process is initiated by a sudden hitch, felt difficulty or immediate shock that prompts subsequent uncertainty, investigation and effort to restore harmony to the situation: "Seen as localized breakdowns in our expectations," Dorf and Sabel note that, "doubt spurs inquiry into remedial action and reforms conceptions" (285). As resources guiding inquiry, all final ends, ultimate values and fixed foundations convert into "ends-in-view," proximate goals and tentative suggestions for enriching further experience. Similar to Dewey, inquiry for Dorf and Sabel has an undeniably social and local quality to it: "Above all, an experimentalist regime gives locales substantial latitude in defining problems for themselves" (322). Inquiry undercuts the dichotomy between public and private, coordinating thought-in-action through

sustained cooperative problem solving. Rather than a discrete set of institutional arrangements, democracy then signifies “a method for identifying and correcting through public debate and action the unintended consequences of coordination among private actors” (286). Dorf and Sabel take the lessons of pragmatism combined with the innovative practices of private businesses (particularly Japanese firms committed to programmatic quality control, such as Total Quality Management) to imply that networks of local decision-making units, each experimenting and pooling information with each other, are better than a centralized legislature delegating rule-making authority to federal agencies, subject to review by administrative courts. The result is “a series of innovations by private firms [such as “benchmarking, simultaneous engineering and error detection methods”] that suggest institutional devices for applying the basic principles of pragmatism to the master problem of organizing decentralized, collaborative design and development under conditions of volatility and diversity” (286, 301). In these decentralized networks, knowledge is localized; systemic errors remedied; traditional methods questioned; and complex problems resolved through a process of careful “*benchmarking*: an exacting survey of current of promising products and processes which identifies those products and processes superior to those the company presently uses, yet are within its capacity to emulate and eventually surpass” (287).

Democratic experimentalism takes seriously Justice Louis Brandeis’s call for states to become “laboratories of democracy” (an alternative to strong federalism) insofar as governmental units smaller than the nation-state (states, counties, and municipalities) are tasked to experiment with novel policies and programs in the absence of a strong centralized authority.<sup>3</sup> However, decentralization of authority does not yield to a localism of chaotic interactions and exploitation by power elites. According to Dorf (1995), courts and legislatures evaluate experimenters’ performance by reference to their own benchmarked standards: “Decentralization of this kind, therefore, far from delivering the vulnerable into the lawless preserves of the local oligarchs, would expose local activity to scrutiny more informed and thus more searching than possible in the old administrative state; and the courts in serving justice would increase efficiency by obliging jurisdictions to learn from one another” (33). Since “democratic experimentalism can clarify the relation of means and ends,” the judiciary can walk a more moderate path between zealous activism and hands-off restraint (395). Democratic experimentalism also improves the executive branch. Rather than exerting centralized control over smaller jurisdictions, agency authority to monitor devolves to decentralized decision-making units. Each improves its functioning through a process Dorf and Sabel (1998) term “learning-by-monitoring” (a loose analog to Dewey’s notion of “learning-by-doing”) (309; Dorf 2006). Learning-by-monitoring involves the search and discovery of high-quality policies and programs by evaluation of the widest range of possible alternatives, each emerging from the problematization, deliberation, and experimentation. This discovery procedure manifests in *both*

the business of private firms and the politics of democratic governance. In private firms, “[t]he counterintuitive result [of learning-by-monitoring] is that increasing the range of design alternatives considered at the start of a product cycle speeds selection of one, and increases the quality of choice” (Dorf and Sabel 1998, 303). In democratic governance, “democratic experimentalism radicalizes pragmatism in politics as learning by monitoring radicalizes it... in the experience of partial alternatives to the regnant order the possibility of seeing the familiar as problematic and the possibility of reflecting on, extending, and choosing among the problematic experiences” (Sabel 1995, 33). Examples of democratic experiments that exhibit learning-by-monitoring include Chicago’s community police program (whereby neighborhood watches, activists and police monitor crime and collaborate on programmatic development as new problems emerge) and the European Union’s regime of occupational health and safety rules (whereby member-states have an incentive to ensure compliance because the results – greater worker productivity, product quality, and industry reputation – improve Gross National Product) (Sabel 1995, 35). Democratic experimentalism is not intended to produce a regulatory “race toward the bottom” (or deregulation for competitive advantage), which commonly results when local decision-making units offer differential advantages (e.g., lower tax rates that attract companies and create jobs in a depressed area). Instead, smaller decision-making units make explicit their reasons for changing the rules, and monitoring bodies (specifically, agencies and courts) can censor those units when they violate norms of fairness, justice and equal treatment (Sabel and Dorf 1998, 288).

While Dorf and Sabel praise the pragmatist spirit of bench-marking and learning-by monitoring, they also criticize Deweyan pragmatism for its inability to stipulate those democratic institutions that would foster a more informed citizenry. Since the kind of new governance they envision requires citizens to actively engage in dialogic processes, the participants must have the requisite skills to critically reflect and intentionally debate, for instance, how local industry shall be monitored in order to ensure the protection of environmental health. While Dewey had imagined a division of labor between enlightened experts and members of the lay public familiar with local matters, he also foresaw average citizens gaining expert knowledge through broad-based educational reforms. “Of the actual institutions of self-government he [Dewey] said little,” Dorf and Sabel (1998) contend, “preferring to exult instead at the prospect of a public of scientist-poets, enlightened by the reading of good newspapers and enlarged in their sympathy with the multitude by their reading of Walt Whitman” (415). The view that Dewey was not an institutionalist is shared by a number of his critics, especially scholars outside the discipline of Philosophy.<sup>4</sup> Inside the discipline, his younger colleague at Columbia University, John Herman Randall, Jr. (1951), criticized Dewey for failing to specify the exact political technology, including civic competencies and

background institutions, that would enable individuals to become competent democratic citizens:

Instead of many fine generalities about the ‘method of cooperative intelligence,’ Dewey might well direct attention to the crucial problem of extending our political skill. For political skill can itself be taken as a technological problem to which inquiry can hope to bring an answer... Thus by rights Dewey’s philosophy should culminate in the earnest consideration of the social techniques for reorganizing beliefs and behaviors – techniques very different from those dealing with natural materials. It should issue in a social engineering, in an applied science of political education – and not merely in the hope that someday we may develop one. (90–91)

Of course, centralized efforts to engineer good democratic citizens by prescribing proper political means – whether institutional arrangements or civic education – are exactly what advocates of decentralized decision making reject. Dewey left open the question of what constitutes adequate political technology so as not to foreclose opportunities to experiment with novel institutional and educational forms – the same kind of opportunities that gave rise to Sabel’s vision of new governance and Sabel and Dorf’s theory of democratic experimentalism.

Similar to Dewey, Sabel and Dorf, Hayek, as we will see, collapses the distinction between means and ends so that a pre-given end or *telos*, such as a just distribution of resources or an ideally fair outcome, does not stifle imaginative experimentation with and democratic choice of novel institutional means. In the next section, I articulate Friedrich Hayek’s theory of a spontaneous order with the purpose of comparing it to Dewey’s method of intelligence and Sabel and Dorf’s notion of a democratic experiment.

### 3. Hayek’s Spontaneous Order

Hayek’s notion of a spontaneous order is central to his theory of politics and governance. It conveys the simple idea that social, legal and political institutions are at their best when they result from human action, *not* from human design. Expressions that are synonymous with *spontaneous order* include “self-organization,” “emergent behavior,” “unplanned system,” and “extended order.” An *order* for Hayek (1973) is “a state of affairs in which a multiplicity of elements of various kinds are so related to each other that we may learn from our acquaintance with some spatial and temporal part of the whole to form correct expectations concerning the rest, or at least expectations which have a good chance of being correct” (36).<sup>5</sup> The spontaneity of the order emerges from its being outside the control of any single human agent or organization, its lack of an ultimate end or purpose, and its possession of a level of complexity

exceeding the limits of human cognition. According to Hayek (1988), a spontaneous order “far surpasses the reach of our understanding, wishes and purposes, and our sense perceptions, and that which incorporates and generates knowledge which no individual brain, or single organization, could possess or invent” (72). Whereas spontaneous orders organically evolve, centrally planned organizations or human-made orders are rationally constructed and deliberately controlled – the difference between what Hayek (1973) calls “*kosmos*” and “*taxis*,” respectively (37–38). The most common error (what Hayek calls “rational constructivism”) is to assimilate all orders (including spontaneous orders or *kosmos*) to the description of designed orders or *taxis*, understanding them as products of human planning and purposes, even though spontaneous orders (or *kosmos*) lack these properties (38). Hayek (1988) disputed the “socialist” view that centralized planners could comprehensively design and regulate “rational economic orders,” ignoring the tacit knowledge, customary norms and immanent rules that agents regularly rely upon in their habitual and unreflective practices (6).

Although the economic market is, for Hayek, the quintessential spontaneous order, others emerge in an institutional context, generating norms and rules, and thereafter structuring productive relations between agents. According to Robert Mulligan (2006), “[s]pontaneously evolved institutions include government, laws, markets, and money” (74).<sup>6</sup> In markets (or as Hayek calls them, “*catallaxies*”), commodity prices signal to business entrepreneurs how they should plan and coordinate their activities in an environment of fiscal uncertainty. However, no individual or group controls the market *qua* spontaneous order. “The whole acts as one,” Hayek (1948) declared, “not because any of its members survey the whole field, but because their limited individual fields of vision sufficiently overlap so that through many intermediaries the relevant information is communicated to all” (86). Likewise, in governments, information (whether in the form of press statements, laws, policies or judicial precedent) has value because it indicates to entrepreneurial agents (e.g., the president, legislators, judges, bureaucrats or average citizens) how they ought to navigate an indeterminate (and sometimes treacherous) political environment.<sup>7</sup> A political system *qua* spontaneous order accepts inputs (i.e., demands and supports for specific policies) and delivers outputs (i.e., particular policies, foreign or domestic), but the multiplicity of agents, complex relationships and “data” make it impossible for “a single mind ... [to] work out the implications” (Easton 1965, 18–20; Hayek 1948, 77; Hayek 1960, 4). For Hayek (1988), the “fatal conceit” of centralized government planning is the belief that whatever results from a spontaneous order “could have been done better by the use of human ingenuity” (83) – that is, by human design. Instead, social institutions, such as representative democratic assemblies, evolve to accommodate two facts. One, they are subject to a process of natural selection, whereby “variation, winnowing and sifting” permits adaptation to “an extended order of human interactions ... far surpassing our vision or our capacity to

design” (Hayek 1988, 14). Two, extensive interventions in social and economic affairs produce externalities (or unintended third-party effects), so at most legislators should codify customary rules to minimize these.<sup>8</sup> The best that a “society will achieve,” Hayek (1981) claims, is “a coherent and self-consistent overall order only if it submits to general rules in its particular decisions” (17).

Hayek’s theory has some resonance with Dewey’s pragmatism as well as Dorf and Sabel’s democratic experimentalism. First, all advance the thesis that means and ends are interdependent. Hayek (1978b) rejects the strategy of positing a final end or *telos*, especially when that end is social justice – what Hayek characterizes as “empty and meaningless,” a “mirage” (68–69). In a spontaneous order, entrepreneurial success depends on the individual’s prudent selection of means and proximate goals (or ends) under conditions of risk and uncertainty. Since agents cannot comprehend the order’s overall purpose, they should not presume to know in advance what constitutes an ideal outcome or “just distribution” of material and social goods (Hayek 1978, 2; 1981, 68). Similar to Hayek, Dewey collapses the distinction between means and ends, conceiving an agent’s ends as intermediate goals, not final destinations. Though Dewey was more optimistic than Hayek about realizing social justice, they would agree that the imposition of absolute, fixed or terminal ends could impede progress in imaginative deliberation and rigorous experimentation. Means and ends should operate as tentative, flexible and intermediate instruments. In Dewey’s (1996) words, “an idea of the final consequences [or ends] ... is itself a means of directing action” (LW 13, 351). Similarly, Dorf and Sabel (1998) insist that democratic experiments require better methods for pooling information, making rules and monitoring processes, *not* for selecting end-patterned results (410–413). Moreover, choosing who wins and loses in advance of deliberations about means would undermine procedural fairness. However, in focusing only on the choice of means and refusing to fashion distributive outcomes, the designer of democratic experiments potentially blocks the way toward achieving social justice. According to Orly Lobel (2004), the “strong collapse between means and ends” sets the stage for relegating “substantive criteria of the common good” (388–389; cited in Cohen 2010, 382).

Second, a democratic experiment, on Dorf and Sabel’s account, resembles Hayek’s notion of a spontaneous order, as well as Dewey’s method of intelligence, insofar as they exemplify the virtues of decentralized decision making, learning through experimentation, evolutionary growth, and fallibilism in inquiry. On Hayek’s (1978c) account, competition between individuals, whether economic or not, is an experiment – what he terms a “discovery procedure” (179). In this procedure, independent entrepreneurs obtain valuable information (often in the form of prices), experiment with novel ideas and institutions, distribute their knowledge widely, and co-create customary rules within emergent networks of transaction (i.e., spontaneous orders), all the while denying “that the facts to be discovered are already known” (Hayek 1981, 18).<sup>9</sup> Dorf and Sabel (1998) also contend that governance structures work best when

they are dispersed, entrepreneurial, institution-generating, information-pooling, experimental, reliant on local knowledge, and productive of bottom-up rule-making. For Dewey (1996), too, the method of intelligence or experimental inquiry, once applied to human affairs, opens up new vistas for social understanding and control, much as science has done for the natural world: “What is needed is not the carrying over of procedures that have approved themselves in physical science, but *new* methods as adapted to *human* issues and problems, as methods already in scientific use have shown themselves to be in physical subject matter” (LW 16, 355). The virtue of an experimental attitude is fallibilism; not proceeding as if the outcomes of prior inquiries are absolutely certain – or in Hayek’s language, “already known”; always conceding the possibility that prior findings could be wrong. Richard Posner (2003a) observes that “[t]here is close convergence between Dewey and Hayek, both emphasizing the radical dispersion of knowledge across persons under the conditions of modernity” (1).<sup>10</sup> According to one commentator, Hayek affirms “an individual’s freedoms to experiment, to learn, to explore, to act on impulse, and to test ideas [that] offer personal benefits... under the heading of *personal growth*: expansion of ‘talents’ and ‘capabilities,’ widening experience and self-discovery” (Phelps 2009, 5). Also, for Sabel, Dorf and Dewey, personal growth parallels the learning process – whether expressed in Dorf and Sabel’s notion of *learning-by-monitoring* or Dewey’s *learning-by-doing*. According to Dewey (1996), “education means the enterprise of supplying the conditions which ensure growth, or adequacy of life, irrespective of age” (MW 9, 56). Though less aspirational and more matter-of-fact, Hayek sees educative growth as equally integral to social progress, particularly when progress means the creation and dispersion of innovative ideas: “[P]eople learning what others do by a process of communication of knowledge,” he insists, is an “empirical fact” (Hayek 1978a, 3).

Admittedly, Hayek’s theory of governance, particularly his notion of a spontaneous order, exalts individual choice and entrepreneurial competition to an extent that Sabel and Dorf’s theory expressly denies. Instead, democratic experimentalism emphasizes collective deliberation and experimental collaboration as integral to an effective scheme of decentralized decision making. Nevertheless, their respective views are sufficiently similar to establish a presumption in favor of the thesis that democratic experimentalism is at least *loosely* Hayekian. However, this thesis is not new. Amy Cohen (2010) has persuasively argued that, notwithstanding Sabel’s early criticisms of Hayek’s program for democratic reform, there are obvious similarities between their theories of governance: “Sabel’s vision of governance borrows Hayek’s idea that the state should cultivate environments conducive to learning, experimentation, adaptability, and growth” (364). The novelty of my thesis, then, derives not simply from the claim that democratic experimentalism is somewhat Hayekian, but from the subsequent claim that a mixed Deweyan-Hayekian analysis reveals some critical mistakes in Dorf and Sabel’s theory.

#### 4. Dorf and Sabel's Two Mistakes

Besides minimizing their debt to Hayek, Dorf and Sabel make two related mistakes. They ignore both the role of implicit knowledge and the threat of strategic action in democratic experiments.

##### 4.1. Implicit Knowledge Neglected

Dorf and Sabel's democratic experimentalism differs strikingly from Hayek's theory of governance in its epistemological assumptions about human agency. In democratic experiments, agents engage in discourse, explicitly stating their reasons for selecting effective means, formulating specific rules and testing novel institutional designs. The process is itself "deliberative" since "decisions ... are normally made by means of reason giving through discussion, not (except in cases of deadlock) the counting of votes" (Dorf and Sabel 1998, 320).

In contrast, for Hayek, agents defer to custom, tradition and generic rules, all of which constrain their ability to specify reasons in advance of choice and action. According to Hayek (1988), "Man became intelligent because there was a *tradition* – that which lies between instinct and reason – for him to learn. This tradition, in turn, originated not from the capacity to rationally interpret facts but from habits of responding" (22–23). Mores and traditions for Hayek function as metaphorical guideposts, directing agents when their instinctual drives and rational faculty fail. Customs differ from reasons insofar as they offer implicit, *not* explicit, knowledge (or habits of response). Also, the kinds of rules that characterize customary interactions versus structured deliberations differ, reflected in the two kinds of orders from which they emerge: "A self-generating or spontaneous order and an organization are distinct, and their distinctiveness is related to the two kinds of rules or laws which prevail in them" (Hayek 1973, 2). Rules populating spontaneous orders tend to be highly formal and abstract, remotely coordinating human action with the aid of social custom; whereas rules legislated by human-made organizations – for instance, Sabel and Dorf's decentralized decision-making units – are rationally tailored to the resolution of particular problems. According to Hayek (1964), "the rules which the elements [of the spontaneous order] follow need of course not be 'known' to them [individual agents]" (7). As in craft learning, an apprentice unconsciously acquires the knowledge and skills of a consummate craftsman through everyday practice, without ever being able to state the underlying rules, reasons or principles of his craft.<sup>11</sup> Whereas, for Hayek, individuals rely upon implicit or tacit knowledge in making decisions, for Dorf and Sabel, knowledge must be explicitly communicated through public discourse and reason-giving deliberation.<sup>12</sup> According to Sabel (1995), "there is no place here for tacit knowledge, defined as know-how that defies discussion, nor for crafts or artisan forms as the repository of such ineffable know-how" (21). Thus, epistemological agency for

Hayek is, at its core, implicit and subjectivist, whereas for Dorf and Sabel it is explicit and deliberativist.

How does the omission of implicit knowledge affect Dorf and Sabel's theory of democratic experimentalism? Some assistance in answering this question can be found in John Dewey's metaphysics of experience. According to Dewey (1996), the majority of adult human experience is *had*, not known – that is, a matter of facing the totality of one's situation, feeling its pervasive quality, and undertaking activities that enrich the fund of settled meanings (LW 13, 222; Ralston 2009). Stated differently, a minority of lived experience consists of cognition or reflection. The tendency among philosophers to privilege the knowing experience over the having experience – what Dewey calls “the intellectualist fallacy” – is not only empirically inaccurate, but also normatively flawed, for it results in a misplaced “quest for certainty” amidst the flux of the precarious and stable (LW 4, 232; LW 4, 5; LW 1, 52). In other words, implicit or tacit knowledge features more prominently than explicit or expressed knowledge in our daily experience. Moreover, such knowledge is an invaluable engine for coordinating decentralized information networks. Echoing Hayek, Posner (2003a) notes that “[w]ith knowledge dispersed and much of it tacit, there is no way a central authority, such as a legislature or court, can gather and marshal the knowledge necessary for sensible decisions on issues of law or policy. The dispersed and tacit knowledge will, however, be found aggregated in [customary] rules that grow out of the practices of the relevant community” (2). Dorf and Sabel's faith that all governance problems will prove soluble insofar as decentralized decision-making units deliberate and make their reasons explicit is, in the language of Hayek, a “fatal conceit.” Thus, recognition that human experience is funded with implicit knowledge (for instance, customary rules) should feature in any robust theory of governance, particularly one described by its creators as “practical” and “pragmatist.” Unfortunately, Dorf and Sabel's democratic experimentalism neglects implicit knowledge formations and their fundamental place in decentralized information systems.

#### 4.2. Strategic Action Underestimated

Another Hayekian objection to democratic experimentalism is that it underestimates the threat of strategic action. Dorf and Sabel (1998) acknowledge the threat of strategic action, but only to the extent that large-scale decision-making institutions, such as legislatures, are susceptible to co-option by their clever members and outside interest groups (273, 282–283).<sup>13</sup> They mistakenly assume that localized decision-makers will selflessly deliberate in order to solve common problems, rather than form factions and negotiate to their strategic advantage. Dorf and Sabel describe the idealized process in Deweyan language: “Once begun, pragmatic problem solving loosens the hold of interests by fitfully darting, as it were, beyond its reach, thereby discovering solutions bit by bit in the unfamiliar territory beyond the reach of bounded rationality and habitual

calculations of advantage” (322). The standard objection to this view, especially in the Hayek-inspired game-theoretic literature of Public Choice,<sup>14</sup> is that rational, self-interested actors will either defect or co-opt the process of deliberative decision making for strategic advantage.

The threat of strategic action is most clearly represented in game-theoretical models of collective action. According to Russell Hardin (2008), there are at least four types of coordination situations relevant to group action: (i) Prisoner’s dilemma, (ii) pure conflict, (iii) simple coordination, and (iv) unequal coordination (464). These strategically distinct forms of group interaction can be formally represented as preference ratings (or monetized as dollar payoffs), with the best being 1, the second best 2, and so on, as follows:

Figure 1: Prisoner’s Dilemma

	Cooperate	Defect
Cooperate	2, 2	4, 1
Defect	1, 4	3, 3

Figure 2: Pure Conflict

Option I	1, 2
Option II	2, 1

Figure 3: Simple Coordination

	Option I	Option II
Option I	1, 1	2, 2
Option II	2, 2	1, 1

Figure 4: Unequal Coordination

	Option I	Option II
Option I	2, 1	3, 3
Option II	3, 3	1, 2

\*All adapted from Hardin (2008, 464)

Of the four options, the most desirable form of group interaction is simple coordination (Figure 3), wherein each party's interests are satisfied because their cooperation makes both better off. Less desirable is the situation – what is called an “unequal coordination” – in which both parties wish to cooperate, but every possible coordination equilibrium makes one party better off and the other worse off (Figure 4). An even less desirable scenario is the classic prisoner's dilemma (Figure 1), whereby the optimal move for both parties is to defect while the other seeks to cooperate; the suboptimal move is bilateral cooperation; and the worst outcome manifests when both parties defect. The absolutely worst-case situation is pure conflict (Figure 2), a scenario in which both parties wish to seize what the other has or obstruct the other's plans by dictating the proper course of action, such that the outcome is always zero-sum.<sup>15</sup>

Collective action problems can also threaten the politics of deliberative problem solving. Following Hayek (especially his notion of “catallaxy”)<sup>16</sup> and game theorists, public choice scholars typically model the strategic choices (and payoff structures) involved in political interactions after those of market exchanges. “Politics is a structure of complex exchange among individuals,” James Buchanan (1987) explains, “a structure within which persons seek to secure collectively their own privately defined objectives that cannot be efficiently secured through simple market exchanges” (246). Self-interested agents can choose to forebear the expense of contributing to group discussion while retaining the benefits of group membership, thereby living up to the moniker of “free riders” (Olson 1965). While not all deliberators behave as free riders, some will be tempted to either defect, thus resulting in a prisoner's dilemma (Figure 1), or seek an outcome that benefits themselves to the other transacting party's detriment, thereby producing either an unequal coordination or pure conflict (Figures 2 and 4). As Public Choice scholars Victor Vanberg and James Buchanan (1990) note, “rational self-seeking actors cannot be expected to contribute unless there are selective incentives, that is, benefits that are contingent on the actors' own contributions” (184). Hence, coordinating collective action requires that agents mutually agree to abide by a general scheme of selective incentives which “stimulate a rational individual in a latent group to act in a group-oriented way” (Olson 1965, 51). Besides offering selective incentives, the only other protection against strategic action is to threaten coercion. In *Liberalism and Social Action*, John Dewey (1996) suggests that “dependence upon organized intelligence as the method for directing social change” might require, “when society through an authorized majority has entered upon the path of social experimentation,” that “force . . . be intelligently employed to subdue and disarm the recalcitrant minority” (LW 11, 61). When the majority has exhausted all peaceful means, even Dewey agrees that violence is necessary if a stubborn minority stands in the way of democratic experimentation.

While Dorf and Sabel concede that strategic action endangers large-scale institutional (particularly legislative) decision-making processes, they under-

estimate the comparable threat at the level of small-scale, local decision-making units.<sup>17</sup> Their assumption seems to be (though it is not always entirely clear) that through continual bench-marking and monitoring-by-learning – what they call “methods of iterated goal-settings” (Dorf and Sabel 1998, 298) – deliberative problem solving will resemble (in the language of a game-theoretical analysis) a series of simple coordinations. However, players in a repeated game (in this case, the game of goal-setting) can reach a single repeated solution (what economists call an ‘equilibrium’ or ‘Nash equilibrium’)<sup>18</sup> that does not resemble a simple coordination (Przeworski 1991, 20). Indeed, a single act of defection can trigger repeated sub-optimal outcomes on the order of an iterated prisoner’s dilemma (see Figure 1).<sup>19</sup> Following the Hayekian-Deweyan logic, then, democratic experimentalism’s practice of iterated goal-setting would not guarantee coordination unless participants were (i) offered selective incentives to collaborate or (ii) threatened with coercive sanctions for defecting.<sup>20</sup>

### 5. Conclusion

In drawing the article to a close, I would like to discuss the methodological implications of my previous analysis of Dorf and Sabel’s democratic experimentalism. Specifically, what are the prospects for developing a Deweyan-Hayekian (or Hayekian-Deweyan) framework for conducting inquiry in democratic theory and governance as well as other areas of political studies?

As I have noted elsewhere (Ralston 2011), Dewey’s pragmatism is a rich resource for the study of politics. According to Macedo (1999) and Gamble (1996), Hayek’s thought is as well. What dissuades all but the most intrepid scholars from attempting comparative treatments of Dewey and Hayek’s ideas are their obvious ideological differences. Dewey and Hayek are, to say the least, odd bedfellows.<sup>21</sup> Dewey was a guild socialist and progressive liberal who argued against laissez-faire (or classic) liberalism. Hayek was a classic liberal who fiercely criticized socialism. However different their views were on the appropriate size and function of government or the relative merits of a state-controlled economy, both Dewey and Hayek – as Stephen Macedo (1999) notes of Michael Oakeshott and Hayek – “figure squarely in the liberal tradition” on at least three counts: (i) their “confidence in the power of public ideas,” (ii) their “commitment to an ever wider extension of liberal institutions,” and (iii) their “faith in human progress” (289). On more specific grounds, Colin Koopman (2009) and Robert Mulligan (2006) have compared the two figures extensively; Mulligan, to clarify the radical subjectivism in Austrian economics; Koopman, to explore the relationship between markets and morals in contemporary discourse over international trade. The Dewey-Hayek comparison could be extended into additional areas of political studies. For instance, in policy studies, one could examine the ways in which Dewey and Hayek’s similar strategy of collapsing means and ends permits a richer understanding of incremental policy development or “muddling through” (Lindblom 1958, 1959). Likewise, a

Deweyan-Hayekian framework could assist scholars in gaining a better understanding of specific issues in international affairs, public administration and even global environmental politics. My point is that a genuinely experimentalist approach to studying Dewey and Hayek's political ideas begins with the seeing beyond their ideological differences and eventually leads back to a deeper appreciation of their shared place in the liberal tradition.<sup>22</sup> It is an approach that Dorf and Sabel's account of democratic experimentalism would have benefited from.

#### NOTES

1. Dorf and Sabel's theory is not the only Dewey-inspired account of democratic experimentalism, though it is by far the most comprehensive. Ansell's (2011) account is also noteworthy. Dorf and Sabel (2000), Fung (2001, 2004), Karkkainen, Fung and Sabel (2000), Noonan, Sabel, and Simon (2009), and Sabel and Zeitlin (2008) have applied these Deweyan theories of democratic experimentalism to practical policy matters, such as drug treatment, community policing, environmental regulation, child welfare, and regional governance. Pragmatist philosophers, such as Koopman (2012), Waks (1998) and Weber (2011), have elaborated on Dewey's experimentalism and demonstrated how it can be fruitfully extended to other areas of inquiry, including politics, ethics and education.

2. Typically the bifurcating move is disguised as a false choice – between, for instance, a weakly regulated or “free” market with a minimalist night-watchman state and a strong state with a centrally-planned economy plus outlets for robust citizen participation (or minarchism and statism) – relieved by some third, forum-based alternative. For instance, Jon Elster (1997) believes that opposing the market to the forum gives rise to three views of politics: one private and market-based (social choice theory), another that is public and educative (participatory democratic theory), and a third (preferred) alternative which is forum-based and rational (deliberative democratic theory). Likewise, Cohen and Sabel (1997) describe their theory of directly-deliberative polyarchy as a response to “the false dichotomy of state and market,” recommending a third estate composed of secondary institutions or “civil society more broadly” (315). Also offering a forum-based alternative to purely state- and market-based governance, Dorf and Sabel (1998) define a directly-deliberative polyarchy in more operational terms, as a “system in which citizens in each locale participate directly in determining and assessing the utility of the services local government provides, given the possibility of comparing the performance of their jurisdiction to the performance of similar settings” (288).

3. Brandeis calls for states to become “laboratories of democracy” in the case of *New States Ice Co. v. Liebmann* (1932, 311). Sabel (1995) compares democratic experimentalism with Brandeis's call, claiming that “democratic experimentalism would finally make good on the old idea of Brandeis ... of the states as laboratories of democracy by ensuring that everyone was attentive to the outcome of the experiments” (33).

4. See Knight and Johnson (1999, 566), Ames (2008, 179), and Posner (2003b, 109). I argue against this view in Ralston (2010).

5. Fehl's (1994) interpretation of ‘order’ clarifies Hayek's dense account: “In principle, ‘order’ can be interpreted as the intended outcome of planned activities or as

the consequence of a process of self-structuring generated, but not intended, by the activities of the human beings involved" (197).

6. Gamble (1996) adds "language" to the list of possible non-market institutions that can be characterized as "spontaneous orders" (49).

7. Khalil (1997) contends that Hayek's generalization from the market to the political forum is an illicit move: "Hayek fails to extend the notion of organization order from the firm level to the level of the political community" (301).

8. Macedo (1999) highlights the danger, which Hayek warned of, whereby government decisions to over-regulate social and economic affairs result in unforeseen externalities: "Because of the importance of decentralized decision making in spontaneous orders, interventions into economic and social systems often have unintended consequences, consequences that are often quite the reverse of what is intended" (291).

9. Hayek (1978c) explains how competition serves as an experimental or discovery procedure: "If we do not know the facts we hope to discover by means of competition, we can never ascertain how effective it has been in discovering those facts that might be discovered" (180).

10. Posner (2003b) elsewhere notes that "Dewey's notion of distributed intelligence" bears a striking resemblance to "Hayek's influential idea that socially valuable knowledge is widely distributed throughout the community" (102).

11. Sabel (1995) believes that modeling an organization after a spontaneous order, including the adoption of a Hayekian system of formal rules, would convert management into informal supervisors and incentivize the hoarding, rather than sharing, vital information (20).

12. Cohen (2010) identifies the same discontinuity between Sabel and Hayek's models of governance: "[W]hereas Hayek's theory of governance by abstract formal rules assumes that individuals are limited in their capacity to make explicit formulations, Sabel's theory of governance via specific discursive rules depends upon exactly the opposite presumption" (365).

13. This is especially true in the situation of majority cycling. Dorf and Sabel (1998) only briefly describe the majority cycling threat as when "legislators would chase themselves about in an endless search for majorities, preferring B to A, C to B, and then A to C" (273). However, this is a highly synoptic account. To elaborate, there are at least three difficulties with what social choice theorists refer to as majority cycling or 'the paradox of voting.' The first difficulty, specified by Kenneth Arrow in his now-famous impossibility theorem, is that majority cycling leads to irrational collective behavior. As a condition for individual decisions to be rational, preference orderings should be transitive, i.e. if A is preferred to B and B to C, then A is preferred to C. Likewise, if collective decisions are rational, social preference orderings too should display transitivity. However, according to Arrow (1951), majority decision-making procedures can potentially result in intransitive social preference orderings, which thereby violate the rationality condition: "the method ... for passing from individual to collective tastes fails to satisfy the condition of rationality, as we ordinarily understand it" (3). A second difficulty is that of incoherence. As the pairing of alternatives periodically shifts, Riker and Ordeshook (1973) point out, so does the preferred social preference ordering (84ff). The majority-decided status quo, A, can become C (as C is preferred to A), then B (as B is preferred to C) and return to A (as A is preferred to B); a cycle that will repeat itself indefinitely unless individual preferences change or some institution imposes a decision. In the case that a non-representative institution decides the outcome, then a minority group controlling the institution frustrates a majority disposed to another outcome.

Lastly, as Frohlich and Oppenheimer (1978) note, “the difficulty of arbitrariness occurs in any voting system which involves a series of head-to-head votes, such as an amendment process” (17ff). The victor in such a series of matches normally constitutes what is called a ‘Condorcet winner’.

14. By the late 1950s and early 1960s, some political scientists and economists began modeling the actions of governments, politicians and voters utilizing the analytic tools of economics. Their ‘Public Choice’ models explain and predict political activity, such as voter turnout and bureaucratic behavior, in the same way that economic models explain and predict market activity, such as consumer and firm behavior. In Buchanan’s (1989) words, “[p]ublic choice is a *perspective* on politics that emerges from an extension of the tools and methods of the economist to collective and nonmarket decision-making” (13).

15. Despite the recurrence of such disagreeable situations, Hardin (2008) is optimistic that they can be avoided through the emergence of either spontaneous or human-made orders: “Instead [of resorting to violence], we use legal institutions or have more of less spontaneous recourse to social norms or group management to resolve such issues as our pure conflict” (464).

16. Hayek (1978b) refers to free market competition as “the game of catallaxy,” a “wealth-creating game,” a “zero-sum game” and one whose outcomes result from a “mixture of skill and chance” on the part of its players (108). DiZerega (1989, 235) characterizes catallaxy as “a social order predicated upon contractual exchange.”

17. The closest Dorf and Sabel (1998) come to admitting that strategic action threatens small-group deliberation is in citing “the extensive opportunities for rent-seeking concealed by the forms of deliberation that these perversities, in part, create” (282). Rent-seeking in the context of deliberative decision making refers to the activities of ascendant or dominant groups of agents seeking to coerce weaker opposition groups; others trying to exploit their role as agenda-setters; and still others attempting to spread misinformation. “Rent-seeking theory argues,” Bohnet and Frey (1994) explain, “that those who are part of the agenda setting and decision-making may form a cartel therewith creating and appropriating political rents [or benefits]” (348). In addition, the state can legally mandate that some private institutions and associations sponsor deliberations, thereby granting enterprising rent or benefit seekers institutionalized support for dominating the deliberative process and manipulating outcomes.

18. In game theory, the equilibrium concept was first formulated by John Nash (1950) as the point in a game at which it is rational for all parties to cling to their existing strategy. In public choice and neoclassical economics, according to Johnson (1991), “[e]quilibrium means that a state of balance exists between opposing forces or that there is a state of rest, the achievement of which means that there are no incentives for further changes” (21).

19. For an examination of the Nash equilibrium concept in models of bargaining behavior under incomplete information, see Chatterjee and Samuelson (1983).

20. John Braithwaite (2004) proposes a more limited and localized Hayekian practice of *nodal governance*: “We only understand bits of the network that we monitor directly. While governance cannot encompass synoptic planning, actors can govern nodally [or by collaboration at a particular point of control]” (308). However, even this option would seem to require selective incentives or coercion to stop strategic actors from co-opting these nodal points of governance.

21. Another reason that they are odd bedfellows is that Hayek misunderstood Dewey’s notion of liberty. In *The Constitution of Liberty*, Hayek (1960) selectively

quotes Dewey to demonstrate that he endorsed a thoroughly positive conception of liberty, such that freedom is merely an expression of governmental power (17). This interpretation, if accurate, would make Dewey's view of liberty wholly incompatible with Hayek's strong endorsement of negative liberty, or the view that the affairs of private individuals should suffer minimal government interference. However, Dewey's view is much more nuanced than Hayek's account suggests. For Dewey (1996), "[t]he problem of freedom and of democratic institutions is tied up with the kind of culture that exists" (LW 13, 72). For a more extensive treatment of Dewey's notion of liberty, see Ralston (2009b, 143–144).

22. Unfortunately, some scholars – for instance, Hay (2012), Ryan (1997), and Savage (2002) – have been too quick to wed Dewey's political philosophy to the contemporary phase of the liberal tradition, while giving scant attention to the common ground it shares with the classic phase.

#### REFERENCES

- Ames, R. T. 2008. "Tang Junyi and the Very 'Idea' of Confucian Democracy," in *Democracy as Culture: Deweyan Pragmatism in a Globalizing World*, ed. S. Tan and J. Whalen-Bridge (Albany: State University of New York Press), pp. 177–199.
- Ansell, C. K. 2011. *Pragmatist Democracy: Evolutionary Learning as Public Philosophy*. Oxford: Oxford University Press.
- Arrow, K. 1951. *Social Choice and Individual Values*. New York: Wiley.
- Bohnet, I. and B. S. Frey. 1994. "Direct-Democratic Rules: The Role of Discussion," *Kyklos* 47(3): 341–354.
- Braithwaite, J. 2004. "Methods of Power for Development: Weapons of the Weak, Weapons of the Strong," *Michigan Journal of International Law* 26(1): 298–330.
- Buchanan, J. M. 1989. *Essays on the Political Economy*. Honolulu: University of Hawaii Press.
- Chatterjee, K. and W. Samuelson. 1983. "Bargaining under Incomplete Information," *Operations Research* 31(5): 835–851.
- Cohen, A. J. 2010. "Governance Legalism: Hayek and Sabel on Reason and Rules, Organization and Law," *Wisconsin Law Review* 2010(2): 357–387.
- Cohen, J. and C. Sabel. 1997. "Directly-Deliberative Polyarchy," *European Law Journal* 3(4): 313–342.
- Dewey, J. 1996. *The Collected Works of John Dewey: The Electronic Edition*, ed. L. A. Hickman (Charlottesville, Virginia: Intelelex Corporation).
- DiZerega, G. 1989. "Democracy as a Spontaneous Order," *Critical Review* 3(2): 206–240.

- Dorf, M. C. and C. F. Sabel. 1998. "A Constitution of Democratic Experimentalism," *Columbia Law Review* 98(2): 267–473.
- Dorf, M. C. and C. F. Sabel. 2000. "Drug Treatment Courts and Emergent Experimentalist Government," *Vanderbilt Law Review* 53: 831–883.
- Elster, J. 1997. "The Market and the Forum: Three Varieties of Political Theory," in *Deliberative Democracy: Essays on Reasons and Politics*, ed. J. Bohman and W. Rehg (Cambridge, Mass.: MIT Press), pp. 3–33.
- Fehl, U. 1994. "Spontaneous Order," in *The Elgar Companion to Austrian Economics*, ed. P. J. Boettke (New York: Edward Elgar), pp. 197–205.
- Frohlich, N. and J. A. Oppenheimer. 1978. *Modern Political Economy*. Englewood Cliffs, N.J.: Prentice-Hall.
- Fung, A. 2004. *Empowered Participation: Reinventing Urban Democracy*. Princeton, N.J.: Princeton University Press.
- Fung, A. 2001. "Accountable Autonomy: Toward Empowered Deliberation in Chicago Schools and Policing," *Politics & Society* 11(1): 73–103.
- Gamble, A. 1996. "Hayek and the Left," *Political Quarterly* 67(1): 46–53.
- Garrouste, P. 1994. "Menger and Hayek on Institutions: Continuity and Discontinuity," *Journal of the History of Economic Thought* 16(2): 270–291.
- Hardin, R. 2008. "Are Homo Economicus and Homo Politicus Identical Twins?" *Public Choice* 137(3–4): 463–468.
- Hay, C. 2012. "Consonances Between Liberalism and Pragmatism," *Transactions of the Charles S. Peirce Society* 48(2): 141–168.
- Hayek, F. A. 1948. *Individualism and Economic Order*. Chicago: University of Chicago Press.
- Hayek, F. A. 1960. *The Constitution of Liberty*. Chicago: University of Chicago Press.
- Hayek, F. A. 1964. "Kinds of Order in Society," *New Individualist Review* 3(2): 3–12.
- Hayek, F. A. 1973. *Law, Legislation and Liberty: Rules and Order*, vol. 1. Chicago: University of Chicago Press.
- Hayek, F. A. 1978a. "Coping with Ignorance," *Imprimis* 7(7): 1–6.
- Hayek, F. A. 1978b. *Law, Legislation and Liberty: The Mirage of Justice*, vol. 2. Chicago: University of Chicago Press.

- Hayek, F. A. 1978c. *New Studies in Philosophy, Politics, Economics and the History of Ideas*. Chicago: University of Chicago Press.
- Hayek, F. A. 1981. *Law, Legislation and Liberty: The Political Order of a Free People*, vol. 3. Chicago: University of Chicago Press.
- Hayek, F. A. 1988. *The Fatal Conceit: The Errors of Socialism*, ed. W. W. Bartley, III (Chicago: University of Chicago Press).
- Johnston, D. 1991. "Human Agency and Rational Action," in *The Economic Approach to Politics: A Critical Reassessment of the Theory of Rational Action*, ed. K. R. Monroe (New York: Harper-Collins), pp. 94–112.
- Karkkainen, B. C., A. Fung, and C. F. Sabel. 2000. "After Backyard Environmentalism: Toward a Performance-based Regime of Environmental Regulation," *American Behavioral Scientist* 44(4): 690–709.
- Khalil, E. 1997. "Friedrich Hayek's Theory of Spontaneous Order: Two Problems," *Constitutional Political Economy* 8(4): 301–317.
- Knight, J., and Johnson, J. 1999. "Inquiry into Democracy: What Might a Pragmatist Make of Rational Choice Theories?" *American Journal of Political Science* 43: 566–589.
- Koopman, C. 2009. "Morals and Markets: Liberal Democracy through Dewey and Hayek," *Journal of Speculative Philosophy* 23(3): 151–179.
- Koopman, C. 2012. "Pragmatist Resources for Experimental Philosophy: Inquiry in Place of Intuition," *Journal of Speculative Philosophy* 26(1): 1–24.
- Lindblom, C. E. 1958. "Policy Analysis," *American Economic Review* 48(298): 298–312.
- Lindblom, C. E. 1959. "The Science of 'Muddling Through'," *Public Administration Review* 19(1): 79–88.
- Lobel, O. 2004. "The Renewal Deal: The Fall of Regulation and the Rise of Governance in Contemporary Legal Thought," *Minnesota Law Review* 89: 262–390.
- Macedo, A. 1999. "Hayek's Liberal Legacy," *The Cato Journal* 19(2): 289–300.
- Mulligan, R. 2006. "John Dewey's Ways of Knowing and the Radical Subjectivism of the Austrian School," *Education and Culture* 22(2): 61–82.
- Nash, J. F., Jr. 1950. "The Bargaining Problem," *Econometrica* 18: 155–162.
- New States Ice Co. v. Liebmann*. 1932. 285 U.S. 262.
- Noonan, K. G., C. F. Sabel, and W. H. Simon. 2009. "Legal Accountability in the Service-Based Welfare State: Lessons from Child Welfare Reform," *Law & Social Inquiry* 34(3): 523–568.

- Phelps, Edmund. 2009. "The Justice of a Well-Functioning Capitalism and the Reforms that Will Realize It, Not Kill It," *Symposium on the New World, New Capitalism* (January): 8–19. Online at [www.columbia.edu/~esp2/Paris%27NewCapitalism%27Symposium2009Feb26-1.pdf](http://www.columbia.edu/~esp2/Paris%27NewCapitalism%27Symposium2009Feb26-1.pdf).
- Posner, R. 2003a. "Hayek, the Mind, and Spontaneous Order," *Transactional Viewpoints* 2(3): 1–4.
- Posner, R. 2003b. *Law, Pragmatism and Democracy*. Cambridge, Mass.: Harvard University Press.
- Przeworski, A. 1991. *Democracy and the Market*. Cambridge, UK: Cambridge University Press.
- Ralston, S. J. 2009a. "The Ebb and Flow of Primary and Secondary Experience: Kayak Touring and John Dewey's Metaphysics of Experience," *Environment, Space, Place* 1(1): 189–204.
- Ralston, S. J. 2009b. "On the 'Freedom Agenda' and the George W. Bush Legacy: A Philosophical Inquiry," in *Perspectives on the Legacy of George W. Bush*, ed. M. O. Grossmann and R. E. Matthews, Jr. (Newcastle upon Tyne, UK: Cambridge Scholars Publishing), pp. 137–151.
- Ralston, S. J. 2010. "Can Pragmatists be Institutionalists? John Dewey Joins the Non-ideal/Ideal Theory Debate," *Human Studies* 33(1): 65–84.
- Ralston, S. J. 2011. "Politics," in *The Continuum Companion to Pragmatism*, ed. S. Pihlström (London and New York: Continuum), pp. 150–160.
- Randall, J. H., Jr. 1951. "Dewey's Interpretations of the History of Philosophy," in *The Philosophy of John Dewey*, ed. P. A. Schilpp (New York: Tudor), pp. 77–102.
- Riker, W. H., and P. C. Ordeshook, 1968. "The Theory of the Calculus of Voting," *American Political Science Review* 62(1): 25–42.
- Ryan, A. 1997. *John Dewey and the High Tide of American Liberalism*. New York: W. W. Norton.
- Sabel, C. F. 1995. "Design, Deliberation, and Democracy: On the New Pragmatism of Firms and Public Institutions." Paper presented to the Conference on Liberal Institutions, Economic Constitutional Rights, and the Role of Organizations. European University Institute, 15–16 December 1995, pp. 1–44. Online at <http://www2.law.columbia.edu/sabel/papers/Design.html>.
- Sabel, C. F. 2006. *Learning by Monitoring*. Cambridge, Mass.: Harvard University Press.
- Sabel, C. F., and J. Zeitlin. 2008. "Learning from Difference: The New Architecture of Experimental Governance in the EU," *European Law Journal* 14(3): 271–327.

Savage, D. M. 2002. *John Dewey's Liberalism: Individual, Community, and Self-Development*. Carbondale, Ill.: Southern Illinois University Press.

Vanberg, V., and J. M. Buchanan. 1990. "Rational Choice and Moral Order," in *From Political Economy to Economics – And Back?* ed. J. H. Nichols Jr. and C. Wright (San Francisco, Cal.: Institute for Contemporary Studies), pp. 175–191.

Waks, L. J. 1998. "Experimentalism and the Flow of Experience," *Educational Theory* 48(1): 1–19.

Weber, E. T. 2011. "What Experimentalism Means in Ethics," *Journal of Speculative Philosophy* 25(1): 98–116.

Weber, M. 1978. *Economy and Society: An Outline of Interpretive Sociology*, ed. G. Roth and C. Wittich, trans. H. H. Gerth and C. W. Mills (Berkeley: University of California Press).

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