

## Democracy in Danger S5 E1: “The Good Gamble”

### [ THEME MUSIC ]

[00:00:03] **Will Hitchcock:** Hello, I'm Will Hitchcock.

[00:00:04] **Siva Vaidyanathan:** And I'm Siva Vaidyanathan.

[00:00:06] **WH:** And from the University of Virginia's Karsh Institute, this is *Democracy in Danger*.

[00:00:11] **SV:** It's good to be back here with you, Will.

[00:00:13] **WH:** You too, Siva! It's been too long. And I'm afraid to say democracy is still in danger — in the United States and around the world. So we've got plenty to talk about here in Season Five of the show.

[00:00:25] **SV:** I mean, it's been quite a summer for those of us who follow the perils of democracy. You know, back in June, a congressional committee investigating the January 6th, 2021, insurrection at the Capitol laid out its case against former President Donald Trump, right there on national television. And then, you know, just on the heels of that, we saw FBI agents search Trump's Mar-a-Lago resort for government documents that Trump took from the White House in violation of the law.

[00:00:54] Then on August 10th, President Trump pled the Fifth as he faced off against New York attorneys who were investigating his shady business practices. Now I'm all for holding Trump accountable, but the waves that emanate from this are going to be heavy, right? I mean, we have to recognize that prosecuting a former president is unprecedented and likely to fire up more anger and more anti-democratic fervor.

[00:01:24] **WH:** Yeah, the waters are roiling. I mean, I think right now, Siva, we can cautiously say that the rule of law is holding. But you're right. I mean, going after a former president raises a lot of thorny legal questions, constitutional and political questions.

[00:01:38] **SV:** Right? Right. You know, legal and constitutional questions are exactly what we're going to dove headfirst into this, our fifth season of *Democracy in Danger*. And to kick things off, we have with us an eminent scholar of the law and of democracy and one of our country's most incisive political thinkers.

[00:01:56] **WH:** Jedediah Purdy is on the line with us from Duke University, where he recently rejoined the law school faculty. He's a frequent contributor in the popular press and the author of numerous books. His latest has just arrived in our studio, and it has a title that's right up our alley. It's called *Two Cheers for Politics: Why Democracy Is Flawed, Frightening and Our Best Hope*. Jed, welcome to *Democracy in Danger*!

[00:02:23] **Jedediah Purdy:** Thanks, Siva and Will. I'm really glad to be here with you.

[00:02:26] **WH:** Well, let me dive right into what I take as the central argument of your book. If I'm reading you right, you believe that democracy, for all of its flaws and its difficulties, remains a viable and indeed admirable form of government, but that in the United

States, we've sort of failed to practice the arts of democracy. We've been too tempted to turn away, you know, to technocrats or perhaps turn to strongmen to solve our problems. The lure of the market, the lure of capitalism, is at the heart of our disengagement, as you put it, from politics.

[00:03:01] Walk us through a little bit, this central argument. I mean, from where I sit, it seems to me Americans these days are super-political. Everything has become political. But I think you mean to suggest politics in a different way. Tell us about that.

[00:03:18] **JP:** So, in the early 21st century, democracy seemed to be inevitable, but also largely superfluous. It was thought that history only had one direction. Everyone sort of said they didn't believe in the end of history, but everyone did kind of believe in the end of history. It was all going to end up in the same basically capitalist, individualist, loosely egalitarian, electoral, but not very high-stakes society of managed prosperity. And that would be good.

[00:03:49] **SV:** So it was easy to take for granted.

[00:03:51] **JP:** Yeah, exactly. And I think we're now in a time when instead democracy feels essential, but also fraught, fragile and dangerous. Dangerous because we've seen the kinds of threats and hostility that it can conjure up internally, fragile because we've seen how easily aspects of it can be broken. And I think what we are trying to recover now is some things we had forgotten about the way a democracy needs to relate to economic life; the way a democracy needs to relate to its courts and constitutional order; and, I would say, at the deepest level, how a democracy is a certain kind of institutional life for a moral idea of how we can live together as equals who can choose our own future and how we're going to live together.

[00:04:45] I think what's easy to miss in this hyper-politicized time when everything indicates partisanship — from how you talk about gender to whether you wear a medical mask to where you live, what you drive — is that at the same time that we are asking more of politics and paying more attention to it, we're also haunted on all sides by a doubt that it will actually deliver or produce, that democracy is capable of choosing futures and establishing a common world among equals.

[00:05:21] **SV:** Right. I mean, I love that you place the beginning of the crumbling of this moral idea, in the 1990s. The erosion of American democracy did not begin with the fraught election of Donald Trump. So, you talk about nihilistic politics, which is, you know, I think connected to this notion of taking democracy for granted to such a degree that you figure it's a given and it no longer needs to be a moral stand — something that, you know, Ronald Reagan actually took seriously. But by the time we get to the years of Bill Clinton and Newt Gingrich and then, you know, the rise of Mitch McConnell or more recently, you know, we enter this phase of what you've called “nihilistic politics.” Can you talk us through what we're living with in terms of the legacies of the 1990s?

[00:06:09] **JP:** Totally. There emerged in that decade several versions of a politics that on some level took the continued vitality of our institutions enough for granted that it neglected the aspect of political life that had always been about keeping those going and sustaining them and renewing them. And that had different versions. One is the bare-knuckled politics that Gingrich pioneered, which was really the beginning of the norm-breaking trajectory that

you see in the Trump era. Enmity was absolute. There was a kind of Iago-like quality of the Shakespearean villain: power was its own logic and like the enemy was its own imperative. I also think it's easier to sustain at all levels, from the elite to the mass, of politics of that kind. If at some level you've stopped thinking these are institutions you have to take care of, you sort of think — like a teenager does in a house that they aren't responsible for — that you can do any amount of wrecking and someone else is going to pick it up or it'll just be there. You can see Gingrich, perhaps, as a sort of grotesque of the dynamic across the parties at that time. The Clinton administration was famous for adopting, Sid Blumenthal's idea of the permanent campaign — there wasn't a distinction between campaigning and governing. So that's there. I also think you get a couple of configurations of progressive politics in that time that are disconnected from the real stakes of democratic life — or they break off parts of it, nicer, softer parts of it, and they leave behind some of the harder but more essential parts.

[00:07:56] One is the politics of conversation. There was an idea — I think of it as a very Clintonite idea — that politics was fundamentally about people of goodwill just continuing to talk. And if people of goodwill continued to talk, they were certain to converge on decent principles. I'm sympathetic to that. Of course, you need the unique communicative virtues in a democracy. But it's also true that at a very deep level, political life is about conflicting visions of the future and the common good. It is about distribution and whether people are dealt in or left out. And it's about decisions whose whole point is that they do stop the argument for the moment. And the Clinton administration was, especially after 1994, but in some ways all along, deeply invested in the 1990s idea that the market really was the repository of a lot of the efficacy in this world, and that a good deal of the role of government was to facilitate it and get out of the way. And it was the Clinton administration that led the neoliberalization of financial regulation and contributed in really significant ways to the crisis that we're still living with.

[00:09:20] **SV:** So we've done a good job on indicting Clinton and, of course, Newt Gingrich, right. But look, The Ramones and The Clash tell me that it's Ronald Reagan and Margaret Thatcher who are to blame for the neoliberalism that we all have to live in now. And so, what about Reagan, right? You don't leave Reagan alone in your book. So tell us a bit about what his legacy is and how, you know, this person who so clearly idealized American democracy, even if he didn't describe it very well, might have some blame for our current condition.

[00:09:59] **JP:** Well, so, Reagan comes into office for a second term in '85. And there's this extraordinary phrase in that inaugural address where he promises a "second emancipation." This emancipation is not out of slavery into citizenship. This is an emancipation out of government and into the market. And he has this picture of all of the kind of wisdom and goodness of American life as taking place in the spontaneous creativity and reciprocity of market life. He's more concrete about it, but that's what he's talking about. All the good stuff is what people do out there making things and selling things for one another to make money. And this is the kind of moral vision behind his famous phrase about wanting a country in which it's still possible to get rich. And the answer in that tradition is, fundamentally, the laws of property and contract and voluntary cooperation create a framework in which, uniquely, people can align their different projects and goals.

[00:11:05] It's a very powerful picture. It's worth appreciating the beauty of it. In a bunch of ways, it also doesn't work. What Reagan did at the level of political imagination was to say government is basically extraneous, it's the problem, not the solution. He famously said —

Clinton picked that up later — he said, “The era of big government is over.” But the things that you like about it, like the world that it’s made for you — Medicare, farm subsidies, highways, safe neighborhoods for a lot of people though not everyone — that’s just there, that’s just America, you know, that’s not the government. And I think that line, which is, of course, unreal — it wouldn’t hold up as an explicit ideology, but — as a form of imagination, it works. I think that’s kind of the picture of the world that he helped to bring people into.

[00:11:58] **WH:** Let me ask a little bit more about this process, Jed. You know, you write that economics as a discipline, as a field, is kind of an anti-politics because it presents itself as simply reporting on the immutable laws of human nature. And so, when politicians say, “Well, let the market handle it,” they are endowed with this credibility that somehow the market is a beast, is a system, that functions by itself without the touch of the human hand — the invisible hand, in fact, is at work. Well, but also, economic policy is highly political. We know that instinctively. We see it in the newspapers. How has “economics” come to stand in for “politics” in a way, for decision-making, for debate about policy goals and differences? Who benefits from this sort of science of economics? And who benefits from maintaining it as a kind of impartial, immutable system?

[00:12:54] **JP:** Well, this is a great and very thorny question. So, I think we have to say on some level, economics became regnant in the ’90s, in part because it happened that the Soviet Union’s monstrous system fell at a time of neoliberal revival in the North Atlantic, so that it seemed that the West that had won was the West of markets. And then you have ideological organizations — like the Olin Foundation and other right-wing foundations — seeding economics as policy science, a certain version of economic analysis as not just a theory of markets, but a theory of everything, in which government becomes a form of broken market or imperfect market, social life becomes a form of imperfect market. All of that was propagated through the universities, I think partly by money. But it’s not enough to say it was by money, there’s a lot of money sloshing around in universities. I think it’s also that it came with some analytically elegant modules that scholars could pick up and use and feel that they were doing something and making progress. So there’s a kind of internal story about intellectual life. And I think that in a way then gets generalized in education and sort of meritocratic culture in the nineties and afterward. “Economics is the way to be smart,” and nothing matters more in that world than being smart. And I think there’s a very hard story, a kind of materialist story, about which industries benefit from market led globalization: it’s pharma, it’s finance. It’s not the American export industries, but it’s some of our more in material industries.

[00:14:42] **SV:** Silicon Valley.

[00:14:43] **JP:** Yeah, totally. So all of those industries are important in the political economy of trade. Like, trade policy is class policy and distributional policy. But at the same time, it only works in the way that it does — not just as an interest group victory, but as a sort of triumph of rationality in the minds of the people doing it — because of this broader cultural hegemony, which I think has — you know, it has different sources from the end of the Cold War to the kind of shape of meritocratic university culture in that time.

[00:15:14] **WH:** Let me just ask a follow-up then. I mean, what happens if more Americans favor the marketplace than favor democracy? What if they make a democratic choice to seek — to take their chances in — the free market because they believe, perhaps wrongly, that the market will deliver somehow, that opportunity and freedom in the marketplace is the way to

human happiness, and they say, “Democracy has failed to deliver these things, look, it’s all about partisanship and it’s broken, and I don’t like whoever gets elected, yada, yada”? Have we already reached that point? Did we reach it long ago? Or is that a dystopia that you fear might be around the corner?

[00:15:57] **JP:** Both. Both! I mean, in short, I think in some ways we’ve done that again and again in this country. There are ways that Jacksonian democracy was not only constitutively, terminally racist, but it was also, in many of its aspects, a version of marketization as egalitarianism among white men: the right to form a corporation, the right to make property and acquire contracts and stuff. So I think it’s both a recurrent reality in American life and development whose kind of final triumph I definitely, definitely fear. I think the thing that the market optimists so basically missed was the tendency of economic life to colonize political life in a bunch of different ways, by creating accumulations of wealth that inevitably translate their economic power into political power, but also by creating a way of relating to each other, a mode of consciousness, a way of imagining our common lives, in which the metaphor of the market is the kind of supreme way of thinking about things. There’s no constitutive limit on acquisition. You can never win too much. The market value of an idea or a line is more important than its truth value.

[00:17:27] I mean, what Donald Trump represented was the bursting onto the American scene of a theory of legitimacy, a theory of why he should be the one to rule, that was a just mildly tweaked version of the market logic that he had, you know, in various corrupt and semi-corrupt ways ridden to prominence. He was the first person, famously, to enter the White House without significant political or military service. That’s because he was seen as a creature of the market, and that was actually his claim, right. “The market is where grownups do things,” and that is ostensibly what he did.

[00:18:04] **SV:** Yeah. Despite failing time and time again in the real world of the markets. Now, let’s talk about the great American marketing plan, right. The great American marketing document: the United States Constitution, which in many ways, you know, sells our system to the people, sells our system to the world. And you write extensively about the ways in which it explicitly limits democracy — which we kind of get — but also undermines the very practice of democracy as it has grown, right. And that’s not to say that there aren’t lots of points in which constitutional growth and realization infused democracy with energy — the 14th Amendment being, I think, the best example. But let’s talk about that as a form of anti-politics, right. So, what do you see in terms of the Constitution working for or against democracy today?

[00:18:58] **JP:** So, as you said, we kind of get that there are deep ways that the Constitution as an anti-majoritarian document has become a key to minority-rule strategies at the national level. We know that. I think there’s also a way that the cult of the Constitution does something at the level of the imagination and it does something institutionally.

[00:19:26] What it does at the level of the imagination is to say that the most fundamental kinds of political decisions — like the decision to say, for example, that we are not going to have an upper house any longer that systematically skews representation as it does, or that we’re going to let the people elect the president — that those decisions are just out of our hands. Those were made by a different kind of person. The founders were a people of a different nature in some way, whether we think they were good or bad, they made a world that we can’t change. And that’s a fundamentally counter-democratic idea, that we don’t get

to choose or even affirm the basic terms of our political lives, even when the stakes are extremely high.

[00:20:13] And at the institutional level, it channels a lot of questions about who we are what our basic commitments are into the federal courts and especially the Supreme Court, in a way that I think is inevitable when you have an old, brief, hard-to-change Constitution. There's just no way around the attractiveness of litigation to any sort, but especially anti-majoritarian sorts of advocacy and interest. It would be a very great thing if we could think of the Constitution again as something that living generations had made or at least affirmed. And I think the key to this — the first key — is the Constitution's Article V, the provision for amendment that sets such a high bar for changing the constitutional text and directs constitutional politics implicitly to the courts and is really the lynchpin of our judicial oligarchy. I think we might remember that, although it's very, very hard to change the Constitution, it's not impossible. I find it extraordinary that they passed the 17th Amendment establishing direct election of senators, taking that prerogative away from state legislatures, by driving the amendment through state legislatures, in part by un-electing a bunch of people who had opposed the amendment the first time through.

[00:21:49] So I think we've been in this funny moment where progressives think of constitutional amendment and convention as somewhere out there in the area of citizen sheriffs or sovereign citizens. It's like it's a crazy, like, three-cornered hat kind of idea. And I think that's actually a sign of how caught we are in the headspace of a time that thought we had worked it all out, and it was going to be fine, and we shouldn't mess with it. I would be very excited to support a drive to amend Article V and to think about something like — here's a crazy idea: generational constitutional conventions as an opportunity to say, every 30 years or so, “Is this fundamental law in line with our commitments as a people, or are there things that we need to shift?”

[00:22:41] **SV:** Yeah, yeah. So, you know, those of us who've been reading your work for decades now know that even though you're writing about some pretty dark things and the roots of some dark things, you're basically an optimist. You're basically one who sees hope and possibility, in our future, in our practice, in our people. And you've written explicitly about the value of patriotism. So, you know, I was reading back on some of your stuff today and I started thinking, you know, “Jed is a Frederick Douglass patriot, you know, he's a person who sees possibility even in the darkest corners.” So, could you talk a bit about your vision of potential, of hope, of patriotism? Could you distinguish it from nationalism?

[00:23:33] **JP:** Yeah. Thanks for that. I think it's essential to say that it was a whole lot harder for Frederick Douglass to get to that position than it has been for me, to the point that I almost shy away from making that claim. But I definitely think that everyone can take lessons from the moment in Douglass's famous July 5th address, “What to the Slave Is the 4th of July,” where he says the country is full of rank hypocrisy and violence. It's disgusting, it's abhorrent, it's monstrous to celebrate liberty and a country full of race slavery. But then, he says, the principles of the Declaration of Independence are saving principles. They are the sheet anchor of a possible transformation of the country. That is, they are the thing you could pivot on. And basically, he says, you people, you people who have political rights, you have to fight to make this real. Essentially, that's your only path to redemption.

[00:24:36] What I love about that, besides the beauty and the — just poetry of Douglass and his extraordinary personal charisma in the whole shape of his life and what he did, is the

recognition that we’re caught in politics together. Politics is a response to the fact that we’re caught together. We can’t get away from each other. In some ways, the fantasy of political nihilism is the idea that we could junk politics and then somehow keep going and somehow be all right, which is just not true. So, Douglass is directing people’s attention to what it is in their country that gives them the capacity to change it in the direction of democracy and equality and saying: “That is — that is the only thing that will save you. That’s what you have to hold on to. You have to identify with it. You have to love it and you have to try to make it stronger.”.

[00:25:28] I think that’s exactly right. So, I do think of patriotism as a kind of affection and identification with the country that is a burden as much as a gift. It means accepting that the things that are wrong and cruel and violent in the country are burdens for you. They are partly on your conscience, whether or not you personally benefit from them, whether or not you contributed to them. But also, that the things that you can accomplish together — those are yours, too. You get to own those. And, of course, we need to cultivate ways of feeling, ways of being that take that feeling as seriously as we take, for example, the fact that we need the natural world to survive and so, of course, we should love it and identify with it and try to care for it. We should sustain our political institutions in the same kind of way. If you speak in that register, people know — even though you strongly disagree, even though you’re fighting, even though you have different visions of the country — that it’s because you want it to succeed, it’s because you love it, it’s because you know that you have no life outside of it, actually. And I think this has to be the gamble.

### [ THEME MUSIC ]

[00:26:56] **SV:** Jedediah Purdy is a professor at Duke University Law School. He’s the author of the new book *Two Cheers for Politics: Why Democracy Is Flawed, Frightening and Our Best Hope*. He grew up in “Almost Heaven, West Virginia.” And he’s the parent of a new baby.

[00:27:12] **WH:** *Democracy in Danger* is part of the Democracy Group Podcast Network. Visit [democracygroup.org](https://democracygroup.org) to find all our sister shows. We’ll be right back after this message from our friends.

### [ AD BREAK ]

[00:28:07] **SV:** You know, Will, going through Jed Purdy’s work, and having this conversation with him, makes me think of some of the antidemocratic strains in American history: the makeup of the Senate, the Electoral College, right, the fact that it’s so hard to amend the Constitution. These are all brakes on democracy. And our founders were explicit about it, right. The Federalist Papers — you know, another thing we revere without critically reading them — you know, we take seriously because that side won. We don’t take the anti-federalists so seriously, even though they had a lot going for them. They were right about a whole lot, right.

[00:28:45] And I think it’s important that we take seriously that antidemocratic thought is a deep and resonant part of our intellectual history — from John Adams, who had issues with democracy through Madison himself, who, you know, mediated so many of these conflicts about democracy, and then, you know, right up through the 20th century, you know, with Walter Lippmann, who pretty explicitly said life in the 20th century is too confusing,

governing our country like the United States is too messy, to be left to the people. And Jed Purdy's in touch with that. But he's writing from the counternarrative, he's writing in the tradition of Frederick Douglass, of John Dewey, right. He's trying to celebrate the possibility of democracy that we've never quite realized. So he's not nostalgic in the least, yet he's somehow hopeful. What do you think? Is that a reasonable position to take at a time like this?

[00:29:39] **WH:** Well, I hope that it is. But I also want to reflect for a moment... we happen to be recording this show on August 11, 2022, and it's five years since the quote-unquote, “Unite the Right Rally” came to Charlottesville — tomorrow will be the fifth anniversary of the day in which Heather Heyer was killed, a citizen of this town who was murdered by a far-right — boy, frankly — during a protest, a peaceful protest that turned very violent. Again, not the first violent riot that's happened in American history. Violence, racism, confrontation, anti-politics is woven into our political history, tragically.

[00:30:17] But also, let's remember that at least in our town, in our university, there was a reckoning that emerged from those events. By no means is that reckoning complete. But it was a jolt to the system. It was a shock to the system. I think it pushed the University of Virginia and perhaps Charlottesville out of some sense of complacency that somehow, you know, things were just more or less fine in this bucolic little region of Virginia. And over the past five years, we've done a lot of democratic work trying to put our polity back together again, trying to ask questions. “How? Why? What's my responsibility? What have I been ignoring?” The fact that African Americans in this city have known all about the violent history of this town, of its racism, of its redlining, of its real estate problems — these things suddenly were pressed to the forefront of our existence, and that kind of hard work, of democratic repair and reckoning, is exactly what Jed Purdy is calling us to do.

[00:31:17] It's not going to be easy, but if we don't do it, we're basically giving up. We're submitting to a world in which politics doesn't matter, in which basically there's only going to be a one-party state in which we don't have options, in which we can always buy Big Macs and Dunkin Donuts, but we won't have the right to vote. What he's saying is actually a call to recover our democratic practices.

### [ THEME MUSIC ]

[00:31:46] **SV:** That's all we have this time on *Democracy in Danger*. In a couple of weeks, we'll ask media scholar Emily Van Duyn why so many of us are downright scared to even talk about politics.

[00:31:58] **Emily Van Duyn:** So, you know, one woman I talk about, Linda, she was afraid of putting a yard sign in her front yard because she had done that in the past and had a couple of her animals shot at.

[00:32:09] **WH:** Stay in touch in the meantime. Shoot us a tweet @DinDpodcast that's D-I-N-D podcast. Tell us what you think we should cover this season and share your own hopes for reinvigorating the rule of the people.

[00:32:22] **SV:** There's a lot more to read and see on our webpage, dindanger.org. There you'll find show notes and links to what we're reading. It's really a virtual syllabus for every episode.

[00:32:33] **WH:** *Democracy in Danger* is produced by Robert Armengol, with help from Rebecca Barry. Elie Bashkow is our engineer. Our interns are Eva Kretsinger-Walters, Ellis Nolan and Bea Webster.

[00:32:44] **SV:** Support comes from the University of Virginia’s College of Arts and Sciences. The show is a project of UVA’s Karsh Institute of Democracy. We’re distributed by the Virginia Audio Collective of WTJU Radio in Charlottesville.

[00:32:58] I’m Siva Vaidhyanathan.

[00:33:00] **WH:** And I’m Will Hitchcock. We’ll talk to you soon.