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Hayek, Mill, and the Liberal Tradition

Edited by
Andrew Farrant



Routledge Studies in the History of Economics

Hayek, Mill, and the Liberal Tradition

This book considers the relationship between Hayek and Mill, taking issue with Hayek's criticism of Mill and providing a broader perspective on the liberal tradition. Featuring contributions from the likes of Ross Emmett, Leon Montes and Robert Garnett, these chapters ask whether Hayek had an accurate reading of the ideas of Mill and Smith, as well as considering themes such as sympathy and analytical egalitarianism that play a large part in the liberal tradition. These chapters argue that addition of these key ideas to the Hayekian corpus leads to a far broader understanding of the liberal tradition than that provided by Hayek.

One objective is to provide a discussion of the tensions that seemingly pervade aspects of Hayek's account of the intellectual history of the liberal tradition. For example, one unfortunate consequence of Hayek's reading of Smith and Mill is that certain themes – e.g., sympathy and analytical egalitarianism – that played a vitally important role in their thinking are either seriously underplayed in Hayek's account or, rather worse, apparently ignored. Adding these key ideas (e.g., sympathy) to the Hayekian corpus leads to a rather broader understanding and conception of the liberal tradition than that usually associated with Hayekian social theory per se.

A broad-based work that is a valuable addition to the literature on Hayek and the liberal tradition more generally, this book will be of great use to anyone who is interested in social theory, intellectual and economic history alike.

Andrew Farrant is Assistant Professor of Economics at Dickinson College.

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Commiserations – legion – are due to Terry Clague for a truly dreadful season: fingers crossed that Messrs. Hicks and Gillett will take their long-awaited leave in the very near future.

The editor notes that David M. Levy – as is so often the case – was right.

Introduction

Andrew Farrant

Much earlier versions of a number of the chapters included in this volume (those by Montes, Peart and Levy, Emmett, and Farrant) were originally written for a 2006 conference on Hayek and the Liberal Tradition. The relationship between Hayek's ideas and those of J. S. Mill – an often problematic one might I add – was front and center throughout formal, and informal, conference discussion. As is well known, Hayek, particularly so in his later writings, deemed Mill as being by and large outside the classical liberal tradition. Indeed, Hayek charged Mill with originating, or providing much intellectual impetus to, all manner of what Hayek deemed intellectual sins (e.g., Mill's alleged advocacy of socialism, his supposed constructivist rationalism, and his supposedly baneful advocacy of social and distributive justice). For Hayek, Mill was a markedly influential propagator of various ideas that served to much weaken, or outright undermine, the intellectual foundations of classical liberalism. Hayek considered Mill to have greatly watered down classical liberal ideas: Mill supposedly taking various strands of classical liberal thought and combining them with wholly incompatible socialistic ideas about the merits of social and distributive justice and the supposed necessity of radically altering the prevailing system of property rights (e.g., property rights in land). For Hayek (as for Ludwig von Mises), Mill allegedly provided much intellectual groundwork for the adoption of the interventionist and socialistic legislation that ultimately led to the contemporary mixed economy and welfare state. Hayek and Mill clearly have different understandings of what liberalism would entail. The ideas of other liberal thinkers – e.g., Adam Smith and Frank H. Knight – similarly featured heavily in conference discussions. All – Hayek, Smith, Mill, and Knight – will feature similarly heavily in this volume.

Accordingly, the basic rationale behind this volume is to provide a rather broader perspective on the classical liberal tradition – and Hayek's place within that tradition – than is often provided by standard Hayekian scholarship. For example, chapters in the volume examine whether Hayek had an accurate reading of the ideas of Mill and Adam Smith (to name but two canonical thinkers in the classical liberal tradition). Other chapters (those by Robert Garnett and Ted Burczak) argue for a conception of the liberal tradition that is markedly broader than that which presumably would have found favor with Hayek (or that would presumably find favor with many modern Hayekians).

One objective of the volume is to provide a discussion of the tensions that seemingly pervade aspects of Hayek's account of the intellectual history of the liberal tradition. For example, one unfortunate consequence of Hayek's reading of Smith and Mill is that certain themes – for example, sympathy and analytical egalitarianism – that played a vitally important role in their thinking are either seriously underplayed in Hayek's account or, rather worse, apparently ignored. Adding these key ideas (e.g., sympathy) to the Hayekian corpus leads to a rather broader understanding and conception of the liberal tradition than that usually associated with Hayekian social theory *per se*.

The opening part to the volume, "Hayek and the liberal tradition?," includes three chapters. The chapter by Leon Montes, "Is Friedrich Hayek rowing Adam Smith's boat?," re-examines Hayek's well-known (and oft-acknowledged) debt to Adam Smith and the Scottish Enlightenment. Leon's narrative primarily focuses on two of Hayek's most important essays in intellectual history, "Individualism: True and False" (delivered at Dublin in 1945) and "Liberalism" (written in 1973), and explores the vitally important role that the ideas of Smith and the Scottish Enlightenment play throughout Hayek's thought. The chapter by Sandra J. Peart and David M. Levy, "F. A. Hayek's sympathetic agents," explores the role that sympathy and reciprocity play in Hayek's explanation of the fraught transition from small groups (e.g., "hunter-gatherer" bands) to a larger-scale modern commercial civilization. Peart and Levy focus heavily on the role that projection – particularly projection about other individuals who are "similar" to us and projection about others who are at great social distance from us – and sympathy play in Hayek's analytical system. As Peart and Levy note, Hayek argues that one can readily, and unproblematically, sympathize with fellow-members of a tribal grouping or with family members (they are "similar" to us). As Peart and Levy explain, Hayek views sympathy – the projection (or attribution) of one's own preferences to fellow group members – as unproblematic on a small scale. As we move from the small group to the large group, however, sympathetic projection generates what Hayek deems the key difficulty plaguing the transition from the small group to a large-scale modern industrial civilization: projection from the local group – ostensibly characterized by a reasonably well defined preference ordering – to the world beyond the local neighborhood may yield mistaken beliefs. The latter – assuming democratic political decision-making – necessarily translate into undesirable public policies and a concomitant decrease in societal well-being. One such supposedly mistaken belief is the view that the coherence supposedly inherent to the preferences of the small group or family ought to similarly characterize the "preference ranking" of the large-scale social order. This, Peart and Levy argue, may create a totalitarian temptation: a temptation that might lead to an attempt to transform a spontaneous order – a social order lacking anything akin to a unitary goal (e.g., a market economy) – into an organization (e.g., a firm or a command economy) – a collective with a single aim or well defined and supposedly coherent set of goals. Peart and Levy argue that Hayek's recognition of this possible

“totalitarian” problem underlies his deep pessimism about any democratic, and supposedly wholly misguided, attempt to attain supposedly “socially just” outcomes.

Ross Emmett’s chapter, “Discussion and the evolution of institutions in a liberal democracy: Frank Knight joins the debate,” examines Frank Knight’s take on many of the issues which rear their head in the chapter by Peart and Levy (e.g., Hayek’s objections to social justice). As Emmett notes, Knight and Hayek are usually perceived as ardent co-defenders of free markets and classical liberalism *per se*. Yet, and as Emmett rightly demonstrates, Knight vehemently disagreed with various aspects of Hayek’s defense of a free society and liberal market order. Emmett’s chapter provides a careful and thoughtful examination of Knight’s objections to Hayek’s social philosophy: As Emmett wryly explains, Hayek and Knight could no more agree on social philosophy than on capital theory. In particular, Knight places a heavy emphasis on the importance of public deliberation and discussion concerning the supposed merits of various purported policy “solutions” to social problems. As Emmett notes, Knight argued that public deliberation (discussion) over these issues in any liberal democracy would inevitably lead ethical considerations to come, for good or ill, to the fore. Hayek, of course, is less than enamored with public deliberation and discussion over policy issues *per se*: in particular, Hayek is greatly worried by any public deliberation over such allegedly baneful notions as social and distributive justice. For Knight, however, deliberation over ethical ideals (social justice included), whether for good or ill, is inevitable in a free society. Indeed, for Knight, social change in any free society occurs because of discussion and deliberation *per se*. As Emmett notes, Knight views discussion as ultimately being about the way in which individuals can construct a society which is closer to their ethical ideas. As is well-known, Hayek sought to restrain “dangerous” public policy (e.g., any supposed attempt to attain social justice) by insisting that any adopted public policy accord with the rule of law. The rule of law would supposedly restrain dangerous public policy and thereby buttress the long-run viability of the liberal order. Unsurprisingly, Knight is markedly critical of Hayek’s view of the rule of law. As Emmett explains, Knight is similarly critical of Hayek’s strictures against the idea of social justice. As Knight notes, stark economic inequalities often translate into inequalities of effective freedom and unequal power.

The concluding part of the volume is titled “Pushing the boundaries of the liberal tradition?” and includes chapters by Andrew Farrant, Theodore Burczak, and Robert G. Garnett. Farrant’s chapter, “A renovated social fabric: Mill, Hayek, and the problem of institutional change?,” critically examines Hayek’s oft-repeated charge that Mill was the great nineteenth-century advocate of socialism. Hayek and Mill have markedly incongruent institutional frameworks in mind whenever they invoke socialism or communism: Mill favoring a system of democratic worker co-operatives rather than anything akin to command planning. Similarly, Hayek and Mill have markedly incongruent conceptions in mind when they invoke social justice. Indeed, Mill’s view of social justice – Mill

ardently advocating equality of opportunity – is rather closer to Frank Knight’s view of social justice (see the chapter by Emmett) than to Hayek’s idea of what social justice *per se* supposedly necessitates (wholesale command planning).

Ted Burczak’s thought-provoking chapter, “A socialist spontaneous order,” tentatively outlines a variety of socialism that is ostensibly consistent with Hayek’s advocacy of the rule of law as the appropriate meta-principle guiding public policy. Burczak, much like Mill, defends worker ownership and democratic self-management in the context of a rivalrous market process. Similarly, Burczak argues for the establishment of a universal basic income grant large enough to insure against need deprivation. Burczak’s chapter should generate much dialogue (and possibly disagreement) from contemporary Hayekians. Robert Garnett’s chapter, “Hayek and philanthropy: a classical liberal road not (yet) taken,” explores the role that philanthropy plays (and might play) in Hayekian thinking. In particular, Garnett argues that a variety of philosophical dualisms plague Hayek’s analysis of liberal society (e.g., the sharp dualism of command plan *per se* and market economy). Taking heed of the analytical limitations induced by such dualisms, Garnett reformulates Hayek’s image of the Great Society (Hayek’s favored term for the spontaneous order of civil society) to provide a richer view of civil and commercial society. Garnett argues that by stepping beyond traditional Hayekian dualisms such as plan and market *per se*, and paying careful analytical attention to the importance of philanthropy and gift-giving (among other non-market modes of social provisioning), Hayekian theorizing can be much strengthened. As it was, Hayek’s dogged efforts to defend market processes against socialist critics (supposedly advocating an atavistic morality – social justice – that necessitated the adoption of full-blown command planning) placed strict limits on his ability to integrate philanthropy into his baseline conception of the Great Society.

Books written on Hayek alone could no doubt fill a library. Much the same can be said about Mill (or Smith). To our knowledge, this is the first book to bring the voices of Hayek, Mill, Knight, Smith, Bowles, Gintis, and Vanek (among other thinkers) together.

Part I

**Hayek and the liberal
tradition?**

1 Is Friedrich Hayek rowing Adam Smith's boat?¹

Leonidas Montes

Introduction

When we think about Adam Smith and Friedrich Hayek, several connections easily come to mind. It is even difficult to refrain from imagining some similarities in their characters. Both were serious, responsible and even austere. Both had intellectually outstanding minds. Although they were separated by almost two centuries, they shared striking commonalities, especially in their perception of society. If Hayek was a great economist, he knew Smith was the father of economics. If Hayek was a great intellectual, he also knew he was inheriting a vision already developed by Smith and some of his contemporaries. And he often made his debt explicit in his writings.

Dugald Stewart, in his *Account of the Life and Writings of Adam Smith* (EPS: 269–352), explains that Smith divided his Moral Philosophy course at Glasgow University into four parts: Ethics, Jurisprudence, Political Economy and Natural Theology (EPS: 274).² Although in my personal view he did not take theology that seriously,³ he delved into the other three branches of his course. In 1759, based on his lectures, he published *The Theory of Moral Sentiments*. This book brought Smith intellectual prestige and, because of this, he was offered the opportunity to accompany the Duke of Buccleuch to a grand tour in 1764. It was an invitation he could not decline: the opportunity to meet the great intellectual figures on the Continent, and a considerable salary increase. The tour lasted until 1766, and after their return, due to the death of the duke's younger brother, Smith remained with a pension for life. This pension allowed him to retire to his birthplace Kirkcaldy. There he spent ten years working on his *magnum opus*, which was finally published in the emblematic year of 1776. *An Inquiry into the Nature and Causes of the Wealth of Nations* was well received,⁴ but Smith never forgot his original plan of writing a treatise of Jurisprudence. In the advertisement of TMS's last edition (the sixth edition published posthumously), Smith acknowledges that:

In the last paragraph of the first Edition of the present work, I said, that I should in another discourse endeavour to give an account of the general principles of law and government,⁵ and of the different revolutions which

they had undergone in the different ages and periods of society; not only in what concerns justice, but in what concerns police, revenue, and arms, and whatever else is the object of law. In the *Enquiry concerning the Nature and Causes of the Wealth of Nations*, I have partly executed this promise; at least so far as concerns police, revenue, and arms. What remains, the theory of jurisprudence, which I have long projected, I have hitherto been hindered from executing, by the same occupations which had till now prevented me from revising the present work. Though my very advanced age leaves me, I acknowledge, very little expectation of ever being able to execute this great work to my own satisfaction; yet, as I have not altogether abandoned the design, and as I wish still to continue under the obligation of doing what I can, I have allowed the paragraph to remain as it was published more than thirty years ago, when I entertained no doubt of being able to execute every thing which it announced.

(TMS Adv.: 3–4)

It is well-known that before his death Smith ordered his executors to burn files of documents which might have contained a draft of his promised treatise on Jurisprudence. This single event has triggered some provocative theses, mainly suggested by Charles Griswold (1999) and then exposed by Sam Fleischacker (2004) that Smith's concept of justice could not fit within his social system. However, we have his *Lectures on Jurisprudence*, and as Knud Haakonssen (1981) has brilliantly shown, there is much to be inferred from these students' reports.

But there is another common context for both economists. They were against the generally accepted paradigm. Just after Hume's death in 1776, in a letter to his editor, William Strahan, Smith concluded: "Upon the whole, I have always considered him, both in his lifetime and since his death, as approaching as nearly to the idea of a perfectly wise and virtuous man, as perhaps the nature of human frailty will permit" (Corr.: 221). This letter was published the same year by Strahan and Caldwell in a small book, just after *The Life of David Hume Written by Himself*. Approximately four years after Hume's death, Smith famously wrote:

A single, and as, I thought a very harmless Sheet of paper, which I happened to Write concerning the death of our late friend Mr. Hume, brought upon me ten times more abuse than the very violent attack I had made upon the whole commercial system of Great Britain.

(Corr.: 251)

As Smith acknowledges, his very personal and beautiful account of Hume's life brought him much trouble. But what is interesting is that he refers to his WN as a "very violent attack . . . upon the whole commercial system of Great Britain" (*ibid.*). Smith was fully aware not only of the nature of his *magnum opus*, but also of its implications. He knew that by harshly criticizing the "mercantile

system” (especially in Book IV), he was turning upside down the economic status quo of his time. It is also true that WN was not fully understood by his contemporaries. Many times WN was adopted and adapted for different purposes, hiding the real essence of its main objective. In many ways Smith’s WN was often caricaturized for political purposes.⁶ If Smith was against the prevalent system of his time, so was Hayek.

It is clear that Smith attempted to build a system, as Andrew Skinner (1976, 1979) has continuously reminded us. Smith’s social system can be defined as a “social science,” a term not used in the eighteenth century. Smith’s main purpose was the study of society as a whole. But society is composed by human beings, which are not literally “in-dividuals” detached from it, but social beings in continuous interaction. Man without society would be like exchange without a market economy; something utterly unconceivable for Smith. Hayek also agreed with Smith’s plan and the interrelationship between men and society. This ambitious aim of understanding what is society, how does it work and why in different historical contexts it could not work as it should, is an important common theme for both Smith and Hayek.

Both intellectual colossi strived to understand social phenomena. Both knew the importance of economics for society. Both knew the risks of pure economics without ideas, of theory without principles. Both shared the same apprehensions about those enlightened men who knew what was best for society. Both respected empirical reality over rational constructions. Both were concerned about the “great body of the people.” Both were misunderstood. And both were writing in an intellectual context not very favorable to their ideas.

In this chapter I will attempt to uncover Hayek’s debt to Adam Smith and the Scottish Enlightenment in general. As he continuously refers to Smith, I will mainly concentrate on two of Hayek’s most important essays from the perspective of history of ideas: “Individualism: True and False” (delivered at Dublin in 1945) and “Liberalism” (written in 1973). They are separated by almost 30 years. However, I will refer incidentally to other writings (principally “The Trend of Economic Thinking,” “The Legal and Political Philosophy of David Hume,” “The Results of Human Action but not of Human Design” and his *Constitution and Liberty*). The aim of this chapter is to investigate the context of Smith and the Scottish Enlightenment as fundamental sources for Hayek’s thought. Given that Hayek’s debt to Smith is explicit in most of his writings, my attempt, within this revealed preferences framework, will be more selective than exhaustive.

In the next section Hayek’s famous essay, “Individualism: True and False,” will be analyzed. Special emphasis will be given to the importance for Hayek of Smith’s conception of social beings and self-interest. The famous Fergusonian passage of “human action, human design” will be discussed, and some moral implications of true and false liberalism, especially regarding egalitarianism, will be drawn. The third section will study his essay “Liberalism” in order to show that Hayek’s position on Smith and the Scottish Enlightenment remained almost unaltered. In addition, the importance of justice and education will be traced

back to Smith. Also, as Hayek frequently refers to those “ends which were no part of his purpose,” I will briefly refer to Smith’s three invisible hands and their interpretations, emphasizing Hayek’s own reading of the most important, elusive and controversial metaphor in the history of economic thought. Finally some brief conclusions, underlining their main differences, will be drawn.

Hayek’s “Individualism: True and False”

Introducing the two traditions

Already in 1933, during his inaugural lecture at the London School of Economics suggestively entitled “The Trend of Economic Thinking,” Hayek defined “continental socialism,” attributing this social phenomenon to the German Historical School.⁷ He discusses themes that will accompany him during his long intellectual life, such as planning and socialism. More important for the purpose of this chapter are his embryonic views about spontaneous order and unintended consequences. Hayek asserts:

From the time of Hume and Adam Smith, the effect of every attempt to understand economic phenomena – that is to say, of every theoretical analysis – has been to show that, in large part, the co-ordination of individual efforts has been brought about, and in many cases could only have been brought about, by means which nobody wanted or understood . . . In short, it showed an immensely complicated mechanism existed, worked and solved problems, frequently by means which proved to be the only possible means by which the result could be accomplished, but which could not possibly be the result of deliberate regulation because nobody understood them. Even now, when we begin to understand their working, we discover again and again that necessary functions are discharged by spontaneous institutions.

(Hayek 1991 [1933]: 129)

This passage is more than an eye-blink to Hayek’s lifelong project.⁸ He refers to Adam Smith and David Hume as pioneers of his already developing idea of “spontaneous institutions.” Later, throughout Hayek’s successive works, this idea will become a common ground.

In 1945 he gave another lecture at Dublin: his famous “Individualism: True and False” (Hayek 1948: 1–32). In this important essay Hayek makes a sharp distinction, as the title suggests, between two different kinds of liberalism: true and false individualism.⁹ This essay is quite important; true individualism is key to understand what will be termed classical liberalism.

In his essay, Hayek begins by looking at the historical situation of the last 30 years, calling for those “general principles,” as “the ‘inevitability of gradualness’ leads us back from a social order resting on the general recognition of certain principles to a system in which order is created by direct commands” (1948: 1). As religion is impotent to give us guidance (and when it has done so, its results

have been disastrous), and considering that terms “like ‘liberalism’ or ‘democracy’, ‘capitalism’ or ‘socialism’, today no longer stand for coherent systems” (ibid.: 2–3), Hayek attempts to search for those real, but not necessarily manifest, principles. He then complains about the caricatures erected by defining “individualism,” recalling that this word entailed for Saint-Simonians “competitive society,” as opposed to “socialism,” describing a centrally planned society.¹⁰ Hayek immediately states that he is developing his own position as an alternative to “socialism,” that is, from a competitive society perspective.

Hayek also claims that the roots of “individualism true” may be traced to “John Locke, and particularly with Bernard Mandeville and David Hume, and achieved full stature for the first time in the work of Josiah Tucker, Adam Ferguson, and Adam Smith” (1948: 3–4). The second strand of thought labeled as false individualism “is represented mainly by French and other Continental writers – a fact due, I believe, to the dominant role which Cartesian rationalism plays in its composition” (ibid.: 4). The Encyclopedists, Rousseau and even the physiocrats are “the outstanding representatives” of this kind of “rationalistic individualism” that “always tends to develop into the opposite of individualism, namely, socialism or collectivism” (ibid.).¹¹ This idea is crucial to understand the intellectual process that led Hayek to the political and philosophical argument against social planning.

Conception of social beings

Hayek’s definition of true individualism focuses on the process of competition, not on the nature of the individual. But, what is the connection between individualism and self-interest and then to selfish behavior? At this stage Hayek seems to avoid any moral dimension of self-interest by referring more generally to society. In fact, not surprisingly Hayek begins section 3 of “Individualism: True and False” by clarifying that “the essential characteristic of true individualism ... is that it is primarily a *theory* of society, an attempt to understand the forces which determine the social life of man” (ibid.: 6, italics in the original). However, individualism and market competition implicitly suggest self-interest.

Regardless of the fact that Hayek focuses on a theory of society, and society as a process, he has a view of human nature. It is a distinctively Humean and Smithian idea. Both Scottish philosophers recognized human beings as social beings, not as isolated atoms, or fully independent individuals. Sympathy, for Smith, not only presupposes the social nature of human beings, very much like Hume’s concept of sympathy, but it is the sympathetic process, through the attainment of mutual sympathy, that finally determines Smith’s ethics of social interaction. For Smith, as for Hayek, but for different reasons, a human being without society would simply not be a human being. And a fortiori society without sympathy would simply not be society.

Were it possible that a human creature could grow up to manhood in some solitary place, without any communication with his own species, he could no more think of his own character, of the propriety or demerit of his own

sentiments and conduct, of the beauty or deformity of his own mind, than of the beauty or deformity of his own face. All these are objects which he cannot easily see, which naturally he does not look at, and with regard to which he is provided with no mirror which can present them to his view. Bring him into society, and he is immediately provided with the mirror which he wanted before.

(TMS III.1.3: 129)

If sympathy is the cement of society for Smith, for Hayek it is the necessary interaction of free and literally responsible individuals in a competitive society. Not surprisingly Hayek also attacks the “silliest of the common misunderstandings: the belief that individualism postulates ... the existence of isolated of self-contained individuals, instead of starting from men whose whole nature and character is determined by their existence in society” (1948: 6). Hayek knew there was no “Adam Smith Problem.” In an article entitled “Adam Smith’s Message in Today’s Language,” written for the *Daily Telegraph* in 1976, he says “It is an error that Adam Smith preached egotism ... He was concerned with how to make it possible for people to make their contribution to the social product as large as possible” (Hayek 1978 [1976]: 268). What is more important is that his own conception of human nature resembles the one developed by Hume and Smith. As a matter of fact, for Hayek self-love:

did not mean egotism in the narrow sense of concern with only the immediate needs of one’s proper person. The “self”, for which alone people were supposed to care, did as a matter of course include their family and friends; and it would have made no difference to the argument if it had included anything for which people in fact did care.

(1948: 13)

Hayek is referring in this passage to two important topics. First, relying on Adam Smith, he follows the Stoic classical tradition of *oikeiosis*, and second, preferences are subjective. As the latter is an embedded Austrian theme, I will only briefly refer to the former. Montes (2009) and Levy and Peart (2008) underline the importance of *oikeiosis* as a crucial Stoic source for understanding Smith’s social system. Hierocles, according to Stobaeus, with his idea of the concentric circles epitomized this concept:

Each one of us is as it were entirely encompassed by many circles ... the first and closest circle is the one which a person has drawn as though around the center, his own mind ... Next ... contains parents, siblings, wife, and children. The third one has in it uncles and aunts, grandparents, nephews, nieces, and cousins ... The next circle includes other relatives, and this is followed by the circle of local residents, then the circle of fellow-tribesmen, next that of fellow-citizens, and the in the same way the circle of people from neighbouring towns, and the circle of fellow-country men. The

outermost and largest circle, which encompasses all the rest, is that of the whole human race ... it is the task of a well tempered man ... to draw the circles together somehow towards the center.

(Long and Sedley 1987: 349)

This relates to the Stoics' fundamental concept of *oikeiosis*, which after Pohlenz (1987 [1940]) became firmly linked as a crucial idea of Stoic ethics. It is ably treated in Brown (1994, chs 4 and 5).¹² This concept is a primary impulse of human beings to what is familiar, to what belongs to oneself. *Oiken* is the opposite of *allotrion*, what is alien. Therefore it relates to what is familiar and also to the process of making a thing belong to you. It is self-love in a morally good sense, not related to selfishness. It relates, one might say, to Smith's enlightened self-interest, or, recalling Rousseau's famous defence in his second *Discourse* of natural *amour de soi-meme* over *amour propre*. The former is morally correct, but not the latter. Although Hayek perhaps might not have liked this connection with Rousseau, the crucial concept of *oikeiosis* is fundamental to understand what Smith actually meant by self-interest and sympathy. For Hayek the self "for which alone people were supposed to care, did as a matter of course include their family and friends" (1948: 13). Moreover, he claims that "all man's mind can effectively comprehend are the facts of the narrow circle of which he is the center" (1948: 14). This is the notion of the concentric circles or Smith's more developed idea of "sympathetic gradient,"¹³ much influenced by the Stoics' distinctive concept of *oikeiosis*. In Smith's own words:

Every man, as the Stoics used to say, is first and principally recommended to his own care; and every man is certainly, in every respect, fitter and abler to take care of himself than of any other person. Every man feels his own pleasures and his own pains more sensibly than those of other people. The former are the original sensations; the latter the reflected or sympathetic images of those sensations. The former may be said to be the substance; the latter the shadow.

(TMS VI.ii.1.1: 256; see also TMS VII.ii.1.15: 321)¹⁴

The importance of the Stoics' concept of *oikeiosis* for Smith's concept of sympathy and his hotly debated concept of self-interest must not be underestimated within the tradition of classical liberalism. Vivienne Brown is quite clear about the significance of *oikeiosis* for Smith's discourse. She argues that the "Stoic concept of self-love falls under the doctrine of *oikeiosis*" (1994: 95).¹⁵ Moreover a possible connection between the Stoics concept of *oikeiosis* and property would suggest a political connection between classical republicanism and classical liberalism.¹⁶

Human action, human design

Then Hayek, while arguing that institutions have arisen and are functioning without a "designing and directing mind," quotes Ferguson's most famous

passage of human action and human design.¹⁷ Actually, it was a pervasive idea within the Scottish Enlightenment.

The “human action, human design” motto appears in his most important book *An Essay on the History of Civil Society* (1767). In section 2, “The History of Subordination,” in Part III entitled “Of the History of Policy and Arts,” Adam Ferguson begins by describing how society has evolved from savages and barbarians up to “the foundation of commercial arts” (Ferguson 1995 [1767]: 119). “Mankind,” Ferguson continues,

arrive at ends which even their imagination could not anticipate ... He who first said, “I will appropriate this field: I will leave it to my heirs”; did not perceive, that he was laying the foundation of civil laws and political establishments. He who first ranged himself under a leader, did not perceive, that he was setting the example of a permanent subordination, under the pretence of which, the rapacious were to seize his possessions, and the arrogant to lay claim to his service.

(*ibid.*)

Ferguson is here beginning to show the unintended character of human institutions that captured Hayek’s mind. It is an empirical question for the Scottish Enlightenment related to Smith’s famous “four stages of society” (hunters, shepherds, agriculture and commercial society, see LJ: 14–16).

Soon after Ferguson claims that “Men, in general, are sufficiently disposed to occupy themselves in forming projects and schemes,” but:

Like the winds, that come we know not whence, and blow whithersoever they list, the forms of society are derived from an obscure and distant origin; they arise, long before the date of philosophy, from the instincts, not from the speculations, of men. The croud [*sic*] of mankind, are directed in their establishments and measures, by the circumstances in which they are placed; and seldom are turned from their way, to follow the plan of any single projector.

(Ferguson 1995 [1767]: 119)

Ferguson is already describing the complexity of human institutions in words that certainly inspired Hayek. He is also advancing a crucial idea for the Scottish Enlightenment, that is, the fact that “projectors” with a plan or a scheme should bear in mind that social reality is, to say the least, multifaceted.¹⁸

In the next paragraph, his most important and well-known passage, Ferguson states his famous distinction between “human action” and “human design”:

Every step and every moment of the multitude, even in what are termed enlightened ages, are made with equal blindness to the future; and nations stumble upon establishments, which are indeed *the result of human action*, but *not the execution of any human design*. If Cromwell said, That a man

never mounts higher, than when he knows not whither he is going; it may with more reason be affirmed of communities, that they admit of the greatest revolutions where no change is intended, and that the most refined politicians do not always know whither they are leading the state by their projects.

(Ferguson 1995 [1767]: 119; emphasis added)

Ferguson's *An Essay on the History of Civil Society* was published in 1767, almost ten years before Adam Smith's WN. Adam Smith, who was born the same year as Ferguson, apparently did not get on very well with Ferguson. In his exhaustive biography of Smith, Ross claims that their personal relationship "had its up and downs" (Ross 1995: 191). Actually some testimonies by Alexander Carlyle claim that Smith accused Ferguson of plagiarism, quite an accusation at the time. Certainly their most serious encounter was when Smith published his WN. Adam Ferguson had published in 1756 a pamphlet entitled *Reflections Previous to the Establishment of a Militia*. Although he was a supporter of the Act of Union, and commercial progress, Ferguson firmly believed in a society that should "mix the military Spirit with our civil and commercial Policy" (Ferguson 1756: 3). In a way, Ferguson attempted to combine economic progress with public spirit, the latter characterized by the establishment of a militia. Smith, who was one of the founders, or at least one of the original members of the Edinburgh Poker Club established in 1762,¹⁹ in his WN publicly and bluntly declared that he considered "a well-regulated standing army is superior to every militia" (WN V.i.a.39: 705; cf. V.i.a.25: 700). This claim ignited the justified reaction of Adam Ferguson and Alexander Carlyle, who were the most animated promoters of the militia cause.²⁰

The important thing for the purpose of this chapter is that Ferguson, in association with his contemporaries, represents for Hayek an understanding of social phenomena which necessarily leads to his theory of competition and spontaneous order in full. It is noteworthy how Hayek continues:

spontaneous collaboration of free men often creates things which are greater than their individual minds can ever fully comprehend. This is the great theme of Josiah Tucker and Adam Smith, of Adam Ferguson and Edmund Burke, the great discovery of classical political economy which has become the basis of our understanding not only of economic life but of most truly social phenomena.

(Hayek 1948: 7–8)

Once again, Adam Smith and Adam Ferguson are in the background.

Reason, moral character and egalitarianism

The liberal tradition of Hume, Ferguson and Smith is reckoned as the forebear of "Individualism True." According to Hayek, the idea of social order as the

unforeseen result of individual actions is truly distinctive of this tradition. The other dark face of individualism – false individualism – relies on the assumption that social order is due to deliberate design. The former is “the true individualism of the British thinkers of the eighteenth century” and the latter comes from the “Cartesian school.” With Hume and Smith, Hayek believes that human beings are “only partly guided by reason” because “individual reason is very limited and imperfect” (1948: 8). He scorns the idea of Reason with capital R, that is, the abuse of reason. So did Hume, who famously slaved reason to passions, and Smith, whose first book is duly entitled *The Theory of Moral Sentiments*. For Adam Smith:

But though reason is undoubtedly the source of the general rules of morality, and of all the moral judgments which we form by means of them; it is altogether absurd and unintelligible to suppose that the first perceptions of right and wrong can be derived from reason, even in those particular cases upon the experience of which the general rules are formed.

(TMS VII.iii.2.7: 377)

Hayek continues touching another crucial point. True individualism has the virtue of humility and false individualism is pedantic. The former “induces an attitude of humility toward the impersonal and anonymous social processes by which individuals help to create things greater than they know” (1948: 8). The latter “is the product of an exaggerated belief in the powers of individual reason and of a consequent contempt for anything which has not been consciously designed by it or is not fully intelligible to it” (ibid.).²¹ Levy and Peart (see especially 2005), through the moral and philosophical implications of the street porter and the philosopher in Adam Smith, have consistently and persuasively argued about this and other interesting points. I will fully quote Smith’s passage:

The difference between the most dissimilar characters, between a philosopher and a common street porter, for example, seems to arise not so much from nature, as from habit, custom, and education ... The difference of talents comes then to be taken notice of, and widens by degrees, till at last *the vanity of the philosopher* is willing to acknowledge scarce any resemblance. But without the disposition to truck, barter, and exchange, every man must have procured to himself every necessary and conveniency of life which he wanted.

(WN I.ii.4: 28–9; emphasis added)

Smith’s egalitarianism is undeniable. For Levy and Peart, Smith’s position entails egalitarianism and humility. But for Hayek there is only formal equality. True individualism rests upon the argument that “nobody can know who knows best and that the only way by which we can find out is through a social process in which everybody is allowed to try and see what he can do” (Hayek 1948: 15). It is all about variety and diversity of interests and desires conceived as an

interpersonal process. His argument “does not assume that all men are equal in their natural endowments and capacities but only that no man is qualified to pass final judgement on the capacities which another possesses or is to be allowed to exercise” (ibid.). But for Smith differences do not stem from nature, but “from habit, custom, and education.” Hayek does not believe in natural equality but simply proposes to formalize “equality of the rules applying in the same manner to all” (ibid.: 16). So does Smith with his conception of negative justice. But Smith has an egalitarian framework from which Hayek inevitably deviates. There is one explanation for this difference: if Hayek is more concerned with political philosophy, Smith is always thinking as a moral philosopher.

In fact, Hayek's social theory of spontaneous order demands different capacities and inclinations. According to Hayek, natural equality could not achieve social organization. It is “only because men are in fact unequal” that we can “treat them equally” (ibid.: 15).²² If Smith could use the division of labor as a basis to explain and defend equality, perhaps Hayek's reliance on evolutionary processes does not allow him to follow suit. Egalitarianism is a starting point for Smith. For Hayek egalitarianism is a political point:

[t]here is all the difference in the world between treating people equally and attempting to make them equal. While the first is the condition of a free society, the second means, as de Tocqueville described it, “a new form of servitude”.

(ibid.: 16)

The tyranny of democracy is what really matters to Hayek. This is the risk he fears and he fights in his own context.

Before proceeding let me point out that Hayek's basic point, that men are not omniscient, entails spheres of individual responsibility that must be granted by “such general rules to delimit the sphere in which the decision is his” (ibid.: 17).²³ Hayek's concept of the “spheres of responsibility” and the general rules to delimit the scope of our decisions is similar to Smith's account of the “sacred rules of justice.”²⁴ Of course here we find an obvious and enormous debt that we can trace back to the Scottish Enlightenment as an intellectual phenomenon. It was the jurisprudential tradition (Haakonssen 1981, 1996), initiated by Grotius and his ablest student Pufendorf, that found its way through Carmichael and the “never to be forgotten” Hutcheson (Corr. 309) up to Adam Smith.

Another important point of coincidence is that Hayek believes in the beneficent consequences that “the pursuit of his interests contribute as much as possible to the needs of other men” (1948: 20). Smith, since the Introduction and Plan of WN and throughout WN, is concerned with the “consequences upon the general welfare of the society” (WN I.8: 11) and continuously reminds us of this virtuous circle.²⁵ But talking about general welfare, perhaps it could be argued that a concern with the poor is much more explicit in Adam Smith than in Hayek.

Hayek's social theory requires interpersonal spontaneous co-ordination. In his own, and much better words, in opposition to conscious direction, voluntary

association “can be better achieved by the voluntary and spontaneous *collaboration* of individuals” (1948: 16; emphasis added). It is remarkable that Smith, in the second chapter of Book I of WN, describes the importance of exchange as a human propensity,²⁶ using the word “assistance” twice and once the word “cooperation” (see WN I.ii.2: 26).

I tend to view Smith’s account of the market mechanism as an “as if,” maybe from the standpoint of an impartial spectator unaware of how the market operates. People act motivated by self-interest, but if we see the unintended effects of her or his self-interested actions, it is as if “cooperation and assistance” were manifest in this exchange social phenomena. But co-operation and assistance is actually not intended. This is of course very Hayekian. In this sense, chapter 2 of Book I is an important precursor of Hayek’s unintended consequences. In Hayek’s words:

each man is to use *his* peculiar knowledge and skill with the aim of furthering the aims for which *he* cares ... in so doing, he is to make as large a contribution as possible to needs which are beyond his ken.

(1948: 17; emphasis in the original)

Hayek’s recurrent idea that government must be a framework within which men interact and *collaborate* through voluntary associations, is also Smithian. It contrasts with the false individualism that ironically demands atomistic individuals under a coercive state. Hayek also calls false individualism a “social contract individualism” (*ibid.*: 10). Spontaneous order is not an organized system that pre-assumes a social contract. Therefore he also assigns to Hobbes a Cartesian rationalism leading to false individualism.

As is well-known, Hayek gives notorious prominence to the legacy of Bernard Mandeville.²⁷ He is labeled as the forerunner of true individualism in terms of a view of man as “very irrational and fallible being, whose individual errors are corrected only in the course of a social process, and which aims at making the best of the very imperfect material” (*ibid.*: 9). This realism about human nature and society is also quite Smithian. A common Smithian theme is his pragmatic view on many issues: “[w]hen he cannot establish the right, he will not disdain to ameliorate the wrong; but like Solon, when he cannot establish the best system of laws, he will endeavour to establish the best that the people can bear” (TMS VI.ii.2.16: 275; emphasis added).²⁸

Human beings are far from perfect. This entrenched skepticism is common to Smith and Hayek, but even more explicit in Hume’s idea that “every man must be supposed a knave.” This is not only an attitude, but an intellectual framework to approach reality.

But those who pretend a human design are not only wrong, but can be quite dangerous to society. Hayek continuously traces this constructivistic tradition to Descartes’s rationalism. Quoting some passages from his *Discourse on Method*, Hayek finds in Descartes’s rationalism a clear political interpretation for a design theory of social institutions (1948: 9–10). Although he already traces this

tradition in his "Scientism and the Study of Society" (1942), in his "Individualism: True and False" he clearly characterizes a trend "from Descartes through Rousseau and the French Revolution down to what is still the characteristic attitude of the engineers to social problems" (1948: 10).

Human ends cannot be subdued to human reason, as free individuals attain social ends through a spontaneous process. This is the abuse of reason initiated by Descartes and promoted by the French Enlightenment. Then Hayek goes on to blame John Stuart Mill and Herbert Spencer, as they were also influenced by the French strand of thought. This tradition has led to "the bogey of the 'economic man'" (Hayek 1948: 11), which has been wrongly attributed to Adam Smith. The father of economics, according to Hayek, was far from this simplistic interpretation. He would have been closer to consider men by nature as lazy and indolent, but "even this would be unjust to the very complex and realistic view which these men took of human nature" (ibid.: 11).²⁹ He concludes with a great passage about the importance of Smith's WN:

Since it has become fashionable to deride Smith and his contemporaries for their supposedly erroneous psychology, I may perhaps venture the opinion that for all practical purposes we can still learn more about the behaviour of men from the *Wealth of Nations* than from most of the more pretentious modern treatises on "social psychology".

(Hayek 1948: 11)

Smith is not the father of simple selfish rational choice.³⁰ In chapter 4 of his *Constitution and Liberty* (1960), Hayek is even more assertive, blaming again Mill for the narrow conception of *homo oeconomicus*:

Even such a celebrated figment as the "economic man" was not an original part of the British evolutionary tradition. It would be only a slight exaggeration to say that, in the view of those British philosophers, man was by nature lazy and indolent, improvident and wasteful, and that it was only by the force of circumstances that he could be made to behave economically or would learn carefully to adjust his means to an end. The *homo oeconomicus* was explicitly introduced, with much else that belongs to the rationalist rather than the evolutionary tradition, only by the younger Mill.

(Hayek 1960: 61)

At the end of his "Individualism: True and False," Hayek then refers to the main theme of his *Road to Serfdom* (1944), "the fatal course of progressive centralization" for which "despotism in the end comes to appear as the only salvation" (1948: 28). Moreover, "the poison of nationalism, which is both an inducement to, and a result of, that same striving for a society which is consciously organized from the top" is, under the intellectual framework of the rationalistic individualism, "a twin brother with socialism" (ibid.). Then he makes an original and provocative distinction between English and Continental

liberalism: “It was only liberalism in the English sense that was generally opposed to centralization, to nationalism and socialism, while the liberalism prevalent on the Continent favoured all three” (ibid.: 28). Hayek finishes this important essay concluding that both traditions of thought “are divided by fundamentally opposed principles” (ibid.: 31), recalling that “the fundamental attitude of true individualism is one of humility” (ibid.: 32). Then Hayek finishes “Individualism: True and False” with his main political concern: “The great question at this moment is whether man’s mind will be allowed to continue to grow as part of this process or whether human reason is to place itself in chains of its own making” (ibid.: 32).

Hayek’s “Liberalism”

The same distinction revisited

In chapter 4 of his *Constitution and Liberty* (1960), entitled “Freedom, Reason, and Tradition,” Hayek refers to a theory of liberty that took place mainly in the eighteenth century, “[i]t began in two countries, France and England. The first of these knew liberty, the second did not” (1960: 54). After blaming the Benthamite Philosophical Radicals for blurring those principles developed by the Whigs,³¹ he goes on to refer to the “British tradition” represented “mainly by a group of Scottish moral philosophers led by David Hume, Adam Smith, and Adam Ferguson” (1960: 55). These three writers understood for the first time “how institutions and morals, language and law, have evolved by a process of cumulative growth and that it is only with and within this framework that human reason has grown and can successfully operate” (1960: 57).

In “The Legal and Political Philosophy of David Hume” (1967) Hayek analyses the consequences of the Enlightenment graciously referring to “the English ideas of the time (which were, of course, mainly expounded by Scotsmen – but I cannot rid myself of the habit of saying ‘English’ when I mean ‘British’)” (1967: 107). In this wonderful summary of the legacy of “le bon David,” Hayek recalls the famous encounter between Hume and Rousseau. He is confident that today we know without doubt “which of the two was the greater intellectual and moral figure” (ibid.: 120). Of course he sides with “the serene and even placid philosopher” who had to put up with “the emotionally unstable, unaccountable and half-mad idealist who in his personal life disregarded all moral rules” (ibid.). Then Hayek invites the reader to imagine this encounter and wonders who

would have believed that it would be the ideas of Rousseau and not those of Hume which would govern the political development of the next two hundred years? Yet this is what happened. It was the Rousseauesque idea of democracy, his still thoroughly rationalist conceptions of the social contract and of popular sovereignty, which were to submerge the ideals of liberty.

(ibid.)

Soon after Hayek continues with the same question:

[i]t was Rousseau and not Hume who fired the enthusiasm of the successive revolutions which created modern government on the Continent and guided the decline of the ideals of the older liberalism and the approach to totalitarian democracy in the whole world. How did this development come about?

(1967: 120)

For Hayek the explanation is quite simple: the negativity of Hume's philosophy. He asserts that "the great sceptic, with his profound conviction of the imperfection of all human reason and knowledge, did not expect much positive good from political organization" (ibid.). The idea that "every man must be supposed a knave," the distrust towards human beings and human institutions, which later pervades Smith, was a feasible causal explanation for the triumph of idealism. For Hayek the liberal discourse presupposed a conception of human beings and society which could not engage the imagination of people, nor fulfil their dreams. One cannot avoid imagining Hayek thinking the same about his own legacy.

In "The Results of Human Action but not of Human Design" (1967), after distinguishing the complexities of the Greeks' distinction between *physis* and *nomos*, nature and convention, Hayek acknowledges that Adam Ferguson "at least clearly singled out as due to human action but not human design either as natural or as conventional according as one or the other of these distinctions was adopted" (1967: 97).³² Immediately he argues that for the next 2,000 years nobody came out with a systematic social theory of the unintended consequences of human action. Descartes's rationalism was also to be blamed, but the British moral philosophers of the eighteenth century

starting from the theory of common law as much as from that of the law of nature, built up a social theory which made the undersigned results of individual action its central object, and in particular provided a comprehensive theory of the spontaneous order of the market.

(ibid.: 98–9)

For Hayek the first anti-rationalist was, of course, Mandeville, but "the full development comes only with Montesquieu and particularly with David Hume, Josiah Tucker, Adam Ferguson and Adam Smith" (ibid.: 99).

Hayek's "Liberalism" and Smith on justice and education

The wonderful essay entitled "Liberalism" (1978) was originally written in 1973. One can feel in Hayek's narrative a sense of disappointment. His lifelong project is still a struggle, not a reality, and the economic situation is not encouraging at all. He begins again by distinguishing "English," "classical" or "evolutionary" liberalism, as opposed to "Continental," "rationalistic"

or “constructivistic” liberalism. Hayek traces the roots of classical liberalism from the Greeks, to the English Middle Ages up to the Glorious Revolution. Then he argues that:

In Britain the intellectual foundations were further developed chiefly by the Scottish moral philosophers, above all David Hume and Adam Smith ... Adam Smith’s decisive contribution was the account of a self generating order which formed itself spontaneously if the individuals were restrained by appropriate rules of law. His *Inquiry into the Nature and Causes of the Wealth of Nations* marks perhaps more than any other single work the beginning of the development of modern liberalism. It made people understand that those restrictions on the powers of government which had originated from sheer distrust of all arbitrary power had become the chief cause of Britain’s economic prosperity.

(Hayek 1978: 125)

Hayek’s account of Smith’s WN is perhaps the strongest assertion one can find in his writings of Smith as the father of classical liberalism. From this tradition, the American Constitution summarized what the colonist

understood to be the essentials of the British tradition of liberty, intended to limit the powers of government ... provided a model of political institutions which profoundly affected the development of liberalism in Europe ... for the Europeans they became the dreamland of liberty.

(*ibid.*: 126–7)

In an important passage, Hayek insists on Adam Smith’s relevance:

The importance which liberal theory attached to the rules of just conduct is based on the insight that they are an essential condition for the maintenance of a self generating or spontaneous order of the actions of the different individuals and groups, each of which pursues his own ends on the basis of his knowledge. At least the great founders of liberal theory in the eighteenth century, David Hume and Adam Smith, did not assume a natural harmony of interests, but rather contended that the divergent interests of the different individuals could be reconciled by the observance of appropriate rules of conduct ... Those eighteenth century writers were indeed as much philosophers of law as students of economic order, and their conception of law and their theory of market mechanism are closely connected. They understood that only recognition of certain principles of law, chiefly the institution of several property and the enforcement of contracts, would secure such a mutual adjustment of the plans of action of the separate individuals that all might have a good chance of carrying out the plans of action which they had formed. It was, as later economic theory brought out more clearly, this mutual adjustment of individual plans which enabled people to serve each

other while using their different knowledge and skills in the service of their own ends.

(Hayek 1978: 135–6)

The formation of spontaneous order requires “long experimentation” in which “improvement must proceed slowly and step by step” (ibid.: 136). This is also a common Smithian theme. Throughout WN Adam Smith emphasizes the importance of gradual changes.

Regarding the liberal conception of justice, for Hayek “it is founded on a belief in the possibility of discovering objective rules of just conduct independent of particular interests ... it is concerned with commutative justice and not with what is called distributive or now more frequently ‘social’ justice” (Hayek 1978: 139). This conception of justice is quite Smithian:

The rules of justice may be compared to the rules of grammar; the rules of the other virtues, to the rules which critics lay down for the attainment of what is sublime and elegant in composition. The one, are precise, accurate, and indispensable. The other, are loose, vague, and indeterminate, and present us rather with a general idea of the perfection we ought to aim at, than afford us any certain and infallible directions for acquiring it. A man may learn to write grammatically by rule, with the most absolute infallibility; and so, perhaps, he may be taught to act justly. But there are no rules whose observance will infallibly lead us to the attainment of elegance or sublimity in writing; though there are some which may help us, in some measure, to correct and ascertain the vague ideas which we might otherwise have entertained of those perfections. And there are no rules by the knowledge of which we can infallibly be taught to act upon all occasions with prudence, with just magnanimity, or proper beneficence: though there are some which may enable us to correct and ascertain, in several respects, the imperfect ideas which we might otherwise have entertained of those virtues.

(TMS III.6.11: 205)

And even if Smith does not completely dismiss distributive justice (see Young 1997), his concept of justice is mainly commutative or negative, as he ironically suggests in the following passage:

Mere justice is, upon most occasions, but a negative virtue, and only hinders us from hurting our neighbour. The man who barely abstains from violating either the person, or the estate, or the reputation of his neighbours, has surely very little positive merit. He fulfils, however, all the rules of what is peculiarly called justice, and does every thing which his equals can with propriety force him to do, or which they can punish him for not doing. *We may often fulfil all the rules of justice by sitting still and doing nothing.*

(TMS II.ii.1.9: 95–6; emphasis added)³³

Hayek asserts that distributive justice should be rejected for two reasons:

there exist no recognized or discoverable general principles of distributive justice, and that, even if such principles could be agreed upon,³⁴ they could not be put into effect in a society whose productivity rests on the individuals being free to use their knowledge and abilities for their own purposes.

(1978: 140)

It is all about competition:

equal treatment under the same general laws must result in very different positions of the different persons; while in order to make the position of the opportunities of the different persons equal, it would be necessary that government treats them differently. Liberalism, in other words, merely demands that the procedure, or the rules of the game, by which the relative positions of the different individuals are determined, be just (or at least not unjust), but not that the particular results of this process for the different individuals be just.

(ibid.: 141)

Hayek does not believe in the vague idea of “equal opportunities” because it is flawed and incapable of realization in a free society. It would demand deliberate manipulations and induce unintended consequences. Hayek is aware of the different individual capacities, “but above all the inevitable differences of their individual environments, and in particular the family in which they grew up, would still make their prospects very different” (ibid.: 141). Liberalism is not about egalitarianism, but “formal” equalities. Hayek’s aim was to foster a “progressive increase of vertical mobility” and for that purpose

[t]he chief instrument by which this was to be secured was the provision (where necessary out of public funds) of a universal system of education which would at least place all the young at the foot of the ladder on which they would then be able to rise in accordance with their abilities.

(ibid.: 142)³⁵

Smith is also pioneering with his famous proposal for universal basic education, although it must be pointed out that this was a Scottish Enlightenment phenomenon which has had religious Presbyterian roots since John Knox.

In his famous passage about the negative consequences of division of labor, loved by Marx who found in it support for his concept of alienation, Smith claims that people “generally becomes as stupid and ignorant as it is possible for a human creature to become” (WN V.i.f.50: 782), then calling for government intervention through education.

Hayek, as Smith, is not a laissez-faire economist: “[f]reedom of economic activity had meant [for Smith] freedom under the law, not the absence of all

government action” (1960: 220). They defend education as a public duty, and they understand the role of regulation in terms of fostering competition to increase “vertical mobility.”

Hayek and Smith's invisible hand

Before analyzing what Hayek actually said and meant by this metaphor, let's go over Smith's three invisible hands. The first appearance of Smith's invisible hand is in section III, “Of the Origin of Philosophy,” in *The Principles Which Lead and Direct Philosophical Enquiries; Illustrated by the History of Astronomy* (EPS: 31–105). This great essay, which was not burnt with Smith's other folios before his death, was certainly written before 1758 (EPS: 103), and perhaps even during his stay at Oxford.³⁶

An extract of the full paragraph reads:

The reverence and gratitude, with which some of the appearances of nature inspire him, convince him that they are the proper objects of reverence and gratitude, and therefore proceed from some intelligent beings, who take pleasure in the expressions of those sentiments . . . Hence the origin of Polytheism, and of that vulgar superstition which ascribes all the irregular events of nature to the favour or displeasure of intelligent, though invisible beings, to gods, daemons, witches, genii, fairies. For it may be observed, that in all Polytheistic religions, among savages, as well as in the early ages of Heathen antiquity, it is the irregular events of nature only that are ascribed to the agency and power of their gods. Fire burns, and water refreshes; heavy bodies descend, and lighter substances fly upwards, by the necessity of their own nature; nor was *the invisible hand of Jupiter* ever apprehended to be employed in those matters. But thunder and lightning, storms and sunshine, those more irregular events, were ascribed to his favour, or his anger . . . And thus, in the first ages of the world, the lowest and most pusillanimous superstition supplied the place of philosophy.

(EPS: 49; emphasis added)

This polytheistic context is alien to an economic interpretation.³⁷ Smith's second invisible hand appears in chapter 1, “Of the Beauty Which the Appearance of Utility Bestows upon All the Productions of Art, and of the Extensive Influence of This Species of Beauty,” of Part IV, “Of the Effect of Utility upon Sentiment of Approbation,” of TMS. After explaining how nature deceives us and promotes industry, Smith follows:

The homely and vulgar proverb, that the eye is larger than the belly, never was more fully verified than with regard to him. The capacity of his stomach bears no proportion to the immensity of his desires, and will receive no more than that of the meanest peasant. The rest he is obliged to distribute among those, who prepare, in the nicest manner, that little which he himself

makes use of, among those who fit up the palace in which this little is to be consumed, among those who provide and keep in order all the different baubles and trinkets, which are employed in the oeconomy of greatness; all of whom thus derive from his luxury and caprice, that share of the necessaries of life, which they would in vain have expected from his humanity or his justice. The produce of the soil maintains at all times nearly that number of inhabitants which it is capable of maintaining. The rich only select from the heap what is most precious and agreeable. They consume little more than the poor, and in spite of their natural selfishness and rapacity, though they mean only their own conveniency, though the sole end which they propose from the labours of all the thousands whom they employ, be the gratification of their own vain and insatiable desires, they divide with the poor the produce of all their improvements. They are led by *an invisible hand* to make nearly the same distribution of the necessaries of life, which would have been made, had the earth been divided into equal portions among all its inhabitants, and thus *without intending it, without knowing it, advance the interest of the society*, and afford means to the multiplication of the species.

(TMS IV.I.10: 215–16; emphasis added)

Here we can clearly find the idea of unintended consequences, although the complete passage is charged with religious overtones. The last and most important invisible hand is in chapter II, “Of Restraints upon Importation from Foreign Countries of such Goods as Can Be Produced at Home,” of Book IV, “Of Systems of Political Economy,” in WN. It reads:

By preferring the support of domestic to that of foreign industry, he intends only his own security; and by directing that industry in such a manner as its produce may be of the greatest value, he intends only his own gain, and *he is in this, as in many other cases, led by an invisible hand to promote an end which was no part of his intention*. Nor is it always the worse for the society that it was no part of it. By pursuing his own interest he frequently promotes that of the society more effectually than when he really intends to promote it.

(WN IV.ii. 9: 456; emphasis added)

It would not be bold to assert that Smith’s invisible hand is the most important metaphor in the history of economic thought. But it is also the most elusive, as different interpretations have been drawn. For example Grampp (2000) enumerates ten different interpretations including his own.³⁸ The latter is “more interesting than important” (Grampp 2000: 442) and simply relates to the context in which WN’s invisible hand appears. But his criticism of the Hayekian interpretation argues that this “[i]nquiry . . . could have the unexpected consequence of revealing that Smith was not as loyal to the simple system of natural liberty as the Austrians are” (ibid.: 446). His argument against this interpretation is that

even though there are unintended consequences, they only relate to the defence of a nation, that is, “nothing so complex and so grand as the social order of the price mechanism within it” (ibid.).

Hayek often refers to the social function of the invisible hand, that is “to promote an end which was no part of his intention,” but he exceptionally refers to the metaphor as such. To my knowledge, the invisible hand appears directly only three times. The first in “The Trend of Economic Thinking”:

It is, of course, supremely easy to ridicule Adam Smith's famous “invisible hand” – which leads “man to promote an end which was no part of his intention”. But it is an error not very different from this anthropomorphism to assume that the existing economic system serves a definite function only in so far as its institutions have been deliberately willed by individuals.

(Hayek 1991 [1933]: 27)

Then in “Comte and Hegel”:

Hegel and Comte both singularly failed to make intelligible how the interaction of the efforts of individuals can create something greater than they know. While Smith and the other great Scottish individualists of the eighteenth century – even though they spoke of the “invisible hand” – provided such an explanation, all that Hegel and Comte give us is a mysterious teleological force. And while eighteenth-century individualism, essentially humble in its aspirations, aimed at the understanding as well as possible the principles by which the individual efforts combined to produce a civilization in order to learn what were the conditions most favourable to its further growth, Hegel and Comte became the main source of that hubris of collectivism which aims at “conscious direction” of all forces of society.

(Hayek 1952 [1951]: 203–4)

Regarding the latter, Hayek, in his “The Results of Human Action but not of Human Design” (1967), goes on to claim:

The uncomprehending ridicule later poured on the latter's expression of the “invisible hand” by which “man is led to promote an end which was no part of his intention”, however, once more submerged this profound insight into the object of all social theory, and it was not until a century later that Carl Menger at last resuscitated it in a form which now, yet another eighty years later, seems to have become widely accepted, at least within the field of social theory proper.

(Hayek 1967: 99–100)³⁹

Bruce Caldwell has kindly suggested to me that as Smith's “invisible hand” was ridiculed as having religious or mystical connotations, the scientific and anti-clerical environment in which Hayek was raised might explain his reluctance to

use it directly. The context of the TMS invisible hand would explain a common religious interpretation during the first half of the twentieth century.⁴⁰ Also Hayek's rhetoric referring to the invisible hand is clear about this supposition.

The idea of promoting an end which was no part of his intention is clear in the TMS and WN invisible hand. Grampp (2000) too readily dismisses the Hayekian interpretation by simply focusing on the context of the WN invisible hand. Moreover, there are other passages where Smith repeats the idea of unintended consequences, and his "conjectural history," including his four-stages theory, might be considered a precursor of Hayek's unintended consequences. It is my personal view that Hayek's interpretation is quite feasible, as Otteson (2002) has persuasively suggested.

Conclusions

This analysis, by no means exhaustive, covers perhaps some of the most significant essays in which Hayek refers to his classical liberal sources, and Adam Smith in particular. One cannot refrain from imagining Hayek as a true inheritor of this tradition, as a staunch and committed follower of Smith's "liberal plan of equality, liberty, and justice" (WN IV.ix.3: 664). Throughout his writings Hayek explicitly and implicitly acknowledges that he is standing on the shoulders of giants. Mandeville, Ferguson, Hume, Burke, Tucker and, last but not least, Smith, are consciously referred to as his "true" intellectual ancestors. One cannot avoid imagining that his long wait for finally witnessing the implementation of his ideals was undertaken with patience and restless intellectual rigor.

Although there is intellectual evolution from his 1933 "The Trend of Economic Thinking" up to his "Individualism: True and False" (1945), from the latter onwards there is a solid intellectual background that keeps the same framework. As his late essay "Liberalism" (1973) maintains basically the same arguments, we can conclude that Hayek's classical liberal principles are consistent. It can also be suggested that if Smith was always a prominent influence in Hayek, his later writings show a more explicit commitment with Adam Smith's WN as a crucial foundation of classical liberalism. It is also surprising that, as with Stigler, Hayek does not touch some fundamental moral aspects of Smith's TMS, neither does he develop his concept of sympathy.

In his "Rules, Perception and Intelligibility" (1963), Hayek makes, to my knowledge, the only connection to sympathy while discussing "other people's actions." According to Hayek, our

understanding of the meaning of actions is of the same kind as the understanding of communications (i.e. of action intended to be understood). It includes what eighteenth century authors described as sympathy and what has more recently been discussed under the heading of "empathy" (Einfühlung).

(Hayek 1967 [1963]: 58)

It is really interesting that Hayek does not develop sympathy. Certainly he had read TMS. But sympathy, the impartial spectator and even the famous Adam Smith Problem were ignored by Hayek. As I have suggested, perhaps Jacob Viner's overwhelming influence with his religious account of TMS might explain why, up to the bicentenary of WN, economists rarely referred to Smith's TMS (for example, see lectures commemorating the bicentennial anniversary of WN in Fry 1992).⁴¹

But throughout Hayek's essay, although the traces of Smith and the Scottish Enlightenment for classical liberalism are clear, his main concern is political. Smith remains a moral philosopher, concerned with sympathy, virtues and the impartial spectator. Hayek, a political philosopher, is against social planning and concerned with economics as *catalaxia*. If Smith was a staunch egalitarian, Hayek was only a "formal" egalitarian. For Smith there are no differences between the street porter and the philosopher. For Hayek, there are differences, and that is the reason why we have to treat them as equal.

If there is a single passage in Smith that best represents Hayek's intentions, it is the great metaphor of the man of system and society as a chess board.⁴² It is plausible that this passage was written by Smith during the French "disturbances." Let me quote the whole passage again, as it entails great political insights very dear to Hayek:

The man of system, on the contrary, is apt to be very wise in his own conceit; and is often so enamoured with the supposed beauty of his own ideal plan of government, that he cannot suffer the smallest deviation from any part of it. He goes on to establish it completely and in all its parts, without any regard either to the great interests, or to the strong prejudices which may oppose it. He seems to imagine that he can arrange the different members of a great society with as much ease as the hand arranges the different pieces upon a chess-board. He does not consider that the pieces upon the chess-board have no other principle of motion besides that which the hand impresses upon them; but that, in the great chess-board of human society, every single piece has a principle of motion of its own, altogether different from that which the legislature might chuse to impress upon it. If those two principles coincide and act in the same direction, the game of human society will go on easily and harmoniously, and is very likely to be happy and successful. If they are opposite or different, the game will go on miserably, and the society must be at all times in the highest degree of disorder.

(TMS VI.ii.2.17: 275)

It is noteworthy that in his quite brief 1976 newspaper article, "Adam Smith's Message in Today's Language," Hayek's only quote from Smith is this passage almost in full (Hayek 1978 [1976]: 269). Actually it is more than noteworthy: this passage fully reflects Hayek's main criticism of a planned society. Smith had beautifully put forward this criticism almost 200 years ago. And Hayek knew it.⁴³

I have argued that Hayek and Smith share a common understanding of human nature as social beings. Their idea of self-interest is that of *oikeiosis*, which has nothing to do with selfishness. They also coincide with the social beneficial effects of individual responsibility, with the “slow and gradual” process of society. They both see the market as an opportunity, not as a threat. Both share the economist’s pragmatism about human nature, but differ in terms of their egalitarianism. They understand social phenomena as a complex matter that cannot be directed by a “man of system.” If Smith actually predicted what Hayek had to live, the latter adopted, adapted and spread out the political implications of Smith’s visions.

It is not difficult to see that both intellectuals, Hayek and Smith, represent a common strand in the history of ideas. As I began this chapter pinpointing some similarities between Smith and Hayek, even some psychological ones, there is another virtuous connection. Smith’s chief virtue, from which all the other virtues derive, is self-command.⁴⁴ Let me finish with a quotation from TMS which in my view represents both Hayek and Smith: “[t]he most perfect knowledge, if it is not supported by the most perfect self-command, will not always enable him to do his duty” (TMS VI.iii.1: 279). Although the idea of self-command is refraining from something, it has a sense of direction. This virtue can be interpreted not only as a negative virtue, but also as a positive one. If Hayek continued rowing Smith’s boat, he did so with patience and humility, in sum, with self-command. All these virtues are paramount to a “true” liberal tradition. As Hayek would say: a good economist is not only an economist.

Notes

- 1 This chapter was presented and discussed at a Liberty Fund Symposium in December 2006. I am much indebted to Bruce Caldwell, Ross Emmett, David Levy, Deirdre McCloskey, Andrew Farrant, Sandra Peart and Vernon Smith for their comments. An improved version was presented at the 2009 History of Economics Society Meeting at Denver, Colorado. I am especially grateful to Bruce Caldwell and to the editor of this volume, Andrew Farrant, for their helpful comments.
- 2 In this chapter I shall refer to four of the six standard books of *The Glasgow Edition of the Works and Correspondence of Adam Smith* by their abbreviations for references and quotations: *An Inquiry into the Nature and Causes of the Wealth of Nations* (WN); *Essays on Philosophical Subjects* (EPS); *Lectures on Jurisprudence* (LJ); and *Correspondence of Adam Smith* (Corr.). All references are taken from the *Online Library of Liberty* publicly available at www.libertyfund.org. For *The Theory of Moral Sentiments* (TMS), I have quoted from Knud Haakonssen’s edition of TMS published in the series *Cambridge Texts in the History of Philosophy* (Smith 2002 [1759]).
- 3 I tend to believe that Smith was a practical agnostic (see Montes 2004: 37–8). Modern interpreters like Veblen (1933 [1899–1900]), Viner (1927, 1972) and most recently Fleischacker (2004) and Evensky (2005) argue that Smith believed. This issue will remain a matter of speculation, but in my view there are good reasons to defend that Smith believed less than we think, and Hume probably more than we assume. If Smith was actually an agnostic, this would be another interesting similarity with Hayek.
- 4 On WN’s reception, there is debate. Some scholars believe it has been overestimated. See especially Teichgraeber (1987), Rothschild (1992, 2001: 52–71) and Rashid (1998).

5 It says:

I shall in another discourse endeavour to give an account of the general principles of law and government, and of the different revolutions they have undergone in the different ages and periods of society, not only in what concerns justice, but in what concerns police, revenue, and arms, and whatever else is the object of law. I shall not, therefore, at present enter into any further detail concerning the history of jurisprudence.

(TMS VII.iv.37: 404)

He kept this final paragraph.

6 For example, Marx admired Smith, for the wrong reasons, as a classical economist, and Rothbard criticized him for the same wrong reason.

7 Caldwell (1987 and *passim*) has analyzed the German Historical School as a social phenomenon in itself and from Hayek's own perspective. It is worth noting that even though Hayek in "The Trend of Economic Thinking" attributes to the German Historical School a leading role in the intellectual shaping of Continental socialism, and to Adam Smith a key position towards classical liberalism, a notorious member like Hildebrand would see Adam Smith as a philosopher of the French Revolution (Hildebrand 1848).

8 "The Trend of Economic Thinking" is, according to Caldwell,

a manifesto and a starting point. It is a manifesto because it is rich in ideas that are not yet systematically articulated. And it is a starting point because ... he was forced to pay increasing attention to the problems he first mentioned in this article.

(Caldwell 1987: 177–8)

Caldwell argues that Hayek's crucial idea for the "Calculation Debate" began three years later with his "Economics and Knowledge" (1937).

9 For an excellent brief account of this essay see Caldwell (2004: 279–87).

10 Hayek had already developed this distinction in *The Counter-Revolution of Science* (1942).

11 On this issue, initially the focus of the "Continental writers of false individualism" was on the German Historical School (Hayek, 1991 [1933]). Then the French acquired notorious pre-eminence.

12 On the Stoics' concept of *oikeiosis* see Schofield (1995, 1999: 760–8), Inwood and Donini (1999: 677–82), Long (1996: 250–64), Sandbach (1975: 34–5), Engberg-Pedersen (1990, 1995), and Edelstein (1966: 35). On Smith and the Stoics see also Vivenza (2001). Heise (1995) also analyses the importance of *oikeiosis* for Smith.

13 I am indebted to David Levy for calling my attention to this simple neoclassical term which involves important philosophical issues.

14 Another important passage reflecting this point is:

Regard to our own private happiness and interest, too, appear upon many occasions very laudable principles of action. The habits of oeconomy, industry, discretion, attention, and application of thought, are generally supposed to be cultivated from self-interested motives, and at the same time are apprehended to be very praise-worthy qualities, which deserve the esteem and approbation of everybody.

(TMS VII.ii.3.16: 359)

15 Heise (1995: 19) also states that "the self-interest or self-betterment of Smith is the *oikeiosis* of the Stoics," but he, too, readily concludes that "[i]n the sixth edition of TMS, Smith became even more Stoic" (ibid.: 23), which in my view is just the opposite (see Montes 2009).

16 I suggest that Smith's concept of propriety, which literally relates to *proprius*, to something belonging to one, might also have an important connection with this

all-encompassing classical source of *oikeiosis*. Propriety has a moral meaning related to one's own, in particular to property in its liberal Lockean sense of "Lives, Liberties and Estates." Propriety and property were both used interchangeably during the seventeenth and eighteenth centuries. The connection between property's particular meaning of material possession and propriety's more general and broader classical liberal meaning, which also includes a moral connotation, is quite interesting. Property finally acquired a material meaning, but retained a moral connotation, e.g. "acting with propriety." In my view this might be a reflection of the corruption debate – commercial progress versus moral decay, or wealth versus virtue – that began to take place in seventeenth-century England up to the eighteenth century. This classical tradition that morally supports self-interest as concern for what is close to us (with the self in the centre, as Hayek and Smith knew) was transmitted to Smith and adopted by Hayek. I have argued that in a way Adam Smith represents the twilight of a republican tradition, and that some important vestiges of this tradition can be found in his works (see Montes 2004, chs 3 and 4). Hayek was an admirer of the Glorious Revolution and the classical republican tradition that preceded it. It is noteworthy that Hayek's title page of his *The Constitution of Liberty* is introduced by a quotation from Algernon Sydney: "Our inquiry is not after that which is perfect, well knowing that no such thing is found among men; but we seek that human Constitution which is attended with the least, or the most pardonable inconveniences" (see also note 28).

- 17 For additional sources, in footnote 8 Hayek (1980 [1948]: 7) quotes another passage from Ferguson, one from Tucker, Smith's invisible hand in his WN and another passage from Burke. At the end he quotes a passage from Lerner's *The Economics of Control* supporting Smith's market mechanism, simply referring to this apparent paradox as "interesting."
- 18 Remember that Smith blamed "projectors" for "excessive circulation of paper money" (WN II.ii.57: 304). Projectors "had in their golden dreams the most distinct vision of this great profit" (WN II.ii.69: 310). They were even the cause of a fixed rate of interest (WN II.iv.15: 357). Financial crises like the South Sea Bubble partly explain this rhetoric.
- 19 The club got its name in analogy to the tool's purpose of "stirring" the establishment of a Scottish militia. On Smith and the Poker Club, see especially Rae (1965 [1895]: 134–40). For other sources on this club, related to Smith and the militia, see Ross (1995: 141–2, 282, 288, 346–8); Robertson (1985: 200–32); Winch (1978: 103–20). Ferguson, although he saw the commercial benefits of the 1707 Act of Union, was a republican who staunchly defended the militia. He is a good example of the corruption debate. In his influential *The Machiavellian Moment*, John Pocock appropriately labeled Ferguson's *An Essay on the History of Civil Society* (1767) as "the most Machiavellian of the Scottish disquisitions" (Pocock 1975: 499).
- 20 An anonymous pamphlet dedicated to the Duke of Buccleuch against Adam Smith was published in 1778. On the context of this interesting debate and Smith's apparent change of mind, see Montes (2010).
- 21 For a similar but more direct argument, in chapter 4 of his *Constitution and Liberty* (1960), Hayek remarks that "[t]he sweeping success of the political doctrines that stem from the French tradition is probably due to their great appeal to human pride and ambition" (1960: 56).
- 22 At the end of the essay he claims that "true individualism is not equalitarian in the modern sense of the word" (1980 [1948]: 30).
- 23 Together with Smith, it might be argued that both thinkers are precursors of Isaiah Berlin's distinction of negative and positive liberty. Undoubtedly more provocatively, Berlin had the ability to simplify what perhaps could have been an obvious insight for both thinkers.

- 24 Actually Smith also refers in TMS to the “sacred and religious regard not to hurt or disturb in any respect the happiness of our neighbour” (TMS VI.ii.intro.2: 256), and elsewhere the “sacred laws of justice,” and a “sacred and conscientious regard to the general rules of justice.”
- 25 I must underline that not all is optimism for Smith, as the pragmatic father of economics also foresees some significant problems (see Alvey 2003).
- 26 Smith graciously claims “[n]obody ever saw a dog make a fair and deliberate exchange of one bone for another with another dog” (WN I.ii.2: 26).
- 27 Hayek continuously praises Mandeville. His “Dr. Bernard Mandeville” (1967) is a proof of his admiration. The fact that Keynes mentions Mandeville in his *General Theory* is suggestive. On the first page of his “Dr. Bernard Mandeville,” Hayek pinpoints that “an authority like Lord Keynes has given him high praise” (1978 [1967]: 249).
- 28 On this account it is noteworthy that Hayek’s *Constitution of Liberty* title page epigraph reads: “Our Inquiry is not after that which is perfect, well knowing that no such thing is found among men; but we seek that human Constitution which is attended with the least, or the most pardonable inconveniences.” This quotation was written by the emblematic republican martyr Algernon Sidney.
- 29 Hayek’s distrust for economic theory is also reflected in his remarks about general economic equilibrium at the end of his classical “The Use of Knowledge in Society” (1945).
- 30 Hayek has a view of Adam Smith’s self-interest different from that attributed to Smith by Stigler. The latter considers self-interest as the “crown jewel” (Stigler 1982: 60) of WN, by extension Smith’s *magnum opus* is “a stupendous palace erected upon the granite of self-interest” (ibid.: 136). David Levy has suggested to me that this interpretation, which ignores TMS and sympathy, might be a consequence of Jacob Viner, who, in his seminal “Adam Smith and Laissez Faire” (1927), declared the inconsistency between TMS and WN.
- 31 Hayek argues that “the new liberalism that gradually displaced Whiggism came more and more under the influence of the rationalist tendencies of the philosophical radicals and the French tradition, Bentham and his Utilitarians did much to destroy the beliefs” (1960: 174).
- 32 In *Rules and Order* (1973), Hayek distinguishes between “spontaneous order” and “organizations.” The former is related to the Greek *kosmos* and it is self-generating, the latter to *taxis*, and it is created. He also applies this distinction to clarify the concept of justice by arguing that rational constructivism requires command with an end in mind. This end would be, according to Hayek, what Adam Smith defined as “the Great Society” (Hayek 1973: 2).
- 33 Smith’s concept of justice as commutative, and its historical development, is analyzed in WN as the second duty of government in Book V, “Of the Expences of the Sovereign or Commonwealth” (WN V.i: 708–23).
- 34 It has always struck me that on the few occasions that Hayek refers to Rawls he does so approvingly. His influential *A Theory of Justice* (1971) marked such a revolution in political philosophy that is difficult to explain why Hayek did not get involved with Rawls’ concept of distributive justice.
- 35 Elsewhere Hayek refers to the speed needed for this process to take place:

In a stationary society there will be about as many who will be descending as there will be those rising. In order that the great majority should in their individual lives participate in the advance, it is necessary that it proceed at a considerable speed. There can therefore be little doubt that Adam Smith was right when he said: “it is in the progressive state, while the society is advancing to the further acquisition, rather than when it has acquired its full complement of riches, that the condition of the labouring poor, of the great body of the people, seems to be

the happiest and the most comfortable. It is hard in the stationary, and miserable in the declining state. The progressive state is in reality the cheerful and the hearty state to all the different orders of the society. The stationary is dull; the declining melancholy.”

(1960: 42)

- 36 Some interpreters have simply taken this essay as a “juvenile” work. For example, Wightman, editor of EPS, considers that “[t]o none of them [Smith’s main essays] would a modern scholar turn for enlightenment on the history of the sciences” (EPS: 5). Specifically, HA, “[t]hough acceptable to a modern historian in its main lines, it contains so many errors of detail and not a few serious omissions as to be no longer more than a museum specimen of its kind” (EPS: 11). I believe this is not correct, as this essay, labeled by Schumpeter as “the pearl of the collection” (1994 [1954]: 182), is original in many senses. In Montes (2006) I have argued the relevance of this essay to understand Smith’s methodology.
- 37 Rothschild (1994) provocatively interpreted, based on the invisible hand of Jupiter, the other two invisible hands of TMS and WN as a joke. In WN and TMS, the invisible hand would be the murderous hand of Macbeth, the evil of a free market.
- 38 Since 2001 Warren Samuels has been working on the invisible hand, uncovering over 48 different readings of this metaphor. For a good interpretation of Smith’s invisible hand, expanding on Otteson’s (2002, 2007) Hayekian interpretation as unintended consequences, see Smith (2007). And for a good collection of essays following some ideas of this chapter, see Hunt and McNamara (2007).
- 39 In a footnote Hayek states that

the more recent revival of this conception seems to date from my own article “Scientism and the Study of Society” (1942) . . . where I argued that the aim of social studies is “to explain the unintended or undersigned results of many men.”

(1967: 100 n. 12)

Caldwell (2004: 72–3) wonders how Menger got Smith so wrong. Throughout this essay, and other sources, Hayek insists on Menger’s possible connection with Savigny and the older historical school, although the latter relied on natural laws, it is finally due to the French, through a “Cartesian constructivism” (1967: 104) helped by positivism, that history of ideas arrives at the wrong path.

- 40 Caldwell’s suggestion is quite plausible. Perhaps Jacob Viner’s overwhelming influence can even be extended to Hayek. Not surprisingly, in his “Two Types of Mind” (1978 [1975]), Hayek refers to Viner (together with von Wieser and Schumpeter) as “master of his subject” (Hayek 1978 [1975]: 51).
- 41 Incidentally Max Scheler, the author of *The Nature of Sympathy* (1954) was a good friend of Ludwig von Mises who was quite an influence on Hayek. In his *Memoirs*, Ludwig von Mises recalls “I also met men in both of these German societies whose company enriched me greatly. I recall, above all, Max Scheler, the philosopher and sociologist” (von Mises 2009: 88).
- 42 See analytical egalitarianism developed by Levy and Peart (2005, 2008). For Smith, social nature under the sympathetic process requires more than reciprocity; it is not simply a social contract between atomistic or rational individuals.
- 43 Later he wrote
- [s]ince Adam Smith the process by which the shares of individuals are determined in a market economy has therefore often been likened to a game in which the results for each depend partly on his skill and effort and partly on chance.
- (1978: 137)
- 44 According to Smith, self-command “is not only a great virtue, but from it all the other virtues seem to derive their principal lustre” (TMS VI.iii.11: 284).

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2 F. A. Hayek's sympathetic agents

Sandra J. Peart and David M. Levy

Introduction

In his 2002 Nobel Lecture, Vernon Smith refers to “the simultaneous existence of two rational orders,” which “are distinguishing characteristics of what we are as social creatures” (Smith 2003: 466). For Smith, who invokes David Hume and F. A. Hayek in this regard, both orders “are essential to understanding and unifying a large body of experience from socioeconomic life and the experimental laboratory, and in charting relevant new directions for economic theory as well as experimental-empirical programs” (Smith 2003: 466).¹ This chapter examines the nature and consequences of Hayek's concept of human agency by exploring the Hayekian two worlds of human conduct. We argue that Hayek renounced the use of an explicit model of reclusive agency in favor of an implicit model of sympathetic (correlated) agency.

In what follows, we show first that, for Hayek, behavior within the small group – the “small band or troop,” or “micro-cosmos” – is correlated, resulting from agents who are sympathetic one with another. We shall argue that sympathy in this context for Hayek entails the projection of one's preferences onto the preferences of others. With such correlated agency as the default in small-group situations, Hayek attempts to explain the transition from small groups to a larger civilization. We consider the role of projection in Hayek's system at length, because projection from the local group characterized by a well-defined preference ordering to the world beyond the neighborhood may yield mistaken beliefs. We shall argue that Hayek's recognition of this outcome underlies his pessimism about the democratic attempt to effect “social justice.”

Finally, we shall take up the question of whether and how to avoid this temptation to impose one set of preferences on another when local optima differ. We address this question by considering how sympathetic projection can go awry in the Classical tradition, specifically in Adam Smith's system. The problem is, we shall argue, one of “factions.” Smith famously worried about the destructive nature of factions, their tendency to exploit the larger society (Levy and Peart 2008a). In the case of religious factions – perhaps the most famous example of destructive behavior of this sort – Smith held that competition among small groups might resolve the problem. Central to his argument is the realization that

if the local groups are small enough, individuals in the larger society will belong to overlapping organizations. As they move in their daily lives from one small organization to another, they will find that the organizations differ and they will thus learn to agree to disagree. People will come to accept the incoherence that characterizes life in the larger sphere.

The totalitarian temptation

A key to Hayek's account of the totalitarian lies in the difference between Vernon Smith's "two rational worlds": an organization and an order. Hayek sets out the difference between an organization – a collective with a coherent set of goals (preference ordering) – and an order – a collective without this coherence. People have, he maintains, personal experience with organizations, small groups, but since they have none with the larger collection of organizations, orders, they are left to theorize about the collectivity. As they do so, as they attempt to turn their experience with orders into knowledge of organizations, they are tempted in Hayek's account by totalitarianism. By this, Hayek means that they are tempted to imagine that the goals or preference ordering of the larger collective, the order, are coherent in the way that the goals of the small collective, the organization, might be. So, as people move from the small to the large group, a failing of the imagination occurs. People project their preference for a single preference ordering onto the group, and they desire the coherence that results. We note in what follows that, as long as the experience and consequent preference orderings of the small groups vary, no such coherence results. More, the very desire for coherence on a social level is inconsistent with a liberal order characterized by a plurality of goals. Hayek is skeptical of any wide-scale solution to the temptation for imposing coherence, what we might call a totalitarian temptation, that results. The only possible solution is piecemeal institutional reform of one sort or another, for example, Hayek (1979), Hayek and Buchanan (1978).

When Hayek wrote his *Road to Serfdom*, "totalitarianism" was an unfamiliar word. In his system, Hayek turned totalitarianism into a term with precise meaning.² He distinguished between the theory of a collectivity and its manifestation, totalitarianism. For Hayek, the totalitarian norm is a complete ordering of social states. Once we realize this, we can reformulate Hayek's argument in terms of standard social choice theory. What Kenneth Arrow called a "dictatorship" is related to the requirements for Hayek's "complete ethical code" of totalitarianism.³ This totalitarian "ethical code" is characterized by a "unitary end" so that only one person's goals are allowed to matter. Arrow's impossibility theorem establishes that the goal of a complete ordering of social states is inconsistent with non-dictatorship as a formal matter.⁴ But Arrow leaves open the question of whether a collectivity might prefer coherence to non-dictatorship.⁵ In Hayek's account, the projection motivates the temptation to choose coherence over non-dictatorship, so that people who are habituated to coherence in the small group might also prefer coherence to non-dictatorship in the large group.

This sheds new light on Hayek's "slippery slope" argument, which might be reformulated as a recognition (and a warning against the recognition) that individuals might willingly cede freedom of choice to a dictator or a planner because that leaves them with the coherence that characterizes their other spheres of life.

We shall emphasize Hayek's treatment of the small group in writings after his 1960 *Constitution of Liberty* in which the small group is viewed as natural in some biological sense.⁶ The full measure of Hayek's turn toward biological foundations is not very well understood. There is a completely non-biological account of the demand for coherence in his 1949 "Intellectuals and Socialism." Here he distinguishes among three mutually exclusive groups – ordinary people, intellectuals, and specialists/scholars. Ordinary people have no use for systematic philosophy so they are little interested in imagining the world as coherent. Specialists/scholars are all too aware of the puzzles at the frontier of their discipline so they address themselves to making the pieces of their world fit together. Hayek's characterization of intellectuals – "second-hand dealers in ideas" – although perhaps meant as an insult, makes the point quite nicely. To explain the world to non-specialists one is tempted to make it more coherent than it really is.

Intellectual is an occupation. The imposition of coherence comes from the incentives of the position. Hayek's account of the intellectuals' demand for coherence suggests that among intellectuals one would find more willingness to trade democracy for coherence than in the other groups. This is certainly a testable implication. Hayek seems to have given up such incentive-based arguments when he started to write about small groups with unitary goals as natural. It is useful to note that if one distrusts such naturalistic accounts of the sort we shall explore next, there are incentive-based alternatives to which one might appeal.

Hayekian sympathy as correlated behavior

When we propose that Hayek works with "sympathetic" agency we need to clarify that his account is not necessarily the same as Adam Smith's or, for that matter, pre-Smithian accounts. "Sympathy" is the transliteration of an ancient Greek technical term, meaning "co-affective" or "interactive." The word was extensively employed by both Greek and Roman philosophers in the Stoic tradition who posited cosmic sympathy as the *hidden* force which moved all parts of the world.⁷ So, sympathetic explanations offered correlation without evidence of a causal mechanism. The correlated motion of the tides and the moon was a once widely used instance of how sympathy was said to play out in the physical world. To explain sympathetic principles of motion, the mathematical model of vibrating strings was developed. As sympathetic motion came to be idealized, "harmony" came to be understood not only as a musical term but also as an ethical goal (Levy and Peart 2008a).

Adam Smith's account of sympathy stands out as the transforming moment in the historical record. He took the notion of sympathy as a form of vibration that resulted from a physical connection and transformed it instead into an act of

imagination, a projection of one's preferences to another in the same situation. The difference is important because, before Smith, people were said to sympathize only with their equals; while Smith made the case that we can in fact sympathize with those who are quite unlike ourselves. In such cases, we may initially make mistaken projections, but we come to refine our ability to sympathize. Affection is then nothing more than habituated sympathy (mediated by institutions), and the act of sympathizing comes to equalize, to make us more alike. This is the key point that separated David Hume, who held that sympathy is a physical reaction, a form of empathy, and Smith, for whom sympathy is the projected act of imagination (Peart and Levy 2005).

Hayek uses sympathy to explain widely observed imitative behavior.⁸ Imitation generates correlated behavior which itself has a key methodological implication for Hayek: recognition of interpersonal dependence causes him to be deeply skeptical about using dependence-blind statistical methods in economics.⁹

The correlated behavior that features most prominently in Hayek's construction is reciprocity. In Hayek's construction, the sense of reciprocity explains the movement from small groups to civilization. We quote a passage from his important 1966 address to the Mont Pèlerin Society. Here Hayek differentiates between "reciprocal but not common purposes." He argues that the reciprocal behavior, first observed in a small tribe, becomes a norm for "ever wider circles of undetermined persons":¹⁰

29. The growth from the tribal organization, all of whose members served common purposes, to the spontaneous order of the Open Society in which people are allowed to pursue their own purposes in peace, may thus be said to have commenced when for the first time a savage placed some goods on the boundary of his tribe in the hope that some member of another tribe would find them and leave in turn behind some other goods to secure the repetition of the offer. From the first establishment of such a practice which served reciprocal but not common purposes, a process has been going on for millennia which, by making rules of conduct independent of particular purposes of those concerned, made it possible to extend these rules to ever wider circles of undetermined persons and eventually might make possible a universal peaceful order of the world.

(Hayek 1966: 168)

The notion of even a small group with a common purpose might seem odd for an economist today, but Hayek's appeal to what is now known as the "investment" or "trust" game shows just how far he is from the rational (independent) actor model of the 1960s. The trust game has a trivial solution, the wandering tribe which encounters a free lunch, picks it up and leaves nothing. The stationary tribe, in anticipation, leaves nothing. In point of fact, the Hayekian reciprocal outcome where each group leaves food for the other group(s) is borne out in experimental economics.¹¹

Hayek on projection

For Hayek, as noted above, sympathy generates imitative behavior. This is coherent inside Hayek's larger system in which he provides an alternative to accounts based on the assumption of independent agency. Such an alternative requires a theory of dependent agency. The central problem in Hayek's theory of mind is classification or grouping. The classification of objects into groups that are the "same" does not depend upon the objects "really" being the same. Instead, they are (or they become) the "same" because they are classified that way.¹² To move beyond the unconscious, Hayek depends upon projection. By an act of imagination, others become like us and so meaning becomes intersubjective.¹³

We consider in order Hayek's account of projection about other people who "really" are much like us and projection about those at a great distance from us. We will distinguish reliable from unreliable projection by appealing to the distance involved. We will return to the link between reliability and distance after we consider Hayek's argument.

Reliable projection

Without distinguishing between the account in Hume and that in Smith, Hayek maintains that his approach is a return to the Scottish tradition.¹⁴ In either event, Hayek's reformulation of the Scottish tradition rules out the "existence of isolated or self-contained individuals" and presupposes dependent human agency instead:

What, then, are the essential characteristics of true individualism? The first thing that should be said is that it is primarily a *theory* of society, an attempt to understand the forces which determine the social life of man, and only in the second instance a set of political maxims derived from this view of society. This fact should by itself be sufficient to refute the silliest of the common misunderstandings: the belief that individualism postulates (or bases its arguments on the assumption of) the existence of isolated or self-contained individuals, instead of starting from men whose whole nature and character is determined by their existence in society.

(1946: 6)¹⁵

Hayek's discussion of eighteenth-century conceptions of sympathy emphasizes that sympathy plays a role in how individuals come to understand the world around them. We quote at some length from his 1963 British Academy lecture. Here, Hayek explains how something like Smith's imaginative projection allows us to classify, to connect activities as "wholes," to say that some of my actions and some of your actions are the same thing, they have the same name, they are elements of a class:

We have yet to consider more closely the role which the perception of the meaning of other people's actions must play in the scientific explanation of

the interaction of men. The problem which arises here is known in the discussion of the methodology of the social sciences as that of *Verstehen* (understanding). We have seen that this understanding of the meaning of actions is the same kind as the understanding of communications (i.e., actions intended to be understood). It includes what the eighteenth-century authors described as sympathy and what has more recently been discussed under the heading of “empathy” (*Einhühlung*). Since we shall be concerned chiefly with the uses of these perceptions as data for the theoretical social sciences, we shall concentrate on what is sometimes called rational understanding (or rational reconstruction), that is, on the instances where we recognize that the persons in whose actions we are interested base their decisions on the meaning of what they perceive. The theoretical social sciences do not treat all of a person’s actions as an unspecifiable and unexplainable whole but, in their efforts to account for the unintended consequences of individual actions, endeavour to reconstruct the individual’s reasoning from the data which to him are provided by the recognition of the actions of others as meaningful wholes.

(1963: 58–9)

The ability to classify offers a foundational account of how we understand unarticulated rules: “We have seen that our capacity to recognize action as following rules and having meaning rests on ourselves already being equipped with these rules” (1963: 59). In the years before he published *The Sensory Order*, Hayek considered the classification of others’ actions based on a type of projection, what “we know solely from knowledge of our mind.” In the “great majority of instances,” reasoning from such “analogies” is accurate:

If we consider for a moment the simplest kinds of actions where this problem arises, it becomes, of course rapidly obvious that, in discussing what we regard as other people’s conscious actions, we invariably interpret their action on the analogy of our own mind: that is, that we group their actions, and the objects of their actions, into classes or categories which we know solely from the knowledge of our mind. We assume that the idea of a purpose or a tool, a weapon or food, is common to them with us.

(1943: 63)

If I see for the first time a big boulder or an avalanche coming down the side of a mountain toward a man and see him run for his life, I know the meaning of this action because I know what I would or might have done in similar circumstances.

There can be no doubt that we all constantly act on the assumption that we can in this way interpret other people’s actions on the analogy of our mind and that in the great majority of instances this procedure *works*. The trouble is that we can never be sure.

(1943: 64)

Such is the nature of “anthropomorphic explanations” for Hayek, who wonders whether they constitute science, or not (1943: 65). Since economics is mathematically certain, Hayek concludes that they have no place in the pure logic of choice.¹⁶

Projection at great distance

Projection also enters into Hayek's account of how individuals make the transition from small to larger groups. In this transition, projections create the key difficulty of the modern world. Hayek argues that people project from what they know, their experience with organizations characterized by a unified goal, to that which they do not know, societies without a goal. In so doing, they are tempted by totalitarianism. To this we now turn.

The foundation for the attack on social justice in the second volume of *Law, Legislation and Liberty* is laid in the 61 numbered, tightly argued paragraphs of Hayek's 1966 address to the Mont Pèlerin Society. In this essay Hayek sets out the difference between an organization – a collective with a coherent set of goals (preference ordering) – and an order – a collective without this coherence of goals. We are tempted by totalitarianism, in Hayek's account, when we attempt to turn an order into an organization.

The first two paragraphs of the address review Hayek's 1946 distinction between British and Continental liberalism. The third paragraph distinguishes liberalism from democracy. Hayek's terminology sets liberalism definitionally opposed to totalitarianism and democracy definitionally opposed to authoritarianism. The possibility of democratic totalitarianism and authoritarian liberalism are empirical issues (1966: 161). Those who attended the Mont Pèlerin Society in 1966 would not need to be told that totalitarianism is described in *Road to Serfdom* as the state of society in which only one hierarchy of goals, preference ordering, is allowed.¹⁷

Paragraphs 6–13 discuss the relationship between liberalism and a spontaneous order. A spontaneous order emerges out of decisions made by individuals without common goals. As such, it serves as a natural environment for liberalism. Hayek next confronts the confusion between an “order” and an “organization.” While the order is characterized by reciprocity, it differs from the organization precisely because it lacks coherence, a single aim:

15. An economy in the strict sense of the word in which we can call a household, a farm, an enterprise or even the financial administration of government an economy, is indeed an organization ... in the service of a unitary order of purposes. It rests on a system of coherent decisions in which a single view of the relative importance of the different competing purposes determines the uses to be made of the different resources.

(1966: 164)

16. The spontaneous order of the market resulting from the interaction of many such economies is something so fundamentally different from an

economy proper that it must be regarded as a great misfortune that it has ever been called by the same name.... I propose that we call this spontaneous order of the market a *catallaxy* in analogy to the term “catallactics”,...

(1966: 164)

17. The chief point about a catallaxy is that, as a spontaneous order, its orderliness does *not* rest on its orientation on a single hierarchy of ends, and that, therefore, it will not secure that for it as a whole the more important comes before the less important.

(1966: 164)

The outcome in a spontaneous order cannot, strictly speaking, be described as “just” since this would require a single (unanimously agreed-upon) hierarchy of ends. But this is not how people see things. They project what they know onto what they do not know. What they know is coherent, the single hierarchy of ends in the organization, so they imagine that what they do not know, the order, should also be characterized by a single set of preferences. They impose the coherence of what they know on what do not know: “37. That the concept of justice is nevertheless so commonly and readily applied to the distribution of incomes is entirely the effect of an erroneous anthropomorphic interpretation of society as an organization rather than as a spontaneous order” (1966: 171). From this follows the temptation to totalitarianism: “38. All endeavours to secure a ‘just’ distribution must thus be directed towards turning the spontaneous order of the market into an organization or, in other words, into a totalitarian order” (1966: 171).

Let us reformulate Hayek’s argument in terms of the Arrow impossibility literature. The question Hayek is asking is, what condition guarantees that social decision procedures are transitive? The answer he is offering is dictatorship: where one agent’s preferences are the only ones that count. This is what Hayek calls totalitarianism.

So, to combine the terminology from both Arrow and Hayek, society is faced with a trade-off between coherence and liberal democracy. Which will prevail? The formal properties of axiomatic systems give no guidance. Hayek’s 1949 “Intellectuals and Socialism” argued that intellectuals, more than experts or the public, were most tempted by totalitarianism. The intellectuals’ desire for coherence was at the root of this temptation.¹⁸ Hayek leaves unexplained the question of why intellectuals are more concerned with coherence relative to truth than experts or ordinary people – the other ideal types in his 1949 story. Perhaps Adam Smith’s connection between affection and habitual sympathy provides an answer. Those who are habituated to coherence, who spend the most time in coherent systems of thought will, other things being equal, be more likely to think social coherence worth the cost. Hayek’s claim might be correct but for an economic account, we would require a specification of the goals and constraints of intellectual life. This Hayek does not provide.

The tyranny of the minority

Hayek argues that there is a strong tendency for a well organized group to exploit a less organized group. Although people within small groups are connected by bonds of sympathy and reciprocity, the groups themselves are connected by neither personal ties nor considerations of reciprocity. Hayek's technical criticism of interest-group democracy is sketched in 1960 in the context of corporate voting rights, a work that is apparently unknown even to scholars who have recently begun to explore the very same corporate pyramids that troubled Hayek.¹⁹ Since the problem of corporate pyramids highlights the importance of Hayek's early concern, it provides a useful case to work out the logic of his argument. This also an instance of Hayek's account of small-group action which does not have biological roots.

In Hayek's account, when corporate pyramids exist, the controlling stockholders in one company can run other corporation(s) for their benefit, leaving shareholders in the other corporation(s) with poor options:

where the shares of one corporation are owned by another corporation, . . . nobody seriously questions that any control thus exercised by the second corporation over the first can legitimately be employed to increase the profits of the second. In such a situation it is clearly possible, and not unlikely, that the control over the policy of the first corporation will be used to channel the gains from its operations to the second, and that the first would be run, not in the interest of all its stockholders but only in the interest of the controlling majority. When the other stockholders discover this it will be too late for them to apply any remedy. The only possibility they will have is to sell out – which may be just what the corporate stockholder wants.

(1960: 309)

How did this come about? An evolutionary failure? So it seems. The lack of *deliberation* and *awareness* created the failure:

I must admit that I have never quite understood the *rationale* or justification of allowing corporations to have voting rights in other corporations of which they own shares. So far as I can discover, this was never deliberately decided upon in full awareness of all its applications, but came about simply as a result of the conception that, if legal personality was conferred upon the corporation, it was natural to confer upon it all powers which natural persons possessed. But this seems to me by no means a natural or obvious consequence. On the contrary, it turns the institution of property into something quite different from what it is normally supposed to be. The corporation thereby becomes, instead of an association of partners with a common interest, an association of groups whose interests may be in strong conflict; and the possibility that a group which directly owns assets amounting only

to a small fraction of those of the corporation, may, through a pyramiding of holdings, acquire assets amounting to a multiple of what they own themselves.

(1960: 309)

The correction is to take away the connected corporation's right to vote:

There seems to me to exist no reason why a corporation should not be allowed to own stock of another corporation purely as an investment. But it also seems to me that such a stock, so long as it is owned by another corporation, should cease to confer a right to vote.

(1960: 309)

So, corporate pyramiding turns governance from a matter of individuals with common interests to groups with conflicting interests. Hayek's cure is to abolish the link between investment and corporate democracy – the “one share one vote” principle fails to reflect the interest of the majority of assets, so Hayek proposes a change in the voting rules.

All of this, majorities controlling majorities resulting in the minority extortion of majorities, evolutionary failure and drastic revision of the right to vote, is to be found in *Law, Legislation and Liberty*. Here, Hayek makes the case that majority rule in the larger world has become something akin to the world of corporate pyramids, in which a group which is large enough to control interest groups extract transfers from the majority itself. Indeed, here we find Hayek defending the Athenian practice of election by lot!²⁰ It is in the context of the tyranny of the minority that Hayek offered such drastic reforms.²¹ “Progress” has been reversed and Hayek worries about the dictator who will save society from themselves:

What I have been trying to sketch in these volumes (and the separate study of the role of money in a free society) has been a guide out of the process of degeneration of the existing form of government, and to construct an intellectual emergency equipment which will be available when we have no choice but to replace the tottering structure by some better edifice rather than resort in despair to some sort of dictatorial regime.

(1979: 152)

Hayek's despair is such that he concludes there is no path by means of a spontaneous order to take us out of the disorder. Evolution has failed.²² To solve this evolutionary failure, we need government and government requires purpose.

Factions and competition

Projection in the small, in our local environment, works far more smoothly in Hayek's account than projection in the large.²³ The difference between action in

the small and in the large is central to Hayek's discussion of the information aggregation properties of markets which culminated in the 1945 "Use of Knowledge in Society." Individuals with local knowledge act in such a way that prices reflect the aggregation of local information. To preserve these information aggregation properties, individuals need to "submit" to prices and the price system.²⁴

Hayek's argument about projection from the local organization to the social order depends, it seems, on the implicit assumption that there is only one local organization (or, if there are many, they are sufficiently similar in preferences). But what if there are many? Hayek's important concern about one faction exploiting the larger society is a general version of the problem of religious factions which Adam Smith encountered but did not solve in *Theory of Moral Sentiments*. In *Wealth of Nations*, Smith offered a possible solution to the problem (Levy and Peart 2009). What is important for the present argument is just how critical it is in Smith's proposal that a person belongs not just to one but to many organizations.

The consequence of competition in religion is to change the social distance. Hierarchy in a sect is replaced by equality across sects. We no longer have a world of leaders and followers, we have equals agreeing to disagree to avoid loneliness (Levy and Peart 2008a):

The teachers of each sect, seeing themselves surrounded on all sides with more adversaries than friends, would be obliged to learn that candour and moderation which is so seldom to be found among the teachers of those great sects whose tenets, being supported by the civil magistrate, are held in veneration by almost all the inhabitants of extensive kingdoms and empires, and who therefore see nothing round them but followers, disciples, and humble admirers. The teachers of each little sect, finding themselves almost alone, would be obliged to respect those of almost every other sect, and the concessions which they would mutually find it both convenient and agreeable to make to one another, might in time probably reduce the doctrine of the greater part of them to that pure and rational religion, free from every mixture of absurdity, imposture, or fanaticism, such as wise men have in all ages of the world wished to see established; but such as positive law has perhaps never yet established, and probably never will establish, in any country: because, with regard to religion, positive law always has been, and probably always will be, more or less influenced by popular superstition and enthusiasm.

(Smith 1776: v.i.197)

It is important to notice Smith has implicitly appealed here to a notion of overlapping organizations.

Conclusion: how many organizations are in a person's life?

In his Nobel Lecture discussed at the outset, Vernon Smith notes that generations of economists have ignored Adam Smith's *Theory of Moral Sentiments*.

Indeed, the incoherence of *Wealth of Nations* and *Theory of Moral Sentiments* is known as *Das Adam Smith Problem*. Because Smith's proposed solution to the problem of religious factions is precisely in the intersection of these two books (Levy 1978; Levy and Peart 2008a), it seems to have been overlooked by even the most careful scholars.

Smith's solution is important for Hayek's argument because in Smith's account competition ensures that religious groups become populated by people who belong to overlapping organizations. Perhaps a family will be co-religionists, but there is no reason to believe that the people with whom they work will belong to the same sect. In this society of competitive religions, a person's daily life weaves through different organizations, each of which may well have a coherent goal. But the goals will differ. Which goal is projected to the social order? Toleration of diversity is a plausible equilibrium if only because Adam Smith said so and because the experience of American religious toleration is consistent with this teaching.

Competitive discussion and toleration of diversity are at the heart of John Stuart Mill's *On Liberty*, in which adherents to each set of beliefs will present their goals. It seems to be the case that, for Hayek, an individual can be a member of only one organization. Whether membership in diverse organizations will turn an organization into an order remains an open question.

Notes

- 1 Smith (2003: 466). Smith's paper opens with a quotation from David Hume and then from Hayek on the two worlds in which people function.

"we must constantly adjust our lives, our thoughts and our emotions, in order to live simultaneously within different kinds of orders according to different rules. If we were to apply the unmodified, uncurbed rules (of caring intervention to do visible 'good') of the ... small band or troop, or ... our families ... to the (extended order of cooperation through markets), as our instincts and sentimental yearnings often make us wish to do, *we would destroy it*. Yet if we were to always apply the (competitive) rules of the extended order to our more intimate groupings, *we would crush them*" (Friedrich A. Hayek, 1988: 18; italics are his, parenthetical reductions are mine).

(Smith 2003: 465)

Smith's quotation omits the words "micro-cosmos" and "macro-cosmos" (Hayek 1988: 18), which are signatures of the Stoic tradition. In the ancient texts, "micro-cosmos" defined a person, as opposed to "the small band or troop, or of, say, our families" (Hayek 1988: 18). The movement from the individual to the small group is important for this argument discussed below.

- 2 Referring to the political consequences of collectivism, Hayek writes: "In short, they are totalitarian in the true sense of this new word which we have adopted to describe the unexpected but nevertheless inseparable manifestations of what in theory we call collectivism" (1944: 59). The *Oxford English Dictionary* gives the first usage of "totalitarianism" in 1926 in the context of Italian fascism. Ezra Pound is quoted from 1937. Hayek knew of Pound and writes this about John Milton: "It is, perhaps, significant that our generation has seen a host of American and English detractors of Milton – and that the first of them, Mr. Ezra Pound, was during this war broadcasting from Italy!" (Hayek 1944: 220).

- 3 The various kinds of collectivism, communism, fascism, etc., differ between themselves in the nature of the goal towards which they want to direct the efforts of society. But they all differ from liberalism and individualism in wanting to organise the whole of society and all its resources for this unitary end, and in refusing to recognise autonomous spheres in which the ends of the individuals are supreme. In short, they are totalitarian.

(Hayek 1944: 60)

Hayek argues against this and concludes the paragraph: "It presupposes, in short, the existence of a complete ethical code in which all the different human values are allotted their due place." He continues in the next paragraph: "The conception of a complete ethical code is unfamiliar and it requires some effort of imagination to see what it involves. We are not in the habit of thinking of moral codes as more or less complete."

- 4 The connection between Hayek's argument and Arrow's impossibility theorem was seen earlier by Boettke and Leeson (2002) and reported as part of seminar commentary by Caldwell (2007: 30). Neither lays out Hayek's argument that this demand for coherence comes from a projection from a natural group with unitary goals to an order.
- 5 Buchanan and Yoon (2006) discuss how unsettling the Arrow–Black result was. Buchanan (1954) stands out in retrospect as uniquely undisturbed by social incoherence. Buchanan and Yoon (2006) offer a solution to the Arrow impossibility theorem by something akin to a rational expectations move: if Arrow's agents know what Arrow knows, then their voting behavior may change.
- 6 In *Road to Serfdom* the unitary group was explained by primitive rules and taboos.

From the primitive man, who was bound by an elaborate ritual in almost every one of his daily activities, who was limited by innumerable taboos, and who could scarce conceive of doing things in a way different from his fellows, morals have more and more tended to be merely limits.

(Hayek 1944: 101)

In his important 1966 "Principles of a Liberal Social Order," the small group is "tribal" (Hayek 1966: 168).

- 7 The disrepute into which sympathy fell can be gauged by the simple fact that "occult" is Latin for hidden. Indeed, the connection between sympathy and magic is a commonplace among specialists (Levy and Peart 2008a).
- 8 Hayek (1963: 46–7):

The main difficulty which has to be overcome in accounting for these phenomena is most clearly seen in connection with the phenomenon of imitation. The attention paid to this by psychologists has fluctuated greatly and after a period of neglect it seems again to have become respectable. The aspect which concerns us here probably has not again been stated more clearly since it was pointed out at the end of the eighteenth century by Dugald Stewart [Hayek cites Dugald Stewart, *Elements of the Philosophy of the Human Mind*, chapter on "Sympathetic Imitation"].

- 9 Hayek (1945: 83):

The comparative stability of the aggregates cannot, however, be accounted for – as the statisticians occasionally seem to be inclined to do – by the "law of large numbers" or the mutual compensation of random changes. . . . The continuous flow of goods and services is maintained by constant deliberate adjustments, by new dispositions made every day in the light of circumstances not known the day before, by B stepping in at once when A fails to deliver.

Hayek (1964: 29):

Statistics, however, deals with the problem of large numbers essentially by eliminating complexity and deliberately treating the individual elements which it counts as if they were not systematically connected ... it deliberately disregards the fact that the relative position of the different elements in a structure may matter.

The importance of this aspect of Hayek's argument is emphasized in Khan (2008).

10 One wonders how many in the audience caught the Stoic image of moral obligation?

Each one of us is as it were entirely encompassed by many circles, some smaller, others larger, the latter enclosing the former on the basis of their different and unequal dispositions relative to each other. The first and closest circle is the one which a person has drawn as though around a centre, his own mind. This circle encloses the body and anything taken for the sake of the body. For it is virtually the smallest circle, and almost touches the centre itself. Next, the second one further removed from the centre ... contains parents, siblings, wife, and children. The third one has in it uncles and aunts, grandparents, nephews, nieces, and cousins. The next circle includes the other relatives, and this is followed by the circle of local residents, then the circle of fellow-tribesman, next that of fellow-citizens, and then in the same way the circle of people from the neighbouring towns, and the circle of fellow-countrymen. The outermost and largest circle, which encompasses all the rest, is that of the whole human race. Once these have been all surveyed, it is the task of a well tempered man, in his proper treatment of each group, to draw the circles together somehow towards the centre, and to keep zealously transferring those from the enclosing circles into the enclosed ones.

(Hierocles in Long and Sedley 1987: 349)

11 Berg *et al.* (1995), cited in Smith (2003). A JSTOR search on "Hayek" and "Dickhaut" turns up only two papers, Smith (1994) and (2003), which discuss the work of both authors.

12 Thus, Hayek imagines a machine which puts balls into a receptacle:

any grouping of different balls by the machine which places them in the same receptacle will create a class which is based exclusively on the action of the machine and not on any similarity which those balls possess apart from the action of the machine.

(Hayek 1952: 49)

13 Hayek (1952: 134):

There appears to exist three *prima facie* differences between such unconscious and conscious behavior which we may provisionally describe by saying that in conscious behavior a person will, (*a*) be able to "give an account" of what he is or has being doing.

Hayek (1952: 135):

When we say that a person is able to "give an account" of his mental processes we mean by this that he is able to communicate them to other people by means of "symbols", that is by actions, which when perceived by other people, will occupy in their mental order a position analogous to that which they occupy in his own; and which, in consequence, will have for those other persons a meaning similar to that which it possesses for him.

14 Hayek stresses the common elements in Mandeville, Hume and Smith. The identification of Mandeville and Smith was challenged by Harrod (1946). The identification of Mandeville with laissez-faire – in the sense that Adam Smith's position can be so

described – is debated by specialists, Viner (1953) and Rosenberg (1963), with Hayek siding with Rosenberg (Hayek 1967a.) Viner's correspondence with both Rosenberg and Hayek is discussed in Irwin (1991).

- 15 Recall Hayek's distinction in *The Road to Serfdom*, discussed above, between "collectivism" as a theory and "totalitarianism" as a norm.
- 16 A foundational difference between Hayek and classical political economy, as explained by Charles Babbage, is that political economy depends upon median expectation (Peart and Levy 2005). An inference that "works" as well as Hayek stipulates here would pass the Babbage test.
- 17 Hayek (1944: 162) quotes Nietzsche as "entirely in the spirit of collectivism":

A thousand goals have there been so far, for there have been a thousand peoples. Only the yoke for the thousand necks is still lacking: the one goal is lacking. Humanity still has no goal. But tell me, my brothers, if humanity still lacks a goal – is humanity itself not still lacking too? Thus spoke Zarathustra.

(Nietzsche 1954: 170)

- 18 Hayek (1949: 184–5):

It is perhaps the most characteristic feature of the intellectual that he judges new ideas not by their specific merits but by the readiness which they fit into his general conceptions, into the picture of the world which he regards as modern or advanced.

- 19 Morck and Steier (2005) cite *Constitution of Liberty* but none of the authors in the conference volume edited by Morck discusses Hayek's concern or his proposal for reform.
- 20 Hayek (1979: 32):

Democracy, so far as the term is not used simply as a synonym for egalitarianism, is increasingly becoming the name for the very process of vote-buying, for placating and remunerating those special interests which in more naive times were described as the "sinister interests." ... I believe in fact that we should get a more representative sample of the true opinion of the people at large if we picked out by drawing lots some five hundred mature adults and let them for twenty years devote themselves to the task of improving the law, guided only by their conscience and the desire to be respected, than by the present system of auction.

- 21 Hayek (1979: xiii):

When the present volume leads up to a proposal of basic alteration of the structure of democratic government, which at this time most people will regard as wholly impractical, this is meant to provide a sort of intellectual stand-by equipment for the time, which may not be far away, when the breakdown of the existing institutions becomes unmistakable and when I hope it may show a way out. It should enable us to preserve what is truly valuable in democracy and at the same time free us of its objectionable features which most people still accept only because they regard them as inevitable.

- 22 Hayek (1973: 88):

Why grown law requires correction by legislation The fact that all law arising out of the endeavour to articulate rules of conduct will of necessity possess some desirable properties not necessarily possessed by the commands of a legislator does not mean that in other respects such law may not develop in very undesirable directions, and that when this happens correction by deliberate legislation may not be the only practicable way out. For a variety of reasons the spontaneous process of growth may lead into an impasse from which it cannot extricate itself by its

own forces or which it will at least not correct quickly enough. The development of case-law is in some respects a sort of one-way street: when it has already moved a considerable distance in one direction, it often cannot retrace its steps when some implications of earlier decisions are seen to be clearly undesirable. The fact that law that has evolved in this way has certain desirable properties does not prove that it will always be good law or even that some of its rules may not be very bad. It therefore does not mean that we can altogether dispense with legislation.

There are several other reasons for this. One is that the process of judicial development of law is of necessity gradual and may prove too slow to bring about the desirable rapid adaptation of the law to wholly new circumstances. Perhaps the most important, however, is that it is not only difficult but also undesirable for judicial decisions to reverse a development, which has already taken place and is then seen to have undesirable consequences or to be downright wrong. The judge is not performing his function if he disappoints reasonable expectations created by earlier decisions. Although the judge can develop the law by deciding issues which are genuinely doubtful, he cannot really alter it, or can do so at most only very gradually where a rule has become firmly established; although he may clearly recognize that another rule would be better.

This passage is stressed by Whitman (1998: 48).

23 Hayek (1943: 65–6):

What I mean by a “friendly face” does not depend upon the physical properties of different concrete instances, which may conceivably have nothing in common. Yet I learn to recognize them as members of the same class – and what makes them members of the same class is not any of their physical properties but an imputed meaning.

The importance of this distinction grows as we move outside the familiar surroundings. As long as I move among my own kind of people, it is probably the physical properties of a bank note or a revolver from which I conclude they are money or a weapon the person is holding. When I see a savage holding cowrie shells or a long, thin tube, the physical properties of the thing will probably tell me nothing. But the observations which suggest to me that the cowrie shells are money to him and the blowpipe a weapon will throw much light on the object – much more light than those same observations could possibly give if I were not familiar with the conception of money or a weapon. In recognizing the things as such, I begin to understand the people’s behavior. I am able to fit into a scheme of actions which “make sense” just because I have come to regard it not as a thing with certain physical properties but as the kind of thing which fits into the pattern of my own purposive action.

24 Kahn (2005) stresses the significance of Hayek’s choice of word, “submission.”

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3 Discussion and the evolution of institutions in a liberal democracy

Frank Knight joins the debate

Ross Emmett

A government is free to the people under it . . . where the laws rule and the people are a party to the laws.

William Penn

Friedrich A. Hayek's admiration for, and strong criticism of, John Stuart Mill are well known. While acknowledging Mill as a leader in the liberal tradition, Hayek portrays him, first in "Individualism: True and False" (Hayek 1948 [1945]) and throughout later writings, as the betrayer of the classical liberal tradition, whose utilitarianism introduced the constructivist-rationalist elements ("false" individualism) which opened the path to welfare liberalism.

My interest in J. S. Mill was from the beginning the suspicion, later amply justified, that it was he more than any other teacher who persuaded the English speaking people, and ultimately through them the world, of that constructivist-rationalist view which in a democracy produces socialism. . . . I ultimately came heartily to dislike that figure whom like everybody else I had regarded as the great hero of liberalism.

(Hayek, quoted in Peart 2006)

Recently, several scholars have begun to re-examine Hayek's criticism of Mill, both to see if it accurately represents Mill (for examples, see Peart 2006; L  g   2006; Su 2006) and to relate it to the contemporary debate between Hayekians and the constructivists in the constitutional political economy tradition, such as James Buchanan (Peart and Levy 2008). Sandra Peart and David Levy close the triangle by pointing out that both Buchanan and Mill share an understanding of liberal democracy that allows a role for *discussion* that Hayek's institutional Darwinism does not appear to allow. Because Peart and Levy also link Mill's emphasis on discussion to Adam Smith's understanding of the relation between sympathy and justice, their argument can be taken to imply that Hayek gave insufficient attention to the role of sympathy and justice in his efforts to revive classical liberalism in the post-war era (Peart 2006). The question raised by this analysis is whether a theory of the evolution of spontaneous order needs to be supplemented by an account of public deliberation and discussion – understood

not only as the quest for rules that will adjudicate among competing claims, but also the construction of a better form of liberalism.

Although Peart and Levy's analysis of the Hayek–Mill–Buchanan relationship may be arguable (see, for examples, Backhaus 2006), I am going to accept their accounts of those debates here, and ask the question of how another scholar who is often mentioned in connection with Hayek and Buchanan – Frank H. Knight – fits into this debate over discussion, construction, and evolution in a liberal democracy. After identifying why we might want to examine Knight's participation, the chapter turns to Knight's work, examining his understanding of human nature, freedom, cultural evolution, and the role of discussion in a liberal society before returning to his direct criticisms of Hayek. Throughout the chapter, the tension between opposing themes will be pursued: novelty and order, making and breaking the law, intelligent discussion and mere talk, science and morality, freedom and justice. My central argument is that the roots of Knight's criticism of Hayek lie in his insistence on a pluralistic defense of free society. For Knight, a defense of free society requires an understanding of evolutionary change in human society based on more than just a theory of the evolution of institutions. In a free society, change occurs through the discussion among free individuals of their social problems, which ultimately is a discussion about how they can construct a society closer to their ethical ideals.

Why Knight?

Knight's criticisms of Hayek are often ignored, perhaps because he is generally viewed as being on Hayek's side in the post-war era debate over socialism and capitalism and hence their similarities are taken to outweigh their differences. But the differences are significant, especially as we consider their respective places in the liberal tradition. In 1949, Knight wrote a short response to Hayek's essay "The Intellectuals and Socialism," in which Hayek attempted to account for the intellectuals' tendency to accept socialism (Hayek 1949). Knight was less sanguine than Hayek as to whether the tendency was really an intellectual move, or just intellectuals following the masses, which led him into a rehearsal of his common defense of, and complaints about, liberal society (Knight 1949). Several years after the publication of Hayek's *Constitution of Liberty* (1960), Knight wrote a response (Knight 1967).¹ Although brief, Knight's responses to Hayek bear directly on the contemporary debate over constructivism, discussion, and the evolution of the institutions of liberal democracy. Furthermore, the themes developed in Knight's responses to Hayek are ones that are central to Knight's work in the last 30 years of his life. A little introduction to Knight and his relationship to Hayek, then, is in order.

Between 1928 and the 1960s, Knight was a fixture in, and the intellectual figurehead of, the Department of Economics at the University of Chicago. Generations of Chicago economics students took price theory and/or history of economic thought with Knight, and his books and articles were part of the intellectual canon that students were expected to know. Chicago School economists

speak of the School's origin in the circle that gathered around Knight in the early 1930s, which included Henry Simons, Aaron Director, and Lloyd Mints. The School's earliest Nobel Laureates – Milton Friedman and George Stigler – were his students, as was James Buchanan. Yet, as others have pointed out, F. A. Hayek was perhaps closer in philosophical outlook to the post-war Chicago School economists than Knight was, and today Hayek, not Knight, is frequently identified as *the* philosopher of the revival of classical liberalism in the late twentieth century.

Because they were contemporaries, and both economists qua philosophers, Knight and Hayek form an interesting comparison in intellectual development. Their paths crossed long before Hayek arrived at the University of Chicago in 1950 as a professor in the Committee on Social Thought. They may have first met when Knight visited Vienna in 1930. Hayek was director of the Austrian Institute for Business Cycle Research at the time and Knight's visit was arranged by Oskar Morgenstern, an associate of the Institute who replaced Hayek as director a year later when Hayek moved to the London School of Economics. Certainly, Hayek was familiar with Knight's book, *Risk, Uncertainty and Profit* (Knight 1933 [1921]), because he and Lionel Robbins taught price theory from it at the LSE in the early 1930s; Hayek spoke favorably of the book's impact on his intellectual development throughout his life. Friendly controversy between Knight and Hayek began almost immediately, however, because in the early 1930s they were both rewriting the theory of capital. Knight sparked a debate with Hayek and other supporters of an Austrian theory of capital by declaring the "period of production" a meaningless, and hence analytically useless, concept (Knight 1933a). In the course of the debate, Knight realized that Hayek, among all the Austrian economists, came the closest to accepting his argument. Their correspondence during the capital debate reveals their personal respect for each other, the closeness of their views, and their willingness to attempt to span the remaining distance between them. But Hayek perhaps never understood the connection Knight made between the two men's inability to close that remaining distance and the potential for the dissolution of democracy. At the mid-point of their debate, Knight closed a letter with the comment:

It is not so much the particular issue [capital theory] that bothers me, but I am getting terribly discouraged about economics in general. If all we can do is quarrel over words, I can feel little inclination to protest against some political clique not merely paying no attention to us but presently shutting our mouths and putting us to doing something useful for the state!

(Letter from F. H. Knight to F. A. Hayek, May 9, 1934, Box 60, Folder 10, Frank Knight Papers, University of Chicago Archives)

One month later Hayek published his statement of Austrian capital theory (Hayek 1934), which largely ignored criticisms of the theory raised by Knight, except for a brief statement that the article could be read as an "implicit reply" to the Marshallians, including Knight (Hayek 1934: 208, n. 2). In the last letter of

their correspondence from this period, written a couple of months before he published his response to Hayek, Knight highlights a difference between the two men that will emerge again in their respective positions on the nature of liberalism – the role of discussion:

In the large, I think I understand what the drift of [your response] is, and it serves to emphasize the fundamental problem in my mind these days, which is the question whether there is any profit in the discussion of fundamental issues in economics.... In this connection, I recall the observation in your letter, that systematic exposition rather than the meeting of specific questions is the way to “advance knowledge.” I am strongly convinced of the opposite.

(F. H. Knight to F. A. Hayek, December 1934, quoted in Emmett 2009: 78)

Because Knight believed the ideal of a free society to be the search for agreement by discussion, advancing our quest for the truth by response to “specific questions” rather than “systematic exposition,” he was particularly bothered by Hayek’s approach to their intellectual differences. Even if the issue at hand was only capital theory, when two individuals who shared both a commitment to free society and the commonality of a professional discipline could not themselves agree on either content or method, Knight feared that the future of liberalism was bleak.²

In the early 1940s, both Knight and Hayek turned the greater part of their attention to broader concerns about social science, liberalism, and social philosophy. This philosophic turn, even more than their anti-Keynesianism, made both of them outsiders to the mainstream of the economics discipline, which in all its manifestations (including Chicago) became more empirically oriented, and in most cases also more mathematical and formalistic. But here, too, their differences are as important to our interests as their commonalities. Hayek’s “abuse of reason” project took him into psychology and from there back to political economy through a combination of evolution and legal theory. Knight’s interest in law and evolution followed from his return to the study of ethics and the intellectual history of liberalism. The two men couldn’t find common ground in social philosophy any more than they could in capital theory. What appear to an outside observer to be, once again, small differences were, to Knight anyway, major obstacles. Although Hayek appears to have been oblivious to their differences, Knight’s attention to them played an important role in his work throughout the final 20 years of his life. As a consequence, Knight co-operated with Hayek’s formation of the Mont Pèlerin Society, but offered less than enthusiastic support for the University of Chicago Press’s publication of *The Road to Serfdom* (Hayek 2007)³ and encouraged his appointment to the Committee on Social Thought at Chicago rather than the economics department. However, once Hayek was a professor at Chicago, Knight participated in his regular Wednesday evening seminars, especially when it focused on “The Liberal Tradition.” Our investigation of Knight’s responses to the issues raised by Hayek’s

systematic exposition of the evolution of the rule of law in a liberal society, therefore, will also assist us with understanding the relationship of Hayek and Knight as contemporaries in the revival of classical liberalism in the post-war period.

There is one other reason why Knight matters for the debate over discussion and the evolution of the institutions of democratic liberalism. If we take Buchanan (the constructivist) and Hayek (the evolutionist) as the key intellectual representatives of the two sides to the contemporary form of the debate, Knight becomes important not only for his own concerns about Hayek's views, but also for the role he played in shaping Buchanan's views. As already mentioned, Knight was Buchanan's mentor, "converting" him, as it were, from soft socialism to classical liberalism during a six-week price theory course at the University of Chicago in 1946 (Buchanan 1990, 2005: 59, 63, 101). The two remained friends throughout the remainder of Knight's life, and Buchanan invited Knight to the Thomas Jefferson Center for Studies in Political Economy at the University of Virginia a couple of times. The first occasion, in 1958, was the lecture series that became Knight's final book (Knight 1960); the second was for a series of lectures on "Ethics and Economics" (see Emmett 1999, for details), and also a separate lecture on "Economic Man and Human Being" (Knight 1963), one of the lectures he gave in which he worked out his own theory of cultural evolution. The conclusions of this chapter suggest that Knight would concur with Buchanan's recent criticism of Hayek: "The classical liberal must ... remain a constructivist, at least in some limited sense" (Buchanan 2005).

Knight on Hayek (or why Knight's criticism of Hayek doesn't talk much about Hayek)

Shortly after reading *The Constitution of Liberty* (Hayek 1960), Frank Knight wrote:

On close reading, the book disappoints as a treatment of Freedom. [I] find no serious effort even to state clearly the practical problems of personal freedom or free society. It "straddles" on the philosophical problem of freedom versus universal causality. "Of course" human acts are caused, "largely," but as certainly, not completely. How far does not matter, since animal behavior is based on release of potential energy, in which there is almost no quantitative relation between cause and effect, and "trigger action" may multiply an effect indefinitely. Further, it seems rather pointless to discuss personal freedom apart from control of means of acting, opportunity to act, and an interest in action, as is done here. More serious – man is a social being, and freedom in society rests on *agreement* on forms and terms of association, i.e. *free* agreement on the laws, i.e. "government by discussion." ... The book ... is propaganda for "government by law," but against law "making"; – law should be left, or "almost," to spontaneous change in tradition. (Like language; which is barely mentioned..., but not

developed or the analogy pressed.) Of course a large and basic element in law – its premises, the *mores* – does have that character and so is beyond the reach of social action, (except by vague reflex influence of “jural law”).

In a recent lecture at the University of Chicago ... Hayek attacked the idea of social economic justice. He held that we are committed to the enterprise organization and must take what it brings, working without political interference. The substance of this is absurd, but it is right to reject the ideal of social justice. It is hopelessly undefinable, meaningless; and there is some prospect of agreement on concrete *injustices*, and on procedures to lessen them.

(Knight 1967: 788, n. 5)

Despite the specific comments about Hayek’s argument made in this quick summary, Knight did not formulate a summary of the Hayekian position to which he was responding. Indeed, in this regard he treated Hayek like he did most of his other intellectual opponents: he first defined the issue at hand (in this case liberalism and cultural evolution) in his own terms, and then proceeded to criticize his opponent (in this case, Hayek) for not understanding the issue (liberalism) in the same way Knight did. Because Knight’s understanding of most issues proceeded in terms of an analysis of the tension between competing principles, while the work of other scholars of his generation usually proceeded in terms of the identification of a set of core principles upon which an intellectual argument was then built, Knight generally found ample fodder for criticism. Hayek is no exception. The earlier comment about “systematic exposition” vs. responding to “specific problems” is indicative of the difference between the two men.

But it is clear from the above summary and Knight’s response that he believed the central issue at stake in Hayek’s argument to be the question of the evolution of institutions by spontaneous order rather than rational design. Hayek argues, Knight tells us, that liberalism has two traditions: “one empirical and unsystematic, the other speculative and rationalistic – the first based on traditions and institutions which had spontaneously grown up and were imperfectly understood, the second aiming at the construction of an utopia” (quoting from Hayek, Knight 1967: 789). The liberalism that is “empirical and unsystematic,” Hayek tells us:

arose from unintentionally conforming to certain traditional and largely *moral* practices, many of which men tend to dislike, whose significance they usually fail to understand, whose validity they cannot prove, and which have nonetheless fairly rapidly spread by means of an evolutionary selection – the comparative increase of population and wealth – of those groups that happened to follow them.

(Hayek 1988: 6, emphasis in original)

As we will see, Knight rejects Hayek’s perspective on the liberal tradition, and argues that Hayek’s position implies that spontaneous order emerges without

intelligent discussion, indeed, without *any* discussion. And, as the quoted summary at the beginning of this section indicates, it will be “discussion” that will be central to Knight’s critique. In order to understand that critique, then, we need to follow Knight’s lead and begin by outlining his understanding of cultural evolution and the role of discussion in liberal democracy.

Knight on human nature and cultural evolution

Knight’s philosophical turn in the 1940s was also a historical turn, in large part because he wanted to explain the emergence of modern liberal society, especially in relation to religion and morality (see Knight and Merriam 1945: 13–126 for a long version of what was often told in shorter compass in various articles and essays). The central message of Knight’s history was relatively simple: liberalism was won against all odds, and is constantly in danger of being suppressed again by those who seek the power of social control in the name of either morality or science. In his historical writings, then, Knight portrays liberal society as a *desired* but not necessarily *natural* state of humanity. If history teaches us anything, it would be that freedom from arbitrary authority and the right of self-determination must constantly be fought for, and that they face powerful opposition.

The danger now, in the world and in the West, is that freedom will be thrown away, for a promise or hope of justice but with an actual result of neither justice nor freedom, and very likely the suicide of civilization in war without rules. The world could be heading toward a new age of essentially religious wars, ideological wars. Historically this would be nothing new, except for its scale and for the destructiveness of modern military technology. Otherwise, Europe is reverting to form. For as I have said, Communism, in its social program or pretensions, is largely a revival of historical-ecclesiastical Christianity, with the church more effectively merged in one all-powerful state.

(Knight 1999 [1951]: 386)

Knight’s historical accounts of the emergence, and probable passing, of liberalism is inextricably linked with his belief that human nature “is a manifold paradox”: “The essential fact would be that human nature as we know it – the nature of man sufficiently advanced or civilized to think and talk about his own nature – is a tissue of paradox” (Knight 1982 [1944]: 358–9). In contradistinction to accounts of human nature which focus on a small set of common elements, Knight sees almost every aspect of human nature to come in paradoxical combinations: we need order, but crave novelty; we love justice, except when we get our own just deserts; equality exists, but less in fact than in our ideals; more than any other creature we require co-operation to subsist, but want others to co-operate more with us than we do with them; the inhumane is as common to human experience as the humane; we turn everything serious into play.⁴ Because

we, as both individuals and societies, are the product of the specific choices we have made in resolving these paradoxes, our history is essential to our nature. Knight often quoted Ortega y Gasset: “Man has no nature, what he has is ... history.”

To explain the changes that occur within the history of humans and their societies, Knight focused on “emergent novelty” (Knight 1961a). “What to my mind is most important in the long sweep of change is the recurring emergence of novelty, with the new generally not replacing the old but superimposed upon it, giving rise to ever-increasing complexity” (Knight 1999 [1956]: 401). Novelty and complexity in human experience require us to approach the explanation of human activity from a pluralistic and non-reductionist perspective. Knight’s pluralism does not deny the scientific authority of physical, biological, and anthropological accounts of human activity, but does deny that they provide a complete account of that activity. Human activity is more complex than animal activity because our cultural evolution has produced another layer of novelty: the social association of individuals who make deliberative choices in pursuit of purposes which are known to them.

... man must be described in terms of at least five fundamental kinds of entity or being. He is (*a*) a physical mechanism; (*b*) a biological organism, with characteristics extending from those of the lowest plant to the highest animal in the biological scale; (*c*) a social animal in the traditional-institutional sense; (*d*) a consciously, deliberately purposive individual; and concomitantly, (*e*) a social being in the unique sense of an association of such individuals....

It is evident that ... at least the first three of these types of existence can each be the subject matter of a distinct positive science or group of such sciences.... It is also evident that all these sciences must in a sense take account of the social nature of man. Yet they are not social sciences.... The study of actual or possible society must involve a large congeries of special positive sciences, more or less effectively interrelated, co-ordinated, and unified, according to the actual possibilities of such an achievement.... But such study must also involve other sciences not of the positive sort, or only partly so.... It must involve social science in a distinctive sense, the nature of which must be considered in the light of the nature of the human individual as the real unit.

(Knight 1956 [1941]: 125–6 *passim*)

Paradox, complexity, and emergence are themes common to evolutionary theories that do not depend solely upon Darwin’s theory of natural selection over the past 30 years, but Knight’s use of them in the 1950s and 1960s pre-dates their rediscovery in science and philosophy by at least a decade. But emergentism, at least, pre-dates Darwinian evolutionary theory; indeed, while there is no explicit acknowledge of the debt, Knight’s formulation harkens back to that of J. S. Mill more than 100 years earlier:

All organised bodies are composed of parts, similar to those composing inorganic nature, and which have even themselves existed in an inorganic state; but the phenomena of life, which result from the juxtaposition of those parts in a certain manner, bear no analogy to any of the effects which would be produced by the action of the component substances considered as mere physical agents. To whatever degree we might imagine our knowledge of the properties of the several ingredients of a living body to be extended and perfected, it is certain that no mere summing up of the separate actions of those elements will ever amount to the action of the living body itself.

(Mill 1872 [1843]: Bk.III, Ch.6, §1)

The unique path of human evolution begins, Knight argues, with the emergence of “culture.” Biological and physical processes controlled some of the stages which brought about the introduction of the human species, but once humans were able to “think and talk about [their] own nature,” human evolution proceeded on different terms (Knight 1963: 11, 1961b: 13–14).

The essence of the emergent view is that “stages” of evolution introduced categorical novelties, somehow (usually) superposed upon what existed previously (rather than a replacement) but not to be accounted for in terms of the same concepts. A brief sketch may ignore the earlier breaks, even the appearance of organic life; but it must note the supreme discontinuity, the emergence of consciousness. This clearly cannot be explained in “physical” terms, nor in those of the main accepted theory of organic evolution – the chance occurrence of “mutations” and natural selection of those highly exceptional ones which happen to be favorable for the survival and increase of a species. Thus new strains arose, sometimes becoming distinct varieties, and occasionally new species. In the human species, when it was established, this had not occurred. There is much prejudice to the contrary, but truth-seeking students are dropping the conception of races of man, since no one can list them, or name any one that will be generally accepted as valid. The next emergent to be stress is “culture” (in the anthropological meaning).

(Knight 1962: 550–1)

Rejecting the view that the human species is differentiated biologically via natural selection,⁵ Knight argues that human diversity is the product of culture, which as we have just seen, is itself the emergent property of our biological and physical attributes. Since culture, for Knight, is a “complex of social institutions” (Knight 1999 [1944]: 233), it might be easy to see his theory of cultural evolution as similar to Hayek’s, with “natural selection” across institutional forms as the mechanism by which human society evolves. But Knight rejects both biological and institutional theories of natural selection as the primary mechanism of adaptation because human society is not explainable solely in terms of the evolution of institutions: human society is also an association of purposive, deliberating individuals. While all humans are alike at the levels of

biology, physiology, and even consciousness, we cannot account for their actions without considering their history as individuals and associations of individuals.

The “essential fact” about individuals “is freedom, or creative activity” (Knight 1982 [1944]: 363), but it is also the case that human freedom itself is never free. Our freedom finds itself socially located in a complex of institutions – our culture, which is as much a fact of our nature as our freedom. Freedom is always limited by that institutional complex, which arranges the choices available to us, the expectations we strive to fulfill, the hopes we seek to satisfy. For Knight, the socially constructed nature of human nature means that evolution among humans is no longer biological, but cultural. The terms on which novel actions are taken, and novel institutions are created, are set by the culture from which they emerge.⁶ *Cultural evolution is the process by which novel institutional forms emerge from the deliberation of, and discussion among, purposive individuals within specific cultural contexts.* Thus, for Knight, in human society, emergent novelty is in constant tension with rules, laws, and institutions. Rules and institutions create the order that is essential to the perpetuation of social organization, but they also constrain the emergence of new laws and institutions. Cultural evolution is generated by the tension between the creative activity of individuals and the order provided by the existing institutional complex.

The supreme paradox of man, in our civilization, is that he is an individual – unique, creative, and dynamic – yet is the creature of institutions which must be accounted for in terms of historical processes. Nothing could be more false historically than the notion that men are naturally free and equal, or even that they naturally have a right to freedom. In the light of history as a whole, the natural state of man is to live imbedded in a “crust of custom,” in which most of his activities, thoughts, and feelings are determined by established patterns. These are, or were, enforced upon him and also ingrained in his being, so that he hardly thought of departure from them and hence had little feeling of unfreedom. The existence of man as a free individual is a function of free society, which is the product of biological evolution and human culture history.

(Knight 1982 [1944]: 363)

About 200 to 300 years ago, liberalism as a specific institutional complex of institutions emerged from the tension between novelty and law as experienced in Western culture. In Knight’s view, liberalism is the emergent property of certain social and intellectual preconditions, which may or may not be replicated elsewhere (Knight 1962). The institutions of a liberal democratic society were built upon the possibilities created by the association of purposive individuals. The emergent novelty that liberalism adds to previous institutional forms is “discussion,” creating a vastly more complex form of social organization – democracy. Liberal democracy, for Knight, is *government by discussion*, in Viscount James Bryce’s memorable turn of phrase.⁷ However, democracy as discussion displays both sides of the evolutionary process – novelty and law. Without rules,

discussion is just shouting. Without novelty, discussion is just talk. At its core, then, liberalism requires a discussion about the rules of discussion. Hence, liberalism brings law-making inside the evolutionary process. Cultural evolution (or history) becomes the process of humans making, and breaking, law.

Government by discussion, not law

In his speech on the occasion of the twenty-fifth anniversary of the Social Science Research Building at the University of Chicago, Knight identified the disjunction that occurred with the coming of liberalism:

The essence of democracy is the freedom of the people to change the laws at will, by equal participation, and to have them enforced by agents held responsible in the same way.... The coming of freedom to change, of course, ended the sanctity of law.

(Knight 1999 [1956]: 406)

For Knight, prior to the “Liberal Revolution”⁸ law had been exogenous to human discussion and action: whether the law was divinely ordained or arbitrarily dictated did not matter much for most people, because “sanctity of law” was enforced by coercion. Harking back to the quotation from William Penn that heads this chapter, one could say that, in such societies, people lived in a world defined by laws to which they were not a party.

The Liberal Revolution changed all that. Collective choices were no longer the action of an individual or the dictate of a higher power; they emerged from the consensus of those who would be governed by the chosen laws. That deliberative discussion among free individuals was an emergent novelty that added layers of complexity to human social organization can be seen by the variety of forms of discussion required in a free society. Knight argued that the first goal of discussion in a democracy had to be a decision, itself made by discussion, regarding what the social ideal will be.

The broad crucial task of free society is to reach agreement by discussion of the kind of civilization it is to create for the future; hence it must agree on the meaning of progress.

(Knight 1999 [1956]: 407)

As directive of social action, discussion has for its objective the solution of (i.e., the truth about) ethical problems, the establishment of agreement upon ethical ideals or values, for the reconciliation of conflicting interests. Ethical ideals have for their content right or ideal relations between given individuals and also, and more fundamentally, ideal individuals, to be created by ideal social institutions, which form the immediate objective of social action.

(Knight 1956 [1941]: 133)⁹

Second, social discussion requires agreement on the rules for organizing the discussion. Knight generally accepts unanimity as the ideal of discussion within an association of free individuals, but assumes representative democracy using majority voting to be an acceptable proxy. Third, discussion is required regarding the possible options for individuals in society who disagree with its final decision. How tolerant will society be of disagreement, of exit, and of the right to form new groups? Fourth, society has to decide, again via discussion, what can and what cannot be done to make progress toward the ideals that it, at least for the moment, holds as relatively absolute.¹⁰ Naturally, the latter discussion includes discussion of the limitations of various mechanisms to make progress: the market, the state, and other forms of social co-operation. Finally, discussion is required of specific proposals for change, within a given definition of the social ideals, the existing rules for organization of discussion, and the chosen mechanisms for social organization. To put it simply, one might say that Knight sees the need for decisions, via discussion, of (a) social ideals; (b) the rules for organizing discussion; (c) the scope of individual freedom vs. social coercion; (d) the potential for change; and (e) policy-making.

Several implications of this understanding of “government by discussion” follow, although Knight recognized that the history of institutional change took time to catch up with the logic of liberal democracy. The first implication is that liberal democracy “could be defined as the socialization of the problem of law, and it is only democracy which confronts social problems, properly speaking” (Knight 1999 [1956]: 394). Only when the members of a society confront their common problems through discussion can we properly speak of “social problems.” Liberal democracy is, therefore, the first, and perhaps the only, institutional setting which actually has *social* problems. “Social action, in the essential and proper sense, is group self-determination. The content or process is rational discussion. . . . Discussion is social problem-solving, and all problem-solving includes (social) discussion” (Knight 1956 [1941]: 133).

Second, a key difficulty with talking about discussion, for Knight, is that we cannot know the outcome of the substance of the discussion ahead of time. That is, talking about discussion cannot reveal what discussion itself will conclude. Commitment to a free society is commitment to government by discussion; but commitment to government by discussion cannot guarantee that the outcomes of collective action will not restrict individual freedom. Why? Because discussion is always centered on the solution of a particular problem; and solving that problem may involve the social decision to use coercive action. Knight concludes his review of Hayek’s *Constitution of Liberty* by saying: “The most one can say for freedom is that there is a presumption in its favor unless there is sufficient ground to believe that coercive action will yield a better result in a particular situation” (Knight 1967: 795).

Finally, Knight recognized that there is an inevitable tendency in liberalism for it to be undermined through recourse by those within the society to “authorities” that lie outside the discussion among equals which defines democracy. In his own day, he identified two versions of this tendency at work – the appeal to

absolutist ethics (moralism) and the appeal to science (scientism) – and his opposition to both versions became a central part of his later work:

Since the essence of liberalism is the reliance on rational agreement or mutual consent for the determination of policy, and since the amount of agreement attainable seems very meager in relation to the needs for action felt in a large-scale, rapidly changing society, it is easy to understand psychologically, though not to approve, the tendency to fly to one or the other of the two positions mentioned ... under the names of moralism and scientism. There is much truth in both these positions; the error is in accepting either as true to the exclusion of the other (and still others), i.e., in the romantic disposition to oversimplify the problem. On the one hand, human nature is undoubtedly “sinful,” and, on the other, the mind makes mistakes in the choice of means to achieve given ends. It is easy and attractive to generalize from either fact, and make it explain everything, and particularly attractive to account for the ills of society in terms of either the sins or the errors of other people.

(Knight 1999 [1946]: 311)

Knight’s response to Jacques Maritain’s moralistic approach is illustrative of his refusal to grant authority for the purposes of social discussion to any authority outside the discussion itself:

Nothing properly called absolute truth is possible for any principle or proposition, or even the simplest fact. The highest certainty, beyond the direct awareness that thinking is a free activity, is that it takes place in social beings living in a social milieu, i.e., in connection with discussion, and that discussion recognizes problems which are discussable.

(Knight 1999 [1944]: 237)

But while Knight’s critique of moralism is often repeated in academic circles as part of the defense of academic freedom and an extension of the separation of church and state, his parallel argument against scientism often raises concerns. The central mistake of scientism, Knight argues, is identical to the central mistake of moralism: the substitution of a commitment to a single (absolute) ideal, rather than a commitment to free discussion of what our ideals could be. A free society commits to a form of social organization – discussion – which does not commit to organizing society around a single ideal. Dedicating oneself to serving the truth, while noble, is still, from a societal perspective, dedication to a single value. When the argument is made, as it is in scientism, that those who serve the truth are best equipped to tell society what to do, liberal democracy has been abandoned. To put it differently, scientism accepts the outcome of free discussion within the scientific community as a substitute for the free discussion within society. Social discussion is always about resolving the conflict of values and ideals within the context of particular problems. Science, and morality, play a role in such discussions, but cannot be substituted for that discussion (Knight 1999 [1949]).

Knight on Hayek redux

We are now ready to return to Knight's direct criticism of Hayek. The short précis quoted earlier identified three issues which Knight found problematic in *The Constitution of Liberty*. The longer review picked up each of these, developing them in the context of Knight's own thinking on the issues. The first was the practical aspects of the problem of personal freedom of action, regarding which Knight thought Hayek disappointing. The second issue was Hayek's tendency to talk about "government by law," rather than "government by discussion," as Knight was wont to do. The final issue is Hayek's attack on the notion of "social justice." We will not dwell on the first issue here, but will point out two aspects of Knight's criticism of Hayek regarding discussion that highlight what we have already seen about Knight's treatment of the subject, and then briefly identify how Knight's conception of discussion in a free society naturally takes him into a consideration of justice which differs significantly from Hayek's. The latter issue will cement the connection between Knight and Mill.

We have already seen that Knight understood liberal democracy to be a new form of culture – understood as a complex of institutions – that placed discussion among purposive individuals at the center of social organization. Knight draws upon two arguments identified earlier in his criticism of Hayek. The first argument is expressed well in the maxim of William Penn that heads this chapter, which Knight quotes with approval in his review of Hayek (Knight 1967: 789). Liberal democracy is "liberal" not only in its dependence upon the rule of law as a means of minimizing the potential for arbitrary state use of coercive power, but primarily in its vesting of "the people" with the power to change the law. Hayek, he claims, does not recognize the importance of the "Liberal Revolution" which established free society and a political order based on discussion.

Surely the crux of political democracy was and is vesting of sovereign power in "the people," to be exercised through enforcing and making laws by representatives; these are chosen freely – as freely as possible – by majority vote (sometimes plurality) where public opinion (or will) is seriously divided. It is "rule of law" indeed, but where direct force of public attitudes does not suffice, by men authorized to interpret and enforce existing formal law *and moral tradition*, making legislation necessary. The law-makers are chosen through free discussion and voting, and so held "responsible to public opinion," in the only possible way.

(Knight 1967: 789)

Hayek is "scornful of politically organized freedom," which in Knight's estimation makes his work "a calumny on democracy." Hayek, we are told, is essentially an anarchist, although Knight suggests that it is "hard to be consistently absurd," and Hayek at points defends policies that "humane liberals, common-sense 'pragmatists' and even popular clamor would have government do" (Knight 1967: 789–90 *passim*).

The second argument which Knight uses in his critique of Hayek is the pragmatic focus of human discussion. Society, Knight argues, is best served by discussion that takes place in the context of the search for agreement on specific problems, because that is where the conflict among principles and values must be reconciled. Abstract treatises may provide systematic exposition of an intellectual position, but they are prone to finely worded principles which don't have to meet the cold, hard reality of policy discussion, with its competing principles, interests, and claims. The reader may recall the maxim Knight proclaimed most vividly in his presidential address to the American Economic Association: for every principle, there is an anti-principle that is equally true. It is in the discussion of real-world situations and problems that we weigh the relevance of competing principles, interests, and claims in order to find solutions. Theory clarifies the principles and their consequences, but cannot dictate ahead of time what choices society will make for particular problems (Knight 1999 [1951]). *Liberalism is not the rule of law determined by the historical evolution of human culture, but the making of law by humans engaged in the process of solving particular social problems.*

The pragmatic and open-ended nature of discussion in a liberal democracy creates, as was pointed out earlier, a problem for the defender of free society: the outcome of the process of discussion cannot be known or determined ahead of time. For Knight, this means one has to choose between defending the process of democracy – discussion – or a particular set of institutional arrangements. Where Hayek defends the institutional arrangements of democratic capitalism, Knight chooses to defend discussion:

The problem is not *laissez faire* versus political planning and control in general, but comparison of the result of market freedom with that of possible action by democratic procedure on specific problems. The citizen must understand the general principles of the two systems but *not* draw practical conclusions from an abstract analysis of either. The basic principles are facts about human nature; and the major difficulty is that this is a tissue of paradox.

(Knight 1967: 794–5)

Both of these issues are familiar to those who have read Knight in the way suggested by the earlier two sections of the chapter. But Knight's third critique of Hayek opens ground that is new for this chapter. The final criticism identified in the précis of the argument is aimed at Hayek's views on equality and inequality – and his attack on “social justice” as a pretext for seeking equality in a free society. Knight begins by returning to discussion, which implies a fundamental equality among the members of society (Knight 1962: 561–2). Knight is not enough of an idealist to think that people are, in fact, equal in any society – “nothing could be more false historically than the notion that men are naturally free and equal” (Knight 1982 [1944]: 363), but liberalism links equality to the ideal of freedom because significant inequality among individuals and the groups

to which they belong will bring power imbalances that will lead to the oppression of minorities by the majority, and the reduction of freedom:

The exchange of equal values between excessively unequal individuals may result in fundamental injustice in the distributive sense, in contrast with commutative justice, which alone is recognized in *laissez-faire* individualism. And it may reduce effective freedom to the vanishing-point. Of course, nineteenth-century political liberalism progressively recognized this fact and attempted to work toward distributive justice also and to maintain effective freedom, using such measures as progressive taxation and relief and the provision of public services, especially free education for the children of the poor.

(Knight 1982 [1942]: 265)

But Knight is enough of an idealist that he thought it necessary, as we saw earlier, that society have some conception of equality as part of its social ideal. The tension between his pragmatism and idealism is seen most vividly in the comments he makes about Hayek on equality and justice. Labelling as “notably absurd” Hayek’s views on equality generally, Knight says that “the error is in the extremism, absolutism” – Hayek says that the desirability of redistribution is insufficient justification for the use of coercion, but then accepts equality before the law as if it were easily obtained, without coercion. And then, in Knight’s estimation, Hayek reaches the “supreme absurdity” (but wait, there is more absurdity to come!) by ignoring equality of opportunity (Knight 1967: 790). While it is true that freedom cannot be closely identified with power, Knight says,

It is absurd [there’s that word again] for Hayek to ignore the close connection between the two. Freedom, correctly conceived, implies opportunity, unobstructed opportunity, to use power, which must be possessed, to give content to freedom, or make it effective. . . . Nor does Hayek recognize that unequal power over things confers power over persons, or that the main general problem of freedom is unequal power, practically covering significant human inequality.

(Knight 1967: 790)

Knight then rehearses an argument that he held throughout his life, despite the best attempts of George Stigler and Milton Friedman to dissuade him of it: market exchange and the right of property inheritance necessarily generates greater economic inequality within a society over time. Knight criticizes Hayek for not recognizing that encroaching inequality has required “preventive or off-setting social action on a vast scale” (Knight 1967: 791) in the modern world.

But it is in the context of redistributive theory and the use of taxation that Knight claimed Hayek reaches “the peak of fallacy” (absurdity now converted to fallacy!). Hayek, Knight argues, is led by the rejection of interpersonal utility comparisons to the “absurd” (ah, back on familiar ground) conclusion that a \$1

increment in the income of both a rich and a poor person are equally important to the two individuals. Knight clearly disagrees, and goes on to defend progressive taxation – which Hayek attacks. Knight concludes:

It seems that all human sense of right and wrong – the latter more real – is also “illusion.” Hayek expressly repudiates “social justice”.... For him, justice is still defined, once and for all, by laws, and those are produced by spontaneous historical growth, not “made” by either men or God.

(Knight 1967: 794)

For Knight, justice – in both its commutative and distributive senses – is one of the ideals that human societies are constantly trying to realize, even as they economize and balance their allegiance to other social ideals as well. While it may be absurd (I’m playing with you now), as Hayek claims, to argue that an entity called “society” has some conception of justice apart from the values accepted by the individuals in the society, Knight still holds out hope that the individuals in society will, *through discussion*, come to a common conception – held relatively absolute for now – of what justice means for their society, in the context of the particular problems they face at this time. To deny that justice can mean something more than adherence to the law – or, what amounts to the same thing, to equate liberalism with “government by law” rather than “government by discussion” – means, for Knight, that one denies the reality of human nature.

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Notes

- 1 The 1967 essay also included comments on Henry Hazlitt’s *Foundations of morality*, but because Knight had previously written a review of Hazlitt’s work (Knight 1966), it focused primarily on Hayek.
- 2 Of course, the mid-1930s were a bleak time for liberalism, understood as Knight and Hayek did, anyway, and Knight had been ruminating on the future of liberalism for a couple of years already. Thus, his comments to Hayek fit the context of his thinking in this period and are not restricted to his interaction with Hayek alone; but they do illustrate how fragile he thought liberalism was.

- 3 While Knight's publisher's report begins by saying that *The Road to Serfdom* "is a masterly performance of the job it undertakes," it concludes with

In sum, the book is an able piece of work, but limited in scope and somewhat one-sided in treatment. I doubt whether it would have a very wide market in this country, or would change the position of many readers.

(included in Hayek 2007: 249–50)

- 4 While the paradoxes of human nature are discussed throughout Knight's work, the litany provided on pp. 359–61 of Knight (1982 [1944]) is perhaps the longest.
- 5 Knight argues that biological evolution produced a "practically uniform human species" (Knight 1961b: 4).
- 6 Knight's emergentist view of cultural evolution is similar to the soft version of the Sapir–Whorf hypothesis regarding language. The friendship between the anthropologist Edward Sapir and Knight dated from the 1930s, when Sapir was at Chicago. Knight invited Michael Sapir, Edward's son, to undertake his graduate study in economics at Chicago because of the close friendship. Michael remarked to his father's biographer that Knight understood language to be the "purest most autonomous form of human institution" (Michael Sapir to Regna Darnell, quoted in Darnell 1990: 203). One sees the soft Sapir–Whorf hypothesis in remarks by Knight like:

Speech always means the use of some particular language, which has been created by a particular culture and learned in and through that milieu. The learning and use of language is inseparable from the acquisition of the content, also cultural, whether intellectual and emotional or merely trivial, which speech is used to express to others or to mediate to the individual in his thinking, and from the various ends which expression is used to promote. There is practically no sense in speculating as to what any man would approve or disapprove, in conduct, belief, or taste, apart from the context of some cultural background, some complex of social institutions.

(Knight 1999 [1944]: 233)

- 7 Knight uses "government by discussion" in almost every essay he writes about liberalism from the 1930s on. He acknowledges Viscount James Bryce as the expression's source. Bryce is the author of that "other" famous nineteenth-century account of democracy in America by a non-American, *The American Commonwealth* (Bryce 1959 [1888]).
- 8 The term "liberal revolution" appears throughout Knight's work after the mid-1930s. In his writings related to Hayek's work, the term is ubiquitous (Knight 1999 [1956], 1962, and Knight 1967, from which the capitalized usage here is adopted).
- 9 The reader might wonder why Knight appears to ignore market exchange in his discussion of "discussion" within liberal society. But the first function of an economic system, according to Knight's earliest writings on the subject, is "the fixing of standards," described as follows:

In a world where organizations were absent, where each individual carried on his life activities in isolation and independence of all others, the matter of standards would be simply a matter of individual choice. But when the production of wealth is socialized, there has to be a *social* decision as to the relative importance of different uses of productive power, as to which wants are to be satisfied and which left unsatisfied or to what extent any one is to be satisfied at the expense of any other. In the case of an individual, choice need be made only among his own wants; but in a social system, the wants of different individuals also come into conflict. As far as this is a quantitative question merely, of how far the wants of one are to be gratified at the expense of the wants of another, or

left ungratified in favor of another, the problem is one of *distribution*, and will be noticed under another heading (the third function). But to a large and increasing extent, society finds it necessary or advisable further to regulate the individual's regulation of his own want-satisfaction, to enforce a community standard of living. As a matter of fact, these two problems are closely interlaced, the question of *whose* wants and that of *which* wants are to be given preference, and in what measure. It is important to observe that they are largely the same question.

(Knight 1933b: 6–7)

Reducing Knight's notion that society makes a choice via discussion to use exchange as the means by which the social decision regarding these questions is made to "the first function of an economy is to determine what is produced" is one of the ironies of Knight's role in the construction of the modern economics textbook.

- 10 This statement might seem incongruent with Knight's opposition to the acceptance of ethical absolutes. However, he recognized that liberal society, in order to move forward on the solution of social problems at hand, had to say, in effect, that it would suspend its discussion of social ideals and adopt a particular formulation as "relatively absolute." A "relative absolute" remains debatable, but will be used for the purpose of solving social problems until a new formulation of the relation among our social ideals is created (Knight 1999 [1944]: 238–40).

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Part II

Pushing the boundaries of the liberal tradition?

4 A renovated social fabric

Mill, Hayek, and the problem of institutional change?

Andrew Farrant

[Mill] was perhaps the fairest economist who ever lived: He treated other people's theories at least as respectfully as his own, a mistake no other economist has repeated.

(Stigler 1987: 99)

The emancipation of women, & co-operative production, are, I fully believe, the two great changes that will regenerate society.

(Mill 1972 [1869]: 1535)

Introduction

Ludwig von Mises and F. A. Hayek have a markedly negative view of J. S. Mill. For Mises, Mill is “the great advocate of socialism” (Mises 1985 [1927]: 195): Mill supposedly making a greater contribution to the popularity of socialist ideas than all the “hate-inspired and frequently contradictory arguments of socialist agitators” (Mises 1981 [1922]: 155). For decades, Mill's ideas supposedly provided “one of the main props of the socialist idea” (Mises 1981 [1922]: 154–5).¹ Hayek's assessment is similarly negative: Mill allegedly advocating a “rationalistic individualism” that ultimately tended toward full-blown “socialism or collectivism” (Hayek 1948: 4). Elsewhere, Hayek suggests that Mill's ideas provide the “roots of the self-destructive character of a rationalist or constructivistic view of how civilization could be organized” (Hayek 1983: 93). All in all, Mises similarly considers Mill to have originated the supposedly:

thoughtless confounding of liberal and socialist ideas that led to the decline of English liberalism and to the undermining of the living standards of the English people ... All the arguments that could be advanced in favor of socialism are elaborated by him with loving care. *In comparison with Mill all other socialist writers – even Marx, Engels, and Lassalle – are scarcely of any importance.*

(Mises 1985 [1927]: 195; emphasis added)

This chapter will try to demonstrate that much of what Mises and Hayek have attributed to Mill – Mill's alleged advocacy of socialism included – is wide of

the mark.² For instance, Hayek charges Mill with revealing a “complete *incomprehension* of the central problem of economic theory, namely, what determines which things are produced and how” (Hayek 1983: 91; emphasis added). In particular, Hayek points to Mill’s well-known distinction between the immutable laws of production (e.g., allegedly having the character of “physical truths”) and the supposedly malleable laws of distribution (Mill 1965: 199–201): taking much umbrage at Mill’s argument that the laws of distribution are a “matter of human institutions solely” – “The things *once there*, mankind ... *can do with them as they like*” (Mill 1965: 199; emphasis added) – Hayek interprets Mill as arguing that production and distribution are wholly unrelated (Hayek 1983: 92). As Hayek puts it, Mill – purportedly denying that “[w]hat there is to share *depends on the principle by which production is organized*” – allegedly treats the “size of the product as a purely technological problem ... [one] independent of its distribution” (Hayek 1988: 93).

Yet, and as Samuel Hollander has rightly noted, Mill is much preoccupied with the “impact on productivity of the joint-stock arrangement, of different systems of land tenure, of laws relating to inheritance and poor relief, of civil protection” (Hollander 1985: 218–19). For example, Mill – apparently belying Hayek’s reading of Mill’s ostensibly sharp distinction between the laws governing production (e.g., the law of diminishing returns in agriculture) and the “malleable” laws of distribution – pointedly argues against Members of Parliament who attributed Irish poverty to small landholding *per se* rather than to the markedly perverse incentive structure supposedly inherent to cottier tenure. As Mill aptly puts it:

[A]ll modes of *holding* land are in their opinion alike. The difference between holding it as cottiers and as proprietors – between the very worst tenure, morally, socially, and industrially, on the surface of the earth (slave countries alone excepted), and the very best – is in their estimation not worth considering.

(Mill 1986 [1847]: 1059)

Moreover, and as Lionel Robbins has aptly noted, Mill’s sympathies with socialism lay with “duodecimo syndicalism rather than socialism in the modern sense” (Robbins 1957: 256). As Robbins explains, Mill, advocating “workmen’s co-operatives – self-governing corporations foreshadowed as he thought, by the experiments of LeClaire and others in Paris” (Robbins 1967: xl) – thought the “desirable future for the labouring classes lay more in a *syndicalist* ... than a *collectivist* direction” (Robbins 1965: 159).³ Accordingly, Mill’s alleged “socialism” bears scant resemblance to “modern collectivism” (Robbins 1979: 89–90).⁴

Similarly, Samuel Hollander (1985: 781) rightly views Mises’s suggestion that Mill was the “great advocate of socialism” as “a grotesque overstatement indeed.” Importantly, Mill points to two varieties of socialism in the posthumously published “*Chapters on Socialism*.”⁵ First, Mill, and with much sympathy, notes the “systems of Owen, of Fourier, and the more thoughtful and

philosophic Socialists generally” (Mill 1967 [1879]: 737).⁶ Though sympathetic to philosophic socialist plans to renovate the social fabric (ibid.: 708), Mill is sharply critical toward a second variety of socialism – “more a product of the Continent than of Great Britain” (ibid.: 737) – “revolutionary” Socialism (ibid.: 737).⁷ This latter variety of socialism would supposedly have society “plunge *without any preparation* into the most extreme form of the problem of carrying on the whole round of the operations of social life *without the motive power which has always hitherto worked the social machinery*” (ibid.: 737; emphasis added). As Mill makes clear, the “very idea of conducting the whole industry of a country by direction from a single centre is *so obviously chimerical*, that nobody ventures to propose any mode in which it should be done” (ibid.: 748; emphasis added).

Throughout his writings on socialism Mill maintains that “actual trial” provides the only adequate test of “the practicability or beneficial operation of Socialist arrangements” (Mill 1967 [1879]: 736).⁸ Initially, any experiment on the “scale of Mr. Owen’s or M. Fourier’s villages” (ibid.: 738) could supposedly be “tried ... on a select population and extended to others as their education and cultivation permit” (ibid.: 737). Accordingly, philosophic socialism, supposedly having the singular “advantage” that it could be “brought into operation progressively and can prove its *capabilities by trial*” (ibid.: 737; emphasis added), would not prove “an engine of subversion *until it had shown itself* capable of being also a means of reconstruction” (ibid.: 737; emphasis added). As Mill notes, the workability of revolutionary socialism – the “ambitious plan which aims at taking possession of the whole land and capital of the country, and beginning *at once* to administer it on the public account” (ibid.: 748; emphasis added) – was “as yet” wholly lacking in “experimental verification” (ibid.: 737) and could supposedly “*have no effect but disastrous failure ... its apostles ... [having] only the consolation that the order of society as it now exists would have perished*” (ibid.: 749; emphasis added).⁹

Though maintaining that philosophic socialist experiments have a ready “case for a trial” (Mill 1967 [1879]: 748), Mill repeatedly argues that any such scheme (e.g., Owenite socialism) is initially “workable only by *the elite* of mankind” (ibid.: 748; emphasis added).¹⁰ Markedly similar reservations are readily apparent in the preface to the third edition of the *Principles of Political Economy* (1852): “[M]ankind in general” and “the labouring classes in particular” are supposedly ill-prepared “for any order of things, which would make any considerable demand on either their intellect or their virtue” (Mill 1965 [1852]: xciii).¹¹ Mill’s “Chapters on Socialism” reveal no change of mind: any plan “for the regeneration of society must consider *average human beings*, and not only them but the large residuum of persons *greatly below the average* in the personal and social virtues” (1967 [1879]: 744; emphasis added).¹² Indeed, Mill notes that the vast majority of humanity are simply ill-equipped for the stringent moral requirements that socialist schemes would necessarily demand of them.

As Lionel Robbins has wisely counseled, Mill’s various writings on socialism should not be read independently of Mill’s other essays:

The discussion of socialism in the chapter on property is not to be judged in isolation. It must be evaluated in conjunction with the chapter “On the Probable Futurity of the Labouring Classes,” a chapter to which we know Mill attached particular importance.

(Robbins 1967: xl; emphasis added)

Importantly, Mill sharply juxtaposes two “conflicting theories, respecting the social position desirable for manual labourers. *The one may be called the theory of dependence and protection, the other that of self-dependence*” (Mill 1965: 759; emphasis added): the theory of dependence supposedly contends that the “lot of the poor . . . should be regulated *for* them, not *by* them” (ibid.: 759).¹³ Yet, and as Mill explains, to “be under the power of some one, instead of being as formerly the *sole condition of safety*, is now . . . the only situation which *exposes* to grievous wrong” (ibid.: 761; emphasis added).¹⁴

Much the same theme provides the analytical core of Mill’s earlier essay on the “Claims of Labour” (1967 [1845]: 365–89). In particular, Mill makes clear his advocacy of worker co-operatives and profit-sharing writ large as a viable alternative to “dependence” and hierarchy (e.g., the relationship between employer and employed under capitalism):

[A]lmost every thinker has his Utopia . . . [if] we might be permitted to have ours . . . it would be that of *raising the labourer from a receiver of hire* – a mere brought instrument in the work of production, having no residuary interest in the work itself – to the position of being, in some sort, a partner in it.

(Mill 1967 [1845]: 382; emphasis added)¹⁵

Accordingly, Mill advocated wide-reaching institutional change which, supposing “mankind continue to improve” (1965: 775), would ultimately recast the social fabric anew: ideally, the exercise of “voice” (democratic self-governance) would replace meek obedience to the diktat of a “capitalist as chief” (ibid.: 775) in the industrial realm. The relationship between employer and employed under capitalism would, Mill hoped, spontaneously give way – “and in perhaps a less remote future than may be supposed” (ibid.: 793) – to the “association of . . . labourers themselves *on terms of equality*” (ibid.: 775; emphasis added). As Mill puts it, only the widespread adoption of the co-operative model – “*both sexes*” necessarily participating “*equally* in the rights and in the government of the association” (ibid.: 794; emphasis added) – would allow for the realization in the industrial sphere of the very “best aspirations of the democratic spirit” (ibid.: 793).¹⁶

Socialism and slavery?

A variety of utopian socialist experiments – “duodecimo editions of the New Jerusalem” as Marx famously and rather contemptuously put it – litter the nineteenth century:

While one can indeed point to episodes of socialism in the nineteenth century – the Oneida community and the Shaker stand out in the historical record – these episodes were attempts to *model* a new society. *They were not societies on the scale of Britain or America.*

(Levy 2001: 181; emphasis added)

Hence, and as Mill was readily aware: “The real existing alternative to market capitalism was racial slavery” (ibid.).

F. A. Hayek famously equated socialism and slavery in *The Road to Serfdom* (Hayek 1994 [1944]). In particular, Hayek makes a highly intriguing reference to the nineteenth-century controversy over whether socialism would prove incentive-compatible without pervasive recourse to compulsory labor and the lash: as Hayek explains, “we had been warned by some of the greatest political thinkers of the nineteenth century, by De Tocqueville and Lord Acton, that *socialism means slavery*” (Hayek 1994 [1944]: 16; emphasis added). Although mentioning Tocqueville and Acton, Hayek could have similarly invoked Nassau Senior.¹⁷ In particular, Senior wrote much on the alleged similarities between slavery and socialism; indeed, the incentive to labor under socialism would supposedly be provided by regular application of the lash. As Senior explains, socialism would supposedly

enact that industry shall not be rewarded by wages nor abstinence by profit ... those who shall toil shall toil for others ... If this system should ever be attempted to be adopted ... *the socialist nation, unless it is to starve, must be divided into slaves and slavedrivers.*

(Senior quoted in Robbins 1965: 141; emphasis added)

Similarly, Hayek himself notes that “the first of modern planners, Saint Simon ... predicted that *those who did not obey his proposed planning boards would be ‘treated as cattle’*” (Hayek 1994 [1944]: 28; emphasis added). As Hayek explains, “Saint-Simon has no qualms about the means that will be employed to enforce the instructions of his central planning body: ‘Anybody who does not obey the orders will be treated by the others as a quadruped’” (Hayek 1979 [1952]: 221–2). As we shall see, Senior repeatedly argued that universal poor relief, supposedly equivalent to socialism, had reduced the English laboring classes to de facto slavery (e.g., Senior 1865 [1841]: 15).

Though having misgivings about a system of private property and exchange – yielding to no one in his “wish that ‘cash payment’ should be no longer ‘the universal *nexus* between man and man’” (Mill 1967 [1845]: 379) – Mill hated anything akin to slavery with a vengeance.¹⁸ As noted earlier, the crux of Mill’s important distinction between the theories of dependence and self-dependence had initially appeared in “The Claims of Labour”: in particular, Mill takes well-meaning philanthropists to task for supposedly looking “back with fondness to times when the poor had no notion of any other social state than to give *obedience* to the nearest great landholder” (ibid.: 371; emphasis added). As Mill

would later explain, the idea that the wealthy “should be *in loco parentis* to the poor” provided a yearned-for “ideal ... in the minds of those whose dissatisfaction with the present assumes the form of affection and regret towards the past” (1965: 759). Although self-professedly sensitive to whatever proved “seductive in the picture of society which this theory presents” (ibid.: 760), Mill maintained that the “facts of it have no prototype in the past.” Accordingly, the “theory of dependence” – having “never been historically realized” (ibid.: 760) – was merely an “idealization, grounded on the conduct and character of here and there an individual” (ibid.: 760). As Mill tartly puts it, the higher “classes of this or any other country” have never in reality performed anything close to “a part ... resembling the one assigned to them in this theory” (ibid.). Instead, privileged “and powerful classes ... [invariably use] their power in the interest of their own selfishness ... [indulging] their self-importance in despising, and not in lovingly caring for, those ... [who are] under the necessity of working for their benefit” (ibid.). To illustrate his point, Mill, in “The Claims of Labour,” notes the “happy labouring classes” “fortunate” enough to enjoy the purported “blessings” imagined by the advocates of the theory of dependence: the markedly unfortunate “*Russian boors* ... [and the] *slaves on a West Indian estate*” (1967 [1845]: 373–4).¹⁹ Accordingly, as Mill readily explains, philanthropists who favor the theory of dependence per se are simply “looking in the wrong quarter for what they seek ... Feudality, in whatever manner we may conceive it modified, is not the type on which institutions or habits can now be moulded” (ibid.: 379–80): As Mill would later note, the “well-being and well-doing of the laboring people must henceforth rest” on a foundation other than meek and unqualified obedience to their supposed “protectors” and “superiors” (Mill 1965: 763).

Peart and Levy have rightly argued that much of Mill’s analytical machinery is designed to address “the problem of self-motivated human development in the context of institutional change” (2005: xiii). Indeed, the “problem of how people *make themselves* into competent optimizers” (ibid.: 14; emphasis added) is – with a vitally important caveat to be noted below – readily apparent throughout Mill’s writings on institutional change (e.g., the transition from slavery to free labor in the West Indies and the replacement of cottier tenure in Ireland with a regime of peasant proprietorship). As Mill himself puts it, the well-being of the laboring classes depends on the “degree in which they can be made rational beings” (Mill 1965: 763). Indeed, Mill, invoking the logic of Malthusian population theory, notes that all-too-many ostensibly “promising [reform] schemes *end only in having a more numerous, but not a happier people*” (ibid.: 159; emphasis added): as Mill explains, nothing “permanent can be done” to improve the unhappy lot of the laboring classes unless they can be “taught to make a better use of favourable circumstances” (ibid.). In particular, Mill maintains that the “habits” of the laboring classes – for example, the degree to which they practice voluntary restraint in marriage – need to “be altered for the better” (ibid.: 361).²⁰

In Mill’s view, the laboring classes are habituated to a particular standard of living. This habitual standard of comfort is equivalent to the “lowest” rate of wages on which the laboring classes “can” (1965: 361) or, more importantly,

will gladly “*consent to live*” (ibid.: 360; emphasis added). Accordingly, any change in circumstances which would *prima facie* appear disadvantageous to the laboring populace (e.g., a decrease in their real wages induced by an increase in the price of food) may, other things equal, induce a concomitant reduction in their habitual standard of comfort. Alternatively, the laboring classes may maintain their habitual living standards by adopting a greater degree of voluntary restraint in marriage. Though Mill thought that any decrease in the birth rate supposedly induced by greater prudential restraint in marriage would suffice to maintain the particular standard of comfort to which the laboring populace were habituated, he maintained that their “habits” were such that a decrease in their permanent living standards – a new and lower habitual standard of comfort – would prove the more likely consequence of any disadvantageous changes in their circumstances; indeed, Mill rejected any suggestion that a supposedly operative “self-repairing quality” would suffice to undo any disadvantageous changes befalling the laboring classes (ibid.: 341).

Similarly, Mill argues that any change in circumstances which would seemingly appear advantageous to the laboring populace (e.g., an increase in real wages) might, other things equal, lead to a permanent increase in the standard of comfort to which they were habituated. Alternatively, any increase in real wages might simply induce a marked increase in the birth rate; accordingly, any rise in living standards would merely prove transitory. The laboring classes would respond to the increase in real wages by having larger families: as Mill explains, the laboring classes may simply “people down” to the standard of comfort to which they had initially been habituated (1965: 361).

Accordingly, Mill views with “comparative indifference ... any scheme of improvement which *begins and ends* with increase of food” per se (Mill 1986 [1846]: 912; emphasis added): Hence, Mill’s desideratum is a “guarantee that increase of food shall have some better permanent consequence than *increase of mouths*” (ibid.: 912; emphasis added). Ultimately, the people required “something operating upon ... [their] *minds* ... [rather than] merely upon their stomachs” (ibid.: 912; emphasis added). As Mill explains, the lot of the poor can be permanently improved only by inducing a much greater degree of voluntary restraint in marriage than they habitually practiced; accordingly, the laboring populace requires “something ... *which shall make new men of them*” (ibid.: 912; emphasis added).²¹ As Mill had similarly argued in the “Claims of Labour,” without “change in [the laboring classes] themselves, there can be no lasting improvement in their outward condition” (Mill 1967 [1845]: 375).²²

Selfishness and sympathy?

As Peart and Levy rightly note, Mill recognizes that one can induce greater “competent optimizer” status by encouraging “material desires” (2005: 14).²³ As Mill puts it, “self-dependence” (Mill 1965: 282), greater rationality per se, is markedly preferable to the child-like servility which is the “approved condition of the labouring classes according to the prevailing philanthropy” (ibid.: 281).

As Mill explains, the “virtue” of self-dependence “is one of the first conditions of excellence in the human character” (ibid.: 282): the “stock on which if the other virtues are not grafted, they have seldom any firm root” (ibid.). As Peart and Levy note, however, greater rationality per se – “farsighted concern for ... [one’s] own interest[s]” (2005: 14) – is not necessarily synonymous with “concern for others” (ibid.): in Mill’s view, “[m]aterialism” per se – immersion in one’s own material desires – “is only a step” (ibid.) toward the greater sympathy and benevolence which is deemed a vitally necessary prerequisite, and vital undergirding, for any wholesale reconfiguration of the social fabric (Mill 1967 [1879]: 708). Accordingly, Malthusian population theory and the tenets of associationist psychology are intimately conjoined in Mill’s writings on institutional change.²⁴

For Mill, the improvement of human character and the ever-greater extension of sympathy toward other creatures necessarily go hand in hand.²⁵ Moral education – repeated exposure to “good” trains of association per se – could induce greater sympathy: As James Mill put it in 1829,

A very general idea, such as that of *Mankind*, is an indistinct idea; and no strong association is formed with it, except by means of Education. *In the common run of men, the narrow sympathies, alone, act with any considerable force.* Such men can sympathize with ... their own Family, or their own class ... *[T]o sympathize with mankind at large, or even with the body of the people in their own country, exceeds the bounds of their contracted affections.*

(Mill 1829: 278; emphasis added)

Conversely, any human “being, almost constantly in pain, hardly visited by a single pleasure, and almost shut out from hope, *loses by degrees all sympathy with his fellow creatures*” (Mill 1992: 171–2; emphasis added). These considerations play a vitally important role in Mill’s writings on institutional change: Mill’s advocacy of particular institutional arrangements (e.g., worker co-operatives) – and his scathing condemnation of others (e.g., cottier tenure in Ireland) – places heavy weight on whether or not such arrangements are deemed conducive to the further intellectual and moral advance of the mass of the populace. For example, Mill argues that the spread of worker co-operatives would facilitate a mighty “change ... [combining] the *freedom and independence* of the individual, with the *moral, intellectual, and economical advantages of aggregate production*” (Mill 1965: 793; emphasis added).²⁶ Ultimately, the spread of co-operative associations would, Mill thought, engineer an “end to the division of society into the industrious and the idle ... *effacing all social distinctions* but those fairly earned by personal services and exertions” (ibid.; emphasis added).²⁷ Moreover, co-operative associations – industrial partnership writ large – would provide much “stimulus” to the “productive energies” of the laboring classes (ibid.: 792): This, however, is viewed “as nothing compared with the *moral revolution* in society that would accompany it” (ibid.; emphasis added). As Mill explains, the spread of worker co-operatives would transform the “conflict of

classes struggling for opposite interests” into a “friendly rivalry in the pursuit of a good common to all” (ibid.); similarly, the “standing feud between capital and labour” would supposedly be greatly healed, with the laboring classes enjoying a wholly “new sense of security and independence” (ibid.). More importantly: each “*human being’s daily occupation*” would be converted into a “*school of the social sympathies and the practical intelligence*” (ibid.; emphasis added).

Importantly, James Mill held that “nature herself forbids” that a “wise and virtuous” populace can be made out of a “starving one” (1992: 172). Indeed, he viewed a “good diet ... a necessary part of a good education ... [In] the great body of the people all education is impotent without it” (ibid.: 173). Similarly, James Mill had argued that severe labor – ostensibly operating upon the mind in much the same supposedly negative way as “habitual deficiency of food” (ibid.) – “obliterated sympathy” (ibid.). As we shall see, the tenets of associationist psychology are similarly apparent in J. S. Mill’s scathing condemnation of cottier tenure in Ireland. In particular, Mill argued that the cottier regime – the baneful way in which “things are ... arranged” (1965: 319) in Ireland – greatly encourages indolence and insouciance on the part of the peasantry: as Mill explains, the peasantry, primarily living upon potatoes, “derive no advantage” whatsoever “from forethought or exertion” (ibid.). Accordingly, trains of association per se induce and shape “character”: “Whatever helps to shape the human being; to make the individual what he is, or hinder him from being what he is not – is part of his education” (Mill 1984 [1867]: 217).

Poor relief and slavery: Senior’s conjecture?

As noted earlier, Nassau Senior argued that slavery and socialism had much in common. Similarly, Senior, in an 1841 article appearing in the *Edinburgh Review*, had scathingly argued that the perverse incentives allegedly inherent to the English Poor Laws (e.g., the provision of outdoor relief to ostensibly indigent but able-bodied laborers) had done much to reduce “able-bodied paupers” to de facto slavery (Senior 1865 [1841]: 45–115); as Senior puts it, the poor laws had supposedly attempted to provide the able-bodied laborer with:

[A] security incompatible with his freedom; to provide for him and his family a comfortable subsistence at his own home [outdoor relief], whatever were his conduct, and whatever were the value of his labour ... [This] attempt succeeded in what have been called the pauperized districts, *and placed the labourer in the condition, physically and morally, of a slave*; – confined to his parish, maintained according to his wants, not to the value of his services, restrained from misconduct by no fear of loss, and therefore stimulated to action and industry by no hope of reward.

(Senior 1865 [1841]: 115; emphasis added)²⁸

Accordingly, outdoor relief had supposedly occasioned various incentive-incompatibilities – supposedly “fatally relaxing the springs of industry and the

restraints of prudence” (Mill 1965: 360) – prior to 1834.²⁹ Accordingly, while the desirability of poor law reform was supposedly apparent to all and sundry, the “Commissioners of Inquiry had reported that it was *not expedient, or even practicable* ... [to] exclude from relief the able-bodied labourer who *professed* to be unable to earn wages adequate to the support of his family” (Senior 1865 [1841]: 91; emphasis added).³⁰ Consequently, an incentive-compatible poor law would supposedly guarantee that only the truly indigent received able-bodied relief. As Senior notes, incentive-compatible poor relief would automatically “*test ... the truth* of ... [the able-bodied applicant’s] representations” (ibid.; emphasis added). The test favored by Senior was relatively simple: make the receipt of poor relief markedly “less eligible than independent labour” per se (ibid.); as Senior explains, this was easily done by conjoining the receipt of poor relief to a “condition which *no man not in real want would accept*, or would submit to when that want had ceased” (ibid.: 93; emphasis added). Consequently, the 1834 New Poor Law stipulated that any applicant for able-bodied relief

enter a workhouse ... supported there by a diet ample indeed in quantity, but from which the stimulants which habit had endeared to him were excluded – should be subjected to habits of cleanliness and order – should be separated from his former associates, and should be debarred from his former amusements.

(ibid.: 93)³¹

Accordingly, indoor relief – the workhouse test per se – was allegedly incentive-compatible: only the truly indigent would voluntarily accept workhouse discipline. As Senior explained, whenever any able-bodied, and self-professedly, indigent laborer readily “accepted these terms, that acceptance [automatically] *tested the reality of his wants*” (ibid.: 91; emphasis added).

As Mill, readily subscribing to Senior’s logic, later explained, the wholly “pauperized districts ... have been *dispauperized* by adopting strict rules of poor law administration” (Mill 1965: 961; emphasis added).

Mill, Ireland, and outdoor relief: slavery in all but name?

As is well-known, Mill’s view of the 1834 New Poor Law was highly favorable: “no Malthusian now condemns poor laws when so administered as not to take away the inducement to self-support” (Mill 1967 [1851]: 449).³² By late 1846, and with conditions in Ireland rapidly worsening, many influential parties (e.g., the *Times* newspaper) were arguing that large-scale “*out-door relief to the able-bodied*” (Mill 1986 [1846]: 881; emphasis added) would greatly alleviate the grave distress caused by the potato famine.³³ Consequently, Mill – having no objection whatsoever to any expenditures that would permanently improve “the condition” of the Irish peasantry (ibid.: 886) – provided much vigorous opposition to the supposedly incentive-incompatible outdoor relief and public employment schemes advocated by the *Times* and its allies.³⁴ As Mill explained in disgust:

A poor-law ... this is the sum of what our wisdom can devise to make an indolent people industrious, to gift an improvident people with prudence and forethought. *That which has pauperized nearly the whole agricultural population of England is the expedient recommended for raising to comfort and independence the peasantry of Ireland!* ... It is the one thing which would set the seal to Irish misery, the thing which would take away even the possibility of improvement. The Legislature which could deliberately adopt it must be nothing less than insane.

(*ibid.*: 881–2; emphasis added)

As Mill explains, the *Times* – maintaining that “lavish ... outdoor relief” (*ibid.*: 885) would “be given [not] in alms, but in exchange for work” (*ibid.*: 888) – had scant understanding of incentive-compatibility:

As if experience had not done justice to all such projects. As if England had forgotten the once familiar scenes of pauper labour on the roads and in the gravel-pits ... [T]he very ideas of industry and compulsory payment ... shriek at finding themselves together.

(*ibid.*: 888)

As Mill explains, outdoor relief – supposedly rendered incentive-compatible only by recourse to the lash – would reduce the unfortunate Irish peasantry to de facto slavery:

While men are what they are, they can be induced to habitual labour by only two motives – reward and punishment. The reward of the Irish, and even of the English peasant, is a sufficiently wretched one – a bare subsistence. But if even that is annihilated as a reward by being severed from the industry which is to earn it, there is no other incentive remaining but punishment; the labour must be compulsory, the labourer must be a slave. Those whom you are forced to feed must be forced to work; and *there is not, there never has been, any permanent means by which human beings can be forced to labour all their lives for other people, but the lash.*

(*ibid.*: 888; emphasis added)

Similarly, Mill (writing to Auguste Comte) – noting the apparently pervasive philanthropic zeal for governing the poor “in paternal fashion” (what he would later refer to as the theory of dependence) and alluding to the expected legislative extension of the Irish poor law (the introduction of outdoor relief) – pointedly notes:

We shall have a great *experimental proof* of this truth: *one cannot treat workmen as one does cattle* ... [to make] them work for others in exchange for good food and housing ... was [in the past] possible only when the whip was added ... *we cannot make the old system work while stripping it ... of its means of action.*

(Mill 1995 [1847]: 384; emphasis added)³⁵

As Mill had explained, “experience” readily taught the

sort of work to be expected from recipients of public charity. When the pay is not given for the sake of the work, but the work found for the sake of the pay, inefficiency is a matter of certainty: *to extract real work from day-labourers without the power of dismissal, is only practicable by the power of the lash.*

(Mill 1965: 357)³⁶

As noted earlier, Mill takes much the same stance when assessing the merits of the New Poor Law. As Mill, readily agreeing with Senior’s logic, explains, whenever public charity

is given in such a manner that the condition of the person helped is as desirable as that of the person who succeeds in doing the same thing without help, the assistance, if capable of being previously calculated on, is mischievous: but if, while available to everybody, it leaves to every one a strong motive to do without it if he can, it is then for the most part beneficial. This principle, applied to a system of public charity, is that of the Poor Law of 1834.

(ibid.: 961)

Though highly sympathetic to the “desire that the conditions of relief should be made less onerous to those who wish to maintain themselves, *but cannot*, than to those who *can, but will not*,” Mill, at least “in regard to the able-bodied,” saw no way to render poor relief incentive-compatible “except by making the conditions such that no one will accept relief who can possibly do without it” (1991 [1848]: 75; emphasis added). As Mill, alluding to the incentive-compatibility supposedly intrinsic to indoor relief, explains, “I can see at present no [other] means of sifting the one class [the truly indigent] from the other ... I suspect that the present poor law is the best possible, *as a mere poor law*” (ibid.). Accordingly, universal poor relief (devoid by assumption of anything equivalent to the less-eligibility principle) and slavery had much in common. As Mill pointedly explained elsewhere: whenever the

condition of a person receiving relief is made as *eligible* as that of the labourer who supports himself by his own exertions, the system strikes at the root of all individual industry and self-government; and if fully acted up to, would require as its supplement an *organized system of compulsion, for governing and setting to work like cattle, those who had been removed from the influence of the motives that act on human beings.*

(Mill 1965: 961; emphasis added)³⁷

As we shall see, Mill (1986 [1846]: 1005) – vehemently objecting to G. P. Scrope’s suggested palliative for Irish poverty (Scrope urged Parliament to guarantee “food and employment” to the peasantry) – deemed his counsel

particularly applicable in the Irish context: Theory and experience alike judged Scrope's plan signally wanting:

No measure calculated to be of use to Ireland has a chance of effect unless the exertions of the people are called forth with considerable intensity to cooperate with it. With their present habits, the only motive which is found sufficient to produce any real exertion . . . is the fear of destitution. From that fear it is proposed permanently to relieve them. *What other motive is to be provided?* It must be force; for *reason* and *experience* are equally against the wild idea that even a much more industrious people than the Irish will work with any efficacy for employers who are not permitted to dismiss them, unless it be like *slaves*, under compulsion.

(*ibid.*: 1006; emphasis added)³⁸

In Mill's view, cottier tenure – the system governing land tenure in Ireland – was the “worst economical system that afflicts any country not cursed with actual slavery” (*ibid.*: 896). As Mill explained, “[n]either the economical nor the moral evils” afflicting Ireland would “admit of any *considerable alleviation* while that baneful system continues” (*ibid.*: 889; emphasis added). Accordingly, any scheme for “Irish regeneration . . . [that was] not the merest mockery of Irish evils” would wholly extirpate (*ibid.*: 892) the “radically diseased” (*ibid.*: 920) cottier regime. Mill maintains that any institutional change of the type finding favor with the *Times* and its parliamentary allies has the “smallest chance of being efficacious” (1965: 366): Outdoor relief and public employment schemes operate in markedly perverse fashion on “the minds and habits of the people” (*ibid.*). Adoption of such schemes would ultimately reduce the Irish peasantry to *de facto* slavery.

Importantly, Mill identifies three basic proposals for supposedly solving the problems of Ireland. First, Mill points to a variety of schemes advocating the introduction of large-scale agriculture on the English model. Mill argued that the adoption of such proposals would generate a terrible non-convexity (1986 [1846]: 895): Though Ireland “*may in time*” (*ibid.*: 894; emphasis added) be able to adequately maintain a larger population, the short-run consequences were horrific.³⁹ The scheme “must begin by ejecting the peasantry of a tract of country from the land they occupy” (*ibid.*). Hence, “[f]or a time, its sole tendency is to *aggravate the evil* which it is expected to cure” (*ibid.*; emphasis added): as Mill explains, large-scale “clearance of estates . . . is synonymous with turning out the population to starve” (*ibid.*: 900). As Mill, writing to Comte, similarly notes, adoption of the English model would “eliminate almost half the working population of our day” (1995 [1847]: 384). Second, Mill points to various schemes for inducing extensive emigration: Mill pointedly notes that options one and two “are schemes for getting rid of the people” (Mill 1986 [1846]: 898). Finally, Mill notes various schemes for providing outdoor relief to the peasantry: as Mill explains, his favored solution – reclamation of the wastelands by the peasantry themselves – is not only less costly in monetary terms than options two and

three, but – and in stark contrast to option three (let alone the terrible non-convexity inherent to option one) – would permanently improve the condition of the Irish peasantry. Accordingly, Mill, objecting to lavish outdoor relief and cottier tenure alike, favored wholesale change in the system governing land tenure.

Institutional change in Ireland: cottier tenure and peasant proprietorship?

As ever, Malthusian and moral concerns are intimately conjoined in Mill's scathing condemnation of cottier tenure.⁴⁰ Mill argues that only a mighty change in the "incentive" structure (broadly understood) will adequately induce any salutary, and permanent, improvement in the material and moral condition of the Irish peasantry: the replacement of cottier tenure by a system of peasant proprietorship would, via the workings of the laws of association, greatly attenuate Irish poverty and make "new men" of the cottiers.⁴¹ Mill's pointed condemnation of cottier tenancy primarily lay in his recognition that the prevailing incentive structure had reduced the private marginal cost of larger family size to zero. Accordingly, any incentive to practice prudential restraint in marriage had vanished.

Mill explains the logic supposedly inherent to a cottier regime thusly: in any country where "the labouring population have no property, their condition depends upon the intensity of the competition for employment" (1986 [1846]: 889). Consequently, population growth in England would, other things equal, necessarily reduce wages. Under any cottier regime, however, "overpopulation" would supposedly produce "its effect by ... raising rent" (*ibid.*).⁴² In particular, the Irish peasantry, rather than starve, would supposedly "undertake to pay more than it is possible they should pay, and when they have paid almost all they can, more almost always remains due" (Mill 1965: 317): The vigorous competition "for land ... forces up rent to the highest point *consistent with keeping the populace alive*" (*ibid.*: 314; *emphasis added*).⁴³ Hence, any incentive to practice prudential restraint in marriage is markedly attenuated: voluntary restraint in marriage, rather than improving the miserable lot of the cottier family, would merely leave more for the landlord to take (*ibid.*: 318). Accordingly, it is immaterial whether the cottier has two or "twenty children" (*ibid.*): They "would still be fed first, and the landlord could only take what was left" (*ibid.*).⁴⁴ Moreover, the perverse and "radically diseased" (Mill 1986 [1846]: 920) incentive structure had baneful consequences for whatever inducement the hapless cottier tenant might otherwise have to increase productivity or improve the land: the cottier neither gaining "by any amount of industry or prudence," nor losing "by any recklessness" whatsoever (1965: 318). Any increase in productivity would merely result in higher rents.⁴⁵ Accordingly, the abject moral and material degradation of the "largest portion of the Irish peasantry" (*ibid.*: 317) was mutually reinforcing: the peasantry repeatedly revolving in a markedly "wretched round of poverty and recklessness, recklessness and poverty" (1986 [1846]: 1005).

Similarly, the habitual standard of comfort “enjoyed” by the cottier peasantry is at a minimum; their habitual standard of comfort would not bear any reduction per se (Mill 1965: 317). As Mill explains, cottier tenure is undeniably the “GRAND ECONOMICAL EVIL OF IRELAND” (Mill 1986 [1846]: 889).⁴⁶

Mill’s favored institutional remedy for Irish poverty was peasant proprietorship.⁴⁷ In particular, Mill argued that peasant proprietorship provided much inducement to practice prudential restraint in marriage: “against over-population ... [peasant proprietorship] is the best preservative yet known” (1965: 327).⁴⁸ Similarly, acquisition of a “permanent interest in the soil” (ibid.) – perpetuity of tenure – would provide the peasantry with adequate incentives to themselves improve their otherwise miserable lot. Indeed, peasant proprietorship would not merely induce a mighty improvement in the material well-being of the Irish peasantry: fixity of tenure – “a *permanent interest* in the land” (1986 [1846]: 909) – would induce a salutary improvement in their moral character. As Mill notes, the moral and material well-being of the peasantry

are inseparable; both must be provided for by any plan of improvement deserving the name. *Without the moral change*, the greatest economical improvement will last no longer than a prodigal’s bounty; *without the economical change*, the moral improvement will not be attained at all.

(ibid.: 907; emphasis added)⁴⁹

As Mill, alluding to the manifestly low standard of comfort to which the unfortunate Irish peasantry had become habituated, and clearly rejecting any suggestion that regular wage labor per se would suffice to generate any salutary improvement in the moral and material well-being of the Irish peasantry, had explained:

The status of a day-labourer has no charm for infusing forethought, frugality, or self-restraint, into a people devoid of them. *If the Irish peasantry could be universally changed into receivers of wages, the old habits and mental characteristics of the people remaining, we should merely see four or five millions of people living as day-labourers in the same wretched manner in which as cottiers they lived before ...* Far other would be the effect of making them peasant proprietors.

(Mill 1965: 326; emphasis added)⁵⁰

Moreover, and in accordance with the tenets of associationist psychology (education, broadly understood, shapes character), peasant proprietorship would supposedly

surround the peasant with a new moral atmosphere ... [and] would bring a set of motives to operate upon him which he has never ... experienced, tending in the strongest manner to correct everything in his national character which needs correction. *Without a change in the people, the most*

beneficent change in their mere outward circumstances would not last a generation. You will never change the people unless you make themselves the instruments, by opening to them an opportunity to work out for themselves all the other changes. You will never change the people but by changing the external motives which act on them and shape their way of life from the cradle to the grave... The real effective education of a people is given them by the circumstances by which they are surrounded... What shapes the character is not what is purposely taught, so much as the unintentional teaching of institutions and social relations... Make it his interest to be industrious and prudent ... And if you have inveterate habits of the contrary description to overcome, there is the more need of presenting the motives which tend to correct those habits in the shape in which they will be most intense and palpable.

(Mill 1986 [1846]: 955; emphasis added)

Mill – as in the later 1849–50 exchange with Thomas Carlyle over Negro slavery – vehemently rejected any suggestion that the Irish peasantry (or former slaves in the West Indies) were inherently, and supposedly immutably, indolent (a particularly popular explanation for Irish poverty during the 1840s).⁵¹ For Mill, the character and conduct of the Irish peasantry was induced and shaped by the prevailing incentive structure – molded by “institutions and social relations” (Mill 1986 [1846]: 955) – rather than attributable to race or nature per se.⁵² Consequently, to improve the lot of the Irish peasantry one necessarily had to change the broad incentive structure: hence, fixity of tenure – the peasant could no longer be ejected at will by a rapacious landlord – would transform the once hapless cottier into a peasant proprietor. The peasantry would now “work and save for themselves alone. Their industry would be their own profit; their idleness would be their own loss” (ibid.: 897). Moreover, the incentive structure would, by equating the marginal private and social costs associated with larger family size, induce prudential restraint: if the peasantry “multiplied imprudently, it would be at their own expense, no longer at the expense of the landlords.” Fixity of tenure would supposedly convert the once “indolent and reckless” peasantry “into a laborious, provident, and careful people” (ibid.).

Though manifestly urging the introduction of peasant proprietorship in a “backward state of industrial improvement” (1965: 768), for example, Ireland, Mill did not consider peasant proprietorship per se – “a wide diffusion of property in land” (ibid.: 767) – a global optimum or ideal.⁵³ Mill’s advocacy of peasant proprietorship per se – “greatly preferable, in its ... effects on human happiness, to hired labour [let alone cottier tenure] in any form in which it exists at present” (ibid.) – is sharply qualified. In particular, Mill argues that any populace already enjoying the signal advantages of large-scale production (a manifestly inapplicable consideration in the case of the hapless cottier peasantry), whether “in manufactures, or in agriculture,” “are *not likely* to recede from it” (ibid.: 768). Moral considerations take primacy: the “goal of industrial improvement” should be something “better than to disperse mankind over the earth in

single families, each ruled internally ... by a patriarchal despot ... *having scarcely any community of interest ... with other human beings*" (ibid.; emphasis added). Accordingly, peasant proprietorship – supposedly greatly inducing “prudent foresight and self-government” – is inadequately conducive to the growth of “public spirit, generous sentiments ... [and] true justice and equality” (ibid.). As Mill explains, “association, *not* isolation of interests is the school in which these excellences are nurtured” (ibid.; emphasis added). Accordingly, Mill’s ultimate desideratum is a state of society where human beings are not placed in “a condition in which they will be able to *do without* one another” (ibid.). As Mill explains, he favors an industrial system – a system of worker co-operatives – where individuals “work *with or for one another* in relations *not* involving dependence” (ibid.; emphasis added): an industrial system retaining the signal advantages – “efficiency and economy” (ibid.: 769) – of large-scale production while not simultaneously dividing “the producers into two parties with hostile interests and feelings” (ibid.). As Mill rather pointedly notes elsewhere: the “only school of genuine moral sentiment is society between equals” (1984 [1869]: 293). Ultimately, Mill places greater import on the behavioral and moral propensities supposedly induced by the trains of association allegedly inherent to any particular “social machinery” – for example, their tendency to induce greater selfishness or to otherwise retard and narrow the growth of sympathy (1965: 210) – than on whatever material advantages are supposedly inherent to any particular social “machinery” per se.

As we shall see, many of the themes appearing in Mill’s analysis of cottier tenure and peasant proprietorship reappear in his analysis of socialism. For instance, Mill – judging G. P. Scrope’s suggested plan for facilitating the reclamation of the Irish wastelands to be wanting (Scrope supposedly would have the “State ... undertake the *whole* improvement of the land” (Mill 1986 [1846]: 912; emphasis added) – argues that the peasantry “themselves should do all the work of improvement” (e.g., erecting “houses and farm buildings”) aside from what simply “cannot be effectually done otherwise than by combined labour” (e.g., larger-scale drainage schemes): as Mill explains, by leaving the peasantry themselves to carry out much of the task of reclaiming the wastelands one would readily “*sift* the more energetic portion of the population from the rest, *and discriminate those in whose hands the experiment is most likely to thrive*” (ibid.: 913; emphasis added).

Systems of equality: universal poor relief writ large?

Mill’s analysis of socialism and communism – see, for example, the chapter “Of Property” (1965: 199–214) – is justly famous. Accordingly, this section will draw attention to some hitherto seemingly neglected aspects of Mill’s writings on socialism. In particular, the tenets of associationist psychology implicitly and repeatedly rear their head throughout Mill’s writings on socialism. That Mill argued that the choice between “individual agency in its best form” and “Socialism in its best form” would ultimately “depend mainly on one consideration ...

which of the two systems is consistent with the greatest amount of human liberty and spontaneity” (ibid.: 208) is well-known. In particular, Mill worried whether “any asylum ... for individuality of character” would remain under socialism, arguing that no society where “eccentricity is a matter of reproach, can be in a wholesome state” (ibid.: 209). Mill’s clear concern that communism might ultimately prove inconsistent with that “multiform development of human nature, those manifold un-likenesses, that diversity of tastes and talents, and variety of intellectual points of view, which ... are the mainspring of mental and moral progression” (ibid.), however, is largely the consequence of his adherence to the tenets of associationist psychology.

Interestingly, Mill remarks that advocates of communism “usually find it necessary to provide that all should work by turns at every description of useful labour; an arrangement which, by putting an end to the division of employments, would sacrifice the principal advantage which co-operative production possesses” (1965 [1849]: 977). Mill’s attentions, however, are not primarily focused on the efficiency losses, important though they are, incurred by any wholesale rotation of labor: as per the tenets of associationist psychology, the wholesale rotation of labor would supposedly “impress” a uniformity of “character ... on human nature” (ibid.: 978).⁵⁴ Similarly, Mill – viewing heterogeneity (the diversity of talents and character) rather more the child of circumstance (diversity is induced by the division of labor) than of nature per se – much regrets that under socialism any “identity of education and *pursuits* would tend to impress on all the same unvarying type of character; to the destruction of that multiform development of human nature” (ibid.: 979).⁵⁵ Indeed, the one signal advantage supposedly enjoyed by the St. Simonian scheme is that it “does not propose that all should be occupied alike.” Therefore, “Society ... would wear as *diversified* a face as it does now” (ibid.: 981; emphasis added). Intriguingly, Mill’s suggestion that the wholesale rotation of labor under socialism will induce uniformity of character only appears in the first (1848) and second (1849) editions of the *Principles*. In later editions, however, Mill’s fear that public opinion (approbational incentives per se) might, as per the tenets of associationist doctrine, prove a markedly “tyrannical yoke” comes to the fore (1965: 209). Indeed, public opinion, while purportedly playing a vital role in attenuating opportunistic behavior under socialism, would mold and shape character: inducing a “tame uniformity of thoughts, feelings, and actions” (ibid.).⁵⁶

As we shall see, much of Mill’s analysis of socialism (and communism) in the various editions of the *Principles* focuses on what we might consider the “microeconomics” of socialism and communism. In particular, Mill wonders whether payment by vector (incentives under socialism) could adequately substitute for payment by scalar (monetary incentives in a system of market exchange).⁵⁷ Consequently, Mill analyzes the way in which approbational incentives – praise and shame – and the greater extension of sympathy per se (supposedly much induced by moral education and the institutional framework) might complement one another to adequately align incentives under socialism (e.g., inducing prudential restraint and high work effort).⁵⁸ Accordingly, Mill reviews

the standard litany of objections – for example, low-powered work incentives and the supposed attenuation of any incentive to practice voluntary restraint in marriage – to “systems of equality” per se (socialism in the broad), prior to examining whether approbational incentives and public spirit might adequately substitute for the high-powered incentives allegedly inherent to private property and exchange. In particular, Mill argues that public opinion (approbational incentives) would play a greatly expanded role in attenuating opportunistic behavior (e.g., the alleged incentive to shirk under team production) under socialism.⁵⁹ For instance, output is a common pool under communist arrangements (1965: 203): hence, the private and social marginal costs associated with any increase in family size will supposedly more markedly diverge with increases in community size (see Levy 1992: 179). Consequently, the incentive structure would (other things equal) – and as per the standard Malthusian analysis of systems of equality per se (e.g., Godwinian communism) – induce earlier marriage (or its equivalent) and thus supposedly induce greater population growth than would be the case under any otherwise equivalent private property regime (e.g., peasant proprietorship).

As Mill – pointing to the singularly unhappy consequences following any marked divergence between the private and social costs associated with having a larger family – had explained in 1849:

There is enough and to spare for all who *are* born ... there ... cannot be enough for all who *might* be born ... if every person born is to have an infeasible claim to a subsistence from the *common fund*, there will presently be no more than a bare subsistence for anybody, and a little later there will not be even that.

(Mill 1985 [1849]: 349; emphasis added)

Hence,

although every one of the *living* brotherhood of humankind has a moral claim to a place at the table provided by the collective exertions of the race, *no one of them* has a right to *invite additional strangers* thither without the consent of the rest. *If they do, what is consumed by these strangers should be subtracted from their own share.*

(*ibid.*; emphasis added)

Accordingly, Mill deems the long-run viability of any communist scheme to necessitate that it adequately induce voluntary restraint in marriage. As Mill explains, public opinion could adequately align the private and social marginal costs of larger family size:

Another of the objections to Communism is similar to that, so often urged against poor-laws ... prudential restraint on the multiplication of mankind would be at an end ... But Communism is precisely the state of things in

which *opinion might be expected to declare itself with greatest intensity against this kind of selfish intemperance.*

(Mill 1965: 206; emphasis added)⁶⁰

Yet, and as Mill readily notes, communism per se has no particular advantage in grappling with the supposed Malthusian dilemma that cannot be similarly attained under a suitably reformed private property regime. Indeed, Mill takes pains to deny that Malthusian problems necessarily provided an insuperable obstacle to higher living standards under a system of market exchange: Mill – arguing that if any

prudent regulation of population *be not reconcilable* with the system of hired labour, the system is a nuisance and the grand object of economic statesmanship should be ... to bring the labouring people under the influence of stronger and more obvious inducements to this kind of prudence, than the relation of workmen and employers can afford.

(Mill 1965: 373; emphasis added)

– is insistent that there is “*no such incompatibility.*” As Mill explains, the

causes of poverty are not so obvious *at first sight* to a population of hired labourers as they are to one of [peasant] proprietors, or as they would be to a socialist community. *They are, however, in no way mysterious.*

(Mill 1965: 373–4; emphasis added).

As Mill recognizes, any supposed reputational solution to the Malthusian problem would – under a system of market exchange (truly a large-numbers collective action problem relative to any socialist experiment on the scale of a village or small town) – confront a seemingly insuperable free-rider problem. As Mill explains:

We are often told that the most thorough *perception of the dependence of wages on population will not influence the conduct of a labouring man, because it is not the children he himself can have that will produce any effect in generally depressing the labour market.*

(Mill 1965: 371; emphasis added)

“True,” Mill remarks, and

it is also true, that one soldier’s running away will not lose the battle; accordingly it is not that consideration which keeps each soldier in his rank: it is the disgrace which naturally and inevitably attends on conduct by any one individual, which if pursued by a majority, everybody can see would be fatal. *Men are seldom found to brave the general opinion of their class.*

(*ibid.*: 371–2; emphasis added)

Accordingly, we can readily infer why Mill – deeming socialism readily practicable only on the “scale of Mr. Owen’s or M. Fourier’s villages” (1967 [1879]: 738) – would consider public opinion to have much capacity to induce an adequate degree of prudential restraint under socialism.

Mill readily cedes that output, whether under socialism or full-blown communism, is a common pool (markedly so under communism). As Mill, alluding to the particularly acute 1/n problem supposedly plaguing production under full-blown communism, explains:

The objection ordinarily made to a system of community of property and equal distribution of the produce, that each person would be incessantly occupied in evading his fair share of work, points, undoubtedly, to a real difficulty. *But those who urge this objection, forget to how great an extent the same difficulty exists under the system on which nine-tenths of the business of society is now conducted. The objection supposes, that honest and efficient labour is only to be had from those who are themselves individually to reap the benefit of their own exertions. But how small a part of all the labour performed in England, from the lowest-paid to the highest, is done by persons working for their own benefit...* A factory operative has less personal interest in his work than a member of a Communist association, since he is not, like him, working for a partnership of which he is himself a member.

(Mill 1965: 203–4; emphasis added)

Elsewhere, Mill similarly argued that while ordinary workers would, under Communism, supposedly “have no interest ... except their share of the general interest, in doing their work honestly and energetically ... in this respect *matters would be no worse than they now* are in regard to the great majority of the producing classes” (1967 [1879]: 742; emphasis added). Again, however, whatever advantages may be attained under communism are similarly attainable “by arrangements *compatible* with private property and individual competition” (ibid.: 743; emphasis added). For instance, Mill suggests that considerable improvement is “already obtained by piece-work, in the kinds of labour which admit of it” (ibid.); similarly, “industrial partnership” – profit-sharing (“a remedy far more complete than piece-work for the disadvantages of hired labour”) – would allegedly provide the laboring classes with much inducement to “zealous exertion” (ibid.).⁶¹

Mill consistently argues that socialist associations would have inadequate incentives to adopt new technologies and managerial techniques. For Mill, socialist associations would be overly risk-averse. Accordingly, individual owners, enjoying full residual-claimancy status, would supposedly prove “more likely [than any socialist association] to commence things previously untried” (Mill 1965: 793; emphasis added). Mill attached much significance to the advantages supposedly inherent to “[u]nity of authority” (ibid.: 792). Accordingly, any private capitalist – largely “exempt from the control of a body” and having full residual-claimancy status – is supposedly much “more likely than ...

any association [co-operative or socialist] to run judicious risks” (ibid.: 793).⁶² Mill takes much the same stance in the “Chapters on Socialism” (Mill 1967 [1879]: 739): any manager – the agent of the community (the principal) – wanting to adopt a new technology or introduce a new efficiency-enhancing organizational technique would have to adequately convince a “numerous” and overly risk-averse “body to make a change in their accustomed mode of working” (ibid.: 741). As Mill explains, any “risk” would appear rather “more obvious to their minds than ... [any] advantage,” thus greatly intensifying any inherent “tendency to keep things in their accustomed track” (ibid.).⁶³

As Mill puts it, socialists generally “overlook the natural indolence of mankind; their tendency to be passive, to be the *slaves of habit*, to persist indefinitely in a course once chosen” (Mill 1965: 795; emphasis added). Consequently, Mill argues that even

confining ourselves to the industrial department, in which, more than in any other, the majority may be supposed to be competent judges of improvements; it would be difficult to induce the general assembly of an association to submit to the trouble and inconvenience of *altering their habits* by adopting some new and promising invention.

(ibid.; emphasis added)

Accordingly, competition – while maybe not “the best conceivable stimulus” per se – is deemed “a necessary one ... and *no one can foresee the time when it will not be indispensable to progress*” (ibid.; emphasis added).

Ultimately, Mill places heavy weight on the part that public spiritedness per se – ideally much induced by envisaged improvements in moral education – would supposedly play in complementing public opinion to render any socialist regime incentive-compatible. As Mill notes, the “motive powers in the economy of society” (1967 [1879]: 739) would be supposedly much strengthened by the “*incentives of public spirit, of conscience, and of the honour and credit of the managers*” (ibid.; emphasis added). Yet, and as Mill readily notes, the “force of these motives” manifestly varies “in different persons, and ... [are] much greater for some purposes than for others” (ibid.). Hence, “experience” teaches that the motives “of conscience ... credit and reputation” are more to “be depended on for preventing wrong, than for calling forth the fullest energies in the pursuit of ordinary occupations” (ibid.: 739–40). As Mill notes, to suppose anything like “the contrary would be to imply that with *men as they now are*, duty and honour are more powerful principles of action than personal interest ... which no one, I suppose, will affirm” (ibid.: 740). Accordingly, moral considerations come to the fore:

[U]nless we are operating upon a *select portion of the population* ... personal interest will for a long time be a more effective stimulus to the most vigorous and careful conduct of the industrial business of society than motives of a higher character.

(ibid.; emphasis added)

Ultimately, the practicability of socialist schemes supposedly requires a

high standard of both moral and intellectual education in all members of the community – moral, to qualify them for doing their part honestly and energetically in the labour of life under no inducement but their share in the general interest of the association ... intellectual, to make them capable of estimating distant interests and entering into complex considerations.

(ibid.: 746)

As Mill, placing much weight on the necessity to subject socialist experiments to adequate trial, concludes:

[O]ur review of the various difficulties of Socialism has led us to the conclusion ... [that such institutions] are at present workable only by the *elite* of mankind, and have yet to prove their power of training mankind at large to the state of [moral] improvement which ... [such institutions] presuppose.

(ibid.: 748)⁶⁴

Accordingly, Mill's ultimate conclusions regarding the purported advantages of socialism or communism are rather less than sanguine: "as far as concerns the motives to exertion in the general body, *Communism has no advantage which may not be reached under private property*, while as respects the managing heads it is at a considerable disadvantage" (ibid.: 743; emphasis added).

Training mankind: the long and difficult apprenticeship?

For Mill, "education" is never interpreted in a purely narrow sense (formal schooling per se). Rather, Mill invokes "education" to denote all the trains of association that operate to mold and shape human character. As Mill explained in 1845:

Whatever acts upon the minds of the labouring classes, is properly their education ... [T]heir minds ... are acted upon by the *whole of their social circumstances*; and often the part of their education which is least efficacious as such, is that which goes by the name.

(Mill 1967 [1845]: 376; emphasis added)

As noted above, Mill – placing much hope on the way in which public opinion would supposedly induce prudential restraint under socialism – had noted that public opinion could similarly induce a marked homogeneity of character and outlook (1965: 208). Indeed, Mill considers it moot as to whether "ideal" public opinion and "actual" public opinion per se have much resemblance to one another. For example, Mill argues that "[r]eligion, morality, and statesmanship have [all] vied with one another" in providing "incitements ... to the

multiplication of the species” (ibid.: 368), thus greatly exacerbating any Malthusian dilemma; indeed, “over-indulgence” – lack of voluntary restraint in marriage – is supposedly “as much caused by the *stimulus of opinion* as by the mere animal propensity” per se (ibid.: 371; emphasis added). To remove “this factitious stimulus,” public opinion, supposedly heavily influenced for the better by improvements in moral education, must turn “itself into an adverse direction” (ibid.).

Ideally, moral education would closely align praiseworthiness per se with the bestowal and receipt of actual praise. As James Mill had explained, “*in minds happily trained*, the love of Praiseworthiness, the dread of Blameworthiness, is a stronger feeling, than the love of *actual Praise*, the Dread of *actual Blame*” (1869: 298; emphasis added). As J. S. Mill himself (in editorial notes to an 1869 edition of his father’s *Analysis of the Phenomena of the Human Mind*) – placing much weight on his father’s distinction between love of “Praiseworthiness” per se and love of “actual Praise” – aptly puts it, moral education – “*favourable circumstances*” – would generate a powerful association “between *deserving* praise and *obtaining* it” (ibid.; emphasis added). Accordingly, moral education would ideally induce a strongly felt desire to merit “praiseworthiness” per se rather than mere “praise.” Indeed, the blandishments of pure “praise” per se may or may not provide adequate inducement for behavior that is congruent with the social interest. Hence, moral education – and as per the laws of association – could potentially provide an adequately countervailing weight to the “*direct motive of obtaining praise where it is to be obtained by other means than desert*” (ibid.: 299; emphasis added). As James Mill had put it, in a mind “happily trained ... the secondary feeling [desire to be praiseworthy per se] ... [would become] more powerful than the primary [desire for praise per se]” (ibid.: 298).

Yet, and as Mill notes, any requisite improvements in moral education are “necessarily very gradual ... the future generation is educated by the present, and the imperfections of the teachers set an invincible limit to the degree in which they can train their pupils to be better than themselves” (Mill 1967 [1879]: 740). As Mill, writing to Harriet Taylor in 1849, puts it:

I cannot persuade myself that you do not greatly overrate the ease of making people unselfish. Granting that in “ten years” the children of a community might by teaching be made “perfect” it seems to me that to do so there must be perfect people to teach them.

(Mill 1965: 1030)

Accordingly, the workability of any socialist schemes requires “qualities both moral and intellectual, *which require to be tested in all, and to be created in most* ... this cannot be done by an Act of Parliament, but must be ... a work of a considerable time” (Mill 1967 [1879]: 750; emphasis added). As Mill similarly remarked in 1845: any “change from wrong to right ... is not so easy to make, as to wish for, and to talk about ... *Society ... has a long and difficult apprenticeship yet to serve*” (Mill 1967 [1845]: 366; emphasis added).

Mill, placing much weight on moral education per se, places similarly heavy weight on the lessons taught by experimental trial. As Mill would later note, cooperative experiments would provide the laboring classes with “a course of education in those *moral and active qualities* by which alone success can be either deserved or attained” (1965: 793; emphasis added). Accordingly, every

theory of social improvement, *the worth of which is capable of being brought to an experimental test, should be permitted, and even encouraged, to submit itself to that test.* From such experiments the active portion of the working classes would derive lessons ... [and obtain] the means of correcting ... whatever is now erroneous in their notions of the means of establishing their independence; and of discovering the conditions, *moral, intellectual, and industrial, which are indispensably necessary for effecting ... the social regeneration they aspire to.*

(*ibid.*: 903–4; emphasis added)

Thus, the “best interests of the human race imperatively require that all economical experiments, voluntarily undertaken, should have the fullest license” (*ibid.*: 934).⁶⁵ As Mill – viewing socialism as clearly impractical on anything other than a small scale – notes, the spread of worker owned and worker managed firms would provide “*the nearest approach to social justice, and the most beneficial ordering of industrial affairs for the universal good, which it is possible at present to foresee*” (*ibid.*: 794; emphasis added).

Mill’s reference to social justice is guaranteed to rankle with any Hayekian (see, e.g., Hayek 1978: 63–4, 176). Yet, and as we shall see, Hayek and Mill have starkly incongruent views of social justice. For Hayek, social justice is a meaningless concept: it would only make sense if any supposed social or distributive injustice were an intended consequence of human will per se. Accordingly, inequalities of wealth or income are neither just nor unjust. As Samuel Hollander has rightly noted, Mill’s “overriding concern” was social justice (Hollander 1985: 826). For Mill, social justice is interpreted as “equality of opportunity” writ large; institutions and laws ought to weight each individual’s happiness equally. Hayek seemingly considers Mill’s advocacy of social justice to imply that government has a supposedly binding obligation to attain a particular – and ostensibly lexicographically weighted – pattern of income distribution per se. Accordingly, Hayek considers social justice to imply full-blown command planning. As we shall see, the evidence provides much support for Hollander’s reading of Mill.⁶⁶

Social justice and the difficulties of communism: dust in the balance?

Much of the reason why Hayek is less than enamored – to put it mildly – with Mill is the result of Hayek’s sharp objections to Mill’s views on the subject of social and distributive justice: for Hayek, “only situations which have been

created by human will can be called just or unjust ... [hence] *a spontaneous order* [e.g., a market economy] *cannot be just or unjust*" (Hayek 1978: 33; emphasis added). For Hayek, justice (or injustice) is an attribute of human conduct and intentions per se (ibid.: 62). Consequently, Hayek – taking much umbrage at Mill's allegedly spurious distinction between the laws supposedly governing production and the laws governing distribution – argues that Mill's "amazing assertion that one can explain production without examining what determines its direction and method" (Hayek 1983: 92) led Mill to supposedly maintain that as any

product ... [is] available irrespective of the guiding factor of prices ... it would become a matter of [the] arbitrary will of the owners of the given product which just was there to decide to whom it ought to go ... This ... became a moral problem which still left open whose moral duty it was to arrange the distribution.

(ibid.; emphasis added)

Accordingly, Mill – "vaguely aware that the classical conception of distributive justice, *like all moral rules*, applied *only* to the *actions of persons*" (ibid.; emphasis added) – supposedly "invented and ... gave currency to the *new* conception of social justice ... [thus] implying that society ... ought to decide how ... [given] resources ought to be shared" (ibid.; emphasis added).

Hayek argued that to impute "justice" per se (or "injustice") to any emergent, or spontaneous order (e.g., a system of market exchange) would only have any genuine moral weight or meaning "in so far as we [could] hold *someone* responsible for bringing it about" (Hayek 1978: 31; emphasis added). Thus, Hayek considers it a serious "category mistake" (ibid.) to impute justice or injustice to any "circumstances *other than human actions* or the *rules governing them*" (ibid.; emphasis added). Hence, it is supposedly meaningless to impute the attribute of "justice" or "injustice" to any emergent, or spontaneously generated, pattern per se (e.g., a snowflake, or, and rather more pertinently, the pattern of income distribution in a market economy). For Hayek, the pattern of income distribution per se – the unintended consequence of myriad individual choices – can supposedly be neither just nor unjust in any meaningful sense.

Accordingly, Hayek (1978: 63) – noting Mill's argument that

we should treat all equally well (when no higher duty forbids) who have deserved equally well of us, and that society should treat all equally well who have deserved equally well of it ... This is the highest abstract standard of social and distributive justice; towards which all institutions, and the efforts of all virtuous citizens, should be made in the utmost degree to converge.

(Mill 1969 [1861]: 257; emphasis added)

– maintains that Mill is "wholly unaware" (Hayek 1978: 64) that "social" and "distributive" justice (ibid.: 63) could only really have any meaningful

applicability to an overall “factual state of affairs” – for example, a pattern of income distribution per se – that had “been brought about by *deliberate human decision*” (ibid.: 63–4; emphasis added). Thus, as Hayek explains, “social” or “distributive” justice (or injustice) could only have genuine meaning – and normative weight – when invoked to accord normative status to the pattern of income distribution in a wholly planned economy: an economy where the wage structure – along with all other prices and quantities – *is* manifestly the result of conscious human design. As Hayek puts it, “social justice” can “be given a meaning *only* in a ... ‘command’ economy,” and “could be realized *only* in such a centrally directed system” (ibid.: 69; emphasis added).

Accordingly, and as per Hayek’s reading of Mill’s supposedly sharp dichotomy between the laws governing production and the laws governing distribution – Hayek interpreting Mill to imply that the pattern of income distribution in any market economy is unjust per se – Hayek views Mill’s “conception of ‘social justice’ ... [as inevitably leading] to full-fledged socialism” (1978: 64): As Hayek puts it, the attainment of social justice necessitates the wholesale “suppression of individual freedom” (Hayek 1983: 93).⁶⁷

Hayek’s argument – whatever merits it may have per se (or lack of such) – and as implicitly suggested by Hollander (1985: 826), is inapplicable to Mill. For one thing, while Mill considered the laws of distribution manifestly pliable – “the manner in which wealth is distributed in any given society, depends on the statutes or usages therein obtaining” (Mill 1965: 21) – they could not be manipulated and altered without changing incentives: as Mill explains, “governments ... have the power of deciding what institutions shall exist ... *they cannot arbitrarily determine how those institutions shall work*” (ibid.; emphasis added).

What of Mill’s view of social justice? As Hollander (1985: 826; emphasis added) rightly makes clear, “social justice ... can be interpreted, *as Mill came to interpret it*, as the highest category of utility – *and by which he understood respect for individuality to be satisfied by equality of opportunity.*” Indeed, Mill – in the passage in *Utilitarianism* to which Hayek makes critical reference (1978: 63) – makes abundantly clear that the “abstract standard of social and distributive justice” he had invoked is inextricably “involved in the very *meaning* of Utility, or the Greatest Happiness Principle ... [Hence] *one person’s happiness ... is counted for exactly as much as another’s*” (Mill 1969 [1861]: 257; emphasis added), Indeed, “[a]ll persons are deemed to have a *right* to equality of treatment, except when some recognised social expediency requires the reverse” (ibid.: 258).

As Mill tellingly notes, Bentham’s “dictum, ‘everybody to count for one, nobody for more than one’ ... might be written under the principle of utility as an explanatory commentary” (Mill 1969 [1861]: 257). As Mill puts it elsewhere, abolition of cottier tenure would make the Irish “peasant [feel] ... that he is somebody – *that he counts for something on the earth – that he is also one of those for whose sake the institutions of society exist*” (1986 [1846]: 913; emphasis added). Accordingly, anyone who sympathizes with the hapless cottier peasantry – “the people” per se – rather than merely with “great landlords” would

advocate peasant proprietorship: a “state of society in which ... [the peasantry] *count for something*” (ibid.: 971; emphasis added). Mill’s essay “Endowments” (1967 [1869]: 615–29) is similarly telling:

Common justice requires ... that in the employment of the endowments equal provision should be made for the education of both sexes ... *one girl ought to count for exactly as much as one boy* ... it is an essential part of a *just scheme* for the use of [endowments] ... *that the benefit of them should be given alike to girls and to boys, without preference or partiality.*

(Mill 1967 [1869]: 628–9; emphasis added)

And as Mill, expanding on the particular passage in the essay on *Utilitarianism* to which Hayek took much exception (Hayek 1978: 63), explains:

The entire history of social improvement has been a series of transitions, by which one custom or institution after another, *from being a supposed ... necessity of social existence, has passed into the rank of an universally stigmatized injustice and tyranny.* So it has been with the distinctions of slaves and freemen, nobles and serfs, patricians and plebeians; *and so it will be, and in part already is, with the aristocracies of colour, race, and sex.*

(Mill 1969 [1861]: 259; emphasis added)⁶⁸

For Hayek, as already noted, a spontaneous order (e.g., a spontaneously generated path in the snow or a market economy) cannot be unjust: the overall pattern of income distribution is not the result of any individual’s intentions per se. As Hayek explains, it “is not the *intended* ... result of somebody’s action that A should have much and B little ... [hence] this cannot be called just or unjust” (Hayek 1978: 33; emphasis added). Mill takes a markedly opposite tack to Hayek: a spontaneous order – a private property regime where (to invoke Hayek’s notation) A has “much” and B has decidedly “little” (e.g., cottier tenure in Ireland) – can manifestly be deemed unjust. The supposed social injustice, however, is squarely rooted in the overall regime of grossly unfair rules and institutions (e.g., the laws governing land tenure in Ireland) that generate the baneful distributive outcome: the institutional regime (the governance structure broadly construed) manifestly places other than equivalent weight on the well-being of the cottier (B) and the well-being of the landlord (A). Indeed, Mill’s vehement disdain for “[t]hose who think that the land of a country *exists for the sake of a few thousand landowners*” rather than the majority of the populace (1965: 325; emphasis added) is readily apparent. As Mill acerbically notes, the generality of Irish landlords “do nothing for the land but drain it of its produce” (ibid.: 229).⁶⁹

Intriguingly, Mill – providing a moving eulogy for the late Harriet Taylor Mill (and tellingly pointing to the particular distributive ideal they jointly shared) – significantly notes in a letter to Louis Blanc:

you, more than most men, can sympathize in the nobleness of her public objects, which never stopped short of *perfect distributive justice* as the final aim, implying therefore a state of society entirely communist in practice and spirit, *whether also in institutions or not*.

(Mill 1972 [1859]: 601; emphasis added)⁷⁰

Yet, and as noted earlier, Mill considered industrial self-governance (worker co-operatives) to allow for as close an approach to social and distributive justice as could reasonably be attained within any private property regime. Industrial self-governance is deemed a readily attainable goal; as Mill rather appositely puts it in the posthumous “Chapters on Socialism”: the “best” aspects of “the old and the new ... may be combined in a renovated social fabric” (1967 [1879]: 708).

Importantly, Mill repeatedly alludes to the particular standard of distributive justice – the “proportioning of remuneration to labour” (1965: 210) – by which any private property regime is to be seemingly judged. Indeed, Mill, in a noteworthy passage initially appearing in the 1852 edition of *The Principles*, argues that to ultimately judge

the institution of property, we must suppose everything rectified, which causes the institution to work in a manner opposed to that equitable principle, of proportion between remuneration and exertion, on which in every vindication of it that will bear the light, it is assumed to be grounded.

(1965: 208; emphasis added)

As Mill – pointing to the way in which the “progress of society” (in a private property regime) allows non-improving landlords to “grow richer, as it were in their sleep, *without working, risking, or economizing*” (ibid.: 819; emphasis added) – sharply notes, “What claim have they, on the *general principle of social justice*, to this accession of riches?” (ibid.: 820; emphasis added).

Accordingly, Mill judges particular institutional arrangements per se (e.g., cottier tenure in Ireland) unjust because the pattern of income distribution is too heavily influenced by mere accidents of birth – the manifestly unfair “chapter of accidents” (1965: 212) – than by individual industry and frugality per se. Similarly, in stating that the “very idea of distributive justice, *or of any proportionality between success and merit, or between success and exertion*, is in the present state of society so manifestly chimerical as to be relegated to the regions of romance” (1967 [1879]: 714; emphasis added), Mill is locating the supposed distributive injustice in the overall framework of laws and institutions – the prevailing “social arrangements” (ibid.: 713) tend to generate an inequitable pattern of income distribution, idle and non-improving landlords per se are amply rewarded while the mass of the laboring populace receive markedly little. As Mill notes, a “*few* are born to great riches, and the *many* to a penury” (ibid.: 710; emphasis added). Accordingly, the majority are “debarred by the accident of birth ... from the enjoyments ... *which others inherit without exertion* and independently of desert ... this is an evil equal to almost any of those against which mankind have hitherto struggled” (ibid.; emphasis added).⁷¹

Consequently, any “socially just” governance structure would patently not privilege any particular individual or group per se (e.g., Irish landlords) at the manifest expense of another group’s well-being and happiness (e.g., the moral and material well-being of the Irish cottier peasantry). Accordingly, it is unclear why Hayek would interpret Mill’s advocacy of social justice as implying that Mill supposedly thought that government could readily change the laws governing distribution with impunity: the government supposedly manipulating distributive shares without having any impact whatsoever on incentives. Indeed, Mill is insistent that the

consequences ... of the rules according to which wealth may be distributed ... are as little arbitrary ... as the laws of production ... Society can subject the distribution of wealth to whatever rules it thinks best: but what *practical results will flow from the operation of those rules* must be discovered ... by observation and reasoning.

(Mill 1965: 200, italics added)

Similarly, Mill is highly critical of any scheme whereby a governing authority (e.g., the ruling body – supposedly “persons of genius and virtue” (ibid.: 211) – under St. Simonian socialism) would have absolute authority to adjust and apportion individual rewards in accordance with whatever particular distributive criteria may have been adopted. As Mill makes clear, any attempt to attain distributive justice by such means is neither practicable per se nor desirable. As Mill – pointedly arguing against the “non-communistic Socialism known as St. Simonism” (ibid.: 210) – puts it:

[To] suppose that one or a few human beings ... *could* ... by whatever machinery of subordinate agency, *be qualified to adapt each person’s work to his capacity, and proportion each person’s remuneration to his merits – to be, in fact, the dispensers of distributive justice to every member of a community*; or that any use which they could make of this power would give general satisfaction, or would be submitted to without the aid of force – *is a supposition almost too chimerical to be reasoned against* ... that a handful of human beings should weigh everybody in the balance, and give more to one and less to another at their sole pleasure and judgment would not be borne, unless from persons believed to be more than men, and backed by supernatural terror.

(ibid.: 211; emphasis added)

Moreover, and as Mill readily notes, the scheme would in all probability prove “a complete failure” and “supposes an absolute” – and patently undesirable – “despotism in the heads of the association” (ibid.).

Similarly, Mill maintains that any attempt by a central authority or body to regulate wages (or distributive shares more generally) – for example, an authority arbitrating a wage dispute in a private property regime (1967 [1879]: 744) or attempting to fully attain an ostensibly equalitarian standard of distributive justice

(*ibid.*: 744–5) – would be fraught with difficulty and generate great social discord. In particular, Mill points to the multiple (and incompatible) standards of distributive justice which the parties involved in any wage dispute (or distributive dispute under communism) would surely invoke to legitimate their favored distributive outcome (see, e.g., Mill 1969 [1861]: 244). Consequently, Mill views the “competition of the market” – the “rough method of settling the labourer’s share of the produce” – as a “practical necessity” (1969 [1865]: 341). As he explains:

civilization has not hitherto been equal to organizing anything better than this first rude approach to an equitable distribution. *Rude as it is*, we for the present go *less wrong* by leaving the thing to settle itself, than by settling it *artificially* in any mode which has yet been tried.

(*ibid.*)

As noted earlier, Hayek himself cedes that one can readily apply the terms “just” and “unjust” – imputing normative status *per se* – to the “*rules governing*” individual action (Hayek 1978: 31; emphasis added). Indeed, Hayek accepts the necessity to reconfigure “accepted rules” whenever legal evolution has spontaneously generated patently unjust consequences (1973: 89). As Hayek rightly notes, the laws governing the “relations between master and servant ... landlord and tenant ... [and] creditor and debtor ... have [historically] been shaped largely by the views of one of the parties” (*ibid.*). Moreover, Hayek pertinently notes that in his initial “two” examples, “one of the groups concerned ... almost exclusively *supplied* the judges” (*ibid.*; emphasis added). Indeed, as Hayek, quoting W. S. Jevons, aptly notes: “The great lesson” seemingly provided by 650 years of English parliamentary legislation “is that *legislation with regard to labour has almost always been class-legislation ... the effort of some dominant body to keep down a lower class*” (Jevons quoted in Hayek 1973: 168; emphasis added). Mill would agree (see, e.g., 1965: 929).

Social justice and equality of opportunity: Mill’s theory of non-competing groups

As noted earlier, Mill often invokes a particular and supposedly “*equitable principle of compensation*” (1965: 383; emphasis added) when imputing normative status – whether justness *per se* or otherwise – to a private property regime.⁷² This supposedly “equitable principle” would, Mill suggests, fully hold sway when workers were paid by the piece, as he explains:

Piece-work is the perfection of contract; and contract, in all work, and in the most minute detail – *the principle of so much pay for so much service, carried out to the utmost extremity* – is the system ... *in the present state of society and degree of civilisation*, most favorable ... to the worker; though most unfavorable to the non-worker who wishes to be paid for being idle.

(*ibid.*; emphasis added)

Similarly, “dislike ...[of] piece work [per se] ... except under mistaken notions, must be dislike to justice ... a desire to cheat, by not giving work in proportion to pay” (ibid.: 783; emphasis added). As Mill notes, the “equitable principle, of proportion between remuneration and exertion” (ibid.: 208) is nothing less than what Adam Smith had “erroneously represented ... as the *general law* of the remuneration of labour” (ibid.: 383; emphasis added). Importantly, Mill maintains that Smith’s supposed “law” governing remuneration – positing the “proportioning of remuneration to work done” per se – is ostensibly “really just ... [only] in so far as *the more or less of the work is a matter of choice*” (ibid.: 210; emphasis added). Accordingly, the theory of non-competing groups – barriers to occupational mobility unfairly carry much weight in determining relative wages per se – carries much weight when Mill imputes normative status to a private property regime. As Hollander rightly notes, Mill interprets social justice in a private property regime to imply genuine equality of opportunity: accordingly, any private property regime where the logic of non-competing groups seemingly holds much sway – and gross inequality of opportunity is the norm – is prima facie unjust.

As Mill notes, Adam Smith – implicitly supposing that individuals were homogenous (see Levy 2001: 209–13) – had supposed that wages would necessarily “vary with the ease or hardship, the cleanliness or dirtiness, the honourableness or dishonourableness of the employment” (Smith 1852: 42). Accordingly, a collier (having a markedly unpleasant job) would, as per Smith’s theory of compensating differentials, receive higher remuneration than an identical laborer working in more agreeable conditions. As Mill, in a passage initially appearing in the 1852 edition, notes, the “inequalities of remuneration ... supposed to compensate for the disagreeable circumstances of particular employments ... would ... be natural consequences of perfectly free competition” (1965: 383). And as Mill notes, “*between employments of about the same grade, and filled by nearly the same description of people*” – the inequalities of remuneration (compensating differentials) Smith had envisaged – are generally “realized in practice” (ibid.; emphasis added). Yet, and as Mill notes, “it is *altogether a false view of the ... facts*, to present this as the relationship which *generally* exists between agreeable and disagreeable employments” (ibid.; emphasis added). Indeed, as Mill, alluding to non-competing groups, readily makes clear:

inequalities of wages are generally in an opposite direction to *the equitable principle of compensation erroneously represented by Adam Smith as the general law of the remuneration of labour. The hardships and the earnings, instead of being directly proportional, as in any just arrangement of society they should be, are generally in an inverse ratio to one another.*

(ibid.; emphasis added)

As Mill explains, the

more revolting the occupation, the more certain it is to receive the minimum of remuneration, because it devolves on the most helpless and degraded, on

those who from squalid poverty, or from *want of skill and education*, are rejected from all other employments.

(*ibid.*; emphasis added)

Accordingly, and “independently” of various legal restrictions upon entry and “other artificial monopolies,” there is supposedly “a *natural monopoly* in favor of skilled labourers against the unskilled, which makes the difference of reward [between the two groups] exceed ... what is sufficient merely to equalize their [net] advantages” (*ibid.*: 386; emphasis added). Hence, unskilled labor – wanting in “skill and education” – cannot compete with skilled labor and inequality of opportunity is the norm: the “fact that a course of instruction is required, of even a low degree of costliness ... suffices everywhere to *exclude* the great body of the laboring people from the possibility of any such competition” (*ibid.*; emphasis added). As Mill puts it, “*so strongly marked [is] the line of demarcation, between the different grades of labourers as to be almost equivalent to an hereditary distinction of caste; each employment being chiefly recruited from the children of those already employed in it*” (*ibid.*: 387; emphasis added). Indeed, “unskilled labourers ... *remain from father to son in their pristine condition*” (*ibid.*: 388; emphasis added).⁷³

As noted earlier, Mill’s judgment that the established private property regime is manifestly unjust places heavy normative weight on the logic of the theory of non-competing groups. For instance, in the essay “Endowments,” Mill, alluding to the “distinction of caste” which is seemingly – as per the theory of non-competing groups – the inevitable lot of the unskilled laborer, notes that the

real hardship of social inequalities to the poor ... is not that men *are* unequal, but that they are born so; not that those who are born poor do not obtain the great objects of human desire unearned, but that the circumstances of their birth preclude their earning them ... the higher positions in life ... can not only be obtained by the rich ... but ... none, as a rule, except the rich, have it in their power to make themselves qualified.

(Mill 1967 [1869]: 628)

Hence, the provision of free higher education to every qualified

child of poor parents ... would ... [open that] power to him [or her] ... and the feelings which give rise to Socialism would be in a great measure disarmed, in as much of them as is unreasonable or exaggerated, *by this just concession to that in them which is rational and legitimate.*

(*ibid.*; emphasis added)

At this juncture, I note Hayek’s pertinent reference to an argument that is oft-invoked to supposedly demonstrate the “injustice of the ... market order” (1978: 91–2): the argument “that the most unpleasant jobs are commonly also the worst paid” (*ibid.*: 92). For Hayek:

the only assumption on which it could be represented as *just* that the miner working underground ... should be paid more highly than those engaged in more pleasant occupations, would ... be that this was necessary to *induce* a sufficient number of persons to perform [this task] ... or that [a central authority had] ... *deliberately* assigned [them] to [this task].

(*ibid.*: 92–3; emphasis added)

And significantly, Hayek argues that while it may, in a market economy, “be a misfortune to have been born ... in a village where for most *the only chance of making a living* is fishing ... *it does not make sense to describe this as unjust*” (*ibid.*: 93; emphasis added). Mill would beg to differ: the mass of the Irish populace had scant choice other than the misery associated with cottier tenure. In the manifest absence of genuine equality of opportunity, the “great majority are what they were born to be” (Mill 1967 [1879]: 714). For Mill, this is clearly unjust. As noted earlier, however, any supposed injustice is the consequence of inequitable institutions per se: the laws of property unjustly privileging particular groups (e.g., landlords in Ireland and the already wealthy in England) while simultaneously reducing the moral and material well-being of the mass of the populace. As Mill puts it, the “laws of property ... have not held the balance *fairly* between human beings, *but have heaped impediments upon some, to give advantage to others*; they have purposely fostered inequalities and prevented all from starting *fair* in the race” (1965: 207; emphasis added).⁷⁴

Any Hayekian – reading Mill’s statement that if a private property regime

necessarily carried with it as a consequence, that the produce of labour should be apportioned as we now see it, almost in an inverse ratio to the labour ... if *this or Communism* were the alternative, *all the difficulties, great or small, of Communism would be as dust in the balance.*

(*ibid.*: 207; emphasis added)

– might prematurely conclude that Mill is providing a blanket condemnation of private property per se.⁷⁵ Indeed, alluding to the theory of non-competing groups, Mill notes that “[i]ndividuals need not be *chained to an occupation*” under communism (*ibid.*: 209; emphasis added). Accordingly, the ostensible “restraints of Communism would be freedom in comparison with the present condition of the *majority of the human race*” (*ibid.*; emphasis added): As Mill explains, the “generality of labourers” per se have “as little *choice of occupation* ... as they could ... on any system short of actual slavery” (*ibid.*; emphasis added).⁷⁶ Yet, and as Mill makes abundantly clear, “[it] is not by *comparison* with *the present bad state of society* that the claims of Communism can be estimated” (*ibid.*; emphasis added). Indeed, to “make the *comparison* applicable, we must compare *Communism at its best*, with the regime of individual property, *not as it is, but as it might be made*” (*ibid.*: 207; emphasis added).

Ultimately, Mill’s alleged “socialism” bears scant resemblance to the specter – “command planning” – haunting the imaginations of Mises and Hayek: as Mill

explains, “[t]he principle of private property has never yet had a fair trial in any country; and less so, perhaps, in this country than in some others” (Mill 1965: 207). Consequently, the

object to be principally aimed at in the present stage of human improvement, is not the subversion of the system of individual property, *but the improvement of it, and the full participation of every member of the community in its benefits.*

(*ibid.*: 214; emphasis added)⁷⁷

As Mill puts it, “if all were done ... by instruction and [by wise] legislation ... [that would] diminish ... *inequality of opportunities* ... [any] *differences of fortune arising from people’s own earnings could not justly give umbrage*” (*ibid.*: 811; emphasis added). Accordingly, the “great end of social improvement” – one that is markedly congruent with co-operative associations and a private property regime – “should be to fit mankind by cultivation, for a state of society *combining the greatest personal freedom with that just distribution of the fruits of labour, which the present laws of property do not profess to aim at*” (*ibid.*: xciii; emphasis added).

Conclusion

Lionel Robbins, generally a highly sympathetic and careful reader of Mill, notes an ostensibly serious (and potentially fatal) weakness in Mill’s analysis of socialism and worker co-operatives: as Robbins, alluding to the Hayekian knowledge problem, explains, Mill supposedly did not “discuss the *mutual relations* of these co-operative associations of the future ... unless there is some solution of this problem the whole question of allocation of resources remains completely unsolved” (Robbins 1965: 159; emphasis added). As Mill, however, had readily explained in his otherwise sympathetic 1849 commentary on the Fourierist scheme, any “single Fourierist community” would merely be a “constituent” unit “of an *organised whole* ... otherwise competition would [necessarily] rage as actively between individual communities as it now does between individual merchants” (1965 [1849]: 985). Hence, and as Mill made abundantly clear, to totally do away with markets and competition would necessitate “nothing less ... than the organisation from a *single centre*, of the whole industry of a nation, and even of the world” (*ibid.*; emphasis added). This is clearly impracticable. As Mill, viewing the Fourierist machinery as wholly “unmanageable” (*ibid.*: 984), explains:

we may, without attempting to limit the ultimate capabilities of human nature, affirm, that the political economist, for a considerable time to come, will be chiefly concerned with the conditions of existence and progress belonging to a society founded on private property and individual competition.

(*ibid.*: 985; emphasis added)⁷⁸

As Mill explains, “rude as is the manner in which” private property and competition adequately “apportion reward to exertion and to merit, *they must form the basis of the principal improvements which can for the present be looked for in the economical condition of humanity*” (ibid.: 985; emphasis added).⁷⁹

Intriguingly, Mill, in every edition of the *Principles*, consistently adheres to the following objection to full-blown communism (see, e.g., 1965: 206, 977):

[T]he perfect equality contemplated in the theory of the scheme could not be really attained. The produce might be divided equally, but how could the labour? There are many kinds of work, and by what standard are they to be measured against one another? Who is to judge how much cotton spinning, or distributing goods from the stores, or bricklaying, or chimney sweeping, is equivalent to so much ploughing? *In the existing system of industry these things do adjust themselves with some, though but a distant approach to fairness.*

(Mill 1965 [1849]: 977; emphasis added)⁸⁰

Adam Smith famously argued that

[n]o society can surely be flourishing and happy, of which the greater part of the members are poor and miserable. *It is but equity* ... that they who feed, clothe and lodge the whole body of the people, should have such a share of the produce of their own labour as to be themselves tolerably well fed, clothed and lodged.

(Smith 1852: 33)

And as Samuel Hollander has rightly noted, Mill’s views have decidedly “*much in common with Adam Smith’s celebrated formulation*” (Hollander 1985: 826; emphasis added).

Accordingly, private property and competition provided a largely “*self-adjusting machinery*” (Mill 1965 [1849]: 977; emphasis added). Moreover, that machinery – admittedly not touching “some of the grossest of the existing inequalities of remuneration” (ibid.) – did, and in marked contrast to the “unmanageable nature of” the Fourierist “machinery” (ibid.: 984), work in a fashion.⁸¹ For Mill, social justice is to be attained by reforming the private property system – making it work in accordance with Smith’s “equitable principle of remuneration” – rather than by outlawing it wholesale.

Notes

- 1 “[Mill’s] ideas are to be encountered everywhere ... they have become popular catchwords. Everyone is familiar with them even if he is totally unacquainted with the author” (Mises 1981 [1922]: 154–5).
- 2 As we shall see, Mill’s analysis of the incentive structure inherent to cottier tenancy – and in particular, its supposed impact on the private costs associated with larger family size – manifestly belies Hayek’s assertion that “Mill treated market values

[e.g., rents under the cottier system] exclusively as *effects* and not also as *causes* of human decisions” (1988: 93; emphasis added).

- 3 As Hollander (1985: 813) aptly notes, syndicalism – when understood to imply (as per the Webbs’ usage) “the sewers for the sewage men”– is not a particularly accurate term for Mill’s favored co-operative associations.
- 4 I have only found one occasion where Mill refers to “associations of workmen manufacturing on their own account” as an attempt “to carry Socialism into practical effect” (1965: 210).
- 5 The chapters were written in 1869 and published after Mill’s death by his stepdaughter, “Helen Taylor, who can certainly be trusted not to have released anything which did not do justice to his most mature views” (Robbins 1967: xxxix).
- 6 Mill’s “philosophic Socialists” advocated a “new order of society, in which private property and individual competition are to be superseded and other motives to action substituted ... and would be applied to an entire country by the multiplication of such self-acting units” (1967 [1879]: 737).
- 7 Mill argues that English socialists “are not likely to rush headlong into the reckless extremities of some of the foreign Socialists, who ... proclaim themselves content to begin by simple subversion, leaving the subsequent reconstruction to take care of itself” (1967 [1879]: 709).
- 8 Elsewhere, Mill remarks that the

reasonable objections to socialism ... [are] altogether practical, consisting in difficulties to be surmounted ... their removal must be a work of thought and discussion, aided by *progressive experiments*, and by the general moral improvement of mankind, through good government and education.

(1967 [1851]: 444; emphasis added)

In the 1848 edition of the *Principles*, Mill remarks that

nothing tends more to the mental development of the working classes than that all the questions which Communism raises should be largely and freely discussed by them; nothing could be more instructive than that some should actually form communities, and try practically what it is to live without the institution of property.

(1965: 764)

- 9 “[I]f appearances can be trusted the animating principle of too many of the revolutionary Socialists is hate ... which would vent itself by putting an end to the present system at all costs” (Mill 1967 [1879]: 749). Moreover, implementation of the revolutionary socialist scheme would necessitate the “management of the whole productive resources of the country by one central authority, the general government” (ibid.: 737).
- 10 A “mixed agricultural and manufacturing association of from two thousand to four thousand inhabitants under any tolerable circumstances of soil and climate would be easier to manage than many a joint stock company” (Mill 1967 [1879]: 738–9).
- 11 Also see Mill’s letters to Adolf Soetbeer (Mill 1972 [1852]: 85) and Karl Rau (ibid.: 87).
- 12 Mill argues that socialism places greater demands “than those of any other system upon the intelligence and morality of the individual citizen” (1967 [1879]: 745).
- 13 The theory of dependence contends that it is the

duty of every owner of land, not only to see that all who dwell and work thereon are fed, clothed, and housed, in a sufficient manner; but to be, in so full a sense, responsible for their good conduct, as to indemnify all other persons for any damage they do, or offence they may commit.

(Mill 1967 [1845]: 373)

Mill, in an 1847 letter to Auguste Comte, is highly critical of the tenets of the theory of dependence (1995 [1847]: 382–4).

- 14 The so-called protectors are now the only persons against whom, in any ordinary circumstances, protection is needed . . . No man or woman who either possesses or is able to earn an independent livelihood, requires any other protection than that which the law could and ought to give.

(Mill 1965: 761)

- 15 This theme appears throughout Mill's writings: he consistently adheres to the view that the "efficiency of industry may be expected to be great, in proportion as the fruits of industry are insured to the person exerting it" (Mill 1965: 114). As he notes,

Industry and frugality cannot exist, where there is not a preponderant probability that those who labour and spare will be permitted to enjoy. And the nearer this probability approaches to certainty, the more do industry and frugality become pervading qualities in a people.

(*ibid.*: 707)

- 16 Mill decries the undemocratic nature of the capitalist firm: "The many who do the work . . . [are] mere *servants* under the *command* of the one who supplies the funds" (1965: 769; emphasis added). Similarly, the "workpeople [are] . . . *without a voice* in the management" of the capitalist firm (*ibid.*: 775; emphasis added).

- 17 Tocqueville might be reporting what he picked up in correspondence with Senior over the supposed incentive-incompatibility of universal poor relief:

Through their Poor Laws, the English have immobilized a sixth of their population. They have bound it to the earth like the medieval peasantry. Then, man was forced against his will to stay on the land where he was born.

(Tocqueville 1997 [1837]: 33; emphasis added)

- 18 Women employed in factories are the only women in the labouring rank of life whose position is not that of slaves and drudges; precisely because they cannot easily be compelled to work and earn wages in factories against their will.

(Mill 1965: 953)

- 19 The "would-be revivers of old times which they do not understand" inadequately recognize that any "guarantee of subsistence can only be practically kept up, when work is enforced and superfluous multiplication restrained by at least a moral compulsion" (Mill 1965: 762). Similarly, the "apostles of the new theory" do not understand that it is impossible to combine "the liberty of action of independent citizens, with the immunities of slaves" (Mill 1967 [1845]: 374).

- 20 As Levy pertinently notes, classical political economy presupposes that in "a world without effective mechanical contraception [or voluntary self-restraint] children will regularly follow marriage" (Levy 1992: 189). Families have an incentive to practice prudential restraint in marriage (whether by using mechanical contraception or by having sex less frequently) whenever the private and social costs of larger family size are approximately equal at the margin. The private costs associated with larger family size are simply the amount of parental consumption that is forgone when additional offspring are born. Institutional change can potentially induce greater divergence between the private and social costs associated with larger family size. Similarly, institutional change can potentially more closely align the two.

- 21 As Mill explains:

The complaint is, not that there is no improvement, but that there is not improvement enough – that wages which, with greater restraint on population, might be as high as in America, are kept down by too rapid multiplication. Malthusians would deplore that the advancement constantly taking place in the arts of life, and the good which may be expected from improved social institutions, and a better distribution of the fruits of labour, should be nullified for practical purposes, by serving,

as such things have always hitherto done, to increase the numbers of the labouring class much more than to improve their condition

(Mill 1967 [1851]: 449–50)

Similarly, “improved distribution, and a large remuneration of labour ... [are] the two desiderata” (Mill 1965: 758).

- 22 To give profusely to the people, whether under the name of charity or of employment, without placing them under such influences that prudential motives shall act powerfully upon them, is to lavish the means of benefiting mankind, without attaining the object.

(Mill 1965: 359)

- 23 Mill wryly remarks that while “minds are coarse they require coarse stimuli, and let them have them” (1965: 754).

- 24 “Associationism was for Mill what he said Comte’s version of history was for the French thinker, ‘the key to [his] other generalizations ... the backbone of his philosophy’ ... It was one of those ‘ultimate truths’ upon which other truths depend” (Carlisle 1991: 20). “The mind is a blank slate in which experiences are conjoined together to form pleasurable or painful associations” (Sheth 2004: 107). Mill explained that in

psychology, his [father’s] fundamental doctrine was the formation of all human character by circumstances, through the universal Principle of Association, and the consequent unlimited possibility of improving the moral and intellectual condition of mankind by education. *Of all his doctrines none was more important than this, or needs more to be insisted on.*

(1989: 95–6; emphasis added)

- 25 As James Mill put it:

How few men seem to be at all concerned about their fellow-creatures! How completely are the lives of most men absorbed, in the pursuits of wealth and ambition! With how many men does the love of Family, of Friend, of Country, of Mankind, appear completely impotent, when opposed to their love of Wealth, or of Power! *This is an effect of misguided association, which requires the greatest attention in Education, and Morals.*

(1829: 173; emphasis added)

- 26 The “capacity of co-operation ... like other faculties, tends to improve by practice, and becomes capable of assuming a constantly wider sphere of action” (Mill 1965: 708).

- 27 Similarly, Mill notes in the *Autobiography* that he and his wife (Harriet)

looked forward to a time when society will no longer be divided into the idle and the industrious; when the rule that they who do not work shall not eat, will be applied not to paupers only, but impartially to all.

(1989: 175)

- 28 Similarly, Senior remarks that

during the forty years immediately preceding the Poor Law Amendment Act, a large portion of the labourers of England were treated not as freemen but as slaves or domestic animals, and received not strictly speaking wages ... but rations proportioned to their supposed wants.

(Senior quoted in Robbins 1965: 98)

- 29 Senior had argued that “relief of the able-bodied ... [was] the grand abuse of the English Poor Laws ... Such a provision must increase population by diminishing the responsibility of marriage; it must diminish industry by making subsistence

independent of exertion” (1970: 81). Our concern here is not to examine the accuracy or otherwise of Senior’s (or Mill’s) highly negative view of the old poor law per se. I highly recommend the analysis provided by Boyer (1990).

- 30 Boyer (1990) argues that the Commissioners of Inquiry vastly over-estimated the asymmetric information problem supposedly plaguing the old poor law.
- 31 In a letter to Tocqueville dated March 18, 1835, Senior writes of the Report of the Poor Law Commissioners:

The report, or at least three-fourths of it, was written by me, and all that was not written by me was re-written by me. The greater part of the Act, founded on it, was also written by me; and in fact I am responsible for the effects, good or evil (and they must be one or the other in an enormous degree), of the whole measure.

(1968 [1835]: 13)

- 32 Mill writes that he “cannot concur” with Harriet Martineau’s

unqualified condemnation of the principle of the poor-laws ... she is decidedly behind the present state of the science; political economists having mostly abandoned this among other exaggerated conclusions to which naturally enough they had pushed the principle of population ... The recent investigations of the poor-law commission ... seem to us as conclusive in support of the *principle* of a poor-rate, as they are in condemnation of the existing practice.

(1967 [1834]: 227–8)

- 33 The Irish Poor Law (1838) only provided indoor relief (Mill 1986 [1846]: 881). The Irish peasantry, unlike their English counterparts, had no statutory right to indoor relief per se.

- 34 “Give as much as you will, but let it be for the permanent improvement of the condition of the people” (Mill 1986 [1846]: 886). Similarly, “we will not venture to say what sum of money we would not willingly give, and call on others to give, for so noble a purpose” (ibid.). Mill is justifiably acidic toward an Irish landlord who – calling for “sympathy and *money* from England” (ibid.: 980) – invoked the 20 million pounds that were spent as part of the compensation package associated with the ending of slavery in the West Indies. As Mill tartly puts it, England would happily pay

[a]s much and more ... for the freedom and comfort of the ... Irish cottier. But its gifts are not for the serf’s master. *It did not pay twenty millions to the slaveowner and leave the slaves no better than they were before.*

(ibid.; emphasis added)

- 35 The Irish Poor Law Extension Act, granting outdoor relief, became legislation in June 1847.

- 36 An important caveat is in order. Hollander (1985: 745–7) notes Mill’s rather favorable (albeit, on Malthusian grounds, somewhat guarded) view of the “pledge of full employment” (ibid.: 745) provided by the French Provisional Government in February 1848. As Mill notes, the “droit au travail ... would be a fatal gift ... unless some new restraint were placed upon the capacity of increase, equivalent to that which would be taken away” (1985 [1849]: 349–50). I refer the reader to Hollander’s fine discussion for analysis of this point. Similarly, even if the

state [were to] ... guarantee employment at ample wages to all who are born ... [It would be] bound in self-protection ... to provide that no person shall be born without its consent. *If the ordinary and spontaneous motives to self-restraint are removed, others must be substituted.*

(Mill 1965: 358–9; emphasis added)

Senior’s view, seemingly condemning the droit au travail per se, is sharply at variance with that of Mill (see, e.g., Robbins 1965: 134–41).

37 Similar themes appear in Mill's writings on Ireland:

So long as the poor-rate is available to him, he will accept of nothing which is only to be obtained by real work. When the vast number of paupers shall have consumed, or their disinclination to work shall have destroyed the fund from which the eleemosynary support is drawn, they will throw themselves upon England . . . [Ultimately] *we shall be forced to begin treating the Irish people as moral agents, influenced by motives, and who must be acted on by a system of moral government, and not as creatures whom we can feed like pigs or turkeys, and prevent as easily from straying out of the bounds of the sty or poultry yard.*

(Mill 1986 [1846]: 1072–3; emphasis added)

38 G. P. Scrope (a Member of Parliament and an inveterate pamphleteer to boot) advocated a scheme whereby the Irish peasantry would receive outdoor relief in exchange for labor on public works. Scrope had maintained that because the Irish peasantry were “already pauperized” (Mill 1986 [1846]: 1007) it was not possible to render indoor relief less attractive than self-support by independent labor per se: hence the logic allegedly inherent to the “less-eligibility” principle was singularly inoperative.

39 My discussion of non-convexity owes much to Levy (1992: 252–4).

40 Mill's “Claims of Labour” closes with a scathing attack on the “Allotment System” (Mill 1967 [1845]: 387–9): “What is Ireland but the allotment system made universal?” (ibid.: 389). Importantly, the key point in Mill's scathing attack on cottier tenure – a cottier regime supposedly reduces the private marginal cost of larger family size to zero – can be found in “The Claims of Labour” (ibid.).

41 Stigler's remark that the “classical economists were at their best when it came to specific problems” (Stigler quoted in Levy 2001: 55) is particularly apposite when evaluating Mill's writings on Ireland. Hollander rightly notes that some “of Mill's finest writing is reserved for a condemnation of the system [of cottier tenure] as it existed in Ireland” (1985: 243).

42 Whenever a population excessive in proportion to the productive power of its industry, depends for subsistence wholly upon the occupancy of land, their competition drives them to offer for the land a rent merely nominal, a rent greater than the utmost . . . they can possibly pay.

(Mill 1986 [1846]: 889)

43 Mill argues that many landlords “preferred increase of power [per se] . . . to increase of income; and were not unwilling that their tenant should enter into engagements which they knew he could not fulfil” (1986 [1846]: 890). The tenant – invariably in debt to the landlord – was thus “in the landlord's power, and could at all times, as far as law was concerned, be ejected at pleasure” (ibid.).

44 “Except . . . [for] the daily meal of potatoes, everything . . . [the cottier] raises from the soil belongs to the landlord” (1986 [1847]: 1060).

45 [The] cottier . . . has agreed to pay . . . a rent generally higher than it is possible he should really pay and continue to live . . . Everything the peasant proprietor can raise is his own. The proprietor, if he invests any labour in the soil, improves his own property; the cottier only the landlord's. If the proprietor works hard, early and late, the gain is his; if the cottier were fool enough to do so, the whole benefit would be the landlord's. If the proprietor has a larger family than can either be useful on the land, or find employment elsewhere, the burthen is his; if the cottier does so, it is the landlord's. The landlord alone gains by the cottier's industry, and alone loses by his indolence or misconduct.

(1986 [1847]: 1060)

- 46 “Almost alone amongst mankind the cottier ... can scarcely be either better or worse off by any act of his own ... A situation more devoid of motives to either labour or self-command, imagination itself cannot conceive” (Mill 1965: 318–19).
- 47 I leave aside any adequately detailed examination of the suggested policy measures – changing with ever-changing circumstances – by which Mill hoped to engineer the transition from cottier tenure to peasant proprietorship in Ireland. I refer the reader to Hollander (1985: 847–55).
- 48 The salutary material and moral effects that Mill expects peasant proprietorship to provide resolve themselves, “like most questions respecting the condition of the labouring classes, into one of population. Are small properties a stimulus to undue multiplication, or a check to it?” (1965: 277). Mill considers the available evidence to readily indicate that peasant proprietorship closely aligns the private and social costs associated with any increase in family size (ibid.: 259). The examples of Norway and Switzerland – “countries of small landed proprietors” (ibid.: 158) – are adduced to illustrate the beneficial consequences of “a great degree of voluntary prudence” (ibid.: 157).
- 49 Plans for fixity of tenure per se differ subtly – the “plan technically called fixity of tenure is not our plan” – from Mill’s favored scheme for encouraging peasant proprietorship in Ireland (Mill 1986 [1846]: 905): the “plan” for fixity of tenure per se – the landlord would be unable to evict the tenant unless rents were unpaid – held that the “present rent would be *fixed for ever* as a quit-rent” (ibid.: 896; emphasis added). Mill viewed this plan as unjust unless landlords were compensated for the present value of any foregone increases in expected future rents (ibid.: 897, 905–6). Mill’s favored engine for creating peasant proprietorship is the reclamation of the Irish wastelands (ibid.: 898–901, 910–13). Again, compensation (the “present value”) would be paid to the landowner: “The value of the *bogs and mountains* to their nominal owners is but a trifle” (ibid.: 910; emphasis added). In many ways, the fixity of tenure plan (strictly understood) is rather akin to a second-best land tenure policy for Mill. The key point for Mill is that any desirable scheme for effecting a permanent improvement in the material and moral well-being of the populace would provide the cultivator with a de facto “permanent interest in the soil” (ibid.: 907): perpetuity of tenure at a fixed rent.
- 50 [It] is not where a high standard of comfort has rooted itself in the habits of the labouring class, that we are ever called upon to consider the effects of a cottier system. That system is found only where the habitual requirements of the rural labourers are the lowest possible.
(Mill 1965: 317; emphasis added)
- 51 [The Irish] people have been for half a thousand years under such a *regime* [cottier tenure] as this, and men wonder at them for their indolence, and their want of enterprise, and their improvident marriages ... to tell us in all gravity, that because they are all this, therefore they are so by nature and because of a difference of race, is a thing which might rouse the indignation even of persons not very quickly moved to such a sentiment.
(Mill 1986 [1846]: 891)

Mill wrote:

Is it not, then, a bitter satire on the mode in which opinions are formed on the most important problems of human nature and life, to find public instructors of the greatest pretension, imputing the backwardness of Irish industry, and the want of energy of the Irish people in improving their condition, to a peculiar indolence and *insouciance* in the Celtic race? Of all vulgar modes of escaping from the consideration of the effect of social and moral influences on the human mind, the most vulgar is that of attributing the diversities of conduct and character to natural differences.

(Mill quoted in Peart and Levy 2005: 31)

The particular public instructor Mill has in mind is Thomas Campbell Foster – the *Times* correspondent on the agricultural situation in Ireland (see Mill 1986 [1846]: 887). Mill, writing to John Pringle Nichol, similarly takes Comte to task for his “resolute” ignorance “of the laws of the formation of character ... and ... [Comte] assumes the differences which he sees between women and men, philosophers and men of action, rich people and proletarians ... [are] ultimate, or at least necessary facts” (Mill 1963 [1848]: 739).

- 52 Similar themes appear in the exchange with Carlyle, where Mill charges Carlyle with falling prey to the “vulgar error” of

imputing every difference which he finds among human beings to an original difference of nature. As well it might be said, that of two trees, sprung from the same stock, one cannot be taller than another but from greater vigour in the original seedling. *Is nothing to be attributed to soil, nothing to climate, nothing to difference of exposure – has no storm swept over the one and not the other, no lightning scathed it, no beast browsed on it ... no passing stranger stript off its leaves or its bark?*

(Mill 1850: 29; emphasis added)

- 53 Peasant proprietorship provided an immensely “powerful instrument for raising a population from semi-savage listlessness ... to persevering industry and prudent calculation” (Mill 1965: 768).

- 54 Associationist doctrine is again apparent: “[T]he individual is the sum of the impressions that have been made on him ... *Character* – the word that derives from the Greek root meaning an instrument for making an impress, a stamp – epitomizes the assumptions of this theory” (Carlisle 1991: 19). Adam Smith takes a similar stance:

The difference of natural talents in different men is, in reality, much less than we are aware of ... the very different genius which appears to distinguish men of different professions ... is not upon many occasions so much the cause, as the effect of the division of labour.

(Smith 1852: 7)

Importantly, Smith suggests that if all had “the same duties to perform, and the same work to do ... there could have been no such difference of employment as could alone give occasion to any great difference of talents” (ibid.: 29).

- 55 Mill notes that while “natural differences are something, habit is much more” (1965: 127). Having noted that women generally display much “greater versatility than men” – women were seemingly more rather adept at rapidly turning their hand to various tasks – Mill is insistent that habit, “much more than nature, is the cause of the difference. The occupations of nine out of every ten men are special, those of nine out of ten women general, embracing a multitude of details” (ibid.: 127–8). Mill similarly remarks that of

all tillers of the soil, the cottier is the one who has the least to gain by any voluntary exertion; the small [peasant] proprietor has most ... [This] is but the natural result of their circumstances. Put each in the situation of the other, and their characters will be reversed.

(Mill 1986 [1846]: 958)

- 56 As Mill pointedly notes, a markedly similar homogeneity – and that notwithstanding the “greater diversity of education ... than would exist in the Communistic regime” – is among the “glaring evils of the *existing* state of society” (1965: 209; emphasis added). The same sentiment is apparent in the “Chapters on Socialism” (Mill 1967 [1879]: 746).

- 57 Mill, in the *Principles*, invokes communism whenever he is pointing to any system whereby the communal income is divided on a purely equalitarian basis: e.g., Blanc’s and Owen’s respective schemes for social regeneration (1965: 203). Mill designates

- any scheme as socialist if it readily admits “inequality” in the division of output on the grounds “of justice or general expediency” (ibid.): e.g., the St. Simonian and Fourierist plans to reconfigure the social fabric.
- 58 Stigler’s remarks about Mill’s fairness are aptly illustrated by the various editions of the *Principles*. Mill’s preface to the 1849 edition of the *Principles* states that the “objections therein [the chapter “Of Property”] stated to the specific schemes propounded by some Socialists, have been erroneously understood as a general condemnation of all that is commonly included under that name” (1965: xcii). Mill’s preface to the 1852 edition states that the “chapter on Property has been almost entirely rewritten. I was far from intending that the statement which it contained ... should be understood as a condemnation of Socialism” (ibid.: xciii).
- 59 Again, the logic underlying the tenets of associationist psychology is readily apparent. As James Mill had explained, “[w]hen Education is good, no point of morality will be reckoned of more importance than the distribution of Praise and Blame ... *They are the great instruments we possess for ensuring moral acts on the part of our Fellow-creatures*” (1829: 251; emphasis added).
- 60 Any one who supposes ... [public] opinion would not have a great effect on conduct, must be profoundly ignorant of human nature; can never have considered how large a portion of the motives which induce the generality of men to take care even of their own interest, is derived from regard for opinion – from the expectation of being disliked or despised for not doing it.
(Mill 1965: 371)
- 61 Mill argues that profit-sharing is eminently capable of “indefinite extension” and would, he expects, ultimately give way to a “state of purely co-operative associations” (1967 [1879]: 743). Co-operative schemes increase the “productiveness of labor” by providing a “vast stimulus ... to productive energies,” placing the laborers “in a relation to their work which would make it their principle and their interest – at present it is neither – to do the utmost, instead of the least ... in exchange for their remuneration” (1965: 792).
- 62 “Communitistic management would ... [be] in all probability, less favourable than private management to ... [the] striking out of new paths ... which, though seldom unattended with risk, is generally indispensable to great improvements in the economic condition of mankind” (Mill 1967 [1879]: 742).
- 63 Similarly, Mill maintains that co-operative associations would, like peasant proprietors, only adopt “improvements *after* they have been tested for success” (1965: 793). Mill argues that peasant proprietors also display much reluctance to initiate innovations:
- Peasant properties ... are not adapted for originating scientific improvements ... [thus] it is desirable that there should be ... some cultivators of a wealthier class, who will *take the risk of experiments*, and whose example, if successful, *the peasant proprietors may imitate*.
- (1986 [1847]: 951; emphasis added)
- Also see Mill (1965: 147).
- 64 Mill remarks that “impatient reformers, thinking it easier and shorter to get possession of the government than of the intellects and dispositions of the public, are under a constant temptation to stretch the province of government beyond due bounds” (1965: 799). Similarly, Mill argues that such considerations readily explain why French “associations of workmen manufacturing on their own account” (ibid.: 210) abandoned equality of pay in favor of payment by the piece:

[A]s a compromise with the selfish type of character formed by the present state of morality, and fostered by the existing social institutions, it is highly expedient;

and until education shall have been entirely regenerated ... more likely to prove immediately successful, than an attempt at a higher ideal.

(*ibid.*; emphasis added)

Similarly – and though not considering fixity of tenure a global optimum per se – Mill maintains that it would provide “the very best [system] of which a country like Ireland is susceptible” (1986 [1846]: 986). As Mill notes, “whether [or not] ... [large-scale agriculture on the English pattern] might be the far-distant future of humanity, it is certain that *this system will not work in Ireland today*” (1995 [1847]: 384; emphasis added).

- 65 With regard to ... [Fourierism], as to all other varieties of Socialism, *the thing to be desired*, and to which they have a just claim, *is opportunity of trial*. They are all capable of being tried on a moderate scale, *and at no risk, either personal or pecuniary, to any except those who try them*. It is for experience to determine how far or how soon any one or more of the possible systems of community of property will be fitted to substitute itself for the “organization of industry” based on private ownership of land and capital.

(Mill 1965: 213–14; emphasis added)

- 66 Hayek’s negative view of social justice is relatively easy to summarize. I refer the reader to Burczak (2006) for an in-depth analysis of Hayek’s views. Mill’s view of justice per se (see, e.g., Mill 1969 [1861]) is markedly less easy to summarize.

- 67 It was from Mill’s muddle (and the similar deceptions of Marx) and from the confusion of those pretended defenders of liberty who proclaimed a new moral postulate [social justice] which required a complete suppression of individual freedom that the whole muddle of the middle derived.

(Hayek 1983: 93)

- 68 Similarly, Mill argues that the grossly unequal relationship between husband and wife is “contradictory to the first principles of social justice” (1984 [1869]: 325). “The moral regeneration of mankind will only really commence, when ... [marriage] is placed under the rule of equal justice” (*ibid.*: 336).

- 69 Mill is adamant that “justice requires that the ... [cottiers] become ... proprietors of the soil which they cultivate” (1965: 326). As we have already seen, however, Mill would have the landowners receive compensation for the loss of “their” wastelands: “The power” the landlord would be “deprived of is not a proper subject of compensation ... any complaint of personal injury in being deprived of it should be hooted out of court with ignominy” (1986 [1846]: 897). As Mill explains, whenever “property in land is not expedient,” then, as is manifestly the case under cottier tenure, it “ceases to be defensible” (1965: 230): It is not “the essence of the institution” (private property) to guarantee anyone (e.g., a landlord) the “fruits of the labour of others, transmitted to them without any merit or exertion of their own” (*ibid.*: 208). Consequently, the prevailing property regime in Ireland is deemed “unjust” (*ibid.*: 230).

- 70 Hayek’s reproduction of the above passage – omitting the final six words – in *The Fatal Conceit* (1988: 149) is similarly telling.

- 71 Hayek (1978: 176) negatively points to a markedly similar passage in Mill’s review of F. W. Newman’s *Lectures on Political Economy*. Again, however, Mill is merely stating that Newman would find it well-nigh impossible to defend existing institutions (particularly the institution of private property) on the grounds of equity. Mill is pointing out that existing institutions manifestly and unjustly privilege the wealthy and powerful (1967 [1851]: 444). Similarly, Mill (1965: 217) refers to “unjust systems or institutions.”

- 72 Mill makes clear that any private property regime where slavery is the norm is unjust: slavery “can have no place in any society even pretending to be founded on justice” (1965: 233).

73 Stigler (1965: 297) notes that “Mill made the first major advance beyond ... [Smith’s] theory [of wage determination] by his recognition of the barriers to mobility erected by the costs of education.” As David Levy (2001: 212) has rightly pointed out, Mountifort Longfield explained the logic of non-competing groups in 1834. Additionally, Longfield argues that Smith’s theory of compensating differentials would obtain even with non-competing groups. I leave aside any discussion of Longfield’s argument (or what I deem as Mill’s – albeit seemingly not addressed to Longfield per se – persuasive counter-arguments) and plan to adequately explore these issues elsewhere. Longfield’s work aside, however, I wonder if non-competing groups come to play a more central role in Mill’s thinking about social justice and equality of opportunity after 1849. For instance, in the 1849 edition Mill seemingly adheres to Smith’s theory of compensating differentials per se: “If one kind of work is ... more disagreeable than another ... it is better paid” (1965: 977). At the same time, however, Mill maintains, as per the theory of non-competing groups, that employments requiring “technical education ... have hitherto been the subject of a real monopoly as against the mass” (ibid.). This monopoly, moreover, is said to be an “unjust advantage” (ibid.). As Hollander (1985) notes, Mill’s sharpest rejection of Smith’s theory of compensating differentials first appears in the 1852 edition. Much of what Mill has to say in 1852 is quoted above (1965: 383). Levy (2001: 213) has conjectured (rightly, I think) that the 1849–50 exchange with Carlyle greatly sharpened Mill’s thinking on the issue of occupational choice.

74 Mill, writing to Comte, describes the cottier regime thus:

[a] small number of owners ... take from the soil all it can give and exploit the peasants, not by brute force but by the untrammelled competition among these poor people, always ready to promise [in rent] more than the earth can produce.
(1995 [1847]: 383)

Mill’s letter to Arthur Helps is instructive:

I look upon inequality as *in itself* an evil ... I do not agree with any one who would use the machinery of society for promoting it ... I certainly see no necessity for artificially adding to it ... I see much for tempering it, impressing both on the laws & on the usages of mankind as far as possible the contrary tendency.
(1972 [1847]: 2002)

75 Mill similarly alludes to the theory of non-competing groups throughout the “Chapters on Socialism”: “reward, instead of being proportioned to the labour and abstinence of the individual, is almost in an inverse ratio to it: those who receive the least, labour and abstain the most” (1967 [1879]: 714).

76 As Mill, again invoking the theory of non-competing groups, notes, the “really exhausting and the really repulsive labours, instead of being better paid than others [as per Smith’s theory of compensating differentials], are almost invariably paid the worst of all, *because performed by those who have no choice*” (1965: 383; emphasis added). Similarly, Mill (1967 [1879]: 710; emphasis added) notes that while the poor are no “longer enslaved or made dependent by force of law, the great majority are so by force of poverty; *they are still chained to a place, to an occupation.*”

77 Again belying Hayek’s misconstrued interpretation of Mill’s distinction between the laws of production and the laws of distribution, Mill is insistent that defective “institutions impede the employment of the productive resources of a country to the best advantage” (1965: 114). For instance, Mill argues that Ireland is, under a cottier regime, well inside the production possibility frontier. As Mill explains to Auguste Comte: once cottier tenure is replaced by peasant proprietorship, “one should soon find three or four times the produce of today” (1995 [1847]: 384).

78 As Hollander, implicitly addressing Robbins’ designation of Mill’s favored system as syndicalism, notes, Mill seemingly “envisaged ... [that each co-operative] association would be *independent of, and in competition with*, similar associations in the same industry” (1985: 813; emphasis added).

- 79 Although the passages I quote above (Mill 1965 [1849]: 985) do not appear in the 1852 edition of Mill's *Principles*, Hollander (1985: 805) makes clear that Mill's "position in 1852" – advocacy of a much reformed private property regime – was not "substantially" different from what it had been in 1849.
- 80 The non-italicized passage appears in every post-1849 edition of Mill's *Principles* (1965: 206). The italicized sentence does not appear in any edition after 1849. As Mill explains, any communist regime – ostensibly trying to attain a truly equalitarian distributive outcome – would face the very "real difficulty ... of fairly apportioning the labour of the community among its members" (1965: 206). As Mill explains: "All persons are not equally fit for all labour" (ibid.). Consequently, any purely "nominal equality of labour would be so great a real inequality that the feeling of justice would revolt against its being enforced" (ibid.).
- 81 The sentences I quote in this paragraph do not appear in any post-1849 edition of *The Principles*.

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5 A socialist spontaneous order

Theodore Burczak

Introduction

Hayek describes spontaneous orders as social institutions that are the result of an undirected, evolutionary process, rather than the product of human design.¹ Social order can emerge spontaneously when people stumble upon rules and institutions that create a common set of beliefs and expectations that guide individuals to act in a co-operative fashion. Spontaneous social orders crystallize out of the evolved regularities of human action and interaction, even though these actions may not be motivated by a desire to produce any kind of order. Thus, rule following need not be instrumental, since people can follow rules that induce social co-ordination without knowing that their actions will produce this or any other particular outcome. But the potential for the spontaneous emergence of social order does not imply that consciously designed public policy cannot successfully shape the contours of that order. Hayek argued that properly executed public policy can establish the conditions for spontaneous social orders to emerge, much as scientists can induce the formation of crystals by creating the proper environment (Hayek 1973: 39–40). He believed that the guiding principle for public policy to follow in order to induce the emergence of a spontaneous market order is implementation of the rule of law.

In *The Road to Serfdom*, Hayek argued that the pursuit of national economic planning to achieve socialist objectives would lead a country down a path to political tyranny and poverty. According to Hayek, advocates of economic planning did not recognize the benefits that flowed from a spontaneous market order and did not understand that the improvement of human well-being would be impaired by attempting to control economic outcomes. Hayek's long-running attempt to rehabilitate classical liberalism against twentieth-century socialism had two components. First, he insisted that attempts to create rational plans for social orders were bound to fail, primarily because central planners cannot gain access to the necessarily dispersed, subjectively held knowledge of production possibilities and resource scarcities that exists in individual minds. Second, Hayek sought to update Adam Smith's claim that the voluntary exchange of private property governed by the rule of law could spontaneously generate wealth without the need for conscious design.

Given Hayek's understanding of the centrality of the rule of law to the formation of a spontaneous social order, is it possible to defend what might be called a socialist spontaneous order? Can there be socialism with the rule of law? Much would depend on what one understands the concept of socialism to entail. I will follow Marx and maintain that socialist society would have at least two fundamental characteristics. First, socialism would abolish the wages system, thereby ending the exploitation of labor (Marx 1965). Second, under socialism the distribution of the fruits of production would take place, to some extent, according to need and not just according to the vagaries of income distribution that result from market processes (Marx 1978). To achieve these objectives, a socialist economy has traditionally been understood to require large amounts of national economic planning and social ownership of productive property, particularly "the commanding heights." National economic planning, though, concentrates political and economic power in such a manner that it is perhaps impossible for planners to follow the principles of neutrality and universality that the rule of law requires. The goal of this chapter is to show that socialist goals might be achievable, not through national economic planning or the conscious design of outcomes, but by adopting rules and policies consistent with the notion of the rule of law that underlies Hayek's theory of spontaneous market order. The result will be something that could be called free market socialism, unplanned socialism, or a socialist spontaneous order.

Spontaneous order and the rule of law

Hayek makes a distinction derived from ancient Greek thought between two types of order: *taxis* and *cosmos*. A *taxis* is a constructed order, designed and directed to achieve particular goals. Hayek's examples include families, corporations, and government (Hayek 1973: 46). A *cosmos* is an evolved, emergent, or "grown" order. A *cosmos* does not result from human design but materializes as the unintended consequence of regularities in the behavior of its elements (Hayek 1978: 74). According to Hayek, one of the fatal conceits of socialist thought is the tendency to treat the *cosmos* of human society as if it were a *taxis*, which leads to various projects of social engineering, whereby governments attempt to control economic activity for some specified ends. This is the running theme of *The Road to Serfdom* (Hayek 2007). Hayek argues that people overestimate the power of human reason and underestimate the tacit, unarticulated knowledge that is embodied in evolved institutions when they think that it is appropriate for government to direct society according to some predefined goal or that social outcomes should follow a specified pattern. In his interpretation of history, social conflict and discontent generally occur when people believe that the *cosmos* of human society should be planned to yield a certain result or should be judged as legitimate only if its outcomes, like the distribution of income, wealth, and status, satisfy some supposedly objective standard, like equality, merit, or desert.²

For Hayek, governments should not engage in planning to achieve specific outcomes but should plan to promote the spontaneous emergence of social co-operation and self-organizing economic processes. In the *Road to Serfdom*, he called this “planning for competition” (Hayek 2007: 90). Hayek uses an agricultural metaphor to make the point: good government is more like farming than designing bridges. The conduct of public policy should be similar to “the sense in which the farmer or gardener cultivates his plants, where he knows and can control only some of the determining circumstances” (Hayek 1967: 19). Government needs “to cultivate rather than . . . control the forces of the social process” (1967: 19). It does this by discovering and enforcing rules that have demonstrated their ability to promote social co-operation by their survival through a long evolutionary process. Hayek believes that the development of the English common law best exemplifies a socially advantageous evolution of legal conventions. Importantly, he also asserts that democratic government can create new rules when the existing legal system can be shown to serve special interests rather than the general interest. Much, then, hinges on how we understand the general interest.

Hayek maintains that the nature of the general interest is procedural: rules and institutions should not favor one person or group over another, and they should allow people to use their knowledge for their own purposes (Hayek 1973: 55–6). He argues that these characteristics are best satisfied if government constrains itself to enforcing rules and following policies consistent with the principle of the rule of law. The rule of law limits government action to the creation and enforcement of laws and policies that are universally applicable, general or end-independent, and well publicized (1960: 205–10). Laws and policy directives must apply equally to all persons, to the governed as well as the governors, and be impartially enforced, not favoring particular classes or groups. Policy actions must also be general in the sense that they are intended to apply to all similar situations in the future, and not just to achieve particular ends in a specific case. Finally, government enforcement of rules and policy actions should be predictable – no secret trials or clandestine support for special interests – so that people can form reliable expectations about the government’s deployment of power and the future legal rulings of courts. This is an especially important attribute of the rule of law for Hayek, because legal predictability and the certainty of government (in)action enables individuals to have a good sense of what they are allowed to do and when the government enforcement apparatus will be called into play. Legal predictability also enables individuals to know the range of other people’s permissible actions. The ability to predict the actions of public officials and private citizens facilitates the formation of relatively accurate individual expectations in a manner that tends to produce overall social co-ordination and co-operation.

Hayek argues that the rule of law helps promote the existence and stability of private property and the freedom of exchange. End-independent, universally applicable, impartially enforced, and predictable rules serve to carve out domains in which individuals bear the costs and reap the benefits of their actions. These

rules create a sphere where individuals are responsible for their actions and define acceptable characteristics of action within it (i.e., no fraud, deception, or use of violence). Hayek maintains that private property and its constituent laws of contract, tort, and acceptable use have survived because they yield security of possession and commonly accepted rules of exchange, i.e., stable markets. A system of market exchange harnesses individual initiative and the self-interested use of personal knowledge to benefit human society to a degree unprecedented in human history. The possibility of exchanging and accumulating private property gives self-interested people the incentive to serve the public good, as if directed by an invisible hand.

Hayek contends that the creation, protection, free exchange, and competitive market valuation of private property helps to co-ordinate individual action and generate wealth better than any other type of institutional structure that has yet appeared. The linchpin of his argument is human ignorance, the ignorance of each individual about most dimensions of day-to-day provisioning. To take a simple example, most people do not know how to use a plot of land to grow grain or how to build a stove to bake the grain into bread. We are all dependent upon an unfathomably vast network of specialized production and exchange in order to obtain our daily bread. Our ignorance necessitates reliance on others. The rule of law and the establishment of individual spheres of responsibility through property rights give guidelines and incentives for cognitively limited people to assist others voluntarily and usually unintentionally in the achievement of their goals. Hayek asserts that the rules of law and property enable “us constantly to profit from knowledge which we individually do not possess” (Hayek 1960: 25). The rules of law establishing private property create an institutional framework that provides “the maximum of opportunity for unknown individuals to learn of facts that we ourselves are yet unaware of and to make use of this knowledge in their actions” (Hayek 1960: 30). Markets translate one person’s gain-seeking plans (e.g., the baker’s quest for profit by selling bread) into the means for unknown others to achieve their ends (e.g., the nourishment of the community).

Hayek’s defense of the rule of law is a type of rule utilitarianism (Yeager 1985). A rule utilitarian believes that a legal framework based upon well-announced, general, universally applicable rules help to promote social cooperation and co-ordination. When individuals can form reliable expectations about how other people will be permitted to act, including government officials, this increases the security of their possessions and the ability to exchange them with others. They are thus encouraged to specialize in production and to engage in mutually beneficial trade to satisfy their respective needs and desires. This type of utilitarian position is reluctant to judge institutions and individuals’ actions according to their ability to promote individual or aggregate well-being in particular cases. The pervasiveness of human ignorance renders impossible the full accounting of costs and benefits that would be necessary to decide whether (or how much) a particular activity contributes to happiness. Hayek favors actions and policies based upon well announced principles (i.e., as

embodied in the rule of law) rather than case-by-case cost/benefit calculations because rule-guided action helps to overcome the arbitrary decisions that can result from our lack of knowledge of the true costs and benefits of a particular course of action. Hayek's defense of the rule of law thus rests on the ubiquity of human ignorance.

Hayek insists that any goal-oriented policy that does not abide by the rule of law arbitrarily obstructs voluntary exchange and impedes social co-ordination. Any government program that violates the rule of law to adjust the outcomes of the market process in favor of one group over another will be discoordinating and inefficient from a social perspective. If, for instance, government establishes a minimum wage to raise the incomes of the poor, workers that employers would be willing to hire at a lower wage will remain unemployed. Or if, say, government attempts to protect the wages of auto-workers or farmers, consumers will be able to purchase fewer cars or less food than they would in an economy where government does not try to pick winners, or to protect the income of a particular group. Hayek argues that if a socialist-inspired government were to go even further and replace the private property, exchange economy entirely with social ownership and central planning, then it would face an insuperable knowledge problem regarding the centralization and co-ordination of the knowledge of the farmers, millers, bakers, and all other providers of the various goods and services we enjoy in a modern economy. Central planners cannot obtain and co-ordinate the local, tacit, experiential knowledge of the various and dispersed individuals involved in producing bread. In addition, national economic planning cannot be rule-governed, since the planners would be in a position to command people to perform specific activities. For Hayek, this raises the specter of totalitarian political rule (Hayek 2007).

So, where does that leave socialism? The concept of a rule-governed spontaneous order would seem to negate the socialist desire to end the exploitation of labor and to satisfy people's material needs. Acceptance of Hayek's defense of the rule of law might appear to condemn labor to be forever exploited in capitalist labor markets and to result in human needs being met only by chance, if at all, in a spontaneous market order. Hayek certainly thought that following the rule of law prohibits any form of socialism. But is this necessarily so? Let us consider the following remark from Hayek:

A free system can adapt itself to almost any set of data, almost any general prohibition or regulation, so long as the adjusting mechanism itself is kept functioning. And it is mainly changes in prices that bring about the necessary adjustments. This means that, for it to function properly, it is not sufficient that the rules of law under which it operates be general rules, but their content must be such that the market will work tolerably well.

(Hayek 1960: 228)

The impartiality and generality of government policy demanded by the rule of law is consistent with many different kinds of government-enforced restrictions

on human action and conveyances of benefits. There is, in other words, nothing about the principle of the rule of law that specifies what the substantive content of rules should be. Although we might accept Hayek's understanding of the rule of law as a principle to follow in a world of ignorant government officials and as a potential safeguard against political tyranny, we need another (set of) principle(s) to flesh out the actual content of specific rules. As Hayek notes, many types of rules are compatible with the requirements of universality, generality, and predictability. Some are consistent with free market capitalism (e.g., freedom of exchange, protection of private property, proportional taxation). Others, I argue, could generate a socialist spontaneous order.

In his trilogy *Law, Legislation, and Liberty*, Hayek pointed to the evolution of the English common law as embodying a (mostly) class-neutral set of rules. Hayek maintained that common-law procedures generate a set of rules that adhere to the rule of law and serve the general interest. These rules also happened to promote the development of market capitalism. Hayek's turn to the common law, however, is largely a failure since it presumes that common-law jurists typically reach their legal opinions from a disinterested, class-neutral perspective (Burczak 2006). He shares with his mythically objective common-law jurists blindness to the conflict between capital and labor in a conventional wage-labor employment relationship (e.g., Hayek 1960: 120–1). Another approach to develop substantive content for a rule-of-law framework is to consider the Marxian-socialist tradition of human flourishing – a Marxian-socialist notion of the general interest – to obtain principles that we could use to develop socialist rules. The idea of a socialist spontaneous order that results from combining the rule of law with a Marxian perspective on human flourishing acknowledges Hayek's theory of the beneficial effects of constrained government and spontaneous market outcomes but does not accept his tolerance of wage labor and a free market distribution of income. Let us then consider each of the socialist goals in order – ending the exploitation of labor and distributing income according to need – and show how these goals might be achieved in a manner compatible with general requirements of the rule of law.

Worker self-management

What would it mean to abolish labor exploitation? In a pamphlet written in English for the 1865 General Council of the First International, Marx was insistent that the emancipation of the labor force required “the ultimate abolition of the wages system” (Marx 1965: 79). While he lauded trade unions for their ability to raise wages and reform conditions in the workplace, he chided them for failing to use their power to eliminate the wages system. Marx maintained that the problem with the wage-labor system is that the goal of capitalists is to extract as much effort out of wage-workers as possible, treating workers as their instruments, since it is only after workers have worked hard enough to “pay their own wages” that property owners can start receiving rent, interest, and profit. Inside the capitalist firm, capital-owning employers were in a necessary conflict

with workers. This remained true no matter how much workers were paid: the problem of exploitation was not correctable by raising labor's standard of living, *per se*, but only by eliminating the wage-labor relationship which makes one set of human beings – wage-workers – the instruments of their employers' profit-seeking goals.

Unfortunately, Marx made a fundamental error, or certainly much of the socialist tradition made this error: accepting what David Ellerman (1992) calls the fundamental myth of capitalist property rights. That error involves believing the right to hire labor is somehow inherent in the ownership of capital goods. The consequence of this error is to think that the way to abolish the wages system is to abolish private property in the means of production, since if capital is no longer privately owned, capitalists would no longer exist who could hire and exploit labor. As a result, most real-world socialist movements and governments have attempted to socialize property, sometimes for the worst. There are two major problems with this strategy. One is the Hayekian knowledge problem. Socializing productive property abolishes capital goods markets, thereby necessitating some sort of centralized production organized through command, rather than decentralized and rivalrous production organized spontaneously by the rules of market competition. Given the knowledge problem faced by central planners concerning the effective use of capital goods and organization of labor, wide-scale socialization of productive property – in the absence of market price signals – will generally be welfare-reducing, rather than welfare-enhancing.

The second problem is what we might call the Marxian paradox. Actually existing socialist systems did not abolish the wages system. Instead, state-run firms hired wage-labor, rather than entrepreneurial or capitalist-run firms, with the government simply assuming the place previously held by the entrepreneur or capitalist. Socialist wage labor thus became the instrument of a new set of people, the managers of state firms. From this perspective, the Soviet Union was actually an example of state capitalism, rather than socialism (Resnick and Wolff 2002).

Although he generally distances himself from the Marxist-socialist tradition, Ellerman proposes a theoretical solution to these problems that is in keeping with Marx's call to abolish the wages system: prohibit the wage-labor relationship outright, while leaving the ownership of private property otherwise intact. This would mean that labor would have to hire capital, and capital owners would not be allowed to hire labor. Managerial responsibility would therefore have to be delegated by workers through some sort of democratic procedure, and profits would have to be shared among the workers in the firm in a manner determined collectively by the workers. Labor would thus assume the role of residual claimant and have formal control over the governance of the enterprise. Current common stockholders would lose governance rights, perhaps having their common shares converted to preferred shares.

Could this system be achieved in a manner consistent with the Hayekian rule of law? I believe so. Jaroslav Vanek, a long-standing advocate of worker co-operatives, has proposed the following constitutional amendment:

Whenever people work together in a common enterprise (whatever their number), it is they and they only who appropriate the results of their labors, whether positive (products) or negative (costs or liabilities), and who control and manage democratically on the basis of equality of vote or weight the activities of their enterprise. These workers may or may not be owners of the capital assets with which they work, but in any event such ownership does not impart any rights of control over the firm. Only possession of and income from such assets can be assigned to the owners, to be regulated by a free contract between the working community (i.e., the enterprise) and the owners.

(Vanek 1996: 29)

To enforce such a proposed constitutional rule that requires firms to be democratically self-governing and labor-appropriating would not involve the arbitrary use of discretionary power, as Hayek understands it. The rule is universally applicable, well announced, and general, since it aims at no particular outcome for specific individuals. Such a rule would be similar to a constitutional provision against slavery. In this case, it is a constitutional restriction of “wage-slavery.” Implementing a system of universal self-employment that permits both independent contracting and self-managed firms would abolish the wages system, thereby achieving one socialist objective. Universal self-employment would not permit individuals to rent control of their time and cede the right to appropriate the product of labor to employers in exchange for a wage. There would thus be no *capitalist* labor market. A thriving *co-operative* labor market would exist, however, in which co-operatives would search for workers with an offer of democratic membership rights and profit- and revenue-sharing.

Requiring firms to be democratically organized need not involve any central planning or state ownership of productive property. Self-managed firms can exist in an institutional context in which private property is widely held and in which those firms compete with each other in a rivalrous market process. But, is it possible to argue that such a system could be implemented without causing widespread misery? We saw above that Hayek argues that the mere compatibility of a legal rule with the rule of law (e.g., requiring universal self-management in firms) does not necessarily mean that it is acceptable to adopt the self-managed rule. We also have to ask whether the rule would produce beneficial results. Would assigning the legal right of appropriation to labor in each separate firm, thereby giving workers responsibility for organizing production, contribute to the co-ordination of dispersed knowledge, the creation of wealth, and the promotion of human flourishing, as effectively as a system populated with capitalist firms?

A long-standing criticism maintains that self-managed firms display perverse responses to changes in output prices (Ward 1959). Neoclassical economists sometimes fault self-managed firms for reducing production and limiting employment in response to a price increase, thereby generating backward-bending product supply curves and falling employment. This contrasts with a

typical capitalist enterprise that follows, in theory, the more socially rational strategy of increasing output and employment in response to a rise in price of the product it sells. David Prychitko (1996) points out that this supposed fault of the self-managed firm is the result of adopting a short-run, equilibrium methodology that is hostile to the market-process perspective consistent with Hayekian spontaneous order theory. In a competitive market process, rising prices that create profit opportunities should elicit the entry of new self-managed firms. If so, Prychitko argues that a system of competitive, self-managed firms will behave as rationally as a system of competitive capitalist firms. He concludes that Hayekian spontaneous order theorists should not be pessimistic when evaluating the feasibility of a market economy populated by self-managed firms.

Bowles and Gintis (1993) go further than Prychitko and argue that self-managed firms may be more efficient than the typical capital enterprise. As it is often not possible to contract for the specific performance of effort and because the employer reaps the profit from harder-working employees, in the typical capitalist enterprise employers use two types of strategies to increase worker productivity. First, they tend to pay above market-clearing wages, so that workers are not indifferent between keeping their jobs and being fired. Second, employers employ various resource-using technologies to monitor worker effort. Bowles and Gintis suggest that firms can reduce the use of monitoring resources by transferring the right of appropriation to the workers. In other words, if workers control the production process and receive a share of the profits, self-managed firms may be able to economize on monitoring costs, thus experiencing efficiency gains. Self-managed, profit-sharing enterprises may be able to elicit the same level of worker effort at a lower resource cost, since workers who receive a portion of the profits may have less incentive to shirk than workers whose efforts result exclusively in capitalist profits. Self-managed firms are more likely to use wage incentives than resource-using monitoring techniques to elicit work effort.³

Hayek's idea of the central role that tacit, experiential knowledge plays in production suggests other potential efficiency-enhancing benefits of a system of self-managed firms. The importance of specialized human capital in modern production processes may strengthen the argument for profit-sharing and worker control as an incentive for workers to undertake investment in firm-specific forms of human capital (Blair 1995). Workers in self-managed firms may also have more incentive to report their cost-saving ideas than workers in the capitalist firm, since they would share in any profits thereby generated. Insofar as capitalist firms often do not provide incentives to all employees to suggest cost-cutting measures, self-managed firms may be more innovative than the capitalist firm. On the other hand, innovative risk-taking often requires large outlays of financial capital. In this regard, there is reason to think a market system with self-managed firms could exhibit less technical change than capitalism. If so, it is possible that instituting worker self-management will require sacrificing a degree of technological progress, unless policy explicitly addresses this issue.

Another potential issue with worker self-management relates to the problem of capital maintenance. Bowles and Gintis note that efficient use of the capital

stock is difficult to monitor, i.e., renters of capital equipment may overuse and under-maintain the capital stock. This might be one reason that capital owners are often not willing to rent their equipment at a competitive price to a group of workers, thereby giving those workers governance and appropriation rights. Renting capital equipment to non-owning workers, as would be required of non-working capital owners if the Vanek amendment were adopted, could result in an inefficient level of capital maintenance. In response, Bowles and Gintis suggest that worker self-managed firms may then need to require significant worker ownership of the firm's capital assets, in order to realize a socially efficient amount of capital maintenance. Worker ownership may in many cases be necessary to make self-management feasible. If so, workers may have difficulty sustaining the operation of heavily capital-intensive enterprises, since they will not desire or be able to fund ownership of the capital assets. To address this problem, Bowles and Gintis propose a combination of subsidized credit with unemployment and bankruptcy insurance, which is triggered by poor behavior in macroeconomic variables not controlled by individual firms. In an earlier work, I suggested creating large, taxpayer-funded, universally available capital accounts that workers could use to fund ownership stakes in self-managed enterprises (Burczak 2006). In the end, a socialist spontaneous order would have employ some sort of democratic process to negotiate the trade-off between enterprise size and innovation, while respecting the principles of self-management and the rule of law.⁴

Satisfying needs: a universal basic income

The other socialist objective is to move toward a system of distribution according to need, and away from a system of distribution "in accordance with the perceived value of a person's actions and services to others," i.e., according to market value (Nozick's 1974: 158 characterization of Hayek). To achieve distribution according to need, Robert van der Veen and Philippe Van Parijs propose a "capitalist road to communism" (van der Veen and Van Parijs 2006). They argue that society need not go through a socialist stage, as understood in traditional Marxism, that socializes productive property in order to overcome the impediments that the "fetters" of capitalist property relations supposedly place on the achievement of material abundance and the possibility of universal need fulfillment. Instead, a capitalist society could establish a universal basic income grant, large enough for individuals to satisfy their basic needs through ordinary market exchange.

Van der Veen and Van Parijs believe that communism involves not only the satisfaction of basic needs but also the end of alienating, onerous work, so that labor becomes "life's prime want." As a result, "if communism is to be approached within a capitalist society, it must be by way of raising as much as possible the guaranteed income in the form of a universal grant" (van der Veen and Van Parijs 2006: 11). The larger the guaranteed income, the less attractive is alienating, burdensome work, which should put pressure on firms to increase the

non-monetary attractiveness of labor and to promote the evolution of more pleasant jobs and worker-friendly technologies. But they recognize that the disincentives created by high tax rates and a generous basic income can reduce the amount of productive activity, thereby threatening sustainability of the basic income. As such, in the manner of the Laffer curve, there are absolute limits to the size of tax revenues and the universal grant, both in the short and long runs. While they consider various principles for thinking about the trade-offs between increasing basic incomes and reducing economic growth (e.g. Rawlsian and egalitarian), ultimately those trade-offs would have to be negotiated through a democratic process. Whether or not advanced capitalist economies are currently productive enough to end alienating labor through a large basic income, they do believe that we have reached a stage where basic needs could be satisfied in a market system supplemented by a universal basic income grant.⁵

There are interesting parallels between van der Veen's and Van Parijs's "communist" case for a basic income to satisfy human needs with Charles Murray's "conservative" case for a basic income in order to eliminate poverty (Murray 2006). Murray advocates abolishing the welfare state institutions of the United States and replacing them with a guaranteed basic income of \$5,000 to all non-criminal adult members of society. To this universal basic income, Murray would add another \$5,000 grant that would be gradually "taxed away" (at a rate of 20 percent) after earned income reached \$25,000, in the manner of Milton Friedman's negative income tax proposal (Friedman 1962). Thus, someone unwilling or unable to work would receive \$10,000 a year from the government, while someone earning the break-even income of \$50,000, or above, would receive just the \$5,000 basic income guarantee.⁶ Murray shows that this proposal is manageable within the current levels of government spending in the United States and argues that it would effectively eliminate poverty. While he does not go as far as van der Veen and Van Parijs to argue that the basic income grant should be gradually raised with the goal of liberating people from onerous work, his proposal demonstrates that the idea of a basic income to improve the distribution of income is attractive to proponents from diverse political-economic perspectives. The question is whether it might appeal to a Hayekian spontaneous order theorist.

The institution of a basic income is based on the belief that the larger society, particularly government, has a responsibility to provide the resources necessary to meet human needs universally. Hayek rejects this position, arguing that the belief that people can make material claims on society is a baseless notion. "[S]ociety' cannot think, act, value, or 'treat' anybody in a particular way. If such [material] claims are to be met, the spontaneous order which we call society must be replaced by a deliberately directed organization" (Hayek 1976: 103). Because the distribution of income in a market society is not determined by any responsible person – market distribution emerges spontaneously, like the weather – for Hayek, it makes as much sense for individuals to think they have a right to a certain income as it does for them to think they can make a claim on the weather to be sunny. "There is no individual and no cooperating group of people

against which the sufferer [of a low income] would have a just complaint” (Hayek 1976: 69). Since the distribution of income, like the weather, is not controlled by human agency, at least not in a society absent a totalitarian dictator, government should not be responsible for “improving” market outcomes. Hayek thus rejects notions of distributive justice that give the government a role to play in determining the material benefits people receive.

Hayek’s dismissal of distributive justice is, in the end, unsupportable. To see that, we should first notice that Hayek does advocate government action to protect individuals’ separate property rights. Because it serves what Hayek sees as the general interest, individuals have the right to expect government to employ coercively extracted resources (via taxation) to defend private property. Government agents must deploy resources to apprehend and punish thieves, swindlers, and trespassers for individuals to be secure in their property. People have legitimate expectations that government will take positive action to enforce the rules of law. To compare the spontaneous order of market to an impersonal and natural phenomenon like the weather is to ignore the role government and active human agency plays in defining and protecting property rights. Private property rights, as well as other individual rights (e.g., freedom of speech and association) require government agencies to provide individuals with material benefits, in the form of positive government action when those rights are violated. The enforcement apparatus that is called into action when an individual’s property or personal right is transgressed requires government to allocate collectively appropriated resources. To protect their violated property and personal rights, individuals have a claim to substantive benefits from government agencies that is not categorically different from a claim to welfare rights.

Stephen Holmes and Cass Sunstein similarly reject the conventional distinction between the idea of negative freedom associated with the possession of personal and property rights (the absence of government interference) and the notion of positive freedom associated with welfare rights (the capability to achieve a certain quality of life) (Holmes and Sunstein 1999). Hayek makes this distinction in his rejection of distributive justice. Yet property rights and welfare rights both require the performance of government action to secure those rights. Government must allocate tax revenues to care for the indigent, perhaps to obtain freedom from want, in the same way it does when it finances the punishment of swindlers who run a Ponzi scheme. Because the security of any kind of legal right always depends upon government action, Holmes and Sunstein conclude that all rights are “positive.” “The financing of basic rights through tax revenues helps us see clearly that rights are public goods: taxpayer-funded and government-managed social services designed to improved collective and individual well-being. All rights are positive rights” (Holmes and Sunstein 1999: 48). Hayek’s rejection of distributive justice because it depends upon individuals having a claim to substantive benefits from the government is thus not sustainable. The real issue in a defense of a basic income against Hayek is the underlying conceptions of the general interest and individual well-being that justify government’s use of coercive power to reallocate resources.

Any socialist conception of distributive justice clearly requires at least a minimum baseline of need satisfaction for all citizens as a matter of right. In an argument with a Hayekian spontaneous order theorist, we need to ask, first, whether basic needs can be secured in a manner that does not violate the principles of non-discrimination and universality mandated by the rule of law and, second, whether the provision of basic needs is compatible with the spontaneous order that arises out of market competition. The answer to both questions is “yes,” if the strategy to satisfy basic needs is through a basic income. Basic income proposals advocate the provision, by the state, of a guaranteed minimum income to all adult, law-abiding citizens, rich and poor, regardless of their contribution to production.⁷ Basic income proposals do not attempt to alter or protect the incomes people do receive through market exchange and are thus implemented “outside” the market. They do not, like other social democratic policies (minimum wages, farm price supports, affirmative action laws, etc.) interfere with the market exchanges individuals negotiate voluntarily. Van der Veen and Van Parijs make a Hayekian argument that a basic income *should* be “[c]ombined with some deregulation of the labor market (no administrative obstacles to part-time work, no compulsory minimum wage, no compulsory retirement age, etc.)” (van der Veen and Van Parijs 2006: 11). A large basic income is consistent with policies producing labor market flexibility, since the policy goal is not to regulate the labor exchange but to free people from involuntary, unattractive labor. The need of enterprises, whether capitalist or self-managed, to attract necessary workers will lead firms to offer better working conditions.

To implement a universal basic income entails a negative tax rate on those who perform no productive labor, which takes the form of the basic grant. Earned income is subject to a positive tax, although for low-income earners, the basic grant will exceed the value of the tax due, up to the point of the break-even income level of earned income. At the break-even level of income, the income tax paid by an individual equals the amount of the basic income guarantee. Above that point, taxable earned income begins to produce revenue for the government budget. Thus, a basic income produces overall progressivity in the income tax structure, which Hayek resisted. He believed that the rule of law requires a flat or proportional income tax rate. Hayek used some very strong words against income tax progressivity: “‘progression is simply hateful arbitrariness’” (Hayek 1960: 308, quoting A. Theirs).

Unlike proportionality, progression provides no principle which tells us what the relative burden of different persons ought to be. It is no more than rejection of proportionality in favor of a discrimination against the wealthy without any criterion for limiting the extent of this discrimination.

(Hayek 1960: 313)

Progression violates the notions of neutrality and universal-applicability that lie at the heart of the rule of law. Hayek was worried that democracies might use

progressive tax policy to establish a tyranny of the poor against the rich and to produce unconstrained growth of the public sector (Hayek 1960, 314; 1979, 51–4).

A basic income can be funded with both a flat tax rate, applied above the break-even level, or with a marginal tax rate that rises with increases in earned income above the break-even level. Either a flat or progressive marginal tax rate will produce progression in the overall tax structure in a society that establishes a universal basic income guarantee. But Hayek's principled arguments against progressive taxation are mainly applicable to an increasing marginal tax rate and not to progression in the overall tax structure. In this discussion of the merits of proportional taxation, Hayek concedes that there is "no justified objection to a majority deciding to grant an economically weak minority some relief in the form of a proportionately lower taxation" (1960: 322–3). As long as the majority is willing to tax itself at the highest legislated marginal tax rate in order to achieve objectives in the social interest (perhaps the socialist impulse to satisfy basic needs), Hayek apparently has no problem with the state using tax and welfare policy to alter the market distribution of income. His view, derived from the priority of the rule of law, is that democracies should not use variations in the legislated marginal tax rate to treat differently the higher incomes of a relatively rich minority. He is willing to countenance tax relief to the minority of people who earn less than median income, thereby injecting progression into the overall tax structure. Along these lines, Van Parijs acknowledges that a basic income scheme could be funded using a proportional marginal tax rate (Van Parijs 2006: 31). All earned income could be subject to the same flat tax, in effect making the rate at which the grant is "taxed away" the same as the rate at which taxes are paid above the break-even level. If implemented in this fashion, Hayek's defense of the rule of law does not provide an impediment to adopting a basic income.

Critics might ask how we can know whether the basic income is large enough to satisfy basic needs for the typical person. A capability theorist, like Amartya Sen, would go further and point out that a universal basic income that enables the average person to meet a usual set of needs will not produce satisfactory need-satisfaction in people with special needs. For example, a physically handicapped individual will require more resources to achieve the same level of need-satisfaction as an able-bodied person. A social democratic critic might ask how we can be sure that the basic income is large enough to allow relaxation of labor market regulations. What is the feedback mechanism through which the government can learn whether or not these socialist goals have been achieved (Storr 2007)?

A similar problem faces advocates of the rule of law when the question emerges about how many resources the government should devote to the courts, police, jails, military, and fire departments to protect private property fairly and adequately. Questions regarding the amount of public funds to allocate to rights protection and provision have no final answer. Effective democratic procedures and processes need to be in place to give some direction to government officials

about how many resources to devote to the maintenance of rights, whether that be the security of property or an adequate basic income. While the feedback mechanisms to learning through democracy may be weaker than the feedback mechanism to learning through profit and loss accounting, markets provide no signal to entrepreneurs about how to get food to the poor, who lack the means to express any effective demands (Sen 1981). Likewise, markets provide no signal to help decide how many police officers should be assigned to patrol the neighborhood. There is thus an irreducible role for democracy to negotiate some aspects of the general interest (diZerega 1989).

Still, even if it were possible to implement a high basic income, people with unusual needs will remain deprived. It is not likely that government officials with limited knowledge will be able to target aid effectively to those people. Such targeted aid would also come into conflict with the principle of non-discrimination that lies at the heart of Hayek's rule of law. There thus remains an important role for non-governmental, philanthropic organizations in a socialist spontaneous order. Community-based charities will generally be better situated to channel aid to those who remain in need after the institution of a basic income. To facilitate funding those groups, Bowles and Gintis suggest that taxpayers be able to fund these organizations directly, deducting their contributions up to a specified limit, directly from their tax obligations (Bowles and Gintis 1998: 54).

A socialist spontaneous order

Establishing a universal basic income and instituting universal self-employment are not policies motivated by the desire to convert a capitalist *cosmos* into a socialist *taxis*. A basic income aims first to guarantee all people equal resources to participate in market exchange, irrespective of their labor contribution, so that they have the capability to fulfill their basic needs as a matter of right. Society might also use an expansion of the basic income to put pressure on the development of more satisfying work processes. Neither goal is connected to a desire to expand the power of the state over the direction of individual lives. The second goal – putting pressure on the direction of the evolution of work processes – may be less important if the implementation of universal self-employment itself leads to more satisfying work, which we might expect with the abolition of the inherent conflict between capitalist bosses and their employees. Bowles even suggests that the only way to achieve a sizable basic income is to institute worker self-management simultaneously, since a large universal grant will likely reduce the quantity of labor demanded (since workers will have less incentive to work hard) and increase involuntary unemployment in a capitalist environment (Bowles 1992: 576). In any event, universal self-employment can be implemented in a manner that preserves market competition, with the attending possibilities of profit and loss and the decentralized co-ordination function those incentives perform.

A system of universal self-employment and a universal basic income has not yet spontaneously evolved. To some extent, the political evolution of welfare

state policies moves us closer to a universal basic income. Self-managed worker co-operatives, on the other hand, while they do exist, do not enjoy anything close to a dominant position in the United States. This perhaps speaks against any supposed efficiency advantages of co-operatively organized firms. Before resting with this conclusion, however, we might consider that most workers do not possess a great deal of wealth, and access to credit is difficult, if not impossible to obtain in financial markets that routinely allocate credit to those with marketable wealth. The unequal distribution of wealth has had an important role in how industrial structure has evolved, and it may serve to block the competitive emergence of potentially more efficient self-managed firms (although we should recognize that the advocacy of universal self-employment does not rest on efficiency arguments alone).

Does it make sense to think that government might *cultivate* a socialist spontaneous order? Hayek was not a spontaneous order theorist who believed that we should let the forces of social evolution proceed where they might. In *Political Order of a Free People* (Hayek 1979), he suggested a constitutional design that would establish a political structure to protect a capitalist market order. The idea of a socialist spontaneous order is proposed in a similar spirit of institution building. The goals of socialists might be attainable through a set of universal rules: a constitutional prohibition of wage-labor and a legislated guarantee of a basic income. Such a socialist constitutional design would not require central command of production and the social ownership of capital goods. It would allow what Hayek called the spontaneous, creative powers of a free civilization (Hayek 1960).

Notes

- 1 Thanks to Andrew Farrant and Robert Garnett for helpful comments on earlier drafts of this chapter.
- 2 Jeffrey Friedman (2005) criticizes Hayek for persistently arguing that the social democratic impulse in the twentieth century harbors an engineering or planning mentality. Friedman maintains that we can understand the various political-economic programs of the post-World War II Left not as the result of a supposed planning mentality but as the product of a mistaken belief that the capitalist profit motive does not generally produce socially beneficial outcomes. Rather than possessing a desire to implement central planning, the Left is motivated by a moralistic mentality that does not accept that the unintended consequences of morally suspect intentional action (i.e., self-interested gain-seeking) can generally lead to socially beneficially outcomes.
- 3 Bowles and Gintis's conclusion is exactly the opposite of the more conventional view of Alchian and Demsetz (1972) that capital owners tend control the governance of the firm because they can discipline labor most efficiently.
- 4 Vanek (1996) contains a discussion of several other potential advantages of worker self-management.
- 5 Van der Veen and Van Parijs do not examine the possibility that the implementation of universal self-employment might itself lead to more attractive work, absent the pressures of a basic income.
- 6 This summarizes Murray's presentation of his idea. In effect, he is combining a \$10,000 basic income with a \$25,000 earned income tax exemption. Once a person

starts earning more than \$25,000, the basic income is taxed away, in his case, at a rate of 20 percent (the negative tax rate). Conceived in this way, the break-even level is \$75,000. See Van Parijs (2006: 30–1) for a nice discussion of the potential formal symmetry, depending on program design, between a basic income and negative income tax.

- 7 There is some debate whether or not basic income grants should be extended to children. Charles Murray, for example, argues that children should not receive a basic income, in order to encourage responsible parenting. Some Left advocates of a basic income believe children should not be excluded. Since defining the rights of children is a contentious issue in a capitalist spontaneous order, I will not attempt to resolve this issue in the context of a socialist spontaneous order.

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6 Hayek and philanthropy

A classical liberal road not (yet) taken

Robert F. Garnett, Jr.

Introduction

Like many classical liberals of the Cold War era, F. A. Hayek was of two minds about the role of philanthropy in modern commercial societies. In digressions sprinkled throughout his published works, Hayek hailed philanthropy as a Tocquevillian alternative to the welfare state and praised voluntary associations for their “recognition of many needs and discovery of many methods of meeting them which we could never have expected from the government” (Hayek 1979: 50). At the same time, Hayek built his case for a free society on a principled critique of philanthropic action. The moral imperative to do “visible good to [our] known fellows (the ‘neighbor’ of the Bible)” is, in his view, “irreconcilable with the open society to which today all inhabitants of the West owe the general level of their wealth” (Hayek 1978: 268).

In this chapter, I examine the structure and significance of the commerce/philanthropy relationship in Hayek’s thinking and in the evolving discourse of classical liberal economics. I begin by linking Hayek’s critique of philanthropy to the anti-socialist economics he formulated in the aftermath of the Great Depression and World War II. Widening the lens, I show that Hayek’s treatment of commerce and philanthropy as separate spheres, and his reduction of the economy to commerce only, were typical of twentieth-century economics at large – specifically, the modernist genre of economic theory that Hayek so trenchantly criticized from the 1930s on (Burczak 1994, 2006). I conclude by employing the ideas of Hayek, Amartya Sen, and other critics of economic modernism to recast Adam Smith’s commercial society as an extensive network of voluntary co-operation in which commerce and philanthropy work together to promote human freedom and flourishing.

Philanthropy as socialism: Hayek’s Cold War economics

Hayek’s vision of Adam Smith’s Great Society of Mankind (Smith 1976a [1759]) was forged in part through his leadership role in the Mont Pèlerin Society, a post-World War II movement to promote classical liberalism as a positive alternative to statism (Mirowski and Plehwe 2009). Chief among

Hayek's priorities during this period was the formulation of a comprehensive and robust economic theory. Socialist economists were touting central planning as the modern solution to humankind's economic problem. So Hayek and his radical cohort aspired to defeat the socialists on their own terms – to set forth a philosophy and analytic framework that would trump their enemy's economics in rigor, scope, and rhetorical force.

Through a series of essays, beginning in the 1950s and culminating in *The Fatal Conceit* (1988), Hayek argued that the socialist project – construed by Hayek as the construction of a fair, efficient, centrally planned economy – was based on a conflation of ancient and modern economic orders. Advocates of socialism, says Hayek, imagine that a modern socialist economy can function like an Aristotelian *oikos*: a community in which order arises from the “deliberate organization of individual action by an ordering mind” (Hayek 1988: 11, 45–7). The ruling ethos in such an economy is to “to restrict our actions to the deliberate pursuit of known and observable beneficial ends” (ibid.: 80). Hayek deems this ethos a tribal morality, a set of norms “which are essential to the cohesion of the small group but which are irreconcilable with the order, the productivity, and the peace of a great society of free men” (Hayek 1978: 66).

Though he never speaks of philanthropy per se, Hayek's bright line distinction between ancient and modern moralities leaves little doubt about his general view. He memorably declares: “An order in which everyone treated his neighbor as himself would be one where comparatively few could be fruitful and multiply” (Hayek 1988: 13). Persons committed to finding “a proper cure for misfortunes about which we are understandably concerned” (ibid.) should “[withhold] from the known needy neighbors what they might require in order to serve the unknown needs of thousands of others” (Hayek 1978: 268) since the latter “[confers] benefits beyond the range of our concrete knowledge” (Hayek 1988: 81) and thus provides “a greater benefit to the community than most direct ‘altruistic’ action” (ibid.: 19). Hayek urges modern humanitarians to devote fewer resources to charity and more to commerce – to “earning a living” – since the latter will provide “a greater benefit to the community than most direct ‘altruistic’ action” (ibid.: 19; see also Hayek 1976: 90, 136, 144–5; Hayek 1978: 19, 59, 60, 65–6; and Hayek 1979: 60, 161–2, 165, 168).

Hayek's view of a Smithian commercial society is thus structured by a series of interlocking dualisms (Hayek 1976, 1979, 1988) (Table 6.1).

Table 6.1

<i>Markets</i>	<i>Philanthropy</i>
Great Society (modern, open, cosmos) modern morality (serving unknown others via commerce) Adam Smith	tribal society (ancient, closed, taxis) tribal/socialist morality (serving known others via gifts and solidarity) Aristotle

Despite his expressed support for private philanthropy as an alternative to government largesse (Hayek 1979: 50–1, 186), Hayek theorized an “extended order of human cooperation” (Hayek 1988: xi, 6) in which philanthropy and civil society were pushed to the margins as vestiges of pre-modernity.

To illustrate the logic of Hayek’s position, consider his view of corporate philanthropy – an argument that echoes Milton Friedman’s infamous claim that “the social responsibility of business is to increase its profits” (Friedman 1970). Hayek objects to “socially responsible” giving by publicly held corporations on both epistemic and economic grounds, arguing that corporate managers lack the knowledge to effectively allocate resources to social endeavors “for which proven abilities to use resources efficiently in production does not necessarily confer special competence” (Hayek 1967b: 311). As Friedman explains:

Suppose a business wants to do charity. What is it that gives it any special ability to do charity properly? The XYZ Company, in addition to producing XYZ trucks, also wants to be socially responsible and so it does what it thinks is charity. What is its special capacity for that? It may know how to make trucks, but does it know the right way to spend charitable money?

(Friedman 2006: 11)

Unchecked by market forces, managers’ pursuit of “what they regard as socially desirable purposes” (Hayek 1967b: 304) transforms corporations into “self-willed and possibly irresponsible empires, aggregates of enormous and largely uncontrollable power” (ibid.: 311).

Beyond allocative inefficiencies, Hayek condemns managers’ redirection of shareholder resources to their own ends as tantamount to theft (Hayek 1967b: 301). He also fears that corporate philanthropy will be a slippery slope to socialism.

[Managers’] power to do good according to their own judgment is bound to be merely a transitory stage. The price they would soon have to pay for this short-lived freedom will be that they will have to take instructions from the political authority which is supposed to represent the public interest.

(ibid.: 312)

The overarching implication of the Friedman/Hayek view is that philanthropic ends are better served by the commercial machine than by individual acts of caring and sharing.

Hayek’s commerce-only view of the Smithian Great Society placed binding constraints on his liberal project. Had his economic philosophy been less rigidly bound by the aforementioned dualisms, Hayek’s liberal commitment to voluntary co-operation might have inspired him to theorize the co-articulation of civil and commercial society. James Buchanan offers a similar conjecture:

To secure freedom from the collective ... was, properly, the predominant objective for the post-Marxist classical liberal. It is not surprising that the

rejection of collectivism ... should have involved a complementary neglect of and appreciation for the communitarian elements in a well-functioning social order informed by liberal value norms.

(Buchanan 2005: 78)

Hayek's neglect of communitarian elements is evident in his discussion of equal opportunity. Though committed to the Rawlsian norm of seeking to "improve the chances of any member of society, taken at random, as much as possible" (Hayek 1978: 62), Hayek never articulated a cogent account of where, why, and by whom inequalities of opportunity should be redressed (cf. Dobuzinskis 2008). He recognizes the need to provide assistance to "people who, for one reason or another, cannot through the market earn a minimum income" (Hayek 1978: 64, 92) and argues that public action "outside the market" (governmental or otherwise) is the best way to provide such assistance, in preference to price controls and other market restrictions. He endorsed universal education, for example, as a way to "place all of the young at the foot of the ladder on which they would then be able to rise in accordance with their abilities" (Hayek 1978: 142). However, Hayek provides no explicit economic or normative justification for such actions.

The eclipse of civil society in Hayek's theory of the Great Society was brought to light four decades ago by Richard Cornuelle (1993 [1965]). In *Reclaiming the American Dream: The Role of Private Individuals and Voluntary Associations*, Cornuelle outlines the structure and dynamics of what he termed the "independent sector": a pluralistic array of voluntary, non-commercial institutions that "functions at any moment when a person or group acts directly to serve others" (ibid.: 38). Cornuelle tethers a Tocquevillian image of voluntary public action onto a Mises–Hayek theory of markets to envision a society that is "both free and humane" (ibid.: xxxiv; see also Cornuelle 1991). In his Afterword to the 1993 reprint of *Reclaiming*, Cornuelle laments that so few libertarians had been willing to accept his concept of a flourishing voluntary community beyond the commercial sphere:

Most of my libertarian friends were willing to discuss possible market solutions to public problems, but, lacking any analytical device but market theory, continued to believe that anything that could not be done profitably should probably not be done at all.

(Cornuelle 1993 [1965]: 186)

Hayek, for his part – as if to affirm Buchanan's "post-Marxist classical liberal" conjecture – praises Cornuelle's ideas (Hayek 1979). He calls *Reclaiming* an "unduly neglected book" and "one of the most promising developments of political ideas in recent years" (ibid.: 186, 51). He also laments his own inability to explore more fully "the actual and potential achievements of the independent sector":

I wish I could write about the subject at length, even if it were only to drive home the point that public spirit need not always mean demand for or

support of government action. I must, however, not stray too far from the proper subject of this chapter, which is the service functions which government might usefully perform, not those which it need not take upon itself.

(ibid.: 51)

The enduring “Adam Smith Problem” of modern economics

As further context for the marginal place of philanthropy in Hayek’s economics, one must acknowledge that among professional economists of Hayek’s era, such treatments of non-commercial motives and processes were commonplace. Most twentieth-century economists advanced or accepted the monist premise that commerce alone – commodity production and exchange – was the proper domain of economic theory (Mirowski 1989, 2001). Without a priori intent to exclude philanthropy, economists’ commitments to the mathematical formalisms of received theories of value led them to follow the lead of Adam Smith himself, who “did not give private benevolence associations much of a role in solving social problems” (Fleischacker 2004: 275).

In the language of intellectual history, this pervasive neglect of philanthropy in economic theories of commercial society signifies an enduring “Adam Smith Problem” (ASP). The ASP, in its classical form (Oncken 1897), refers to an alleged discontinuity between Smith’s two major works (Smith 1976a [1759] and 1976b [1776]), namely: “the hypothesis that the moral philosopher who made sympathy the basis for social behavior in the *Theory of Moral Sentiments* did an about-turn from altruistic to egoistic theory in the *Wealth of Nations*” (Raphael and Macfie 1976: 20). Few contemporary Smith scholars still regard the classic ASP as a problem since most now subscribe to a conception of Smithian “self-interest” whose breadth dissolves the bipolarity of self-interest and sympathy.

The ASP that endures today, what I describe as the modernist ASP, is an institutional binarism: a “separate spheres” model of economic life in which the economy is reduced to commerce only, and commerce and philanthropy – impersonal *Gesellschaft* and face-to-face *Gemeinschaft* (Tönnies 1887) – are treated as distinct and antithetical worlds. Much as the original ASP arose from a monist view of the individual as narrowly self-interested, so the modernist ASP presupposes a monist *economy*: a unified and complete system, governed by a single self-organizing principle and capable of serving as the principal provider of societal wealth.

This line of economic thinking predates the twentieth century but ascended to new heights after World War II. American economists emerged from World War II “covered in glory” (Morgan and Rutherford 1998: 13), having solved many wartime policy problems with their newly acquired mathematical and statistical expertise (Sent 2006: 83; Morgan and Rutherford 1998: 9–11). Inspired by the rise of national income accounting, mathematical control theory, and the Walrasian theory of “general equilibrium,” professional economists in the 1940s and 1950s promulgated the idea that national economies were engineerable systems, i.e., machines. This idea was systematized at the highest levels of theory, both in the reduction of the economic sphere to commerce (economics as the science of

exchange) and in the further reduction of commerce to the clean, tidy world of generic rational agents and efficient markets (Weintraub 2002).

This general equilibrium model was embraced by conservative and liberal economists alike. Chicago School formulations emphasized its verisimilitude to the real world – a world populated, in their perception, by highly rational agents and highly competitive markets. MIT and Harvard economists used the general equilibrium ideal as a yardstick to measure the shortcomings of real-world economies and to justify government interventions to correct these imperfections (Garnett and Butler 2003). Either way, the modernist economy – whether regulated or unregulated – was seen as the generative core of economic life (potent, efficient, systemic), in contrast to charity and other forms of philanthropic giving which were regarded as outmoded, inefficient, and ad hoc.

Through the lens of gender, the separate spheres view of commerce and philanthropy echoes the historic separation of male and female domains (Coontz 2005: 146, 155–6; McCloskey 2006: 254–5; Nelson 2006: 33–7; Pallotta 2008: 28–30). In her history of the modern family, Stephanie Coontz argues that the eighteenth century was marked by a growing “sense that men and women lived in different spheres, with the man’s sphere divorced from domesticity and the woman’s divorced from the ‘economy’” and by a parallel segregation of motives and behaviors: commercial spaces occupied by “rational and active” men, and households occupied by “humanitarian and compassionate” women (Coontz 2005: 155–6). “The husband was the family’s economic motor,” Coontz writes, “and the wife its sentimental core” (ibid.: 146).

Even today, the common-sense view of the for-profit sector as “dominant over charity” is laced with a gender-laden assumptions (Pallotta 2008: 30) such as “charities cannot take chances,” “[charities] cannot have the same level of compensation as business,” “[charities] must be supervised and measured by their efficiency,” and “we must always be on the lookout for how [charities] spend our money” (ibid.: 30). Hence the economic role and status ascribed to philanthropy remains analogous to Simone de Beauvoir’s “second sex”: a separate and secondary form of economic co-operation.

These entrenched dualisms limit our ability to understand and improve the humane ecology of commercial societies. Public understanding of economic life is diminished when commercial society is seen through the monist lens of Walrasian models in which narrowly self-interested agents interact in markets-only economies (McCloskey 2006). Philanthropic endeavors are particularly undercut by the notion of an all-providing commercial or mixed economy. For if our modern economy can generate and allocate resources more efficiently than any other conceivable “system,” then it is no longer necessary to engage in informal, local, non-commercial – in a word, pre-modern – modes of giving and learning.

Deconstructing commerce, rethinking commercial society

At the Mont Pèlerin Society’s inaugural meeting in 1947, Hayek challenged his colleagues to tackle the “great intellectual task” of “purging traditional liberal

theory of certain accidental accretions which [had] become attached to it in the course of time,” and to “[face] up to certain real problems which an oversimplified liberalism [had] shirked or which [had] become apparent only since it had become a somewhat stationary and rigid creed” (Hayek 1967a: 237–8). As we sit today, just one generation removed from the official end of the Cold War, classical liberals are once again confronting a “great intellectual task”: the re-examination of the liberal ends and means of voluntary co-operation and the refashioning of Adam Smith’s Great Society beyond the reductive conceptions of economic modernism and Cold War anti-socialism.

To take up this task is to embark anew on Cornuelle’s quest for a “free and humane” society comprising market processes and “aggressive and imaginative voluntary action in the public interest” (Cornuelle 1992: 6 and Cornuelle 1993 [1965]). Many contemporary thinkers have indeed begun to recast commercial society as “a free society that leads to and depends upon flourishing human lives of virtue” (McCloskey 2006: 497), refusing to allow their liberal imaginations to be bound by their predecessors’ dichotomies (*Gesellschaft/Gemeinschaft*, Smith/Aristotle, negative liberty/positive liberty). Intentionally or not, these scholars are taking up the challenge Don Lavoie posed to the “more liberal elements of the left and right sides of the old political spectrum,” namely: “to transcend the confines of these obsolete ideologies and work together to articulate a new vision of the free society” (Lavoie 1994: 283).

Adam Smith’s writings, though containing only inchoate hints about the economic role of philanthropy per se, nonetheless provide a rich starting point for contemporary reflection on the contours of commercial society. Smith’s commercial society, as defined in *Wealth of Nations* chapter 5, is ostensibly nothing more than a market economy: a social order in which “every man ... lives by exchanging” (Smith 1976b [1776]: 37). However, if one refracts the term “exchanging” through Smith’s larger oeuvre, it points to multiple modes of reciprocity, market and non-market, through which individuals give and receive the means to create a flourishing life. Here, too, Buchanan agrees. “The normative ideal [of classical liberalism] is not laissez-faire without qualifying adjectives,” he argues. “The normative ideal must include *reciprocity*” (Buchanan 2005: 84; original emphasis). This expanded concept of exchange implies an equally expansive view of the Smithian invisible hand: the complex process whereby our human capacity to “treat strangers as though they were honorary relatives or friends” (Seabright 2004) gives rise to unplanned moral, economic, and social order.

Hayek opens the door to this broader economic vision through his emphasis on the humane effects of the invisible hand. He describes the market order as a catallaxy, in part because the latter’s Greek root (*katalattein* or *katalassein*) means both “to exchange” and “to receive into the community” and “to turn from enemy into friend” (Hayek 1988: 112). By way of this strategic renaming, Hayek highlights the cosmopolitan character and moral consequences of the market process: “The morals of the market do lead us to benefit others, not by our intending to do so, but by making us act in a manner which, nonetheless,

will have just that effect” (Hayek 1988: 81). However, Hayek never challenged the market-centered definition of economic science and was thus unable to integrate philanthropy into his fundamental theory of commercial society. Like most twentieth-century economists, he failed to exploit the overlay of Smith’s two famous books, for example, the notion that Smith’s *Wealth of Nations* is but a special case of the general theory of social co-operation outlined in his *Theory of Moral Sentiments* (Evensky 2005: 20; see also Macfie 1967; Fleischacker 2004). Had Hayek or his fellow moderns attempted a more radical reformulation of economics as moral philosophy, they might have advocated a Smithian science of reciprocity, i.e., exchange broadly defined.

As we seek to advance this expanded Smithian science today, a necessary first step is to replace philosophical monism (the meta-economic framework that gave rise to the ASP in the first place) with cogent, pluralistic conceptions of human action and economic organization. In other words, we must undo the modernist separation of economic science from economic anthropology – to recognize that market-based economies are characterized by the very qualities generally ascribed to “pre-modern” gift economies such as thick sociality, complex networks of interlocking obligations, and temporal separations of outlay and return.

Colin Danby (2002) elegantly outlines the logic and importance of this deconstructive project. Danby argues that the familiar gift/commerce dichotomy presupposes a Walrasian model of market exchange. In standard versions of this model, market transactions are conceived as fleeting and impersonal, as “spot transactions in which one thing is instantaneously swapped for something else by transactors who may never meet again” (ibid.: 15). Anthropologists tacitly accept this model, Danby contends, when they define gift exchange as the mirror image of Walrasian exchange: reciprocal transactions that occur over time between parties who share an ongoing relationship (ibid.: 15).

Danby attacks this gift/market dichotomy at two levels. First, he situates it within a larger philosophical and historical context. He writes:

The problem with the gift/exchange dichotomy goes deeper than its notion of exchange.... It is an expression of an underlying a priori dichotomy between non-modern and modern, or non-West and West ... The non-modern in this pairing is a shaggy periphery, a detritus category of all that does not fit the imagined modern. It represents what the modern lacks, what the modern is leaving behind, what the modern will inevitably overcome. The essential assumption ... is that there exists an underlying modern or Western social *topos* (field), unified, bounded, and possessing inherent characteristics, which can be analytically separated from one or more non-modern or non-Western social *topoi*. This self-congratulatory idea can be expressed through space (West/East, North/South, First World/Third World), time (advanced/backward, late/early, progressive/traditional), and other pairings too numerous to list.

(ibid.: 14)

Second, Danby points to multiple traditions of economic thought that challenge the Walrasian reduction of economic life to atemporal, asocial exchange. For example, Post-Keynesian, Austrian, Institutional, and Marxian theories all emphasize the “through-time organization of material life” (ibid.: 14) – the diachronic and socially embedded nature of exchange and all other economic processes. In Post-Keynesian models, for instance, the typical transaction is the “*forward* transaction, by virtue of which the parties involved are likely to have an institutional or embedded relationship” (ibid.: 15; original emphasis). Conversely, once we reconceptualize market exchange outside the modernist frame, we can no longer regard “either a delayed return, or difficulty in assessing the value of that delayed return, [as] special characteristics of ‘the gift’” (ibid.: 32).

Danby’s analysis is directly germane to the philanthropy/commerce dualism at issue in this chapter. Of the latter, Danby would say that economists have yet to understand philanthropy and commerce on their own terms inasmuch as we continue to see both through reductive lenses: commerce as a robust self-organizing system and philanthropy as its good-hearted but asystematic subsidiary.

If we were to reconstruct the economics of commercial society along the general lines suggested by Danby’s approach, the resulting framework would make room for philanthropy in three significant ways. First, economic plurality would be etched into the language and ontology of the new Smithian economics. No part of the economy would be conceived as inherently commercial or philanthropic. The general presumption would be that every aspect of the economy comprises commercial and philanthropic elements. Characteristics once ascribed exclusively to markets or philanthropy would be seen as general features of both, for example, calculation (Boettke and Prychitko 2004; Chamlee-Wright 2004), reciprocity, self-interest, benevolence, large-scale co-operation via adherence to abstract rules (Lewis 2009), knowledge problems, intended and unintended consequences, integration and disintegration of individual identities and communities, and so on.

Seeing the economic world as inherently pluralistic in these ways would allow economists to recognize the nuance and complexity of hybrid forms such as “for-profit social ventures and entrepreneurial non-profits” (Fulton and Blau 2005: 15, 28; see also Strong 2009). It also would put more economists in dialogue with the fascinating studies of human co-operation now emerging from leading edges of network theory (Benkler 2006; Lessig 2008), evolutionary biology and psychology (Gintis *et al.* 2005), experimental economics (Smith 2008), post-Maussian gift theory (Godbout 1998; Vandavelde 2000), Hayekian social capital theory (Chamlee-Wright 2008, 2010; Lewis 2008; Lewis and Chamlee-Wright 2008; Chamlee-Wright and Myers 2008) and other genres of classical liberal economics (McCloskey 2006; Storr 2008), social economics (van Staveren 2001), development economics (Sen 1999), feminist economics (Nelson 2006), behavioral economics (Meier 2006), and positive psychology (Garnett 2008).

A second key element in this rethinking of commercial society would be the adoption of broader views of the self, self-interest, and human action via a Smithian notion of rule-guided action (Smith 1976a [1790]: 161–70). For Smith,

human action is not driven not by “rational choice” as defined in modern economics. By emphasizing the limited knowledge and limited benevolence of “man as he actually is” (Coase 1976: 544), Smith recognizes that human action is often guided by tacit knowledge and the observance of learned (social) rules. On these grounds, he argues that individuals are capable of caring for a variety of “others” via voluntary associations with groups and the adoption of their rules and norms. He envisions an individual who is capable of ethical action beyond narrow self-interest by virtue of her ability to identify with others and to judge others’ actions (and her own actions) with respect to the goals, needs, or norms of the group as a whole (Lewis 2009).

Hayek’s work speaks eloquently to this point. Hayek emphasizes the importance of abstract rules in the formation of extended orders. He also argues that our instinctual drives cause us to resist many established rules whose origins and consequences are mostly unknown to us (Hayek 1988: 71–82). He thus describes rule-guided action as a liminal space “between instinct and reason” (*ibid.*) whereby individuals follow rules based on their tacit knowledge of social norms but not based on conscious, rational knowledge.

Lewis (2009) claims that Hayek, by theorizing rule-guided action as a feature common to all forms of social co-operation, opens the door to a classical liberal rethinking of the commerce/philanthropy dual. Hayek himself did not pursue this line of inquiry. But as Lewis perceptively observes, Hayek’s “road not taken” has been well traversed by another classical liberal economist, Amartya Sen. Sen advocates a pluralistic conception of “economy” (Sen 2009) based on his rigorous theorization of human action beyond standard notions of instrumental rationality. Of particular interest to Hayekian scholars is Sen’s attention to the human propensity to act “according to fixed rules, without following the dictates of goal-maximization” and the related human capacity for commitment: action guided by the acceptance of “rules of conduct toward others with whom one has some sense of identity” (Sen 2002: 217). This little noted consilience between Sen and Hayek suggests the value of a broader conversation among classical liberal thinkers (including Buchanan, McCloskey, Douglass North (2005), and others) who have moved decisively away from the prudence-only, commerce-only economics of modernism.

Finally, a revamped Smithian view of commercial society would recognize the “positivity” of philanthropy as a generative element in the economy of human co-operation. Philanthropy would be seen as not as a mere supplement to the real economy – a palliative to fill gaps, redistribute resources, repair damage, and otherwise heal the pathologies of modern commercial societies – but as a fundamental part of what defines and propels every economic system.

By theorizing commercial society as a self-organizing, positive-sum network of commercial and philanthropic processes, the new Smithian economics would take a broad view of the signaling mechanism whereby individuals receive “profit-and-loss” feedback on their actions. Such feedback need not take the form of calculable prices in order to motivate action and promote co-operation among known and unknown others (Chamlee-Wright 2008, 2010).

In addition, philanthropy would be seen as a generative process, a positive-sum interaction (net gain of human betterment) among donors and recipients, not just a one-way, zero-sum transfer. As Gunderman explains:

When we see philanthropy as part of a fixed-sum system, we perceive its mission in terms of redistribution. . . . [In contrast,] the most enlightened philanthropy aims at increasing non-fixed-sum relationships throughout a community. In other words, decreasing want is ultimately less important than increasing generativity, our capacity to contribute to our own flourishing. In this vision, philanthropy . . . enhances both our capacity and our inclination to make a positive difference in the lives of others.

(Gunderman 2007: 41–2)

Philanthropy, if successful, betters the human condition of both parties. Specifically, it enhances the freedom of donors and recipients, i.e., their effective opportunities for “loving, befriending, helping, sharing, and otherwise intertwining our lives with others” (Haidt 2006: 134). By increasing all parties’ capabilities to give and receive assistance, philanthropy augments their social or humane capital. It has the potential, like commerce, to address “complex modern problems” by continually expanding our philanthropic capacities and guiding our actions to better serve others (Cornuelle 1993 [1965]: 62).

The humane ecology of Smithian liberalism

Adam Smith argued that free markets and the rule of law are necessary but not sufficient for achieving “the liberal plan of equality, liberty, and justice” (Smith 1976b [1776]: 664; Harpham 2006: 27–8; Evensky 2005; Sen 2009). A central challenge for classical liberal economics, going forward, will be to offer meaningful responses to this challenge. Such responses require a view of human freedom and economy larger than the modernist liberalism of “commerce only.”

The modernist approach still holds considerable appeal for classical liberal economists, as it did for the Mont Pèlerin Hayek. Peter Boettke, for example, advocates a “robust political economy” in which liberalism is identified with a markets-only economic order (Boettke and Leeson 2004), even as he praises voluntary and philanthropic associations as engines of social co-operation in the post-Katrina context (Boettke *et al.* 2007). Boettke claims that such a liberal order is more robust than its socialist counterparts because it minimizes the harm that any individual can inflict upon others, even in the worst-case scenario where individuals are ignorant, narrowly self-interested knaves (*ibid.*).

But if our Great Society is modeled on such thin notions of humankind and social order, how robust can it truly be? This gadfly question has been posed many times over the years by Cornuelle, Boulding, McCloskey, and others, who argue that the best (indeed only) hope for the survival and flourishing of free societies lies in broader views of human nature and voluntary co-operation. If we really want to enhance the *robustness* of commercial society, they argue, then

our liberal vision must include the full spectrum of human motives, actions, institutions, and processes that generate the *capital* – economic, social, and humane reserves – that allow communities and individuals to “withstand various negative shocks or conditions” and to “ward off illness easily or, once diseased, to fight off illness and retain [their] original degree of functionality after the disease is gone” (Boettke and Leeson 2004: 102).

The humane possibilities of commercial society are better understood by economic theories that recognize philanthropy – “voluntary giving and association that serves to promote human flourishing” (Ealy 2005: 2) – as an integral dimension of economic life, and by broad-angle views of the liberal tradition as a defender of the positive capability to pursue the good life as one defines, for example, “to experience meaningful personal engagement in community life” (ibid.: 4), as well as the negative freedom from coercion. A turn away from economic modernism is thus an opportunity for economists to redefine their scientific domain in a Smithian fashion, not just a commodity space but a pluralistic provisioning space comprising multiple forms and scales of actions that enable individuals to secure “the cooperation and assistance of great multitudes” (Smith 1976b [1776]: 26).

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