

Abstract

The Butcher, the Brewer, the Baker, and the *Cosmos*: Hayek's use of Smith in ordering the Great Society

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In his writing on political, legal, social and economic theory, one may find in the work of Friedrich Hayek one of the most comprehensive and unique justifications for liberal society in the last 250 years. This is largely a result of his use of spontaneous order theory. Hayek is clearly adamant in tracing the economic and political origins of that theoretical scaffolding to the thinkers of the Scottish Enlightenment. In doing so, he places Adam Smith in what he calls an 'anti-constructivist' tradition, actively working to dispel notions of rationally designed or mutually agreed-upon orders in the Hobbesian tradition in favor of analysis of spontaneous, unintended ordering forces.

By tracing the ways in which Hayek draws upon Smithian thought, even in cases without explicit reference to Smith's ideas as such, I argue that Hayek was justified in his placement of this Scottish moral philosopher and political economist in such a tradition; finding in Hayek's work both a lucid understanding of Smithian ideas as well as effective argumentation for principled extensions of such a framework. Rather than simply appropriating and perverting Smith's ideas through a libertarian bias, as some have argued, I endeavor to show that through his use of Adam Smith's political economy and moral theory, Hayek strengthens and extends the spontaneous order tradition in pursuit of a more rigorous defense of what he calls the Great Society.

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I. Introduction

By tracing the ways in which Friedrich Hayek expanded upon elements of Adam Smith's ideas regarding spontaneous order, we may begin shine a light into the murky waters of the constituent elements of a liberal society. In this paper, I will explore their unique and shared methods of sociological and economic inquiry in hopes of gaining a more nuanced understanding of the ways in which liberal thought may approach the dizzying complexity of a political 'order.'

Standing as two of the most influential liberal economists of modern history, Adam Smith and Friedrich A. Hayek both devoted considerable effort to examining the coincidence of man's non-pecuniary, social existence and the nature of the economic structure in which it was entrenched; each thinker's normative economic claims being paired with substantial analysis of the social and civic nature of open markets.

Grossly simplified, I would like to posit that both thinkers suggested the following: in a similar way that prices arise in a competitive market, so to do the social norms presiding over daily life; which is to say, emergent from the actions and interests of many individual agents and constituting a spontaneous order.

Though, while Hayek openly traces his social theories to thinkers of the Scottish Enlightenment, we witness a divergence with certain political ideas of Smith. Despite their other similarities, Smith's conception of the state in *Wealth of Nations* is occasionally one wherein it *necessarily* plays an *active* role in both the social and economic spheres; standing in contrast to Hayek's staunch libertarianism. Many critics find this to be irreconcilable, and seek to negate Smith's powerful influence on the work of thinkers with more strident views regarding the role of government vis-à-vis the market as a misappropriation or misunderstanding. I hope to clear up this misunderstanding through extensive comparison of the two thinkers, and I believe I arrive at

a conclusion that places their respective roles of the state closer to each other's than is usually put forth.

These titans of economics clearly found similar causalities in the free markets they defended and in some ways, the civil evolution they observed, so how should we reconcile this divergence? This essay will serve as a starting point, looking at the ways in which Hayek's work can be viewed as owing a great deal to Smith, even beyond what he himself was apt to discuss. These comparisons will be made primarily in analyzing their conceptions of spontaneous order.

In this way we can better approach the question: is Hayek justified in invoking Smith's understanding of order when formulating and advocating for his own theories regarding it? In her book, *Hayek's Liberalism and its Origins*, Christina Petsoulas argues he is not. A substantial portion of my work will be devoted to considering an alternative view to that of Petsoulas.

In all I will attempt to address the following: In his use of and/or departure from Smith's thinking regarding order, does Hayek improve or impair the tradition of 'spontaneous order' theorists with regards to a defense of liberal society? I will argue that in his faith to Smith he greatly improves it.

II. Literature Review

Hayek's Liberalism and its Origins: His idea of spontaneous order and the Scottish Enlightenment by Christina Petsoulas

Chapter 5 of Petsoulas' work is entitled "Adam Smith: sympathy, 'invisible hand' and the 'man of public spirit.'" It provides a critical look into Hayek's claims regarding the influence of Smith on his own socio-economic theory. I'd like to outline her argument here.

Adam Smith, in Hayek's view, was the first to observe the dispersed character of knowledge and perceive that "we have stumbled upon methods of ordering human economic cooperation that exceed the limits of our knowledge and perception" (Hayek 1988: 14). Additionally, Hayek asserts that Smith's metaphor of 'the invisible hand' explains how co-ordination of divergent individual interests is brought about, as men are constrained by appropriate rules (the order resulting from rule-following being beyond individual knowledge or intentions). Hayek posits that rules on which market order depends arise as variations of habitual patterns, and spread because they enable those practicing them to procreate and include outsiders, not because men *understand* them to be more effective (Hayek 1988: 16). Petsoulas posits that Smith attributes rule-creation to individual intentionality and understanding of their benefits, and as such is divergent with Hayek. I will later argue against her conclusions in this area.

Smith, she argues, shows that rules emerge via the conscious process of sympathy and the device of the 'impartial spectator'. Repeated iterations of sympathetic approval constitute the formation of general rules. Or, put another way, rules are selected due to man's repeated efforts to gain sympathetic approval of other men. Thus, rules are the products of induction. They are reached by reason. Again, this is said to contradict Hayek's claims.

Furthermore, Petsoulas argues that Hayek does not correctly appropriate Smith's metaphor of 'the invisible hand.' She writes:

Smith does not identify the invisible hand with market order, for he does not ground the workings of the invisible hand on an antecedent set of rules of just conduct. As we saw, he regards rather the invisible hand of nature (manifested in man's desire to better his condition) to be at work in all stages of human development. In market order, for Hayek, as indeed for Smith, the reconciliation of divergent interests is brought about by an appropriate set of rules and institutions. Yet, unlike Hayek, Smith does not maintain that rules and institutions are the product of cultural evolution; he rather presents them as the responsibility of 'the man of public spirit'. (Petsoulas 2001: 189)

A large part of Petsoulas' argument here is that Hayek places too much emphasis on Smith's negative attitudes towards this 'man of public spirit.' I will argue against this in the final section of this paper. It is worth discussing here Petsoulas' treatment of this strain of Smith's thought. She writes:

For Hayek, the rule of law is a necessary precondition for the formation and existence of spontaneous social order. For Smith, every type of society would seem to constitute spontaneous order, in the sense that the individual pursuit of self-interest results in unintended outcomes which are beneficial to the public: the agrarian kingdoms of feudal Europe can hardly be described as liberal, yet Smith sees the invisible hand operating in them too. Furthermore, as I argue in this chapter, a theory of cultural evolution (the second component of Hayek's idea of spontaneous order) is not present in Smith...Adam Smith recognizes that, if the system of natural liberty is to be preserved, a certain degree of *artifice* is required...it will be argued that, in the *Wealth of Nations*, it is no longer the invisible hand of the Deity (Providence), but the more visible hand of the enlightened legislator (the 'man of public spirit'), that Smith sees as the guarantor of the system of natural liberty. (Petsoulas 2001: 148)

Petsoulas goes on to make the distinction between Smith's 'man of system' and 'man of public spirit', showing that Smith believes that government can promote the happiness of its people by respecting the rules to which the polity already adhere. This is consistent with Hayek, but Petsoulas states that Hayek then makes the further claim that the reason for respecting these traditional rules is the fact that they are a product of cultural evolution, and that, as such, they

embody the accumulated knowledge and experience of past generations. I will argue that this is not divergent from but rather a principled expansion of Smith's thought.

To summarize, Petsoulas argues that Smith's explanation of the emergence and maintenance of social norms does not conform to Hayek's description of cultural evolution since "1) the idea that amongst a number of competing rules those with adaptive superiority survive, is absent from Smith; and 2) Smith does not maintain that the process through which social norms emerge is in fact unconscious" (Petsoulas 2001: 149). But rather, for Smith, social and moral rules, while not rationally designed, originate in the *conscious* mechanism of sympathy and the 'impartial spectator.' Additionally, contrary to Hayek, Smith does not merely identify the invisible hand with the price mechanism of market society. For Smith, the invisible hand stands for man's natural propensity to 'ameliorate his condition' which is present at all stages of socio-economic development. Lastly, Petsoulas argues that Smith saw that political initiative is required to adapt institutions to changing socio-economic conditions.

What Petsoulas lacks here is what I would like to shed light upon in my thesis. Firstly, Petsoulas frames her argument in the context of Hayek's theory of spontaneous order falling prey to numerous inconsistencies, as he faces a problem of explaining "how men are able not only to articulate rules of conduct but also deliberately to change social rules and institutions" (Petsoulas 2001: 149). There is little need to frame analysis in this way. I would like to give equal standing to the frameworks of both Smith and Hayek, and from that understanding seek to identify the ways in which they both arrived at different conclusions regarding the role of the state, and furthermore, the source of that divergence. Instead of perverting the thought of Smith, I argue that Hayek took useful elements and expounded upon them. Deviating from the original use of conceptual devices is not in itself an inconsistency.

Petsoulas work presents a somewhat cogent argument regarding the differences in Hayek and Smith's conception of order but ultimately falls prey to a biased methodological framework and too narrow of a focus.

Adam Smith and the Character of Virtue by Ryan Patrick Hanley

This work has proven to be useful as a lens by which to analyze Smith's socioeconomic framework. It will be worthwhile to outline its principle claims here.

The first is that Smith was undoubtedly a champion of commercial society, but this did in no way blind him from its faults. Chief among these is its tendency to exacerbate the 'psychological ills' of restlessness, anxiety, inauthenticity, duplicity, mediocrity, alienation, and indifference to others. In attempting to put forth a system to ameliorate these ills, we see Smith's ethics as normative, supplementing the empirical social science with which he is associated (Hanley 2009: 8).

Smith's normative virtue ethics are laid out in a three-part process in Part IV of the sixth edition of *Theory of Moral Sentiments*. The first stage is to inculcate the virtue of prudence, the second to ameliorate mediocrity by encouraging the virtue of magnanimity, and the third is to recover the Christian virtue of beneficence. Smith's moral theory proves to be of paramount importance in this thesis.

Hanley makes very little mention of *Wealth of Nations* in this work, and as such may sacrifice an important piece of Smith's general framework. This could explain Hanley's complete disregard for the state-based solutions Smith proposes to ameliorate the ills of commercial society, and their possible interplay with Smith's ethical proposals.

It may be worthwhile here to address the idea of "Das Adam Smith Problem", which holds that *Wealth of Nations* and *Theory of Moral Sentiments* are fundamentally inconsistent as

they present different conceptions of what is most defining about human nature (self-interest in one, sympathy in the other). The consensus among modern Smith scholars is that such a gap does not exist; many convincing arguments having been made to the contrary (Coase 1976; V. Smith 1998; Tribe 2008). The two books are seen to constitute a complete rather than disparate framework, and this is the manner in which I shall be using them. As per Vernon Smith, the ‘propensity to truck, barter and exchange one thing for another’ (WN: 22) is at the core of Smith’s view of human nature in all of his work. In *Wealth of Nations*, what is exchanged is goods, in *Theory of Moral Sentiments* it is sympathy.

Adam Smith’s Political Philosophy: The invisible hand and spontaneous order by Craig Smith

In one of the few works on Smith which includes extensive comparisons to Hayek, Craig Smith operates under the unique methodology of comparing who he refers to as ‘the Scots’ with ‘the Moderns’ (exemplified by Smith and Hayek, respectively) and their contributions to the intellectual canon revolving around the concept of ‘spontaneous order.’

One major similarity between the two groups, for Craig Smith, is their distaste for what Hayek dubbed ‘rational constructivism.’ This is a contentious stance, at least when discussing Adam Smith. Many Scottish Enlightenment thinkers did indeed reject certain established systems of understanding based on the unlikelihood of rational, deliberate human action having been responsible for the origins of society and government. This does not mean that Smith did the same in all cases. In fact, we see a large amount of credit given to agency, rational decision-making and perhaps even system building among individuals in Smith’s discussion of the emergence of moral order. I will nonetheless argue that Hayek is justified in viewing Smith as a member of such a tradition.

It is worthwhile noting where Hayek is discussed in this work, namely, the chapters on the *evolution* of science, morality, law and government, and markets. Hayek's discussion of order is indeed highly dependent on his conception of evolution. This is evident in part throughout Hayek's discussion of the role of government, and Craig Smith recognizes this.

Craig Smith, rightly, in my view, recognizes the lessons Hayek takes from discussion of the evolution of cultural institutions in relation to his conception of government, the most significant being "that freedom is justified as an instrument to secure certain other values that are taken for granted as being desirable" (C. Smith 2006: 143). Government is viewed as a facilitator of spontaneous order, not an actor which determines the shape of that order. The question remains of how such order is to be changed if it leads to sub-optimal outcomes. It is at this point in the work that Smith directly critiques Petsoulas' discussion of Hayek's appropriation of Mandeville, Hume and Smith.

While Petsoulas asserts that Hayek finds reform to be nearly impossible, or that reason is powerless to improve the efficiency of the framework of general rules provided by government, Smith finds no such thought. The following summarizes Smith's rebuttal.

For Petsoulas' argument to convince decisively against non-deliberative evolution she would have to show that government was intentional in its origins or that its reforms have always consciously been aimed at securing a particular systemic order rather than the resolution of particular disputes. In other words she would have to fall back on an approach which the Scots would criticize as a simple model or fail to offer an objection to Hayek's notion of immanent criticism. (C. Smith 2006: 146)

This is a fair and important criticism which points to the niche of my thesis, and will be discussed below. It is also incomplete. Petsoulas also falls prey to a misreading of Smith with regards to his views on the emergence of moral frameworks and cultural evolution as well.

My Niche

While Petsoulas gives due credit to the influence of Smith on Hayek, her framework, which regards spontaneous order and evolution as two separate ideas in Hayek which may be split and criticized as individual strains of thought, is an unnecessarily narrow one. Craig Smith is able to address this problem, but I do not believe he does so completely.

By determining the causal roles of Hayek's theory of knowledge, conception of cultural evolution and understanding of spontaneous order in conjunction with analysis of Smith's moral theory, historical philosophy and political economy, I will argue that Hayek does a great service to the Smithian framework of order.

III. Law and Order in Hayek

Confusion of Language

Thoughts on the nature of social order, for a reader of Hayek, are most readily accessed in his attempts to peer into the intersection of "law, legislation, and liberty," an endeavor which occupied a large majority of his writing from the 1960s through the late 70s. It may be best then to begin my discussion of Hayek through the framework of one of his lesser-known but highly illuminating essays of the time, published 8 years after *The Constitution of Liberty* but years before the completion of his three-volume work *Law, Legislation and Liberty*. Published by the Institute of Economic Affairs, it is entitled "The Confusion of Language in Political Thought." By examining his argument here; that political thought is still restricted by the use of outdated terms which reflect subjective explanations of social institutions, we can start to lay a framework for further discussion of his political philosophy in the aforementioned, monumental works.

"Modern civilization has given man undreamt powers largely because, without understanding it, he has developed methods of utilising more knowledge and resources than any

one mind is aware of” (Hayek 1968: 9). We should not be ashamed of our ignorance, says Hayek, but rather be proud of these methods (individual rights, general laws) that enable us to overcome the limitations of individual knowledge. His notion comes with a directive that permeates all of Hayek’s political work: we must cultivate institutions that have opened up those possibilities. For Hayek, the thinkers of the Scottish enlightenment were the forerunners of this effort, which is part of why this project surrounds his use of Adam Smith.

“The great achievement of the 18th century social philosophers was to replace the naive constructivist rationalism of earlier periods, which interpreted all institutions as the products of deliberate design for a foreseeable purpose, by a critical and evolutionary rationalism that examined the conditions and limitations of the effective use of conscious reason” (Hayek 1968: 9). For Hayek, part of our reluctance in fully embracing this view of order lies in the fact that we still use words which imply anthropomorphic explanations of social institutions (Hayek 1968: 9). But these institutions are not by human design, but rather “successful adaptations to the irremediable limitations of our knowledge, adaptations which have prevailed over alternative forms of order because they proved more effective methods for dealing with that incomplete, dispersed knowledge which is man’s unalterable lot” (Hayek 1968: 10).

In the first two pages of this essay we thus find Hayek’s theories of cultural evolution, the knowledge problem, and his staunch ‘anti-constructivism.’ These three interwoven ideas drive a large majority of Hayek’s political thought. I hope to convey the extent to which many elements of these can be traced back to Smithian understandings of spontaneous order.

The most important terms introduced by Hayek in the remainder of the essay are *cosmos*, *taxis*, *nomos*, *thesis*, and *catallaxy*. It is necessary to define those terms before continuing with a more substantial discussion of Hayek’s major works on order, as even when they are not

explicitly referenced, the reader would be wise to keep them in mind.

Catallaxy

What is commonly thought of as a social or national economy is not to be thought of as a single economy, for Hayek, but rather a network of many economies. This distinction is made because the activities we observe in a national economy, for example, are not governed by a single hierarchy of ends, but rather a plurality of different preferences. Thus, a *catallaxy* is defined by Hayek as a special kind of spontaneous order brought about by the mutual adjustment of many individual economies in a market. It can be observed in free societies as a result of property, tort, and contract (LLL vol. 2: 109).

The remaining terms represent ordering forces, rules, or norms within this catallaxy. And while we will find varying definitions of ‘order’ for Hayek across these works, it should be noted that we find it here in its most basic form, “a condition of affairs in which we can successfully form expectations and hypotheses about the future” (Hayek, 1968: 11). We will later tie this to Smith’s discussion on the notion of propriety.

Cosmos and Taxis

Hayek argues that while we have terms like ‘arrangement’ or ‘organization’ to describe *made* orders, there is no distinctive term to describe an order that has formed *spontaneously* (Hayek 1968: 11). Thinkers have failed to recognize that all deliberate efforts to create a social order have taken place within a much more complex spontaneous order which was not the result of human design. The Greek language is more perceptive in this respect. “An arrangement produced by man deliberately putting the elements in their place or assigning them distinctive tasks they called *taxis*, while an order which existed or formed itself independent of any human will directed to that end they called *cosmos*. Though they generally confined the latter term to the

order of nature, it seems equally appropriate for any spontaneous social order...” (Hayek 1968: 11).

The most important difference between a *taxis* and a *cosmos* is that a *cosmos* is directed by no single purpose. In other words, “in a *cosmos* knowledge of the facts and purposes which will guide individual action will be those of the acting individuals, while in a *taxis* the knowledge and purposes of the organiser will determine the resulting order” (Hayek 1968: 13). Implicit in every *taxis* is a particular end imposed by an organizer, and thus the individuals which make up this order must essentially all serve the same purpose. The exogenous imposition of a *taxis* may in fact result, indirectly, in regularities which would yield a spontaneous order. Thus, “for policy purposes there results the alternative whether it is preferable to secure the formation of an order by a strategy of indirect approach, or by directly assigning a place for each element and describing its function in detail” (Hayek 1968: 12). Hayek despises the latter method because of his conception of the nature of knowledge, but also because a *cosmos* “extends the range and complexity of actions which can be integrated into a single order,” and more importantly, “reduces the power anyone can exercise over it without destroying the order” (Hayek 1968: 13). It would be wise to keep this consideration in mind, as it leads to the subtle conclusion in this section that while a *cosmos* serves *all* human purposes to some degree, no one person will be given the power to determine whom the order will favor. A *taxis* contains no such safeguards.

The conclusion yielded by this distinction, for Hayek, is as follows: “Where it is a question of using limited resources known to the organiser in the service of a unitary hierarchy of ends, an arrangement or organisation (*taxis*) will be the more effective method. But where the task involves using knowledge dispersed among and accessible only to thousands or millions of separate individuals, the use of spontaneous ordering forces (*cosmos*) will be superior” (Hayek

1968: 14). More importantly, those who have no ends in common may still be able to form mutually beneficial, peaceful spontaneous orders by submitting to common, abstract rules. The formation of an organization, rather, requires submission to a common hierarchy of ends. Only a *cosmos* can thus constitute an open society, “while a political order conceived as an organization must remain closed or tribal” (Hayek 1968: 14). I will argue that this inter-personal development of norms, morals, and order is an important part of Smith’s thought which greatly informs Hayek.

Nomos and Thesis

Modern language also lacks terms for the kinds of rules or norms that correspond to spontaneous and made orders; often applying the word ‘law’ to both. Hayek suggests *nomos* as a “universal rule of just conduct applying to an unknown number of future instances and equally to all persons in the objective circumstances described by the rule, irrespective of the effects which observance of the rule will produce in a particular situation” (Hayek 1968: 15) to correspond with a *cosmos*. These rules are ‘abstract,’ independent of individual ends, and lead to the formation of a *cosmos*. We should associate *nomos* with ideals like the Rule of Law, Government under the Law, and the Separation of Powers (Hayek 1968: 18).

Hayek holds *thesis* to mean “any rule which is applicable only to particular people or in the service of the ends of rulers. Though such rules may still be general to various degrees and refer to a multiplicity of particular instances, they will shade imperceptibly from rules in the usual sense to particular commands” (Hayek 1968: 15). A *taxis* is made up of such particular commands.

With these terms in mind, we may shift focus to Hayek’s chapter on “Law, Command, and Order” in *The Constitution of Liberty* to gain a deeper perspective of how particular and general

laws interact with social and political order. In this way we can better establish the conception of liberal order yielded by a Hayekian, and, I will argue, Smithian understanding of spontaneous order.

II. The Constitution of Liberty

Introduction

It is worthwhile to explore Hayek's thoughts on law in this work as he is operating less on purely semantic concerns, as in "The Confusion of Language in Political Thought," and is more explicit about the ways in which the nature of rules are tied to order. Additionally, by first examining his conception of law, one may better frame later discussion of Hayek's thoughts on the emergence of rules and rule-following. It is in that conceptual space wherein one may start to draw important parallels with Smith. Furthermore, it is necessary to establish this area of Hayek's thought as it is intimately connected with his conception of the Great Society, which will be later discussed in conjunction with Smith.

Laws general and particular

Hayek considers the chief:

At one extreme will be the instance where he relies entirely on specific orders and his subjects are not allowed to act at all except as ordered. If the chief prescribes that on every occasion every detail of the actions of his subordinated, they will be mere tools, without an opportunity of using their own knowledge and judgment, and all the aims pursued and all the knowledge utilized will be those of the chief. (CL: 218)¹

The chief eventually finds that it will better serve his interests to give general instructions while leaving individuals to act according to circumstance - according to their own knowledge.

¹ It comes as no surprise that, throughout his work, Hayek describes centralized political orders as fundamentally 'tribal.'

Further delimitation of the private sphere *by rules* ends up giving individuals greater and greater ability to direct his or her actions. “A similar transition from specificity and concreteness to increasing generality and abstractness we also find in the evolution from the rules of custom to law in the modern sense” (CL: 219). Keep this in mind.

According to Hayek, this transition was characterized by the growth of individual intelligence and the tendency to break away from habitual pattern, making it necessary for the state to gradually reduce positive prescriptions in favor of “the essentially negative confinement to a range of actions that will not interfere with the similarly recognized sphere of others” (CL: 220). This transition is better served to exemplify what Hayek is trying to establish as the importance of the “abstract character” of formal laws.

Note that laws are understood here as simply establishing a framework within which individuals may act. For Hayek, the laws are *instrumental* in this sense, “means put at his disposal...they provide part of the data which, together with his knowledge of the particular circumstances of time and space, he can use as the basis for his decisions” (CL: 220). In obeying these “instrumental” laws the individual is not pursuing the ends of a lawgiver, but rather his *own* ends within a consistent framework. “In observing such rules, we do not serve another person’s end, nor can we properly be said to be subject to his will” (CL: 221). A free man in a free society is not beholden to the orders of the chief who wields law to his own ends.

This notion of instrumental, general, abstract law serves as an essential foundation for Hayek. “The conception of freedom under the law that is the chief concern of this book rests on the contention that when we obey laws, in the sense of general abstract rules laid down irrespective of their application to us, we are not subject to another man’s will and are therefore free” (CL: 221). This contention he speaks of rests on an assertion that this type of law varies

only in superficial ways from the laws of nature. The effects, for Hayek, are the same, as man's knowledge of them "enables him to foresee what will be the consequences of his actions, and it helps him to make plans with confidence" (CL: 221). Both are *fixed features* of man's environment, and "though they eliminate certain choices open to him, they do not, as a rule, limit the choice to some specific action that somebody else wants him to take" (CL: 221).

The fixed nature of law is important in Hayek's thought for a variety of reasons, as we'll come to see, but one may be found in his description of order itself. Order, with reference to society is said to be "essentially that individual action is guided by successful foresight, that people not only make effective use of their knowledge but can also foresee with a high degree of confidence what collaboration they can expect from others" (CL: 229)². Notably, this definition is not dissimilar to that of *economic* order, or equilibrium, for Hayek (Hayek 1948: 42). One would be wise to reference of this feature of a Hayekian spontaneous order when later thinking about Smith's conceptual development of propriety and prudence.

By framing these 'negative' laws as simply an aspect of the complex conditions in which an individual operates, Hayek is able to assert that the lawgiver "cannot foresee what will be their effect on particular people or for what purposes they will use" and furthermore that "it is because the lawgiver does not know the particular cases to which his rules will apply, and it is because the judge who applies them has no choice in drawing the conclusions that follow from the existing body of rules and the particular facts of the case, that it can be said that laws and not men rule" (CL: 221). "That the legislator confines himself to general rules rather than particular circumstances under which they apply; all he can do is to provide some firm data for the use of

² A more complex definition of order is given by Hayek in *LLL*, where it is described as: "a state of affairs in which a multiplicity of elements of various kinds are so related to each other that we may learn from our acquaintance with some spatial or temporal part of the whole to form correct expectations concerning the rest, or at least expectations which have a good chance of proving correct" (*LLL*, vol. 1: 36)

those who have to make plans for particular actions” (CL: 227).

The confinement of the legislator to universally applied, general laws is obviously a thread throughout liberal political philosophy and Hayek recognizes it as such, noting that the movement of progressive society has, thus far, been a movement from Status to Contract (CL: 222). Indeed the opposite order to that of a reign of status is that of general and equally applied laws. *Leges* as opposed to *privi-leges* (CL: 222). In a Smithian framework, this is the case to be made against mercantilism.

While Hayek concedes it would be folly to think that general rules cannot also constitute severe restrictions on liberty³, he adds that the enemy of liberty has almost exclusively been the government which grants exceptions, and furthermore, “few beliefs have been more destructive of the respect for the rules of law and of morals than the idea that a rule is binding only if the beneficial effect of observing it in the particular instance can be recognized” (CL: 228).

Finally, and perhaps most importantly, general rules may secure for an individual a *known range* of action. More specifically, law limits the number of possible consequences an individual must take into account before acting (CL: 225). This level of certainty, as was discussed, is crucial if an individual is to make the fullest use of *his own* unique knowledge. Hayek explicitly cites Smith here. “What is the species of domestic industry which his capital can employ, and of which the produce is likely to be of the greatest value, every individual, it is evident, can, in his local situation, judge much better than any statesman or lawgiver can do for him” (WN: 573). Individuals acting according to unique knowledge as an incredibly important ordering mechanism is a thread we may follow throughout both Smith and Hayek. I shall do so.

It remains to be said what the *origin* of these rules or ordering sentiments are said to be in

³ He maintains that this has almost exclusively been the case under the pretext of religion (223)

Hayek. We will find that his work here is meant to show that they are *unintentional, emergent* and for all practical purposes *pre-legislative*. I will then discuss in what ways we may find this to be consistent with Smith.

Foundations of the general

Hayek begins “Law, Command and Order” in the following manner:

‘The rule whereby an invisible border line is fixed within which the being and activity of each individual obtain a secure and free sphere is the law.’ Thus one of the great legal scholars of the last century stated the basic conception of the law of liberty. This conception of the law which made it the basis of freedom has been largely lost. It will be the chief aim of this chapter to recover and make more precise the conception of the law on which the ideal of freedom under the law was built and which made it possible to speak of the law as the ‘science of liberty’” (CL: 215)

As law is explicitly conceived of as a ‘science of liberty,’ which we can now understand to mean *general* and *instrumental*, Hayek seeks the answer to the question: How can a legal framework within which man lives freely best be understood? In other words: What is governing liberal society, really? He writes:

Life of man in society, or even of the social animals in groups, is made possible by individuals acting according to certain rules. With the growth of intelligence, these rules tend to develop from unconscious habits into explicit and articulated statements and at the same time to become more abstract and general. Our familiarity with the institutions of law prevents us from seeing how subtle and complex a device the delimitation of individual spheres by abstract rules is. If it had been deliberately designed, it would deserve to rank among the greatest of human inventions. But it has, of course, been as little invented by any one mind as language or money or most of the practices and conventions on which social life rests (216).

Hayek invokes the founder of the Austrian School, Carl Menger, in his final sentence here. This is crucial in conceptualizing a key link in Hayek’s causal chain: law as we know it following from intellectual abstractions of originally *unconscious* patterns of behavior. “That such abstract rules are regularly observed in action does not mean that they are known to the

individual in the sense that it could communicate them” (CL: 217).

Obviously we find parallels here with Smith’s famous passage in the *Wealth of Nations* wherein he invokes ‘the invisible hand.’ “By pursuing his own interest he frequently promotes that of society more effectually than when he really intends to promote it” (WN: 572). A similar view is expressed in his explanation of the division of labor, which is not “originally the effect of any human wisdom, which foresees and intends the general opulence to which it gives occasion. It is the necessary, though very slow and gradual consequence of a certain propensity in human nature which has in view no such extensive utility: the propensity to truck, barter and exchange one thing for another” (WN: 25).

There are deeper ties that lie here.

III. Reverence for the Unintentional

Introduction

Thus far we have established the basics of Hayek’s conception of the *cosmos*. Individuals in a free society operating in a social order that serves no common purpose, but rather is governed by general rules which are instrumental to individuals as man adjusts to circumstances, acting according to their own knowledge and preferences.

We live in a society in which we can successfully orientate ourselves, and in which our actions have a good chance of achieving their aims, not only because our fellows are governed by known aims or known connections between means and ends, but because they are also confined by rules whose purpose or origin we often do not know and of whose very existence we are not aware. (LLL, vol. I, 11)

Humans are rule-following animals (LLL, vol.1: 11); following rules which *allow* and are *emergent from* mutual adjustment and adaptation. As we will see below, they are often left unknown.

In fact, Hayek sees the human mind itself as an ordering system of general rules. In

adaptation to experience and classification of phenomena our mind ultimately develops *rules* of behavior (Hayek, 1979: 48); ‘rule’ for Hayek being defined as “a propensity or disposition to act or not to act in a certain manner” (LLL, vol. 1: 75).

Again, this is certainly not to say that we understand the rules upon which civilization has been built. Man has been successful in his endeavor for a prosperous and free order “not because he knows why he ought to observe the rules which he does observe, or is even capable of stating all these rules in words, but because his thinking and acting are governed by rules which have by a process of selection been evolved in the society in which he lives, and which are thus the product of the experience of generations” (LLL, vol.1:11).

We should note here that what ultimately underlies Hayek’s discussion of emergent orders is communication and the use of knowledge. The necessary role of spontaneously evolved institutions (for instance, the market) is, for Hayek, the enabling of actors to *make use* of the knowledge fragmented among swaths of individual minds. Knowledge that is indeed *hidden* as it is often tacit. Much of our accumulated knowledge, certainly within a *cosmos* and even within an individual, cannot be known or communicated to others through language. He writes:

That such abstract rules are regularly observed in action does not mean that they are known to the individual in the sense that it could communicate them...men generally act in accordance with abstract rules in this sense long before they can state them. Even when they have acquired the power of conscious abstraction, their conscious thinking and acting are probably still guided by a great many abstract rules which they obey without being able to formulate them. The fact that a rule is obeyed in action therefore does not mean that it does not still have to be discovered and formulated in words. (CL: 217)

It may be worthwhile here, for clarity, to quote from Hayek on his conception of rules *as knowledge*, which was hinted at above as rules are held to be “the product of the experience of generations,” and is also closely tied to his conception of knowledge as widely dispersed among individuals. A working understanding of this line of thought is necessary before moving forward,

as we will be discussing this theme in relation to Hayek's theory of cultural evolution.

If the law thus serves to enable the individual to act effectively in his own knowledge, it also embodies knowledge, or the results of past experience, that are utilized so long as men act under these rules. In fact, the collaboration of individuals under common rules rests on a sort of division of knowledge, where the individual must take account of particular circumstances but the law ensures that their action will be adapted to certain general or permanent characteristics of their society. This experience, embodied in the law, that individuals utilize by observing rules, is difficult to discuss, since it is ordinarily not known to them or to any one person. (CL: 225)

For now we can focus on exactly how these rules have emerged, somehow, in a non-deliberative manner. The answer lies in Hayek's discussion of habit vis-à-vis spontaneous order, most of which, I will argue, he owes to Smith.

Habit in Hayek

Habits, like general rules, *as* general rules, embody knowledge. They embody knowledge in that they are the result of the mental conditioning brought about by experience and circumstance. This is not to say *deliberate* conditioning, however. "Is *knowledge* involved when a person has the habit of behaving in a manner that, without knowing it, increases the likelihood that not only he and his family but also many others unknown to him will survive - particularly if he has preserved this habit for altogether different and indeed quite inaccurate grounds? (Hayek 1988: 139). Many read Hayek as responding to his own question with a resounding Yes (C. Smith 2006: 120). What may be more accurate would be to place habit with morality and tradition as lying somewhere "in between instinct and reason" (Hayek 1988: 10).

The habit in the aforementioned scenario "is not what is meant by rational knowledge. Nor is it helpful to describe such acquired practices as 'emotive' since they clearly are not always guided by what may legitimately be called emotions either, even though certain factors, such as fear of disapproval or punishment (whether human or divine), may often support or preserve

particular habits” (Hayek 1988: 139). However, Hayek is careful to point out that in many cases, it was more effective in terms of one’s survival to be guided by the rigidity of morality, or ‘blind habit’, rather than flexible rules altered by particular circumstance. These survivors are thus guided “by something that it could be easier to call knowledge” (Hayek 1988: 139).

It may be easier to understand Hayek’s emphasis on the non-deliberative nature of habit, or rules of conduct, vis-à-vis ‘knowledge’ by bringing the following passage to light. He writes:

...There is a *difference between following rules of conduct, on the one hand, and knowledge about something, on the other*. The habit of following rules of conduct is an ability utterly different from the knowledge that one’s actions will have certain kinds of effects. This conduct ought to be seen for what it is, the skill to fit oneself into, or align oneself with, a pattern of whose very existence one may barely be aware and of whose ramifications one has scarcely any knowledge. Most people can, after all, recognise and adapt themselves to several different patterns of conduct without being able to explain or describe them. How one responds to perceived events would thus by no means necessarily be determined by knowledge of the effects of one’s own actions, for we often do not and cannot have such knowledge. If we cannot have it, there is hardly anything rational about the demand that we *ought* to have it; and indeed we should be the poorer if what we did were guided solely by the limited knowledge that we do have of such effects. (Hayek 1988: 78)

Non-deliberative, guiding, regularity of behavior. *This* is habit. It is an ordering force of nature and of our accumulated knowledge. More on that accumulation below. First I will attempt to show how Hayek’s reasoning here is not divergent from (as critics such as Petsoulas (2001) maintain) but rather falls closely in line with Smith’s.

Habit, propriety, and socialization in Smith

The following excerpts are worth considering before engaging with my framing of Smith’s moral theory:

It is well known that custom deadens the vivacity of both pain and pleasure, abates the grief we should feel for the one, and weakens the joy we should derive from the other. The pain is supported without agony, and the pleasure enjoyed

without rapture: because custom and the frequent repetition of any object comes at last to form and bend the mind or organ to that habitual mood and disposition which fits them to receive its impression, without undergoing any very violent change. (Smith 1795: 37)

The very existence of society requires that unmerited and unprovoked malice should be restrained by proper punishments; and consequently, that to inflict those punishments should be regarded as a proper and laudable action. Though man, therefore, be naturally endowed with a desire of the welfare and preservation of society, yet the Author of nature has not entrusted it to his reason to find out that a certain application of punishments is the proper means of attaining this end; but has endowed him with an immediate and instinctive approbation of that very application which is most proper to attain it... Thus self-preservation, and the propagation of the species, are the great ends which Nature seems to have proposed in the formation of all animals. Mankind are endowed with a desire of those ends, and an aversion to the contrary; with a love of life. And a dread of dissolution; with a desire of the continuance and perpetuity of the species, and with an aversion to the thoughts of its entire extinction. But though we are in this manner endowed with a very strong desire of those ends, it has not been entrusted to the slow and uncertain determinations of our reason, to find out the proper means of bringing them about. Nature has directed us to the greater part of these by original and immediate instincts. Hunger, thirst, the passion which unites the two sexes, the love of pleasure, and the dread of pain, prompt us to apply those means for their own sakes, and without any consideration of their tendency to those beneficent ends which the great Director of nature intended to produce by them. (TMS: 77)

In order to guard ourselves against its delusions, nature leads us to form insensibly, by our continual observations upon the conduct of others, certain general rules concerning what is fit and proper either to be done or avoided. Some of their actions shock all our natural sentiments; and when we observe other people affected in the same manner with ourselves, we are confirmed in the belief, that our disapprobation was just. We naturally therefore lay it down as a general rule, that all such actions are to be avoided, as tending to render us odious, contemptible, or punishable; and we endeavour, by habitual reflection, to fix this general rule in our minds, in order to correct the misrepresentations of self-love, if we should ever be called on to act in similar circumstances. The man of furious resentment, if he were to listen to the dictates of that passion, would perhaps regard the death of his enemy as but a small compensation for a trifling wrong. But his observations on the conduct of others have taught him how horrible such sanguinary revenges are; and he has impressed it on his mind as an invariable rule, to abstain from them upon all occasions. This rule preserves its authority with him, checks the impetuosity of his passion, and corrects the partial views which self-love suggests; although, if this had been the first time in which he considered such an action, he would undoubtedly have determined it to be just and proper, and what every impartial spectator would approve of. -- A regard to

such general rules of morality constitutes, according to Mr Smith, what is properly called the sense of duty. (Stewart 1793: XXXVII)

I will argue that in *Theory of Moral Sentiments* Smith posits that individual moral values are habits generated naturally and interpersonally, strongly shaping our response to various circumstances and, moreover, creating a *spontaneous order* of generally observed moral standards. Prudence and norms of propriety are formed in this way. Furthermore, as imagination plays a pivotal role in Smith's moral theory by way of the impartial spectator and the sentiment of sympathy, "the habit of the imagination...grows more and more rivetted and confined" (Smith 1795: 41) as conventional attitudes develop.

As social, sympathetic animals, humans come to form conventions of behavior, or a "habitual arrangement of ideas" (TMS: 194). In other words, our habits, developed through experience, may come to act as unconscious guides for our behavior. The process by which this follows is detailed in *Theory of Moral Sentiments*.

Smith holds that we are highly attracted to new phenomena; so completely blind followers of habit we are not. Unconscious patterns of behavior are not to be viewed as immutable or eternal. New phenomena are made attractive by their utility to us. "The utility of any form, its fitness for the useful purposes for which it was intended, evidently recommends it, and renders it agreeable to us, independent of custom" (TMS: 199). That said, once we have become familiar with an innovative practice, constant repetition dictates that it become habitual and non-deliberative. Actions are then performed with reference to the rule, or little conscious reference at all, rather than reference to utility in a specific instance. This is explicitly addressed in *TMS* via the following.

The virtuous man is not devoted to excellence as such, but to the rule as such (TMS: 162). The triumph over man's reactive passions in this manner is well-stated by James Bonar in *Moral*

Sense, who holds Smith's view to be that "man is not a slave of the passions. But man is emancipated from his passions only in the measure to which he is enslaved by rule" (Bonar 1930: 222). The man whose excellence flows from veneration of a rule will, "though his heart...is not warmed with any grateful affection," "strive to act as if it was." (TMS: 162). This is the strength of habit and custom. The habit that this man acquires is the habit of consulting the rule, *not* of 'right conduct.' "Without this sacred regard to general rules, there is no man whose conduct can be much depended upon" (TMS, 163).

Here is where we would be wise to show Smith's development of the virtue of propriety, as expectations of others, indeed, the *depending* upon consistent conduct of others, is of great importance here. For Hayek, this expectation of adherence to what Smith calls "general rules of conduct" (TMS: 161) without specific agreement is a crucial aspect of the benefits yielded by a spontaneous order.

We should keep in mind here the following: "The principles of the imagination...are of a very nice and delicate nature, and may easily be altered by habit and education: but the sentiments of moral approbation and disapprobation, are founded on the strongest and most vigorous passions of human nature; and though they may be somewhat warped, cannot be entirely perverted" (TMS, 200). For Smith, gut level approbation and disapprobation can never be overcome. Here, this can perhaps be understood as the mechanism by which our habits and customs are indeed *broken* when circumstances change drastically enough to yield the formation of a *new* habit. That said, one's imagination, and thus the impartial spectator⁴, which, via

⁴ We are introduced to this concept in *TMS* via the following passage: "When I endeavor to examine my own conduct, when I endeavor to pass sentence upon it, and either to approve or condemn it, it is evident that, in all such cases, I divide myself, as it were, into two persons; and that I, the examiner and the judge, represent a different character from that other I, the person whose conduct is examined into and judged of. The first is the spectator, whose sentiments with regard to my own conduct I endeavor to enter into, by placing myself in his situation, and by considering how it would appeal to me, when seen from that particular point of view. The second is the agent, the

repeated use by individuals, comes to form a spontaneous order, *is* largely determined subjectively and interpersonally. We return to the development of propriety.

For Smith, habituation to certain circumstances deeply shapes human behavior. It is by this process that we are ‘socialized,’ developing expectations about our own conduct and the conduct of those around us. Of course, the character of this deepening of custom according to circumstance varies greatly. We see the following in the case of the ‘savage’ and the ‘civilized’:

Among civilized nations, the virtues which are founded upon humanity are more cultivated than those which are founded upon self-denial and the command of the passions. Among rude and barbarous nations, it is quite otherwise, the virtues of self-denial are more cultivated than those of humanity (*TMS*: 205).

A savage is socialized in a savage society that maintains practices that are habituated in those unique circumstances (*TMS*: 207). “The different situations of different ages and countries are apt . . . to give different characteristics to the generality of those who live in them” (*TMS*: 204).⁵

So we see that just as ‘custom renders habitual’ (*TMS*: 201) certain modes of conduct for one’s self, custom just as importantly shapes our expectations of others’ behavior. For instance, there are localized criteria by which we judge, in Smith’s case, savage from civil. A large part of this socialization, for Smith, is the process by which our self-regarding action is limited by our tendency to sympathy. He writes:

The natural preference which every man has for his own happiness above that of other people, is what no impartial spectator can go along with. Every man is, no doubt, by nature, first and principally recommended to his own care; and he is fitter to take care of himself than of any other person, it is fit and right that it

person whom I properly call myself, and of whose conduct, under the character of a spectator, I was endeavouring to form some opinion. The first is the judge; the second the person judged of. But that the judge should, in every respect, be the same with the person judged of, is as impossible, as that the cause should, in every respect, be the same with the effect” (*TMS*: 113).

⁵ Furthermore, “In general, the style of manners which takes place in any nation, may commonly upon the whole be said that which is most suitable to its situation. Hardiness is a character most suitable to the circumstances of a savage; sensibility to those of one who lives in a very civilized society. Even here, therefore, we cannot complain that the moral sentiments of men are grossly perverted” (*TMS*: 209).

should be so. Every man, therefore, is much more deeply interested in whatever immediately concerns himself, than in what concerns any other man . . . But though the ruin of our neighbor may effect us much less than a small misfortune of our own, we must not ruin him to prevent that small misfortune, nor even to prevent our own ruin (TMS: 82-83)⁶

We know from the very start of *TMS* that man, even as our limited knowledge restricts our imaginative sympathy to those close to us (TMS: 136, 237), will not succumb to a morality of utter selfishness. “How selfish soever man may be supposed, there are evidently some principles in his nature, which interest him in the fortune of others, and render their happiness necessary to him, though he derives nothing from it except the pleasure of seeing it” (TMS: 1).

What is to be thought of as a *guide* for our imaginative sympathy, for Smith, is society itself; bringing us an “equality of temper” as “the presence of a mere acquaintance will really compose us, still more than that of a friend; and that of an assemblage of strangers still more than that of an acquaintance” (TMS: 23). As knowledge plays a more and more limiting factor in this sympathy as our sphere of interactions widens, we construct an impartial spectator through which way may view the propriety or impropriety of our actions. In the language of the quote that begins this chapter, the vivacity of our passions is deadened in this way. We may now start to see how propriety functions in society as a fundamentally spontaneous order. Smith writes:

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

⁶ It is worth noting that when paired with passages from *WN* wherein Smith invokes what is known as his Local Knowledge Argument, one of which was mentioned earlier: “What is the species of domestic industry which his capital can employ, and of which the produce is likely to be of the greatest value, every individual, it is evident, can, in his local situation, judge much better than any statesman or lawgiver can do for him” (*WN*, IV.ii.10), we see strong parallels with Hayek’s theory of knowledge. In *Theory of Moral Sentiments* this argument is evident in Smith’s adoption of the Stoic principle “every man . . . is first and principally recommended to his own care” (TMS: 219).

immediately provided with the mirror which he wanted before. It is placed in the countenance and behavior of those he lives with, which always mark when they enter into, and when they disapprove of his sentiments; and it is here that he first views the propriety and impropriety of his own passions, the beauty and deformity of his own mind. (TMS, 110)⁷

An *emotional* equilibrium emerges as our actions are guided by what we perceive as acceptable or unacceptable action to those around us. As Smith says of the amiable and respectable virtues, they are built upon the mutual effort of “the spectator to enter into the sentiments of the person principally concerned” as well as the man himself to “bring down his emotions to what the spectator can go along with” (TMS: 23). Habitual action guides our behavior so that it may be acceptable to others. The development of the notion of propriety in a society is thus largely *emergent* and *pre-legislative*. It is a spontaneous order. We start to see where a critic like Petsoulas is mistaken in claims of a Hayekian misunderstanding.

Petsoulas’ Errors

Formation of norms

Smith’s reasoning here, I will argue, is much more in line with a Hayekian framework:

“...There is a *difference between following rules of conduct, on the one hand, and knowledge about something, on the other*” (Hayek 1988: 78) than the idea that “Smith does not maintain

⁷ It may be worthwhile to consider the remainder of this passage in the context of a discussion on propriety and socialization.

“To a man who from his birth was a stranger to society, the objects of his passions, the external bodies which either pleased or hurt him, would occupy his whole attention. The passions themselves, the desires or aversions, the joys or sorrows, which those objects excited, though of all things the most immediately present to him, could scarce ever be the objects of his thoughts. The idea of them could never interest him so much as to call upon his attentive consideration. The consideration of his joy could in him excite no new joy, nor that of his sorrow any new sorrow, though the consideration of the causes of those passions might often excite both. Bring him into society, and all his own passions will immediately become the causes of new passions. He will observe that mankind approve of some of them, and are disgusted by others. He will be elevated in the one case, and cast down in the other; his desires and aversions, his joys and sorrows, will now often become the causes of new joys and new sorrows: they will now, therefore, interest him deeply, and often call upon his most attentive consideration” (TMS, 110-111)

that the process through which social norms emerge is in fact unconscious” (Petsoulas 2001: 149). And furthermore, that in his alleged divergence from this view, Hayek falls prey to numerous inconsistencies.

Petsoulas reaches a conclusion that, for Smith, “Though the means by which we arrive at impartial moral judgment is still sympathy, it is a form of sympathy mediated by *conscious reflection*” (Petsoulas 2001: 121) and thus that *common standards* of moral evaluation are in fact rationally designed.

“For Smith, imaginative sympathy is the mechanism whereby men with different experiences, occupying different positions, and frequently having conflicting interests, are able to develop common rules of conduct” which become “crystallized common standards of moral evaluation” (Petsoulas 2001: 152-3). This simply does not seem to be the case when referencing all that has been outlined above.

While one can clearly see that sympathy moderated by the ‘impartial spectator’ is a crucial part of human nature and that individuals do undoubtedly experience conscious moral reflection, comprised of both reason and sympathy, in judging a particular circumstance, this is *not* to say that one is deliberately creating *common* moral frameworks.

When Smith speaks of the norm of propriety, he is speaking of an *equilibrium* of expectations and emotions brought about through many individual deliberations. He is not speaking of a norm created by any individual’s unique deliberation, but rather of an unintended consequence in the form an *emergent* ordering of expectations among many individuals. Propriety is a kind of general rule emergent from individual, particular deliberation without an eye towards creation of generally observed standards.

These *socially*, as opposed to *individually* generated standards of behavior in turn can

influence even that which is most basic to us, for instance, the manner in which our natural sympathy functions (TMS: 140). Does one purposefully intend such a change?

In the words of Hayek, “how one responds to perceived events” is by “no means necessarily determined by knowledge of the effects of one’s own actions” (Hayek 1988: 78) In the instance of moral standards, the ‘effect’ of one’s deliberative reflection is the non-deliberative development of generally observed norms.

Evolution of culture

Petsoulas argues that a theory of cultural evolution “is not present in Smith” and furthermore that “a certain degree of *artifice* is required: as his science of political economy indicates...” (Petsoulas 2001: 149). The second claim is certainly less questionable than the first, as in parts of *Wealth of Nations* Smith calls for what would be by modern standards an ‘activist’ government to ameliorate some of the ills of commercial society. I will outline here some examples of what I would consider to be strains of Smith’s thought that would be highly compatible with Hayek’s idea of cultural evolution, which I will later describe in conjunction with Smith’s conception of the virtue of prudence.

It is worth noting that Hayek is widely criticized for promoting a theory of cultural evolution that fails to include provisions for changing inefficient, destructive, or immoral norms via deliberate action. Whether or not this is an accurate reading (I will later argue it is not), Hayek was never blind to potential inefficiencies of a free society, or the problem of the ‘stickiness’ of customary behavior. Smith was also concerned with the potential negative influence of habit and custom. We may see this most evidently in his thoughts on the practice of infanticide. By investigating the method by which this practice is said to be discontinued as well as briefly discussing Smith’s historical philosophy, it will hopefully become evident that to say

Smith has no theory whatsoever of cultural evolution is severely misguided.

Smith frames his discussion of infanticide with the following remarks:

It is not therefore in the general style of conduct or behavior that custom authorizes the widest departure from what is the natural propriety of action. With regard to particular usages, its influence is often much more destructive of good morals, and it is capable of establishing, as lawful and blameless, particular actions, which shock the plainest principles of right and wrong. (TMS: 209)

The focus on ‘particular usages’ here is important to note, as Smith’s framework dictates that he employs an explanation of *individual* deliberation regarding *particular* circumstances when accounting for a larger societal change in norms.

Ultimately, Smith believes that a practice such as infanticide must inevitably die out.

“There can never be any such custom. No society could subsist a moment, in which the usual strain of men’s conduct and behavior was of a piece with the horrible practice I have just now mentioned” (TMS: 211). The practice arose at some point as grounded in utility (population growth with limited resources), and become habitually accepted regardless of the fact that it was contrary to human nature (TMS: 210). When circumstances changed, however, and did not necessitate such a practice, it persisted as a result of its psychological entrenchment:

The same thing was permitted from views of remote interest or convenience, which could by no means excuse it. Uninterrupted custom had by this time so thoroughly authorized the practice, that not only the loose maxims of the world tolerated this barbarous prerogative, but even the doctrine of philosophers, which ought to have been more just and accurate, was led away by the established custom (TMS: 201)

That said, the practice, for Smith, *must* eventually die out as individuals come to be repelled by it; changed circumstances casting it in a starker relief. Imaginative sympathy goes to work by forming the notion that an impartial spectator would not look fondly upon infanticide in terms of its fitting with propriety. Note that individuals here are concerned more with the acceptance of others than any kind of larger examination of the practice itself. Conventional

attitudes change, arriving at a new equilibrium of propriety. This is progress, or dare I say, *evolution* of a society chalked up to widespread individual esteeming rather than a rational design.

We find those such as Cropsey (2001) and Craig Smith (2006) finding a similar pattern in our Scotsman's historical philosophy and discussion of his 'four stages' theory of social systems. Namely, a much greater emphasis on underlying, non-deliberative, economic and cultural forces driving social progress than any kind of deliberative political causalities: *cultural* evolution. This is an important part of Smith's framework that Petsoulas seems to deny.

The hierarchy of social organization, and the respective characteristics of each stage, are organized by Smith as follows. At the lowest rung, "the lowest and rudest state of society," is the 'hunter' stage, wherein "there is properly neither sovereign nor commonwealth" (WN: 880). Still a 'rude' society, the next up on the ladder is the 'shepherd' stage, nations which "all have chiefs or sovereigns." (WN: 881) Next is the 'agriculture' stage, "those nations of husbandmen who have little foreign commerce, and no other manufacturers but those coarse and household ones" (WN: 882) followed finally by the 'commerce' age, "a more advanced stage of society" which is the only one described as "civilized" (WN: 885). Each stage produces conventional, moral behavior in line with the surrounding circumstances, most important of which is the level of security of subsistence.

There are numerous relevant points to take away from Smith's theorizing here. First, the standard of 'rudeness' or civility (in Smithian language this would be 'excellence') is the economic and social order of a society. Although the hunters are described as living in a society without government (an important claim that calls to mind Smith's lack of reference to any kind

of distinction between ‘State of Nature’ and ‘Civil Society’⁸ (Cropsey, 2001: 67)), these distinctions are fundamentally framed as apolitical. Rudeness is defined not on political grounds, but rather between economic orders that are the highest (commercial) or not (hunter, shepherd, agriculture). The commercial stage is seen first as a commercial economic order rather than, for instance, an oligarchy. The “state of property and manners” (WN: 525), or in other words, the *social* nature of commerce, is defining here. Thus, a change in these stages is not only a shift in economic order but a *cultural* evolution.

We would be wise here to note how Smith has framed his discussions of specific historical shifts; relegating rational deliberation to a much less impactful role than Petsoulas may care to think. Cropsey (2001) leads us to a few of the most relevant.

The rise and fall of the feudal system is an object of inquiry for Smith. The importance of economic and social factors is of paramount importance here, as the state of affairs is described as flowing from the accumulation of land into very few hands and the absence of manufacturing and foreign commerce (WN: 524-7) rather than legal enactment; rather than rational construction. As we’ve noted, Smith explicitly states that the authority of medieval lords “flowed from the state of property and manners,” and not only is this true in this instance, but “such effects must always flow from such causes” (WN:524). Just as it came in, it disappeared for the same reasons.

Smith writes:

But what all the violence of feudal institutions could never have effected, the silent and insensible operation of foreign commerce and manufactures gradually brought about. These gradually furnished the great proprietors with something for which they could exchange the whole surplus produce of their lands, and which they could consume themselves without sharing it either with tenants or retainers. All for ourselves, and nothing for other people, seems, in every age of the world to have been the vile maxim of the masters of mankind. As soon, therefore, as

⁸ This certainly stands as evidence in Hayek’s favor as he speaks of Smith, along with other Scottish Enlightenment thinkers, as fundamentally ‘anti-constructivist’ in rejecting traditional, social contract theory-dependent, notions of government and society put forth by Hobbes, Locke and Rousseau.

they could find a method of consuming the whole value of their rents themselves, they had no disposition to share them with any other persons. For a pair of diamond buckles perhaps, or for something as frivolous and useless, they exchanged the maintenance, or what is the same thing, the price of the maintenance of a thousand men for a year, and with it the whole weight and authority which it could give them. The buckles, however, were to be all their own, and no other human creature was to have any share of them; whereas in the more ancient method of expence they must have shared with at least a thousand people. With the judges that were to determine the preference, this difference was a perfectly decisive; and thus, for the gratification of the most childish, the meanest and the most sordid of all vanities, they gradually bartered their whole power and authority (WN: 525-6).

We see that causality is assigned to social and economic factors. We find the same reasoning in Smith's discussion of the secularization of Europe. He writes:

In the ancient state of Europe, before the establishment of arts and manufacturers, the wealth of the clergy gave them the same sort of influence over the common people, which that of the great barons gave them over their respective vassals, tenants, and retainers. In the great landed estates, which the mistaken piety both of princes and private persons had bestowed upon the church, jurisdictions were established of the same kind with those of the great barons; and for the same reason . . . The quantity (of their produce) exceeded greatly what the clergy could themselves consume; and there were neither arts nor manufacturers for the produce of which they could exchange the surplus. The clergy could derive advantage from this immense surplus in no other way than by employing it, as the great barons employed the like surplus of their revenues, in the most profuse hospitality, and in the most extensive charity (WN: 1011-2)

And its subsequent downfall . . .

The gradual improvements of the arts, manufacturers, and commerce, the same causes which destroyed the power of the great barons, destroyed in the same manner, through the greater part of Europe, the whole temporal power of the clergy . . . The ties of interest, which bound the inferior ranks of people to the clergy, were in this manner gradually broken and dissolved. (WN: 1014).

The origins of American independence are framed similarly:

The leading men of America, like those of all other countries, desire to preserve their own importance. They feel, or imagine, that if their assemblies, which they are fond of calling parliaments, and of considering as equal in authority to the parliament of Great Britain, should be so far degraded as to become the humble ministers and executive officers of that parliament, the greater part of their own importance would be at an end. They have rejected, therefore, the proposal of

being taxed by parliamentary requisition, and like other ambitious and high-spirited men, have rather chosen to draw the sword in defence of their own importance. (WN: 789)

And lest we forget, the origins of society itself is said to be built on the economic requirements of men, following from a ‘misguided’ devotion to wealth...

...which first prompted them to cultivate the ground, to build houses, to found cities and commonwealths, and to invent and improve all the sciences and arts, which ennoble and embellish human life; which have entirely changed the whole face of the globe, have turned the rude forests of nature into agreeable and fertile plains, and made the trackless and barren ocean a new fund of subsistence, and the great high road of communication to the different nations of the earth. The earth by these labours of mankind has been obliged to redouble her natural fertility, and to maintain a greater multitude of inhabitants. (TMS: 183-4)

Institutions of society seem to lack foundations in rational choice, but are rather emergent from material circumstances of life along with our natural sentiments, again, “the state of property and manners” (WN: 525).

This is not to say that choices do not matter, for Smith. Book III of the *Wealth of Nations* spends considerable time addressing how a natural order of things in Europe is perverted by certain policies. Humans do create institutions, but they do so more in the way of a clash of passions than any deliberative process driven by objective reason.

We must remember that nature, for Smith, is driven by an *end*, ‘the propagation of the species,’ and it is an end that we rarely promote deliberately. We return to the crucial passage in which Smith establishes this: “...self-preservation, and the propagation of the species, are the great ends which Nature seems to have proposed in the formation of all animals...it has not been entrusted to the slow and uncertain determination of our reason to find out the proper means of bringing them about” (TMS: 77). The end of nature is reached; the commercial society is procured, through cultural evolution.

This process, when viewed in conjunction with Smith’s historical reasoning, is described

by Cropsey (2001) as “historical subordination of polity to society” (Cropsey, 2001: 73). This is a useful wording, as civilization, as we’ve seen, is more intimately connected with socio-economic organization, “property and manners,” than deliberate construction of norms or institutions, for Smith. It is also very much in line with some of what we’ve already outlined in Hayekian thought (recall the ‘delimitation of the private sphere via rules’) and some of which is left to come. More importantly, it encapsulates what could feasibly be viewed as a theory of cultural evolution. Further evidence for this is seen in Smith’s discussion of the development of prudence.

IV. Smith’s Prudence and Hayek’s Extension into the Great Society

Prudence

Part of what results from Smith’s focus on individual action in *TMS* is an important discussion on the virtue of prudence, of adaptation to circumstance. Like propriety, it arises via sympathy and the impartial spectator⁹.

The prudent man is a sincere individual who lives with integrity, having a “steady and faithful attachment to a few well-trying and well-chosen companions; in the choice of whom he is not guided by the giddy admiration of shining accomplishments, but by the sober esteem of modesty, discretion, and good conduct” (TMS: 214).

He is reserved, “as he is cautious in his actions, so he is reserved in his speech; and never rashly or unnecessarily obtrudes his opinion concerning either things or persons” (TMS: 214).

He is genuine and modest. “He neither endeavours to impose upon you by the cunning devices of an artful imposter, nor by the arrogant airs of an assuming pedant, nor by the confident assertions of a superficial and imprudent pretender...His conversation is simple and

⁹ That said, the deliberative process here is characterized by what may be thought of as economic considerations as opposed to thoughts of cultural or social propriety.

modest, and he is averse to all the quackish arts by which other people so frequently thrust themselves into public notice and reputation” (TMS: 213).

At his core, he is concerned with security and stability. “Security, therefore, is the first and principal object of prudence. It is averse to expose our health, our fortune, our rank, our reputation, to any sort of hazard... The methods of improving our fortune, which it principally recommends to us, are those which expose no loss or hazard; real knowledge and skill in our trade or profession, assiduity and industry in the exercise of it, frugality, and even some degree of parsimony, in all our expences” (TMS: 213).

Furthermore, as a result of his ‘steadiness’ and understanding of delayed gratification, “the prudent man is always both supported and rewarded by the entire approbation of the impartial spectator... The impartial spectator does not feel himself worn out by the present labor of those whose conduct he surveys; nor does he feel himself solicited by the importunate calls of their present appetites” (TMS: 215).

All in all, “Wise and judicious conduct, when directed to greater and nobler purposes than the care of the healthy, the fortune, the rank, and reputation of the individual, is frequently and very properly called prudence” (TMS: 216). This moderate virtue is intimately tied to the development of commercial society, a liberal political order, and as I will later argue, what both Hayek and Smith would see as the Great Society. Smith writes:

The man who lives within his income, is naturally contented with his situation, which, by continual, though small accumulations, is growing better and better every day . . . He confines himself, as much as his duty will permit, to his own affairs, and has no taste for that foolish importance which many people wish to derive from appearing to have some influence in the management of those of others. (TMS: 215)

Prudence can be seen in this way as *specialization*, in the same vein as the development of the division of labor.

It may be seen in this light as one is restricting themselves to that which is within their own sphere of comprehension and influence, making decisions based on localized knowledge, and thus being much more effective in adapting to circumstances. As Smith writes, “The never-failing certainty with which all men, sooner or later, accommodate themselves to whatever becomes their permanent situation, may, perhaps, induce us to think that the Stoics were, at least, thus far very nearly in the right” (TMS: 149). As individuals become more effective at adapting to circumstance, *society* becomes much more effective at the same. Indeed, Hayek posits that prudence becomes admired as a virtue in the Great Society because it has allowed the most efficient method of using local knowledge of circumstances, and thus, survival (LLL vol. 3: 165).

Since Smith directly influenced Darwin with this line of thought and his discussions on sympathy in *Theory of Moral Sentiments* (Darwin 1872: 81) it comes as no surprise that Hayek references Smith as among those Scottish Enlightenment thinkers who were “Darwinians before Darwin” (Hayek 1967: 107). We will come to see how Smith’s historical philosophy as well as his preoccupation with man’s adaptation to circumstance serve Hayek well in his extension of a Smithian framework of cultural evolution and well into his discussion of the Great Society. What we have found in this discussion is the groundwork for the type of moderate virtue necessary in the Great Society.

Cultural Evolution

We have established that Hayek believes the general rules that allow social orders to form are not the product of deliberate institution, but rather embody knowledge gained by past generations; passed on as traditions (habits) rather than as rational understandings of the function

of the rule¹⁰. Explicitly, they are the product of *cultural evolution*.

It should be noted that Hayek takes great care in arguing that neither he nor Smith's theories of cultural evolution are biological in nature (Hayek, 1988: 25; LLL vol. 2: 22-3). Where Hayek seeks to extend Smith's (and in some ways Darwin's) conception of cultural evolution is in *group selection* (Hayek, 1988: 25), arguing that while Smith clearly understood this phenomenon he failed miserably in explicitly developing it within his work (Hayek 1967: 100). Smith also "may have seemed to treat it as too obvious that the order which formed itself spontaneously was also the best order possible. His implied assumption, however, that the extensive division of labor of a complex society from which we all profited could only have been brought about by spontaneous ordering forces and not by design was largely justified" (Hayek 1967: 100). We are reminded of how this may be justified with reference to Smith's historical philosophy and development of moral sentiments.

While we have skirted around Hayek's theory of cultural evolution with discussions of his theory of knowledge and reference to habit, further examination is needed. In this examination we will find Hayek explicitly calling upon Smith's analysis of the division of labor and the importance placed on population growth. We would be wise throughout this discussion to keep in mind that Hayek refers to evolution and spontaneous as "twin ideas" (Hayek 1967: 77).

As spontaneous orders form and change through an evolutionary process, and as society is seen as a spontaneous order, societal change is understood through a lens of cultural evolution, for Hayek. We have established his argument that the general rules to which we adhere are *emergent* rather than created, but have not yet been exposed to the idea of group selection based on such rules. We come upon it in the following passage. Ethical behavior is understood as

¹⁰ We recall in Smith that the virtuous man develops the habit of consulting the rule rather than 'right conduct' i.e. particular application (TMS:162-3)

consisting of general, abstract rules:

. . . genuine social growths, the results of a process of evolution and selection, the distilled essence of experiences of which we ourselves have no knowledge. They have acquired general authority because the groups in which they held sway have proved themselves to be more effective than other groups. Their claim to be observed is not based upon the fact that the individual is aware of the consequences of disregarding them, but they exemplify a recognition of the fundamental fact that the majority of these concrete consequences are beyond our ken and that our actions will not lead to constant conflict with our fellow men only when they are guided by rules which pay due regard to the circumstances under which we commit them. (Hayek 1967: 243)

Group selection, then, occurs as groups with poorly functioning rules are surpassed or subsumed by other groups. “Natural selection of rules will operate on the basis of the greater or lesser efficiency of the resulting *order of the group*” (Hayek 1967: 67). Said differently, it is the “selective evolution of rules and practices (LLL vol. 3: 154) via a process of “winnowing or sifting” (LLL vol. 3: 155) of groups based on the success of their systems of rules.

That said, the success of these groups does not rely on any intrinsic worth of the rules, but rather the ability of those rules to facilitate an *extended* order, or in other words, to facilitate population growth within the order. Hayek and Smith both find the market and the division of labor to be crucial tools in achieving this. First, we note that Hayek makes use of Smith’s insight regarding the importance of population growth. We recall that the ‘end’ of nature for Smith is “...self-preservation, and the propagation of the species” (TMS: 77) and concurrently that “the most decisive mark of the prosperity of any country is the increase of the number of its inhabitants” (WN: 99). In praise, Hayek begins chapter eight of *Fatal Conceit* with the latter quote, adding later “Adam Smith, who noticed, as remarked in chapter eight, that the division of labour is limited by the extent of the market, and that population increase is crucial to the prosperity of a country” (Hayek 1988: 155).

By connecting Smith’s economics with his evolutionary theory, namely, the idea that the

extent of the division of labor is determined by the extent of the market with the fact that population growth is seen as the ‘most decisive mark’ of prosperity, Hayek puts forth a largely population-linked theory of cultural evolution. While this is an inferred position of Smith’s by Hayek, it does not appear to be an unreasonable inference. Recall that the quoted passage from Smith in the previous paragraph, describing the ‘end’ of nature as self-preservation and the propagation of the species, is resolved in the following way: “it has not been entrusted to the slow and uncertain determination of our reason to find out the proper means of bringing them about” (TMS: 77). Similarly, Hayek argues that successful groups do not know why they prevail or even that they prevail at all, they simply do (LLL vol. 2: 145). Also in line with Smith, Hayek argues that “as with every other organism, the main ‘purpose’ to which man’s physical make-up as well as his traditions are adapted is to produce other human beings” (Hayek 1988: 133).

Finally, there is a subtle connection to be made with Smith’s prudence here when we think about specialization and its contribution to prosperity. In my discussion of prudence I put forth that it is a moderate virtue that signifies a confinement, a specialization, of one’s knowledge and range of action. We see a similar process in both thinkers’ discussion of the division of labor, Hayek and Smith both taking care to note that growing populations yield greater specialization. The root cause of prosperity, or population growth, is indeed this growing specialization of labor, but perhaps more importantly, a growing specialization of *knowledge* as an order becomes ever more complex. The latter is an important aspect of Hayek’s extension of the spontaneous order theories of Smith. It is not an increase of individual intelligence as such, but rather an explosion in diversity of *specialist* knowledge that comes to form what both thinkers conceive of as the Great Society.

When we look back to Hayek’s establishment of the *cosmos*, an extremely important aspect

of that discussion is the fact that it may allow the maximum range and complexity of actions in a *single* order, as it is directed by individual utility and knowledge rather than that of an organizer. What we have seen is that in Smithian terms, a *cosmos* allows for the process of adaptation through recognition of utility and repetition, yielding habitual behavior (TMS: 199) to occur on as massive of a scale as is possible. This has brought us to cultural evolution, which is defined by group selection according to the ability of a group to effectively adapt to circumstances, to survive and multiply via rules not designed by any single individual. What we may now see in reference to the Great Society is that for Hayek, “the value of freedom consists mainly in the opportunity it provides for the growth of the undesigned” and that “the evolutionary view is based on the insight that the result of the experimentation of many generations may embody more experience than any one man possesses” (CL: 122). Freedom, and order given by general rules, a defining element of the Great Society, is the means by which we maximize our efficiency in adapting.

The Great Society

Let us consider for a moment one of Hayek’s more explicit uses of Smith in the realm we are about to discuss:

The possibility of man living together in peace and to their mutual advantage without having to agree on common concrete aims, and bound only by abstract rules of conduct, was perhaps the greatest discovery mankind ever made. The ‘capitalist’ system which grew out of this discovery no doubt did not fully satisfy the ideals of liberalism, because it grew up while legislators and governments did not really understand the *modus operandi* of the market, and largely in spite of the policies actually pursued. Cf. Adam Smith, *Wealth of Nations*, ed. Cannan, vol. II, p. 43:

The natural effort of every individual to better his own condition, where suffered to exert itself with freedom and security, is so powerful a principle, that it is alone, and without any assistance, not only capable of carrying on the society to wealth and prosperity, but of surmounting a hundred impertinent obstructions with which the folly of human laws too often encumbers its operations; though the effect of these obstructions is

always more or less either to encroach upon its freedom, or to diminish its security (LLL vol. II: 136)

What Smith would go on to call “the obvious and simple system of natural liberty” (WN: 874) is brought about only in what we have previously referred to as ‘commercial society’, the fourth stage, the excellent stage, the modern stage. It occurs in the context of the invisible hand, explicitly:

As every individual, therefore, enedeavours as much as he can . . . to direct [his] industry that its produce may be of greatest value; every individual necessarily labours to render the annual revenue of society as great as he can. He generally, indeed, neither intends to promote the public interest, nor knows how much he is promoting it . . . 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 (WN: 572)

Smith largely uses the term ‘a great society’ in his economic arguments, which is to say he thinks of it simply as a larger society in which economic forces, such as supply and demand and the division of labor, can come into play. But, as we’ve seen, there are ‘excellent’ moral virtues attached to such an order that has been successful at accommodating such a level of growth and specialization. This is why it is the only order in which his ‘obvious and simple system of natural liberty’ can arise.

Hayek addresses Smith’s use of the phrase as “that spontaneous order which Adam Smith called ‘the Great Society’” (LLL vol. 1: 2) and takes to it in arguing numerous points in *Law Legislation and Liberty* as well as the *Constitution of Liberty*. We should note that Hayek recognizes it as a guiding model, a utopia to shoot for. This is an idea inspired Smith:

It is not to be denied that to some extent the guiding model of the overall order will always be an utopia, something to which the existing situation will be only a distant approximation and which many people will regard as wholly impractical. Yet it is only by constantly holding up the guiding conception of an internally consistent model which could be realized by the consistent application of the same principles, that anything like an effective framework for a functioning

spontaneous order will be achieved. Adam Smith thought that 'to expect, indeed, that freedom of trade should ever be entirely restored in Great Britain is as absurd as to expect an Oceana or Utopia should ever be established in it.' (WN, vol.1, p. 435) Yet seventy years later, largely as a result of his work, it was achieved. (LLL vol. 1: 64-5)

A large part of Hayek's historical account for the Great Society is a transition I described at the beginning of this work, namely that from a 'tribal' to a 'civilized' society, characterized by the widening of the scope of acceptable action via the establishment of general laws. As in these tribal "face-to-face" societies it is likely that everyone knows everyone else's preferences, problems, and the available means for solving those problems, it is feasible that an individual's effort directed toward something resembling the 'common good' might have its intended consequences. As the order comes to grow, this is obviously no longer the case, for Hayek.

These 'closed' societies; small, close-knit and united in a set of common beliefs and purposes, transform into 'open' societies only through cultural evolution due to interaction with those *outside* of the group. As Hayek explains, "The moral sentiments which made the open society possible grew up in the towns, the commercial and trading centres, while the feelings of the large numbers were still governed by the parochial sentiments and the xenophobic attitudes governing the tribal group" (LLL vol. 2: 145-6). We should be reminded of Smith's development of moderate virtue here. Even if he does not say as much, these 'manners' are the defining social quality of a Hayekian Great Society as well. Again, the expansion of a spontaneous order in this way, widening the circle of society and necessitating the development of the moral sentiments requisite to live in an open society, is not caused by any individual action deliberately directed to the overall order. How then did these general rules, or individual freedoms, arise?

For Hayek, the actions concurrent with the expansion of freedom leading to a Great Society "were all infringements of customary rules – so man falls from grace," only becoming

acceptable as “law-breakers, who were to be path-breakers” and who “certainly did not introduce new rules because they recognized that they were beneficial to the community, but they simply started some practices advantageous to them that did prove beneficial to the group in which they prevailed” (LLL vol. 3: 161).

One cannot stress enough the defining aspect of general, instrumental laws here.

Members of the Great Society are not united by a common purpose, and this comes at a price:

The kind of abstract order on which man has learnt to rely and which has enabled him peacefully to coordinate the efforts of millions, unfortunately cannot be based on such feelings as love which constituted the highest virtue in the small group. Love is a sentiment which only the concrete evokes, and the Great Society has become possible through the individual’s efforts being guided not by the aim of helping particular other persons, but the confinement of the pursuit of their purposes by abstract rules. (LLL vol. 2: 150).

We find that the overall moral landscape of the Great Society calls to mind Smith’s reverence for the Stoic in our discussion of the development of the prudent man. Resignation, dedication, and personal independence are defining here. The playing out of the spontaneous order of the Great Society is “as Adam Smith (and apparently before him the ancient Stoics) understood, in all important respects is wholly analogous to a game, namely a game partly of skill and partly of chance. We shall later describe it as the game of catallaxy” and that in the formation of knowledge yielded by this ‘game’:

. . . we must content ourselves with emphasizing that the results for the different individuals and groups of a procedure for utilizing more information than any one person or agency can possess, must themselves be unpredictable, and must often be different from the hopes and intentions which determined the direction and intensity of their striving; and that we can make effective use of that dispersed knowledge only if (as Adam Smith was also one of the first to see clearly) we allow the principle of negative feedback to operate, which means that some must suffer unmerited disappointment. (LLL vol. 2: 71)

After describing the great degree of interplay between these two thinkers’ conceptions of the modern, commercial, ‘great’ society, we turn to the role of the state in that spontaneous order.

VI. The Man of the System and the Role of the State

It is less useful here to discuss the particular prescriptions each of these thinkers have regarding government action or lack thereof, as they are separated by 200 years of norms in political economics and are operating in very different historical contexts. Smith is confronted with the suffocating mercantilist policies of his time while Hayek operates in post-WWII context under a *perceived threat* of totalitarianism within a very highly developed commercial order. This almost by default dictates that Smith will place more emphasis on the ability of the government to enact certain types of change while Hayek focuses heavily on preservation of a Great Society that has largely already been achieved.

What is more illuminating, in the context of a spontaneous order tradition, is to look at what the general attitude towards government can be shown to be in the context of the Great Society. I will argue that Smith and Hayek put forth highly compatible frameworks. One important difference may be seen by virtue of the fact that Smith had faith in the efficacy of individual government actors to effectively carry out certain aims, while Hayek places much more emphasis on the causal role of what he calls ‘immanent criticism’.

I quote at length from a passage in Hayek’s essay “Adam Smith: His Message in Today’s Language” to introduce Hayek’s explicit use of Smith in reference to the defense of the Great Society i.e. not succumbing to the ‘tribal’ or ‘closed’ tendency often referred to as social justice:

Smith could not, of course, direct his arguments against what we now call socialism, since this was not known in his time. But he knew well the underlying general attitude which I like to call ‘constructivism’ and will approve of no human institution unless it was deliberately designed and directed by men for the aims which their inherited feelings dictate. He called them ‘men of system’; and this is what he had to say about them in his first great work:

The man of system...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 choose 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: 233-4)

The last sentence is not a bad description of our present society. And if we persevere in the atavism and, following the inherited instincts of the tribe, insist upon imposing the great society principles which presuppose the knowledge of all the particular circumstances which in that society the chief could know, back to the tribal society we shall go. (Hayek 1976: 119)

As I have described in this work, I believe Hayek’s understanding of Smith as an ‘anti-constructivist’ to be justified. Furthermore, I would like to posit that this necessarily leads to a certain conception of the role of government that Smith put forth and which Hayek is apt to follow. Namely, a focus on the consistent application of general rules under which expectations are consistent and a spontaneous order can form.

We find Smith’s framework in the passage wherein he describes the ‘system of natural liberty’ which I have argued is part and parcel with the Great Society:

According to the system of natural liberty, the sovereign has only three duties to attend to; three duties of great importance, indeed, but plain and intelligible to common understandings: first, the duty of protecting the society from violence and invasion of other independent societies; secondly, the duty of protecting, as far as possible, every member of society from the injustice or oppression of every other member of it, or the duty of establishing an exact administration of justice; and thirdly, the duty of erecting and maintaining certain public works and certain public institutions, which it can never be for the interest of the individual, or small number of individuals to erect and maintain; because the profit could never repay the expence to any individual or small number of individuals, though it may frequently do much more than repay it to a great society. (WN: 874)

Critics such as Petsoulas (2001) claim that Hayek took Smithian ideas and through his own imposition of an ‘anti-constructivist’ lens onto those ideas comes to conclusions that are far more libertarian in nature than anything Smith would have intended. Consider that the following

quotation from Smith opens Chapter 2 of Volume 1 of *Law, Legislation and Liberty*:

The man of system . . . Seems to imagine that he can arrange the different numbers of a great society with as much ease as the hand arranges the different pieces upon a chessboard. He does not consider that the pieces upon the chessboard have no other principle of motion besides that which the hand impresses upon them; but that, in the great chessboard of human society, every single piece has a principle of motion of its own, altogether different from that which the legislature might choose 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 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: 234)

For Smith, The man of the system is an ineffective, immoral government actor contrasted with the ideal ‘man of public spirit’ who, “prompted by humanity and benevolence . . . will respect the established powers and privileges even of individuals.” Even if he disagrees with what “habit” or “persuasion” may be pervasive in the society will realize that “when he cannot conquer the rooted prejudices of the people by reason and persuasion, he will not attempt to subdue them by force; but will religiously observe what, by Cicero, is justly called the divine maxim of Plato, never to use violence to his country no more than to his parents” (TMS: 233). We note here that the man of public spirit refrains from using the law to make *particular* decisions. Furthermore, “he will accommodate, as well as he can, his public arrangements to the confirmed habits and prejudices of the people” (TMS: 233). I question how Petsoulas would come to think that such an ideal actor for Smith would not also be quite close to the ideal for Hayek. In fact, Hayek takes care to note that within this passage lie “some of the basic concepts and terms” throughout *Law, Legislation and Liberty* in contrasting reverence for spontaneous order in the Great Society as with a “deliberate *arrangement* of the elements” (LLL vol. 1: 154-5). Simply, Hayek’s interpretation does not seem to be unwarranted.

I further submit the following passage of Smith’s, the conclusion to what has been cited

multiple times throughout my work here as Smith's statement of the Local Knowledge argument¹¹ used by Hayek in *The Road to Serfdom*:

The statesman who should attempt to direct private people in what manner they ought to employ their capitals, would not only load himself with a most unnecessary attention, but assume an authority which could safely be trusted to no council and senate whatever, and which would nowhere be so dangerous as in the hands of a man who had folly and presumption enough to fancy himself fit to exercise it. (WN: 573)

We consider all of this in the context of my earlier discussion of Hayek's focus on stabilization of expectations and instrumental law in *Constitution of Liberty* as well as what I will finally put forth in this line of argumentation; Hayek explicitly citing Smith's passage on the three government 'duties of great importance' in his agreement that government action is necessary in instances of substantial spillover effects:

. . . in such instances we must find some substitute for the regulation by the price mechanism. But the fact that we have to resort to the substitution of direct regulation by authority where the conditions for the proper working of competition cannot be created, does not prove that we should suppress competition where it can be made to function. To create conditions in which competition will be as effective as possible, to supplement it where it cannot be made effective, to provide the services which, in the words of Adam Smith, "though they may be in the highest degree advantageous to a great society, are, however, of such a nature, that the profit could never repay the expense to a great society, are, however, of such a nature, that the profit could never repay the expense to any individual or small number of individuals", these tasks provide indeed a wide and unquestioned field for state activity. In no system that could be rationally defended would the state just do nothing. An effective competitive system needs an intelligently designed and continuously adjusted legal framework as much as any other. Even the most essential prerequisite of its proper functioning, the prevention of fraud and deception (including exploitation of ignorance) provides a great and by no means yet fully accomplished object of legislative activity. (Hayek 1991: 40-1)

We have already established how Smith's first two 'duties of great importance' for the state in the Great Society are put forth by Hayek in *Constitution of Liberty*, and here we find acceptance of the third. Additionally, we find affirmation of the fact that laws are instituted by individuals in

¹¹ "Every individual, it is evident, can, in his local situation, judge much better than any statesman or lawgiver can do for him" (WN: 572-3)

the form of, for instance, a founding constitution through the use of reason, and furthermore that the laws put forth will only ensure the success of a particular society if they effectively encourage the functioning of a spontaneous order. In this way the legislators are still not directed towards a particular end in their deliberation and neither are those who live within that spontaneous order. A large majority of Petsoulas' criticism in this line has hopefully been shown to be overblown. Now, after establishing Hayek's foundational use of Smith in regard to the role of the state as principled, we may move on to his *extension*.

Hayek points to Smith as being aligned with him regarding the rejection of purely economic man (CL: 61). We have established here already how Smith does not view man to be completely, selfishly egoistic. Now, Hayek puts forth the argument that regardless of our conception of man as completely egoistic or altruistic, freedom to pursue individual aims is of utmost importance (CL: 78). Now, Hayek posits that in order to achieve our altruistic aims that Smith regards as so fundamental to our human nature, we must realize that an individual's attention must be focused on his own interests. This produces the most efficient results within an incredibly complex spontaneous order, and it is *this* which is the most important function of government. He writes:

To enable the individual to use his knowledge and abilities in the pursuit of his self-chosen aims was regarded both as the greatest benefit government could secure to all, as well as the best way of inducing these individuals to make the greatest contribution to the welfare of others. (Hayek 1978: 133)

Hayek agrees with Smith that love we have for those closest to us is strongest, and that our emotional bonds are *limited* in this manner. Thusly, given its lack of common ends, the commercial market of the Great Society is the best method by which to transmit this 'altruism' or 'beneficence' to the greatest number of people. Indeed, as Smith noted in *Wealth of Nations*, the division of labor which dictates that each individual seek as much as they can to 'direct his

industry that its produce may be of the greatest value' is what ultimately promotes the "universal opulence which extends itself to the lowest ranks of people" (WN: 19). Government should chiefly endeavor to protect this.

It might be useful to note here that Hayek argues that when Smith spoke out against government interference, he did so only in referring to actions by government which infringed upon the protected sphere of individuals (CL: 220). Hayek largely believes the same. We know his primary concern to be the government's enforcement of general rules, establishing the regularities necessary for the formation of an effective spontaneous order. Furthermore, we will see through his discussion of 'immanent criticism' that reform of those general rules via guidance by the opinion of the people governed by them is an important process of that society's ability to adapt to changing circumstances.

As I noted earlier, a common criticism of Hayek's extension of Smith in the areas of cultural evolution and political economy is that there seems to be little allowance for a society to consciously, deliberately enact change. I put forth here a description of Hayek's preferred method of reform of social institutions, 'immanent criticism,' in hopes to show that when combined with his theory of group selection, it can serve to dispel some notions of a sense of strict inability to deliberately change social institutions in Hayek's thought.

It is indeed a role of government, for Hayek, to modify general rules in response to circumstances (Hayek 1967: 11). That said, such reform must only be carried out with reference to *established practice*. It is not to be up for debate whether or not the existing system of general rules is to be discarded altogether, but rather reform should be done in a 'piecemeal' fashion (CL: 70). This is framed by Hayek in the following way:

While our moral traditions cannot be constructed, justified or demonstrated in the way demanded, their processes of formation can be partially *reconstructed*, and in

doing so we can to some degree understand the needs that they serve. To the extent we succeed in this, we are indeed called upon to improve and revise our moral traditions by remedying recognizable defects by piecemeal improvement based on immanent criticism, that is, by analyzing the compatibility and consistency of their parts, and tinkering with the system accordingly. (Hayek 1988: 69)

He continues with an extremely important insight for us:

What is needed as a preliminary for such analysis includes what is sometimes called a ‘rational reconstruction’ (using the word ‘construction’ in a sense very different from ‘constructivism’) of how the system might have come into being. This is in effect an historical, even natural-historical, investigation, not an attempt to construct, justify, or demonstrate the system itself. It would resemble what followers of Hume used to call ‘conjectural history’, which tried to make intelligible why some rules rather than others had prevailed (but never overlooked Hume’s basic consideration, which cannot often enough be repeated, that ‘the rules of morality are not the conclusions of our reason’). (Hayek 1988: 69)

This entire paper has been devoted, in some sense, to justifying Hayek’s use of Smithian principles in his *own* conjectural history, which is defined by his extension of Smith’s idea of cultural evolution into the theory of group selection. Not only is Hayek’s evolutionary framework compatible with this idea of immanent criticism, it is essential as a preferred method of structural change that, while not in line with some of Smith’s more activist government prescriptions in *Wealth of Nations*, is certainly in line with Smith’s man of public spirit and general attitude toward the preservation of general rules and the private sphere within the Great Society.

VII. Conclusion

In this work I have ultimately sought to defend Hayek’s following statement, when speaking of the emergence of societal institutions:

The reason why we are reluctant to describe such actions as purposeful is that the order which will form as the result of these actions is of course in no sense ‘part of the purpose’ or of the motive of the acting individuals. The immediate cause, the impulse which drives them to act, will be something affecting them only; and

it is merely because in doing so they are restrained by rules that an overall order results, while this consequence of observing these rules is wholly beyond their knowledge or intentions. In Adam Smith's classical phrase, man "is led to promote an end which is no part of his intentions" (WN, 572), just as the animal defending its territory has no idea that it thereby contributes to regulate the numbers of its species. It was indeed what I have elsewhere called the twin ideas of evolution and spontaneous order, the great contributions of Bernard Mandeville and David Hume, of Adam Ferguson and Adam Smith, which have opened the way for an understanding, both in biological and social theory, of that interaction between the regularity of conduct of the elements and the regularity of the resulting structure. (Hayek 1967: 77)

I have given a great deal of evidence as to why Smith may be understood to fall in line with the 'anti-constructivist' or 'anti-rationalist' tradition to which Hayek thought he belonged (Hayek 1967: 94, 99), and furthermore how Hayek effectively used a Smithian framework with regards to the Local Knowledge argument, generation of moral norms, Smith's political economy, and other ideas outlined above, in order to put forth a more complete understanding of freedom as a *means* to encourage development of successful spontaneous orders through the process of cultural evolution.

Smith belongs in the tradition of spontaneous order theorists not simply because of the use of a rhetorical device known as the invisible hand. I have given that relentlessly examined analogy little attention in this work as I believe there are other elements of Smith's thought too often overlooked in reference to establishing strong arguments for liberal political orders. He belongs because of his framework of moral development, cultural evolution, and political economy which places emphasis on emergent norms, rules, and ultimately *orders* resulting from individual action driven by man's nature and without an eye towards deliberately constructing these ordering forces. Furthermore, Hayek belongs in this tradition as a staunch defender and innovator of Smithian principles.

Both men should be seen as defenders of the Great Society and thusly the means by which

achieve it; liberal principles, or better-said, *general rules* engendering the formation of spontaneous, unintended orders.

Abbreviations

- CL Hayek, F.A. (1960). *The Constitution of Liberty*. London: Routledge
- LLL Hayek, F.A. (1993), {1973-1982}. *Law, Legislation and Liberty*, 3 vols. London: Routledge
- TMS Smith, A. (1976), {1759} *The Theory of Moral Sentiments*. ed. D.D. Raphael and A.L. Macfie, Oxford: Oxford University Press.
- WN Smith, A. (2003) {1776} *The Wealth of Nations*. Ed. Edwin Cannan. New York, NY: Bantam Classic.

Bibliography

- Bonar, J. (1930). *Moral sense* (Vol. 3). Psychology Press.
- Coase, R. H. (1976). Adam Smith's view of man. *Journal of law and economics*, 529-546.
- Cropsey, J. (2001). *Polity and economy: With further thoughts on the principles of Adam Smith*. St. Augustines Press.
- Darwin, C. (1872). *The origin of species by means of natural selection: Or, the preservation of favoured races in the struggle for life and the descent of man and selection in relation to sex*. Modern Library.
- Hanley, R. P. (2009). *Adam Smith and the character of virtue*. Cambridge University Press.
- Hayek, F. A. (1948). *Individualism and economic order*. University of Chicago Press.
- Hayek, F. A. (1967). *Studies in philosophy, politics and economics*. London: Routledge and Kegan Paul
- Hayek, F. A. (1968). *The confusion of language in political thought: with some suggestions for remedying it* (Vol. 20). Institute of Economic Affairs.
- Hayek, F. A. (1976). Adam Smith (1723-1790): His Message in Today's Language. *The trend of economic thinking*, 119-124.
- Hayek, F. A. (1967). *New studies in philosophy, politics, economics, and the history of ideas*. London: Routledge and Kegan Paul
- Hayek, F. A. (1979). *The counter-revolution of science*. Indianapolis: Liberty Press.
- Hayek, F. A. (1988). *The fatal conceit: The errors of socialism*. University of Chicago Press.
- Hayek, F. A. (1991) {1944}. *The road to serfdom*. London: Routledge
- Petsoulas, C. (2001). *Hayek's Liberalism and its origins: his idea of spontaneous order and the Scottish enlightenment* (Vol. 25). Routledge.

Smith, V. L. (1998). Distinguished Guest Lecture. *Southern economic journal*, 65(1), 1-19.

Smith, A., Stewart, D., Black, J., & Hutton, J. (1795). *Essays on philosophical subjects*. Printed for Wogan, Byrne.

Smith, C. (2006). *Adam Smith's political philosophy: The invisible hand and spontaneous order*. Routledge.

Stewart, D. (1793). *Account of the Life and Writings of Adam Smith, LL. D.* University of Virginia Library.

Tribe, K. (2008). "Das Adam Smith Problem" and the origins of modern Smith scholarship. *History of European Ideas*, 34(4), 514-525.