# Hayek on *Liberty*

*third edition*

John Gray

Routledge

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*Third Edition*

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# Contents

# Note to the Third Edition

In the Postscript to this new edition I have tried to assess Hayek's thought by reference to historical events since the publication of the book's first edition in 1984 and by considering how well Hayek's thought copes with enduring problems of liberal political philosophy. The Postscript therefore reflects changes both in my own thinking and in the world at large.

*John Gray*

# Preface to the First Edition and Acknowledgements

Though Hayek's central place in twentieth-century economic thought is uncontested, his general philosophy has yet to receive the sustained critical attention it merits. A major theme of this study is that Hayek's work composes a system of ideas, fully as ambitious as the systems of Mill and Marx, but far less vulnerable to criticism than theirs because it is grounded on a philosophically defensible view of the scope and limits of human reason. A related claim made in this study is that we find in Hayek a restatement of classical liberalism in which it is purified of errors —specifically, the errors of abstract individualism and uncritical rationalism—which inform the work of even the greatest of the classical liberals and which Hayek has been able to correct by absorbing some of the deepest insights of conservative philosophy. For these two reasons alone, Hayek's work should command the critical interest of philosophers and social theorists as well as political economists.

More fundamentally, however, Hayek's work initiates a paradigm shift in social philosophy and launches a new research programme in social theory. In ways I will specify in detail in the body of this book, Hayek displaces the focus of social philosophy from the preoccupations which have led the analytical school into an impasse—preoccupations with the conceptual analysis of the main terms of political discourse and with the endless discussion of rival principles against a background of

moral scepticism—to the areas of epistemology and philosophical psychology. His intuition is that a way of assessing different social systems more fruitful than the traditional method of appraising their moral content is to be found in illuminating the demands they make upon the powers of the mind and the uses they are able to make of human knowledge. His conclusion is that, once we have arrived at a realistic picture of the powers and limitations of the human mind, we see that many important social doctrines—those of socialism and interventionist liberalism, for example,—make impossible demands upon our knowledge. Even the liberalism of John Stuart Mill, for all its harping on the fallibility of our beliefs, embodies a naïvely rationalistic conception of the relations of the individual mind with its cultural inheritance of tradition. Hayek on liberty transcends the rationalistic fallacies which disfigure Mill's liberalism and gives us a defence of individual freedom without equal in modern thought. Hayek's work has every claim to occupy a distinguished place in the mainstream of contemporary philosophy.

This brief study has been assisted by a large number of people. Among those who have commented on the manuscript at various stages in its evolution, or with whom I have had extended discussions on Hayekian themes, I would like to thank particularly W.W.Hartley III (whose biography of Hayek will be a notable event in Hayek scholarship), Norman P.Barry, Samuel Brittan, James Buchanan, Tim Congdon, Walter Eltis, Milton Friedman, Sir H.J.Habbakuk, Donald Hay, Nevil Johnson, Israel Kirzner, Irving Kristol, Robert Nozick, J.C.Nyiri, Michael Oakeshott, Dr D.A.Rees, Murray Rothbard, G.L.S.Shackle and Jeremy Shearmur (whose important work on Hayek, shortly to be published in a book, has contributed a valuable reference point for my own, especially where our interpretations have differed widely). I wish to thank most warmly Professor Hayek himself, for the unstinting generosity and unfailing patience with which he has dealt with my innumerable (and often ill-formulated) questions and criticisms, and to Professor Hayek's secretary, Mrs C.Gubitt, for her assistance in revising the Bibliography.

I acknowledge permission to publish the following extracts: 'The Liberalism of Karl Popper' from *Government and Opposition*, Vol. II, no. 3 (Summer 1976), pp. 337–55 and 'Spencer on the Ethics of Liberty and the limits of State Interference' from *History of Political Thought*, Vol. III, no. 3 (Winter 1982), pp. 465–81.

I am grateful to the Principal and Fellows of my College for granting me two periods of sabbatical leave during which I was able to bring the book nearer completion. I wish to express my gratitude for the assistance given me in the early stages of my research by a small Research Grant in the Humanities awarded by the British Academy. Also, I wish to acknowledge a debt of gratitude to the Institute for Humane Studies in Menlo Park, California. Under the direction first of Kenneth S.Templeton Jr. and then Leonard P.Liggio, this excellent institution devoted to research and scholarship in the traditions of classical liberalism has since 1977 supported my studies of Hayek in many ways. With the invaluable support of Liberty Fund of Indianapolis the Institute enabled me to spend several summers in Menlo Park as a residential research scholar, pursuing my inquiries into Hayek in the context of colloquia on classical liberal thought operated by Liberty Fund. This book owes its origin to a monograph on 'F.A.Hayek and the Rebirth of Classical Liberalism' published by the Institute in its excellent (but unhappily now defunct) journal *Literature of Liberty*. Without the interest shown in my work by Ken Templeton and Leonard Liggio, and the scholarly support given me at the Institute by John Cody and Walter Grinder, I am sure I would not have begun this book, still less finished it.

Finally, I would like to thank Carole Charlton in Oxford and Pat Ortega in Palo Alto for their work in deciphering my handwritten manuscript.

*John Gray*
Jesus College, Oxford
1984

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# 1

# Hayek's system of ideas: its origins and scope

## THE UNITY OF HAYEK'S SYSTEM OF IDEAS AND ITS PHILOSOPHICAL CHARACTER

As part of the reawakening of public and scholarly interest in the intellectual tradition of classical liberalism, Hayek's writings in a range of academic disciplines have been recalled from a period of neglect during which it seemed to many that they had been consigned to oblivion. It is not an exaggeration to say that the re-emergence of classical liberalism and the rediscovery of Hayek's writings are complementary aspects of a single current of opinion. For, while Hayek's writings address and illuminate some of the most formidable issues of the age, and answer to many comtemporary anxieties, they do so within the frame of thought constructed by the great classical liberals. Hayek's work is in the tradition of classical liberalism, not simply because his concerns are in many areas those of Locke and Burke, Adam Smith and Kant, but also because, like the theorists of liberalism's Golden Age in the eighteenth century, Hayek seeks to raise up a system of ideas, a structure of principles with the aid of which we can understand social and political life and subject it to reasoned criticism. No-one who knows Hayek's work can doubt that his attempt to restate liberal principles in a form appropriate to the circumstances and temper of the twentieth

century has yielded a body of insights wholly comparable in profundity and power with those of his forebears in the classical liberal tradition. In Hayek's work, the chief values of classical liberalism—the dignity of the human individual and the moral primacy of his freedom, the virtues of free markets and the necessity for limited government under the rule of law—are defended within an intellectual framework of uncompromising modernity. There can be no doubt that Hayek's reformulation of classical liberalism succeeds in building on the intellectual foundations inherited from the liberal period a body of thought as powerful as any that can be found within the classical liberal writers and far more resistant to criticism than was classical liberalism itself.

Even Hayek's most convinced critics would hesitate to deny these achievements of his work. At the same time, even among his friends and disciples, the sense of Hayek's work as composing a system of ideas is often missing. The reasons for this widespread failure to grasp the systematic character of Hayek's thought may seem obvious. His writings cross several major disciplines—theoretical economics, jurisprudence, philosophy, psychology and intellectual history among them—and they span over half a century. Again, though there has been some interest in recent years among philosophers and cultural historians in the milieu of thought of the last decades of Hapsburg Vienna, most economists and social theorists remain deeply ignorant of that milieu, and accordingly can have little understanding of the context of thought in which Hayek's outlook was nurtured. It seems to me, though, that the general failure of comprehension in regard to the character of Hayek's work as a system of ideas has other sources, distinct from the two I have just mentioned and having to do rather with the inherent structure of Hayek's outlook itself.

The chief aim of this study is to exhibit Hayek's contributions to the various disciplines of inquiry in which he has worked as constituting a system in virtue of their being informed and governed throughout by a distinctive philosophical outlook. Even Hayek's achievements in economic theory can be shown on the interpretation I advance to trade upon and put to work genuine

and powerful insights in philosophy which Hayek achieved very early in his intellectual career. My interpretation has the novel aspect that it treats Hayek as a philosopher *sans phrase*, whose contributions to the social sciences (like those of J.S.Mill) express a natural application of his philosophical outlook. The comparison with Mill is here a close one, despite their many deep differences, in that in Hayek's case as in Mill's, his contributions to economics were preceded by an effort to establish a new position in the theory of knowledge in the most general sense. This has been concealed in Hayek's case because his profound and neglected study in epistemology and philosophical psychology, *The Sensory Order*, was published only in 1952, after Hayek's principal contributions to economics, whereas Mill's *System of Logic* (1843) is a temporal as well as a methodological forerunner of his *Principles of Political Economy* (1848). Though it was published only in the fifties, *The Sensory Order* was first sketched as a student paper by Hayek in 1920, and its argument was substantially complete by the early twenties. A careful investigation of its argument is indispensable to any adequate understanding of Hayek's work, not only because it remains his most extended explicit statement in general philosophy, but also because it reveals most clearly the intellectual influences at work in Hayek's writings. Most crucially, however, the view of knowledge it defends can be shown to be presupposed by many of the positions Hayek has adopted in economic theory and in social philosophy. The elusiveness and subtlety of Hayek's writings, on which many commentators have remarked, is in great part explained by their general failure to perceive the relevance of his work in the philosophies of knowledge and mind to the stands he has taken up in economic and social theory. This failure is regrettable and surprising: regrettable, in that it has reinforced the neglect which Hayek's work has suffered in contemporary intellectual life, and surprising in that his writings in the social sciences are studded with references to his more explicitly philosophical works, and, above all, to *The Sensory Order*.

Hayek's philosophical outlook is an extremely distinctive ver-

sion of post-Kantian critical philosophy in which a number of more contemporary influences—the philosophies of Mach, Popper, Wittgenstein and Polanyi, most notably—have been synthesized into a coherent system. It would be a mistake, at the same time, to see Hayek's thought as essentially eclectic, a weaving together over decades of strands of reflection garnered from other writers, since all the evidence suggests that his conception of the mind and of the limits to our knowledge has been with him from the start, acquiring refinement and expansion in the course of his intellectual development but remaining unaltered in its most fundamental respects. The structure of his conception, and its persistence throughout the many influences under which he has temporarily come, has misled many of Hayek's interpreters into periodizing his intellectual career into distinct phases —a Misesian phase, perhaps, in which he supposedly embraced the philosophical outlook of his colleague in economics, L.von Mises, followed by a Popperian one which emerged from his meeting and friendship with Sir Karl Popper—but it is easy to show that such interpretations are wide of the mark. Hayek's thought retains the character of a coherent system rather than an eclectic construction, even if in the end it harbours conflicts which demand a revision of some of its elements.

## HAYEK'S GENERAL PHILOSOPHY: THE KANTIAN HERITAGE

The entirety of Hayek's work—and, above all, his work in epistemology, psychology, ethics, and the theory of law—is informed by a distinctively Kantian approach. In its most fundamental aspect, Hayek's thought is Kantian in its denial of our capacity to know things as they are or the world as it is. It is in his denial that we can know things as they are, and in his insistence that the order we find in our experiences, including even our sensory experiences, is the product of the creative activity of our minds rather than a reality given to us by the world, that Hayek's Kantianism consists. It follows from this sceptical Kan-

tian standpoint that the task of philosophy cannot be that of uncovering the necessary characters of things. The keynote of critical philosophy, after all, is the impossibility of our attaining any external or transcendental standpoint on human thought from which we could develop a conception of the world that is wholly uncontaminated by human experiences or interests. We find in Kant's own writings—above all the *Critique of Pure Reason* (1781)—a case against the possibility of speculative metaphysics which Hayek himself has always taken to be devastating and conclusive. It is a fundamental conviction of Hayek's, and one that he has in common with all those who stand in the tradition of post-Kantian critical philosophy, that we cannot so step out of our human point of view as to attain a presuppositionless perspective on the world as a whole and as it is in itself. The traditional aspiration of western philosophy—to develop a speculative metaphysics in terms of which human thought may be justified and reformed—must accordingly be abandoned. The task of philosophy, for Hayek as for Kant, is not the construction of any metaphysical system, but the investigation of the limits of reason. It is a reflexive rather than a constructive inquiry, since all criticism—in ethics as much as in science—must in the end be immanent criticism. In philosophy as in life, Hayek avers, we must take much for granted, or else we will never get started.

Hayek's uncompromisingly sceptical Kantianism is strongly evidenced in *The Sensory Order*. There Hayek disavows any concern as to 'how things really are in the world', affirming that '… a question like "what is X?" has meaning only within a given order, and…within this limit it must always refer to the relation of one particular event to other events belonging to the same order.'[1] Above all, the distinction between appearance and reality, which Hayek sees as best avoided in scientific discourse,[2] is not to be identified with the distinction between the mental or sensory order and the physical or material order. The aim of scientific investigation is not, then, for Hayek, the discovery behind the veil of appearance of the natures or essences of things in themselves, for, with Kant and against Aristotelian essentialism, he stigmatizes the notion of essence or absolute reality as useless

or harmful in science and in philosophy. The aim of science can only be the development of a system of categories or principles, in the end organized wholly deductively, which is adequate to the experience it seeks to order.[3]

Hayek is a Kantian, then, in disavowing in science or in philosophy any Aristotelian method of seeking the essences or natures of things. We cannot know how things are in the world, but only how our mind itself organizes the jumble of its experiences. He is Kantian, again, in repudiating the belief, common to empiricists and positivists such as David Hume and Ernst Mach, that there is available to us a ground of elementary sensory impressions, untainted by conceptual thought, which can serve as the foundation for the house of human knowledge. Against this empiricist dogma, Hayek is emphatic that everything in the sensory order is abstract, conceptual and theory-laden in character: 'It will be the central thesis of the theory to be outlined that it is not merely a part but the whole of sensory qualities which is…an "interpretation" based on the experience of the individual or the race. The conception of an original pure core of sensation which is merely modified by experience is an entirely unnecessary fiction.'[4] Again, he tells us that 'the elimination of the hypothetical "pure" or "primary" core of sensation, supposed not to be due to earlier experience, but either to involve some direct communication of properties of the external objects, or to constitute irreducible mental atoms or elements, disposes of various philosophical puzzles which arise from the lack of meaning of these hypotheses.'[5] The map or model we form of the world, in Hayek's view, is in no important respect grounded in a basis of sheer sense-data, themselves supposed to be incorrigible. Rather, the picture we form of the world emerges straight from our interaction with the world, and it is always abstract in selecting some among the infinite aspects which the world contains, most of which we are bound to pass by as without interest to us.

Hayek's Kantianism, so prominent in his theory of knowledge, is no less pronounced in his jurisprudence and in his political philosophy. It is neglect of the influence on his social theory of Kant's account of the law that has misled some of Hayek's inter-

preters into construing him as a theorist of rights in the tradition of John Locke (a tradition whose most distinguished contemporary spokesman is found in Robert Nozick). In fact Hayek's view of law and justice is altogether Kantian in that it relinquishes any reference to natural law—which forms the necessary matrix for any account of natural rights—and treats moral rights, not as themselves framing absolute constraints of justice on the content of law, but rather as implications of the nature of law itself when certain fundamental features of the human circumstance are taken into account. As I shall try to make clear in a later chapter, Hayek's theory of justice is not rights-based, but procedural: we discover the demands of justice by applying to the permanent conditions of human life a Kantian test of universalizability. This is to say that, if a rule or maxim is to be acceptable as just, its application must be endorsed by rational agents across all relevantly similar cases. Hayek's view of justice is little understood, in part because it has often been assumed that the contrast between a patterned account of justice such as that of John Rawls (himself a theorist in a Kantian tradition) and the entitlement-based theory of Robert Nozick in which moral rights figure as fundamental constraints on all other values, is a contrast which exhausts all plausible accounts. Hayek's view of justice would in fact have been better understood, if we had followed his own explicit guidance, and seen it as a synthesis of Kant's requirement of universalizability in practical reasoning with David Hume's account of the content and basis of the rules of justice. One of the most intriguing features of Hayek's political philosophy is its attempt to mark out a *tertium quid* between the views of justice of Hume and Kant. His theory of knowledge may similarly be interpreted as aiming at a reconciliation of the apparently opposed insights of Popper and Wittgenstein. In all of his writings, however, the distinctively Kantian flavour is evident in his strategy of working with postulates or regulative ideas, epistemological and normative, which are as metaphysically neutral, and as uncommitted to specific conceptions of the good life, as he can reasonably make them. It is this minimalist

or even formalist strategy of argument that most pervasively expresses Hayek's Kantian heritage.

## FOUR INFLUENCES ON HAYEK'S SCEPTICAL KANTIANISM: MACH, POPPER, WITTGENSTEIN AND POLANYI

Hayek's theory of knowledge is Kantian, we have seen, in affirming that the order we find in the world is given to it by the organizing structure of our own mind and in claiming that even sensory experiences are suffused with the ordering concepts of the human mind. His view of the mind, then, is Kantian in that it accords a very great measure of creative power to the mind, which is neither a receptacle for the passive absorption of fugitive sensations, nor yet a mirror in which the world's necessities are reflected.

There are a number of influences on Hayek, however, which give his Kantianism a profoundly distinctive and original aspect. The first of these influences is the work of Ernst Mach (1836–1916), the positivist philosopher whose ideas dominated much of Austro-German intellectual life in the decades of Hayek's youth. Hayek's debts to Mach are not so much in the theory of knowledge, as in the attitude both take to certain traditional metaphysical questions. I have observed already that Hayek dissented radically from the Humean and Machian belief that human knowledge could be reconstructed on the basis of elementary sensory impressions, and throughout his writings Hayek has always repudiated as incoherent or unworkable the reductionist projects of phenomenalism in the theory of perception and behaviourism in the philosophy of mind. In these areas of philosophy, then, Hayek's work has been strongly antipathetic to distinctively positivistic ambitions for a unified science. At the same time, while never endorsing the dogma of the Vienna Circle that metaphysical utterances are literally nonsensical, Hayek has often voiced the view that many traditional metaphysical questions express 'phantom-problems'.

In both *The Sensory Order* and later in *The Constitution of Liberty*, Hayek affirms that the age-old controversy about the freedom of will embodies such a phantom-problem.[6] Hayek's 'compatibilist' standpoint in respect of freedom of the will—his belief that the causal determination of human actions is fully compatible with ascribing responsibility to human agents for what they do—is analogous with his stance on the mind—body question. In both controversies Hayek is concerned to deny any ultimate dualism in metaphysics or ontology, while at the same time insisting that a dualism in our practical thought and in scientific method is unavoidable for us. Thus he says of the relations of the mental and physical domains that 'While our theory leads us to deny any ultimate dualism of the forces governing the realms of the mind and that of the physical world respectively, it forces us at the same time to recognize that for practical purposes we shall always have to adopt a dualistic view.'[7] And Hayek concludes his study of the foundations of theoretical psychology in *The Sensory Order* with the claim that '*to us* mind must remain forever a realm of its own, which we can know only through directly experiencing it, but which we shall never be able to fully explain or to "reduce" to something else.'[8]

Hayek's thought has a Machian positivist aspect, then, not in the theories of mind or perception, but in its attitude to traditional metaphysical questions, which is dissolutionist and deflationary. There is yet another link with positivism. Notwithstanding Hayek's opposition to any sort of reductionism, whether sensationalist or physicalist, he seems to be a monist in ontology, averring that 'mind is thus the order prevailing in a particular part of the physical universe—that part of it which is ourselves.'[9] Hayek may seem here to be qualifying or withdrawing from that stance of metaphysical neutrality which in Machian spirit he commends, but this appearance may be delusive. There is much to suggest that, when Hayek denies any ultimate dualism in the nature of things, he is not lapsing into an idiom of essences or natural kinds, but simply observing—much in the fashion of the American pragmatist philosopher, W.V.Quine—that nothing in our experience compels us to adopt ideas of mental or physical

substance.[10] Though Hayek has not to my knowledge ever pronounced explicitly on the question, the whole tenor of his thought inclines to a Quinean pragmatist view of ontological commitments. In his sceptical and pragmatist attitude to ultimate questions in metaphysics and ontology, Hayek lines up with many positivists rather than with Kantian critical philosophy—though positivists themselves sometimes claim, with some justification, to be treading a Kantian path.

A second influence on Hayek's general philosophy which gives it a distinctive temper is the thought of his friend, Karl Popper (b. 1902). I mean here, not Popper's hypotheticodeductive account of scientific method, which there is evidence that Hayek held prior to his meeting with Popper,[11] nor yet Popper's proposal (which Hayek was soon to accept) that falsifiability rather than verifiability should be adopted as a criterion of demarcation between the scientific and the non-scientific. Again, Hayek has under Popper's influence come to make an important distinction between types of rationalism,[12] such that 'critical rationalism' is commended and 'constructivistic rationalism' condemned, but this is not what I have in mind. I refer rather to certain striking affinities between Hayek's view of the growth of knowledge and that adumbrated in Popper's later writings on 'evolutionary epistemology'. As early as the manuscript which later became *The Sensory Order* (published in 1952, but composed in the twenties), Hayek made it clear that the principles of classification embodied in the nervous system were not for him fixed data; experience constantly forced reclassification on us. In his later writings, Hayek is explicit that the human mind is itself an evolutionary product and that its structure is therefore variable and not constant. The structural principles or fundamental categories which our minds contain ought not, then, to be interpreted in Cartesian fashion as universal and necessary axioms, reflecting the natural necessities of the world, but rather as constituting evolutionary adaptations of the human organism to the world that it inhabits.

The striking similarity between Popper's later views, and those expounded by Hayek in *The Sensory Order*, is shown by Pop-

per's own application of the evolutionist standpoint in epistemology to the theory of perception:

> ...if we start from a critical commonsensc realism...then we shall take man as one of the animals, and human knowledge as essentially almost as fallible as animal knowledge. We shall suppose the animal senses to have evolved from primitive beginnings; and we shall look therefore on our own senses, essentially, as part of a decoding mechanism—a mechanism which decodes, more or less successfully, the encoded information about the world which manages to reach us by sensory means.[13]

J.W.N.Watkins' comment on this view is as apposite in the respect of Hayek as it is of Popper:

> Kant saw very clearly that the empiricist account of sense experience creates and cannot solve the problem of how the *manifold* and very various data which reach a man's mind from his various senses get unified into a coherent experience.
>
> Kant's solution consisted, essentially, in leaving the old quasi-mechanistic account of sense-organs intact, and endowing the mind with a powerful set of organizing categories—free, universal and necessary—which unify and structure what would otherwise be a mad jumble.
>
> Popper's evolutionist view modifies Kant's view at both ends: interpretative principles lose their fixed and necessary character, and sense organs lose their merely causal and mechanistic character.[14]

Hayek's account of sense perception anticipates Popper's later views in a most striking fashion, because, in both, sensation is conceived as a decoding mechanism, which transmits to us in a highly abstract fashion information about our external environment. Again, both Hayek and Popper share the sceptical Kantian view that the order we find in the world is given to it by the creative activity of our own minds: as Hayek himself puts it uncompromisingly in *The Sensory Order*, 'The fact that the world which we know seems wholly an orderly world may thus be merely a result of the method by which we perceive it.'[15] In his most recent, and as yet unpublished writings, Hayek has

acknowledged important affinities between Popper's postulate of a 'third' world of abstract or virtual entities or intelligibles and his own conception of tradition as the bearer of knowledge and values.[16]

Later in this study, I will try to illuminate some important contrasts between Hayek and Popper in both theory of knowledge and social philosophy. Specifically, I shall argue that, some of Hayek's own statements notwithstanding, he has never accepted without massive qualifications Popper's insistence that the falsificationist methodology is appropriate in all the sciences, natural as well as social. For Hayek, the search for simple universal laws is in the social studies vain or even harmful, and there are good reasons (rooted in their different subject-matters) to support something like a dualism in methods as between natural and social sciences. In social philosophy, Hayek's outlook has an entirely different spirit and orientation from that of Popper. The distinction between 'facts' and 'decisions', which Popper elevates to the status of a fundamental tenet of liberalism, Hayek is committed to repudiate as a shadow cast by the misconceived dichotomy of nature and convention we inherit from the Greek Sophists. More generally, there are many deep contrasts between Hayek's view of a free society as one in which distinctive traditions engage in peaceful competition under the rule of law and Popper's conception of the free society as embodying openness to criticism in the ways elaborated by J.S.Mill in *On Liberty*. One of the greater achievements of Hayek's social theory is, I shall submit, its successful synthesis of insights of conservative philosophy which are fatal to the visions of Mill and Popper with the classical liberal concerns which animated Kant and Hume.

A third influence on Hayek's thought which gives his view of knowledge and the mind a very distinctive character is that of his relative, Ludwig Wittgenstein (1889–1951).[17] This influence runs deep, and is seen not only in the style and presentation of *The Sensory Order*, which parallels in an obvious way that of Wittgenstein's *Tractatus*, but in many areas of Hayek's system of ideas. It is shown, for example, in Hayek's recurrent interest in

the way in which the language in which we speak shapes our thoughts and forms our picture of the world. In fact, Hayek's interest in language, and in a critique of language, predates Wittgenstein's work, inasmuch as he had an early preoccupation with the work of Fritz Mauthner, the now almost forgotten philosopher of radical nominalism whom Wittgenstein mentions (somewhat dismissively) in *Tractatus*.[18] There are, however, many evidences that Wittgenstein's work reinforced Hayek's conviction that the study of language is a necessary precondition of the study of human thought, and an indispensable prophylactic to the principal disorders of the intellect. Examples which may be adduced are Hayek's studies of the confusion of language in political thought and, most obviously, perhaps, of his emphasis on the role of social rules in the transmission of practical knowledge.

It is on this last point that one of the most distinctive features of Hayek's Kantianism, its pragmatist aspect, is clearest.[19] Of course there is a recognition in Kant himself that knowledge requires judgement, a special faculty, the *Urteilskraft*, which cannot be given any complete or adequate specification in propositional terms, and whose exercise is necessary for the application of any rule. In the sense that we must exercise this faculty of judgement even before we can apply a rule, it is action which is at the root of our very knowledge itself. Hayek's concern is not with this ultimate dependency of rule-following upon judgement —which the later Wittgenstein, perhaps following Kant, emphasizes—but rather with the way that knowledge of all sorts, but especially social knowledge, is embodied in rules. Our perceptual processes, indeed all our processes of thought, are governed by rules with we do not normally articulate, which in some cases are necessarily beyond articulation by us, but which we rely upon for the efficacy of all our action in the world. Indeed, it is not too much to say that, for Hayek (notwithstanding his stress on the abstract or conceptual character of our sensory knowledge) all our knowledge is at the bottom practical or tacit knowledge: it consists, not in propositions or theories, but in skills and dispositions to act in a rule-governed fashion. There is

here an interesting parallel with Popper's view, which sees even our sense organs as being themselves embodied theories.[20]

There is much in Hayek's writings to suggest that he takes what Gilbert Ryle calls 'knowing how',[21] what Michael Polanyi calls tacit knowing,[22] what Michael Oakeshott[23] calls traditional knowledge, to be the wellspring of all our knowledge. It is in this sense—in holding the stuff of knowledge to be at bottom practical—that Hayek may be said to subscribe to a thesis of the primacy of practice in the constitution of human knowledge. It is not indeed that Hayek disparages the enterprise of theory-building, but he sees the theoretical reconstruction of our practical knowledge as necessarily incomplete in its achievements. In the next section of this chapter I will discuss Hayek's view that theoretical knowledge is always and only knowledge of abstract orders or patterns and often (in the social sciences, for example) only knowledge of a principle in terms of which such patterns may be understood. Here I wish to identify another limitation of theoretical knowledge in Hayek's view: theory is for him only the visible tip of the vast submerged fund of tacit knowledge, much of which is entirely beyond our powers of articulation. Neglect of this dependency of our necessarily abstract theories on a vast range of inarticulate background knowledge has led social science astray in many fields.

The third source of influence on Hayek's sceptical Kantianism, which I have ascribed primarily to the work of his relative Wittgenstein, plainly comprehends other influences as well. Hayek cites Ryle in support of his observation that '"know how" consists in the capacity to act according to rules which we may be able to discover but which we need not be able to state in order to obey them,' and glosses the point with reference to Michael Polanyi.[24] Here the insight is that all articulated or propositional knowledge arises out of tacit or practical knowledge, the knowledge of how to do things, which must be taken as fundamental. In Polanyi's work, there is here, in fact, the fourth and final major influence on Hayek, which in conjunction with the other three further modifies his Kantianism and makes of it something that Kant himself could not have recognized.

The Polanyian element which enters into Hayek's work from at least the fifties consists, first of all, in the refinement of his view of knowledge as *au fond* practical and in his exploitation of Polanyi's insight that, since much of the knowledge we use is inarticulate, we always know more than we can ever say. In *The Constitution of Liberty* and elsewhere, this insight gives a wholly new twist to the argument for liberty from human ignorance. It is not just the fact that our knowledge is extremely limited that supports a regime of liberty in which experiments in living may be tried. Rather, a regime of liberty permits knowledge to be used which we never knew (and could never have known) we had: any centralized regime which relied only on our explicit knowledge would necessarily exploit only a small part of the stock of knowledge—that small part which is expressible in statements or propositions. Only a regime of liberty can fully use that greater part of our knowledge which is not so statable. One implication of this insight of Polanyi's for social theory, recognition of which by Hayek draws his social theory away from Popper's, is that rational criticism of social life is bound to come to a stop when it reaches the tacit dimension of our practices. This is a point to which I shall recur when in a later chapter I contrast Popper's philosophy with Hayek's in a more extended and systematic way.

## HAYEK'S RELATIONS WITH THE AUSTRIAN SCHOOL OF ECONOMICS AND HIS ACCOUNT OF THE METHODOLOGY OF SOCIAL SCIENCE

Hayek's debts to the Austrian School of Economics founded by Menger (1840–1921) and carried on by Hayek's teacher, F.von Wieser (1851–1926) and his colleague, L.von Mises (1881–1973), are so many and so obvious that they tend to conceal those elements of his thought which are original and which in many cases cannot be accommodated within the orthodoxy of the Austrian School. In its most general contentions, however, Hayek has followed and developed the Austrian School. He has

deepened and refined the Austrian subjective theory of value—the theory that value is conferred on resources by the subjective preferences of agents and cannot be explained as an inherent property of any asset or resource. It was this profound insight which spelt the end of that tradition of classical economic theory, encompassing Ricardo, J.S.Mill and Marx, in which value was analysed in objective terms as deriving from the labour content of the asset or resource under consideration. This subjectivism regarding value in economic theory, strongly emphasized in all of von Mises's writings, is always defended by Hayek. He goes much further in the direction of subjectivism, however, by noting that the data of the social studies are themselves subjective phenomena. Such social objects as money, capital and tools can never be given an analysis in objective or physicalist terms, since they are actually constituted by human beliefs and notions. These social objects are in no sense private—their existence is always bound up with that of forms of life among communities of human beings—but their dependency on human beliefs and conceptions means that any understanding of them in mechanistic fashion is bound to be abortive.

Hayek's extension of Austrian subjectivism about value to the whole realm of social objects in no way represents a deviation from the positions of his mentors, Menger and von Mises. His earliest extensive statement on the methodology of social science, *The Counter-Revolution of Science: Studies on the Abuse of Reason* (1952) bears in many aspects the imprint of the Austrian School's doctrines, particularly in its firm assertion that the methods of social science are crucially different from those of the natural sciences. In one fundamental area, however, Hayek always differed from the Austrian School, especially as that was embodied in the person of von Mises. It was indefatigably maintained by von Mises that economic laws were deductions from a few axioms about human action. Indeed, according to von Mises, all of economic science can be derived from a proper specification of the nature of human action. Economic laws are thus apodictic truths, no less certain than the axioms which yield them as theorems, and the role of empirical evidence is sec-

ondary to identifying these necessary implications of human action in economic theory.

Hayek never accepted this apodictic—deductive or (as von Mises called it) *praxeological* conception of economic theory. His seminal paper of 1937, 'Economics and Knowledge', marks an attempt to convert von Mises to a more empirical conception of the role of theory in economics rather than any change of view on Hayek's part. In this paper Hayek seeks to distinguish those elements of economic theory which are indeed *a priori*, inasmuch as they deal with 'the pure logic of choice' as it applies to single agents, from the greater part of economics which is empirical in that it aims to account for coordinating tendencies which bring about to varying degrees integration between the activities of many people. Hayek's distinction generates problems in his economic theory, especially problems about the nature of equilibrium and the possibilities of large-scale endogenous discoordination which I shall canvass in a later chapter, but its importance here is simply to underline that Hayek always regarded the greater part of economic doctrine as testable and corrigible and having no apodictic status.

What is noteworthy about Hayek's account of the methods of the social sciences is the continuity of its development. Specifically—contrary to T.W.Hutchison, who periodizes Hayek's work into an Austrian praxeological and a post-Austrian Popperian period, and also contrary to Norman P. Barry, who sees both trends running right through Hayek's writings—Hayek never accepted the Misesian conception of a praxeological science of human action which would take as its point of departure a few axioms about the distinctive features of purposeful behaviour over time. True, in the Introduction to *Collectivist Economic Planning* and elsewhere in his early writings, Hayek had (as Hutchison notes) insisted that economics yields '"general laws", that is, "inherent necessities determined by the permanent nature of the constituent elements"'.[25] As Hutchinson himself acknowledges in passing, however, such laws or necessities function in Hayek's writings as *postulates* (rather than as axioms), and they continue to do so even in his later writings, in which

(as I have already noted) a suspicion of the nomothetic paradigm of social science is expressed. It is clear from the context of the quotations cited by Hutchison that, in speaking of the general laws or inherent necessities of social and economic life, Hayek meant to controvert the excessive voluntarism of historicism, which insinuates that social life contains no unalterable necessities of any sort, rather than to embrace the view that there can be an *a priori* science of society or human action. To this extent Barry is right in his observation that 'there is a basic continuity in Hayek's writings on methodology.'[26] Certainly, there seems little substance in a periodization of Hayek's methodological writings by reference to the supposedly Popperian paper of 1937 on Economics and Knowledge'.

At the same time, there seems little warrant for Barry's claim that throughout his work Hayek tries 'to combine two rather different philosophies of social science; the Austrian praxeological school with its subjectivism and rejection of testability in favour of axiomatic reasoning, and the hypothetico-deductive approach of contemporary science with its emphasis on falsifiability and empirical content'.[27] There is no evidence, so far as I know, that Hayek ever endorsed the Misesian conception of an axiomatic or *a priori* science of human action grounded in apodictic certainties. Again, as we have seen, Hayek's view that the social sciences are throughout deductive in form antedates Popper's influence and is evidenced in the Introduction to *Collectivist Economic Planning*.

Hayek's real debts to Popper are, I think, different from those attributed to him by Hutchison and Barry. It is not that Hayek under Popper's influence abandoned an apodictic—deductive method that was endorsed (in different versions, Kantian and Aristotelian) by von Mises and Menger, but rather that he came to adopt Popper's proposal that falsifiability be treated as demarcation criterion of science from non-science.[28] Again, Hayek follows Popper in qualifying his earlier Austrian conviction that there is a radical dualism of method as between natural and social science: this conviction, he tells us, depended on an erroneous conception of method in the natural sciences: as a result

of what Popper has taught him, Hayek says, 'the differences between the two groups of disciplines has thereby been greatly narrowed.'[29] Hayek's debts to Popper are, then, in his seeing that it is the falsifiability of an hypothesis rather than its verifiability which makes it testable and empirical, and, secondly, in his acknowledging a unity of method in all the sciences, natural and social, where this method is seen clearly to be hypothetico-deductive.

Even in these Popperian influences, it is to be noted, there are differences of emphasis from Popper himself. Hayek anticipates Lakatos in perceiving that the theoretical sciences may contain a 'hard core' of hypotheses, well-confirmed and valuable in promoting understanding of the phenomena under investigation, which are highly resistant to testing and refutation.[30] And Hayek explicitly states that in some fields Popper's ideas of maximum empirical content and falsifiability may be inappropriate:

> It is undoubtedly a drawback to have to work with theories which can be refuted only by statements of a high degree of complexity, because anything below that degree of complexity is on that ground alone permitted by our theory. Yet it is still possible that in some fields the more generic theories are the more useful ones... Where only the most general patterns can be observed in a considerable number of instances, the endeavour to become more 'scientific' by further narrowing down our formulae may well be a waste of effort...[31]

In general, then, it seems fair to hold that Hayek acknowledges that the proper method in social and economic studies, as elsewhere, is the hypothetico-deductive method of conjectures and refutations as set out by Popper. On the other hand, he continues to recognize that in respect of complex phenomena such as are found in the social studies, testability may be a somewhat high-level and protracted process, and the ideal of high empirical content captured in a nomothetic framework a demanding and sometimes unattainable idea.

Hayek's account of the methods of the social sciences, whereas it always stressed the subjective character of the 'data'

of the social studies (social objects themselves), conceived the task of social theory as that of identifying the principles governing the formation of patterns in social life rather than of working out the implications of any definition of human action. Again, Hayek shares with Popper the view that the methods of the social sciences are properly always hypothetico-deductive and conjectural, but he identifies limitations on this method in the social sciences which there is no clear evidence that Popper himself has perceived or accepted.

## HAYEK ON KNOWLEDGE AND THE MIND: IMPLICATIONS FOR SOCIAL THEORY

I began by noting the striking Kantian attributes of Hayek's epistemology and philosophy of mind—aspects which Hayek himself does not stress, perhaps because he conceives the formative influence of Kantian philosophy on his thought to be self-evident. As he puts it himself in a footnote to his discussion in a recent volume of the government of conscious intellectual life by superconscious abstract rules: 'I did not mention…the obvious relation of all this to Kant's conception of the categories that govern our thinking—which I took rather for granted.'[32]

Hayek's Kantianism is seen, first in his repudiation of the empiricist view that knowledge may be constructed from a basis of raw sensory data and, second, in his uncompromising assertion of the view that the order we find in the world is a product of the creative activity of the human mind (rather than a recognition of natural necessity). His Kantian view is distinctive in that it anticipates Popper in affirming that the mental frameworks by which we categorize the world are neither universal nor invariant, but alterable in an evolutionary fashion; his Kantian view also follows Wittgenstein in grasping the role of social rules in the transmission of practical knowledge. There are, at the same time, some entirely original features of Hayek's view of the mind, which it would be hard for either Kant or Wittgenstein to accept, but which constitute one of Hayek's most intriguing con-

tributions to philosophical speculation. Hayek suggests that, not only human social life, but the life of the mind itself is governed by rules, some of which cannot be specified at all. Note that Hayek does not contend merely that we cannot in fact specify all the rules which govern both social and intellectual life: he argues that there must of necessity be an insuperable limit beyond which we are unable to specify the rules by which our lives are governed. As he puts it:

> So far our argument has rested solely on the uncontestable assumption that we are not in fact able to specify all the rules which govern our perceptions and actions. We still have to consider the question whether it is conceivable that we should ever be in a position discursively to describe all (or at least any one we like) of these rules, or whether mental activity must always be guided by some rules which we are in principle not able to specify.
>
> If it should turn out that it is basically impossible to state or communicate all the rules which govern our actions, including our communications and explicit statements, this would imply an inherent limitation of our possible explicit knowledge and, in particular, the impossibility of ever fully explaining a mind of the complexity of our own.

Hayek goes on to observe of the inability of the human mind reflexively to grasp the most basic rules which govern its operations that 'this would follow from what I understand to be Georg Cantor's theorem in the theory of sets according to which in any system of classification there are always more classes than things to be classified, which presumably implies that no system of classes can contain itself.' Again, he remarks that 'it would thus appear that Gödel's theorem is but a special case of a more general principle applying to all conscious and particularly all rational processes, namely the principle that among their determinants there must always be some rules which cannot be stated or even be conscious.' Hayek concludes this development of themes first explored in his *Sensory Order* with the fascinating suggestion that conscious thought must be presumed to be governed by Yules which cannot in turn be conscious—by a 'supra-conscious mechanism'—or, as Hayek prefers sometimes to call

it, a 'meta-conscious mechanism'—'which operates on the contents of consciousness but which cannot itself be conscious'.[33]

Hayek's argument here seems to be that there is in both action and perception a hierarchy of rules, with the most fundamental rules at any time being meta-conscious rules beyond our capacities of identification and articulation. Thus the rules of action and perception by which both intellectual and social life are governed are stratified or ranked in a hierarchy, with the most basic rules (which shape the categories of our understanding) always eluding conscious articulation. It is not that there is a set of such meta-conscious rules, coexistent with the human mind, such that we must suppose ourselves to be governed by invariant principles which we can never state and whose content must remain forever unknown to us. Rather, all the rules by which social and intellectual life is governed are conceived by Hayek to be products of a process of evolutionary selection and modification. As we acquire new, consciously articulate rules of action and perception, we will come to be governed by new meta-conscious rules, which may in turn generate further meta-conscious rules as they themselves are articulated or perhaps simply altered out of recognition.

I will return to this most fascinating idea of a meta-conscious rule in the next chapter, when I shall consider its place in Hayek's conception of a spontaneous social order. Here I wish to bring out how this idea shows Hayek's differences with Kant and Wittgenstein. For all his discussion of the anti-nomies of the human understanding, I do not think Kant could have accepted so drastic a limitation on the possibilities of human self-understanding as that suggested by Hayek's claim that intellectual life is always governed by inarticulable laws or principles. In this respect, Hayek's rationalism is even more self-critical than Kant's. Again, Wittgenstein's general conception of the mind would forbid any such notion of rule-following as that presupposed in Hayek's conception. For Wittgenstein, rule-following seems always to involve intentional knowledge, and, at least in the *PhilosophicalInvestigations*, Wittgenstein is concerned to stress the freedom of judgement we possess in applying even the

most basic rules, such as those of arithmetic. Hayek's conception is here far removed from Wittgenstein's, and has closest affinities with the evolutionary epistemology developed by Popper and his disciples.

How do these considerations bear on Hayek's view of society? Hayek himself is emphatic that these insights in the theories of mind and knowledge have the largest consequences for social theory. The inaccessability to reflexive inquiry of the rules that govern conscious thought entails the bankruptcy of the Cartesian rationalist project and implies that the human mind can never fully understand itself, still less can it ever be governed by any process of conscious thought. The considerations adduced earlier, then, establish *the autonomy of the mind*, without ever endorsing any mentalistic thesis of mind's independence of the material order. Where Hayek deviates from Descartes's conception of mind, however, is not primarily in his denying ontological independence to mind, but in his demonstration that complete intellectual self-understanding is an impossibility.

Hayek's conception of mind is a view, then, whose implications for social theory are even more radical than are those of Hayek's Kantianism. It is the chief burden of the latter, let us recall, that no external or transcendental standpoint on human thought is achievable, in terms of which it may be supported or reformed. In social theory, this Kantian perspective implies the impossibility of any Archimedian point from which a synoptic view can be gained of society as a whole and in terms of which social life may be understood and, it may be, redesigned. As Hayek puts it trenchantly: 'Particular aspects of a culture can be critically examined only within the context of that culture. We can never reduce a system of rules or all values as a whole to a purposive construction, but must always stop with our criticism of something that has no better grounds for existence than that it is the accepted basis of the particular tradition.'[34] This is a useful statement, since it brings out the Kantian implication for social theory: that all criticism of social life must be immanent criticism, just as in all philosophy, inquiry can only be reflexive and never transcendental.

Hayek goes beyond Kantianism, however, in his recognition that, just as in the theory of mind we must break off when we come to the region of unknowable ultimate rules, so in social theory we come to a stop with the basic constitutive traditions of social life. These latter, like Wittgenstein's forms of life, cannot be the objects of further criticism, since they are at the terminus of criticism and justification: they are simply given to us, and must be accepted by us. But this is not to say that these traditions are unchanging, nor that we cannot understand how it is that they do change.

In social theory, Hayek's devastating critique of Cartesian rationalism entails that, whatever else it might be, social order cannot be the product of a directing intelligence. It is not just that too many concrete details of social life would always escape such an intelligence, which could never, therefore, know enough. Nor (though we are nearer the nub of the matter here) is it that society is not a static object of knowledge which could survive unchanged the investigations of such an intelligence. No, the impossibility of total social planning does not rest for Hayek on such Popperian considerations,[35] or, at any rate, not primarily on them.

Such an impossibility of central social planning rests, firstly, on the primordially practical character of most of the knowledge on which social life depends. Such knowledge cannot be concentrated in a single brain, natural or mechanical, not because it is very complicated, but rather because it is embodied in habits and dispositions and governs our conduct via rules which are often inarticulate. But, secondly, the impossibilty of total social planning arises from the fact that, since we are all of us governed by rules of which we have no knowledge, even the directing intelligence itself would be subject to such government. It is naïve and almost incoherent to suppose that a society could lift itself up by its bootstraps and reconstruct itself, in part at least because the idea that any individual mind—or any collectivity of selected minds—could do that, is no less absurd. The order we find in social life cannot, for these reasons, be the product of

any rational design, and it can never become so. Social order is and must always be a spontaneous formation.

# 2

# The idea of a spontaneous social order

## SPONTANEOUS ORDER VERSUS THE CONSTRUCTIVIST FALLACY

If the order we discover in society is in no important respect the product of a directing intelligence, and if the human mind itself is a product of cultural evolution, then it follows that social order cannot be the product of anything resembling conscious control or rational design. As Hayek puts it:

> The errors of constructivist rationalism are closely connected with Cartesian dualism, that is, with the conception of an independently existing mind substance which stands outside the cosmos of nature and which enabled man, endowed with such a mind from the beginning, to design the institutions of society and culture among which he lives… The conception of an already fully developed mind designing the institutions which made life possible is contrary to all we know about the evolution of man.[1]

The master error of Cartesian rationalism[2] lies in its anthropomorphic transposition of mentalist categories to social processes. But a Cartesian rationalist view of mind cannot explain even the order of mind itself. Hayek himself makes this point when he remarks on 'the difference between an order which is brought

about by the direction of a central organ such as the brain, and the formation of an order determined by the regularity of the actions towards each other of the elements of a structure'. He goes on:

> Michael Polanyi has usefully described this distinction as that between a monocentric and a polycentric order. The first point which it is in this connection important to note is that the brain of an organism which acts as the directing centre for the organism is in turn a polycentric order, that is, that its actions are determined by the relation and mutual adjustment to each other of the elements of which it consists.[3]

Hayek states his conception of social theory, and of the central importance in it of undesigned or spontaneous orders, programmatically and with unsurpassable lucidity:

> It is evident that this interplay of the rules of conduct and of the individuals with the actions of other individuals and the external circumstances in producing an overall order may be a highly complex affair. The whole task of social theory consists in little else but an effort to reconstruct the overall orders which are thus formed… It will also be clear that such a distinct theory of social structures can provide only an explanation of certain general and highly abstract features of the different types of structures… Of theories of this type economic theory, the theory of the market order of free human societies, is so far the only one which has been developed over a long period…[4]

Because it is undesigned and not the product of conscious reflection, the spontaneous order that emerges of itself in social life can cope with the radical ignorance we all share of the countless facts of knowledge on which society depends. That is to say, to begin with, that a spontaneous social order can *utilize fragmented knowledge*, knowledge dispersed among millions of people, in a way a holistically planned order (if such there could be) cannot. 'This structure of human activities' as Hayek puts it 'consistently adapts itself, and functions through adapting itself, to millions of facts which in their entirety are not known to everybody. The significance of this process is most obvious and

was at first stressed in the economic field.'[5] It is to say, also, that a spontaneous social order can use the practical knowledge preserved in men's habits and dispositions and that society always depends on such practical knowledge and cannot do without it.

Examples abound in Hayek's writings of spontaneous orders apart from the market order. The thesis of spontaneous order is stated at its broadest when Hayek says of Bernard Mandeville (1670–1733) that 'for the first time [he] developed all the classical paradigmata of the spontaneous growth of orderly social structures: of law and morals, of language, the market and money, and also the growth of technological knowledge.'[6] Note that whereas Hayek acknowledges that spontaneous order emerges in natural processes—it may be observed, he tells us, not only in the population biology of animal species, but in the formation of crystals and even galaxies[7]—it is the role of spontaneous order in human society that Hayek is most concerned to stress. For applying what Hayek illuminatingly terms 'the twin ideas of evolution and of the spontaneous formation of an order'[8] to the study of human society enables us to transcend the view, inherited from Greek, and, above all, from Sophist philosophy, that all social phenomena can be comprehended within the crude dichotomy of the natural (*physis*) and the conventional (*nomos*). Hayek wishes to focus attention on the third domain of social phenomena and objects, neither instinctual in origin nor yet the result of conscious contrivance or purposive construction, the domain of evolved and self-regulating structures in society via the natural selection of rules of action and perception that is systematically neglected in much current sociology (though not, it may be noted, in the writings of Herbert Spencer,[9] one of sociology's founding fathers). It is because he thinks that the sociobiologists view social order as being a mixture of instinctive behaviour and conscious control, and so neglect the cultural selection of systems and rules, that Hayek has subjected this recent strain of speculation to a sharp criticism.[10] It may be noted, finally, that Hayek's repudiation of the Sophistic nature-convention dichotomy sets him in some opposi-

tion to Popper with his talk of the critical dualism of facts and decisions and brings him close to the Wittgensteinian philosopher, Peter Winch, for whom the distinction is essentially misconceived.[11] At the same time, Hayek's constant insistence on the competitive selection of rival rules and practices gives his conception of social life a naturalistic and evolutionary dimension which is alien to Wittgensteinian thought.

*Constructivism* is the error that the order we discover—in nature, in our minds and in society—has been put there by some designing mind. Hayek's conception of spontaneous order, in contesting the constructivist view, embodies an insight which goes very much against the grain of the dominant Platonist and Christian traditions in Western culture. For these traditions, order is imposed upon the world or injected into it by the exercise of reason or is found there as the reflection of a suprasensible domain of Ideas. The task of reason may be the apprehension of the eternal Forms of which all things that we can know in this world are but shadowy copies, or else the office of reason may be conceived as that of identifying a set of clear ideas whose mutual relations constitute an unchanging order. For Hayek, this cannot be the role of reason: the mind is as much a spontaneous order as is the human body or the human brain, and our ideas are merely the visible exfoliation of spontaneous forces. For Hayek, then, as against Plato and Descartes, the order of our ideas is supervenient upon the spontaneous order of the mind, which it can never reconstruct entirely or hope to supplant. Our conscious selves can never be governors of our mental lives, for they are at every moment utterly dependent upon the unseen (and, in large measure, uncomprehended) workings of spontaneous order in the cosmos of nature and society. In neglecting the dependency of reason itself on spontaneous order in the life of the mind, the constructivist error inverts the true relations of tacit with explicit knowledge and accords reason a prescriptive role it is wholly unfitted to perform in mind or society.

## THE CENTRAL CONCEPTION OF SPONTANEOUS ORDER AND ITS APPLICATIONS TO PHYSICAL AND SOCIAL PHENOMENA

The most explicit and systematic development of the insight that order in society is a spontaneous formation is given by the economic theory of market exchanges, where the thesis that unhampered markets display a tendency to equilibrium is its most obvious application. (In a world of constantly changing beliefs and preferences, of course, equilibrium is never achieved, but is to be viewed as a constantly changing asymptote. This should warn us against construing spontaneous order as a static condition rather than a process displaying certain orderly features). At the same time, Hayek has made clear that the spontaneous-order conception has application to physical systems—to crystals, galaxies, and perhaps even, somewhat paradoxically, to certain artificial devices[12]—and it has many exemplifications in human social life apart from those in the economic realm. We find the spontaneous formation of self-regulating structures in the growth of language, the development of law and in the emergence of moral norms. (We find in David Hume, for example, a brilliant exposition of the spontaneous emergence of moral conventions, which is explicitly directed against Hobbes's constructivist rationalism).[13] In all these domains, the key idea of the spontaneous order thesis is that self-organizing and self-replicating structures arise without design or even the possibility of design, such that knowledge of some of the elements of these structures allows the formation of correct expectations about the structure of the whole.

Whereas I do not aim here to assess Hayek's conception in any definitive fashion, a number of questions are worth raising at this point. Hayek has asserted that the emergence and persistence of spontaneous orders is to be accounted for by something akin to the generalization of Darwinian evolution as it is understood in the context of the development of species. Selective evolution is the source of all order, he tells us, not only of the order we find in living things and which we recognize in the classifica-

tion of species. At the same time, Hayek never maintains that the mechanism of Darwinian evolution—natural selection of genetic accidents via their reproductive fitness—must be replicated exactly in all areas where selective evolution generates spontaneous order. In the case of the capitalist market economy, there is a real analogy with Darwinian selection in that the profit-and-loss system provides a mechanism for the elimination of 'unfit' enterprises. It is less clear what it is that accounts for the emergence and persistence of orderly structures in language and law. Again, though we may indeed sensibly speak of evolution at the molecular and galactic levels, there will be nothing analogous with the mechanism of Darwinian evolution at these levels, since there appears there to be no possibility of self-replication. An evolutionary account may be given of the emergence of self-organizing systems, which invokes mechanisms of selection other than that specified in the Darwinian theory. One question that arises, then, is just what these other mechanisms may be in the areas where the Darwinian one does not apply.

In the context of social and cultural evolution, Hayek has in recent years accorded increasing prominence to the Darwinian mechanism itself. Social institutions and structures—such as religions and modes of production—come to prevail insofar as they enhance the reproductive fitness of the groups which practise them. Religions which emphasize the importance of private or several property and which support the institution of the family will enhance the life prospects of their practitioners by creating conditions of high productivity in which there will be relatively more numerous infant survivals. Modes of production which allow and encourage the identification of malinvestments and which provide incentives for their liquidation will spread, if only because they permit larger populations to be sustained than do modes of production without these features making for productivity. As Hayek sees it in his latest writings,[14] social or cultural evolution is directly continuous with evolution at the classical Darwinian level and embodies the same fundamental principle of natural selection. Hayek's conception differs from that of nineteenth century Social Darwinism, however, whether in its Spence-

rian—Lamarckian form or in that expounded by W.G.Sumner, inasmuch as the natural selection it speaks about is not of individuals, but of groups or populations, and it occurs via the impact of the practices and institutions, the rules of action and perception, of groups on the life chances of their members.

A further question now suggests itself—a question as to the means of identifying the rules of which Hayek speaks. He is explicit that he refers always both to rules of action and to rules of perception.[15] To take the example he mentions and which Polanyi often uses, both sorts of rule would be involved in the process of recognizing someone's face and greeting him. Perhaps, for Hayek, the differences between the two sorts of rule are less than radical, but in respect of rules of action the problem is that observed regularities of behaviour are usually compatible with a range of imputed rules. If the imputation of such rules is to *explain* the order of a group, we need some method of selection among the range of possible rules which might equally well account for the same regularities in individual behaviour. This problem may be easier with rules of perception in that techniques are available for isolating *Gestalten*, but it is still a real problem in these cases too.

Again, although I have stated it in simple, unitary fashion, the idea of a spontaneous order in society has at least three distinct aspects or elements. First, there is the thesis that social institutions arise as a result of human action but not from human design. Let us, following Robert Nozick and others[16] call this *the invisible-hand thesis* about social institutions. Intimations of this thesis are found in Mandeville and Hume, but a systematic version of it in respect of the institution of money is given by Carl Menger, founder of the Austrian School of Economics.[17] Secondly, there is the thesis of *the primacy of tacit or practical knowledge*, which asserts that our knowledge of the world, and especially of the social world, is embodied first of all in practices and skills, and only secondarily in theories, and which speculates that at least part of this practical knowledge is always inarticulable. Thirdly, there is the thesis of *the natural selection of competitive traditions*. Here 'traditions' are understood to refer to

whole complexes of practices and rules of action and perception and the claim is that there is a continuous evolutionary filtering of these traditions. This last thesis—let us call it *the thesis of cultural evolution by the natural selection of traditions*—completes the complex idea of spontaneous social order as it is expounded by Hayek.

## THE APPLICATION OF SPONTANEOUS ORDER IN ECONOMIC LIFE: THE CATALLAXY

The central claim of Hayek's philosophy, as we have expounded it so far, is that knowledge is, at its base, at once practical and abstract. It is abstract inasmuch as even sensory perception gives us a model of our environment which is highly selective and picks out only certain classes of events, and it is practical inasmuch as most knowledge is irretrievably stored or embodied in rules of action and perception. These rules, in turn, are in Hayek's conception the subject of continuing natural selection in cultural competition. The mechanism of this selection, best described in Hayek's fascinating 'Notes on the Evolution of Systems of Rules of Conduct',[18] is in the emulation by others of rules which secure successful behaviour. It is by a mimetic contagion that rules conferring success—where success means, in the last resort, the growth of human numbers[19]—come to supplant those rules which are maladapted to the environment. Finally, the convergence of many rule-following creatures on a single system of rules creates those social objects—language, money, markets, the law—which are the paradigms of spontaneous social order.

It is a general implication of this conception that, since social order is not a purposive construction, it will not in general serve any specific purpose. Social order facilitates the achievement of human purposes: taken in itself, it must be seen as having no purpose. Just as human actions acquire their meaning by occurring in a framework that can itself have no meaning,[20] so social order will allow for the achievement of human purposes only to

the extent that it is itself purposeless. Nowhere has this general implication of Hayek's conception been so neglected as in economic life. In the history and theory of science, to be sure, where the idea of spontaneous order was (as Hayek acknowledges)[21] put to work by Michael Polanyi, false conceptions were spawned by the erroneous notion that scientific progress could be planned, whereas, on the contrary, any limitation of scientific inquiry to the contents of explicit or theoretical knowledge would inevitably stifle further progress.[22] In economics, however, the canard that order is the result of conscious control had more fateful consequences. It supported the illusion that the whole realm of human exchange was to be understood after the fashion of a household or an hierarchical organization, with limited and commensurable purposes ranked in order of agreed importance.

This confusion of a genuine hierarchical '*economy*'—such as that of an army, a school or a business corporation—with the whole realm of social exchange, the *catallaxy*, informs many aspects of welfare economics and motivates its interventionist projects via the fiction of a total social product. This confusion between 'catallaxy' and 'economy' is, at bottom, the result of an inability to acknowledge that the order which is the product of conscious direction—the order of a management hierarchy in a business corporation, for example—itself always depends upon a larger spontaneous order. The demand that the domain of human exchange taken as a whole should be subject to purposive planning is, therefore, the demand that social life be reconstructed in the character of a factory, an army, or a business corporation—in the character, in other words, of an authoritarian organization. Apart from the fateful consequences for individual liberty that implementing such a demand inexorably entails, it springs in great measure from an inability or unwillingness to grasp how in the market process itself there is a constant tendency to self-regulation by spontaneous order. When it is unhampered, the process of exchange between competitive firms itself yields a coordination of men's activities more intricate and

balanced than any that could be enforced (or even conceived) by a central planner.

The relevance of these considerations to Hayek's contributions to the question of the allocation of resources in a socialist economic order is central, but often neglected. It is, of course, widely recognized[23] that one of Hayek's principal contributions in economic theory is the refinement of the thesis of his colleague, Ludwig von Mises, that the attempt to supplant market relations by public planning cannot avoid yielding calculational chaos. Hayek's account of the mechanism whereby this occurs has, however, some entirely distinctive and original features. For Hayek is at great pains to point out that the dispersed knowledge which brings about a tendency to equilibrium in economic life and so facilitates an integration of different plans of life, is precisely not theoretical or technical knowledge, but practical knowledge of concrete situations—'knowledge of people, of local conditions, and of special circumstances'. As Hayek puts it: 'The skipper who earns his living from using otherwise empty or half-filled journeys of tramp-steamers, or the estate agent whose whole knowledge is almost exclusively one of temporary opportunities, or the arbitrageur who gains from local differences of commodity prices—are all performing eminently useful functions based on special knowledge of circumstances of the fleeting moment not known to others.' Hayek goes on to comment: 'It is a curious fact that this sort of knowledge should today be regarded with a kind of contempt and that anyone who by such knowledge gains an advantage over somebody better equipped with theoretical or technical knowledge is thought to have acted almost disreputably.'[24] The 'problem of the division of knowledge', which Hayek describes as 'the really central problem of economics as a social science',[25] is therefore not just a problem of specific data, articulable in explicit terms, being dispersed in millions of heads: it is the far more fundamental problem of the practical knowledge on which economic life depends being embodied in skills and habits, which change as society changes and which are rarely expressible in theoretical or technical terms.

One way of putting Hayek's point, a way we owe to Israel

Kirzner rather than to Hayek himself but which is wholly compatible with all that Hayek has said on these questions, is to remark as follows: if men's economic activities really do show a tendency to coordinate with one another, this is due in large part to the activity of *entrepreneurship*. The neglect of the entrepreneur in much standard economic theorizing, the inability to grasp his functions in the market process, may be accounted for in part by reference to Hayek's description above of the sort of knowledge used by the entrepreneur. As Kirzner puts it, 'Ultimately, then, the kind of "knowledge" required for entrepreneurship is "knowing" where to look for "knowledge" rather than knowledge of substantive market information.'[26] It is hard to avoid the impression that the entrepreneurial knowledge of which Kirzner speaks here is precisely that practical or dispositional knowledge which Hayek describes. Kirzner's account brings out a feature of entrepreneurship, crucially relevant to spontaneous order in the economic realm, which Hayek recognizes but has not developed systematically. This is that the entrepreneurial insight or perception on which the tendency to equilibrium depends, because it cannot be planned or brought about at will, but is always a matter of serendipity and flair, is itself a spontaneous phenomenon. Different institutional frameworks may encourage it in differing degrees, but it is in its nature as much beyond our powers of conscious control as are the meta-conscious rules of Hayek's theory of mind. I do not mean to suggest that entrepreneurial perception is rule-governed —though its affinities with *Gestalt*-perception would repay research—but only to stress its uncontroll-ability by conscious thought. One major flaw in all proposals for economic planning is that they are bound to attempt to transform entrepreneurial perception of opportunities into mechanical procedures for resource-utilization and to incur vast losses of efficiency in so attempting.

It is the neglect of how all economic life depends on this practical knowledge which allowed the brilliant but, in this respect, fatally misguided Joseph Schumpeter (1883–1950) to put a whole generation of economists on the wrong track, when he

stated in his *Capitalism, Socialism and Democracy* (1942) that the problem of calculation under socialism was essentially solved.[27] It is the neglect of the same truth that Hayek expounded which explains the inevitable failure in Soviet-style economies of attempts to simulate market processes in computer modeling. All such efforts are bound to fail, if only because the practical knowledge of which Hayek speaks cannot be programmed into a mechanical device. They are bound to fail, also, because they neglect the knowledge-gathering rôle of market pricing. Here we must recall that, according to Hayek, knowledge is dispersed throughout society and, further, it is embodied in habits and dispositions of countless men and women. The knowledge yielded by market pricing is knowledge which all men can use, but which none of them would possess in the absence of the market process; in a sense, the knowledge embodied or expressed in the market price is *systemic or holistic knowledge*, knowledge unknown and unknowable to any of the elements of the market system, but given to them all by the operation of the system itself. No sort of market simulation or shadow pricing can rival the operation of the market order itself in producing this knowledge, because only the actual operation of the market itself can draw on the fund of practical knowledge which market participants exploit in their activities. The knowledge exhibited in market prices is not only the practical knowledge possessed by millions of dispersed market actors; it is also knowledge possessed by none of them as individuals, even tacitly. It is thus systemic or holistic knowledge, knowledge generated by the market process itself and belonging (as does all traditional knowledge) to the entire society rather than to any of its separate members. It is this systemic knowledge which is destroyed or wasted when attempts are made to correct or plan market processes.

Three further points may be worth noting in respect of Hayek's refinements of the Misesian calculation debate. First, when Hayek speaks of economic calculation under socialism as a practical impossibility, he is not identifying specific obstacles in the way of the socialist enterprise which might someday be

removed. Socialist planning could supplant market processes only if practical knowledge could be replaced by theoretical or technical knowledge at the level of society as a whole—and that is a supposition which is barely conceivable. The kind of omniscience demanded of a socialist planner could be possessed only by a single mind, entirely self-aware, existing in an unchanging environment—a supposition so bizarre that we realize we have moved from any imaginable social world to a metaphysical fantasy in which men and women have disappeared altogether, and all that remain are Leibnitzian monads, featureless and unhistorical ciphers.

Fortunately, such a transformation is possible, if at all, only as a thought-experiment. In practice, all supposedly socialist economies depend upon precisely that practical knowledge of which Hayek speaks, and which, though dispersed through society, is transmitted via the price mechanism. It is widely acknowledged that socialist economies depend crucially in their planning policies on price data gleaned from historic and world markets. Less often recognized, and dealt with in detail only, so far as I know, in Paul Craig Robert's important *Alienation in the Soviet Economy*,[28] is that planning policies in socialist economies are only shadows cast by market processes distorted by episodes of authoritarian intervention. The consequence of the Hayekian and Polanyian critiques of socialist planning is not inefficiency in such planning but rather its impossibility: we cannot analyze the 'socialist' economies of the world properly, unless we penetrate the ideological veil they secrete themselves behind, and examine the mixture of market processes with command structures which is all that can ever exist in such a complex society.

The third and final implication of Hayek's contribution to the calculation question is his clear statement of the truth that the impossibility of socialism is an *epistemological* impossibility. It is not a question of motivation or volition, of the egoism or limited sympathies of men and women, but of the inability of any social order in which the market is suppressed or distorted to utilize effectively the practical knowledge possessed by its citizens. Calculational chaos would ensue, and a barbarization of

social life result, from the attempt to socialize production, even if men possessed only altruistic and conformist motives. For, in the absence of the signals transmitted via the price mechanism, they would be at a loss how to direct their activities for the social good, and the common stock of practical knowledge would begin to decay. Only the inventiveness of human beings as expressed in the emergence of black and gray markets could then prevent a speedy regression to the subsistence economy. The impossibilty of socialism, then, derives from its neglect of the *epistemological functions* of market institutions and processes. Hayek's argument here is the most important application of his fundamental insight into the epistemological rôle of social institutions—an insight I will need to take up again in the context of certain similarities between Hayek's conception of liberty under law and Robert Nozick's meta-utopian framework.

## CULTURAL EVOLUTION AND THE NATURAL SELECTION OF TRADITIONS

In my account of his contributions to the Misesian argument against the possibilty of rational resource-allocation under socialism, I have identified as Hayek's main contention the claim that socialist theories neglect the epistemological functions of the market process. A different way of stating the same insight, and one which Hayek himself often adopts, is to say that socialists fail to grasp the character of *the market as a discovery procedure* —as an institutionalized process for the generation and use of knowledge, tacit as well as explicit, including knowledge of men's preferences. Now, whereas the market is a paradigm case of a social institution having an epistemological role, it is Hayek's view that all the most important social institutions and practices have knowledge-bearing or information-carrying functions. Hayek's conception of social institutions as vehicles for the generation and dissemination of knowledge in fact represents one of the most important paradigm shifts his work brings about in social theory—a shift from the criticism and evaluation

of social institutions by reference to preferred principles of morality to an assessment of them in terms of their capacity to generate, transmit and use knowledge (including tacit knowledge). One aspect of this shift is Hayek's assertion that the evolution of culture may itself be fruitfully investigated in terms of the competition between different traditions or practices, with a natural selection among them occurring which is at least partly to be explained by their relative efficiency as bearers or embodiments of knowledge. This conception of social evolution as being powered by natural selection among different knowledge-bearing institutions, practices or traditions is indeed the third element in what I earlier termed Hayek's complex idea of spontaneous social order.

Hayek's view of social rules as bearers of embodied tacit knowledge has a number of implications for moral and social philosophy which may be worth exploring at this point. Unlike Bentham and his disciples in the constructivist tradition of utilitarianism which for a century and a half swamped the insights of Hume, Hayek never regards social rules in an instrumental light. They are not the means to antecedently chosen goals; rather, their functional usefulness depends upon social rules being observed as it were uncritically. We cannot easily subject social rules to critical assessment, since the knowledge they embody or express is itself usually inaccessible to critical statement. The proper attitude to our inheritance of social rules is, for these reasons, one of Burkean reverence and not of reformist hubris. Such criticism of our inheritance of moral traditions as is possible and desirable is always, in Hayek's view, immanent criticism: it is a criticism in which one aspect of the whole corpus of practices we have inherited is invoked to illuminate and correct the rest. No Archimedean point of critical leverage is available for the assessment of entire moral codes, so criticism always in the end consists in the detection and removal of incoherences. At the same time, we must not fall into the intellectualist error that revision of inherited codes of conduct typically takes place as a result of the exercise of critical reason. Most often, such revision occurs as a result of innumerable small variations upon and devi-

ations from established rules and practices, undertaken by countless anonymous individuals in unconnected but similar circumstances. So long as this process of piecemeal practical revision is allowed to proceed smoothly, unhindered either by hubristic attempts to implement synoptic reforms of the entire system or by a Romantic cult of individuality, the evolution of the code of conduct will result in social stability (though never, fortunately, in fixity).

Two points of clarification, and in part of refinement, of Hayek's conception may be inserted here. First, Hayek recognizes practical conflict or pragmatic inconsistency as one of the chief motives for revision of the inherited code of conduct. In changing circumstances, a code of conduct may often yield contradictory injunctions, which are incompatible at the level of practice. A point of development for Hayek's theory exists in this aspect of his exposition, which so far as I know is yet little explored, and which is suggested by his recognition that the most important social rules (rules of perception as well as of action) are efficacious not only so far as they have been internalized and have come to govern the personality itself. Human personality may, indeed, be profitably regarded as a system of rules mapped into a matrix of biological individuality. It is not that the individual personality subscribes to social rules instrumentally, in order the better to attain his goals. Such detachment from social rules is ubiquitous and pervasive in minor degree, but when it is deep-seated in a personality or widespread in a culture it spells anomie and dissolution. In most circumstances, at any rate, we must regard the human personality as constituted by social rules and as itself an artifact of culture. Indeed, even in the case of anomie personality, Hayek's analysis suggests that there will be no recognizable regularities of behaviour or stable cognitive process unless some at least of the prevailing social rules have been successfully internalized.

Hayek's conception suggests a line of empirical research in social psychology and in cultural anthropology when we come to see the psychological conflict of internalized social rules as one of the chief sources of cultural development. Such inner con-

flicts may be less likely, and in fact rare, in simple societies which contain only a meagre range of social rules. (I do not mean to imply that so-called primitive cultures are, necessarily or typically, simple societies of this type. The opposite may be the case, but this is not an issue into which I can enter here). If the conflict of internalized social rules leads to increasing complexity in the society—as by the exfoliation of sub-cultures, the growth of moral pluralism or the hiving off of specific areas of social life into enclaves having their own internal rules and practices—then this complexity will tend to be, not merely self-replicating, but also self-reinforcing. This thesis that cultural development may have one of its most powerful sources in the conflict of internalized norms clearly has many implications. We need some procedure for identifying norms and for detecting the frequency and severity of their practical inconsistencies. Also conflicts of internalized norms, rules or rôles will not always yield dynamic growth or increased complexity. Such psychiatric investigations of mental illness as have been conducted by Bateson and Laing suggest that, where conflicting internalized injunctions yield double-bind dilemmas, paralysis of the personality may result.[29] At the social level, too, one may easily envisage a sort of cultural stalemate resulting from such double-bind situations. What is it that determines whether internalized normative conflict engenders dynamic growth rather than paralysed fixity?

A second line of inquiry is suggested by Hayek's conception of the natural selection of competing social rules. Hayek's references to the wisdom of inherited moral convention may suggest that he sees this as massive and monolithic and recommends uncritical immersion in its practices. This cannot be so, if only because he recognizes the propensity of evolving codes to throw up contradictions of the sort we have already discussed. Hayek's Mandevillean perspective suggests another qualification for moral conservatism here, and intimates a fascinating line of empirical research. All societies contain scapegoat occupations and forbidden practices—prostitution in Western societies and witchcraft and magic in recently Christianized societies being immediate examples—which may contribute to social stability

even as they are condemned by established norms. In some areas, recognition of the vital functions of these scapegoat occupations and practices may prompt demands for the revision of law and of customary morality so as to accord them a greater measure of legitimacy and social approval. It is in this spirit that Mandeville himself wrote, and in which Hayek endorsed a recent Mandevillean work by the economist Walter Block, *Defending the Undefendable*,[30] in which the social functions of such figures as the pimp, the scab and the crooked cop are vigorously expounded. Recognizing that society always contains such forbidden occupations and practices, having their own traditional codes of conduct and sometimes conferring considerable benefit on the society as a whole, may thus prompt a policy of moral reform and legal recognition in respect of them.

We may wish to push the inquiry further, however, and ask about the social functions of crime itself. Following Durkheim, we may be able to see in deviant behaviour a systemic stabilizer of the code of conduct as a whole. Without deviation, there can be no punishment and no expression of disapproval. Again, deviant behaviour (even where it confers no direct benefit on society) may be symptomatic of dysfunction in the inherited code itself. The possibility may even be entertained that a crime-free society could only be stagnant, exhibiting a degree of moral homogeneity which meant the end of further progress. Research is needed into the systemic stabilizing functions of crime which relates the type and incidence of criminal behaviours to developments of the accepted code of conduct in other areas of society.

The practical and conceptual difficulties of such research are manifest. Functional explanations in social theory face problems which are almost overly familiar. How are functional explanations to be tested (and falsified)? What is the unit of functional stability, and how is it to be identified? And is not the view of a social order as a self-regulating system at best an analogy with mechanical devices, misleading if taken too literally? Perhaps the most obscure area in functionalist sociology is, however, an unclarity as to the *mechanism* of functional adaptation. By what process does society tend towards equilibrium (however identi-

fied)? Here we reach a crux in Hayek's social theory. His thesis of the natural selection of competing practices has a rival in the economic approach to social explanation pioneered by such writers as Gary Becker. The search for the mechanism of functional adaptation in social systems generates the question: How far is Hayek's natural selection thesis compatible with the economic approach? And, where the two methods genuinely conflict rather than complement each other, which are we to prefer? Let us see.

As a first approximation, we may characterize the economic approach to social behaviour as one which conceives human conduct to be, primarily or even as a matter of definition, purposeful and goal-orientated. Aside from reflex behaviour and states of delirium and cognitive disorganization, it is held that human action is undertaken with ends or outcomes in view. In addition, this approach often attributes a maximizing or an economizing strategy to human conduct: it is supposed that human beings are programmed, so to speak, to make the most from the resources and opportunities they have to satisfy best their wants. Even when it does not impute a process of conscious reflection, the economic approach attributes a sort of means—end calculational rationality to agents. Indeed, in the praxeological method of L.von Mises,[31] it becomes an *a priori* truth that human conduct is rational in the sense of purposeful and goal-orientated and always involving a weighing of foregone opportunities.

It seems hard to reconcile this economic or rational-choice approach with Hayek's conception of man as rule-following animal. In the first place, some at least of the rules we follow will always be meta-conscious rules, constraining the goals we may formulate or adopt, and inaccessible to critical scrutiny. Even in the case of social rules of conduct which do not belong to the meta-conscious category, we do not adopt or subscribe to them *in order to* attain our goals. Essential as social rules are to an orderly environment in which we may achieve our purposes, they are imbibed or endorsed unreflectively, in the course of socialization. If they help us in the attainment of our ends (which they go far to shape), it is because of the natural selec-

tion process Hayek has sketched, which filters out grossly maladaptive rules. One may almost say that, if our knowledge is as restricted as Hayek supposes, with so much of it being in tacit and inarticulate form, then consciously reflective, goal-seeking behaviour cannot be the dominant paradigm of rationality in individual conduct. Rather, such calculational or consequential behaviour always presupposes a vast background of social adaptations, achieved through the mediation of internalized rules. For the most part, rationality must then consist for any individual in subscription to rules which, so far as he is concerned, are purposeless. Such purposeless rule-following is, for that reason, a mark of rationality in human beings, rather than a blemish in it.

On the other hand, such an assertion of flat incompatibility between the rule-following conception and the economic approach may be premature. Whereas the social inheritance of rules informs and governs the goals men seek, these rules will themselves be altered or abandoned if they thwart, or fail satisfactorily to promote, the goals they have themselves shaped. Systems of social rules may even have a self-defeating effect, in that the goals they suggest may destroy the overall order of the rules. Far short of a collapse of the system of rules, particular rules may be adapted, abandoned, or altered for 'economic' reasons, that is to say, so as to facilitate the achievement of already-formed goals. Consider here both the phenomenon of materialistically motivated religious conversion, and the modification of religious precepts in the course of practical life. It is plain that not only are the interstices in the system of social rules filled by calculational behaviour, but the system as a whole is stressed and reshaped by the goal-seeking and purposeful endeavours of its practitioners. In the fundamental case of the competition of religions—which Hayek has addressed profoundly in his as yet unpublished writings—there seems no necessary clash, then, between the economic approach and the Hayekian rule-following conception. We may test this result, however, more thoroughly, by way of an examination of the views of the most distinguished exponent of the economic approach, Gary Becker.

Becker has himself characterized the economic approach in a

way that could not be bettered: 'The combined assumptions of maximizing behaviour, market equilibrium and stable preferences, used relentlessly and unflinchingly, form the heart of the economic approach as I see it.'[32] Qualifying this approach, Becker goes on to affirm that 'The assumption that information is often seriously incomplete because it is costly to acquire is used in the economic approach to explain the same kind of behaviour that is explained by irrational and volatile behaviour, or traditional behaviour, or "nonrational" behaviour in other discussions.'[33] The implications of this approach for social explanation by reference to traditional rules are brought out unequivocally in Henri Le Page's exposition of Becker's approach: 'Customs and traditions exist because they are valuable to most individuals; an individual chooses to adhere to them as part of his rational calculation. In other words', concludes Le Page 'customs and traditions survive because they are not detrimental to most people; they offer more benefits than costs.'[34]

Becker's argument has important affinities with Hayek's in two respects. First, Becker grasps firmly the role of traditions and customs in diminishing information costs. Reliance on tradition, in Becker's view, is not irrational or even nonrational, but rather eminently defensible in rational terms: if men were to calculate carefully, they would realize the insupportable costs of always calculating, and for that reason would often forego calculation by subscribing to traditional rules. Of course, when men subscribe to traditions, they are supposed in Becker's approach to be acting *as if* they had calculated information costs: Becker does not imagine that men have so calculated, any more than he is committed to regarding all behaviour as *au fond* rational. We are to explain men's propensity for such as-if calculating behaviour, in Becker's terms, just as we explain their as-if altruistic behaviour. As Becker makes clear in his seminal paper on 'Altruism, Egoism and Genetic Fitness', both 'altruistic' and 'egoistic' behaviours can be accounted for in natural-selection terms as expressing survival-enhancing traits. Becker puts the point programmatically: 'The preferences taken as given by economists and vaguely attributed to "human nature" or something similar,

the emphasis on self-interest, altruism toward kin, social distinction, and other enduring aspects of preferences—may be largely explained by the selection over time of traits having greater survival value.'[35] For Becker, as I understand him, then, the rational-choice approach and natural-selection theory are not only compatible, they are complementary and mutually supportive explanatory frameworks for social behaviour. If the economic approach explains social institutions in terms of their costs and benefits in maximizing the satisfaction of individual wants, sociobiological theory accounts for stable preferences in terms of their value in promoting survival.

In Becker's careful formulation of it, a thesis of the compatibility of natural-selection theory with the economic approach to social behaviour would seem to avoid the devastating criticism Hayek has made of those variants of sociobiology which are infected with constructivistic fallacies. Hayek's objection to at any rate the cruder and more popular versions of sociobiology is that, often enough, they treat instinct and conscious calculation as the only sources of social structures. For Hayek, indeed, one may justly say that such crudely constructivistic sociobiological theories fail to apply the natural-selection model faithfully to social institutions, inasmuch as they involve treating as primordial aspects of social life—instincts and the propensity to calculate costs and benefits—phenomena which, like important social institutions, must themselves be further explained in terms of their survival values. This vital omission in many sociobiological theories, which Hayek has identified, is remedied in Becker's account.

At the same time, this does not entail that the Hayekian conception conflicts at no important point with the economic approach. Hayek's account of human action is not one which, taking wants and preferences as given or moulded by traditions and institutions, then explains behaviour as maximizing the satisfaction of these preferences. Indeed, very much in the fashion of his cousin Wittgenstein but developed entirely independently, Hayek envisages men's deliberative capacities as thoroughly shaped by their inherited traditions. In his recent writings, he

has often commented on the ways in which inherited moral traditions—traditions expressing deep instinctual needs, for example, such as the moralities of tribalism—may lead individuals and societies to disaster. When this happens, we confront a Cultural lag', in which evolved instinctual tendencies and inherited traditional sentiments both act to thwart adaptation to the beneficent order of the Great Society. On the other hand, Hayek sees also that calculational behaviour unconstrained by moral tradition may itself threaten social stability and the bases of liberty. Anticipating the findings of recent critics of act-utilitarianism such as Hodgson,[36] Hayek contends that a society of sheer calculators would fall into chaos, however 'rational' the individuals who composed it.

It is in this all-important insight into the limitations of rational choice as a source of social order that a principal contrast between the Hayekian conception and even Becker's statement of the economic approach may be found. Perfecting the argument of a long and distinguished line of liberal thinkers, such as Ferguson, Smith and Acton, Hayek has always maintained that a measure of 'uncritical' submission to social convention is an indispensable condition of stability as much as of liberty. The application of this insight to the question of the stability of market capitalist societies was made by Joseph Schumpeter, when in his *Capitalism, Socialism and Democracy*[37] he argued that the spread of the market economy tends to engender a calculational mentality which erodes the very moral traditions on which the market order depends. Similar arguments have been developed by neoconservative writers such as Irving Kristol and Daniel Bell. In his most recent writings, Hayek has addressed this issue directly, contending (surely rightly) that the emergence and persistence of moral norms favouring market freedoms has depended crucially on widespread acceptance of religious beliefs which embody 'symbolic truths' about the necessities of social order. In all this, Hayek seems to be attributing a role to uncritical rule-following more fundamental than the function of diminishing information costs acknowledged in Becker's work. His claim is that the social rules must be regarded as vehicles of inar-

ticulate knowledge of a kind that is indispensable to social order. Once society comes to be pervaded by the attitude that rules are no more than means to known ends, much of the common stock of tacit knowledge is inevitably lost and a measure of social chaos must ensue.

The example of the self-destruction of free societies by the spread of the calculational mentality allows us to generalize some plausible contrasts between Becker's economic approach and Hayek's conception. First, Hayek recognizes explicitly, as Becker does not, that the inheritance of social rules (including here rules of perception as well as of action) shapes and moulds individual goals and structures agents' deliberative capacities. Subscription by individuals to social rules cannot, then, be conceived after the fashion of game theory as a strategem designed to facilitate the achievement of consciously articulated ends. Secondly, and as a consequence, calculation by individuals will be successful only if it presupposes and invokes the tacit knowledge that is embedded in the inheritance of social rules that has been internalized in the individual personality. An attitude to tradition of the constructivistically calculational sort described by Schumpeter as pervasive in capitalist societies will only impoverish such societies, not just materially, but epistemologically.

It would be thoroughly misguided to make too much of these contrasts, however, and to overlook the deep affinities between the Hayekian approach and that of Becker. After all, Becker too sees character traits and social rules as survival-enhancing adaptive devices whose emergence is to be accounted for by natural-selection theory. No more than Hayek does he suppose that rational calculation can be autonomous or comprehensive, and there is nothing in his writings to support the idea that he himself *favours* a society of rational calculators. Rather, his thesis is that social institutions and many other aspects of social life may fruitfully be analysed in terms of the framework given by rational-choice theory. The crucial difference between Becker and Hayek appears to be in the area of what sort of explanation of social life is to be treated as *fundamental*. For Hayek a fundamental social explanation cannot be couched in terms of rational

choice, since the latter always presupposes rules of thought, action and perception which shape individual ends and govern his deliberations. As I understand it, for Hayek rational calculation is inherently interstitial or super-venient—it fills gaps in a code of rules, resolves episodes of cognitive dissonance and aids judgement in applying norms. Whereas Hayek does not deny that the system of social rules may be altered if it does not promote the attainment of the goals it has inculcated in its practitioners, he cannot accept as fundamental an explanation of the rules themselves which is framed in terms of their contribution to the attainment of the goals of their subscribers. The fundamental explanation of the rules must rather be a natural-selection explanation of the sort given in Darwinian theory.

The upshot of the foregoing discussion of contrasts and affinities between Hayek's approach and that of Becker is that the natural selection of rival rules of action and perception is the mechanism of cultural evolution. Rational choice supervenes upon, and does not explain, this natural-selection process. A question which arises at once is whether this account of social or cultural evolution is consistent with methodological individualism. There can be no doubt that, when Hayek speaks of cultural evolution occurring by the selection of competing groups via their rival rules and practices, he sees this group selection as having a methodologically individualist character. This is to say that the group is treated as an heuristic device, and not as the fundamental unit in the theory. The fundamental unit can only be the gene or the genetic lineage. At the same time, it is at least not altogether obvious that this application of natural-selection theory to social explanation is entirely consistent with methodological individualism. On one of its formulations, at any rate, methodological individualism is an explanatory programme in which (via the resolutive—compositive method) social explanations terminate in the acts, decisions and intentions of individual agents. Such methodological individualism is surely well grounded in resisting the spurious claims to explanatory power made by reference to occult social collectivities. The problem with the natural-selection approach is that in accounting for

individual character traits, dispositions, and so on by reference to their survival values, it deprives individual choices and purposes of their place at the terminal level of social explanation. The terminal level in the natural-selection theory is occupied by genetic replication. We have here an analogy with utilitarianism in moral theory, which fails to be morally individualist, not only or primarily in virtue of its collectivist policy implications, but decisively because it dissolves or disaggregates individuals into collections or series of episodes of pleasures and pains. The natural-selection theory would seem analogously to displace agents' choices from explanatory centrality by making them a dependent variable of survival chances.

A second question which arises is whether the natural-selection approach to social life is in any objectionable sense reductionist. Such a charge would certainly be made by a Wittgensteinian philosopher such as Peter Winch,[38] and by Michael Oakeshott, who both regard the assimilation of social changes to natural processes as evidencing a basic category mistake. It seems to me, though, that this *a priori* condemnation of Hayek's (and Becker's) approach is far too cavalier. Categories of thought are not given to us as Platonistic objects, immune from change, but rather emerge in the course of inquiry. The dualism of event and action which is at the back of Winch's methodological dichotomy of natural and social science cannot be taken as a fixed point in our thought, but must yield if investigation reveals the primary role of 'natural' processes in shaping social events. We ought to abandon, or at least drastically to modify, the act—event dichotomy, if sociobiological and natural-selection theories succeed (as they promise) in illuminating the sources of cultural change.

The question of reductionism has another aspect, however, which is connected with the issue of methodological individualism. I refer to the question of the reducibility of the order spontaneously produced by a number of rule-following individuals to the properties of the individuals concerned. In a context of inquiry closely akin to that of Hayek's, Robert Nozick has argued that invisible-hand explanations cannot be methodologi-

cally individualist.[39] Without rehearsing his arguments in detail, we may say that Nozick points to the difficulty of giving an account in individualist terms of an order which is produced by the actions of several individuals but without their intending it or even, as a rule, being able to conceive of it. In human contexts, the Menger—Mises account of the origins of money in invisible-hand terms would be almost a paradigm use of this difficulty. The question of reductionism I have in mind follows closely on consideration of such cases: are the properties possessed by the order yielded by the rule-governed actions of several individuals emergent properties wholly reducible to the elements in the order? Or is it the case that even a complete knowledge of the elements would not enable us to predict the emergence of the properties of the order they generate?

We come here, I think, to the crux of Hayek's entire conception, and to the most fascinating and profound insight in it. We have characterized Hayek's view as asserting that cultural evolution proceeds by the natural selection of rival rules of action and perception (as mediated through the practices and institutions of competing groups). Further, the evolution of rules of which he speaks encompasses the emergence of systems or structures, spontaneous orders, whose properties as wholes are not derivable from knowledge of any of their component elements. This point seems to identify a limit to reductionism wherever spontaneous orders exist.

The third element in Hayek's idea of spontaneous social order —the natural selection of traditions—thus takes him away from the Austrian commitment to the resolutive-compositive approach of methodological individualism. It does so by displacing fundamental explanation in social life from individual choices to genetic fitness on the one hand and spontaneous orders on the other hand. This displacement, in turn, sharpens the contrast between Hayek's method and that of the rational-choice theorists of the economic approach. In the last chapter of this study, I will try to assess the problems and possibilities opened up by Hayek's idea of spontaneous social order when this is viewed in all its internal complexity. Thus far, we have seen that it has

important implications in the philosophy of social science. Its implications for legal and political philosophy, and its uses in the argument for individual liberty, are perhaps even more important and worthy of investigation.

# 3

# The law of liberty

## THE ORIGINS AND NATURE OF LAW

Hayek's understanding of law is inseparable from the account he gives of the nature of morality, and few aspects of his work are so often misunderstood as the conception he develops of morality. He has been characterized as a moral relativist, an exponent of evolutionary ethics and, less implausibly but nonetheless incorrectly, as a rule-utilitarian. Let us see if we can dissipate the confusion.

In the first place, moral life for Hayek is itself a manifestation of spontaneous order. Like language and law, morality emerged undesigned from the life of men with one another: it is so much bound up with human life, indeed, as to be partly constitutive of it. The maxims of morality in no way presuppose an authority, human or divine, from which they emanate, and they antedate the institutions of the state. But, secondly, the detailed content of the moral conventions which spring up unplanned in society is not immutable or invariant. Moral conventions change, often slowly and almost imperceptibly, in accordance with the needs and circumstances of the men who subscribe to them. Moral conventions must (on Hayek's account of them) be seen as part of the evolving social order itself.

Now at this point it is likely that a charge of ethical relativism

or evolutionism will at once be levelled against Hayek, but there is little substance to such criticisms. He has gone out of his way to distinguish his standpoint from any sort of evolutionary ethics. As he put it in his *Constitution of Liberty*:

> It is a fact which we must recognize that even what we regard as good or beautiful is changeable—if not in any recognizable manner that would entitle us to take a relativistic position, then in the sense that in many respects we do not know what will appear as good or beautiful to another generation… It is not only in his knowledge, but also in his aims and values, that man is the creature of his civilization; in the last resort, it is the relevance of these individual wishes to the perpetuation of the group or the species that will determine whether they persist or change. It is, of course, a mistake to believe that we can draw conclusions about what our values ought to be simply because we realize that they are a product of evolution. But we cannot reasonably doubt that these values are created and altered by the same evolutionary forces that have produced our intelligence.[1]

Hayek's argument here, then, is manifestly not that we can invoke the trend of social evolution as a standard for the resolution of moral dilemmas, but rather that we are bound to recognize in our current moral conventions the outcome of a long evolutionary process. Admittedly, inasmuch as nothing in the detailed content of our moral conventions is unchanging or unalterable, this means that we are compelled to abandon the idea that they have about them any character of universality or fixity, but this is a long way from any doctrine of moral relativism. As Hayek observes in his remarks on the ambiguity of relativism:

> …our present values exist only as the elements of a particular cultural tradition and are significant only for some more or less long phase of evolution—whether this phase includes some of our pre-human ancestors or is confined to certain periods of human civilization. We have no more ground to ascribe to them eternal existence than to the human race itself. There is thus one possible sense in which we may legitimately regard human values as relative and speak of the probability of their further evolution.

But it is a far cry from this general insight to the claims of the ethical, cultural or historical relativists or of evolutionary ethics. To put it crudely, while we know that all these values are relative to something, we do not know to what they are relative. We may be able to indicate the general class of circumstances which have made them what they are, but we do not know the particular conditions to which the values we hold are due, or what our values would be if those circumstances had been different. Most of the illegitimate conclusions are the result of erroneous interpretation of the theory of evolution as the empirical establishment of a trend. Once we recognize that it gives us no more than a scheme of explanation which might be sufficient to explain particular phenomena *if* we knew all the facts which have operated in the course of history, it becomes evident that the claims of the various kinds of relativists (and of evolutionary ethics) are unfounded.[2]

Hayek does not, then, subscribe to any sort of ethical relativism or evolutionism, but it is not altogether clear from these statements if he thinks humanity's changing moral conventions have in fact any invariant core or constant content. In order to consider this last question, and to attain a better general understanding of Hayek's conception of morality, we need to look at his debts to David Hume, whose influence upon Hayek's moral and political philosophy is ubiquitous and profound.

Hayek follows Hume in supposing that, in virtue of certain general facts about the human predicament, the moral conventions which spring up spontaneously among men all have certain features in common or (in other words) exhibit some shared principles. Among the general facts that Hume mentions in his *Treatise*, and which Hayek cites in 'The Legal and Political Philosophy of David Hume', are men's limited generosity and intellectual imperfection and the unalterable scarcity of the means of satisfying human needs. As Hayek puts it succinctly: 'It is thus the nature of the(se) circumstances, what Hume calls "the necessity of human society", that gives rise to the "three fundamental laws of nature": those of "the stability of possessions, of its transference by consent, and of the performance of promises".' And Hayek glosses this passage with a fuller citation from Hume's *Treatise:* 'though the rules of justice be *artificial*, they

are not *arbitrary*. Nor is the expression improper to call them *Laws of Nature*; if by natural we understand what is common to any species, or even if we confine it to mean what is inseparable from the species.'[3]

Hume's three rules of justice or laws of nature, then, give a constant content to Hayek's conception of an evolving morality. They frame what the distinguished Oxford jurist, H.L.A.Hart, was illuminatingly to call 'the minimum content of natural law'.[4] The justification of these fundamental rules of justice, and of the detailed and changing content of the less permanent elements of morality, is (in Hayek's view as in Hume's) that they form indispensable conditions for the promotion of human welfare. There is in Hayek as in Hume, accordingly, a fundamental utilitarian commitment in their theories of morality. It is a very indirect utilitarianism that they espouse, however, more akin to that of the late nineteenth-century Cambridge moralist Henry Sidgwick[5] (1838–1900) than it is to Jeremy Bentham or John Stuart Mill. The utilitarian component of Hayek's conception of morality is indirect in that it is never supposed by him that we ought or could invoke a utilitarian principle in order to settle practical questions: for, given the great partiality and fallibility of our understanding, we are in general better advised to follow the code of behaviour accepted in our own society. That code can, in turn, Hayek believes, never properly be the subject of a rationalist reconstruction in Benthamite fashion, but only reformed piecemeal and slowly. In repudiating the claims that utilitarian principles can govern specific actions and that utility may yield new social rules, Hayek makes clear that the utilitarian aspect of his moral theory is *indirect or system utilitarian*, inasmuch as the proper role of utility is not prescriptive or practical but rather that of a standard of evaluation for the assessment of whole systems of rules or practices. I refer here to the utilitarian *aspect* of Hayek's moral theory in order to stress that, for Hayek, it is not any Principle of Utility that is foundational, but rather a Kantian test of universalizability. There is no doubt that Hayek has always been an ethical Kantian for whom both the demands of justice and the claim of general welfare are derivable from

Kant's idea of practical reason as involving assent to maxims of conduct in all relevantly similar cases. What is distinctive in Hayek's Kantian ethics is his insight that the demands of justice need not be competitive with the claims of general welfare: rather, a framework of justice is an indispensable condition of the successful achievement of general welfare. This insight of Hayek's was indeed nourished by his study of Hume, who always saw clearly that the utility of the rules of justice depended on their not being liable to abridgement for the sake of an apparent gain in welfare.

Again, the utilitarian aspect of Hayek's outlook is distinctive in that he explicitly repudiates any hedonistic conception of the content of utility itself.[6] How, then, does he understand utilitarian welfare? Just how are we to assess different systems of rules in regard to their welfare-promoting effects? Here Hayek comes close to modern preference-utilitarianism, but gives that view an original formulation, in arguing that the test of any system of rules is whether it maximizes an anonymous individual's chance of achieving his unknown purposes.[7] In Hayek's conception, we are not bound to accept the historical body of social rules just as we find it; it may be reformed in order to improve the chances of the unknown man's achieving his goals. It will be seen that this is a maximizing conception, but not one that represents utility as a sort of neutral stuff, a container of intrinsic value whose magnitude may vary. Indeed, in taking as the point of comparison an hypothesized unknown individual, Hayek's conception (as he recognizes)[8] parallels John Rawls's model of rational choice behind a veil of ignorance as presented in Rawls's *Theory of Justice*.

Mention of Rawls's contractarian derivation of principles of justice at once raises the question of how Hayek's indirect or system-utilitarian argument is supposed to ground the rules of justice he defends, and, in particular, how Hayek's defence of the priority of liberty squares with his utilitarian outlook.

Several observations are apposite here. First, Hayek undoubtedly follows Hume in believing that, because they constitute an indispensable condition for the promotion of general welfare, the

rules of justice are bound to take priority over any specific claim to welfare. Again, it is to be noted that Hume's second rule of justice, the transference of property by consent, itself frames a protected domain and so promotes individual liberty. Finally, Hayek argues forcefully that, if individuals are to be free to use their own knowledge and resources to best advantage, they must do so in a context of known and predictable rules governed by law. It is in a framework of liberty under the rule of law, Hayek contends, that justice and general welfare are both served. Indeed, under the rule of law, justice and the general welfare are convergent and not conflicting goals or values.

## INDIVIDUAL LIBERTY UNDER THE RULE OF LAW

In Hayek's conception of it, individual liberty is a creature of the law and does not exist outside any civil society. He goes further than this, and proceeds to advance one of the most severely criticized claims of his philosophy, when he argues that the rule of law, properly understood and consistently applied, is bound to protect individual liberty. Many of Hayek's critics have urged that there is no reason why the rule of law, even as Hayek himself conceives it, should not permit highly oppressive policies and legislation. Some of Hayek's critics have linked this objection with another which they see as the most fundamental one, namely, that Hayek's political philosophy does not contain at a foundational level any commitment-to inviolable human rights. The upshot of these two related critiques is that Hayek's rule of law will protect individual liberty only if it already incorporates strong moral rights to freedoms of various sorts: the Kantian test of universalizability, taken by itself, is almost without substance, in that highly oppressive laws will survive it, so long as legislators are ingenious enough to avoid mentioning particular groups or named individuals in the framing of the law itself. The core of this criticism, then, is that Hayek is constrained to demand more of the purely formal test of universalizability than it can

reasonably deliver, and so comes to conflate the ideal of the rule of law with other, distinct political goods and virtues.

This fundamental criticism of Hayek, stated powerfully by Hamowy[9] and Raz[10] and endorsed in earlier writings of my own,[11] now seems to me to express an impoverished and mistaken view of the nature and role of Kantian universalizability in Hayek's philosophical jurisprudence. It embodies the error that, in Hayek or indeed in Kant, universalizability is a wholly formal test. Further, it fails to grasp the originality and power of Hayek's conception of justice, which is not rights-based but procedural, but which nonetheless confers a protected domain of freedom of action on individuals. Let us try to uncover the errors in this common criticism of Hayek by looking first at how the Kantian test actually functions in his philosophy.

In his 'Principles of a Liberal Social Order', Hayek tells us: 'The test of the justice of a rule is usually (since Kant) described as that of its "universalizability", i.e. of the possibility of willing that rules should be applied to all instances that correspond to the conditions stated in it (the "categorical imperative").'[12] As an historical gloss, Hayek observes that:

> It is sometimes suggested that Kant developed his theory of the *Rechtsstaat* by applying to public affairs his conception of the categorical imperative. It was probably the other way round, and Kant developed his theory of the categorical imperative by applying to morals the concept of the rule of law which he found ready made (in the writings of Hume).[13]

Hayek's own argument, that applying Kantian universalizability to the maxims that make up the legal order yields liberal principles of justice which confer maximum equal freedom upon all, has been found wanting by nearly all his critics and interpreters. Thus Raz quotes Hayek as follows:

> '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. 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… As a true law should not name any particulars, so it should especially not single out any specific persons or group of persons.'

Raz comments on this passage: 'Then, aware of the absurdity to which this passage leads, he modifies his line, still trying to present the rule of law as the supreme guarantee of freedom…'[14]

Similarly, discussing Hayek's criteria that laws should not mention proper names and that the distinctions which the laws makes be supported both within and without the group which is the subject of legislation, Hamowy comments:

> That no proper name be mentioned in a law does not protect against particular persons or groups being either harassed by laws which discriminate against them or granted privileges denied the rest of the population. A prohibition of this sort on the form laws may take is a specious guarantee of legal equality, since it is always possible to contrive a set of descriptive terms which will apply exclusively to a person or group without recourse to proper names…[15]

How are these standard objections to be rebutted?

We must first of all note that, even in Kant and in Kantian writers other than Hayek, such as R.M.Hare and John Rawls, the test of universalizability does far more than rule out reference to particular persons or special groups. The test of universalizability does indeed, in the first instance, impose a demand of *consistency* as between similar cases, and in that sense imposes a merely formal requirement of non-discrimination. This is the first stage or element of universalization, the irrelevance of numerical differences. But the next stage of universalization is that of asking whether one can assent to the maxim being assessed coming to govern the conduct of others towards oneself: this is the demand of *impartiality* between agents, the demand that one put oneself in the other man's place. And this element or implication of universalizability leads on to a third,

that we be impartial as between the preferences of others, regardless of our own tastes or ideals of life—a requirement of *moral neutrality*. I do not need to ask here exactly how these elements of universalizability are related to one another, to ask (most obviously) if the second is entailed by the first in any logically inexorable way, or similarly the third by the second. It is enough to note that this is a conception to which Hayek himself has always subscribed.[16]

Applying the full test of universalizability to the maxims that go towards making a legal order, we find that, not only are references to particulars ruled out, but the maxims must be impartial in respect of the interests of all concerned, and they must be neutral in respect of their tastes or ideals of life. If it be once allowed that the test of universalizability may be fleshed out in this fashion, it will be seen as a more full-bodied standard of criticism than is ordinarily allowed, and Hayek's heavy reliance on it will seem less misplaced. For,. when construed in this fashion, the universalizability test will rule out (for example) most if not all policies of economic intervention as prejudicial to the interests of some and will fell all policies of legal moralism. Two large classes of liberal policy, supposedly allowable under an Hayekian rule of law, thus turn out to be prohibited by it.

Hayek himself is explicit that the test of universalizability means more than the sheerly formal absence of reference to particulars. As he puts it:

> The test of the justice of a rule is usually (since Kant) described as that of its 'universalizability', i.e. of the possibility of willing that the rules should be applied to all instances that correspond to the conditions stated in it (the 'categorical imperative'). What this amounts to is that in applying it to any concrete circumstances it will not conflict with any other accepted rules. The test is thus in the last resort one of the compatibility or non-contradictoriness of the whole system of rules, not merely in a logical sense but in the sense that the system of actions which the rules permit will not lead to conflict.[17]

The maxims tested by the principle of universalizability, then,

must be integrated into a system of non-conflictable or (in Leibnitz's terminology) compossible rules, before any of them can be said to have survived the test.

Again, the compatibility between the several rules is not one that holds in any possible world, but rather that which obtains in the world in which we live. It is here that Hayek draws heavily on Hume's account of the fundamental laws of justice, which he thinks to be, not merely compatible with, but in a large measure the inspiration for Kant's political philosophy.[18] As I have already observed, the practical content of the basic rules of justice is given in Hume by anthropological claims, by claims of general fact about the human circumstance. It is by interpreting the demands of universalizability in the framework of the permanent necessities of human social life that we derive Hume's three laws of natural justice.

Note again that, in Hume, as in Hayek, the laws of justice are commended as being the indispensable condition for the promotion of general welfare, i.e. their ultimate justification has a utilitarian component. But in order to achieve this result, neither Hayek nor Hume need offer any argument in favour of our adopting a Principle of Utility. Rather, very much in the spirit of R.M.Hare's Kantian reconstruction of utilitarian ethics,[19] Hayek's claim is that an impartial concern for the general welfare is itself one of the demands of universalizability. A utilitarian concern for general welfare is yielded by the Kantian method itself and is not superadded to it afterwards. Hayek's thesis, like Hume's, is that a clear view of the circumstances of human life shows justice to be the primary condition needed to promote general welfare. But, like Hare and Kant, he thinks concern for both justice and the general welfare to be dictated by universalizability itself.

Hayek's argument, then, is that the maxims of liberal justice are yielded by applying the Kantian universalizability test to the principles of the legal order. As he puts it:

> It will be noticed that only purpose-independent 'formal' rules pass this (Kantian) test because, as rules which have originally been developed in

small purpose-connected groups ('Organizations') are progressively extended to larger and larger groups and finally universalized to apply to the relations between any members of an Open Society who have no concrete purposes in common and merely submit to the same abstract rules, they will in the process have to shed all reference to particular purposes.[20]

Again, in listing the essential points of his conception of justice Hayek asserts:

> …a) that justice can be meaningfully attributed only to human actions and not to any state of affairs as such without reference to the question whether it has been, or could have been, deliberately brought about by somebody; b) that the rules of justice have essentially the nature of prohibitions, or, in other words, that injustice is really the primary concept and the aim of rules if just conduct is to prevent unjust action; c) that the injustice to be prevented is the infringement of the protected domain of one's fellow men, a domain which is to be ascertained by means of these rules of justice; and d) that these rules of just conduct which are in themselves negative can be developed by consistently applying to whatever such rules a society has inherited the equally negative test of universal applicability—a test which, in the last resort, is nothing less than the self-consistency of the actions which these rules allow if applied to the circumstances of the real world.[21]

There seem to be several elements, then, in Hayek's contention that applying the Kantian test to the legal framework yields a liberal order. First, though he does not explicitly distinguish the three stages or phases of universalization I mentioned earlier, he is clear that the universalizability test is not only formal, and that it comprehends the requirement that the scheme of activities it permits in the real world should be conflict-free. Second, at any rate in a society whose members have few if any common purposes, law must have a largely formal character, stipulating terms under which men pursue their self-chosen activities rather than enjoining any specific activities on them; in the term Hayek adopts from Oakeshott,[22] the form of legal rule appropriate to such an abstract or open society is 'nomocratic' rather than

'teleocratic', purpose-neutral rather than purposedependent. Third, in a society whose members lack common purposes or common concrete knowledge, only abstract rules conferring a protected domain on each can qualify as rules facilitating a conflict-free pattern of activities. This means that the conditions of our abstract or open society will themselves compel adoption of a rule conferring just claims to liberty and private property—which Hayek rightly sees as indissolubly linked—once these conditions are treated as the appropriate background for the Kantian test.

This pattern of argument is an important and striking one, worth examining in detail on its merits, and not capable of being dismissed as prima facie unworkable. One important point may be worth canvassing, however. Hayek argues that once the legal framework has been reformed in Kantian fashion, it must of necessity be one that maximizes liberty. Hamowy goes so far as to assert that Hayek *defines* liberty as conformity with the rule of law.[23] Now, whereas not every aspect of Hayek's treatment of freedom and coercion is clear or defensible,[24] it seems a misinterpretation to say that he ever *defines* freedom as consisting solely in conformity with the rule of law. Rather, he takes such conformity to be a necessary condition of a free order. His thesis is that applying the Kantian test to the legal order will of itself yield a maxim according equal freedom to all men.[25] So it is not that the rule of law contains freedom as part of its definition, but rather that a freedom-maximizing rule is unavoidably yielded by it. In other terms, we may say that, whereas moral rights do not come into Hayek's theory as primordial moral facts, the right to a protected domain is yielded by his conception as a theorem of it.

Two points are worth making at this stage about Hayek's conception of justice in its relations with his account of law. First, Hayek's use of the test of universalizability in all its dimensions shows that the demands of law are for him as much a matter of rational discovery as they are of the spontaneous growth of a legal tradition. As against positivists, who treat law as created by legislators or judges, and who see it as having the character

of commands or decisions, Hayek has always affirmed the objectivity of law. Judicial adjudication is for him a fully cognitive process (even where there are hard cases to be resolved). In this respect, he comes close to the natural lawyers for whom law occupies a pre-existing domain of objectivity, fully autonomous and independent of human decisions. On the other hand, Hayek's evolutionary perspective induces him to insist upon a much greater measure of variability and development in law than most natural lawyers can allow. In particular, Hayek thinks of the protected domain of individual liberty as having a greater degree of variability than any natural rights theorist could accept. In this, however, Hayek is surely in the right; no fixed list of rights or immunities can be drawn up which is adequate to the changing circumstances of human society. The detailed rules of property, and laws regarding privacy, for example, will need to be reworked when new technologies appear which enable unperceived invasions of privacy to be made and which generate new disputes about property rights (in air waves, for example). Adjudicating such disputes is an activity which relies on the one hand on the deliverances of legal tradition as it has evolved over the centuries and on the other upon the rational discovery process afforded by the Kantian test of universalizability.

The two-sidedness of judicial adjudication in Hayek's thought brings me to my second point about Hayek's account of law. There is throughout his writings a fascinating tension between the rational-discovery and the traditionalist models of judicial adjudication which is paralleled in his changing assessment of the place of legislation in a state governed by the rule of law. In some of his earlier writings, Hayek seemed committed to a pure form of the Kantian *Rechtsstaat,* in which the authority of the state is defined by an explicit legal constitution. Later, however, and perhaps under the influence of one of his most profound and original critics, Bruno Leoni, Hayek came increasingly to see the importance of common law as a guarantor of individual liberty. Leoni had argued penetratingly that the modern centralization of law in legislation confronted in the legal context many of

the impossibilities faced by a centralized control of the economy.[26] Just as central allocation of economic resources produces chaotic waste and a degree of coordination of activities far less exact than that yielded by the market process, so centralized legislation cannot match the subtlety of common law in responding to complex and changing circumstances. In addition, common law is likely to be far more successful in giving citizens a stable framework for their activities than legislation, which is vulnerable to the whims of every transient majority. As it has evolved, Hayek's thought seems to me to have resolved his earlier ambiguity about the places of legislation and common law in the liberal state. His current view, as expounded in the last volume of his trilogy, *Law, Legislation and Liberty*, is that the liberal state has the form of a common-law *Recbtsstaat*. (He has not to my knowledge used this expression himself, but it captures his current view well.) Whereas legislation cannot be abolished altogether from the life of any modern state, it must be subject to review by a judicial process. In Hayek's latest proposals,[27] this process of judicial review is embodied in the upper chamber of a bicameral legislature, which is charged with the activity of defining law and of controlling by law the activities of the lower, legislative chamber.

Hayek's proposal that there be instituted an upper chamber authorized to pursue the demands of law, and to discover what justice requires in changing circumstances, reflects his perception that the spontaneous development of law may sometimes result in dead ends or practical deadlocks from which it has to be extricated. To some extent, this proposal accommodates some of the criticisms levelled against his work by one of Hayek's most perceptive admirers, James Buchanan. In an important paper, Buchanan observes that in Hayek's later writings we find:

> the extension of the principle of spontaneous order, in its *normative* function, to the emergence of institutional structure itself. As applied to the market economy, that which emerges is defined by its very emergence to be that which is efficient. And this result implies, in its turn, a policy of nonintervention, properly so. There is no need, indeed there is

no possibility, of evaluating the efficiency of observed outcomes independently of the process; there exists no external criterion that allows efficiency to be defined in objectively measurable dimensions. If this logic is extended to the structure of institutions (including law) that have emerged in some historical evolutionary process, the implication seems clear that that set which we observe necessarily embodies institutional or structural 'efficiency'. From this it follows, as before, that a policy of nonintervention in the process of emergence is dictated. There is no room left for the political economist, or for anyone else, who seeks to reform social structures, to *change* laws and rules, with an aim of security instead of efficiency in the large… Any 'constructively rational' interferences with the 'rational' processes of history are, therefore, to be avoided.[28]

Buchanan's criticism, then, is that Hayek's apparent extension of spontaneous order or evolutionary arguments from the market processes to institutional structures is bound to disable the tasks of criticism and reform. We are left with no leverage in Hayek's account which might be used against the outcomes of the historical process. Instead, it seems, we are bound to entrust ourselves to all the vagaries of mankind's random walk in historical space.

In an earlier critique,[29] Buchanan noted perceptively the phenomenon of 'spontaneous disorder'—the emergence of patterns of activity that thwart the purposes and damage the interests of all who participate in them. Such 'spontaneous disorder' is, after all, the core of the idea of the Prisoner's Dilemma, which has been explored imaginatively in Buchanan's writing in its political and constitutional applications. In his most recent jurisprudential writings, Hayek has developed his view that one of the central tasks of the upper chamber would be to correct the evolution of the common law, and so to forestall or resolve such Prisoner's Dilemmas. We see here a very clear example of Hayek's attempt to combine respect for spontaneous traditional growths in law with the possibility of their rational assessment and critical evolution.

## THE RULE OF LAW AND THE MYTH OF SOCIAL JUSTICE

Let us now recapitulate, and in some areas refine, the statement of Hayek's theory of justice which we have thus far developed. Like morality, law for Hayek is part of the natural history of mankind; it emerges directly from men's dealings with each other, it is coeval with society and so antedates the emergence of the state. For these reasons it is not the creation of any governmental authority and it is certainly not the command of any sovereign (as Hobbes surmised it to be). The principles of law are immanent aspects of social life, and their statement Hayek has called *nomos*, the law of liberty. Modern legislation he called *thesis*, and though this would have a proper place in any modern state, it has usurped many of the functions of true law, or *nomos*. Majoritarian democracy, in conjunction with legal positivism, has confused these distinctions utterly and has encouraged an identification of law with the wishes of the sovereign majority of the moment. As against these trends, Hayek has made the proposal for bicameralism mentioned in the last section, which he regards as bringing democracy back to its authentic roots in the context of a limited government (and which he calls *demarchy* to distinguish it from contemporary perversions of the democratic ideal). In making these proposals, Hayek is most concerned to lay emphasis on unencumbered judicial process as the best guarantor of individual freedom. The state, like any private citizen, is to be governed by *nomos*, the true law which defines justice and prescribes the limits of individual liberty and of governmental authority.

The most powerful threat to law thus conceived has come in recent years not so much from legal positivism or majoritarian democracy, but from contemporary ideas of distributive or social justice, and against these Hayek has directed some of his most powerful and astringent criticisms of modern thought. What are the chief features of this conception of social justice, and why does Hayek attack it so strongly? As Hayek sees it, the modern conception of social justice attributes the character of justice or

injustice to the whole pattern of social life, with all its component rewards and losses, rather than to the conduct of its component individuals, and in doing this it inverts the original and authentic sense of liberty, in which it is properly attributed only to individual actions. It cannot apply to the unknown patterns which these actions form, but only to the framework within which they occur. For this reason, if for no other, Hayek argues that there cannot be the 'patterned' conceptions of justice which Robert Nozick has brilliantly criticized in his *Anarchy, State and Utopia*.[30]

Not only is the attribution of justice or injustice to social outcomes an inversion of its proper use, such a conception of justice renders it incompatible with the rule of law. As early as *The Road to Serfdom*, Hayek advanced the argument, which he refined in *The Constitution of Liberty* and completed in the second volume *of Law, Legislation and Liberty*, that the rule of law must in treating citizens anonymously and equally be indifferent to the inequalities in men's initial endowments and material fortunes. Aiming to equalize these latter would in fact involve treating men differently and unequally and could not avoid producing many serious inequities. It would also entail according to governmental authorities a span of discretionary power over the lives of citizens which could be intolerable even if it were not likely to be abused in the service of private interests. Why is this?

Contemporary distributivist conceptions, where they are not straightforwardly egalitarian, typically involve conceptions of need or merit as criteria for just distribution in society. Hayek's first observation is that not all needs or merits are commensurable with each other. A medical need involving relief of pain is not easily ranked against one involving the preservation of life and, where such needs are in practical competition for scarce resources, there is no rational principle available to settle the conflict. Such conflicts are endemic because, contrary to much social democratic wishful thinking, some basic needs, needs connected with staving off senescence for example,[31] are not satiable. Bureaucratic authorities charged with distributing medi-

cal care according to need will inevitably act unpredictably, and arbitrarily from the standpoint of their patients, for want of any overarching standard governing choice between such incommensurable needs. These dilemmas will occur elsewhere, in housing policies where these too become subject to large-scale state provision, infecting the lives of citizens with uncertainty and dependency on unforeseeable bureaucratic interventions. The situation will be the same when the occasion arises for weighing merits against each other—a process so obviously subjective as to demand no further comment. The idea that social distribution could ever be governed by these subjective and inherently disputable notions reflects the unrealism of much contemporary thought.

Even if this objection could be circumvented, and notions of need and merit given greater determinacy and commensurability, there exists a devastating criticism of distribution according to such standards, namely that it breaks the matching of reward with services rendered which is the only guarantor of economic efficiency. After all, an incompetent physician may be more needy and more meritorious than a highly competent one, but we still think that each should be rewarded according to the value of their services to their patients. The principle of rewarding people according to the value of their services to others where there is free entry to all the relevant occupations, shows clearly[32] that the only principle of justice application to distribution in a free society is that of commutative justice. Attempts to impose any other principle on the free exchanges of free men involve imposing upon them a hierarchy of ends and goals, a ranking of values and a code of judgements regarding the weightiness of competing needs and merits, about which no consensus exists in our society and which there is no reason to suppose can be achieved. Because these distributive conceptions therefore involve overriding the patterns thrown up by men's free choices, Hayek correctly observes that modern ideas of social justice threaten the transformation of the free order into a totalitarian organization.

In these powerful criticisms of contemporary redistributional

aspirations, Hayek shows the incompatibility with liberty of patterned conceptions of just distribution in a manner akin to that attempted by Robert Nozick.[33] Unlike Nozick, however, Hayek relies on a theory of procedural justice instead of an assertion of fundamental rights. His criticism has in common with Nozick's that it rejects the twentieth century distinction—forged, as I shall later show, by J.S.Mill in the mid-nineteenth century—between production and distribution. For Hayek, as for Marx, economic systems are to be taken as wholes; we cannot graft a socialist distributional system on the stem of free market production. Free market production requires that negative feedback within the economy, as reflected in falling incomes and failing enterprises, be absorbed and not resisted or thwarted by governmental efforts at correcting market distribution. But it is precisely such resistance of the negative feedback essential to a dynamic economy which is sanctioned by modern distributivism. Ironically enough, the conservative implications of resisting negative feedback in the economy—which, if it could be achieved, would freeze asset distribution and the pattern of incomes and preclude all but Paretooptimal changes which harm no one—are rarely perceived by radical exponents of social justice.

Hayek's final, and perhaps most compelling argument against social justice is an epistemological and conceptual one. Even if clear principles could be determined for correcting market distributions, no governmental authority could know enough reliably to implement and enforce them. This is a fatal blow even to Rawls's apparently attractive Difference Principle[34] enjoining that only those inequalities be permitted which benefit the worst-off group in society. All such efforts at correcting market distribution entail, not only continuous interference with men's free choices, but unsuccessful interferences at that. Hayek's argument has a conceptual side as well as this epistemological aspect in that he denies that social justice has any clear sense at all. In part this is because it inverts the original, authentic sense of justice, in which it applied to individual actions; but the greater part of Hayek's claim is that the component parts of the current conception of social justice—moral notions of desert, need and

merit and so on—stand in no coherent or rational relations with each other. Failure to perceive this allows the true believers in social justice to work together in promoting an ideal which lacks any agreed content. Hayek's conclusion, then, is that whereas they could not be implemented even if they had a clear content, current distributionist views are in truth devoid of any substantial principles and so fail to provide a guide to practice. At the same time, in asserting that the primary domain of the predicate of justice is individual conduct, Hayek does not deny that just conduct occurs within a protected domain created by a legal framework, and the question naturally arises as to how this framework is to be designed or reformed.

## THE JURIDICAL FRAMEWORK OF SPONTANEOUS SOCIAL ORDER

The essential elements of Hayek's construction of the juridical framework of liberty are given by his adaptation of Hume's principles of justice, to which I have already alluded. Note here that, for Hayek as for Hume, the institution of private or several property is part and parcel of justice itself. Aside from the many instrumental benefits of the institution—all of which revolve around the fact that private property allows resource allocation to occur via the decentralized decision making of very many individuals and organizations, each able to act upon its own knowledge and in pursuit of its own goals—it is indispensable in framing the protected domain for each individual. This is to say that individual liberty and private property are inseparable elements within the full conception of liberal justice. It is not to say, however, that all property in a free society may take the form of what Honoré has called full liberal ownership;[35] the property rights of a free society will in fact always be highly pluralistic, reflecting the complex mixtures of liberties and claims which free men voluntarily enter into with one another. There is room in a free society for all manner of property rights, pro-

vided always they reflect men's uncoerced choices and are not imposed on them by governmental authority.

In some respects, Hayek's view of the juridical framework of the free society is Humean and conservative, since it accepts the existing pattern of entitlements as historically given and does not seek to overturn them in the interests of any principle of rectificatory justice such as that advanced by Robert Nozick in Lockean spirit.[36] It is less conservative than Hume's account, in that Hayek sees the detailed content of property rights as open to continuous judicial revision and even (where radically new circumstances prevail) to legislative amendment. Hayek's view of the framework of a free society is thoroughly unconservative, and akin to Nozick's vision of a *meta-utopian framework*,[37] in that it allows the fullest scope to experiments in living. Using their resources, individuals and communities may in Hayek's conception initiate innovative styles of social life, just as others will pursue their long-established traditions. Indeed, one of the virtues of the institution of several property that sustains the free society is that it permits the peaceful competition of different traditions and ways of life. In facilitating this competition, private property proves essential to the cultural evolution of human society.

In Hayek's as in Nozick's account, a specific mechanism is described whereby in this peaceful competition a filtering out of maladaptive practices is achieved. The mechanism is that of *migration:* individuals will desert the practices of failing groups and so reinforce the strength of more successful ones. Hayek even introduces this mechanism to constrain some of the authorities of government: local governments, he suggests,[38] may peacefully compete in the provision of tax-supported services, since the costs of migration between them are usually not great. In this way, the process of emulation, which I earlier identified as one of the chief means whereby the natural selection of traditions occurs, achieves an institutional embodiment in the idea of competing local governments, which are constrained to adopt imitatively each other's most successful features for fear of losing their tax base by migration.

It should be stressed that, in Hayek as in Nozick, the evolutionary filter process achieves its greatest efficacy in social life to the extent that all the major social institutions (aside from those bound up with sustaining the framework itself) are privatized. Thus there will be competing types of education, of welfare provision and medical care, of family life and religion. When these aspects of social life are in the private domain, contained within institutions defined as possessing each of them its own property, the competition of groups leading to the natural selection of traditions is enhanced and we have strongest assurance that cultural evolution will proceed in the best direction. Here, as elsewhere, private property allows for diversity, and this diversity proves to be highly beneficial in terms of general welfare. The role of the juridical framework is, indeed, precisely to define the terms within which the continuous evolution of complex social formations may spontaneously occur.

# 4

# Economic theory and public policy

## SOCIAL SCIENCE AND PUBLIC POLICY

Hayek's account of human knowledge, in which a thesis of the primacy of practice supports the claim that theoretical knowledge is always of a highly abstract and necessarily incomplete order, has important implications for the proper method for the practice of social science. To begin with, Hayek's affirmation of 'the primacy of the abstract' in all human knowledge means that social science is always a theory-laden activity and can never aspire to an exhaustive description of concrete social facts. More, the predictive aspirations of social science must be qualified: not even the most developed of the social sciences, economics, can ever do more than predict the occurrence of general classes of events. Indeed, in his strong emphasis on the primacy of the abstract, Hayek goes so far as to question the adequacy of the nomothetic or nomological model of science (i.e. exact prediction through 'laws'), including social science. At least in respect of complex phenomena, all science can aim at is an 'explanation of the principle', or the recognition of a pattern —'the explanation not of the individual events but merely of the appearance of certain patterns or orders. Whether we call these merely explanations of the principle or mere pattern predictions or higher level theories does not matter.'[1] Such recognitions of

orders or pattern predictions are, Hayek observes, fully theoretical claims, testable and falsifiable: but they correspond badly with the usual cause—effect structure of nomothetic or law-governed explanation.

In his most important later statement on these questions, The Theory of Complex Phenomena', Hayek tells us that, because social life is made up of complex phenomena, 'economic theory is confined to describing the kinds of patterns which will appear if certain general conditions are satisfied, but can rarely if ever derive from this knowledge any predictions of specific phenomena.'[2] If we ask why it is that social phenomena are complex phenomena, part of the reason at any rate lies in what Hayek earlier characterized[3] as the subjectivity of the data of the social sciences: social objects are not like natural objects whose properties are highly invariant relatively to our beliefs and perceptions; rather, social objects are in large measure actually constituted by our beliefs and judgements. Social phenomena are non-physical, and Hayek has stated that 'Non-physical phenomena are more complex because we call physical phenomena what can be described by relatively simple formulae.'[4] And, because of the subjectivity of its data, social life always eludes such simple formulae.

Hayek's view that we can at best attain abstract models of social processes, whereas the concrete details of social life will always largely elude theoretical formulation, has large and radical implications in the field of public policy. In brief, it entails that the object of public policy should be confined to the design or reform of institutions within which unknown individuals make and execute their own, largely unpredictable plans of life. In a free society, in fact, whereas there may be a legal policy in respect of economic institutions, there cannot be such a thing as economic policy as it is presently understood, for adherence to the rule of law precludes anything resembling macroeconomic management. Here I do not wish to take up this point, which I will consider later, but rather to spell out the connection between Hayek's methodological views and his belief that most,

if not all economic policy as practised in the post-war world has had a self-defeating effect.

We have seen that, for Hayek, the most we can hope for in understanding social life is that we will recognize recurring patterns. Hayek goes on to observe:

> Predictions of a pattern are…both testable and valuable. Since the theory tells us under which general conditions a pattern of this sort will form itself, it will enable us to create such conditions and to observe whether a pattern of the kind predicted will appear. And since the theory tells us that this pattern assures a maximisation of output in a certain sense, it also enables us to create the general conditions which will assure such a maximisation, though we are ignorant of many of the particular circumstances which will determine the pattern that will appear.[5]

Hayek's view stands in sharp opposition to any idea of a policy science or a political technology aimed at producing specific desired effects. Such a policy science demands the impossible of its practitioners, a detailed knowledge of a changing and complex order in society. Even Popper's conception of 'piecemeal social engineering', Hayek tells us, 'suggests to me too much a technological problem of reconstruction on the basis of the total knowledge of the physical facts, while the essential point about the practical improvement is an experimental attempt to improve the functioning of some part without a full comprehension of the structure of the whole.' [6] Indeed Hayek's central point is that understanding the primacy of the abstract in human knowledge means that we must altogether renounce the modern ideal of consciously controlling social life: a better ideal is that of *cultivating* the general conditions in which beneficial results may be expected to emerge.

Hayek's critique of the constructivistic or engineering approach to social life parallels in an intriguing way that of Michael Oakeshott and of the Wittgensteinian philosopher Rush Rhees. Consider Oakeshott's statement: 'The assimilation of politics to engineering is, indeed, what may be called the myth of rationalist politics.'[7] Or Rhees's observation (made in criticism

of Popper): There is nothing about human societies which makes it reasonable to speak of the application of engineering to them. Even the most important "problems of production" are not problems in engineering.'[8] The conception of social life which talk of social engineering expresses is at fault not only because it presupposes an agreement on goals or ends which nowhere exists but also because it promotes the illusion that political life may become subject to a sort of technical or theoretical control.

The idea of a policy science, which Hayek sees as embodying the constructivistic approach to social life, tends in the economic area systematically to neglect the tendencies to self-regulation which the market process displays. For Hayek, the catallaxy is but one instance of spontaneous order, it is the sort of spontaneous order whose control mechanism is the profit-and-loss system of market competition. Rival enterprises, using the tacit as well as the theoretical knowledge of their managers and entrepreneurs, discover the wants of their customers and bring about an unplanned integration of the activities and preferences of the various market participants. Note here that, though Hayek often stresses the productivity and efficiency of the market process, and contrasts this with the chaos and waste of socialist and interventionist systems, he is emphasizing the harmony and self-regulating properties of the market process when he characterizes it as a spontaneous order. In laying down as the central problem of economic theory the mechanisms whereby dispersed knowledge is put to social use, Hayek is breaking with the conception of economics endorsed by all the classical economists. With the partial exception of Adam Smith, the classical economists altogether failed to grasp the epistemological foundations of market institutions and they all tended to conceive of economics as the science of wealth creation—a science of *plutology*—or else as the general study of economizing or maximizing behaviour. As my analysis of Hayek's relations with such advocates of the economic approach to social life as Gary Becker has shown, however, Hayek's view of society does not fit easily or well with any of these rational-choice models. In its applications to economics, in particular, Hayek has, at least

since the crucial year of 1936, in which he wrote his important paper on 'Economics and Knowledge', seen the central economic problem as having to do, not with the efficient utilization of scarce resources, but rather with the generation and utilization of dispersed knowledge. Many errors in economic theory are made when it invokes the unreal postulate of perfect information in describing the behaviour of market participants. This postulate of omniscience becomes positively pernicious when it is invoked as a standard of criticism of real-world market processes and used thereby as a support for interventionism. Neglect of the market's informational functions almost inevitably issues in demands for economic planning in which the ineradicable ignorance of governmental authorities of the complex data in which economic order rests is disregarded. More fundamentally, the assumption of perfect information gives a distorted bias to economic theory as a whole.

## NEOCLASSICAL EQUILIBRIUM, THE THEORY OF CAPITAL AND THE CHARACTER OF THE BUSINESS CYCLE

Hayek's insight that it is the division of knowledge in society that gives economic theory its main problem yields one of its most important results in his criticisms of the idea of equilibrium in classical and neoclassical economics. The assumption of omniscience which is made in classical accounts of perfect competition destroys their usefulness as models for any real market process. In addition, however, such a conception of equilibrium fails to make a crucial distinction between what Hayek calls *the pure logic of choice*—the body of principles which explain the rational choices of individuals—and the market processes which tend to produce coordination in the economy. The difference here is between the equlibrium position achieved by a single rational chooser, given his preference function and his opportunities and constraints and the equilibrium which may emerge through the interaction of several agents. The former equilibrium is one that

may be attributed to any individual, while the latter designates a degree of coordination among many individuals. The importance of this distinction is that, whereas the pure logic of choice may be given an axiomatic formulation, the theory of coordination in the real economy is part of empirical economic science. In criticizing the classical conception of equlibrium for conflating individual choice at one time with market processes over time, Hayek also distinguished his own view from that of von Mises, for whom propositions about market equilibrium had themselves an axiomatic character. It is not that von Mises ever subscribed to the unreal neoclassical view of equilibrium, but rather that he insisted that the account he gave of equilibrium was, like the rest of economics, deducible from axioms about human action. Hayek had never accepted this view of economics, and his distinction between the pure logic of choice and the empirical parts of economic theory was in fact an attempt at a fundamental criticism of the Misesian view.

Equilibrium, then, is for Hayek a matter of market actors behaving in ways which allow their activities to mesh or integrate. Whether they succeed in coordinating will depend on how accurate their beliefs and expectations about each others behaviour turn out to be. The question now arises as to how this very general account of equilibrium illuminates or applies to historical episodes of depression and large-scale discoordination, and here we come to Hayek's version of the Austrian theory of the trade cycle. As it had been developed by Hayek's colleague, von Mises, the Austrian theory explains the boom—bust cycle of modern capitalist economics by invoking the credit policies of the banking system. At its simplest, the Austrian view is that the contemporary banking system tends to lower the market rate of interest below the natural rate—where the natural rate is understood to be the interest rate that would match the investment level with the level of voluntary savings—and so communicates to businessmen misleading and incorrect signals regarding the condition of the economy. In acting on these false signals, businessmen take the economy further away from coordination and reinforce existing distortions in relative price structures.

Bankruptcies and unemployment are bound to follow the period of malinvestment induced by unsound credit expansion and are in fact signs of the market process attempting to move back to coordination.

Two points of theoretical interest may be made about this very brief sketch of Austrian trade cycle theory. First of all, it embodies a strong insistance on the *non-neutrality of money*. Changes in the quantity of money (as this is produced by governmental and banking institutions) do not act at once to alter the general price level. Rather, they enter the economy at specific points and act to alter the *relative* price structure. They do this—and here is the second point—by altering the time structure of the production process. Austrian theory is distinctive in its characterization of production as a process having several stages or phases, consumption goods being at the nearest stage and investment or capital goods at the furthest stage. Each phase of the production process requires a combination of complementary goods, many of which are specific to that phase of production and so cannot easily be switched to other stages of the process. The effect of credit expansion induced governmentally or via unsound banking practices is to lengthen' the production structure artificially so that resources are drawn into long-term investment at the furthest end of the process. Since, however, people's real preferences have not altered, the malinvestment in capital goods can be sustained only by further credit expansion. When this is not forthcoming the discoordination of the economy is disclosed in rising unemployment and business failures. In a nutshell, the credit laxity which the modern banking system tends to display distorts the allocation of resources from its natural, if constantly changing home where it reflects the actual preferences (including the time-preferences) of all market actors (consumers as well as producers). It does so, more specifically, by inducing over-investment at the furthest end of the production process. Depressions represent a spontaneous process in which market factors attempt to restore the lost meshing between demand and supply at all stages of the production process.

Hayek's version of this Austrian account, developed in book

form first in his 1931 study, *Prices and Production*, is distinctive by emphasizing strongly the theme that realistic economics is microeconomics, dealing with the subtle and complex world of relative price structures which change over time. Drawing on von Mises and in some measure upon Knut Wicksell, Hayek attempted to link up the central claims of his monetary theory—which, as we have seen, emphasizes the non-neutrality of money in the real world—with capital theory and price theory. In both the area of capital formation and that of price determination Hayek was concerned to correct the schematic account given in neoclassical theory of the impact of monetary changes and to argue that the effect of such changes was in both areas to be conceived in qualitative and microeconomic terms. The aggregative type of theorizing favoured by econometric approaches using statistical data, useful though it is for some purposes, risks postulating entities and causal relationships that do not in fact exist in the real world. As Hayek put the point in programmatic form:

> The best known instance [of this aggregative method], and the most relevant case in point, is the resuscitation by Irving Fisher some twenty years ago of the more mechanistic forms of the quantity theory of the value of money in his well-known 'equation of exchange'. That this theory, with its apparatus of mathematical formulae constructed to admit of statistical verification, is a typical instance of 'quantitative' economics, and that it indeed probably contributed a good deal to influence the methodology of the present representatives of this school, are propositions which are not likely to be denied. I do not propose to quarrel with the positive content of this theory: I am even ready to concede that so far as it goes it is true, and that, from a practical point of view, it would be one of the worst things which would befall us if the general public should ever again cease to believe in the elementary propositions of the quantity theory. What I complain of is not only that this theory in its various forms has unduly usurped the central place in monetary theory, but that the point of view from which it springs is a positive hindrance to further progress. Not the least harmful effect of this particular theory is the present isolation of the theory of money from the main body of general economic theory.

For so long as we use different methods for the explanation of values as they are supposed to exist irrespective of any influence of money, and for the explanation of that influence of money on prices, it can never be otherwise. Yet we are doing nothing less than this if we try to establish *direct* causal connections between the *total* quantity of money, the *general level* of all prices and, perhaps, also the *total* amount of production. For none of these magnitudes *as such* ever exerts an influence on the decisions of individuals; yet it is on the assumption of a knowledge of the decisions of individuals that the main propositions of non-monetary economic theory are based. It is to this 'individualistic' method that we owe whatever understanding of economic phenomena we possess; that the modern 'subjective' theory has advanced beyond the classical school in its consistent use is probably its main advantage over their teaching.

If, therefore, monetary theory still attempts to establish causal relations between aggregates or general averages, this means that monetary theory lags behind the development of economics in general. In fact, neither aggregates nor averages do act upon one another, and it will never be possible to establish necessary connections of cause and effect between them as between individual phenomena, individual prices, etc. I would even go so far as to assert that, from the very nature of economic theory, averages can never form a link in its reasoning ...[9]

As Hayek understands it, then, correct methodology in economic theory always involves reducing aggregative statements to their microeconomic foundations. It is their departure from this individualist and subjectivist stance in methodology which does much to explain the errors in policy and theory not only of the Keynesians, but also of many contemporary monetarists.

## HAYEK VERSUS KEYNES AND FRIEDMAN ON THE RÔLE OF MONEY IN THE REAL ECONOMY

These general views illuminate much of the rationale of Hayek's opposition not only to Keynesian policies of macroeconomic demand management but also to Friedmanite monetarism. Of course, in the great debates of the thirties, Hayek had argued forcefully that Keynes in no way provided a general theory of

economic discoordination. Again, Hayek always argued that the policies Keynes suggested, depending as they did for their success upon institutional and psychological irrationalities which their very operation would undermine, were bound over the longer run to be self-defeating. In particular, Hayek maintained that Keynesian policies of deficit financing depended for their success upon a widespread money illusion which the policies themselves could not help but erode. Hayek's further objection to Keynesian policies is that, in part because they depend on a defective understanding of the business cycle (which is seen as expressing itself in aggregative variations in total economic activity rather than a discoordination of relative price structures brought about by a governmental distortion of the structure of interest rates) Keynesian policy-makers find it hard to avoid committing a sort of fallacy of conceptual realism: statistical artefacts or logical fictions are allowed to blot out the qualitative relationships which make up the real economy. Quite apart from its technical details, however, it is clear that Hayek's critique of Keynesian policies is of a piece with his emphasis on the primacy of the abstract and with his insight into the indispensability of conventions for the orderly conduct of social life. Policies of macroeconomic demand management ask more in the way of concrete knowledge of the real relationships which govern the economy than any adminstrator could conceivably acquire, and their operation is in the longer run self-defeating. More generally, Hayek's challenge to Keynesian theory is a demand that Keynesians specify in detail the mechanisms whereby an unhampered market could be expected to develop severe discoordination. Only if such mechanisms could be clearly described and (crucially) given a plausible historical application, would a serious challenge to Hayek's own Austrian view—in which it is governmental intervention in the economy which is principally responsible for discoordination—enter the realm of critical debate.

Contrary to popular opinion, Hayek has always disassociated himself from orthodox monetarism on grounds closely akin to his objections to Keynesianism. It is important here, however, to note that both 'Keynesianism' and 'monetarism' refer to complex

patterns of ideas, whose contents have changed much over time. Thus Hayek actually endorsed Keynes's first departures from orthodox quantity theory of money[10] and, on the other hand, he has repeatedly asserted that it was a disaster when the crude view of the quantity theory was dropped from public doctrine. These are not all inconsistent statements, since Hayek's positions in the theory and policy of money have always differed from those developed by Keynes (and, especially, by Keynes's disciples) and from those espoused by such modern monetarists as Milton Friedman. In theory, both the Keynesians and the monetarists adopt the aggregative approach which Hayek as an Austrian economist in the tradition of von Wieser and vonMises regards as methodologically unsound. In the area of public policy, the quantity theorists made the error of suggesting that a successful stabilization of the general price level would of itself coordinate economic authority. Keynes himself, throughout many changes of view, seems to have held that the coordination of economic activity could be *restored* by an increase in aggregate purchasing power. In both cases, the error is committed of supposing that qualitative and structural economic discoordinations may be overcome by policies which act upon statistical aggregates and averages. Both Keynesian and monetarist analyses mislead public policy, which ought rather simply to allow the spontaneous cleansing process of recession to take its course. We see here that nice questions in the methodology of economic theory may have massive repercussions in public policy.

It is beyond the compass of the present study, which aims to exhibit Hayek's positions in economic theory and public policy as implications of his fundamental philosophical outlook, to assess the technical aspects of his contributions to the theory and policy of money in modern economies. A few observations on the general outlines of his monetary economics may be in order nonetheless. An initial point to grasp is that since, for Hayek, money is an evolved social institution and not the creation of government, it is unlikely that government will achieve anything resembling full control of it. More specifically, in respect to Friedman's proposals for monetary regulation by a fixed rule,

Hayek has argued that in a modern democracy no governmental or quasi-governmental agency can preserve the independence of action essential if such a monetary rule is to be operated consistently. Most fundamentally, such a policy of adopting a fixed rule in the supply of money is opposed by Hayek on methodological grounds. Such a policy calls for an exactitude in modeling and measuring economic life, and an unambiguity in the definition of money, which it is beyond our powers to attain. Hayek's own objection to Friedman's monetarist proposals is, then, most substantially that money is not the sort of social object that we can define precisely or control comprehensively; Hayek has even suggested that, in recognition of the elusiveness of the monetary phenomenon, we should treat 'money' as an adjectival expression,[11] applicable to indefinitely many distinct and disparate instruments. Monetary policy, strictly speaking, is neither desirable nor possible in a modern economy which contains many money-creating institutions aside from government. Under the gold standard or its surrogate, a regime of fixed exchange rules, something like monetary policy could be pursued since the definition of money was then controlled by impersonal convention. Since the collapse of the gold standard and of the fixed exchange system, we have experienced a monetary chaos, in which rival governments engage in a sort of competitive monetary nationalism. Hayek's proposal has[12] now become the radical and even revolutionary one that we transform this monetary chaos into *a monetary catallaxy* by depriving government of its monopoly powers over the creation of money. Currency competition by private suppliers would, he argues, not only act as an effective constraint upon government inflation, but also (by bringing money into the market process) remove the main cause of economic recession and of the trade cycle, namely, the existence of money as a 'loose joint in the economic system', outside the market process and subject to constant political control. Subjecting money to market forces would not of course remove the endogenous sources of market disturbance, but it would eliminate its single greatest exogenous source in governmental monetary manipulation.

Hayek's most original and radical proposal in the area of public policy, the opening up of money creation to market processes by abolishing legal tender laws and allowing private issuance of money, is one that follows directly from his deepest philosophical and methodological commitments. When money was controlled by an unchallenged convention (as in the days of the gold standard) or by an impersonal and international fixed rule (as during the period of fixed exchange rates), he saw no pressing need for introducing market competition into the monetary area. (Even then,[13] however, he argued in favour of allowing monetary freedom as an aspect of individual liberty.) In his later writing, in which he despairs of controlling governmental monetary activity by any fixed rule, he sees the only way to stable money values as being one which exploits spontaneous market forces. In this he sees further than even the classical laissez-faire liberals and in my judgement takes the consistent and necessary step of recognizing that even the stability of the real market economy depends upon its monetary instruments becoming part and parcel of the market process itself.

## SHACKLE'S CRITIQUE OF HAYEK

There is a fundamental criticism of Hayek's economic thought which is suggested at once by the arguments we have just been exploring. Much in Hayek's account of the business cycle, as in his general view of spontaneous social order, seems to suggest that he believes economic discoordination results always from institutional factors, so that at any rate large-scale disequilibrium would be impossible in a catallaxy of wholly unhampered markets. Against this view, Hayek's brilliant and somewhat neglected pupil, G.L.S.Shackle, has argued that the subjectivity of expectations must infect the market process with an ineradicable tendency to disequilibrium.[14] It must be allowed that, if we accept Hayek's view of equilibrium as a process in which men's plans are coordinated by trial and error over time, there can be nothing apodictically certain about this process: conceivably,

under some conditions of uncertainty in which hitherto reliable expectations are repeatedly confounded, large-scale discoordination could occur in the market process. Shackle's argument here depends on extending Hayek's subjectivism regarding valuation to the process of forming expectations about the economy. In Shackle's subjectivist and indeterminist view, forming expectations is a highly creative process, not significantly governable by any algorithm or mechanical rule. Following Keynes on this point,[15] Shackle sees business confidence as an almost irrational datum, a matter of animal spirits or creative imagination rather than of rational assessment. If Shackle is right, a large-scale economic collapse of the Keynesian sort could occur in the absence of any governmental intervention. It could happen in the ways Keynes described, even if Keynes was wrong about the causes of the boom—bust cycle of the twenties and thirties. This is a powerful objection to Hayek's position, and one which poses a severe problem for all who support unregulated market processes, since it tends to restore credibility to Keynes-type macroeconomic management policies in at least some imaginable circumstances. Four counter-observations are in order, however. First, nothing in Shackle's argument tells against the point, defensible both on theoretical grounds and as an historical interpretation, that in practice by far the most destabilizing factor in the market process is provided by governmental intervention. The sort of endogenous instability of which he speaks may remain a theoretical possibility, but it fails to explain the historical phenomena which are the classical subject matter of the theory of market disequilibrium. Secondly, and relatedly, it is unclear that the kind of disequilibrium of which Shackle speaks—disequilibrium generated by divergency in subjective expectations—could amount to anything resembling the classical business cycle, which is more plausibly accounted for in Austrian and Hayekian terms as a consequence of governmental intervention in the interest rate structure.

Thirdly, it is unclear that Shackle's argument shows the presence in the market process of any *tendency to disequilibrium*. What we have in the market process is admittedly a 'kaleidic'

world, in which expectations, tastes, and beliefs constantly and unpredictably mutate. Yet, providing market adaptation is unhampered, what we can expect from the market process is an uninterrupted series of momentary equilibrium tendencies, each of them asymptotic—never quite reaching equilibrium—and each of them soon over-taken by its successor. In this kaleidic world there may well be no apodictic certainty that we shall never face large-scale, endogenous discoordination, but we are nevertheless on safe ground in preferring that the self-regulating tendencies of the process be accorded unhampered freedom and that governmental intervention be recognized as the major disruptive factor in the market process. We are on strong ground, then, in discerning in the tendency to equilibrium in the market process the formation of spontaneous order in the economic realm.

Fourth and last, we are on safest ground in trusting to the self-regulating tendencies of the catallaxy, when money itself forms an integral part of the market process in the fashion envisaged by Hayek's proposal for the denationalization of money. Hayek's proposal addresses one of the most common objections to his policy prescription for letting recession run its course, namely that a sudden and drastic restriction of governmental money supply might initiate a secondary deflation[16] and thus deepen the recession. Even if it had some force in the thirties, this objection is countered by Hayek's new proposal. For, in a circumstance where governmental restriction of its own money supply went too far, private issuers would have an incentive to step in and fill the unmet need for money. Hayek is surely right in arguing that a 'big bang' monetary contraction, in shattering inflationary expectations decisively, is likely to be the quickest way to restore confidence to a depressed economy. The relative failure of the phased anti-inflation strategies of the governments of Thatcher and Reagan in the United Kingdom and the United States, which have achieved a moderate reduction in inflation at severe cost in employment, only reinforces the strength of Hayek's case. If there remain real dangers in Hayek's prescription for a drastic contraction of government money, these are accommodated by his complementary proposal of freeing private

issuance of money. Hayek in no way claims to be able to predict the forms in which private money creation will develop—and his proposal is, for this and many other reasons, and contrary to his critics,[17] entirely in the spirit of his critique of constructivist rationalism. The evidences of spontaneous order in every other field of human activity support his conviction that even in this area, where it is largely untried, its result will surpass anything that conscious contrivance of social life can achieve.

# 5

# Some contrasts and comparisons

## J.S.MILL

Throughout his intellectual life Hayek has always displayed a pronounced interest in John Stuart Mill's work in epistemology, social philosophy and economic theory, and a fascination with his personality. He has had a substantial, if in some ways indirect impact on Mill scholarship through his book on Mill's relationship with Harriet Taylor and, before that, his rediscovery of and republication of Mill's positivistic tract, *The Spirit of the Age*.[1] Notwithstanding his life-long preoccupation with Mill's work, Hayek has never endorsed the central tenets of Mill's liberalism. Indeed, he sees Mill as in many ways a watershed figure whose ambiguities and innovations mark the historical moment in which the development of classical liberalism was halted in England. In Mill, according to Hayek, a number of elements alien to the genuine liberal tradition as it was developed by the writers of the Scottish Enlightenment came to occupy a central place and thereby to deflect and distort the main current of liberal thought. Among these, Mill's disastrous disseveration of laws of production from laws of distribution and his invention of the contemporary conception of social justice, his concessions to nationalism and socialism and his absorption of a Romantic conception of individuality are identified by Hayek as decisive in

Mill's breach with classical liberalism. These influences, he believes, were received by Mill from Continental sources, specifically from French Positivism and German Romanticism, and have persisted in English liberalism ever since. In Acton and the classical liberals of the Gladstonian circle, to be sure, the old tradition survived, but it was intellectually moribund and decreasingly influential in public affairs. For Hayek, then, John Stuart Mill is a decisive figure, whose ambiguities have greatly contributed to the degeneration and near extinction of classical liberalism.

How far is this Hayekian critique of Mill's liberalism—a critique nowhere developed in a systematic or extended fashion in Hayek's writings, but explicit in many of his detailed discussions of questions of philosophy and policy—one that we are bound to accept? Before we try to pronounce on this, it may be worth underlining some clear areas of parallelism and of agreement as between Hayek and Mill. There is, first of all, some real affinity between Hayek's use of an indirect utilitarian pattern of moral argument and Mill's elaboration of a version of indirect utilitarianism in *A System of Logic* and his applications of it in *Utilitarianism* and *On Liberty*. In Mill, indirect utilitarianism means above all that the test of utility—the promotion of greatest happiness—is to be applied, not to specific practical questions, but to whole systems of rules or codes of conduct. The Principle of Utility is a standard of evaluation for social systems or networks of practices and will be self-defeating if attempts are made to turn it into a maxim for practical life. In practical life, we are generally best advised to rely upon maxims much more specific than the Principle of Utility. Further, as Mill suggests in many of his writings—his review of Tocqueville's *Democracy in America*, for example[2]—there is a strong presumption that the inherited moral code embodies wisdom not otherwise available to any one generation of men. There is in all this a powerful affinity between Mill's Coleridgean variant of indirect utilitarianism and Hayek's synthesis of Humean indirect utilitarian argumentation with a Kantian test of universalizability.

Even in moral philosophy, however, these affinities between

Hayek and Mill should not be taken too far. In Mill, the Principle of Utility is the supreme maxim of practical reasoning and ultimately governs all domains of practical life. For Hayek, practical reasoning is governed by the Kantian test of universalizability which, once certain Humean constraints on viable morality have been identified, yields the liberal conception of justice. Hayek's Kantian approach seems to have several advantages over Mill's effort at a post-Benthamite indirect utilitarianism. In the first place, Mill never shows what claim the Principle of Utility itself has on reason: it is left dangling in mid-air despite all his efforts to adduce 'considerations…capable of determining the intellect to give or withhold its assent'.[3] In Hayek, as in R.M. Hare,[4] the claims of general welfare are themselves yielded by our assent to the more formal Kantian principle. Indeed Hayek is on strong ground when he denies that he is a utilitarian of any sort, since his use of indirect utilitarian arguments—arguments showing that acceptance of constraints on the promotion of general welfare are themselves necessary for the promotion of general welfare—may be seen as an application of his ethical Kantianism to the problem of designing a framework within which human purposes are best likely to be achieved. In this connexion it is crucial to note that, like Hume, Hayek does not regard the maintenance of a framework of rules of justice and the promotion of general welfare as competitive aims. Rather, he sees the existence of a stable framework of justice-preserving rules as an indispensable condition of the attainment of general welfare. As we have seen, he conceives the latter, however, not as some hierarchy of values, nor yet as an agreed body of ends, but rather in terms of maximizing the chances of any unknown person of achieving his ends. As a test of the utility of different systems of rules, this seems to have important advantages over any proposed by Mill.

Hayek's Kantian standpoint in fundamental ethics illuminates another difference with Mill—a difference as to the principles of liberty which they defend. Mill's Principle of Liberty is one instance of the harm principle, which states that harm to others is a necessary condition of justified invasion of individual liberty.

Hayek sees, as Mill did not consistently see, that the notion of harm itself invokes a sphere of protected liberty, and cannot be detached from that moral content. Rules of justice generated by the Kantian apparatus give the notion of harm all the purchase it has in discussions of justified limitation of liberty. Even if Mill's conception of harm could be given a determinate content independent of prior rules of justice—as I myself argued it could in my book on Mill[5]—it would do far too much. There are so many cases in which we may rightfully harm one another that it is implausible to regard it as even a necessary condition of the restriction of liberty. Rather, Hayek prefers to defend the Kantian (and Spencerian) principle of equal freedom, which confers on us all liberty of action which may justly be used in harmful ways. Hayek does not deny that infliction of some harms may be a sufficient condition of the restriction of liberty, but where this is the case, it is the principle of equal liberty which is being qualified and not Mill's harm principle that is being invoked. In shifting discussion away from intractable arguments about rival criteria of harm to the delimitation of the protected sphere, Hayek initiated a move in liberal theory away from the Millian paradigm which others have followed (Rawls, Dworkin and Ackerman) and which promises much for social philosophy.

Hayek's conception of the task of a principle of liberty has more in common with Mill's than does their view of the content of such a principle. I mean here that both writers distinguish sharply between a principle laying down the limits of coercion and a maxim specifying the proper functions of the state. Neither Hayek nor Mill is a minimum-statist who restricts the state to preventing force and fraud: each of them accepts a distinction between the state's 'authoritative' and 'non-authoritative' (in Mill's terms), coercive and non-coercive activities, such that the state is prohibited from no non-coercive, service activity. Again, both Hayek and Mill accept a presumption in favour of laisser-faire, or state non-interference, but they are clear that this is defensible by expediency, provided the state exercises no coercion in addition to that involved in enforcing the principle of liberty (as it is differently understood by the two writers) and in

raising revenue through the tax mechanism. No doubt (as Hayek is quick to insist) state spending may indirectly jeopardize liberty even when it is non-coercive; but in this area, at least, there is no principled disagreement between the two liberal writers.

Hayek's approach to the character of a free society differs in several important respects from Mill's. In regard to its dominant principle—the principle of equal liberty—Hayek's conception is, as I have already noted, more favourable to liberty than is Mill's. Again, Hayek has explicitly dissociated himself from Mill's paternalistic and culturally chauvinistic assertion that liberty is to be granted to men only when a certain level of economic and cultural development—roughly, that of England in Mill's time—has been securely attained. This restriction is rightly abhorrent to Hayek for, aside from underrating the contribution of individual liberty to the raising of economic and cultural standards, it unduly limits the scope of the Kantian argument for liberty as a condition of human autonomy. In a different area, however, Hayek's conception may appear more restrictive of liberty than Mill's. I refer to Hayek's denial that the sanctions of convention, to which Mill refers as a form of moral coercion, constitute an abridgement of individual autonomy. Hayek has two crucial objections to this view of Mill's. First, strong conventions about acceptable behaviour form part of the stable social environment which we all need for the exercise of our liberty. We cannot act effectively if we are unable to form sound expectations about the reactions of others, and this can occur only if social relations are in major part governed by conventions which constrain the expression of individuality. Such conventions will in turn be effective in governing conduct only if they are allowed to provide, by way of social censure and disapprobation, negative feedback on the conduct of others. As Thomas Sowell has justly put this Hayekian point in criticism of Mill:

> ...the demands of unbounded individualism need to be weighed in the light of inherent social constraints which can only change their form but cannot be eliminated without eliminating civilization. Moreover, the claim for individual toleration cannot extend to cancelling other peo-

ple's right to judge as they will what a given individual does. Much of the modern demand for individualism—including John Stuart Mill's *On Liberty*—is a plea for exemption from social feedback from those negatively judging individual behaviour.[6]

There are, no doubt, important questions as to how far society may go in enforcing by censure the dominant moral conventions, but these questions are not answered, or even addressed, by Mill's repudiation of all such enforcement as a form of moral coercion. The important point is that a society without such strong moral conventions would unavoidably be chaotic. Most likely, coercion would have to fill the gaps left by the erosion of moral convention, since some means of social coordination there must be. The real alternative to a society containing strong conventions enforced by public opinion is not a Millian bohemia, but a Hobbesian state of nature. This remains the case, even when one recognizes that Hayek's free society would contain several, and not a single dominant cultural tradition. Each of these traditions would exercise upon its practitioners a constraint of opinion which Mill would absurdly condemn as moral coercion. The free society does not need to be unified by a single moral tradition; but it cannot do without the coherence given by most social interaction being regulated by convention, albeit as given by diverse traditions. In this sense, convention is a condition of liberty and not (as Mill supposed) one of its enemies.

The second Hayekian objection to Mill's vision of the free society goes deeper than the first. Not only must the expression of individuality be constrained by moral convention; individuality is itself always formed and partly constituted by moral convention. We must conceive of human individuality as a cultural achievement and not as a natural endowment. Though human individuals are always more than shadows cast by social conventions, Hayek sees (as Mill did not consistently see) that the deliberative and affective capacities that enter into the formation of personality, and that are necessary conditions of the exercise of individual judgement, presuppose a continuing background of social convention. The relations between human personality and

social convention are thus not purely external relations in Hayek's conception, but partly mutually constitutive. One may go even further, and observe that an array of flourishing traditions, each with its own sanctions against deviancy, enhances the options of the choosing individual. A society in which tradition has become attenuated, or in which a diversity of traditions has been eroded, is likely to be one in which the differences between men have become trivial or idiosyncratic rather than rich and weighty.

We see in this latter point a crucial difference between Mill and Hayek in their view of the rôle of experiments in living. For Mill, these are affairs of the individual in which he asserts his inborn individuality against the pressures of social convention. Hayek rejects this conception as embodying a Romantic cult of individuality. Experiments in living are undertaken, not by assertive individuals, but by distinct traditions or ways of life which compete for practitioners. Indeed, Hayek perceives[7] that a post-traditional society of the sort Mill envisaged would (if it could ever be achieved, and lasted for more than a generation or so) seriously impoverish the options of its individual members. A society will do most for the autonomy of its members if it is rich in distinctive traditions between which migration is possible (but not necessarily easy, or common). The benefits of liberty in terms of its promotion of the growth of knowledge are in fact most likely to be achieved when society does encompass such a peaceful competition of rival traditions.

The other area of deep difference between Hayek and Mill is in their views of distribution and justice. For Hayek, as we have seen, a productive system incorporates a set of rules for distribution, and the two cannot be severed. In particular, it is folly to suppose that men will perform the same services, if the incomes accruing to them are distorted by attempts to 'correct' market distribution. Yet it is precisely this error that Mill makes in his disastrous dichotomy between production and distribution. As he famously puts it:

The laws and conditions of the production of wealth partake of the

character of physical truths. There is nothing optional, or arbitrary in them…this is not so with the distribution of wealth. That is a matter of human institutions solely. The things once there, mankind, individually or collectively, can do with them as they like.[8]

Here we have, in the crudest imaginable form, a statement of the 'manna from heaven' presumption of contemporary distributivist theories. It may be said that what distinguishes Mill from Hayek —and, for that matter, from Marx—is Mill's lack of any clear view of production and distribution as inseparable parts of a single economic system. We may have a choice between economic systems (though it is the burden of the Mises—Hayek—Polanyi argument about resource-allocation under socialism that our freedom is far more restricted than we suppose); we do not have the freedom to mix the productive arrangements of one system with the distributive arrangements of another. This is a truth understood by all the classical economists, including Marx, which Mill's influence has helped to obscure.

I shall say less about Mill's attitudes to nationalism and socialism. Hayek is on strongest ground when he sees the classical liberal opposition to nationalism as being carried on by Acton, whose criticisms of Mill on the principle of national self-determination are still well worth reading. In regard to socialism, Mill was characteristically ambiguous, at most favouring a sort of market syndicalism, in which most enterprises would be turned into self-governing workers' cooperatives. Such a system is in all probability entirely unworkable, involving as it does the break-up of large corporations and consequent sacrifices of economies of scale and institutionalizing a wholly undesirable fusion of job-security with share-holding. But Mill's Utopian fantasies of self-management are still not the Fabian centralist socialism which came to prevail in British progressive circles, and they retain a realism and sobriety about market determination of wages and the dubious advantages to the working class of trades unions which Hayek is bound to endorse. (I do not say that Hayek approves of Mill's many changes of stance on wages and unions, but only that Mill's vision of a market syndicalism is in

these respects superior to anything produced in the Fabian tradition, and to that extent meets with Hayek's approval). This is only to say that, whatever confusions Mill introduced into the liberal tradition, he remained an economic liberal in that he never supposed that the central allocative functions of the market could be abolished in the context of the generation of incomes.

## HERBERT SPENCER

One of the great gaps in Hayek scholarship is any detailed comparison of his views with those of his classical liberal predecessor, Herbert Spencer. This is surprising, since Hayek's philosophy has many affinities with Spencer's, including the aspiration of embedding the defence of liberty in a broad evolutionary framework, without at the same time committing the fallacies in evolutionary social theory which vitiate Spencer's synthetic philosophy. Neglect of these important affinities is perhaps best accounted for by neglect of Spencer himself—a neglect encouraged, in Spencer's case as in Mill's, by G.E.Moore's unfortunate influence on the history of ideas. The clearest of these many affinities is in moral theory, where Spencer commits none of the howlers intellectual historians (following Moore and other secondary sources) habitually attribute to him.

Spencer's moral theory, like J.S.Mill's and like Hayek's own, is a species of indirect utilitarianism. By indirect utilitarianism, it will be recalled, I intend that theory of morality and practical reasoning which evaluates all states of affairs by reference to the utility they contain but which condemns any strategy of direct utility-maximization as self-defeating.

What evidence is there that Spencer adhered to the moral theory I have imputed to him? By far the most direct avowal of his utilitarian commitment occurs in the second volume of Spencer's *Autobiography*. There Spencer recalls discovering to his surprise that he had been classed as anti-utilitarian by J.S.Mill in his *Utilitarianism*. Spencer wrote at length on the subject in a letter to

Mill which (since it is not readily accessible) is worth quoting fully:

I have never regarded myself as Anti-utilitarian. My dissent from the doctrine of Utility as commonly understood concerns not the object to be reached by men, but the method of reaching it. While I admit that happiness is the ultimate end to be contemplated, I do not think it should be the proximate end. The Expediency-Philosophy having concluded that happiness is a thing to be achieved, assumes that morality has no other business than empirically to generalise the results of conduct, and to supply for the guidance of conduct nothing more than its empirical generalisations.

But the view for which I contend is, that Morality so-called—the science of right conduct—has for its object to determine *how* and *why* certain modes of conduct are detrimental, and certain others beneficial. The good and bad results cannot be accidental, but must be necessary consequences of the constitution of things: and I conceive it to be the business of moral science to deduce, from the laws of life and the conditions of existence, what kinds of action necessarily tend to produce happiness, and what kinds to produce unhappiness. Having done this, its deductions are to be recognised as laws of conduct; and are to be conformed to irrespective of a direct estimation of happiness and misery.

…corresponding to the fundamental propositions of a developed Moral Science, there have been, and still are, developing in the race, certain fundamental moral intuitions; and…though these moral intuitions are the results of accumulated experiences of utility, gradually organised and inherited, they have come to be quite independent of conscious experience…just as space-intuition responds to the exact demonstrations of Geometry, and has its rough conclusions interpreted and unified by them, so will moral intuitions respond to the demonstrations of Moral Science, and will have their rough conclusions interpreted and unified by them.[9]

Spencer concludes this part of his autobiography by opposing 'the contented resting in empirical utilitarianism' and observing 'that the connexions between conduct and consequences are in every case causal, and that ethical theory remains but rudimentary until the causal relations are generalised, was a truth not recognized by them (i.e. the early, "empirical" utilitarians)'.

It should be noted that the moral theory which Spencer expounds here under the name 'rational utilitarianism', and which he contrasts so sharply with the merely 'empirical' ethics of the early utilitarians, is in fact little different from the doctrine espoused by J.S.Mill, against whose misinterpretation of his doctrine Spencer protested. For it was Mill's view that the principles of morality and of justice, such as his own famous principle of liberty, were secondary maxims derivable from the principle of utility itself and based on the utility-promoting and utility-diminishing tendencies of the classes of acts they variously prescribed and prohibited. That these principles are not 'empirical' in the weak, objectionable sense which Spencer criticizes is shown clearly enough in a passage from Mill's 'Dr. Whewell on Moral Philosophy':

> If the effect of a 'solitary act upon the whole scheme of human action and habit' is small, the addition which the accompanying pleasure makes to the general mass of human happiness is small likewise. So small, in the great majority of cases, are both, that we have no scales to weigh them against each other, taken singly. We must look at them multiplied, and in large masses. The portion of the tendencies of an action which belong to it individually, but as a violation of a general rule, are as certain and as incalculable as any other consequences; only they must be examined not in the individual case, but in classes of cases.[10]

Again, in one of his later letters, Mill observes that 'the right way of testing actions by their consequences, is to test them by the natural consequences of the particular action, and not by those which would follow if everyone did the same. But, for the most part, the consideration of what would happen if everyone did the same, is the only means we have of discovering the tendency of the act in the particular case.'[11]

As D.G.Brown has put it in an article in which these statements of Mill's are cited, they show Mill arguing that 'the tendency of a particular act literally is a causal tendency, statable in an empirical law.'[12] Further, we find Mill working with a conception of the place of rules in moral and political life which is

neither the 'practice' conception adumbrated by Rawls,[13] nor yet the rule-of-thumb view defended by Smart.[14] For Mill, as for Spencer, moral rules such as those defining the juridical framework of a liberal order are injunctions to act or to abstain which supersede in the guidance of conduct any appeal to utility but the content of which is derivable wholly in utilitarian terms. It seems that neither Mill nor Spencer noticed the striking family resemblance between their respective theories.

It was left to the penetrating intelligence of Henry Sidgwick, whose *Lectures on Mr. Spencer's Ethics*[15] remains by far the most acute criticism of Spencer, to note the affinity between Spencer's own doctrine and those of the utilitarians, whom Spencer largely misunderstood. Sidgwick observes of Bentham that he argues 'in a manner not unlike Mr. Spencer's, against the absurd supposition that each could make the happiness of others his *primary aim*'.[16] Spencer's advocacy of egoism, like Bentham's, is, as Sidgwick sees, strategic and not ethical. Sidgwick goes on further to remark that,[17] whereas the influence of Comte upon J.S.Mill renders Spencer's misunderstandings of J.S. Mill somewhat more intelligible than the mistakes he commits in his exposition of Benthamism, yet Spencer could not have represented Mill in the way he does had he read Mill's criticism of Comte's altruistic universalism in *his Auguste Comte and Positivism*.[18]

Despite their mutual misunderstandings, then, it is true that for Spencer and for Mill the tendencies of actions were captured in statable empirical laws. Both Spencer and Mill adhered to what Spencer called 'rational utilitarianism'.

It is extraordinary that Hayek's own moral theory—what I have called a Kantian version of indirect utilitarianism—should resemble so strikingly that endorsed by Spencer. For the nub of both theories is that endemic human ignorance justifies the self-denying ordinances of liberal justice *as efficacious means of promoting utility*.

Spencer's moral theory, like Hayek's, was connected by him with his broader philosophy. What, specifically, connects Spencer's moral theory with his larger synthetic philosophy? In

value-theory, Spencer's hedonism committed him to the view that life is worthless in the absence of pleasure or happiness. His evolutionist beliefs, however, encouraged him to suppose that a balance of pleasure over pain, happiness over misery would ultimately come to prevail in human life. A number of difficulties beset this view. First, there are over-whelming obstacles in the way of giving anything like quantitative exactitude to comparative judgements about pleasure and pain. These are ancient and well-worn problems, but it remains true that the lack of any proposal in Spencer's writings for a workable *measure* of utility undermines his confident affirmation of the progressively increasing balance of pleasure over pain in human life. It may well be doubted, of course, that Spencer's belief that the course of social evolution promoted happiness was based on empirical observation. More likely, it had its source in Spencer's unyielding metaphysical and moral optimism, his faith in the evanescence of imperfection, a doctrine to which empirical beliefs are not obviously salient, but which Spencer sought scientific support for in his evolutionary speculations. Here Sidgwick's comment on Spencer seems irresistibly persuasive:

> In criticising this [Spencer's] 'evolutionary optimism', as we may call it, I ought to explain that I am not opposing optimism as a philosophical doctrine. I am not myself an optimist; but I have a great respect for the belief that, in spite of appearances to the contrary, the world now in process of evolution is ultimately destined to reveal itself as perfectly free from evil and the best possible world. What I would urge is that, in the present stage of our knowledge, this belief should be kept as a theological doctrine, or, if you like, a philosophical postulate, and that it should not be allowed to mix itself with the process of scientific inference to the future from the past.[19]

Spencer's mistaken belief that evolutionary theory might give support to moral optimism by demonstrating the necessity of moral progress has its source in a central defect of his evolutionary theory itself, namely, that it specified no plausible *mechanism* for the evolution of societies. Indeed, unless we accept

Spencer's Lamarckian belief in the inheritability of acquired characteristics, we have no reason within Spencer's system for supposing that the evolution of species and the evolution of societies occurs on a single scale. While we have in Darwinian theory an intelligible mechanism of biological evolution in the natural selection of genetic accidents, Spencer identifies no analogous mechanism in society whereby from the competition of customs and practices those prevail which are on some independent (and, typically, unspecified) criterion 'the fittest'. Certainly, Spencer's references to the pressure of population growth on resources and on existing forms of social life are wholly inadequate in this context. Different societies react in different ways to the pressure imposed on them by growth of population—some by technological and social innovation, others (historically the vast majority) by curbing the growth in their numbers. There is, in any case, no automatic and invariant connection between either a society's productivity or its populousness and its chance of survival in a competition with other societies. While these are complex and disputed matters, everything suggests that Malthus and Darwin are better guides in these areas than Lamarck and Spencer.

Hayek's system is free from most, if not all of the difficulties that plague Spencer's. In the first place, Hayek is at pains to identify both the similarities and the differences between biological and cultural evolution. Whereas they have in common that, in both, selection proceeds by way of reproductive advantage, they differ in that cultural evolution works by the selection of groups via their inherited practices whereas biological evolution is of individuals via their genes or lineages. Though Hayek does not espouse Lamarckism in its biological applications, his conception of cultural evolution simulates Lamarckian selection in that it deals entirely with inheritable traits—that is, with customs, practices and traditions—with, in short, those rules of action and perception that are *not* imprinted in the gene. Like Spencer, Hayek sees population pressure as the most important spur to cultural evolution, but he ascribes no necessity to the relations between the two and he certainly does not suppose that cultural evolution tends to produce a balance of pleasure over

pain. Hayek proposes as a *measure* of utility a calculus of lives—that is, a social system is presumed to generate greater utility if it can support a greater population—but his *criterion* of utility, as we have seen, is probabilistic and preference-based and expressed in terms of the unknown man's chances of attaining his aims. In other words, Hayek is not saddled with Spencer's hedonistic value-theory, and he does not make Spencer's implausible claims about the connections between cultural evolution and the maximization of happiness. Indeed, Hayek is careful to identify cultural evolution (meaning the spontaneous formation and selection of social practices) as a *necessary* condition of the kind of progress towards the maximization of life-chances which he identifies with the utilitarian goal. Whereas there may remain in his conception of the competition of traditions many areas of obscurity, Hayek's identification of the basic mechanism at work in both biological and cultural evolution as proceeding Darwinianly (by reproductive advantage) solves many puzzles which debilitate Spencer's account.

In one area, however, Hayek and Spencer are strikingly at one —that is, along with C.S.Peirce, in their elaboration of an evolutionary epistemology in which the Kantian categories are themselves viewed as products of natural selection. This mention of a natural-selection epistemology at once brings us back to a comparison with the most prominent and profound defender of an evolutionary theory of knowledge, and it is to him that I now turn.

## KARL POPPER

Hayek is united in deep and long-standing bonds of friendship with Popper and is at pains to emphasize the affinities in their thought. A brief survey, however, soon shows there to be differences of emphasis of some importance. Let us look at the central ideas of Popper's philosophy and see how they square with Hayek's system of ideas.

The central core of Popper's epistemology is the proposal[20]

that falsifiability be treated as a criterion of demarcation between empirical and non-empirical statements, propositions and theories; Popper suggests that we use the falsifiability of its theories to distinguish science from myth and metaphysics, for example, and he points out that the adoption of the proposal will enable us to characterize as pseudo-scientific such enterprises as psychoanalysis, astrology and Marxism. Contrary to innumerable accounts of his philosophy,[21] Popper's demarcation criterion was never intended as a criterion of the meaningfulness of sentences. As well as supplying a demarcation criterion between science on the one hand and metaphysics, myth and pseudo-science on the other, Popper's falsificationism enabled him to propose a solution to Hume's problem of induction. For, accepting the validity of Hume's arguments against the propriety of reasoning from instances of which we have had experience, to the truth of the corresponding laws of nature, and trading on the (purely logical) asymmetry between verification and refutation, Popper's falsificationism allowed him to characterize science as a strictly deductive enterprise in which conjectures are boldly propagated and then severely tested by attempted refutations. When science is so understood, the growth of scientific knowledge is seen to occur, not through the use of any form of 'inductive inference' by means of which theories might be verified, confirmed or probabilified, but by an error-elimination procedure in which hypotheses of ever-increasing empirical content (or verisimilitude) are corroborated by withstanding ever more stringent tests. Unlike Hume, Popper draws no irrationalist conclusions from the collapse of induction: rather, appealing to a principle of transference from validity in logic to efficacy in psychology, he rehabilitates rationality in thought and action with the conjecture that learning occurs in human beings and all other problem-solving organisms, not through any (mythical and logically invalid) piling up of inductive confirmations in support of general hypotheses, but by an error-elimination process closely analogous to evolution by natural selection.

With his account of scientific progress as a process in which theories of increasing verisimilitude are developed in response to

ever deeper problems, Popper links the growth of knowledge with the evolutionary passage from lower to higher forms of life, preserving a qualitative distinction between problem-solving in the lower organisms and in science by emphasizing the self-critical character of error-elimination procedures in the latter. Popper's evolutionism is further linked with his pluralist theory of a three-tiered world, comprising not only material things and states of mind (which he calls 'World 1' and 'World 2' respectively), but also a domain of intelligibles, virtual objects or objective structures (which he calls 'World 3'). It is in this third world, man-made but autonomous in that objective problems and theories await 'discovery within it, that man's cultural evolution mainly occurs, and it is the central thesis of Popper's philosophy that growth in human knowledge and understanding presupposes the adoption of a method of criticism. A critical approach to empirical science is shown in the adoption of the method of conjectures and refutations, but Popper has himself applied the critical method to the study of irrefutable theories of philosophy. Popper's 'critical approach' embodies a theory of rationality as consisting in openess to criticism. It is in its critical theory of rationality, together with its combination of fallibilism or dynamic scepticism in epistemology and realism or objectivism in ontology—a combination which he characterizes as involving rejection of the commonsense theory of knowledge with retention of the commonsense theory of the world—that the chief interest of Popper's general philosophy lies.

Many of Popper's themes of openness to criticism, falsificationism and negative dialectic are strikingly anticipated in J.S.Mill's *On Liberty*. These themes effectively distance Popper's thought from Hayek's in which the dangers of critical rationalism are emphasized more strongly than its utility. Hayek's social philosophy may here fruitfully be contrasted with Popper's. Popper's 'critical dualism of facts and decisions' embodies that very nature —convention dichotomy which Hayek deplores. Further, it leads him to treat social institutions as if they were no more than instruments for the attainment of human purposes. This instrumentalist or externalist approach to social institutions in turn

supports Popper's advocacy of piecemeal social engineering—a sort of political technology in which 'social problems' are supposed to become amenable to scientific discussion and rational settlement. We have here an attempted assimilation of democratic policy-making to Popper's ideal—typical scientific community. Popper's talk of improving civilization, of solving common problems by implementing a political technology, endorses a view of society no less monistic than that of the Utopian social engineers he is concerned to criticize. At the same time, in transposing to areas of social conflict the shared standards of objectivity and impartiality which characterize scientific communities, Popper's interventionist social engineering brings about a dualism in society between those, the rational planners, who possess political power, and the rest, who do not. Popper's social thought is permeated by a somewhat monistic interventionism, which receives paradoxical support from his doctrine of the critical dualism of facts and standards.

Hayek's work intimates a very different approach. His criticisms of scientism in the social studies and his espousal of a qualified methodological dualism as between natural and social science express his conviction that there is little in common between the growth of knowledge in the physical sciences and the acquisition and use of knowledge of the social world. His defence of market competition as a discovery procedure, and of purpose-independent legal rules as the indispensable framework within which individuals may pursue their own purposes, reflects his belief that our explicit knowledge of society is unavoidably so abstract as to preclude anything like conscious planning even of specific social institutions ('piecemeal social engineering'). Further, a major part of Hayek's argument for a system of liberty is in his claim that it is precisely the presence of conflicting moral and intellectual traditions in our society that warrants the institution of a liberal order. For such an order provides a neutral framework within which peaceful competition may occur between rival forms of social life, so that those best adapted to changing circumstances may come to prevail. Hayek differs from Popper, then, in his highly conservative view of the limitations

of reason and the dangers of theoretical inquiry into the social order and in his correspondingly modest account of the role of the state in social life.

These specific considerations aside, the most general difference between Hayek and Popper appears to lie in their attitudes to reason. It would be a mistake to exaggerate this difference: both, after all, are critical rationalists, sharing a common attitude to the constructivism of Bacon and Descartes in the theory of knowledge. Again, each endorses an evolutionary perspective on epistemological questions. At the same time, Hayek's sense of the limitations of reason is greater, and his conviction of the dangers of the uncritical use of reason correspondingly sharper than anything that is evident in Popper (though there may be important shifts of emphasis in Popper between the radical criticalism of *The Open Society* and the more self-critical rationalism of *Conjectures and Refutations*). The difference here may not be one merely of optimism or pessimism in the assessment of the social prospects of the use of reason. It may go deeper, in that Hayek has on occasion embraced a view of the limits of reason, akin to that found in Polanyi, Wittgenstein and Oakeshott, according to which our reasonings always come to a stop at our most basic practices. This view—which in a Popperian view might seem a residue of *justificationism* in Hayek—poses a problem for Hayek, when he comes to see large elements of contemporary practice—especially moral practice—as standing in need of radical revision. The justificationist view that all criticisms must presuppose uncriticizable postulates or assumptions seems to be abandoned by Hayek in practice when he condemns large areas of current moral sentiment and practice as inimical to liberty, social stability and indeed to the continuance of our civilization. The radicalism of Hayek's criticism of modern civilization seems to belie his occasional endorsement of the justificationist doctrine that all criticism must invoke absolute presuppositions which are themselves beyond criticism and to take him close to the theory of pan-critical rationalism developed by some of Popper's disciples.[22] On the other hand, Hayek's insistance that our intellectual life is always governed by some inarticulable rules

states a limit to criticism which it is hard to see any Popperian accepting. Hayek's position in the theory of rationality seems distinct from Popper's in its explicit recognition of these insuperable limits to criticism. It seems to differ, subtly but importantly, from the account of rationality given by Oakeshott, Polanyi and (above all) by Wittgenstein, in that the basic practices, forms of life or meta-conscious rules at which criticism comes to a stop are none of them given unalterably by nature or society. All of them are subject to natural selection in cultural evolution and (in this sense) to the continuous criticism of practice. It is in his thesis that the processes of social life itself contain filter devices (in Robert Nozick's useful terminology)[23] for the elimination of inadequate beliefs and values that Hayek's distinctive insight is to be found. The conception of rationality which this insight yields—in which reason is embodied in the evolving practices of society—is one which has echoes in both Popper and Wittgenstein, but is developed in a fashion which neither could easily accept.[24] In this regard Hayek has staked out a position in the theory of rationality which deserves our most careful scrutiny.

# 6

# Assessment and criticism

## THE UNITY OF HAYEK'S SYSTEM OF IDEAS

If this study has a single unifying theme, it is that Hayek's work is to be viewed and understood as a whole. Though his work has developed over six decades and has crossed many disciplinary boundaries, it has throughout exemplified a distinctive conception of the powers of the mind and of the character of human knowledge. As I have tried to show, this conception animates and explains many of the positions Hayek has adopted even in the areas of technical controversy within economic theory. His criticisms of macroeconomics and of policies based upon macroeconomic theories express his belief that the real economy consists of microeconomic or qualitative realtionships between individual market participants. These relationships are not captured by models whose central elements are aggregates and averages of economic activity which can never exert a causal influence on real market actors. Public policies which treat these statistical fictions as if they had a reference in the real world not only commit a fallacy of conceptual realism, they also inevitably have a self-defeating affect, for, in so far as the policies themselves become part of the environment of expectations within which market participants act, their intended affect will be discounted. In respect of Keynesian policies of deficit financing, we

may say that they achieve their intended results only in so far as they are not expected—only in so far as market participants have pre-Keynesian expectations and habits.[1] Friedmanite indexation policies, on the other hand, whatever role they may have in a disinflationary policy, may actually worsen the discoordination of relative prices and incomes, and may breed expectations which are in the long run unsustainable. All these macroeconomic policies embody the deep philosophical and methodological errors of ascribing causal or ontological status to heuristic fictions and, conversely, of ignoring the subjective character of the central objects of economic life (costs, opportunities, expectations and so on). Hayek's central theory—that most social knowledge is unavoidably practical knowledge resistant to theoretical statement, while social theories are always and only conjectural models of the general conditions under which abstract patterns of activity will form—by itself disqualifies many dominant recent positions in economic theory and in public policy.

That Hayek's thought hangs together in this way, constituting a system in which detailed positions implement fundamental philosophical insights, cannot now responsibly be denied. At the same time, it would be mistaken to suppose that the relations between the several elements of Hayek's system are always ones of strict mutual entailment. Within his theory of knowledge, for example, his sceptical Kantianism and his assertion of the primacy of tacit knowledge do not entail each other. An Aristotelean who supposes that we may have knowledge of the natural kinds of things of which the world is composed, and who conceives of explanations as always referring to the nature of the thing whose behaviour is to be explained, may consistently allow that much, if not most of our knowledge is embodied or tacit knowledge.[2] Indeed, it may not be impossible to give Hayek's version of evolutionary epistemology an Aristotelean statement in which our theories and our sense organs are bearers of fallible conjectures about the real natures of things. In this connection, as in others, Hayek's thought contains important insights which may be put to use by many who do not accept his sceptical Kantianism.

In social philosophy, Hayek's insights might be accepted, at least in part, by some who are not themselves liberals. His view of law as among the natural conventions of evolving human society might be illuminating to many conservatives and traditionalists who have only a highly qualified commitment to individual liberty. Hayek's evolutionist account of law and morality might well be invoked by traditionalist opponents of current policies of rapid modernization in developing nations. His view of law as an integral part of social life, immanent in human interaction rather than imposed upon them from without, would of itself suggest the counter-productivity of policies which seek to redesign traditional social structures and their sustaining legal traditions. The chaos and anomie of many African states, in which tribal law and convention have been laid waste by ambitious development programs, and the debacle of over-rapid modernization efforts in Iran, are phenomena not only compatible with, but even predictable with the aid of Hayek's general account of cultural evolution in its application to the development of law. If Hayek's central ideas are in this way acceptable even to some critics of liberalism, however, the question arises whether his system hangs together even in the thematic way I have suggested. Might not the theory of spontaneous social order be in competition with the commitment to individual liberty? It is to this objection to the unitary character of Hayek's system, an objection put as much by rationalist libertarians as by traditionalist conservatives, that I now turn.

## THE STATUS AND CONTENT OF THE IDEA OF SPONTANEOUS ORDER IN SOCIETY

As I analysed it in the second chapter of this study, Hayek's complex conception of spontaneous order has three elements, which I named: the invisible-hand thesis; the thesis of the primacy of tacit or practical knowledge; and the thesis of the natural selection of traditions. It is to the last and first of these three elements that Hayek refers when he speaks of 'the twin ideas of

evolution and of the spontaneous formation of an order',[3] but I think the second element captures the indispensable epistemological component of the conception. Once stated, the conception suggests a fundamental question. Where are the implications of spontaneous order for social philosophy? Most particularly, how does the idea of spontaneous order support the argument for individual liberty? Or, to put the same question in different words, does the idea of spontaneous order itself have a liberal content?

An initial uncertainty which must be dispelled before we can answer these questions, is the uncertainty whether the notion of spontaneous order has any normative content at all. As Hayek himself explicates it, and as I have analyzed it, it has no such content, and figures rather as a value-free explanatory schema for natural and social phenomena. Hayek's own formal statement of the concept of order is entirely value-neutral: 'By order', he tells us, 'we shall throughout describe 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.'[4] He goes on to state: The study of spontaneous orders has long been the peculiar task of economic theory, although, of course, biology has, from its beginning, been concerned with that special kind of spontaneous order which we call an organism. Only recently has there arisen within the physical sciences under the name of cybernetics, a special discipline which is also concerned with what are called self-organizing or self-generating systems … It would be no exaggeration to say that social theory begins with—and has an object only because of—the discovery that there exist orderly structures which are the product of the actions of many men, but are not the result of human design.'[5] These statements indicate that, for Hayek the idea of spontaneous order has its central use as an explanatory framework for the complex phenomena we find in nature and human society. If this is so, then it has, in itself, no normative content, and in particular, no liberal content. Thus we

may use the invisible-hand component of the idea of spontaneous order to explain developments—such as the rise of modern statism—which a classical liberal viewpoint condemns. Throughout the world, and certainly in Britain, the emergence of the modern welfare and administrative state occurred via a long series of piecemeal and unplanned responses to specific problems. No doubt there are those, such as the Webbs, who welcomed this development, but the dynamic impulse of the modern trend to statism was only reinforced, and not initiated, by such thinkers. We best understand the growth of the interventionist state if we apply to it the analysis of the Virginia School of public choice theorists. As it has been expounded by Buchanan and Tulloch,[6] public choice theory explains and even predicts the growth of interventionism whenever the constitutional framework of the free society becomes subject to alteration by a democratic competition for votes. In this circumstance, every agent will be constrained to seek governmental privileges, if only as an act of self-defence against all other agents. The failures of interventionist policies to obtain their goals will only rarely lead to their abandonment, since they will always have the support of vociferous interest groups who are their beneficiaries. Once the constitutional framework of society becomes an object of political struggle, as it is bound to do in an age of unlimited democracy, there is a momentum in the trend to statism which transcends the interests, and even the wishes of the political actors involved. When he fears that every other actor will use the power of government against him, each man will be impelled to seek to use governmental power in his own interests. We will have then, *a legal war of all against all*, a recreation in the context of civil society of Hobbes's state of nature. This is indeed the mechanism of Hayek's road to serfdom, a mechanism he identifies himself when in his famous book he shows why the worst are bound to come out on the top in a totalitarian state.[7]

If we treat it as a value-free explanatory scheme, then the idea of spontaneous order can help to explain the emergence and operation of twentieth-century statism, in both its interventionist and its totalitarian forms. It does so by invoking the idea of a

Prisoner's Dilemma in which agents acting severally produce a social situation which thwarts their goals and harms their interests. In an interventionist democracy, as David Friedman has observed,[8] every man is in a publicgood trap in virtue of which he is constrained to act against his own interests. This is the dark or maleficent side of spontaneous order in its invisible-hand aspect, that human action can bring about a bad state of affairs without anyone intending it, and even against most people's intentions. It is in this way, as a value-free explanatory device, that I believe Hayek's idea of spontaneous order is to be understood. This interpretation forswears the device of building into spontaneous-order explanations a definite moral content—given by a theory of individual rights, or a libertarian side constraint against aggression, perhaps—which would disallow an explanation of statism as a spontaneous formation. Such an interpretation is difficult to sustain in the context of Hayek's work, since a theory of rights is not foundational in it and he does not restrict the operation of spontaneous order to non-coercive situations. Thus we can see that spontaneous-order explanations may illuminate contemporary departures from liberty, just as they help us understand the development of pre-liberal societies. Indeed it may be among the most powerful uses of spontaneous-order explanation, that it illuminates both the emergence of liberal society and its waning in the twentieth century.

If spontaneous order is to be understood in this value-free way, it will have no necessary connection with individual liberty, and may be found illuminating even by some avowed enemies of individual freedom. A traditionalist conservative, for example, might favour the anti-liberal practices thrown up by cultural evolution in some societies and resist their reform or revision. Some such position was adopted by the French reactionary thinker, Josef de Maistre, when he praised Russian political culture as a spontaneous growth, and compared it favourably with that of the culture of Western Europe whose cultures had been 'scribbled over' by enlightened philosophers.[9] How then does spontaneous order enter the argument for liberty, if liberty is not an integral part of spontaneous order itself? It has been argued by

some rationalist libertarians, such as James Buchanan and Murray Rothbard,[10] that spontaneous-order theses have no application to the basic framework of liberty and may confuse the argument for liberty. The charge is a weighty one since, though he regards it as a spontaneous growth, Hayek certainly does not view the free society as a necessary or inevitable terminus of cultural evolution. He is insistent that there is no law of evolution,[11] and acknowledges that the trend to liberty may always be defeated (as when free societies are swept away by expansionist tyrannies). How then does the idea of spontaneous order strengthen the case for liberty?

It does so, negatively and in the first place, by showing that constructivist planning is bound to be always limited in success and often self-defeating, in social life. The paradigm case of this self-defeating effect of constructivist planning is the case of socialism, which has everywhere reduced living standards, including those of the poorest groups, from what they would have been had a market catallaxy been allowed to operate. Precisely the same self-defeating mechanism is at work in more prosaic instances, such as rent control, which has produced a situation of scarcity and costliness of rental accommodation worse than any it was intended to remedy. More positively, the idea of spontaneous order supports the argument for liberty by showing that social order does not depend upon any kind of hierarchical structure.

As Hayek put it:

> Living as members of society and dependent for the satisfaction of most of our needs on various forms of co-operation with others, we depend for the effective pursuit of our aims clearly on the correspondence of the expectations concerning the actions of others on which our plans are based with what they will really do. This matching of the intentions and expectations that determine the actions of different individuals is the form in which order manifests itself in social life; and it will be the question of how such an order does come about that will be our immediate concern. The first answer to which our anthropomorphic habits of thought almost inevitably lead us is that it must be due to the design of

some thinking mind. And because order has been generally interpreted as such a deliberate *arrangement* by somebody, the concept has become unpopular among most friends of liberty and has been favoured mainly by authoritarians. According to this interpretation order in society must rest on a relation of command and obedience, or a hierarchical structure of the whole of society in which the will of superiors, and ultimately of some single supreme authority, determines what each individual must do.

This authoritarian connotation of the concept of order derives, however, entirely from the belief that order can be created only by forces outside the system (or 'exogenously'). It does not apply to an equilibrium set up from within (or 'endogenously') such as that which the general theory of the market endeavours to explain. A spontaneous order of this kind has in many respects properties different from those of a made order.[12]

In this passage Hayek gives a more definite content to the thought contained in Proudhon's dictum, 'Liberty is the mother of order.' Orderly relationships among men do not, as a general rule, presuppose command structures, and coercion is not the commonest, and certainly not the most efficacious way of integrating human activities. An entire society is not akin to any of its component organizations, and is not to be modelled on the analogy of an army or a factory. If an analogy is to be found, a whole society is more like a forest than it is like any organization. We can expect the most exact and sensitive meshing of the activities and plans of people, if they are left free to act on their own purposes and with the aid of their own knowledge, and the social processes in which their plans are rendered compatible are actually obstructed by attempts at comprehensive planning based on a pretence at synoptic knowledge of society which no one can possess.

The idea of spontaneous order supports liberty in yet a third way. We have seen that the social circumstance of men in interventionist and totalitarian regimes simulates that of men in a Hobbesian state of nature inasmuch as each is constrained by fear of the power-seeking activities of others to engage in a predatory political competition for resources which undermines

production and is ruinous for all. The insight of spontaneous-order theory is that, *once a stable juridical framework of liberty under the law is established*, the Hobbesian Prisoner's Dilemma is circumvented, and social competition ceases to be mutually harmful. Spontaneous order generalizes the insight contained in the theory of peaceful trading, that voluntary exchanges are not typically zero-sum exchanges (in which what one side gains the other loses) or negative-sum exchanges in which both parties lose (as is the case in Hobbes's state of nature). Rather, once the juridical framework guarantees Adam Smith's *system of natural liberty*, in which individual freedom is maximal and equal across society, men will have the greatest possible opportunity to make voluntary exchanges that are to mutual benefit. Under the system of natural liberty, there is a harmony of interests among men in which each man has the greatest chance of achieving his purposes. The general welfare is maximized in these circumstances, not by charging any authority with the task of its promotion, but by guaranteeing the framework within which each may pursue his own purposes. Whereas the idea of spontaneous order may not of itself have a liberal content, it has a liberal implication in that it suggests that order, harmonious interests and the general welfare will flow from a system of natural liberty of the sort Smith advocated. The idea of spontaneous order does have a liberal character, in other words, once it is specified that the formation of spontaneous order is subject to the requirement that they emerge from voluntary transactions undertaken within a stable framework of law.

## HAYEK'S CONSTITUTION OF LIBERTY: SOME CRITICISMS ASSESSED

The general idea of the system of natural liberty which Hayek adopts from Adam Smith is clear enough, it is the idea that there be equal and maximal freedom of action across the whole of society. It is not so clear, however, how this system of natural liberty is to be given juridical protection.

Hayek has, in recent years, advanced proposals of his own as to how this framework of natural liberty is to be sustained. One proposal is for a bicameral constitution in which a legislative assembly or upper chamber lays down the rules under which the lower house, or governmental assembly, may act. As he recognizes,[13] Hayek's proposal has affinities with that of J.S.Mill in his *Considerations on Representative Government*, which proposes the institution of a *nomothetae* or law-making body to control the activities of day-to-day legislation. Hayek's proposal for bicameralism is intended to make secure the framework within which the operation of spontaneous order tends to general benefit, but does it achieve its end? Two sorts of criticism have been levelled against Hayek's proposals. The first of these, which I shall contend is the less important, is the objection that the division of powers proposed in the bicameral constitution is either unworkable or, if workable, unlikely to protect liberty as strongly as Hayek hopes it might. This first criticism has been made by one of Hayek's libertarian critics, Ronald Hamowy, who focuses on the jurisdictional problems that would be faced in Hayek's bicameral constitution and argues that no additional protection to liberty is afforded by such a constitution. His argument seems to be that, since there are no inviolable limitations on the authority of government in Hayek's constitution, there is no reason to suppose that it will protect liberty any better than existing constitutional arrangements do.

As Hamowy puts it:

> The constitution itself neither solves these jurisdictional problems nor, more importantly, does it contain any substantive limitations on the powers of the legislature, regardless of which of its two houses might have jurisdiction. The constitution, we are told,
>
> ought to consist wholly of organizational rules, and need touch on substantive law in the sense of universal rules of just conduct only by stating the general attributes such laws must possess in order to entitle government to use coercion for their enforcement.

Thus, despite his elaborate and complex schema of government, in the end Hayek returns to his original restrictions on the formal qualities of rules of conduct that he first laid down in his *Constitution of Liberty* as the only protection against arbitrary government.

I would suggest that this approach has been discredited and that it has been shown that no purely formal criteria of the sort Hayek has offered, that is, that all laws be general, predictable, and certain, can effectively curtail the extent of governmental intrusion, all the structural changes notwithstanding.[14]

As against this criticism, I would maintain that nothing in historical experience suggests that the jurisdictional problems to which Hamowy alludes are insoluble. No doubt, as in every other area of law, there will be hard cases in Hayek's constitution in which a dispute will arise as to which house has jurisdiction over which area of policy or governmental activity. Such disputes are perfectly familiar features of constitutional development and, as in the British case, are often resolved by the evolution of constitutional conventions. Accepting that there will be these jurisdictional hard cases in no ways concedes that they pose undecidable questions within Hayek's constitution of liberty. As to the claim that Hayek's general requirements for true law are purely formal and so incapable of protecting liberty, I have already argued in chapter 3 of this book that this criticism embodies an inaccurate and impoverished understanding of the role of the Kantian test in Hayek's philosophical jurisprudence. Given certain assumptions about the natural necessities of the human circumstance, the Kantian test will yield a domain of individual liberty—roughly, that which is captured by Adam Smith's system of natural liberty—which, though not invariant or inviolable, nonetheless imposes strong restrictions on governmental authority. It is not a relevant criticism that Hayek's theory fails to yield individual rights that are well-defined and inviolable, since no theory of natural rights has achieved that result. Rather, recognizing that the scope of individual liberty must be the subject of continuous legal redefinition and judicial review, Hayek is seeking to frame a constitution in which the expansionist momentum

of modern government is curbed. His thesis is that a constitution in which there is a clear (if not always indisputable) division of powers of the sort his bicameral proposal envisages is one less likely to tolerate the endless expansion of the scope of government activity and intervention found in all modern societies.

It is true enough—and here we come to the second, and far more substantial criticism of Hayek's constitution—that there can be no cast-iron guarantee that it will be stable or that it will consistently protect liberty. No institutional framework has been devised or is imaginable, which will infallibly protect individual liberty from all unjustified encroachment. In part, this is because there are hard cases, areas where reasonable men may reasonably differ about whether a given measure constitutes an invasion of liberty and, if so, whether it is justified. We do not possess, and are unlikely ever to have, a theory which gives completely definite answers to all substantial questions about the justified limitations of individual liberty. Even if a comprehensive theory of rights were available, its applications would remain areas of reasonable controversy as it had to be extended into novel areas created by changes in society and in technology. This underdetermination of reasoned judgements about the limits of liberty by any imaginable theory of the subject is wisely recognized by Hayek and addressed by his proposal that the upper chamber be made up of men and women of proven judgement. Hayek's intuition here is surely the sound one that, when questions about justice and liberty are not clearly decidable by any existing theory, we are likely to achieve the best results by relying on the judgements of an experienced and independent elite of persons who have been tested in the wider society. What other recourse have we, in fact?

Our best bulwark against the erosion of liberty lies in some such control of governmental legislation by a Hayekian upper chamber. That this is so is shown by the evidence of history and contemporary experience. In the English case, a century of unparalleled individual freedom was achieved (from the Napoleonic wars to the outbreak of the First World War) despite the fact that no formal constitutional barriers existed

against any governmental intervention. On the other hand, an elaborate apparatus of judicial review by the Supreme Court, a written constitution and a federal system has not prevented an expansion of governmental activity, and a consequent contraction of individual liberty in the United States, of equal or greater dimensions than that experienced in England. To be sure, nothing in a Hayekian constitution would render it immune to large-scale instability. Just as in the economic domain an unhampered market renders large-scale discoordination unlikely but not unthinkable, so in the constitutional area an unfixed Hayekian constitution would diminish the chances of massive crisis but never altogether eliminate them. All economies and all polities confront what may be called *the Shackle—Buchanan problem*—the problem, explored in economic theory by G.S.L.Shackle and by James Buchanan in political philosophy, of coping with chaos in society.[15] Whereas Hayek's proposals for emergency provisions within the constitution for enabling government to extricate society from such deadlocks and dilemmas may not give a complete response to the prospect of social chaos which every society must recurrently face, there is no reason to suppose that any better response exists. Detailed proposals along the lines that Buchanan has made[16] for refining the constitution of the free society could further strengthen our protection against disorder and invasion of liberty. It is not a reasonable criticism of Buchanan's proposals, or of Hayek's that they fail to provide infallible protection in a world of ineradicable uncertainty.

## CONSERVATISM AND RADICALISM IN HAYEK'S SOCIAL PHILOSOPHY

A different range of objections to the integrity or unitary character of Hayek's system focuses upon its combination of demands for radical reform of existing attitudes and institutions with its strong affirmation of the wisdom and efficacy of the social inheritance of tradition. This kind of objection may have several variants, of which I shall select two as being especially significant.

The first objection suggests that Hayek's social philosophy embodies conflicting commitments to libertarian individualism and cultural traditionalism. This is to say that Hayek seeks to combine two outlooks, that of classical liberalism in which the individual is sovereign and conceived as the bearer of weighty moral claims against society, and that of traditional conservatism, for which human individuality is itself a cultural achievement and in which individuals are subject to the claims of their society's moral practices. The two sidedness of Hayek's thought, always decidedly radical in its attitude to received opinion at the same time that it displays a marked conservatism in its evaluation of cultural tradition, is here represented as a tension between libertarian and traditionalist commitments in political philosophy.

This is a common objection to Hayek's thought, and one that I once endorsed myself,[17] but it betrays a lack of insight into one of the most centrally important arguments in his work. I refer to his claim that human individuality depends for its exercise and even its existence on a cultural matrix of traditional practices which shape and permeate the moral and intellectual capacities of the individual. For Hayek, as for Oakeshott,[18] human individuality is a fruit of tradition and cannot for that reason stand in opposition to tradition's claims. In making this claim, Hayek is synthesizing the insights of conservative philosophy—especially the insights that the human individual is not a natural datum but rather a social achievement, while human reason must similarly be viewed as an element in the growth of culture and never as its guide—with the central concerns of classical liberalism. He is offering us a more humble, sceptical and modest form of liberalism than that found in the French philosophers, a liberalism that has rid itself of the incubus of an hubristic rationalism—and which has most in common with the social philosophy of the thinkers of the Scottish Enlightenment, and, above all, with the outlook of David Hume. Hayek is, in effect, refining and completing this non-rationalist tradition of classical liberalism when he makes his crucial distinction between true and false individualism[19]—between the individualism which sets man apart from

society and the liberalism which sees man's individuality as an organic part of social life. The key element is the distinction he finds in the different role allotted within each individualist tradition to the use of reason. In the one, reason has an architectonic and constructive role, whereas in the other it is critical, exploratory and only one aspect of the process of cultural evolution. Hayek's social philosophy in fact embodies a fusion of the conservative view of reason as inherently limited in its uses with the Scottish Enlightenment's conception of man as the creature (and not creator) of social life.

There remains to be considered the second strand of criticism of Hayek's system, which focuses on a tension in his view of morality. This second criticism has itself two variants which it is important to distinguish. The first, which I shall call the *neoconservative objection*, charges that the Hayekian liberal order is dependent upon a moral capital which its workings, and even Hayek's own theories, tend to deplete. This is a criticism of market freedoms as old as classical liberalism itself (and perhaps even older, since traces of it may be detected in Aristotle's writings) and expressed by many of the founders of classical liberalism, including Adam Ferguson and Adam Smith. The key idea expressed by these classical writers, and by their modern counterparts, such neoconservatives as Irving Kristol and Daniel Bell,[20] is that a market process in which rewards are distributed regardless of deserts or moral virtues must at length destroy the moral foundation of bourgeois virtue on which the stability of the market order depends. In both Adam Smith and the neoconservatives it is suggested that the unregulated market or commercial society tends to produce a sort of mindless hedonism which renders it defenceless against more vital tyrannies. In Kristol's argument, not only are the martial virtues lost in the commercial society, but (and here Kristol follows Joseph Schumpeter)[21] the capitalist milieu becomes an ideal breeding ground for all manner of subversive and nihilist movements.

Now it can by no means be denied that Hayek's defence of capitalism goes against the grain of some traditional as well as much contemporary moral sentiment. His recognition that in the

game of catallaxy sheer luck is sometimes decisive breaks the link, preserved only in popular mythology, between market success and moral deserts. It is not clear to me, however, that the force of his breach with an element in the traditional defence of capitalism is in fact to weaken the market order. Traditional notions of desert, need and merit have been the moral inspiration of the most determined twentieth-century enemies of the capitalist order which (with many reservations) neoconservatives too wish to defend. It was popular notions of distributive justice that were (and are) invoked by communist critics of capitalism and, not so long ago, by National Socialist enemies of the free economy. As against the neoconservatives, recent history suggests that Hayek is right in his judgement that the successful defence of market capitalism requires a revision in conventional morality in which despised occupations and practices—such as those of the speculator and middleman—are morally rehabilitated. Since the anti-capitalist movements of our time have all drawn on popular morality for their inspiration, Hayek's seems an inescapable conclusion.

There is a second variant—I shall call it *the radical argument*—which attacks the same problem from an opposed angle. In his writings on Mandeville and in his recent writings, Hayek has in fact demanded rather substantial revisions of customary or traditional morality. Following Mandeville, he has argued that private vices are sometimes public goods, and he has cautioned that we have most to fear from group rivalries (and not from the egoism of individuals). Traditional morals are, he has pointed out, the morals of the small group or the tribe, and not the morals of free men in an open society. Our ingrained moral sentiments, though they may express primordial instincts or ancient moral traditions, will often embody attitudes that are inimical to the stability and good functioning of the market order in an abstract or open society. As Hayek has put it trenchantly:

> The Rousseauesque nostalgia for a society guided not by learnt moral rules which can be justified only by a rational insight into the principles on which this order is based, but by the unreflected 'natural' emotions

deeply grounded on millenia of life in the small hordes, leads thus directly to the demand for a socialist society in which austerity ensures that visible 'social justice' is done in a manner which gratifies natural emotions.[22]

This is an important statement since it illustrates how, within the critical rationalist framework of Hayek's doctrine, judgements may be made condemning large segments of inherited and contemporary moral life as incompatible with the market order to which mankind owes its present numbers. In his reflections on the contemporary moral passion for 'social justice' Hayek has gone further and has recognized that cultural evolution may throw up 'unviable moralities'[23]—forms of moral life destructive of the very societies in which they are practised. Here Hayek may be echoing the insight of his friend, Michael Polanyi, who identifies in modern times the growth of what he calls *moral inversion*,[24] a mutation of ancient moral traditions into forms of moral sentiment hostile to all established social order. Indeed Hayek is clear that much in both ancient and modern morality condemns the market order outright. As he observes:

Though they (constructivist moral philosophers) all appeal to the same emotions, their arguments take very different and in some respects almost contradictory forms. A first group proposes a return to the older rules of conduct which have prevailed in the distant past and are still dear to men's sentiments. A second wants to construct new rules which will better serve the innate desires of the individuals. Religious prophets and ethical philosophers have of course at all times been mostly reactionaries, defending the old against the new principles. Indeed, in most parts of the world the development of an open market economy has long been prevented by those very morals preached by prophets and philosophers, even before governmental measures did the same. We must admit that modern civilization has become largely possible by the disregard of those indignant moralists. As has been well said by the French historian Jean Baechler, 'the expansion of capitalism owes its origins and raison d'être to political anarchy.' That is true enough of the Middle Ages, which, however, could draw on the teachings of the ancient Greeks who—in some measure also as a result of political anar-

chy—had not only discovered individual liberty and private property, but also the inseparability of the two, and thereby created the first civilisation of free men.[25]

Hayek here recognizes that the modern defence of individual liberty demands a radical revision both of current and ancient morality. In pursuing the re-evaluation of values that are necessary to the stability of the market order we are guided only by our rational insight into the general conditions of its successful operation. Despite its thesis of the primacy of practice, then, Hayek's doctrine issues in judgements critical of large segments of moral practice. Hayek's example suggests that radicalism and conservatism in intellectual and moral life may not be in conflict at all. If his argument about the sort of morality essential to the stability of the market order is sound, it has the paradoxical result that a contemporary conservative who values private property and individual liberty cannot avoid being an intellectual and moral radical.

## THE HAYEKIAN RESEARCH PROGRAMME AND THE PROSPECTS OF SOCIAL PHILOSOPHY

What, in conclusion, are the central elements of Hayek's system of ideas as they bear on the present condition and future prospects of social philosophy? The first important element I have identified as *the epistemological turn* in Hayek's social theory. He breaks with the predominant model of normative social theory as a conjunction of conceptual analysis with cost-benefit deliberations in terms of preferred values and instead proposes that we assess social systems by reference to their capacity to generate and use knowledge. This proposal is in effect an implication of his evolutionary epistemology. Hayek's contribution to evolutionary epistemology is the insight that social institutions and rules of conduct may profitably be viewed as vehicles of knowledge about man and the world. More precisely, he urges us to recognize that much of our knowledge is, and will always

be embodied in the skills and dispositions of human beings as practitioners of cultural traditions and participants in social institutions. Whereas Popper sees our sense-organs as embodied theories, Hayek conceives of social institutions similarly as embodied knowledge. In both Hayek and Popper the Kantian categories are subject to an evolutionary interpretation. Popper and Hayek differ in that for Popper it is the scientific community that is the centre of attention as the bearer of growing knowledge, whereas for Hayek the social process as a whole is the object of assessment as a generator and filter for practical knowledge. Hayek's strategy here is of the greatest importance for social theory in that it relinquishes the quest for a blueprint of the best social order in favour of an investigation of the sort of framework within which theoretical and practical knowledge best grows. His argument is that anyone who values the satisfaction of human purposes is bound to approve and prefer that social system which maximizes the production, dissemination and use of human knowledge. All societies contain knowledge-bearing institutions, of course, but those societies whose institutions encourage the discovery and communication of decentralized practical knowledge will best promote the achievement of human purposes. Among the social institutions which have this knowledge-enhancing effect, private property and market competition are fundamental, but the role of the family in transmitting a growing fund of practical knowledge across the generations is not to be neglected.

The second paradigm shift in social thought initiated by Hayek's system is closely related, and may be termed *the evolutionist turn*. Here the claim is that distinct traditions and social systems, each of them a bearer of information about man and the world, enter into a practical competition with each other in which there is a tendency for error to be filtered out and an approximation to truth to occur. Further, it is claimed that there exists a tendency in any society for traditions and practices to be sifted by a competitive process in virtue of which there is always a presumption that existing traditions are adapted to the needs and circumstances of their practitioners. In Hayek's view, then,

the traditions and practices prevailing in any society are to be regarded as the residue of an evolutionary process of trial and error, in which various experiments in living are undertaken collectively and those which are maladaptive or dysfunctional discarded. A society's dominant traditions will accordingly embody an inheritance of successful adaptations in the past, even if they do not (and cannot) embody knowledge needed to make successful adaptations in an unknown future.

In respect of each of these aspects of Hayek's social philosophy, hard questions can reasonably be asked. Hayek's version of evolutionary epistemology arguably confronts the same formidable difficulty facing Popper's version—the likelihood that the human mind, as it has been shaped by evolutionary pressure, in no way mirrors accurately the actual structure of the world. All an evolutionary account of human knowledge can tell us is that there must be some sort of fit between man's inborn categories and expectations and the regularities that exist in nature. In the absence of such a complementarity between the inborn structure and content of the human mind and the order of nature, the human species could not presumably have survived. That some sort of matching of the contents of the human mind with the natural order is required by man's evolutionary situation and record cannot support the claim that the evolution of the human mind exhibits a tendency to approach the truth. The categories and expectations that have enabled us to survive up to now might, after all, be merely lucky errors, falsehoods with a chance affinity to longstanding conditions in our part of the universe. In carving out an ecological niche for itself, the human species may well have evolved a view of the world which it cannot transcend, but which embodies only the fictions that have proved profitable to it across a long period of its history. The self-critical enterprise of scientific research might indeed overturn some of the errors contained in our natural interpretation of things, but there is no reason to suppose that it can detect and eradicate our most deep-seated errors. For all we know, the evolutionary trend of the human mind may be leading us ever further away from truth.

In his commitment to an evolutionary epistemology, then, Hayek confronts a difficulty that afflicts, and may perhaps prove fatal to evolutionary epistemology in general. The difficulty may perhaps be resolved in Hayek, though not in Popper, by the adoption of a more explicitly pragmatist account of truth. The conjectural realism of Hayek's version of evolutionary epistemology might be abandoned and the truth-content of a theory explicated entirely in terms of its contribution to efficacious action. In this revision of Hayek's view, all ideas of an evolutionary approximation to reality would be forsworn, though it might still be affirmed that the evolution of mind in nature tends to an approximation of truth insofar as beliefs and categories become more coherent and better fitted to yield efficacious practice. If, in order to circumvent the difficulties of his theory of knowledge, Hayek's system took this pragmatist turn, it would link up with the thought of C.S.Peirce, the great American pragmatist philosopher in whose writings the evolutionary epistemology is first advanced.

There is a second range of questions for Hayek's social philosophy which would remain pressing even if the very general objection to his evolutionary epistemology that I have mentioned could be met. These questions relate to his claim that, because they are at any time the result of a natural selection of rival practices over many generations, the dominant traditions in society must be presumed to be functional or adaptive in respect of the needs and circumstances of its members. Against this claim, there are familiar criticisms of functionalism in social theory, which bear on Hayek's theory even if it does not embody the common functionalist fallacies. We need to have a definite criterion of the function of social institutions, and it is not clear that Hayek's theory provides one. The population test—which assesses the functional value of an institution or practice by its capacity to increase human numbers—is indeterminate in its results, if only because the calculus of lives needs to be applied over a given time-span if it is to yield any definite result. (A primitive neolithic economy may do better on the population test than a modern industrial economy, if its stability allows it to

reproduce a small population across thousands of generations, and if the industrial economy is short-lived because of its lack of control of dangerous technologies.) There is in any case an unclarity in the relation of population size as the *measure* of the utility of an institution or a social system and Hayek's proposal that the maximization of the unknown man's chances of attaining his goals be adopted as the *criterion* of social utility.

These problems of the definition of functionalism apart, there are questions to be asked about the mechanism whereby rival traditions are subject to natural selection. The two mechanisms Hayek mentions—emulation and migration—may well contingently account for the spread of some traditions, but they cannot always be invoked to explain great historical changes. When one religion prevails over its competitors, for example, it is often because it has succeeded in capturing state power rather than because it has any direct Darwinian advantage. Hayek's evolutionist view of human social development, in imposing a naturalistic scheme of interpretation on history, may (as Michael Oakeshott has suggested all such schemes must)[26] do violence to the sheer contingency of historical events. This is a point Hayek implicitly recognizes when he acknowledges that barbarous militarist states may win out over more pacific free societies, but it has large implications which may demand a revision of his system. It seems plain, in any case, that the competition between rival social systems need have no sort of liberal outcome when, as in the modern world, the mechanisms of migration and emulation are not allowed to operate as between collectivist and free systems.

These considerations suggest a final question about the Hayekian system. Hayek in his Polanyian reflections on the emergence of unviable moralities, on the lack of understanding of those at work in large organizations of the market process and on the tacit commitment to interventionist solutions to social problems that is now all but universal in modern populations, has recognized that unplanned social evolution may throw up results deeply subversive of the liberal order. If we recognize that cultural evolution has generated unviable moralities and a

fund of tacit ignorance or error in the common people, Hayek's system faces a crisis, not so much in virtue of a tension between its traditionalist and its libertarian components as because of a conflict between its rationalist and its sceptical aspects. It is after all, a rational insight of his social theory that allows Hayek to identify some components of modern morality as destabilizing the market order. If the rational claims of his social theory are in this way to take precedence over important elements in the fund of tacit understanding shared by modern populations, then the evolutionist endorsement of man's random walk in historical space has been withdrawn. If this ultimate tension in Hayek's system is resolved in the rationalist fashion his social theory suggests, the resulting philosophy will come to resemble that of James Buchanan (in which a neo-Hobbesian contractarian constitutionalism in political ethics is married to a Hayekian account of social evolution)[27] more than it does Hayek's recent thought. If, on the other hand, the rational claims of Hayek's social theory are abandoned as being in conflict with his sceptical insistence on our necessary ignorance of the sources of order in society, the ambition of Hayek's social philosophy to guide practice is forsworn and (not unlike that of Michael Oakeshott) its content becomes primarily elucidatory and explanatory. In either case, whereas its systematic character is not thereby destroyed, the unity of Hayek's thought is endangered by the uncertainty at its very centre as to the relations of tacit knowledge with theoretical insight in political life.

Whereas it may not in the end cohere completely as a system, Hayek's thought is far more than a series of scattered insights. It is unified by the governing ideas of spontaneous social order and the competitive selection of rival practices, and it suggests a new research programme for the social studies. Many of its specific proposals may need revision, refinement or development, as when over shorter periods of history the Becker economic approach to social life may prove indispensable in filling in the gaps left by Hayek's scheme.[28] None of these revisions compromises the central insights of Hayek's research programme—that social institutions emerge as the unintended consequences of

human actions, and are fruitfully to be conceived as vehicles or bearers of tacit social knowledge. In displacing social thought from a constructivist conception of social institutions, and in giving an epistemological turn to our assessments of rival social systems, Hayek has pioneered a new way in social thought.

The two paradigm shifts which Hayek's system intimates frame a new research programme for social philosophy. The dominant research programme of conceptual analysis and cost-benefit research is plainly degenerate, petering out all too easily into a no-man's land of intuitionistic ethical and linguistic judgements, and of minute technical studies of social choice. Contemporary social philosophy has for too long lacked a promising method and even a distinctive subject matter. Hayek's conception of the undesigned formation of social institutions, and of the role of those institutions as bearers of practical knowledge, generates a massive research programme for social science even if his own system may in the end contain conflicting elements. In advancing this new research programme for social theory, Hayek liberates contemporary inquiry from the dead weight of the superseded intellectual tradition of constructivist rationalism. By making this advance, however, he returns thought about man and society to the great tradition of the Scottish Enlightenment, and opens up to us the abandoned road to genuine knowledge of man and of the conditions of his freedom and welfare first laid down by the thinkers of classical liberalism.

## HAYEK'S THOUGHT AND THE FUTURE OF POLITICAL PHILOSOPHY

I have argued that, though Hayek's thought contains elements whose conflicting implications compromise the unity of his system of ideas, his work none the less generates vital insights that have been neglected by the dominant approaches in contemporary social philosophy. Hayek advances an individualist account of social order as the unintended consequence of human action and represents social institutions as vehicles for the transmission

of practical knowledge. The implication of these insights is that the modern constructivist project of designing or reforming social institutions so that they might better fulfil known human purposes involves an impossibility—the impossibility of our having available in theoretical form the knowledge whereby such design or reform might be effected. Hayek's decisive criticism of the constructivist approach to social and political life as embodying a mistaken theory of knowledge is a notable achievement.

At the same time, the implication for political practice of this criticism is far from clear. In one of its aspects, Hayek's philosophy conceives of social institutions as products of an evolutionary filter process whose operation guarantees their functional utility. But, as I have earlier argued, there are many conclusive reasons for rejecting the evolutionary functionalism in respect of social institutions which Hayek has increasingly come to adopt. To begin with, even if it is true that a sort of natural selection of forms of social life occurs over long stretches of evolutionary development, human history is manifestly riddled with contingencies which defeat the imposition on it of any simple pattern of theoretical explanation. Many important episodes of large-scale social change are better explained by local factors than by long-range evolutionary or functional considerations. Further, Hayek's measure of the functional utility of social institutions—their capacity to sustain the maximum human population—has no clear claim on reason as a norm for the assessment of rival social systems; why should the society which supports the largest number of human beings be regarded as the best?[29] It certainly need not be the most free. The Spencerian turn in Hayek's later work—in which liberal society is given a scientistic defence in the terms of an ambitious theory of cultural evolution—can be criticized from normative as well as scientific perspectives. If in scientific terms it yields an explanatory scheme whose powers of historical explanation are doubtful, it at the same time invokes a standard of human well-being—that of maximizing survival chances—which there is small reason to accept.

A different way of expressing these difficulties is to say that, even if the Hayekian theory of cultural evolution could be given

an unambiguous scientific statement with strong explanatory power, it would none the less still be lacking in any compelling moral content. It is a fatal flaw of all evolutionary ethical theories, in general, that they are bound to fail to give practical guidance: evolutionary ethics can in the end only identify the good with that which prevails. And yet, from the Kantian point of view in ethics which Hayek himself also holds, there is no reason to accord moral superiority to whatever survives the evolutionary process. In particular, there is no reason to confer moral privilege on that social system which prevails in competition with other systems. On the contrary, we may even think, with Spinoza, that freedom is bound to remain an exception in the life of the species, and yet regard our moral commitment to liberty as in no way compromised by this fact. This is to say that, even if a theory of cultural evolution were to suggest that free societies are likely to be displaced or overcome by tyrannies—a possibility that is far from being remote—this theoretical claim could not defeat the moral commitment to freedom.

The result of the moral emptiness of Hayek's theory of cultural evolution for political philosophy is that his system lacks definite normative standards for the critical assessment of political practice. How, then, might this defect be remedied? Not, to be sure, by recourse to any doctrine of natural rights. For theories of natural rights are indefensible, and for that matter barely intelligible, outside the context of a theory of natural law. Theories of natural law, however, are themselves indefensible in modern terms. They presuppose a teleology of nature—a conception of living things as animated by the final cause of their self-realization—which is incompatible with modern scientific empiricism.[30] In fact, doctrines of natural law and natural rights are at home only in the contexts in which they emerged historically—in Aristotle's mystical biology and in Locke's theism. It follows that the project of giving liberal society a foundation in natural law is closed to any philosophy which accepts (as Hayek's certainly does) the terms of contemporary scientific empiricism.

Natural law and natural rights theories are only the clearest instances of the project of seeking a foundation for the practices

of a free society. Such a project is objectionable on many grounds. It presupposes something we have good reason to suppose unavailable—a theory of ethics which has prescriptive authority over moral practice. But it is a result of much recent inquiry[31] that the very idea of an ethical theory that attains a point of Archimedean leverage on moral practice is incoherent—a rationalist illusion spawned by a false picture of reasoning itself. Philosophical reasoning may not leave everything as it is in moral life, but it cannot found one set of practices and disestablish the rest. Hayek's excursions into evolutionary ethics express a reluctance on his part to accept the conservative implication of his insight that, at any rate in moral life, criticism is always immanent criticism—an implication whose acceptance is intimated in the later philosophy of Wittgenstein.[32] If, then, we reject Hayek's attempt to attain an external perspective on moral practice via a theory of cultural evolution, this does not mean that a retreat to older essays in justification (such as natural law theory) is called for, but instead that the project of seeking a foundation for ethics, and so for the ethics of a free society, is to be abandoned.

Rejecting foundationalism in ethics does not entail, for all that has been said, denying any role to theory in ethics, or any place to ethical theory in political philosophy. We may instead regard ethical theory as giving a distillation and summation of our most considered moral judgements and as aiming to uncover their general structure and forms. This is the approach exemplified most powerfully in the work of John Rawls,[33] where the method of comprehensive reflective equilibrium in ethics is married to a contractarian derivation of political principles. This approach is constructivist in two ways. It seeks to impose an order on our moral thought and practice which they do not immediately exhibit, and it seeks to construct from that order a set of political principles which command assent via a procedure of rational choice. I see no alternative to this recourse to constructivism in moral and political philosophy. Of course, such constructivist approaches need not (and in Rawls's work do not) entail endorsement of the false philosophy of mind and knowledge

which Hayek has rightly stigmatized in much modern thought. They do involve adopting a critical rationalist perspective on our inheritance of moral norms and political practices which Hayek in his latest work[34] seeks to disfavour. In one respect, indeed, this approach is more radically conservative than the weak traditionalism which Hayek defends, inasmuch as the method of reflective equilibrium commits us to treating as ultimate the deepest moral judgements and the conception of moral personality which we find among ourselves. Once the structure of our moral judgements and their relation to a conception of the person as their author have been clarified, however, the result is a set of principles which gives us a critical purchase on current and inherited political institutions and practices.

It is in a development of contractarian political philosophy which has as its departure point a description in reflective equilibrium of our moral thought that liberal political philosophy finds its most promising avenue of further advance. In this research programme, the goal of giving liberal practices a universal authority is forsworn in favour of the humbler hope of constructing by a procedure of rational choice political principles which will command the assent of individuals who share the postulates (including a definite conception of the person)[35] of Western individualist traditions. In this version of constructivism, the universalist aspirations of liberal rationalism are abandoned, but nothing in our current stock of moral and political practices is taken as exempt from critical questioning and appraisal.

As it has been developed, most especially, in the work of James Buchanan and others in the Public Choice School,[36] the contractarian method in political philosophy focuses on proposals for constitutional reform. Here the goal is to represent limited government, not as a product of an evolutionary filter process, or as a tradition whose authority is beyond question, but as the rational choice of persons attached to the most central values of modern Western individualism. The crux of this contractarian constitutional approach is in the conception of a constitutional contract in which the terms of social cooperation are newly established. Resting as it does in the end on a commitment to a

distinctive tradition—that of Western individualism—this approach nevertheless issues in critical norms for the appraisal of our inheritance of political institutions and constitutional arrangements.

In promoting a contractarian turn in political philosophy we are filling a gap in the moral defence of liberal civilization as we find it in Hayek's work. We are returning to the critical investigation of that constitution of liberty wherein alone we may hope for progress by submitting to spontaneous forces in society. In so recurring to the task of forging a constitutional contract of limited government which may secure the allegiance of rational men, we are rejoining the great tradition of classical liberal political philosophy and continuing the search for the conditions of freedom on which Hayek's work has set us.

# Postscript: Hayek and the dissolution of classical liberalism

What value has the thought of F.A.Hayek in a post-socialist age? Does it contain—as Hayek surely intended—a reformulation of classical liberalism that is adequate to the political and intellectual challenges of the late twentieth century and beyond? Or is Hayek's political thought undone by his failure to perceive the ways in which free markets undermine traditional societies, including the bourgeois society whose traditions were taken for granted by classical liberals? Does Hayek's attempt to ground the defence of liberal institutions in epistemic rather than normative arguments open up a new path for liberal political philosophy? Or is it a dead end?

It is as a critic of socialism, not a philosopher of liberalism, that Hayek will be remembered. In 1984, when the first edition of this book was published, central planning of the economy seemed entrenched across much of the world. It might be inefficient and corrupt, implicated in vast environmental disasters and renewed only through enormous repression of individual liberty, but it looked immovable. It even had its defenders, mostly intellectuals in capitalist countries, who argued that for all its faults central planning delivered security for the majority of the people subject to it. Whatever the merits of that argument—and they were never many—it is irrelevant today. Socialist central planning has ceased to exist and, in any time-span that is meaningful to us, it will not return. Planned economies are, or aspire to be,

closed economies; and in an age of globalization economic autarchy cannot be sustained for long in any country. As a consequence, the rivalries between economic systems that dominated much of twentieth-century political history have ended.

Hayek understood, better than any other twentieth-century thinker, how the inability of central planning to replicate the productivity of capitalism condemned socialism to irrelevance. He failed entirely to comprehend how unfettered markets can weaken social cohesion in liberal cultures. His thought is fatally weakened by his attempt to defend a conception of freedom as tradition-bound submission to market forces which neglects the many ways in which free markets alter and subvert traditions.

In this Hayek is strikingly less perceptive than his great Austrian contemporary, Joseph Schumpeter. In his great work, *Capitalism, Socialism and Democracy*,[1] Schumpeter speculated that the utilitarian turn of mind required and promoted by capitalism would, over time, corrode the practices central in bourgeois civilization. He suggested that the practice of long-term saving depended on a degree of marital and family stability that the habits of mind encouraged by advanced capitalist economies made unsustainable. Here Schumpeter advanced in its canonical form the argument that late modern capitalism expresses and aggravates cultural contradictions which make the free market unviable in political terms. By contrast with Schumpeter, Hayek celebrated the powers of creative destruction of capitalism without ever grasping that the traditional bourgeois social order he sought to preserve was among the cultural residues of the past that a late modern free market economy consigns to oblivion.

If Hayek's attempted revival of a nineteenth-century variety of liberal thought is undone by this contradiction, as I contend, we are compelled to look to other currents of liberal thought for illumination and guidance about how personal freedom is to be understood in post-traditional societies. Though it does not achieve the universal vindication of liberal culture Mill himself hoped for, the thought of J.S.Mill has greater relevance to the dilemmas of late modern societies than anything that can be found in the writing of Hayek, indisputably Mill's most

formidable twentieth-century critic. If liberalism has a future as a political philosophy, it is in the intellectual tradition running from J.S.Mill to Isaiah Berlin, not in the classical liberalism—the liberalism of Adam Smith or Lord Acton—that Hayek sought to resurrect.

One reason why Hayek's classical liberalism is an anachronistic position is that the critique of central planning that is at its heart has been rendered redundant by the disappearance of socialism. To be sure, the twentieth-century conflict between socialist central planning and capitalism was not settled by any contribution to economic theory, even Hayek's. It was resolved on the terrain of history. Planned economies were not only less efficient than market economies in putting the resources at their disposal at any one time to productive use. Crucially, they were also far less successful in generating new technologies. Except in a few contexts, such as weapons development, the planned economies of the Soviet bloc were technologically backward. They could not compete with market economies in which technical innovation is continuous.

Ultimately, in the 1980s, even the massive Soviet commitment of resources to the military-industrial complex could not enable it to keep pace with developments in computer technologies that were becoming ever more central in the conduct of war. The Soviet economy never altogether threw off the traces of its origins in War Communism; yet it proved incapable of the technological virtuosity on which success in war now chiefly depends. When it began to fall behind the United States in computer technology the Soviet state began to live on borrowed time.

Mikhail Gorbachev's policies of *glasnost* and *perestroika* acted merely as catalysts for the Soviet collapse through their unintended consequences of strengthening separatist movements among the Soviet nationalities and demoralizing the *nomenklatura*. Perhaps uniquely, the Soviet empire collapsed without significant violence on the part either of its rulers or the ruled. Its fall was followed by ambitious market reforms in China. By the end of 1997 it was apparent that the remaining bastions of the planned economy in China, the state-owned enterprises, were

scheduled for privatization. Socialist economies survive only in Cuba and North Korea, and even there not for much longer.

The Soviet system collapsed when it did for reasons that were contingent, political and even in some measure accidental. Yet the disappearance of nearly all the world's planned economies in less than a decade constitutes a spectacular vindication of F.A. Hayek's chief contribution to social and political thought. Hayek had always maintained that successful central economic planning was an epistemological impossibility. It required that the planning institutions gather together information that was in its very nature dispersed and local.

No-one can know how resources, preferences and opportunities are distributed throughout the economy, partly because they are unimaginably complicated and incessantly changing. It may be possible to map these changing relationships in the broad aggregates favoured by macroeconomic theorists; but the microeconomic linkages on which coordination between economic activities depend cannot be known with any precision or detail by any planning authority. The chief function of market institutions, in fact, is to make such knowledge unnecessary.

The impossibility of centralizing the knowledge needed for economic planning has a single, fundamental source: much of that knowledge is local, tacit knowledge. It is embodied in practical skills whose contents are often inarticulable. The barrier to centralizing such practical knowledge—the sort of knowledge involved in successful entrepreneurship or scientific research, for example—is insuperable. If an attempt is made to collect it in central planning institutions, most of it will inevitably be wasted. Everywhere central planning was seriously attempted the result was waste and inefficiency on a large scale. Economic collapse was avoided only by reliance on the information transmitted in black markets and world markets.

Hayek's demonstration of the epistemic impossibilities of successful economic planning was ignored by generations of mainstream economists; but it is the only deep explanation ever advanced of the universal systemic failures of socialist economies. It does not depend for its power on assumptions

about human motives or incentives, the cultural traditions of the peoples on which socialist planning was imposed or the absence of democratic institutions. Hayek's is an argument that appeals only to universal limitations in human knowledge. It remains a contribution to social thought of enduring significance, and justifies the central argument made on Hayek's behalf in the first edition of this book.

It is not an argument, however, that supports any of the larger claims of Hayek's political philosophy. It does not provide a foundation for liberalism, or justify the enormous claims Hayek makes for free markets. It has little, if any, normative content, and contains nothing to assist the choice between the diverse regimes, liberal and non-liberal, that are found in the world in the wake of socialism. It works only as an impossibility theorem against the most hubristic types of economic planning. It demonstrates that a powerful twentieth-century project—the Marxian project of replacing market processes by central planning—is unachievable. It tells us little else.

The epistemic argument against central planning contains nothing to help us choose between different ways of organizing market economies. It has few resources to assist the reformer who seeks to make capitalism work better at meeting human needs. It cannot guide those in transitional economies who need to construct working market institutions from the ruins of central planning. In short, it has virtually nothing to say in the post-socialist period, when systemic economic rivalry between central planning and market institutions has been replaced by competition between different species of capitalism.

These radical limitations of Hayek's thought come partly from defects in his understanding of capitalism. Hayek represents the emergence of capitalism as a natural evolutionary development which depends at no point on coercive state power. But, as Karl Polanyi showed in his still insufficiently studied masterpiece, *The Great Transformation*,[2] free markets are not spontaneous developments: they are artefacts of state power. The free market in nineteenth-century Britain was a creature of parliamentary absolutism. It was constructed by the fiat of a strong state. It was

not the product of a myriad incremental unplanned changes but of resolute statecraft.

Through the Enclosures, property rights were created and abolished, and the customs in which market exchange had in the past been embedded were nullified. The mid-Victorian era may have been exceptionally favourable to the construction of the free market, since as well as a tradition of unrestricted parliamentary sovereignty there was a long history of agrarian capitalism in England on which economic liberals could build. Despite this favourable environment, the English free market did not survive for long in its most unrestricted form. By the First World War, it had been reregulated. A host of uncoordinated legislative interventions, arising not as parts of any grand design but in response to particular problems such as safety in factories, made the workings of the market less hostile to social needs. Constructed by deliberate statecraft, the free market withered away spontaneously.[3]

Hayek's misconception of how the free market was created in mid-Victorian England illustrates a larger failure to understand how diverse legal systems have different relations with the state. In Hayek's thought, the singular practices of the English common law are used as a paradigm of law everywhere. Especially in his later thought, Hayek sees law as an evolutionary phenomenon, a system of conventions that grows up through historical accretion.

That model of law does not fit many legal systems, including some with good liberal credentials. In Scotland, Romano-Dutch law did not evolve by imperceptible degrees from the customs of the clans; it was imposed on Scotland in the eighteenth century on the advice of the third Viscount of Stair. In Turkey, perhaps the most enduring and successful modernist regime in the world today, the legal system is the creation of a single man, Kemal Attaturk. The individualist legal code that underpins a western-style civil society in that country is not the product of millennial evolution but of swift and bold political leadership, undertaken in propitious circumstances.

Hayek's misunderstanding of law is an example of a whiggish

fallacy that runs right the way through his political philosophy. In the political thought of Edmund Burke, in whose writings and speeches this fallacy of whiggism is given a canonical statement, it is taken for granted that the survival of a practice over many generations is evidence of its enduring utility. According to Burke, traditions which span several generations contain wisdom that is not available by the exercise of reason on the part of members of any single generation. In Burke the final guarantee that tradition is not merely an accumulation of error is a divinely-ordained providential order in history.

In Hayek this whiggish interpretation of history has been secularized in a pseudo-Darwinian idiom. Hayek contends that the patrimony of traditions that a society inherits is a precious repository of knowledge because it consists of practices that have survived natural selection. He postulates an ongoing competition among traditions, customs and beliefs, such that those survive which have maximal utility. Indeed Hayek argues that the history of religion should be understood in terms of the natural selection of faiths and moralities.

The difficulties of such a Darwinian secularization of Burkean providentialism are legion. There is no mechanism in social change akin to that of the natural selection of genetic accidents in evolutionary biology, nor is there any comparable criterion of fitness or utility. Hayek's many references to competition and selection among social practices make it sound as if he has a theory of cultural evolution, when in fact he has nothing but a scientistic metaphor. His reliance on a theoretically empty notion of group selection leads him to ignore the historical contingencies on which the rise and fall of religions and of economic and political systems actually depend. It also allows him to mask profound tensions in his thought.

In one of its aspects, Hayek's system of ideas is a scientistic defence of tradition against rational reform. If a society's inheritance of practices embodies knowledge that is not available to any single generation, the proper relationship to such traditions should be one of reverence, not criticism. Traditions are best left alone. Except perhaps at the margin, we should not try to

reform traditions so that they meet our needs better, for we cannot know what are the real functions of traditions in society.

But this attitude of Burkean reverence to the past clashes with the other side of Hayek's thought, in which he appears as a theorist of progress. What if the traditions of a society are hostile to the emergence of free markets? What if they are the traditions of a socialist society? At this point Hayek becomes an Enlightenment liberal of the most conventional kind. His theory of the epistemic functions of markets demonstrates that a planned economy cannot work. His economic theory tells him that free markets are maximally productive. On the basis of these theories Hayek demands the comprehensive dismantlement of central planning and, more generally, the abandonment of government intervention in the economy.

From a consistently Burkean standpoint, economic liberalism of this radical variety is rationalistic hubris. To sweep away restrictions on free markets that have been in force for generations must be exceedingly risky, since we cannot know what vital social functions they may be performing. It may be true that deregulated markets are the best instruments for creating wealth; but restrictions on market freedoms may nevertheless be essential for social cohesion. Curiously, this last possibility is one that Hayek never considers.[4]

The innermost contradiction in Hayek's system of ideas is between a conservative attachment to inherited social forms and a liberal commitment to unending progress. Hayek's distance from anything resembling traditional conservatism emerges most starkly when he commends progress, while acknowledging that 'Progress is movement for movement's sake'.[5]

This candidly nihilistic avowal is important for a number of reasons. In the first place it intimates the absence in Hayek of any well-developed ethical theory. Nowhere in Hayek's voluminous writings on social philosophy is there any account of what makes a good society, or, more generally, of human flourishing. Instead there is a mish-mash of Kantianism with evolutionary ethics and indirect utilitarianism.

Moreover, there is a large lacuna in Hayek's thought concern-

ing the effects of market capitalism on the stability of society and the integrity of traditional ways of life. This lack of consideration of the ways in which market capitalism can be socially destructive is not inadvertent. It testifies to the fact that, like Marx, Hayek values capitalism finally as an engine of historical progress, understood in terms of increasing productivity and control over nature, more than as a means of satisfying human needs.

Like Marx, Hayek sees capitalism as an emancipatory economic system—one that frees humankind from natural scarcity and thereby relieves it of the oppressive weight of history. Like Marx, he exhibits no sympathy for the social groups and peoples that have become the casualties of the progress the capitalism ensures. Indeed, like Marx, Hayek acknowledges that market capitalism is inherently inimical to any settled social order, since in comparison with capitalism, as Marx observed, 'All earlier modes of production were essentially conservative'.[6]

The revolutionary novelty of capitalism as an economic system creates difficulties for Hayek's epistemic justification of deregulated market institutions. One effect of 'creative destruction' by unfettered market forces is continuously to deskill parts of the population. Tacit knowledge rapidly becomes error in an economic environment in which innovation has been institutionalized. The tacit understandings that are preserved in traditions are poor guides to life when whole industries, occupations and ways of life recurrently disappear as a result of the workings of global markets. The free markets that Hayek favours for their contribution to economic progress achieve this result precisely because they care nothing for the traditions which he reveres as repositories of the wisdom of the generations.

When Hayek writes of markets as devices for the preservation and transmission of tacit knowledge he views them as complex cultural institutions that are embedded in customs and traditions. It does not occur to him that this view cannot be combined with the universal claims that economic liberals—including himself, in other parts of his work—make for free markets. If markets are complex, deeply embedded social institutions they

will vary with the cultures in which they operate. There will be many types of market economy and many species of capitalism. If this is so, Anglo-Saxon free markets do not exemplify an ideal type of market freedom to which all others had better approximate, but merely one variety of capitalism. German social market capitalism, Chinese family-based capitalism, Japanese 'relationship' capitalism—these and other species of capitalism express the distinctive cultural traditions of the societies in which they have grown up. The question for any country is how to reform its current type of capitalism so that it is consonant with its underlying cultural values and meets its enduring needs.

If one thinks in this way markets will be viewed not as embodiments of human freedom but as fallible social institutions. They will be reformed insofar as their workings fail to track the tacit ethical understandings of the societies they serve. This is a constructive line of thought that Hayek never explores. His lapse may be accounted for, in part, by his unresolved ambivalence regarding Enlightenment rationalism.

When Hayek writes as an Enlightenment rationalist he views free markets as devices for maximizing productivity. Their effects on social cohesion are left to one side. It is only Hayek's systematic neglect of the social consequences of disembedded markets that allows him to imagine that the economic regime of market freedom he advocates can be combined with a social system in which traditional institutions have an unquestioned authority. Evidence that the imperatives of deregulated markets clash with the needs of social cohesion is not examined. The fact that the breakdown of traditional forms of family life is furthest advanced in countries, such as the United States, that have gone furthest in freeing up markets is not even considered. The subversive thought that an economic regime founded on consumer choice might work to destroy the traditional institutions to which Hayek is attached is repressed.

Hayek's neglect of these questions restricts severely the usefulness of his thought today. It is not only that he has nothing to say about the varieties of capitalism—their distinctive costs and benefits, their dependency on specific cultural traditions or the

different ways each might be reformed to meet human needs. It is that he does not confront the central dilemma of the post-socialist period—how to reconcile the workings of deregulated global markets with the requirements of social cohesion.

The political project in which Hayek's highly conservative liberalism found practical embodiment was the free market conservatism of the 1980s. The fate of this New Right political project suggests some lessons for the coherence of Hayek's thinking. As it was articulated in the policies and rhetoric of politicians such as Ronald Reagan and Margaret Thatcher, free market conservatism involved an incongruous conjunction of far-reaching economic modernization with the unremitting assertion of 'Victorian values'. In the late 1980s and early 1990s this anomalous combination unravelled.

The belief that a hypermodern economy could coexist in stable equilibrium with the cultural traditions and social institutions of an earlier phase of capitalism is the central claim of Hayek's social philosophy as well as the intellectual and political core of New Right thinking. By the mid-1990s this belief had been subjected to a definitive experimental refutation. Conservative parties and regimes that had framed policy on the basis of it were in disarray or meltdown throughout the world.

The economic dynamism of late modern societies has proved inhospitable to traditional values. The values of choice and self-realization embodied in innovative individualist economies spill over into family life. Social structures based on deference are unsuited to a climate in which mobility is imperative. The pervasive job insecurity of free market economies corrodes bourgeois career structures. Late modern economies do not coexist stably with traditional social structures.

As Joseph Schumpeter understood, the preservation of a bourgeois social order cannot be reconciled with the development of capitalism. Amply corroborated by more recent history, this insight of Schumpeter's deals a death-blow to Hayek's economic and social philosophy. It is fatal to the hopes of all conservative liberalisms—of which Hayek's is merely the most hubristic.

Hayek's demonstration that successful socialist central plan-

ning is an impossibility leaves untouched all the major issues addressed in liberal political philosophy. By themselves, epistemic arguments have few normative implications. True, they rule out some states of affairs as impossibilities, and classical socialism is among them. As I have intimated, because free markets work to deskill the population and render their stock of tacit knowledge useless, Hayek's epistemic arguments suggest also that the core institutions defended by classical liberalism—minimal government and the free market—can only be a self-limiting episode in the history of any society. These are interesting results, but they are not a justification of liberalism in any of its varieties.

Epistemic arguments merely add to the information we need to evaluate the costs and benefits of different regimes. They do not determine, or even significantly guide, the choice between them. There is nothing in Hayek's epistemic arguments that can forbid trading off productivity for increased equality, or that condemns restraints on economic freedom imposed by nationalist, fascist or (for that matter) social-democratic governments. Epistemic arguments tell us only that such governments will not preside over economies that are maximally productive. That consideration will scarcely be conclusive for any ethical theory or political philosophy that is not already committed, as Hayek was, to the strange ideal of maximal productivity.

It is important to underline the fact that Hayek's test of progress—growth in productivity—has no essential connection with liberalism. As generations of civic republicans understood, liberty and prosperity do not always go together. A highly productive economy may flourish under the auspices of a government that fails to respect freedom (even as Hayek understands freedom). The authoritarian capitalisms of East Asia may come into this category. Equally, a highly liberal regime may well lag behind such growth-oriented *dirigiste* regimes. For a liberal who values personal autonomy over economic progress this need not be problematic. For Hayek, who attempts to identify liberal institutions with the functional requirements of deregulated markets,

the economic success of such *dirigiste* regimes must be highly embarrassing.

At the same time it is deeply ironic. For the traditional social structures which Hayek reveres are more readily discernible in such Asian regimes of guided capitalism than they are in liberal societies in which markets have been deregulated. Hayek's social philosophy founders on the awkward fact that deregulated markets do not require most of the liberties he values as a liberal and work to weaken the traditions he cherishes as a conservative. Worse, the contradiction between Burkean reverence for tradition and his quasi-marxian, Enlightenment defence of unfettered capitalism as the economic system most favourable to the growth of wealth makes his social and political thought in the end incoherent.

If liberalism has a future it must be in rejecting Hayek's (inconsistent) identification of personal freedom with submission to inherited traditions and market forces. It must acknowledge that market institutions, like democratic institutions, are means to human ends, not ends in themselves. The justification of any economic or political system can only be instrumental. It is in terms of its contribution to human wellbeing. For anyone today whose political morality is liberal personal freedom will be a central element in any human life that is worth living. From the standpoint of my present argument it does not matter whether this liberal belief is defensible. (Elsewhere I have questioned its universal validity.[7]) What matters is that market institutions can be legitimated only in terms of the values their practitioners understand and accept. In the late modern societies to which Hayek's work is addressed these are not traditional values of hierarchy or deference to tradition. They are liberal values of autonomy and fairness.

In contemporary societies market institutions are not self-justifying deliverances of tradition. The transgressive dynamism of liberal capitalism works continuously to weaken the hold of tradition on society. It thereby spreads a critical attitude to the traditions that in the past sustained the free market. It is no accident that feminism and the dissolution of the patriarchal family

are most evident in the societies whose economic life is most uncompromisingly individualist. The economic enfranchisement of women that liberal capitalism produces is incompatible with the preservation of traditional families. For a conservative liberal such as Hayek, this must be a fatal blow, but it will be welcomed by liberals for whom personal autonomy is a central value.

In other respects the impact of free markets on society has not been so benign. The causes of rising levels of crime cannot be known with any certainty, but it is hard to treat the worldwide association of economic liberalization with increased incidence of many types of crime as coincidental. Free markets sometimes work to enhance personal freedom by weakening traditional hierarchies and mores. More often the free market corrodes social cohesion with no corresponding enhancement of personal freedom. This fact underscores the crucial point that the connection between free markets and individual liberty is—contrary to Hayek and other classical liberals—largely contingent. This was a decisive insight of the New Liberal thinkers in the late nineteenth century, anticipated by J.S.Mill when he noted that government non-interference was not a fundamental principle but only a rule of thumb.[8]

Hayek's reformulation of classical liberalism failed, not only because the critique of socialism that is its core has little relevance to the dilemmas of the post-socialist period. It failed also because it did not understand, or perhaps perceive, the detraditionalizing effects of free market capitalism on contemporary societies. In part this default arises from a feature of Hayek's thought that it shares with other recent liberalisms. In Hayek's system of ideas, as in John Rawls's egalitarian theory of justice as fairness and James Buchanan's contractarian individualism, it is imagined that common adherence to a conception of justice is sufficient to sustain liberal institutions.

This common assumption of legalist political philosophies of both the libertarian Right and the egalitarian Left vitiates much recent liberal thought. It is often criticized from a communitarian standpoint which insists that justice is not the supreme politi-

cal virtue. But much communitarian thought is itself vitiated by unrealistic hopes regarding the scope and depth of moral consensus that is achievable in contemporary circumstances. Communitarian thinking is, in fact, best understood as a reform of liberal theory, not an alternative to it.[9] In this regard it is exceedingly powerful as a corrective to the errors and limitations of the varieties of liberal legalism that have lately been dominant in political philosophy. An alternative tradition of liberal thought exists, however, in which the role of social cohesion in making personal autonomy possible has long been understood.

This other liberal tradition is developed in New Liberal thinkers such as L.T.Hobhouse and J.M.Keynes, but most of its central ideas and concerns are foreshadowed in the writings of John Stuart Mill. These writings do not contain a single, consistent political doctrine, and, like nearly all liberal theories then and now, they are deformed by a narrowly Europocentric philosophy of history which undermines any liberal claim to universal authority for Mill's principles. Yet the animating impulse of Millian liberalism—the reconciliation of the demands of personal autonomy with the needs of social cohesion—speaks to the circumstances of late modern western societies as Hayek's thought signally fails to do. The need to balance the claims of individual choice with those of communities is a theme taken up and developed in the writings of Mill's great successor, Isaiah Berlin. This tradition of social liberalism has been further developed in the work of Joseph Raz, whose conception of personal autonomy as essentially socially embedded merits the closest study.[10]

The undoing of Hayek's system of ideas by its neglect of the destructive impact of free markets on social cohesion is profoundly instructive for liberal thought today. It confirms that liberal ideals of personal autonomy require an active, enabling state, not the minimal government of classical liberal theory. For, if one lesson of the dissolution of Hayek's reconstructed classical liberalism is that individual liberty cannot be understood in the restrictive and impoverished terms of submission to tradition or market forces, another is that in the circumstances

of the late modern world personal autonomy and a stable, cohesive society are not alternatives.

# Biographical Note on Hayek

Friedrich August von Hayek was born in Vienna on 8 May 1899, into a distinguished family of scientists and academics. The family lineage goes back to Bohemia in the fifteenth century, while in modern times it has links with that of the philosopher, L.Wittgenstein. The academic interests of Hayek's family were predominantly in the natural sciences on the paternal side and in law on his mother's side.

Hayek earned two doctorates at the University of Vienna—Dr Jur. in 1921 and Dr Rer. Pol. in 1923—and became *Pnvatdozent* in Political Economy in 1929. His teacher was the great economist of the Austrian tradition, F.von Wieser, but he later attended the seminar of L.von Mises (with whom he had worked as a legal consultant in the civil service from 1921 to 1926 apart from a period in the United States in 1923–4. Hayek was appointed Tooke Professor of Economic Science and Statistics in the University of London in 1931 and in 1944 he was elected a Fellow of the British Academy. During this period (in 1938) he acquired British citizenship, which he has retained. In 1950, he was appointed Professor of Social and Moral Sciences and member of the Committee on Social Thought at the University of Chicago. After retiring from Chicago in 1962, he became Professor at the University of Freiburg and after retirement in 1967, became honorary professor at the University of Salzburg in Austria and at present occupies an emeritus professorship at the Uni-

versity of Freiburg. In 1974 the Swedish Academy of Sciences awarded him, together with Gunnar Myrdal, the Nobel Prize in Economics. In October 1984 he was made a Companion of Honour for his services to economic theory.

Now in his eighty-sixth year, Hayek is currently at work revising for publication the manuscript of a new three-volume work entitled *The Fatal Conceit: the Intellectual Error of Socialism.*

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# Notes

## CHAPTER 1

1. F.A.Hayek, [B–10], *The Sensory Order*, London: Routledge & Kegan Paul, 1952, pp. 4–5. *The Sensory Order* has not in fact gone wholly ignored by psychologists. For a useful symposium on it, see W.B.Weimer and D.S.Palermo, eds., *Cognition and Symbolic Processes,* vol. II, New York, 1978. Also 'Hayek Revisited: Mind as a Process of Classification' by Rosemary Agnitto in *Behaviorism: a Forum for Critical Discussion*, 3/2, Nevada (Spring 1975):162–71. Neglect of Hayek's contributions to psychology by professional psychologists may in part be due to his drawing on a tradition of psychology—the neo-Kantian tradition of Helmholtz and Wundt—which fell on hard times when behavioural and psychoanalytical approaches came to dominate the theoretical investigation of mental life.
2. Hayek, [B–10], *Sensory Order*, p. 5, para. 1.12. At times, Hayek goes so far as almost to relativize any distinction between appearance and reality. When he adopts such a position, he breaks with a decisive element in Kantian critical philosophy, for which the distinction between how things seem to us and how they are in themselves must be fundamental. On other occasions, Hayek affirms strongly his com-

mitment to conjectural realism of a Popperian sort. In *Sensory Order* pp. 173 he says:

> If the classification of events in the external world effected by our senses proves not to be a 'true' classification, i.e., not one which enables us adequately to describe the regularities in this world, and if the properties which our senses attribute to these events are not
>
> objective properties of these individual events, but merely attributes defining the classes to which our senses assign them, this means that we cannot regard the phenomenal world in any sense as more 'real' than the constructions of science: we must assume the existence of an objective world (or better, of an objective order of the events which we experience in their phenomenal order) towards the recognition of which the phenomenal order is merely a first approximation. The task of science is thus to try and approach ever more closely towards a reproduction of this objective order—a task which it can perform only by replacing the sensory order of events by a new and different classification.

I wish to thank Professor W.W.Bartley III, Hayek's biographer, for drawing my attention to this important statement.

3. Ibid., p. 171, para. 8.24.
4. Ibid., p. 42, para. 2.15.
5. Ibid., p. 165, para. 8.2.
6. Ibid., p. 193, para. 8.93, and his [B–12], *The Constitution of Liberty*, London: Routledge & Kegan Paul, 1960, pp. 13, 438. See Mach's influence on Hayek by consulting the Bibliography: B–l0 and A–160.
7. Hayek, [B–10], *Sensory Order*, pp. 178–9, para. 8.45. Hayek's affirmation of a practical dualism in the theory of the mind may well have been influenced by von Mises, who adopts a very similar standpoint in several of his writings.
8. Ibid., p. 194, para. 8.97.
9. Ibid.
10. See W.V.Quine, *Ontological Relativity*, New York:

Columbia University Press, 1969. Unlike Hayek, Quine sees compelling reasons for postulating a realm of abstract entities, including numbers, but, like Hayek, he admits no ontological gulf between body and mind. Hayek's objection to the neutral monism defended by William James, Bertrand Russell and John Dewey seems to be on the grounds of its psychologistic features as it is stated by these writers: see [B–10], *Sensory Order*, p. 176, para. 8.38. Neutral monism need not have these features, however, and perhaps Hayek's system need not exclude it.

11. See Hayek's interesting discussion of differences of method as between natural and social sciences in [E–5], the collection which he edited: *Collectivist Economic Planning*, London: Routledge & Kegan Paul, 1956 (originally published 1935), pp. 10–11. Hayek withdraws from the strong methodological dualism about natural and social science adopted here and in many of his earlier writings, explicitly in the Preface to his [B–13], *Studies in Philosophy, Politics and Economics*, London: Routledge & Kegan Paul, 1967, p. viii, where he asserts that through Popper's work 'the difference between the two groups of disciplines has thereby been greatly narrowed.' For an important discussion of Popper's demarcation criterion for science, see I.Lakatos, 'Popper on Demarcation and Induction', in P.A.Schlipp, ed., *The Philosophy of Karl Popper*, La Salic, Illinois: Open Court K.R., 1974, pp. 241–73.
12. See F.A.Hayek, 'Kinds of Rationalism' in his [B–13], *Studies*, pp. 82–95, and his [B–15] *Law, Legislation and Liberty*, vol. I, London: Routledge & Kegan Paul, 1973, p. 29.
13. Karl R.Popper 'Replies to my critics', Schlipp, ed., *The Philosophy of Karl Popper*, pp. 1059–60.
14. J.W.N.Watkins 'The Unity of Popper's thought', Schlipp, ed., *The Philosophy of Karl Popper*, pp. 401–2.
15. Hayek, [B–10], *Sensory Order*, p. 176, para. 8.39.
16. Hayek acknowledges the affinities between his conception of evolving tradition and Popper's idea of 'world three' in the first volume of his forthcoming trilogy, *The Fatal Conceit: the Intellectual Error of Socialism*, which I have been privi-

leged to see in manuscript. Earlier, Hayek had cited Popper's idea of a world of abstract entities with approval in [B–18], *Law, Legislation and Liberty*, vol. III, London: Routledge & Kegan Paul, 1979, p. 157.

17. See Hayek's reminiscences, [A–204], 'Remembering My Cousin Ludwig Wittgenstein', *Encounter* (August 1977).
18. I owe to Professor Hayek this information regarding his interest in Mauthner's work. Wittgenstein's reference to Mauthner occurs in para. 4.0031 of his *Tractatus Logico-Philosophicus*, London: Routledge. & Kegan Paul, 1961. The only book-length study of Mauthner's philosophy in English is that of Gershon Weiler, *Mauthner's Critique of Language*, Cambridge: Cambridge University Press, 1970. Also see Allen Janik and Stephen Toulmin, *Wittgenstein's Vienna*, New York: Simon & Schuster, 1973, pp. 121–33, 178–82.
19. In attributing a pragmatist aspect to Hayek's Kantianism, I do not mean to ascribe to Hayek any of the doctrines of modern pragmatism, but rather to note the sense in which for Hayek action or practice has primacy in the generation of knowledge. For Hayek, in some contrast with Kant, knowledge emanates from practical life in the sense that it is ultimately embodied in judgements and dispositions to act.
20. In his [B–131], *Studies*, p. 24, speaking of 'the erroneous belief that if we look only long enough, or at a sufficient number of instances of natural events, a pattern will always reveal itself', Hayek remarks that 'in those cases the theorizing has been done already by our senses.'
21. See Gilbert Ryle, 'Knowing How and Knowing That', *Proceedings of the Aristotelian Society*, 46 (1945–6):1–16.
22. See Michael Polanyi, *The Tacit Dimension*, London: Routledge & Kegan Paul, 1967.
23. Michael Oakeshott, 'Rational Conduct', in *Rationalism in Politics*, London: Methuen, 1962, pp. 97–100.
24. Hayek, [B–13], *Studies*, p. 44, note 4.
25. Quoted by T.W.Hutchison, *The Politics and Philosophy of Economics*, Oxford: Basil Blackwell, 1981, p. 214.

26. Norman P.Barry, *Hayek's Social and Economic Philosophy*, London: Macmillan, 1979, p. 41.
27. Ibid., p. 40. Barry has since modified his view that Hayek's work embodies conflicting methodological commitments. See his 'Restating the Liberal Order: Hayek's Philosophical Economics' in J.R. Shackleton and E.Lorksley, eds., *Twelve Contemporary Economists*, London: Macmillan, 1983.
28. Hayek, [B–17], *New Studies in Philosophy, Politics, Economics and the History of Ideas*, London: Routledge & Kegan Paul, 1978, pp. 51–2.
29. Hayek, [B–13], *Studies*, p. viii.
30. Ibid., p. 6: 'while this possibility [of falsification] always exists, its likelihood in the case of a well-confirmed hypothesis is so small that we often disregard it in practice.'
31. Ibid., p. 16.
32. Hayek, [B–17], *New Studies*, p. 45, note 14.
33. Hayek, [B–13], *Studies*, London: Routledge & Kegan Paul, 1967, pp. 60–2.
34. Hayek, [B–16], *Law, Legislation and Liberty*, vol. II, London: Routledge & Kegan Paul, 1976, p. 25.
35. I have in mind, of course, Popper's important criticism of holistic social engineering in Karl R.Popper, *The Poverty of Historicism*, London: Routledge & Kegan Paul, 1972, pp. 83–93.

## CHAPTER 2

1. Hayek, [B–15], *Law, Legislation and Liberty*, vol. I, London: Routlcdge & Kegan Paul, 1973, p. 17.
2. Descartes may not always have committed the errors Hayek finds in him or his disciples. See on this Stuart Hampshire, 'On Having a Reason', chapter 5 of G.A.Vesey, ed., *Human Values*, Royal Institute of Philosophy Lectures, vol. II, 1976–7, Harvester Press, 1976, where on p. 88 Hampshire speaks in Hayekian fashion of 'a Cartesian error, which was not consistently Descartes', and which consists of assuming a nec-

essary connection between thought on the one side and consciousness and explicitness on the other…'

3. Hayek, [B–13], *Studies in Philosophy, Politics and Economics*, London: Routledge & Kegan Paul, 1967, p. 73. On Hayek's view of spontaneous order, see Norman P.Barry, 'The Tradition of Spontaneous Order', *Literature of Liberty* 5 (Summer 1982), 7–58.
4. Hayek, [B–13], *Studies*, pp. 71–2.
5. Hayek, [B–15], *Law, Legislation and Liberty*, vol. I, p. 13.
6. Hayek, [B–17], *New Studies in Philosophy, Politics, Economics and the History of Ideas*, London: Routledge & Kegan Paul, 1978, p. 253.
7. Hayek, [B–13], *Studies*, p. 76 'The problems of how galaxies or solar systems are formed and what is their resulting structure is much more like the problems which the social sciences have to face than the problems of mechanics…' See also [B–16], *Law, Legislation, and Liberty*, vol. II, London: Routledge & Kegan Paul, 1976, pp. 39–40.
8. Hayek, [B–17], *New Studies*, p. 250.
9. On Spencer, See J.D.Y.Peel, *Herbert Spencer: the Evolution of a Sociologist*, London: Heinemann, 1971.
10. See Hayek, [B–18], *Law,Legislation and Liberty*, vol. Ill, London: Routledge & Kegan Paul, 1979, pp. 153–5.
11. See Peter Winch, 'Nature and Convention', *Proceedings of the Aristotelian Society*, 60 (1959–60); 231–52, reprinted as chapter 3 of Winch's *Ethics and Action*, London: Routledge & Kegan Paul, 1976. In some of his writings published after *The Open Society and Its Enemies*, Popper comes closer to a Hayekian position. In his 'Towards a Rational Theory of Tradition', in particular, perhaps in response to Oakeshott's writings, he effectively abandons the Sophistic dichotomy of nature and convention entailed in his earlier writings. See Popper's *Conjectures and Refutations*, London: Routledge & Kegan Paul, 1963, for this study.
12. Hayek, [B–10], *The Sensory Order*, London: Routledge & Kegan Paul, 1952, p. 180; and [B–15], *Law, Legislation and*

*Liberty*, vol. I, London: Routledge & Kegan Paul, 1973, p. 39.

13. The best source for Hume's criticism of moral rationalism remains his *Treatise of Human Nature*, especially Book III, Part I.
14. I refer particularly to volume 1 of his forthcoming trilogy, *The Fatal Conceit: the Intellectual Error of Socialism*, where Hayek addresses most explicitly the similarities and differences between biological and cultural evolution.
15. Thus in 'Rules, Perception and Intelligibility' [A–142, reprinted as chapter 3 in B–13, *Studies*], Hayek links rules of action with rules of perception as follows:

> ...the capacity of the child to understand various meanings of sentences expressed by the appropriate grammatical structure provides the most conspicuous example of the capacity of rule-perception. Rules which we cannot state thus do not govern only our actions. They also govern our perceptions, and particularly our perceptions of other people's actions. The child who speaks grammatically without knowing the rules of grammar not only understands all the shades of meaning expressed by others through following the rules of grammar, but may also be able to correct a grammatical mistake in the speech of others. (*Studies*, p. 45)

16. See Robert Nozick, *Anarchy, State and Utopia*, New York: Basic Books, 1974, pp. 18–22, for an illuminating account of invisible-hand explanations.
17. See Carl Menger, *Principles of Economics*, trans., J.Dingwall and B.F.Hoselitz, intro. by F.A.Hayek, New York and London: New York University Press, 1981, chapter 8.
18. See Hayek's [B–13], *Studies*, chapter 4.
19. The connections between the utility of a code of conduct and its impact on the growth of human numbers are explored in his as yet unpublished writings, particularly the first volume of *The Fatal Conceit*.
20. See Hayek, [B–13], *Studies*, p. 61: '...if "to have meaning" is to have a place in an order which we share with other peo-

ple, this order itself cannot have meaning because it cannot have a place in itself.'

21. Personal communication to the author.
22. See Hayek, [B–12], *The Constitution of Liberty*, London: Routledge & Kegan Paul, 1960, p. 160.
23. On the calculation debate, see *The Journal of Libertarian Studies* 5 (Winter 1981), especially the historical paper by Lavoie, 'A Critique of the Standard Account of the Socialist Calculation Debate', pp. 41–87.
24. All the preceding three quotations occur on pp. 80–1 of Hayek, [B–7], *Individualism and Economic Order*, London: Routledge & Kegan Paul, 1976.
25. Ibid., p. 50.
26. Israel M.Kirzner, *Competition and Entrepreneurship*, Chicago and London: University of Chicago Press, 1973, p. 68.
27. Joseph Schumpeter, *Capitalism, Socialism and Democracy*, London: Unwin, 1974, chapter 16.
28. See Paul Craig Roberts, *Alienation in the Soviet Economy*, Albuquerque: University of New Mexico Press, 1971.
29. See R.D.Laing, *The Politics of the Family*, for a useful account of this research.
30. Walter Block, *Defending the Undefendable*, New York: Fleet Press.
31. L.von Mises, *Human Action*, Chicago: Henry Regnery, 1966, Part One.
32. Gary S.Becker, *The Economic Approach to Human Behavior*, Chicago: University of Chicago Press, 1976, p. 5.
33. Ibid., p. 7.
34. Henri Le Page, *Tomorrow, Capitalism*, La Salle and London: Open Court, 1978, p. 176.
35. Becker, *Economic Approach*, p. 294.
36. See D.H.Hodgson, *Consequences of Utilitarianism*, Oxford: Clarendon Press, 1967.
37. Joseph Schumpeter, *Capitalism, Socialism and Democracy*, London: Unwin, 1974, chapters 11–14.

38. Peter Unwin, *The Idea of a Social Science*, London: Routledge & Kegan Paul, 1958.
39. Robert Nozick, *Anarchy, State and Utopia*, New York: Basic Books, 1974, pp. 21–2.

## CHAPTER 3

1. Hayek, [B–12], *The Constitution of Liberty*, London: Routledge & Kegan Paul, 1960, pp. 35–6.
2. Hayek, [B–13], *Studies in Philosophy, Politics and Economics*, London: Routledge & Kegan Paul, 1967, p. 38.
3. Hayek, [B–13], *Studies*, p. 113. Hayek acknowledges earlier in his Hume essay (p. 109, note 5: 'My attention was first directed to these parts of Hume's works many years ago by Professor Sir Arnold Plant, whose development of the Humean theory of property we are still eagerly awaiting.') Hayek is alluding to his discussions with Sir Arnold in the early 1930s at the London School of Economics, where Hayek had migrated to take up the Tooke Professorship. See Sir Arnold Plant, 'A Tribute to Hayek—The Rational Persuader', *Economic Age* 2, (January-February 1970): 4–8, especially p. 5: 'I myself had returned to LSE in the middle of 1930 after six years at the University of Cape Town, where I had developed a special interest in the scope of and functions of property and ownership, both private and public. It was a delight to find Hayek as well seized of the economic significance of the ramifications of property law as I was myself. I recall his excitement when I called his attention to the profound discussion of these matters in David Hume's *Enquiry Concerning the Principles of Morals:* section III, Of Justice, and my own gratitude to him for his influence on my own thinking about so-called intellectual and industrial property law.' The entirety of Sir Arnold's article should be consulted for the light it sheds on LSE during the thirties as a seedbed for transmitting Austrian economics. (One visitor described LSE as '*ein Vorort von Wien*'—a suburb of Vienna; p. 6.) See also Hayek's important inaugural lecture

delivered at LSE on 1 March 1933, [A–20d], 'The Trend of Economic Thinking', (*Economica* 13 (May 1933), 121–37) and his revealing article [A–71] on the history of 'The London School of Economics, 1895–1945', *Economica* N.S. 13 (February 1946), 1–13. During the 1940s Hayek was also editor of LSE's journal, *Economica*.

4. H.L.A.Hart, *The Concept of Law*, Oxford: Clarendon Press, 1961.
5. See, especially, Henry Sidgwick's masterpiece, *The Methods of Ethics*, in which Sidgwick defends an indirect form of utilitarian morality.
6. For Hayek's criticism of the standard variety of utilitarian theory, see especially [B–16], *Law, Legislation and Liberty*, vol. II, London: Routledge & Kegan Paul, 1976, pp. 17–23.
7. See Hayek, [B–13], *Studies*, p. 173: 'An optimal policy in a catallaxy may aim, and ought to aim, at increasing the chances of any member of society taken at random of having a high income, or, what amounts to the same thing, the chance that, whatever his share in total income may be, the real equivalent of this share will be as large as we know how to make it.'
8. See Hayek, [B–16], *Law, Legislation and Liberty*, vol. II, p. xiii, for his endorsement of some aspects of Rawls's theory.
9. See Ronald Hamowy, 'Law and the Liberal Society: F.A. Hayek's *Constitution of Liberty*', *Journal of Libertarian Studies* 2, no. 4 (Winter 1978): 287–97; J.Raz, The Rule of Law and Its Virtue', in *Liberty and the Rule of Law*, ed. R.L. Cunningham, Texas A & M University Press, 1979, pp. 3–21; and John N.Gray, 'F.A.Hayek on Liberty and Tradition', *Journal of Libertarian Studies* 4, (Spring 1980):119–37.
10. See note 9 above.
11. Ibid.
12. Hayek, [B–13], *Studies*, p. 168 ff.
13. Hayek, [B–13], *Studies*, pp. 116–17.
14. Raz, 'Rule of Law', p. 19.
15. Hamowy, 'Law and the Liberal Society', pp. 291–2.
16. I draw heavily here on the account of universalization given

in J.L.Mackie's *Ethics: Inventing Right and Wrong*, London: Penguin Books, 1977, pp. 83–102.

17. Hayek, [B–13], *Studies*, p. 168.
18. Ibid., pp. 116–17: 'What Kant had to say about this [justice] seems to derive directly from Hume.'
19. See R.M.Hare, *Moral Thinking*, Oxford: Clarendon Press, 1981.
20. Hayek, [B–13], *Studies*, p. 168.
21. Ibid., p. 166.
22. Ibid., p. 163.
23. See Hamowy, 'Law and the Liberal Society'.
24. Hamowy is surely right that Hayek's account of coercion is faulty. On this see Murray N.Rothbard, *The Ethics of Liberty*, Atlantic Highlands, N.J.: Humanities Press, 1981, chapter 28, 'F.A.Hayek and the Concept of Coercion'.
25. See J.L.Mackie, *Ethics*, p. 88: 'This…thesis is well formulated by Hobbes: "That a man…be contented with so much liberty against other men, as he would allow other men against himself." Hobbes equates this with the Golden Rule of the New Testament…'
26. Bruno Leoni, *Freedom and the Law*, Princeton, New Jersey: D.Van Nostrand, 1961, pp. 21–2.
27. See Hayek, [B–18], *Law, Legislation and Liberty* vol. III, London: Routledge & Kegan Paul, 1978, chapter 17.
28. See James M.Buchanan, 'Cultural Evolution and Institutional Reform' (unpubl.). I am most grateful to Professor Buchanan for allowing me to read this paper.
29. James Buchanan, *Freedom in Constitutional Contract*, College Station: Texas A & M University Press, 1977, pp. 25–30.
30. Robert Nozick, *Anarchy, State, and Utopia*, New York: Basic Books, 1974, pp. 18–22. For a most penetrating discussion of some related aspects of social explanation, see Nozick's 'On Austrian Methodology', *Synthese* 36 (1977):353–92. See also Edna UllmannMargalit's 'Invisible Hand Explanations', *Synthese* 30 (1978): 263–91. I am indebted to Professor Lester Hunt both for directing me to Ms. UllmannMargalit's article and for showing me his unpublished paper,

'Toward a Natural History of Morality', in which some of Ullmann-Margalit's work is pushed further. See also Norman P. Barry, 'The Tradition of Spontaneous Order', *Literature of Liberty* 5 (Summer 1982):7–58, as well as Richard Vernon, 'Unintended Consequences', *Political Theory* 7 (1979):57–74.

31. The insatiability of senescence-related basic needs is noted by Hayek in [B–12], *Constitution of Liberty*, pp. 208–30.
32. See ibid., chapter 6.
33. See Nozick, *Anarchy, State and Utopia*, pp. 160–4.
34. John Rawls, *A Theory of Justice*, Cambridge, Mass: Belnap Press of the Harvard University Press, 1971.
35. A.M.Honoré, 'Social Justice' in R.S.Summers, ed., *Essays in Legal Philosophy*, Oxford: Clarendon Press, 1968.
36. Nozick, *Anarchy, State and Utopia*, chapter 7.
37. Ibid., chapter 10.
38. Hayek, [B–18], *Law, Legislation and Liberty*, vol. III, pp. 146–7.

## CHAPTER 4

1. Hayek, [B–13], *Studies in Philosophy, Politics and Economics*, London: Routledge & Kegan Paul, 1967.
2. Ibid., p. 35.
3. Hayek, [B–9], *The Counter-Revolution of Science*, London: J. M.Dent and Sons Ltd., Everyman Library, 1972, chapter 3.
4. Hayek, [B–13], *Studies*, p. 26.
5. Ibid., p. 36. See also p. 18: 'Where our predictions are thus limited to some general and perhaps only negative attributes of what is likely to happen, we evidently also shall have little power to control developments.' And on p. 19: The wise legislator or statesman will probably attempt to cultivate rather than to control the forces of the social process.'
6. Hayek, [B–16], *Law, Legislation and Liberty*, vol II, London: Routledge & Kegan Paul, 1976, p. 157, note 25.
7. Michael Oakeshott, *Rationalism in Politics*, London: Methuen, 1962, p. 4.

8. Rush Rhees, *Without Answers*, London: Routledge & Kegan Paul, 1969, p. 49.
9. Hayek, [B–2], *Prices and Production*, London: Routledge & Kegan Paul, 1967, pp. 3–4.
10. On this see Gerald P.O'Driscoll Jr, *Economics as a Coordination Problem: The Contributions of F.A.Hayek*, foreword by F.A. Hayek, Kansas City: Sheed, Andrews and McMeel, 1977, pp. 48–9.
11. Hayek, [P–16b], *Denationalisation of Money*, 2nd edition, London: Institute of Economic Affairs, 1978, p. 52.
12. Ibid.
13. Hayek, [B–12], *The Constitution of Liberty*, London: Routledge & Kegan Paul, 1960, pp. 520–1, note 2.
14. G.L.S.Shackle, *Epistemics and Economics: A Critique of Economic Doctrines*, Cambridge: Cambridge University Press, 1976. Shackle's most explicit critique of Hayek may be found in his paper on Hayek in D.P.O'Brien and J.R.Presley, *Pioneers of Modern Economics in Britain*, London: Macmillan, 1983.
15. See Shackle's section on Keynes in *Epistemics and Economics*.
16. I am grateful to Professor Hayek for discussion on the possibility of secondary deflation in the context of stabilization policy. Responsibility for my interpretation of his views remains mine. Hayek advocates a 'big bang' monetary contraction in [P–16b] *Denationalisation of Money*, chapter XXII.
17. See Hayek, [P–I6b], *Denationalisation of Money*, 2nd edition, pp. 128–9, for a complete answer to these criticisms.

## CHAPTER 5

1. John Stuart Mill, *The Spirit of the Age*, introduced by F.A. Hayek, Chicago: University of Chicago Press, 1942, p. xxxiii.
2. See G.Himmelfarb, ed., *John Stuart Mill on Politics and Culture*, Garden City, New York: Anchor Books, Doubleday, 1962, for Mill's reviews of Tocqueville.
3. J.S.Mill, *Utilitarianism, On Liberty and Considerations on*

*Representative Government*, London: J.M.Dent and Sons Ltd, Everyman Library, 1972, p. 4.

4. For an account of moral thought and practical reasoning that has much in common with Hayek's and with Mill's, see R.M.Hare, *Moral Thinking: Its Levels, Method and Point*, Oxford: Clarendon Press, 1981.
5. John Gray, *Mill on Liberty: A Defence*, London: Routledge & Kegan Paul (International Library of Philosophy), 1983.
6. Thomas Sowell, *Knowledge and Decisions*, New York: Basic Books, 1980, p. 107.
7. See Hayek, [B–12], *Constitution of Liberty*, London: Routledge & Kegan Paul, 1960, p. 146, for an explicit criticism of Mill; and Hayek's 'Individualism, True and False', in [B–7], for his recognition that abstract individualism destroys liberty.
8. John Stuart *Mill, Principles of Political Economy*, Book II, chapter I: 'Of Property', first paragraph, in *Collected Works of John Stuart Mill*, Toronto: Toronto University Press.
9. Herbert Spencer, *An Autobiography*, vol. II, London: Williams and Norgate, 1904, pp. 88–9.
10. John Stuart Mill, 'Dr. Whewell on Moral Philosophy' in Mill's *Essays on Ethics, Religion and Society*, ed., J.M. Robson, in *Collected Works of J.S.Mill*, vol. X, Toronto: Toronto University Press, 1969, p. 181.
11. John Stuart Mill, *Later Letters 1840–1873*, ed., F.E.Mineka and D.N.Windley, vol. IV, *Collected Works*, vol. XVII, Toronto: Toronto University Press, 1922, p. 188.
12. D.G.Brown, 'Mill's Act Utilitarianism', *Philosophical Quarterly*, 24 (1974), 67.
13. John Rawls, 'Two Concepts of Rules', *Philosophical Review,* 64 (1955), 3–32.
14. J.J.C.Smart in *Utilitarianism: For and Against*, Cambridge: Cambridge University Press, 1973, 'Outline of a System of Utilitarian Ethics', section 2, pp. 9–12.
15. Henry Sidgwick, *The Ethics of T.H.Green, Herbert Spencer and J.Martineau*, London: Macmillan, 1902, pp. 135–312.
16. Ibid., p. 183.

17. Ibid., p. 185.
18. See the Everyman edition of *Utilitarianism, Liberty and Representative Government*, London: Dent, 1972, pp. 397–413, for some valuable selections from J.S.Mill's *Auguste Comte and Positivism*, in which his criticisms of Comte are particularly striking.
19. H.Sidgwick, 'The Relations of Ethics with Sociology', *Miscellaneous Essays and Addresses*, London: Macmillan, 1904. Sidgwick also has an extremely interesting paper on The Theory of Evolution in its Application to Practice' in *Mind*, vol. 1, No. 1 (1876).
20. I use the word 'proposal' advisedly so as to stress the normative character of Popper's falsificationism, which he himself stressed from the start, but which subsequent critics (e.g. Lakatos, 'Popper on Demarcation and Induction', P.A. Schlipp, ed., *Library of Living Philosophers*, Illinois: Open Court K.R., 1974) have not always fully acknowledged. See *Logic of Scientific Discovery*, London: Hutchinson, 1959, pp. 50–6, for a criticism of naturalistic approaches to the problem of scientific method.
21. See L.Kolakowski, *The Alienation of Reason: a history of positivist thought*, Garden City, New York: Doubleday, 1968, where the legend of Popper's positivism is still alive. It is ironical that the greatest living scourge of positivism should continue to be described as a positivist.
22. I have in mind, particularly, Popper's associate W.W.Bartley III. See for example, W.W.Bartley III and M.Bunge, 1964, *The Critical Approach to Science and Philosophy*, 'Rationality versus the Theory of Rationality', p. 19ff.
23. See R.Nozick, *Anarchy, State and Utopia*, pp. 312–17.
24. It has been argued that, in so far as any criticism of comprehensively critical rationalism only reinforces it by demonstrating its criticizability, the theory is self-validating and *therefore* self-defeating. See on this, J.W.N.Watkins, 'Comprehensively Critical Rationalism', *Philosophy*, 1969. Bartley has replied to this criticism. A most useful general statement of Bartley's development of Popper's theory of rationality may

be found in *Philosophia*, vol. 11, nos. 1–2 (February 1982), 121–221. I am indebted to Professor Bartley for conversations on these questions and for letting me have copies of a number of his unpublished papers on the theory of rationality, of which one—'Non-justificationism: Popper versus Wittgenstein' (Invited Lecture, International Wittgenstein Symposium, Kirchberg am Wechsel, Austria, August 1982)—is particularly relevant to the assessment of Hayek's rationality theory.

## CHAPTER 6

1. That inflationary credit policies will stimulate the economy only in so far as they are not expected is not, of course, a new insight, since it is to be found in Hume's economic writings, if not earlier, but it is to Hayek that we owe the systematic statement of this insight.
2. I owe this point to Neera Badhwar.
3. Hayek, [B–17], *New Studies in Philosophy, Politics, Economics and the History of Ideas*, London: Routledge & Kegan Paul, 1978, p. 250.
4. Hayek, [B–15], *Law, Legislation and Liberty*, vol. 1, London: Routledge & Kegan Paul, 1973, p. 36.
5. Ibid., pp. 36–7.
6. See James Buchanan and Gordon Tulloch, *The Calculus of Consent*, Michigan: University of Michigan Press, 1962.
7. Hayek, [B–6], *The Road to Serfdom*, London: George Routledge & Sons, 1944, chapter 10.
8. David Friedman, *The Machinery of Freedom*, New York: Harper and Row, 1973, pp. 213–17.
9. I owe this historical fact to Sir Isaiah Berlin.
10. For Rothbard's criticisms of Hayek, see *The Ethics of Liberty*, Atlantic Highlands, N.J.: Humanities Press, chapter 28.
11. See Hayek, [B–16], *Law, Legislation and Liberty*, vol. II, London: Routledge & Kegan Paul, 1976, pp. 23–4.
12. Ibid., p. 36.

13. Hayek, [B–18], *Law, Legislation and Liberty*, vol. III, p. 192, note 5.
14. Ronald Hamowy, 'The Hayekian Model of Government in an Open Society', *Journal of Libertarian Studies*, vol. VI, no. 2, (Spring 1982), 141.
15. A general philosophical argument for the permanence of some measure of social chaos has been put beautifully by Shackle in *Epistemics and Economics*, Cambridge: Cambridge University Press, 1976, p. 239:

> Rationalism, the belief that conduct can be understood as part of the determinate order and process of Nature, into which it is assimilated in virtue of the fact that men choose what is best for them in their circumstances, is a paradox. For it claims to confer upon man freedom to choose, yet to be able to predict what they will choose …for the sake of prereconciliation of choices, and also for its own unfathomable possibilities, the future must be assumed away. Thus the value-construct describes free, prereconciled, determinate choices in a timeless system. Beauty, clarity and unity are achieved by a set of axioms as economic as those of classical physical dynamics. Can the real flux of history, personal and public, be appropriately understood in terms of this conception? The contrast is such that we have difficulty in achieving any mental collation of the two ideas. Macbeth's despair expresses more nearly the impact of the torrent of events.

16. See James Buchanan, *Freedom in Constitutional Contracts*, College Station, Texas: Texas A & M University Press, 1979.
17. See John Gray, 'F.A.Hayek on Liberty and Tradition', *Journal of Libertarian Studies* 4, (Spring 1980), 119–37.
18. See Michael Oakeshott, *Human Conduct*, Oxford: Oxford University Press, 1975, for a profound evocation of the historicity of human individuality.
19. See Hayek, [B–7], *Individualism and Economic Order*, London: George Routledge & Sons, 1948, chapter 1.
20. For Irving Kristol's critique of Hayekian liberalism, see his 'Capitalism, Socialism and Nihilism', in *Two Cheers for Capitalism*, New York: Basic Books, 1978, chapter 7.

21. See Joseph Schumpeter, *Capitalism, Socialism and Democracy*, London: Unwin, 1974, chapter 13.
22. Hayek, [B–16], *Law, Legislation and Liberty*, vol. II, p. 147.
23. Hayek discusses unviable moralities ibid., in chapter 11.
24. Polanyi's account of moral inversion may be found in his *Personal Knowledge*, Chicago: University of Chicago Press, 1958, pp. 233–5.
25. Hayek, [B–18], *Law, Legislation and Liberty*, vol. III, pp. 165–6.
26. Michael Oakeshott, *On History*, Oxford: Basil Blackwell, 1983, pp. 102–6.
27. James Buchanan, *The Limits of Liberty: between Anarchy and Leviathan,* Chicago and London: University of Chicago Press, 1975.
28. I am grateful to Professor Gary Becker for illuminating discussion on these points.
29. For a conclusive argument that overpopulation is a *moral* possibility, see Derek Parfit, *Reasons and Persons,* Oxford: Clarendon Press 1984, chapter 17.
30. I have developed this criticism of natural rights and natural law theories in greater detail in my book, *Liberalism,* Milton Keynes: Open University Press, 1986, chapter 6.
31. For important recent criticisms of the authority of theory in ethics over moral practice, I refer particularly to Stuart Hampshire, *Morality and Conflict,* Oxford: Basil Blackwell, 1983, chapters 6 and 7; and Bernard Williams, *Ethics and the Limits of Philosophy,* London: Fontana Paperbacks and William Collins, chapter 5.
32. For a brilliant discussion of the conservative implication of Wittgenstein's later work, see J.C.Nyiri, 'Wittgenstein's Later Work in Relation to Conservatism', in B.McGuiness, ed., *Wittgenstein and his Times,* Oxford: Basil Blackwell, 1982, pp. 44–68.
33. See John Rawls, *A Theory of Justice,* Oxford: Oxford University Press, 1973.
34. I refer most particularly to his unfinished work, *The fatal Conceit.*

35. I have discussed the dependency of Rawls's philosophy on a specific conception of the person in my paper, 'Liberalism and the Choice of Liberties', published in *Restraint of Liberty, Proceedings of the Seventh Conference in Applied Philosophy,* Bowling Green, Ohio, 1986.
36. For the best statement of the contractarian constitutionalist approach, its roots in public choice theory and its results for political philosophy, see James M.Buchanan, *The Limits of Liberty: between Anarchy and Leviathan,* Chicago and London: The University of Chicago Press, 1975.

## POSTSCRIPT

1. See Joseph Schumpeter, *Capitalism, Socialism and Democracy,* 4th edn, London: Allen & Unwin, 1952.
2. See Karl Polanyi, *The Great Transformation: the Political and Economic Origins of our Time*, Boston: Beacon Press, 1957.
3. I discuss the construction and withering away of the mid-Victorian free market in my book, *False Dawn: the Delusions of Global Capitalism*, London: Granta Books, 1998, chapter 1.
4. I have considered the impact of deregulated markets on the social cohesion of contemporary Britain in my contribution to *Is Conservatism Dead?* by John Gray and David Willetts, London: Profile Books, 1997, pp. 13–29.
5. F.A.Hayek, *The Constitution of Liberty*, Chicago: Chicago University Press, 1960, p. 41.
6. Karl Marx, *Capital*, vol. 1, Harmondsworth: Penguin, p. 486.
7. See my *Liberalisms: Essays in Political Philosophy*, London: Routledge, 1989, 'Postscript: After Liberalism', and my *Postliberalism: Studies in Political Thought*, London: Routledge, 1993, chapter 20, 'What is dead and what is living in liberalism', for arguments against the universal authority of liberal values.
8. See my book, *Mill on Liberty: a Defence*, 2nd edn, London:

Routledge, 1996, for an extended discussion of Mill's principles of liberty.

9. I have criticized contractarian liberalism in my book *Enlightenment's Wake: Politics and Culture at the Close of the Modern Age*, London: Routledge, 1995, chapters 1 and 8, and in my book *Endgames: Questions in Late Modern Political Thought*, Cambridge: Polity Press, 1997, chapters 2 and 3.
10. See my book, *Isaiah Berlin*, London: HarperCollins, 1995, for an extended consideration of Berlin's liberalism and its relations with that of Joseph Raz. Raz's defence of a socially embedded understanding of personal autonomy is to be found chiefly in his books, *The Morality of Freedom*, Oxford: Clarendon Press, 1986, and *Ethics in the Public Domain*, Oxford: Clarendon Press, 1994.

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