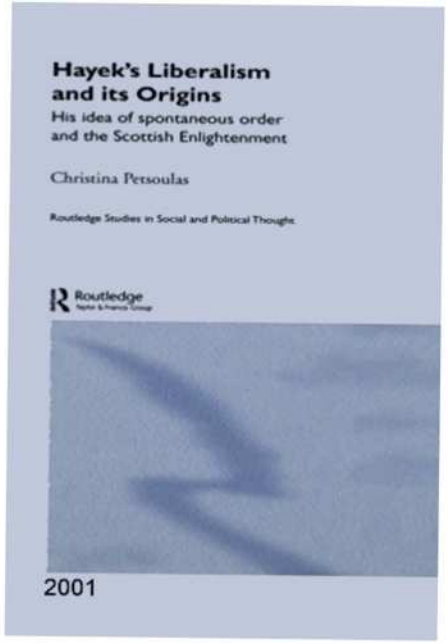
Hayek's Liberalism and its Origins

His idea of spontaneous order and the Scottish Enlightenment

Christina Petsoulas



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F. A. Hayek (1899–1992) – one of the main influences on the New Right – started his professional career as an economist. In the 1930s and 1940s he argued against Keynes that it was government intervention, rather than the lack of it, which was responsible for market instabilities. In what became known as the 'socialist calculation debate', Hayek opposed advocates of central planning, arguing that economic knowledge is impossible to centralise because it is fragmented, temporary and tacit. In his later work he stressed that such knowledge is embodied in rules which have survived a process of cultural evolution and are followed unconsciously.

Hayek's powerful defence of liberalism is based on a social theory which claims to explain the spontaneous co-ordination of a multiplicity of separately pursued individual actions. He traces the origins of this theory back to the social philosophy of Bernard Mandeville and thinkers of the Scottish Enlightenment, especially David Hume and Adam Smith. Whilst Hayek's theory of spontaneous orders has often been the object of criticism, his claims about its origins have not – until now – been closely examined. By focusing on the writings of Mandeville, Hume and Smith, this book offers a radical critique of Hayek's idea of cultural evolution according to which social rules and institutions develop in absence of conscious organisation.

Christina Petsoulas persuasively shows how the very thinkers Hayek cites as his intellectual ancestors can be used to provide a convincing critique of Hayek's own theory. This book will be an original contribution to the debate and vital reading for researchers in politics, political theory and economics.

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Introduction

F. A. Hayek's political thought is usually credited with offering a 'restatement' of classical liberalism and a new argument for modern liberalism.[1] The question of liberty occupies a central position in his writings.[2] It is thus appropriate that the focus of critical scrutiny should be an evaluation of his argument for liberty.[3] Hayek differs from other exponents of modern liberalism in that his argument for individual liberty rests *primarily* on a social theory, rather than on moral philosophical premisses.[4] Liberalism, Hayek writes, 'derives from the discovery of a self-generating or spontaneous order in social affairs'.[5] He traces the intellectual roots of this theory of spontaneous order to the tradition of 'classical liberalism', and, especially, to the writings of Bernard Mandeville, David Hume and Adam Smith. Although the argument upon which Hayek's defence of liberty ultimately rests has recently been the subject of detailed critical analysis,[6] his claims concerning the origins of the theory of spontaneous order are rarely questioned. In this study, I argue that a careful examination of the thought of Mandeville, Hume and Smith shows that they do not in fact share the main tenets of Hayek's theory of spontaneous order.

Hayek (1899–1992) began his professional career as an economist. It is thus not surprising that his economic background had a great impact on his political philosophy. His argument for individual liberty and his attack on any form of totalitarianism go back to the inter-war period. In the 1930s, the Great Depression – coupled with the apparent successes of Stalinism and Fascism – raised serious doubts as to the continued viability of unregulated capitalist society. J. M. Keynes argued that deficit spending and limited government intervention were essential to overcoming the inherent instabilities of unhampered markets. Hayek protested that Keynes had not in fact demonstrated the co-ordination failures of unregulated markets. For Hayek, it is precisely government intervention which is responsible for lack of co-ordination. Hayek also became involved in the 'socialist calculation debate', arguing against advocates of central planning (market socialists like Oscar Lange, Abba Lerner, Fred Taylor) that economic calculation is in fact impossible.[7] Specifically, he argued that the knowledge required for central

planning cannot possibly be obtained in the absence of competition and the price system.[8]

Hayek argued that it is a mistake to assume, as many economists had done, that the task of economic theory was to explain how a rationally organised economy could be constructed, if we possessed all the relevant information about individual preferences and the required resources for satisfying them. For Hayek, 'the task of economic theory was to explain how an overall order of economic activity was achieved which utilized a large amount of knowledge which was not concentrated in any one mind but existed as the separate knowledge of thousands or millions of different individuals'.[9] The dispersed nature of economic knowledge makes central planning impossible. Hayek's works were a contribution to contemporary political debate. As such, they are perhaps concerned more with securing the future of liberal society than with explaining its past. Hayek seldom relates his social theory to any historical context, but he repeatedly uses it to expose the folly of attempting to impose central planning.

Although it was probably Michael Polanyi[10] who first used the phrase 'spontaneous order', Hayek developed it into an elaborate explanatory theory, accounting for the origins, maintenance and co-ordination of social institutions. The principal tenet of the theory is that society and its institutions are neither 'natural' formations nor the outcome of human design; instead, they originate in the unintended and unforeseen spontaneous co-ordination of a multiplicity of actions by self-interested individuals. Human progress has been made possible because 'in the course of millennia men developed rules of conduct which lead to the formation of such an order out of the separate spontaneous activities of individuals'.[11]

Underlying Hayek's theory of spontaneous order is not only a desire to offer a parsimonious explanation of social order, but also a wish to draw *normative* conclusions. Compared to designed orders, spontaneous social orders are more complex, and utilise knowledge which no single individual or even a group of individual minds would ever be able to grasp, let alone control. Such knowledge would be impossible to centralise because it is of a practical nature, depending on the particular circumstances in which individual participants find themselves. Moreover, it is knowledge which is *tacit*, since it is embodied in rules which have survived a process of cultural evolution, and are followed unconsciously. Spontaneous social order (identified by Hayek with market society) is, he argues, ultimately *beneficial* to all individual members. By availing themselves of the spontaneous ordering forces of the market, men take advantage of the best-known method for the most efficient utilisation of societal resources: the market brings about a 'more efficient allocation of resources than any design could achieve'.[12]

For Hayek, reliance on the spontaneous ordering forces of the market provides the best solution to the *epistemic* problem of the fragmented, temporary and tacit nature of human knowledge.[13] The most efficient use of knowledge is achieved by the mechanism of 'negative feedback' – the

'constant disappointment' of some individual plans: market participants who mistakenly direct their efforts to unproductive activities will not be rewarded; they will be forced thereby to re-direct their resources to more productive use. The outcome for society is an ever-increasingly efficient use of the skills and knowledge of its individual members.

Market order is 'self-generating' in the sense that its individual participants adjust their activities according to information encoded in price signals. This process of spontaneous mutual adjustment of separate individual plans can be described as an *invisible hand* explanation: market order is not brought about by design, or collective agreement, but as the unintended consequence of many independent individual actions. By simply pursuing their separate interests, and without intending it, market participants bring about greater prosperity than they could have achieved had each actually aimed at it.

In addition to the price mechanism, spontaneous co-ordination of separate individual plans consists in the *regularity* (rule-following) of the conduct of individuals as they adjust to their local circumstances: 'the formation of spontaneous orders is the result of their elements following certain rules in their responses to their immediate environment'.[14] For Hayek, rules of conduct emerge by a process of *cultural evolution*[15] which is *analogous* to biological evolution; both 'rely on the same principle of selection: survival or reproductive advantage. Variation, adaptation and competition are essentially the same kind of process, however different their particular mechanisms, particularly those pertaining to propagation'.[16] Like biological evolution, cultural evolution involves two processes: (1) *variation*, in which new transmittable variants (new rules) are generated, and (2) *selection*, in which out of all variants generated, those are selected that are actually transmitted (become behavioural regularities in the social group).

Hayek argues that rules are introduced like *accidental mutations*: 'the structures formed by traditional human practices are ... the result of a process of winnowing or sifting, directed by the differential advantages gained by groups from practices *adopted for some unknown and perhaps purely accidental reasons*'.[17] The mechanism whereby rules become behavioural regularities is *group selection*. Hayek maintains that rules which are introduced by individuals accidentally (presumably as responses to their particular circumstances) 'were preserved *because* they enabled the group in which they had arisen to prevail over others'.[18] Group selection operates independently of human reason; it is not members of the group who consciously select rules of conduct because they recognise their superior adaptive capacity: rather, 'new rules would spread not because men understood that they were more effective, or could calculate that they would lead to expansion, but simply because they enabled those groups practising them to procreate more successfully and to include outsiders'.[19] Yet, Hayek's account of group selection cannot be accepted unless he shows how new rules come to be adopted by members *within* the group.

Hayek occasionally suggests an *individualist* account of the mechanism of group selection: rules that prove to be individually advantageous spread across the whole group by being *imitated* by the rest of its members.[20] The fact that rules benefit individual members explains why they are selected. Yet, in most of his writings Hayek contends that rules are selected *because* they are advantageous to the group. As will be argued, this *collectivist* and functionalist version of the mechanism of selection of rules does not in fact explain how rules come to be adopted by individual members in the group. In particular, a collectivist account of group selection cannot explain how rules which are not immediately advantageous to the individuals practising them can be expected to spread across the group in the first place. Similarly, the collectivist version of group selection cannot explain the *spontaneous* maintenance of rules of conduct which require self-sacrificial behaviour on the part of individuals; it cannot show how the problem of free-riding within the group can be overcome spontaneously. On the other hand, if the individualist version of the selection of rules is adopted, the explanatory value of the mechanism of *group* selection is significantly diminished.

The arguments concerning the spontaneous co-ordination of individual plans, and those relating to the evolutionary process by which the mechanism of such co-ordination is brought about, are the two main components of Hayek's theory of spontaneous order. Together, they constitute what he describes as the 'twin ideas of evolution and spontaneous order'.[21]

For Hayek, our social existence is the product of evolutionary forces that are beyond any individual's capacity to comprehend fully. Traditional (evolved) practices and institutions embody the cumulative knowledge of past generations: they are 'the product of a slow process of evolution in the course of which much more experience and knowledge has been precipitated in them than any one person can fully know'.[22] Individuals follow such learnt rules without fully understanding their function.[23] Far from consciously designing social institutions, the human mind is itself part of the evolutionary process by which social order is brought about. The 'constitutional limitations of the human mind', manifested in its inability to grasp the complexity of social order and understand the forces that shape it, set 'limits to the extent to which conscious direction can improve upon the results of unconscious social processes'.[24] Hayek's advice is that 'as individuals we should bow to forces and obey principles which we cannot hope fully to understand, yet on which the advance and even the preservation of civilization depend'.[25]

Hayek's theory of cultural evolution renders his idea of spontaneous order inconsistent. His anti-constructivism leads him to a rather extreme conclusion: 'tradition is not something constant but the product of a process of selection guided not by reason but by success. It changes but can rarely be deliberately changed. Cultural selection is not a rational process; it is not guided by but it creates reason'.[26] Though there is certainly 'room for improvement', Hayek argues, 'we cannot redesign but only further evolve

what we do not fully comprehend'.[27] We may, for instance, endeavour to improve the *system* of rules of justice by trying to reconcile its internal conflicts. We cannot redesign the whole system of rules; we can only tinker with particular rules by examining their consistency with the rest of the system (examine whether they contribute to the formation of the same kind of order which is brought about by the rest of the rules). Given that we owe the order of society upon which our very survival depends to a tradition of rules which we understand *imperfectly*, 'we must build on tradition and can only tinker with its products'.[28] Hayek makes a stronger claim: rules of just conduct, 'because we can deliberately alter them, become the chief instrument whereby we can affect the resulting order'.[29] Now, it is far from clear how it is possible not only to improve but also *deliberately* to alter rules whose function we do not fully comprehend. The inconsistency of Hayek's argument is further elucidated by his insistence that rules of justice *have to be enforced*, for it would be in the interest of each individual to disregard them; though those who decided to enforce these rules 'may never have fully comprehended what function the rules served'.[30] Surely, rules which are deliberately altered, and which are maintained by intentional enforcement, cannot be the product of *unconscious adaptation*.

Moreover, the idea that cultural evolution takes place independently of human *choice* weakens Hayek's defence of liberty. The idea of group selection means that, in the absence of human choice, all that men can do is simply submit to whatever rules and institutions are brought forth by impersonal evolutionary forces. Nothing in the process guarantees that evolved rules and institutions will be conducive to liberty; nor, for that matter, does group selection guarantee that, once in place, liberal institutions will remain liberal. Hayek does not of course advise us to adopt an attitude of passive acceptance of rules and institutions thrown up in the evolutionary process. As he stresses, he is *not* a conservative. His 'decisive objection to any conservatism' is that 'by its very nature it cannot offer an alternative to the direction in which we are moving'.[31] Exactly the same can be said about his theory of group selection.

Furthermore, though Hayek defends liberty primarily on *instrumental* grounds, he also presents it as a moral value: 'like all moral principles, it [individual freedom] demands that it be accepted as a value in itself, as a principle that must be respected without our asking whether the consequences in the particular instance will be beneficial'.[32] Yet, his theory of cultural evolution prevents him from providing an adequate *moral* justification of liberal institutions. For Hayek, moral values, like the principles governing mental processes, are brought about by a process of group selection. 'We have never been able to choose our morals', he writes.[33] 'All that we can know is that the ultimate decision about what is good or bad will be made not by individual human wisdom but by the decline of the groups that have adhered to the "wrong" beliefs'.[34] According to this *evolutionary* view of ethics, moral values are not immutable[35] but are continuously

re-shaped as societies adapt to changing circumstances. Evolution is a process of 'adaptation and learning in which not only the possibilities known to us but also our values and desires continually change'.[36] By grounding moral values in his theory of cultural evolution, Hayek has in effect removed the possibility of defending liberty on moral considerations. The problem with Hayek's evolutionary justification of liberty is precisely that 'there is no need to evaluate (indeed there is no possibility of evaluating) the efficiency of observed outcomes independently of the process'.[37] The desirability of liberty cannot be decided on moral grounds: we simply lack the knowledge of why it should be desirable except for its adaptational capacity.

Hayek acknowledges that his background in economics contributed to the development of his theory of spontaneous order. At the same time, he insists that the original insight into the existence of self-generating social forces belongs to what he identifies as the broad, predominantly Anglo-Saxon, tradition of anti-rationalism. The beginnings of this tradition, and the clearest statement of the idea of spontaneous order, he traces to the social thought of Mandeville, Hume and Smith. Hayek sees himself as part of this long tradition.[38]

In particular, he maintains that the foundations of the theory of spontaneous order were laid by Bernard Mandeville in his controversial book *The Fable of the Bees*. 'What I do mean to claim for Mandeville', Hayek writes, 'is that the speculations to which that *jeu d'esprit* led him mark the definite breakthrough in modern thought of the twin ideas of evolution and of the spontaneous formation of an order'.[39] Mandeville, 'for the first time developed all the classical paradigmata of the spontaneous growth of orderly social structures: of law and morals, of language, the market, and of money, and also of the growth of technological knowledge'.[40] According to Hayek, Mandeville's idea of spontaneous order was then developed by thinkers of the Scottish Enlightenment, notably David Hume and Adam Smith.

For Hayek, Mandeville's, and, in particular, Hume's and Smith's lasting contribution lies in their attack on rationalistic explanations of moral rules and social institutions. Hume's political and legal ideas, Hayek remarks, 'are most intimately connected with his general philosophical conceptions, especially with his sceptical views on the "narrow bounds of human understanding"'.[41] Similarly, 'Hume's starting point is his anti-rationalist theory of morals ... He demonstrates that our moral beliefs are neither natural in the sense of innate, nor a deliberate invention of human reason, but an "artifact" ... that is, a product of cultural evolution' in which 'what proved conducive to more effective human effort survived, and the less effective was superseded'.[42] Adam Smith 'could, of course, not direct his arguments against what we now call socialism, since this was not known in his time. But he knew well the underlying general attitude which I like to call "constructivism" ... .'[43] In general, 'the great achievement of the eighteenth-century social philosophers was to replace the naive constructivistic rationalism of earlier periods, which interpreted all institutions as the products of deliberate design for a foreseeable purpose, by a critical and evolutionary rationalism that examined the conditions and limitations of the effective use of conscious reason'.[44]

Hayek's theory of spontaneous order cannot be expected to be simply a *reiteration* of similar eighteenth-century theories. As has been suggested, 'in Hayek's work, the chief values of classical liberalism ... are defended within an intellectual framework of uncompromising modernity'.[45] Hayek argues, for instance, that the theory of spontaneous order was used by the eighteenth-century thinkers against the prevailing contemporary rationalistic explanations of Hobbes, Locke and Rousseau, who claimed that social order is brought about by a 'social contract' based on collective rational agreement among the founding members of society. Hayek uses the theory against what he takes to be analogous constructivist theories in the present century (those espousing *central planning*). Hayek's views, and those of Mandeville, Hume and Smith, must thus be partly understood as responses to different historical concerns. Although such differences will not be ignored, the main purpose of this study is a comparative assessment of the explanatory value of their social theories in accounting for the origins and maintenance of social institutions.[46]

In this book, I examine Hayek's claims about the intellectual foundations of his theory of spontaneous order. In particular, I question his interpretation of the social thought of Mandeville, Hume and Smith as an early exposition of the 'twin ideas' of cultural evolution and the spontaneous formation of social order. I argue that Hayek's contention that behavioural rules are the product of a process of group selection, which takes place *independently* of human understanding, is not in fact shared either by Mandeville, or Hume, or Smith. These thinkers maintain that rules and institutions are brought about in a process of *gradual* development in which subsequent generations build on the achievements of the preceding ones. Yet, contrary to Hayek's interpretation, their approach cannot be described as an early endorsement of *impersonal* forces of natural selection. While they do not account for the establishment of rules and institutions in terms of a pre-conceived rationalistic design, their explanation relies on the role of man's faculty of understanding in selecting rules and institutions. Unlike Hayek's theory of group selection, their explanation can best be described as *trial and error*: the process by which rules and institutions emerge is governed by *intentional experimentation*. More importantly, behavioural patterns come to be observed, not because they increase the survival chances of the groups that happen to have fallen on them; on the contrary, rules are selected because individuals practising them recognise their advantages, either to themselves or to society.

The main claim of this study is that the differences between Hayek's theory of spontaneous order and the speculative or conjectural history of Mandeville, Hume and Smith are not due to the two centuries separating them, but, rather, due to the fact that certain assumptions underlying

Hayek's social theory are indeed incompatible with the philosophical position held by its intellectual forefathers. It is my contention that Hayek's theory cannot be seen as a *development* of the social theory of the eighteenth-century thinkers. Since not all of the assumptions on which the theory of spontaneous order rests are shared by these thinkers, I will conclude that Hayek's presentation of Mandeville, Hume and Smith as the precursors of the idea of spontaneous order has to be rejected. At the same time, such rejection does not aim at belittling the importance of Hayek's contribution to a better understanding of the socio-political thought of Mandeville and the Scottish Enlightenment. The theory of spontaneous order brings together the most important aspects underlying the work of the eighteenth-century thinkers. It thus provides a valuable theoretical framework within which their thought can be analysed; a framework which also transcends the recent attempt to examine their thought according to the 'jurisprudence' vs 'civic humanism' paradigm.[47]

In Chapter One I offer a systematic analysis of Hayek's theory of spontaneous order by developing three key arguments. (1) The *epistemological argument*, according to which knowledge of social reality is dispersed, temporary and tacit and, consequently, cannot be centralised. This insight is central to Hayek's defence of market order as the most efficient instrument for the generation, utilisation and transmission of knowledge. (2) The *argument for liberty*, which is developed in the context of his theory of knowledge. Liberty – defined as absence of coercion – is indispensable to the working of spontaneous social order. Only if individuals are free to pursue their goals and use the information available only to them can society's resources be most efficiently utilised. (3) The *explanatory argument*, accounting for the origin and maintenance of spontaneous orders in terms of the 'twin ideas' of cultural evolution and the mechanism of the invisible hand.

In Chapter Two I examine critically Hayek's theory of the 'twin ideas of evolution and spontaneous order'. It is argued that, contrary to Hayek's claim, rules of just conduct (the mechanism of spontaneous co-ordination) can neither originate nor be maintained spontaneously; instead they require collective agreement and deliberate enforcement. On closer inspection, therefore, spontaneous market order turns out to be far from self-sustaining.

In Chapter Three I question Hayek's interpretation of Mandeville's paradox 'private vices, public benefits' as an early example of the twin ideas of cultural evolution and spontaneous order. It is shown that, for Mandeville, the mechanism by which private vices are transformed into public benefits is not endogenous, but involves external interference and human contrivance. Specifically, it rests on intentional manipulation of man's natural instinct of pride by skilful politicians. Furthermore, it is argued that a careful look at Mandeville's political economy reveals that it is more in line with the *dirigiste* regime of mercantilism than with the principles of *laissez-faire*.

In Chapter Four I argue that Hume's explanation of the emergence and maintenance of social norms does not conform to Hayek's theory of cultural evolution. Hayek and Hume are in agreement about the non-instinctual origins of the rules and institutions guaranteeing social order. They both present them as the product of gradual development and past experience. Contrary to Hayek's theory of group selection, however, Hume maintains that men *purposefully* use the psychological propensities of the imagination to develop rules and institutions recognised as indispensable to the existence of society, and subsequently to enforce them. Hume's account of the origins of the artificial rules of justice thus does not deny the role of reflection and men's understanding of their utility. Similarly, though Hume rejects the theory of social contract, he explains the establishment of government in terms of man's awareness of the need for an external force to counter the adverse consequences of short-sighted rationality.

Adam Smith's theory of the emergence of social norms and his 'historical' account of socio-economic change are the subject of Chapter Five. I demonstrate that though Hayek correctly draws attention to Smith's attack on 'rational constructivism', he ignores the central role of conscious reflection in Smith's theory of sympathy by which he explains the development of a set of common rules of conduct. In addition, it is argued that, for Smith, the mechanism of the invisible hand cannot by itself guarantee political stability and the harmonisation of individual interests. Political initiative, and thus a certain degree of artifice, Smith concedes, are essential to the preservation of liberal market society.

Notes

1 John Gray, *Hayek on Liberty*, Oxford, 1986 (2nd edition); Chandran Kukathas, *Hayek and Modern Liberalism*, Oxford, 1990.
2 For instance, F. A. Hayek, *The Road to Serfdom*, London, 1944. *Individualism and Economic Order*, London, 1949. *The Constitution of Liberty*, London, 1960. *Law, Legislation and Liberty*, 3 vols, London, 1982 (combined edition).
3 Gray, *Hayek on Liberty*; Kukathas, *Hayek and Modern Liberalism*; Hannes H. Gissuratson, *Hayek's Conservative Liberalism*, New York, 1987; Arthur Seldon (ed.), *Agenda for a Free Society. Essays on Hayek's The Constitution of Liberty*, London, 1961; Andrew Gamble, *Hayek: The Iron Cage of Liberty*, Cambridge, 1996.
4 For Robert Nozick, for instance, 'moral philosophy sets the background for, and boundaries of, political philosophy' (*Anarchy, State, and Utopia*, Oxford, 1974, p.6). Nozick's argument against state interference rests on a Lockean theory of individual moral rights. Similarly, John Rawls grounds his theory of distributive justice on *moral* considerations (*A Theory of Justice*, Oxford, 1972).
5 *Studies in Philosophy, Politics and Economics*, London, 1967, p.162.
6 Roland Kley, *Hayek's Social and Political Thought*, Oxford, 1994.
7 As Jeremy Shearmur correctly observes, the ideas that Hayek developed in the context of the socialist calculation debate came to shape the main lines of his political philosophy (*Hayek and After: Hayekian Liberalism as a Research Programme*, London, 1996, ch. 2).
8 Hayek develops his argument in three essays, reprinted in *Individualism and Economic Order*, pp.119–208. Cf. D. Lavoie, *Rivalry and Central Planning: The Socialist Calculation Debate Reconsidered*, Cambridge, 1985.
9 *Studies*, p.92.

10 *The Logic of Liberty*, London, 1951.
11 *New Studies in Philosophy, Politics, Economics and the History of Ideas*, London, 1978, p.10.
12 *New Studies*, pp.63–4.
13 'This optimum position means that as much will be produced of whatever combination of products and services is in fact produced as can be produced by any method that we know, because we can through such a use of the market mechanism bring more of the dispersed knowledge of the members of society into play than by any other' (*Studies*, p.174).
14 *Law, Legislation and Liberty*, I:43.
15 Cultural evolution is, for Hayek, an open-ended process: it does not manifest itself in necessary evolutionary 'stages', nor does it predict a final end state of social existence (*Law, Legislation and Liberty*, I:23).
16 *The Fatal Conceit. The Errors of Socialism*, London, 1988, p.26. Hayek describes the process of cultural evolution as 'Lamarckian': it relies on the transmission of *acquired* characteristics. In this sense, cultural evolution differs from Darwin's theory of biological evolution which relies on the transmission of genetic characteristics.
17 *Law, Legislation and Liberty*, III:155 (emphasis mine). Cf. Evolution is a 'process in which practices which had first been adopted for other reasons, or even purely accidentally ... ' (ibid., I:9).
18 *Law, Legislation and Liberty*, I:9 (emphasis mine).
19 *The Fatal Conceit*, p.16.
20 It is 'the rules which have been practised by a few and then imitated by many which created a social order of a particular kind' (*Law, Legislation and Liberty*, III:166).
21 *Studies*, p.77.
22 *Studies*, p.92.
23 'The interesting point about this is that men developed these rules without really understanding their functions' (*New Studies*, p.10).
24 *The Counter-Revolution of Science. Studies on the Abuse of Reason*, Indianapolis, 1979 (2nd edition), pp.161, 178.
25 *The Counter-Revolution of Science*, p.162.
26 *Law, Legislation and Liberty*, III:166.
27 *Law, Legislation and Liberty*, III:167.
28 *Law, Legislation and Liberty*, III:167.
29 *Law, Legislation and Liberty*, I:45.
30 *Law, Legislation and Liberty*, I:96.
31 *The Constitution of Liberty*, p.398.
32 *The Constitution of Liberty*, p.68.
33 *The Fatal Conceit*, p.133.
34 *The Constitution of Liberty*, p.36. Cf. *The Fatal Conceit*, pp.13, 133.
35 *Law, Legislation and Liberty*, III:166.
36 *The Constitution of Liberty*, p.40.
37 James M. Buchanan, *Liberty, Market and State*, Brighton, 1986, p.76.
38 This tradition includes also Edmund Burke and 'all those "historical schools" which, chiefly on the Continent, and through men like Herder and Savigny, made the idea of evolution a commonplace in the social sciences of the nineteenth century long before Darwin' (*New Studies*, p.265). Cf. *Studies*, p.106; *The Constitution of Liberty*, pp.55, 57.
39 *New Studies*, p.250.
40 *New Studies*, p.253.
41 *Studies*, pp.110–11.
42 *Studies*, p.111.

43 *New Studies*, p.269. Cf. *The Fatal Conceit*, p.146; *Studies*, p.100; *The Constitution of Liberty*, p.57. Hayek distinguishes between two broad, diametrically opposed intellectual traditions: (1) *Cartesian rationalism/constructivism*, whose mistaken emphasis on the powers of human reason, and its attempts to centralise societal resources lead to totalitarian regimes such as Nazi Germany or the Soviet Union of Stalin; and (2) the anti-rationalist, mainly Anglo-Saxon tradition, whose emphasis on the limitations of human understanding and on the self-regulating, spontaneous forces of institutional co-ordination serves as the best guarantor of individual freedom.
44 *New Studies*, pp.71–2.
45 Gray, *Hayek on Liberty*, p.2.
46 It has been suggested that Hayek's thought underwent significant changes in the course of its development. Jeremy Shearmur, for instance, sees a clear divide between Hayek's early and his later thought (*Hayek and After*, London, 1996, chs 2 and 3). Others divide his intellectual life into distinct phases (see Bruce Caldwell, 'Hayek's Transformation', *History of Political Economy*, 20, 4, 1988; Steve Fleetwood, *Hayek's Political Economy*, London, 1995). Without denying Hayek's theoretical development, I believe that, as regards his theory of spontaneous order, any changes are a matter of emphasis rather than substance. They do not therefore affect the main argument of this book.
47 See, for instance, Istvan Hont and Michael Ignatieff (eds), *Wealth and Virtue*, Cambridge, 1983.

1 F. A. Hayek's theory of spontaneous order

The idea of spontaneous order plays a central role in Hayek's social theory: '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 action of many men but are not the result of human design'.[1] The theory of spontaneous order accounts for the formation of patterns which, though they have not (and could not have) been brought about by anyone's intentions, may still *appear* to be the product of deliberate design. What makes such patterns look like deliberate creations is the 'orderliness' they exhibit. Yet, Hayek claims, contrary to what our 'anthropomorphic habits of thought'[2] lead us to believe, not every orderly pattern should be interpreted as the product of human design.

Spontaneous orders can be either (1) natural formations, occurring independently of human action, such as biological organisms and the formation of crystals and galaxies, or (2) the outcome of human action but not of human design, such as, arguably, religion, morals, language, law, money and the market. The fact that spontaneous orders are unintended consequences of human action does not mean, however, that every unintended consequence can be considered a spontaneous order. A spontaneous formation can be characterised as an *order* when it has a *structure*, and also when it is *beneficial* for the individuals involved. It is the study of spontaneous orders resulting from human activity which lies at the centre of Hayek's social thought. Throughout his work, he stresses that the idea of spontaneous order should form the core of any social theory which claims to reflect social reality. Following Hayek, I shall restrict the application of the idea of spontaneous order to the explanation of social phenomena.

Spontaneous orders and made orders

One of the striking features of Hayek's thought is his 'Manichean' view of the world.[3] Everything he considers superior – spontaneous order, 'evolutionary rationalism', individualism, capitalism, liberalism – is juxtaposed against its opposite – made/designed order, 'constructivist rationalism',

collectivism, socialism, totalitarianism. According to this binary vision of the world, order exists either as *cosmos* or as *taxis*. 'Cosmos' refers to 'grown' or spontaneous order; 'taxis' refers to 'made' order or organisations. Institutions like 'morals, religion and law, language and writing, money and the market'[4] are instances of spontaneous order. Examples of social institutions which are made orders are 'the family, the farm, the plant, the firm, the corporation and the various associations, and all the public institutions including government'.[5] Such made orders or organisations are integrated into the overall spontaneous order of society. What primarily distinguishes these two types of order is the way in which they are brought about: 'made' orders rely for their formation on prior collective agreement, and require for their maintenance a directing command centre; spontaneous orders, by contrast, are not the result of concerted action, and are *self-co-ordinating*. As this distinction illustrates, Hayek is more interested in the *process* whereby order is produced, than in what exactly constitutes order once it has been formed.

In addition to the process through which they are brought about, the distinction between 'spontaneous' and 'made' orders is drawn along three key dimensions: *complexity*, *purpose* and *abstraction*.

Complexity While made orders are created 'exogenously' by a designing, external agent, spontaneous orders are 'endogenous' or self-generating. Since they are designed, made orders are bound to be relatively simple, comprising only such elements as the human mind can grasp. Spontaneous orders, by contrast, without necessarily being complex, may achieve any degree of complexity, irrespective of what the human mind can master. In short, 'very complex orders, comprising more particular facts than any brain could ascertain or manipulate, can be brought about only through forces inducing the formation of spontaneous orders'.[6] Consequently, man has only limited control over spontaneous complex orders. Hayek maintains that we can merely alter to a limited extent some of the rules contributing to the formation of spontaneous orders.

Purpose Being deliberate constructions, made orders have been created with a specific purpose in mind and thus serve the purpose of the maker. A spontaneous order does not serve any particular purpose, although its existence is explicable in terms of its contribution to the successful pursuit of many different individual purposes. In a different sense, however, it may be said that a spontaneous order rests on the purposive action of its constituent elements. In this context, an action is 'purposive' when it tends to preserve the order to which the element belongs. 'Purposive' is a sort of 'teleological shorthand', meaning that 'the elements have acquired regularities of conduct conducive to the maintenance of the order – presumably because those who did act in certain ways had within the resulting order a better chance of survival than those who did not'.[7] The elements whose conduct did not

contribute to the preservation of the order were gradually eliminated. Since the order is unintended, we barely need to note that the use of 'purposive' here does not imply any awareness of purpose on the part of the individuals whose actions contribute to the preservation of the order. Hayek notes that, to avoid any misconception, the word 'purpose', when referring to the contribution of the elements' activity to maintaining the order, can be replaced by the word 'function'.

Abstraction Made orders are concrete in the sense that they present themselves to our senses and can thus 'be intuitively perceived by inspection'. Spontaneous orders, such as the mind, society and the market, consist of 'a system of abstract relations between elements which are also defined only by abstract properties'. Such orders are not perceived intuitively but can only be mentally reconstructed 'on the basis of a theory accounting for their character'.[8] The abstract character of complex spontaneous orders is determined by the set of abstract rules which their constituent elements obey. Hayek writes: 'the rules which determine it [the spontaneous order] determine only its abstract character, while the detail depends on the particular circumstances known only to its individual members'.[9] We can only hope to discover the rules[10] which bring about the order, but we will not be able to know all the elements comprising it, or the particular circumstances in which they are placed. We can influence only the general character rather than particular details of spontaneous orders.[11] Even accounting for the rules on which the formation of spontaneous orders depends is not an easy task: 'most of the rules which do govern existing society are not the result of our deliberate making, and in consequence we often understand only very imperfectly what depends on them'.[12] Our knowledge is, therefore, bound to be of the abstract character of the order rather than of all its particular details; in practice, by availing ourselves of the ordering forces of spontaneous order (the rules its individual members obey), 'we at the same time limit our power over the details of that order'.[13] For Hayek, the significance of the abstract character of spontaneous orders 'rests on the fact that they may persist while all the particular elements they comprise, and even the number of such elements, change'.[14] What contributes to the formation of an abstract order, such as society, is neither the character nor the number of particular individuals, but the fact that they act in accordance with the appropriate set of abstract rules of conduct, the mechanism whereby co-ordination of their separate individual actions is achieved.

These three dimensions help clarify the distinction between spontaneous and made order. Made orders do not present explanatory difficulties, for their appearance can be traced back to the intentions of those who establish them. The object of the theory of spontaneous formations, on the other hand, is to explain the *mechanism* whereby orderly systems emerge as the unintended outcome of a multiplicity of separately pursued individual goals. For Hayek, the theory of spontaneous order offers an *explanatory* device with

far-reaching practical implications – not least as the basis for his attack on central planning. Yet, one basic difficulty is that he does not provide a systematic analysis of the idea of spontaneous order. The closest he comes to doing so is to note two general features of such orders. First, an order is said to be spontaneous when it is formed by the mutual adjustment of its constituent elements as each of them tries to adapt to their particular circumstances. Second, he claims that the mechanism of spontaneous co-ordination is the rule-governed behaviour of the individual elements: 'the formation of spontaneous orders is the result of their elements following certain rules in their responses to their immediate environment'.[15] The rules which contribute to the formation of spontaneous orders do not themselves originate in human design; they emerge spontaneously in a process of cultural evolution. In an attempt to offer a more systematic analysis, I have distinguished three basic arguments[16] which make up Hayek's idea of spontaneous order.

The epistemological argument Spontaneous orders can achieve such a degree of complexity that no human brain can possibly survey them, let alone control them. Society – and by that Hayek means modern market society – is a spontaneous order whose complexity extends well beyond man's mental capacity. The utmost man can hope to discover are the general rules of conduct on which the formation of social order depends. With knowledge of these rules, he may be able to understand the general character of the order, but he will never be able to know all the particular details of its operation. As will be seen, the reason for man's inability to fathom all the details of market order lies in the dispersed, temporary and tacit nature of knowledge. Hayek maintains that knowledge is dispersed among an indefinite number of individuals, and, as such, it can never be centralised. To this factual observation, he attaches a normative conclusion: by bringing about the most efficient generation, transmission and utilisation of knowledge, market order serves a unique epistemic function which makes it preferable to made orders.

Hayek further argues that there is an even more fundamental obstacle to understanding the workings of society in its entirety. The human mind is itself shaped by the same evolutionary forces which bring about spontaneous social order; as such, it cannot obtain an independent standpoint, outside the social order, from where it can survey the whole of this order. He argues, specifically, that the human brain is itself a highly complex spontaneous order, governed by a hierarchical structure of rules which are the outcome of a process of natural selection. The human mind can never know the ultimate rules governing its operation, for higher order rules are followed unconsciously and are not accessible to precise articulation. A substantial part of human knowledge is therefore *tacit*. Hayek concludes that efforts to subject the social order to rational control are misguided, for man's conscious thought is ultimately governed by rules which are followed unconsciously.

Thus the spontaneous order fulfils a further epistemological end: it enables man to cope with his inherent ignorance.

The argument for liberty The epistemological argument for Hayek's theory of spontaneous order provides the basis for his defence of individual liberty. Given that knowledge is dispersed, tacit and temporary, it is most efficiently utilised in an environment of decentralised decision-making in which individuals are free to pursue their goals by using the information available to them. Hayek defines liberty as 'the state in which a man is not subject to coercion by the arbitrary will of another or others'.[17] According to this definition, an individual is free when he is not prevented from pursuing his own ends.[18] Made orders are consequently coercive, for individuals are made to serve the purpose of the maker. Only spontaneous orders, Hayek concludes, are conducive to individual liberty, for they allow men to pursue their individual plans free from interference by others.

Absence of coercion does not mean, however, absence of *all* forms of restraint. Hayek maintains that the freedom of all is best secured by the universal application of the rule of law. He thus espouses a form of negative liberty[19] similar to Locke's. The sole justified limit to individual liberty is the enforcement of negative rules of justice, which simply prevent individuals from interfering with the private sphere of others. The enforcement of the rule of law is not at odds with liberty, for negative rules of justice are not coercive. Their universal application means that they are not directed at particular individuals. More importantly, far from being the product of anyone's arbitrary will, such rules are adaptations to man's constitutional ignorance and have emerged as the outcome of the impersonal forces of cultural evolution. Their function is to protect the area within which individuals can pursue their plans free from interference by others. Liberty is ultimately defended as the only condition under which the epistemological problem can be overcome: in allowing individuals to pursue their own ends, liberty brings about the most efficient utilisation of their separate and localised knowledge. Thus, Hayek's emphasis lies with the instrumental[20] rather than moral value of individual liberty.

The explanatory argument In trying to specify the process by which spontaneous orders emerge and are subsequently maintained, Hayek repeatedly refers to the 'twin ideas of evolution and of the spontaneous formation of an order'.[21] This is one of the most puzzling statements in his social theory, for it is never systematically explored. He writes that the 'twin ideas of evolution and spontaneous order' enable us to understand that 'it is always some regularity in the behaviour of the elements which produces, in interaction with the environment, what may be a wholly different regularity of the actions of the whole'.[22] Although this statement does not clarify the sense in which 'cultural evolution' and 'spontaneous order' are *twin* ideas, it can still be used as the basis for reconstructing Hayek's argument. Without explicitly acknowledging it, he seems to combine two types of evolutionary explanation. His description of the spontaneous *formation* of social order relies on what I shall call an 'invisible-hand' explanation. His account of the emergence and maintenance of rules of conduct employs a 'functionalist-evolutionary' explanation.

Hayek's compound evolutionary explanation runs as follows. In a process of cultural evolution 'practices which had first been adopted for other reasons, or even purely accidentally, were preserved because they enabled the group in which they had arisen to prevail over others'.[23] Rules are selected because of their function in providing the mechanism of spontaneous co-ordination. The mechanism of selection in cultural evolution is *group survival*. The criterion of selection is overall economic prosperity. In his later writings, Hayek adopts the controversial view that prosperity is manifested in the sheer fact of population increase. Thus, groups that happened to develop the appropriate set of rules had competitive advantages, manifested in the fact that they 'prospered and multiplied'.[24] Given this specific set of rules, an order emerges spontaneously, as the unintended outcome of the actions of many individuals separately pursuing their goals. It should be pointed out that Hayek stresses the *non-intentional* character of the process of cultural evolution in selecting from a variety of competing rules and institutions those that promote group survival. He writes, 'we hardly can be said to have selected them; rather, these constraints selected us: they enabled us to survive'.[25]

This brief characterisation of its constituent elements does not adequately explicate Hayek's idea of spontaneous order, nor is it sufficient to allow us to see the weaknesses of his account. In what follows, I provide an exposition of Hayek's concept of spontaneous order by developing a deeper analysis of each of these arguments. Special emphasis is placed on what Hayek calls a 'set of abstract rules of just conduct', which constitute the *mechanism* whereby spontaneous co-ordination of individual actions is achieved.

The epistemological argument

To understand Hayek's theory of spontaneous formations, it is important to understand his views on the limitations of the human mind. He writes, 'the Socratic maxim that the recognition of our ignorance is the beginning of wisdom has profound significance for our understanding of society'.[26] This section focuses on the opposition between 'evolutionary' and 'constructivist' rationalism. Hayek contrasts the theory of 'spontaneous order' with what he calls the theory of 'constructivist rationalism'.[27] This rationalistic doctrine, which he also labels 'Cartesian constructivism', views social institutions and society in its entirety as the products of rational deliberation rather than the unintended consequences of human action. Constructivist rationalism rests on the fallacious assumptions that (1) knowledge can be concentrated with one or more selected individuals, and (2) that 'all social institutions are, and

ought to be, the product of deliberate design'.[28] As will be seen, Hayek rejects both the factual and normative conclusions of this constructivist doctrine. His position is that knowledge of the totality of social facts can exist only in a dispersed, fragmented and incomplete form, and as such, it can never be centralised.

Furthermore, a substantial part of man's knowledge is embodied in abstract rules of conduct and perception which have emerged in a process of cultural evolution. The successful pursuit of individual plans depends largely on rules 'whose purpose or origin we often do not know and of whose existence we are often not aware'.[29] Attempts to subject the social order to rational control are undesirable, for they will necessarily be made at the expense of a precious, albeit unarticulated, form of knowledge which builds upon the cumulative experience of past generations and is handed down in the form of habits, skills, language, conventions and moral beliefs. Consequently, the rationalistic doctrine is simply a hubris or conceit, deriving from man's immense arrogance and over-confidence in the powers of the human mind. A more realistic account of the origins and historical development of society should, Hayek maintains, necessarily involve man's reconciliation to the fact of his intellectual limitations. In this section, I concentrate on two aspects of Hayek's epistemology which are central to his argument for the desirability of spontaneous orders:

1 The factual observation that knowledge is dispersed[30] amongst a multitude of individual minds, which explains why such knowledge cannot be centralised.
2 The claim that the human mind is the product of cultural evolution, which explains why existing social rules and institutions could not have been 'invented' by man.

Unlike designed orders, Hayek argues, spontaneous orders are formed by making use of both the dispersed knowledge of all their individual members and the cumulative, *tacit* knowledge stored in skills, habits, customs and morals.[31] By enabling their members to profit from the use of more knowledge than they possess individually, spontaneous orders perform a unique epistemic function which renders them superior to made orders.[32]

The dispersed character of knowledge

According to Hayek, there are at least two respects in which the spontaneous order of the market is superior to the made order of a centrally directed economy: 'knowledge that is used in it [spontaneous order] is that of all its members. Ends that it serves are the separate ends of those individuals [its members], in all their variety and contrariness'.[33] The made order of a planned economy, by contrast, relies exclusively on the knowledge possessed by the central authority, while the actions of its members are

governed by the unitary hierarchy of ends which such an economy is set out to serve. Hayek believes that, because economic knowledge cannot be concentrated in a central authority, society cannot successfully be organised according to the principles governing made orders. To understand why economic knowledge cannot be centralised, we need to take a closer look at Hayek's description of the nature of such knowledge. This is the subject of the following exposition.

When speaking of the dispersed nature of knowledge, Hayek does not have in mind scientific knowledge which, he maintains, can be centralised. As he writes, '[w]hile it is perhaps conceivable that all theoretical knowledge might be combined in the heads of a few experts and thus made available to a single central authority, it is this knowledge of the particular, of the fleeting circumstances of the moment and of local conditions, which will never exist otherwise than dispersed among many people'.[34] Scientific knowledge (or knowledge of general rules) forms, however, only a tiny fraction of the whole of human knowledge. There is 'a body of very important but unorganised knowledge which cannot possibly be called scientific in the sense of knowledge of general rules: the knowledge of the particular circumstances of time and place'.[35]

Dispersed knowledge refers primarily to *economic* knowledge; that is, 'practical' knowledge, relating to the specific or 'local' circumstances of individuals. Practical knowledge is *tacit*[36] by nature: it refers to knowledge of skills rather than facts; it is 'know how' as distinguished from 'know that'. Yet Hayek's definition of economic activity is so broad that it includes every kind of rational individual action. He doubts whether *any* actions are *purely* economic in the narrow material sense: 'it is very questionable whether there are any actions which can be called merely "economic" ... Economic considerations are merely those by which we reconcile and adjust our different purposes, none of which, in the last resort, are economic (excepting those of the miser or the man for whom making money has become an end in itself)'.[37]

Economic knowledge can never exist as a consistent and coherent body; it exists only in a dispersed and incomplete form, distributed among millions of individual minds. In general, 'knowledge exists only as the knowledge of individuals. It is not much better than a metaphor to speak of the knowledge of society, as a whole. The sum of the knowledge of all the individuals exists nowhere as an integrated whole'.[38] Accordingly, such knowledge can never be concentrated in a single mind or even a group of minds, and this fact renders any attempt to centralise it a practical impossibility. The dispersed form of knowledge is observed only in complex modern industrial societies which stand in marked contrast to simple tribal communities. In modern societies, the division of labour results in the growth of specialised knowledge. The discipline which deals with the dispersed, fragmented, localised and momentary form of knowledge is called by Hayek *catallactics*, and the general framework within which such knowledge is generated,

transmitted and most efficiently utilised is the *market*. The market provides the best solution to the economic problem which society faces: 'how to secure the best use of resources known to any of the members of society, for ends whose relative importance only these individuals know'.[39] In the market, information is transmitted and co-ordinated automatically via the price mechanism in a process of unrestrained competition. The unique epistemic function performed by the market is captured in Hayek's description of competition as a 'procedure for the discovery of such facts as, without resort to it, would not be known to anyone, or at least would not be utilised'.[40]

A central authority, Hayek argues, can never be in a position to gather all the relevant economic knowledge, for such knowledge is 'fragmented', 'local' and 'temporary'.[41] Economic production is determined by individual preferences, and no central agent can ever know either what *all* individual preferences are, or how they are rated; no single authority can know 'what kinds of things or services are wanted, and how urgently they are wanted'.[42] Hayek goes further, arguing that individual preferences are often *discovered*, rather than being merely satisfied, within the process of economic exchange. 'A great part of the wants which are still unsatisfied in modern society are not wants which would be experienced spontaneously by the individual if left to himself, but are wants which are created by the process by which they are satisfied.'[43] Thus, as new goods and services appear in the market, individuals discover preferences of which they have not previously been aware.

In addition to the issue of what should be produced, there is the question of how it can be produced most efficiently. A planned economy is bound to be inefficient, for knowledge of all the existing means of production cannot be transmitted to a central agent; such knowledge depends to a large extent on the local circumstances of individuals.[44] Hayek notes that local economic knowledge is best utilised by allowing for decentralisation of decision-making.[45] There is yet another element which renders economic knowledge impossible to centralise: both preferences and conditions of production change rapidly. Thus, even if a central authority were able to gather information about individual preferences and existing means of production, it would still lack the means of adapting to rapidly changing economic conditions. In a market economy, the price mechanism facilitates adaptation to unforeseen changes: 'adaptation of the whole order of activities to changed circumstances rests on the remuneration derived from different activities being changed, without regard to the merits or faults of those affected'.[46] Goods and services which do not serve any need are thereby eliminated, for prices function as indicators of what is demanded.

Hayek argues that the failure to recognise the tessellated nature of knowledge has resulted in efforts *consciously* to direct the social process. The belief that society can be remodelled according to man's intentions is expressed in phrases like 'political' or 'social engineering'.[47] A comparison of engineering with entrepreneurship, however, demonstrates that attempts at central planning are totally misguided. The knowledge possessed by the true engineer is limited to a realm which he completely surveys and controls. The successful application of the techniques of the engineer to society as a whole would require a central authority possessing complete and concentrated knowledge of that society, just as the engineer possesses complete and concentrated knowledge of the immediate environment under his control. Hayek considers this a practical impossibility.[48] The activities of the merchant, on the other hand, are intrinsically 'social', since tightly interwoven with the independent decisions of other market participants. 'His special knowledge', Hayek writes, 'is almost entirely knowledge of particular circumstances of time or place, or, perhaps, a technique of ascertaining those circumstances in a given field'.[49]

Entrepreneurship is indispensable to the transmission of such localised knowledge within the process of catallaxy.[50] A catallaxy is defined as 'the special kind of spontaneous order produced by the market through people acting within the rules of the law of property, tort and contract'.[51] The order of catallaxy, through the mechanism of the price system, achieves the best utilisation of dispersed and fragmented knowledge by combining decentralisation of decision-making and mutual adjustment of decisions within a process of competition. Although within the catallaxy every participant possesses only a tiny fragment of the knowledge of all the possible sources of supply or uses of a commodity, yet, 'directly or indirectly, the parties are so interconnected that the prices register the relevant net results of all changes affecting the demand or supply'.[52] 'Social planning' represents an attempt to reconstruct and control society according to the dictates of Reason. Hayek contends that attempts at central planning are bound to fail, for 'human Reason, with a capital R, does not exist in the singular, as given or available to any particular person, as the rationalist approach seems to assume, but must be conceived as an interpersonal process in which anyone's contribution is tested and corrected by others'.[53]

Hayek's argument concerning the dispersed character of knowledge forms the basis for his advocacy of individualism, which he characteristically examines in terms of a dichotomy: his own 'true' individualism is juxtaposed against 'false' individualism. True individualism he defines as 'primarily a *theory* of society, an attempt to understand the forces which determine the social life of man, and only in the second instance a set of political maxims derived from this view of society'.[54] In its political implications, individualism is identified with liberalism. As a theory of society, it is identified with 'methodological individualism'. For Hayek, individualism is a *social* theory.[55] 'True' individualism starts by regarding man as a social rather than a solitary being.[56] His methodological individualism is not an example of the 'atomistic or analytic individualism',[57] which 'postulates (or bases its arguments on the assumption of) the existence of isolated or self-contained individuals, instead of starting from men whose whole nature and character is determined by their existence in society'.[58]

True methodological individualism militates against methodological collectivism. In Hayek's view, collectivism examines society as a *sui generis* entity; that is, as a unified 'whole' existing independently of the individuals who compose it. 'Methodological collectivism' is a corollary of *scientism*,[59] a term signifying the mechanical and uncritical application of the methodology of the natural sciences to the social sciences. Hayek advocates a dualism in scientific method, for, as he maintains, there exists a fundamental difference between the object of investigation of the natural sciences and the object of investigation of the social sciences.[60] The difference lies in the *subjective* character of the data of the social sciences.[61] The task of natural science is the correction of 'appearances', which can be achieved by the closest, but always imperfect, reproduction of objective material reality.[62] The objects of social science are institutions such as money, property, the police, government and so on, which 'can never be given an analysis in objective or physicalist terms, since they are actually constituted by human beliefs and notions'.[63] Social sciences deal with phenomena which result from the combined effect of human action, and 'so far as human actions are concerned the things *are* what the acting people think they are'.[64] Scientism treats society and its institutions as 'definitely given objects about which we can discover laws by observing their behaviour as wholes'.[65] 'True' individualism, by contrast, recognises the subjective nature of social phenomena: it starts with the conviction that individual preferences, and the actions in which they result, are the proper object of social studies, whose aim 'is to explain the unintended or undesigned results of the actions of many men'.[66] Yet, despite his sharp criticism of scientism, Hayek did not escape its influence altogether, for his description of the spontaneous formation of social rules and institutions draws heavily on the findings of biology, as will be shown later in this chapter.[67]

Furthermore, true individualism militates against 'rationalistic pseudo-individualism' or 'constructivist rationalism'. In terms of their practical implications, the former leads to liberalism while the latter leads to collectivism. Hayek cites the British liberal thinkers John Locke, Bernard Mandeville, David Hume, Adam Smith, Adam Ferguson, Edmund Burke and Josiah Tucker as exponents of true individualism. Rationalistic or 'false' individualism always tends to develop into its opposite – socialism or collectivism – and it is represented by the social contract theorists, Hobbes and Rousseau, the French Encyclopedists, the physiocrats and by those who follow the doctrine of 'Cartesian rationalism' and aspire to any sort of 'social engineering'.[68] True individualism recognises the dispersed character of knowledge and accounts for the formation of social order as the spontaneous outcome of the *free* interaction of individuals in the pursuit of their *several* goals.[69] In practical terms, the chief concern of true individualism has always been to find 'a set of institutions by which man could be induced, by his own choice and from the motives which determined his ordinary conduct, to contribute as much as possible to the need of all others'.[70] The system of rules of private property provides such an institutional arrangement; it provides for every individual a clearly defined area of responsibility within which he can use his knowledge and skills for the satisfaction of his own preferences.

Moreover, true individualism recognises that the majority of social institutions, including the system of rules of property, have not been designed but have emerged spontaneously. While 'false' individualism treats with contempt anything that has not been consciously designed, true individualism treats society and its institutions as the unintended and unforeseen results of human action and bows before 'the impersonal and anonymous social processes by which individuals help to create things greater than they know'.[71] As will be shown presently, the human mind, instead of designing and directing such spontaneous processes, was itself determined and shaped by them.

The human mind as the product of cultural evolution

Hayek claims that knowledge cannot be centralised because it is dispersed, local and tempotary. However, even if these obstacles were to be removed somehow, the fact that a large part of human behaviour and interaction rests on *tacit* rule-following would still render knowledge impossible to centralise. Tacit rule-following refers to Hayek's belief that man's perception and conduct are ultimately governed by rules which are followed unconsciously and which are not defined *verbally*. He writes: 'so long as the individuals act in accordance with the rules it is not necessary that they be consciously aware of the rules. It is enough that they *know how* to act in accordance with the rules without *knowing that* the rules are such and such in articulated terms'.[72] Such rules, he contends, enable man to cope with an environment far too complex to comprehend in its entirety. Furthermore, Hayek advances the claim that these rules transcend individual wisdom, for they embody the accumulated experience of past generations.[73] Consequently, by following these rules, men are able to use a greater amount of knowledge than they could ever master individually. Once more, while spontaneous orders make use of the knowledge stored in evolved rules of conduct and perception, made orders rely exclusively on the limited amount of knowledge which can be subjected to conscious control. The following discussion of tacit knowledge aims at complementing Hayek's claims about the beneficial epistemic function of spontaneous orders.

Hayek's idea of tacit rule-following can be understood better when placed in the context of his theory of mind, a detailed account of which is to be found in *The Sensory Order*. In this work, mental activity is presented as physical activity, for it is equated with the physiological neural connections and impulses in the central nervous system. Hayek contends that the neural order and the mental order 'are not merely isomorphous but identical and that to postulate a separate set of terms for the mental order would be

redundant'.[74] The mental order forms therefore part of the broader physical order.[75] He argues, moreover, that the neural order is an 'apparatus of classification', by which he means that the nervous system receives undifferentiated masses of stimuli which it classifies into 'groups' or 'categories'.

Following Kant's critical philosophy,[76] Hayek believes that we can never attain a transcendental standpoint from which to develop a real conception of the world as it is, free from our human experience and preconceptions. We attain knowledge of the world through the mind's classificatory apparatus which organises our sensory experiences. In Hayek's words, '*all* mental phenomena, sense perceptions and images as well as the more abstract "concepts" and "ideas," must be regarded as acts of classification performed by the brain. This is, of course, merely another way of saying that the qualities which we perceive are not properties of the objects but ways in which we (individually or as a race) have learned to group or classify external stimuli'.[77] Human knowledge is attained through the mind's synthetic qualities. Without this creative capacity of the mind, all sensory experience would be absolutely meaningless; a 'blooming, buzzing confusion'.[78] The Humean idea of the existence of an original core of pure sensory impressions untainted by any conceptual constructions is rejected by Hayek. For Hayek, like Kant, there can be no raw perceptions, for all perceiving is 'perceiving as'.

One of the mind's main functions is to enable us to make sense of our sensory perceptions of the external world. How does the mind achieve this? In interacting with the world, the mind classifies external stimuli into different categories or principles. In doing so, it selects only some of an infinite number of aspects of the world.[79] In this sense, our knowledge of external objects, that is, all sensory perception, is 'abstract', meaning that 'it always selects certain features or aspects of a given situation'.[80] The purpose served by this mental operation of classification or abstraction is to enable man to cope with a world which is far too complex for any human brain to comprehend. While 'constructivist rationalism' does not recognise this vital function performed by abstraction, Hayek's 'evolutionary rationalism' 'recognises abstractions as the indispensable means of the mind which enable it to deal with a reality it cannot fully comprehend'.[81]

The basic contention of evolutionary rationalism is that mental activity is a process whereby man adapts to his environment. Hayek maintains that the mind's classificatory apparatus is determined by a system of connections or 'linkages' which is 'acquired in the course of the development of the species and the individual by a kind of "experience" or "learning" '.[82] Man's cognitive ability is therefore rooted in personal experience, and social experience too, given that we are social beings.[83] Were it not for the accumulated 'presensory' experience, on the basis of which all mental operations are performed, sensory perception would not at all be possible.[84] Our senses are the agents of our contact with the external world, but they would be nothing without the interpretative qualities of our mind. There is no such

thing as pure sensation, for all sensations involve conceptual interpretations. The whole of our sensory knowledge is simply an 'interpretation' determined by man's biological and cultural evolution. Hayek writes, 'every sensation, even the "purest", must therefore be regarded as an interpretation of an event in the light of the past experience of the individual or the species'.[85] He does not seem to realise, however, that this argument leads naturally to an infinite regress.

Furthermore, the mind's system of classification can be modified in the light of further experience. In Hayek's words, '*all* we know about the world is of the nature of theories and all "experience" can do is to change these theories'.[86] The neural order is constantly modified as it responds to new stimuli provided by the environment. Yet what can be revised on the basis of further experience is only a part, never the whole, of our mental system of classification. 'There is, therefore, on every level, or in every universe of discourse, a part of our knowledge which, although it is the result of experience, cannot be controlled by experience, because it constitutes the ordering principle of that universe by which we distinguish the different kinds of objects of which it consists and to which our statements refer.'[87] Hayek maintains that the ordering operations of the mind are ultimately governed by rules which are impossible either to grasp or to articulate. The mind, in other words, can never fully understand the ordering principles by which it is governed. It is evident, Hayek argues, that an instrument of classification must, by necessity, possess a more complex structure than the structure of the objects which it classifies.[88] This means that 'no explaining agent can ever explain objects of its own kind, or of its own degree of complexity, and, therefore, that the human brain can never fully explain its own operations'.[89] The great error of Cartesian rationalism, Hayek asserts, stems precisely from its failure to recognise that the human mind will be never able to comprehend the particular details of its own operation. Even less is human intelligence able to explain the operating details of society, an order far more complex than any individual brain.

Hayek argues, specifically, that the classificatory operations of the mind are governed by an order of *hierarchically* ranked rules of conduct and perception. Rules at the lower levels – which guide conscious thought – are in turn governed by 'supra-conscious' or 'meta-conscious' rules, of which we can never gain complete understanding.[90] He thus concludes that a substantial part of the mind's interpretative operations are ultimately *unconscious*. He states that all conscious thought must 'be assumed to be directed by rules which in turn cannot be conscious – by a supra-conscious mechanism which operates upon the contents of consciousness but which cannot itself be conscious'.[91] In this sense, most of human knowledge is 'tacit',[92] or knowledge governed by rules which cannot be either completely understood or fully articulated.[93]

Not only man's conscious thought but also most of his actions are ultimately determined by rules which are followed unconsciously. For abstract

rules of perception, there are corresponding abstract rules of action.[94] Perceiving and thinking should be regarded as 'a function of an acting organism in which the differentiation of the stimuli manifests itself in the differences of the dispositions to act which they evoke'.[95] Human action is rule-guided, where by 'rule' is meant 'a propensity or disposition to act or not to act in a certain manner, which will manifest itself in what we call a *practice* or custom'.[96] Practical or *tacit* knowledge refers to rules which are followed *mechanically* and enable us to exercise extremely complicated skills, 'but which [rules] we need not be able to state in order to obey them'.[97] The function of rules of action is similar to that of rules of perception. They both enable man to adapt to his environment and cope with the complexity of the world he inhabits. Perception involves a process of selecting only certain aspects of the perceived objects. Similarly, 'we never act, and could never act, in full consideration of all the facts of a particular situation, but always by singling out as relevant only some aspects of it; not by conscious choice or deliberate selection, but by a mechanism over which we do not exercise deliberate control'.[98]

Abstract rules of conduct enable individuals to lead an orderly existence by providing the means of adapting to 'ever new and unforeseeable circumstances'.[99] For this reason, they are like 'general purpose tools' which 'have been shaped not with a particular purpose in view but because in this form rather than in some other form they have proved serviceable in a great variety of situations'.[100] The advantage of acting habitually – unconsciously following rules which embody cumulative past knowledge – is that individuals can deal with a variety of recurrent problem situations without having to think each time of the appropriate solution. The knowledge embodied in such rules manifests itself 'as a propensity to act in certain types of situations in a certain manner'.[101]

In addition to providing individual guidance, abstract rules of conduct constitute the medium of communication between the individual members of a group, and provide the basis for common understanding and social cohesion within a particular social context.[102] In general, by bringing about a certain degree of regularity and predictability of individual actions, abstract rules of conduct and perception are the mechanism for the spontaneous co-ordination of social action. As Hayek writes, 'the general observance of these conventions is a necessary condition of the orderliness of the world in which we live, of our being able to find our way in it, though we do not know their significance and may not even be consciously aware of their existence'.[103] A significant part of knowledge is therefore embodied in abstract rules of conduct – customs and traditions – which *precede* 'conscious mental processes'.[104]

A further implication of the statement that we are *unconsciously* influenced by rules of conduct is the fact that, 'we cannot easily subject social rules to critical assessment, since the knowledge they embody or express is itself usually inaccessible to critical statement'.[105] According to Hayek, the only

form of criticism to which any set of 'supra-conscious' rules of conduct can be subjected is 'immanent' criticism, that is, the 'sort of criticism that moves within a given system of rules and judges particular rules in terms of their consistency or compatibility with all other recognized rules in inducing the formation of a certain kind of order of actions'.[106] The appropriateness of a particular rule is thus determined by invoking as a standard of criticism other rules which are accepted as unquestioned. Immanent criticism means that 'particular aspects of a culture can be critically examined only within the context of that culture' because 'we can always only tinker with parts of a given whole but never entirely redesign it'.[107] Although Hayek stresses that he does not regard all tradition as 'sacred and exempt from criticism', he nevertheless insists that the greater part of an inherited culture should be accepted as 'something that has no better ground for existence than that it is the accepted basis of a particular tradition'.[108]

Rules of conduct and perception constitute adaptations to man's environment, and, as such, they are the ever-changing product of evolution.[109] There are, consequently, no fixed categories of understanding, for the mind's system of classification is the outcome of constantly adjusting mechanisms of perception.[110] Man could not have designed civilisation by imposing a pattern created by his mind, because 'his mind is itself a system that constantly changes as a result of his endeavour to adapt himself to his surroundings'.[111] The process is described by Hayek as follows. Action patterns are not built up by 'experience'; rather 'the organism first develops new potentialities for actions and only afterwards does experience select and confirm those that are useful adaptations to typical characteristics of its environment'.[112] Gradually, standardised patterns of action emerge by a process of natural selection of the action types which contribute to the preservation of the individual or the species.

The argument for liberty

For Hayek, evolved rules of conduct are of paramount importance; they provide (together with the price system) the mechanism of the spontaneous co-ordination of individual actions: 'the general order of society into which individual actions are integrated results not from the concrete purposes which individuals pursue but from their observing rules which limit the range of their actions'.[113] Specifically, it is rules of *just* conduct (rules of private property, contract and tort) which determine 'spheres of responsibility'[114] and provide some degree of certainty and predictability of individual conduct. Rules of just conduct constitute the means by which the epistemic problem faced by society can be overcome: by allowing individuals to use their knowledge and skills in order to satisfy their particular aims, rules of just conduct bring about the most efficient generation and transmission of dispersed and temporary knowledge.[115] The function of these rules is to demarcate and protect the area within which individuals can

pursue their plans *free* from interference by others. Rules of just conduct safeguard individual liberty, which is the only condition under which the most efficient utilisation of societal resources can be achieved.

Hayek maintains that 'like all moral principles, it [individual freedom] demands that it be accepted as a value in itself, as a principle that must be respected without our asking whether the consequences in the particular instance will be beneficial'.[116] Yet, he ultimately defends liberty on *instrumental* rather than on moral grounds. As we saw, for Hayek, spontaneous market order brings about a degree of prosperity that no designed order can possibly achieve. Individual freedom is the means by which such prosperity is brought about. Hence, the evaluating criterion of spontaneous order is prosperity rather than liberty.

Spontaneous order and liberty under the rule of law

Hayek defines individual liberty as 'the state in which a man is not subject to coercion by the arbitrary will of another or others'[117] or the state which 'describes the absence of a particular obstacle – coercion by other men'.[118] In turn, coercion involves 'such control of the environment or circumstances of a person by another that, in order to avoid greater evil, he is forced to act not according to a coherent plan of his own but to serve the ends of another'.[119] It should be made clear that, for Hayek, liberty does not entail absence of *all* restraint. As he repeatedly remarks, a state of liberty is 'that condition of men in which coercion of some by others is reduced as much as possible in society' and that 'the task of a policy of freedom must therefore be to minimise coercion or its harmful effects, even if it cannot eliminate it completely'.[120] The definition of freedom as 'absence of coercion' enables Hayek to establish a necessary connection between liberty and the rule of law. Individual freedom can be best promoted, and coercion can be reduced to a minimum, only by the universal application of an appropriate set of rules of conduct. This set of rules constitutes the sole acceptable form of coercion, for it is paradoxically the only source of true liberty. Only the society which restricts coercion to a set of universally applied rules of conduct can be described as liberal.

For Hayek, law exists as both a 'grown' order and a 'made' order, or as *nomos* and *thesis* respectively. *Nomos* represents the set of evolved rules of conduct, the inherited customs and traditions of society which form the basis for the establishment of *thesis* or positive legislation. 'By *nomos* we shall describe a universal rule of just conduct applying to an unknown number of future instances and equally to all persons in the objective circumstances described by the rule, irrespective of the effects which observance of the rule will produce in a particular situation.'[121] The idea of 'the rule of law' is not simply a shorthand description of common law or statute law. It is rather an expression of the whole system of rules which stands above any articulated form of legislation and is culturally transmitted from generation to generation. Accordingly, the system of rules of conduct is not a deliberate construction of judges or legislators; it is rather 'the outcome of a process of evolution in the course of which spontaneous growth of customs and deliberate improvements of the particulars of an existing system have constantly interacted'[122] and in which 'the experience gained by the experimentation of generations embodies more knowledge than was possessed by anyone'.[123] Positive legislation takes place within a framework of what Hayek describes as 'meta-law' or 'the spirit of law', which should not be mistaken for some metaphysical conception transcending empirical reality. On the contrary, the 'spirit of law' forms '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'.[124] The role of the judge is that of a servant who assists in maintaining the spontaneous legal order. His contribution is 'part of that process of adaptation of society to circumstances by which the spontaneous order grows. He assists in the process of selection by upholding those rules which, like those which have worked well in the past, make it more likely that expectations will match and not conflict. He thus becomes an organ of that order'.[125]

Hayek maintains that, in essence, the universal application of the general rules of law does not constitute a source of coercion or unfreedom. 'The conception of freedom under the law ... 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.'[126] Rules of conduct are not arbitrary, for they are not directed at particular individuals. Moreover, they have not been constructed in order to serve particular ends. As Hayek explains, 'if it is the law that makes us free, this is true only of the law in this sense of abstract general rule ... '.[127] What he has in mind are the general rules of just conduct which embody the accumulated experience of past generations, and 'constitute an adaptation of the whole of society to its environment and to the general characteristics of its members'.[128] The rules which have been selected to survive in a process of cultural evolution do not curtail individual freedom, for they are precisely the rules which make a liberal or 'open' society possible; a society 'where each individual counts as an individual and not only as a member of a particular group, and where therefore universal rules of conduct can exist which are equally applicable to all responsible human beings'.[129] Accordingly, positive legislation is not a source of coercion, provided it conforms to the dictates of these abstract rules of conduct. The state exceeds its legitimate power of coercion, however, when it legislates to redistribute private wealth. Hayek insists that redistribution constitutes 'unjust' interference with the private domain of citizens. It curtails freedom and obstructs the working of the spontaneous market order by stifling individual initiative.

Hayek's defence of freedom under the rule of law rests on his epistemology. A liberal legal framework is the condition under which fragmented knowledge and tacit wisdom embodied in evolved rules and institutions can

be utilised most efficiently. 'If there were omniscient men', Hayek writes, 'there would be little case for liberty'.[130] By delimiting 'spheres of responsibility', rules of just conduct enable individuals to make full use of their knowledge and skills for furthering their aims. Moreover, legal rules minimise the danger of social conflict: their function is to safeguard the idea that 'good fences make good neighbours'.[131] Rules 'are a means to prevent clashes between conflicting aims and not a set of fixed ends. Our submission to general principles is necessary because we cannot be guided in our practical action by full knowledge and evaluation of all the consequences. So long as men are not omniscient, the only way in which freedom can be given to the individual is by such general rules to delimit the sphere in which the decision is his'.[132] Rules of just conduct are in effect rules of private property which 'ascertain the boundary of the protected domain of each' and 'distinguish' between the *meum* and the *tuum*'.[133] For Hayek, rules of property do not refer only to an individual's control over material possessions; he uses property 'in the wide sense in which it is used to include not only material things, but (as John Locke defined it) the "life, liberty and estates" of every individual'.[134] In market order, individuals are free to pursue their plans within an environment in which the rule of law ensures that men have full control over whatever they create through their own efforts.

Hayek maintains that the only method whereby we can maximise the possibility that individual plans will be fulfilled is by allowing individuals to use their resources for purposes which they themselves define. In this sense, rules of conduct are 'instrumental': they are the means at an individual's disposal, and 'they provide part of the data which together with his knowledge of the particular circumstances of time and place, he can use as the basis for his decisions'.[135] The function of the rule of law is not to determine actual outcomes of individual efforts, for such outcomes depend partly on chance and partly on skill; rather, 'the aim of the rules of law is merely to prevent as much as possible, by drawing boundaries, the actions of different individuals from interfering with each other; they cannot alone determine, and also therefore cannot be concerned with, what the result for different individuals will be'.[136] Rules of conduct fulfil their function by being *negative*, *end-independent* and *abstract*.

Rules of just conduct are *negative* in the sense that they are prohibitions on interfering with the private domains of others: rules are 'negative in the sense that they prohibit rather than enjoin particular kinds of actions, that they do so in order to protect ascertainable domains within which each individual is free to act as he chooses'.[137] The negative character of rules enables individuals to predict the consequences of their transgressing the law, and thereby to avoid placing themselves in a position in which they are coerced. Hayek writes: 'provided that I know beforehand that if I place myself in a particular position, I shall be coerced and provided that I can avoid putting myself in such position, I need never be coerced'.[138] In order to highlight the negative character of rules of just conduct, Hayek draws attention to the

distinction between prohibitions and commands. Prohibitions are not coercive, for they leave individuals free to pursue their own plans without being subjected to someone else's arbitrary will; individuals are free to choose between a number of possible alternatives except for the one which is prohibited. Commands, by contrast, are by definition coercive: they force individuals to act in accordance with somebody else's plans, and subject them to another's arbitrary will.[139] The second characteristic of rules of just conduct is their being *end-independent*. Far from aiming at bringing about particular common ends, rules of conduct allow individuals to pursue their several ends; rules 'never fully determine a particular action but only limit the range of permitted kinds of action and leave the decision on the particular action to be taken by the actor in the light of his ends'.[140] Since they are not aimed at promoting concrete ends, rules of conduct are *general* or *abstract* in the sense that they must be 'applicable to an unknown and indeterminable number of persons and instances'.[141]

Although Hayek does not deny the moral value of freedom, his argument does not in fact depend on treating liberty 'as an indisputable ethical presupposition'.[142] His argument is essentially consequentialist – though not in the sense that liberal rules and institutions are intentionally designed as means of realising foreseen benefits to society. On the contrary, the ultimate contribution of liberty lies in the fact that it leads to the achievement of benefits which could not possibly have been foreseen let alone calculated. It is the fact that liberty is defended in terms of its contribution to (admittedly unpredictable) social benefits which makes Hayek's argument consequentialist. His instrumental or consequentialist defence of liberty becomes even more transparent in his statement that the instinct which makes us crave for freedom 'is not always a safe guide for justifying or delimiting freedom. What is important is not what freedom I personally would like to exercise but what freedom some person may need *in order to do things beneficial to society*. This freedom we can assure to the unknown person only by giving it to all'.[143] Hayek's argument for the rule of law has been described as a kind of 'indirect utilitarianism'[144] or a 'traditionalist or evolutionary system utilitarianism'.[145]

Hayek himself, however, dismisses the doctrine of 'utilitarianism' as a form of 'rational constructivism'.[146] He argues, in particular, that contrary to the claims of 'rule utilitarianism', rules of conduct are followed not because their precise consequences are known in advance, but rather because they enable men to cope with their ignorance. He writes: 'man has developed rules of conduct not because he *knows* but because he does not know what all the consequences of a particular action will be'.[147] He adds, however, that 'the obligation incumbent upon us, to follow certain rules derives from the benefits we owe to the order in which we live'.[148] Individual liberty enhances social utility: by providing the condition under which dispersed knowledge is most efficiently used, it brings about general prosperity. Given the problem of individual ignorance, overall social utility

cannot be the product of design, let alone the product of 'utilitarian calculus'; instead, it is brought about as the unintended outcome of the aggregate of individual actions. Yet, his disclaimer of utilitarianism notwithstanding, Hayek's defence of the rule of law can still be described as a kind of 'system utilitarianism': the utility of the system of rules of just conduct, and individual liberty in general, lies in the fact that they increase the chances of unknown individuals of obtaining their unknown ends.[149]

The explanatory argument: the 'twin ideas of cultural evolution and spontaneous order'

Hayek argues that society and its institutions cannot be subjected to rational control because they are spontaneous orders. Yet he does not systematically explore the *process* whereby spontaneous orders are either formed or subsequently maintained. An order, he writes, is formed spontaneously by the actions of many individuals separately pursuing their goals; 'and it is merely because in doing so they are restrained by rules that an overall order results, while this consequence of observing these rules is wholly beyond their knowledge or intentions'.[150] Now these rules are themselves spontaneous formations, for, as we saw in the first section of this chapter, rules governing human conduct, including those that contribute to the spontaneous formation of social order, are the outcome of a process of cultural evolution. Thus, as Hayek further explains, the 'twin ideas of evolution and spontaneous order' enable us to understand that 'it is always some regularity in the behaviour of the elements which produces, in interaction with the environment, what may be a wholly different regularity of the actions of the whole'.[151] Unfortunately, such statements do not clarify either *how* the 'regularity in the behaviour of the elements' is brought about, or, *how* the behavioural regularity exhibited by the elements brings about a different kind of overall regularity.

Hayek does not adequately explain in what sense 'cultural evolution' and 'spontaneous order' are *twin* ideas.[152] A point at which these two ideas converge is that they both deal with phenomena which are the unintended consequences of human action. In this sense, the outcomes of cultural evolution are themselves spontaneous formations. Yet, in a different sense, these two processes are dissimilar, for, while the formation of spontaneous orders depends on a *specific* framework of rule-governed behaviour, the process of cultural evolution is not similarly constrained. It seems that what Hayek has in mind when referring to the 'twin ideas of evolution and spontaneous order' is that the rules which are conducive to the spontaneous formation of social order are themselves of spontaneous origin.[153] These rules are selected to survive *because* they contribute to the formation of spontaneous social order. Thus, cultural evolution gives rise to rules which make possible the formation of spontaneous order. 'A process of selection takes place, in which those modes of conduct prevail which lead to the formation of a more efficient order for the whole group, because such groups will prevail over others.'[154]

When Hayek writes that society is a spontaneous order,[155] he seems to identify it with the market order or catallaxy. It has been pointed out that 'it is a fundamental defect of Hayek's treatment of the notion of spontaneous order that he gives us no clear conception of how such an order is formed and maintained outside the sphere of market exchanges'.[156] Hayek of course extends the application of his theory of spontaneous order to his account of the emergence and maintenance of rules of conduct on which the formation of market order ultimately depends. A spontaneous order is formed, he claims, when individuals obey an *appropriate* set of rules of conduct; rules which have not been designed but have been selected to survive in a process of cultural evolution.

In this section, I argue that, without explicitly acknowledging it, Hayek seems to combine two types of evolutionary explanation.

1. His description of the spontaneous *formation* of market order relies on an invisible-hand explanation. (I restrict the use of the term 'invisible hand' to what Nozick calls 'equilibrium processes': a pattern P is produced by a process in which 'each component part responds or adjusts to "local" conditions, with each adjustment changing the local environment of others close by, so that the sum of the ripples of the local adjustments constitutes or realises P'.)[157] This definition coheres with Hayek's description of how dispersed knowledge is best utilised in the order of catallaxy by the spontaneous mutual adjustment of individual plans.[158]
2. Hayek's account of the emergence and subsequent maintenance of the institutional framework (rules of just conduct), by which such mutual adjustment is brought about, rests on a functionalist-evolutionary explanation. Rules of conduct emerge in a process of *random variation*; successful variations are subsequently preserved by the mechanism of *group selection*: 'practices which had first been adopted for other reasons, or even purely accidentally, were preserved because they enabled the group in which they had arisen to prevail over others'.[159] In a functionalist-evolutionary explanation, the selection mechanism serves as a 'filtering device' whereby inefficient practices are eliminated.[160]

An invisible-hand account differs from a functionalist explanation in that it does not postulate a *necessary* functionality of the pattern it explains. Functionalist explanations account for the existence of a pattern by way of the function it performs.

Spontaneous order as invisible hand

An 'invisible-hand' account 'explains what looks to be the product of someone's intentional design, as not being brought about by anyone's intentions'.[161] Adam Smith's metaphor of the 'invisible hand' describes the economic order that results as the unintended consequence of many independent individual actions. Unintended consequences can take the form of stable patterns which are not necessarily desirable or beneficial for those involved. Public squalor, manifested in littered streets and countryside, is an example of such a stable but undesirable unintended outcome. Unintended consequences which are not desirable can also result from the pursuit of goods which are 'positional', meaning that people want them on condition that others do not have them. An example of such an unintended consequence is the gradual destruction of village life produced by overcrowding. In seeking to acquire a cottage in a country village, each individual merely intends to satisfy his desire of enjoying a quiet village life. Yet, the unintended sum of all these independent individual actions is the destruction of village life.[162]

Unintended consequences can of course be *beneficial* outcomes, as Smith's metaphor of the invisible hand exemplifies: the individual pursuit of self-interest results in the advancement of the common interest. Being motivated by self-love, and without intending it, individuals bring about greater general welfare than they would if each had actually aimed at it.[163] It is as if a *benign* 'invisible hand' were at work. Similarly, Hayek's idea of spontaneous order constitutes a beneficial unintended outcome. By utilising more information than each individual member possesses, the spontaneous order of catallaxy brings about greater prosperity than the centrally directed socialist economy. The order of catallaxy, 'leading to the utilisation of much more information than anyone possesses, could not have been "invented" '.[164] Rather, it is brought about as the unintended consequence of many individual actions. Following Smith's use of the term, I shall restrict the application of invisible-hand explanations to beneficial unintended outcomes.

In invisible-hand explanations, the explanandum is taken to be a state of equilibrium,[165] defined as 'a state in which people's plans are consistent with each other'.[166] In the market, equilibrium obtains when demand equals supply. When markets *clear* for all goods and services, there is a state of *competitive* or general equilibrium. In a state of general equilibrium, the plans of *all* individuals are consistent with one another. Furthermore, in general equilibrium the allocation of resources is Pareto-efficient, defined as a state in which it would be impossible to make one person better off without making at least one other person worse off.

Hayek describes the spontaneous formation of an order as 'an equilibrium set up from within (or "endogenously") such as that which the general theory of the market endeavours to explain'.[167] He does not, however, accept the market-clearing model of neo-classical economics without qualification.

Indeed, he vehemently denies the possibility of a general equilibrium. It has nothing to do with the real world of the market order, he argues, but is based on a series of unrealistic assumptions made by economists. How then can his views on the market order as equilibrium be reconciled?

Hayek points out that propositions of equilibrium analysis are propositions about the relations between actions. The actions of an individual can be described as being in equilibrium when they can be understood as part of one plan. Such actions are related to the expectations of the individual, and the equilibrium relationship 'comprises only his actions during the period in which his anticipations prove correct'.[168] If his expectations prove to be wrong, his plans are thwarted, and the state of equilibrium is upset. When applied to society, equilibrium describes a balance between the actions of different individuals. Society is in a state of equilibrium when different individual plans are mutually compatible, that is, when 'the plans of the one [person] contain exactly those actions which form the data for the plans of the other'.[169] Compatibility of individual plans implies that we can at least conceive of a set of external facts which would allow the participants to carry out their plans without any disappointments. If individual plans were incompatible from the beginning, no set of external events could satisfy all expectations, so some of them would inevitably be upset, thus preventing the achievement of equilibrium. When plans are mutually compatible, the equilibrium will continue so long as the external data correspond to the common expectations of all participants.[170] Thus, equilibrium obtains when the participants possess accurate foresight.

According to Hayek, in the traditional treatment of equilibrium analysis correct foresight is assumed to be 'equally given to all individuals and that their acting on the same premises will somehow lead to their plans becoming adapted to each other'.[171] Accordingly, equilibrium is explained by assuming the existence of a perfect market, where every event automatically becomes known to every participant. This assumption, Hayek asserts, is just another way of saying that equilibrium exists, since 'the statement that, if people know everything, they are in equilibrium is true simply because that is how we define equilibrium'.[172] Correct foresight is not a precondition of equilibrium but is one of its defining features.[173] The assumption of a perfect market does not explain when and how a state of equilibrium will come about. In order to be able to account for the conditions under which equilibrium will be reached, we must explain the process whereby individuals will acquire the necessary information.[174] Assuming the existence of perfect information means taking for granted the very thing that we set out to explain, namely, the process by which knowledge is acquired within the market framework.

As we noted, Hayek thinks that economic knowledge is dispersed, temporary and tacit. He presents the market as a *discovery* procedure, where new information is constantly generated. Crucial to discovering new information, Hayek argues, is the function of entrepreneurship, by which he

means the general idea of individual alertness to profitable opportunities.[175] The spirit of entrepreneurship can, of course, develop only in a competitive environment.[176] Competition is a discovery procedure by which people communicate knowledge which is not known beforehand. Therefore, the assumption of perfect information is tantamount to denying the very essence of competition. If knowledge could be centralised or automatically transmitted to every market participant, competition would be deprived of its essential role as the vehicle of the transmission of information and thus rendered meaningless.[177] The assumption of perfect information as well as perfect competition creates an ideal type against which economists measure the actual achievements of competition. This, according to Hayek, is not a valid test, since 'the real problem is how far we can raise efficiency above the pre-existing level, not how close we can come to what would be desirable if the facts were different'.[178]

Hayek rejects the static model of general equilibrium in order to replace it with a more dynamic one, expressed as a 'tendency towards equilibrium'.[179] This tendency describes a process of continuous adaptation and mutual adjustment of individual plans in a world of constant change, since, in the absence of perfect information, individuals are frequently forced to reassess their plans and change them in the light of new information. The assumption of general equilibrium is unrealistic because the correspondence of expectations 'is in fact brought about by a process of learning by trial and error which must involve a constant disappointment of some expectations'.[180] People whose expectations are disappointed will have to change their plans and adapt to new circumstances. The necessity for constant adaptation accounts for what Hayek defines as a mere 'tendency' towards equilibrium, which replaces the unrealistic static model of general equilibrium.

Hayek's definition of social order is practically identical with his definition of economic equilibrium. 'Order with reference to society thus means essentially that individual action is guided by successful foresight, that people not only make effective use of their knowledge but can also foresee with a high degree of confidence what collaboration they can expect from others.'[181] Some degree of predictability is provided by the rules of just conduct which are the rules of property, tort and contract. Yet, as we saw, Hayek rejects the idea of general equilibrium on the grounds that individuals do not possess full information, and, consequently, they do not have accurate foresight. If Hayek's catallaxy is never in equilibrium, in what sense then can it still be characterised as an 'order'? Can a mere 'tendency' towards equilibrium, an outcome which is subject to constant change, still be described as order?

Evidently, Hayek thinks that it can. Spontaneous order, he argues, arises as a result of individuals adjusting to new circumstances.[182] Such adjustment is made possible by the price mechanism. The price system operates as 'a medium of communicating knowledge which brings it about that the

facts which become known to some, through the effects of their actions on prices, are made to influence the decision of others'.[183] Some degree of co-ordination of a multiplicity of economic transactions therefore results from the information provided by price signals. The price mechanism constitutes a fairly reliable framework of certainty brought about by the role of current prices as rough indicators of future prices. Thus, a constant move towards a closer (though never complete) correspondence of expectations and co-ordination of individual plans is achieved by a process of 'negative feedback' or continuous adaptation, which involves 'responses to the differences between the expected and the actual results of actions so that these differences will be reduced'.[184]

Clearly, the mechanism of negative feedback cannot work, unless market participants are motivated by a wish to make a profit. The same motivation (profit-seeking) explains the spontaneous co-ordination of separate individual plans via the price mechanism. The function of the price mechanism rests on the assumption that economic actors are constantly moved by a 'propensity to discover opportunities'. This propensity is so crucial that we must either accept its existence or 'forsake the principle of spontaneous order'.[185] Price signals would be of very little use if individuals were not driven by such an entrepreneurial alertness.

The equilibrating forces generated by the market ensure some degree of predictability, thus preventing a state of chaos or disorder. Changes should not be regarded as disruptive, since they are going to be offset by the endogenous equilibrating forces generated by the price mechanism. Moreover, co-operation arises from relations of economic interdependency resulting from the process of specialisation and an elaborate division of labour. For Hayek, the resulting order is beneficial to society, for the most efficient use of economic resources is achieved by the transmission of information in the 'coded form' of prices, whereby expensive scarce resources are substituted by cheaper and less scarce ones.

Hayek's description of market order amounts to no more than a web of exchange relations which are constantly reshaped as individuals adjust and readjust their plans to new information provided by the price signals. Yet, the price mechanism accounts only partly for the predictability necessary for individual adjustment.[186] The formation and maintenance of spontaneous order relies in addition on an appropriate set of rules of conduct whose function is 'to enhance the certainty of expectations'.[187] There is, however, a difference in the function performed by these two mechanisms. As Ioannides correctly observes, 'the knowledge dispersed by the former [the price system] is of a dynamic nature, in the sense that it leads individuals to a constant revision of their plans. The knowledge dispersed by the latter [rules and institutions] is stabilising, in the sense that it constantly affirms the stability of the social framework in which individuals act'.[188]

The rules of just conduct, by which spontaneous market order is brought about are spontaneous formations themselves, for they have not been

designed by anyone. They arise as the unintended outcome of many individual actions, or, as Hayek claims, they are the outcome of a process of cultural evolution. It is to the examination of this process which I now turn.

The process of cultural evolution

Rules of just conduct provide individuals with certainty about what they can legitimately expect from others. They are the institutional framework within which market exchanges take place. In Hayek's words, the function performed by rules of conduct is the formation and maintenance of the spontaneous market order. 'In the course of millennia men develop rules of conduct which lead to the formation of such an order out of the separate spontaneous activities of individuals. The interesting point about this is that men developed these rules without really understanding their functions.'[189] If not through individual foresight, how can we explain the emergence and persistence of such rules? Hayek's answer is that rules of conduct originate in a process of cultural evolution. Evolution is described as 'a process in which practices which had first been adopted for other reasons, or even purely accidentally, were preserved because they enabled the group in which they had arisen to prevail over others'.[190] In what follows, I first address the question of how rules and institutions can be expected to *emerge* spontaneously, and, secondly, I examine the process by which they are supposed to be *maintained* in the absence of collective agreement.

An *invisible-hand explanation* can be used to account for the emergence of rules of conduct and social institutions. As we saw, such an account explains the emergence of a stable pattern of behaviour as the unintended outcome of a process of interaction among individuals who are separately pursuing their goals. If the process is taking place over a period of time, we can refer to an invisible-hand explanation as an 'evolutionary' explanation. An example of an invisible-hand evolutionary explanation is Carl Menger's description of the origin of money as a process whereby, 'as economic culture advances, a definite item or a number of items leaves the sphere of the remaining goods and becomes money, without express agreement of people and without legislative acts'.[191] The main steps of the process are the following.

1 Individuals barter goods which they either do not need, or possess in excess, for goods they immediately need.
2 Individuals observe that there is greater demand for certain goods which satisfy general needs than there is for other less necessary goods.
3 Individuals who bring goods of relative marketability to the marketplace have the idea of exchanging them not only for goods they need, but also (when these are unavailable) for other goods which they do not directly need but which are more marketable than their own. Thus, 'increased knowledge of their *individual* interests, without any agreement, without legislative compulsion, *even without any consideration of public interest* leads them to turn over their wares for more marketable ones, even if they do not need the latter for their immediate consumer needs'.[192]
4 It is therefore observed that certain goods – the most marketable – are accepted by everybody in the process of exchange. By being more marketable, more easily transported, more durable and more easily divisible, these goods lead ultimately, through *practice*, *imitation* and *custom*, to the establishment of money as the standard and generally accepted means of exchange. The emergence of the institution of money is seen here as the unplanned outcome of separate individual transactions motivated solely by the expected fulfilment of particular needs without consideration of the 'public good' or the final well-structured pattern.[193]

Hayek's description of the evolution of the order of catallaxy constitutes such an invisible-hand explanation. The first step in the catallactic process was the adoption of barter, which was the direct outcome of the diversity of human abilities, goals and desires. Once it was recognised that people not only had different needs but also different uses for various material things, it was realised that it would be to everybody's benefit if each gave away something superfluous to himself in return for something necessary. In exchanging their goods, individuals are acting out of self-interest rather than consideration for the public good. Such exchanges serve a diversity of individual needs, and 'the parties are in fact the more likely to benefit from exchange the more their needs differ'.[194] Thus, while in a 'made' order economic activity deliberately concentrates on the attainment of common purposes, 'in a catallaxy [individuals] are induced to contribute to the needs of others without caring or even knowing about them'.[195] In a catallaxy, public benefit is the unintended outcome of the pursuit of a multiplicity of individual interests. The only pre-condition for such an exchange is the existence of universally accepted rules to determine who possessed what and to define how such possessions could be transferred by the possessor's consent. Abstract rules of private property not only pre-empted the catallactic process but were also the indispensable requisite for setting it in motion. When Hayek refers to the evolution of rules of conduct, he employs a 'functionalist-evolutionary' rather than an invisible-hand explanation.

A *functionalist-evolutionary* account 'can explain only the continued existence of a pattern, not its origin'.[196] According to this explanation, the persistence of a behavioural pattern or rule is accounted for by the function it performs for a group or certain members of the group. For a functionalist-evolutionary explanation to be valid, we have to specify the *criterion of selection* (its beneficial effect) and a *selection mechanism* via which the beneficial effect of a pattern accounts for its persistence.[197] Both these requirements are present in Hayek's account of the evolution of rules of just conduct. Although cast in general terms, by 'rules of conduct' Hayek means primarily

rules of property (rules specifying 'private domains'). As we saw, the function performed by these rules is the provision of a certain degree of predictability, enabling thereby the formation and maintenance of the spontaneous market order.[198] The mechanisms explaining the transmission and maintenance of social rules are *imitation* and *socialisation*.

The process of cultural evolution is, according to Hayek, *analogous* to biological evolution.[199] They both 'rely on the same principle of selection: survival or reproductive advantage. Variation, adaptation and competition are essentially the same kind of process, however different their particular mechanisms, particularly those pertaining to propagation.'[200] Hayek maintains that, their similarities notwithstanding, the processes of biological and cultural evolution are 'hardly identical': the *mechanism* of cultural evolution is more in line with a Lamarckian rather than a Darwinian explanation. The individualistic Darwinian mechanism of natural selection, namely the transmission of *genetic* characteristics, is confined to biological evolution. In the case of cultural evolution, a Lamarckian explanation is more appropriate, for it relies on selection by transmission of *acquired* rather than genetic characteristics.[201] Moreover, 'since it [cultural evolution] differs from genetic evolution by relying on the transmission of acquired properties, it is very fast ... '.[202]

As in biological evolution, an explanation of rules and institutions in terms of cultural evolution involves the interaction of two processes: (1) a process of *variation*, in which new transmittable variants (ways of behaviour) are generated; and (2) a process of *selection*, whereby out of all variants generated, those are selected that are actually transmitted, meaning that they become behavioural regularities in the social group.[203] Hayek writes: 'the various structures, traditions, institutions ... of this order [the market] arose gradually as variations of habitual modes of conduct were selected'.[204] In biological evolution the process of variation consists in genetic mutations. In cultural evolution the process of variation consists in individual *innovations*. While in biological evolution the process of selection is genetic inheritance, in cultural evolution selection takes place 'by *imitation* of successful institutions and habits'.[205] When new variants crystallise into social rules, the process of socialisation accounts for their inter-generational transmission.

Hayek is not very clear as to what constitutes the unit of selection in cultural evolution.[206] He maintains that the mechanism by which rules of conduct are selected is *group success*: 'practices which had first been adopted for other reasons, or even purely accidentally, were preserved because they enabled the group in which they had arisen to prevail over others'.[207] Particularly in his later writings, Hayek claims that the unit of cultural selection is *group selection*.[208] He writes, for instance, that man's cultural heritage consists of a complex of practices or rules of conduct which '... have evolved because the groups who practised them were more successful and displaced others. They were rules which ... secured that a greater number of the groups or individuals practising them would survive'.[209] He advances two types of explanation of the mechanism of selection of rules.

First, he sometimes offers an *individualistic* account which does not establish a direct link between the emergence and persistence of rules and group selection: the emergence and maintenance of rules is rather explained by their being individually advantageous, and through the aggregate benefit to the individual members, socially beneficial too. Rules of conduct are introduced like accidental mutations. 'Most of these steps in the evolution of culture were made possible by some individuals breaking some traditional rules and practising new forms of conduct ... .'[210] New rules are not introduced as deliberate attempts to improve already existing rules; instead, certain individuals break from old practices by introducing rules advantageous to themselves: 'and the law-breakers, who were to be path-breakers, certainly did not introduce the new rules because they recognised that they were beneficial to the community, but simply started some practices advantageous to them which then did prove beneficial to the group in which they prevailed'.[211]

According to this individualistic version of cultural selection, rules are transmitted across members belonging to the same group by *imitation*. Rules that prove to be individually advantageous spread within the group by being imitated by the rest of its members.[212] As such, imitation is a conscious process, for why should individuals imitate rules if not because they recognise their advantages? Yet, Hayek tends to present cultural evolution as an *unconscious* process: to understand cultural evolution 'we must completely discard the conception that man was able to develop culture because he was endowed with reason. What apparently distinguished him was the capacity to imitate and to pass on what he had learned ... man has certainly more often learnt to do the right thing without comprehending why it was the right thing, and he still is often served better by custom than by understanding'.[213] Imitation is, accordingly, an instinctive reaction, which is similar in man and the rest of the animal world.[214] For Hayek, imitation is the process by which children receive acquired cultural traits (e.g. rules of conduct) from 'successful' adults. In this sense, imitation (the mechanism of cultural selection) is analogous to genetic inheritance (the mechanism of natural selection).

Rule innovations are analogous to genetic mutations: law-breakers do not set out intentionally to improve existing rules; rather, the evolution of rules 'resulted from continued trial and error, constant "experimentation" in arenas wherein different orders contended. Of course there was no intention to experiment – yet the changes in rules thrown forth by historical accident, analogous to genetic mutations, had something of the same effect'.[215] Hayek's reference to the process of 'trial and error' is misleading. As has been noted, 'this phrase indicates a process consisting of deliberate attempts to improve some object or to achieve a solution to some recognised problem'.[216] Seen as a cumulative process, 'trial and error' refers to a gradual

process of *intentional* (goal-oriented) experimentation, though the final outcome of the process is unintended by the participants. Given that Hayek denies that individuals intend either to improve existing rules or introduce new rules, his account of the origin and modification of rules cannot be described as a 'trial and error' explanation. But, even if we accept that rules emerge accidentally, selection by 'trial and error' must still be rational, in the sense that individuals are able to recognise what is to count as 'error' and what works. Yet, for Hayek, the process of 'trial and error' is identical with unconscious adaptation and group selection; it does not involve rational selection of rules resulting from recognition of their usefulness.[217]

Second, in most of his writings, Hayek advances a *collectivist* version of the mechanism of selection of rules which draws a *direct link* between group advantage and selection of rules of conduct; practices become behavioural regularities *because* they are advantageous to the group: ' "learning from experience", among men no less than among animals, is a process not primarily of reasoning but of the observance, spreading, transmission and development of practices which have prevailed because they were successful – often not because they conferred any recognizable benefit on the acting individual but because they increased the chances of survival of the group to which he belonged'.[218] Rules and institutions are selected not because individuals understand them to be better, but 'because the groups which acted on them prospered more than others and grew'.[219]

It will be shown in Chapter Two that this collectivist version of group selection does not in fact provide an adequate explanation of the transmission of practices which, while advantageous to the group, are not immediately advantageous to its individual members. Furthermore, if the transmission of practices is explained by their being individually advantageous, the explanatory value of the mechanism of *group selection* is significantly diminished. It is argued, moreover, that the individualistic version of the mechanism of cultural evolution cannot explain the spontaneous emergence and selection of the *type* of rules that Hayek wants to explain. While the individualistic account of cultural evolution explains the selection of practices for successful entrepreneurship,[220] for instance, it cannot explain the evolution of rules of *just* conduct: such rules constitute solutions to collective action problems and cannot be either introduced or maintained in the absence of collective agreement.

In this chapter, I have given an account of the central arguments of Hayek's theory of spontaneous social order. They can be summarised as follows. Social order (by which Hayek means market order) is not brought about by human design and concerted agreement; rather, it emerges spontaneously, as the unintended outcome of the actions of many individuals who are separately pursuing their goals. In market order, co-ordination is endogenously achieved by a constant readjustment of individual plans in the light of new information encoded in the price system. In contrast with planned

economies, market orders are better able to deal with the epistemic problem faced by society: by relying on decentralised decision-making, market orders bring about a more efficient use of economic resources and thus general prosperity. In addition to their epistemic function, market orders produce a moral end: by allowing men to pursue their individual plans free from interference by others, they bring about a maximum degree of individual liberty. A spontaneous co-ordination of individual activities does not take place in a vacuum. It requires an appropriate institutional framework: social order is brought about spontaneously if individuals obey an appropriate set of rules of just conduct (property, tort and contract). These rules are prohibitions rather than commands; they simply delimit 'protected domains', thereby preventing individuals from interfering with one another's plans. By allowing individuals freedom to use knowledge which is available to them for goals which they define, rules of just conduct bring about the most efficient generation and transmission of the dispersed, temporary, practical and tacit knowledge of market participants. For Hayek, rules of just conduct have not been deliberately designed, but have been selected to survive in a process of cultural evolution; a process in which rules, which have been introduced accidentally, have been selected to survive because they confer competitive advantages on the group which developed them. Being the product of evolution, rules of conduct embody the cumulative experience of past generations. By following evolved rules of conduct, men are able to cope with the fact of their inherent ignorance.

It remains now to examine the coherence of the idea of spontaneous order. This is the subject of Chapter Two.

Notes

1 *Law, Legislation and Liberty*, I:37. Cf. *Studies*, p.71; *New Studies*, p.73; *The Counter-Revolution of Science*, p.69.
2 *Law, Legislation and Liberty*, I:36.
3 'Hayek tends to see the world in Manichean terms, as gripped by a titanic struggle between the forces of capitalism and those of socialism' (David Miller, 'The Fatalistic Conceit', *Critical Review*, 3, 2, Spring, 1989, p.312).
4 *Law, Legislation and Liberty*, I:10.
5 *Law, Legislation and Liberty*, I:46.
6 *Law, Legislation and Liberty*, I:38.
7 *Law, Legislation and Liberty*, I:39.
8 *Law, Legislation and Liberty*, I:38, 39.
9 *Studies*, p.92.
10 'The concept of rules as we use it in this context therefore does not imply that such rules exist in articulated ("verbalised") forms, but only that it is possible to discover rules which the actions of the individuals in fact follow' (*Law, Legislation and Liberty*, I:43).
11 *Law, Legislation and Liberty*, I:41.
12 *Studies*, p.92.
13 *Studies*, p.163.
14 *Law, Legislation and Liberty*, I:39.
15 *Law, Legislation and Liberty*, I:43.

16 I partly owe this distinction to John Gray, who notes that the idea of spontaneous order consists of three elements: the *invisible-hand* thesis, the thesis of *the primacy of tacit or practical knowledge*, and the thesis of *the natural selection of competitive traditions* (*Hayek on Liberty*, pp.33–4). Cf. Gray's distinction between the 'epistemological' and the 'evolutionist' turn in Hayek's idea of spontaneous order ('Hayek, the Scottish School, and Contemporary Economics' in *The Boundaries of Economics*, Gordon C. Winston and Richard F. Teichgraeber III (eds), Cambridge, 1988, pp. 54–8).
17 *The Constitution of Liberty*, p.11.
18 'Freedom requires that the individual be allowed to pursue *his own* ends' (*The Fatal Conceit*, p.63).
19 *The Fatal Conceit*, pp.62–4. John Gray recognises the presence of the idea of negative liberty in Hayek's thought but argues that it is tainted by other important dimensions which would place him into 'the positive libertarian camp' ('Hayek on Liberty, Rights and Justice', *Liberalisms*, London, 1989, pp.89–100).
20 For a detailed account of Hayek's instrumental defence of liberalism, see Kley, *Hayek's Social and Political Thought*. Cf. Joseph Raz, *The Morality of Freedom*, Oxford, 1986, p.7.
21 *New Studies* p.250. Cf. *Law, Legislation and Liberty*, I:23; III:158; *Studies*, p.77.
22 *Studies*, p.78. Cf. 'The order of society is therefore a factual state of affairs which must be distinguished from the regularity of the conduct of individuals' (*New Studies*, p.9).
23 *Law, Legislation and Liberty*, I:9.
24 *Knowledge, Evolution, and Society*, London, 1983, p.46.
25 *The Fatal Conceit*, p.14.
26 *The Constitution of Liberty*, p.22.
27 *Law, Legislation and Liberty*, I:5, 9–34. Cf. *Studies*, pp.82–95; *New Studies*, pp.3–22; *The Fatal Conceit*, pp.48–70; *The Counter-Revolution of Science*, pp.153–82; *Individualism and Economic Order*, pp.1–32.
28 *Law, Legislation and Liberty*, I:5.
29 *Law, Legislation and Liberty*, I:11.
30 Dispersed knowledge does not refer solely to the sheer volume or quantity of information. The epistemic problem for Hayek lies mainly in the difficulty in ascertaining the facts peculiar to each individual situation.
31 *The Constitution of Liberty*, p.25.
32 *Law, Legislation and Liberty*, I:51; *New Studies*, p.76.
33 *New Studies*, p.183.
34 *The Counter-Revolution of Science*, p.175. Cf. 'The Use of Knowledge in Society', *Individualism and Economic Order*, p.80.
35 'The Use of Knowledge in Society', p.80. Cf. *The Constitution of Liberty*, p.25.
36 The issue of the tacit nature of knowledge is the subject of the following section.
37 *The Constitution of Liberty*, p.35.
38 *The Constitution of Liberty*, pp.24–25. Cf. *The Fatal Conceit*, p.77.
39 'The Use of Knowledge in Society', p.78.
40 *New Studies*, p.179.
41 'It is indeed the source of the superiority of the market order ... that in the resulting allocation of resources more of the knowledge of particular facts will be utilised which exists only dispersed among uncounted persons, than any one person can possess' (*New Studies*, p.27).
42 *New Studies*, p.182.
43 *Studies*, p.313.
44 'The Use of Knowledge in Society', p.80.

45 '... it would seem to follow that the ultimate decisions must be left to the people who are familiar with these circumstances, who know directly of the relevant changes and of the resources immediately available to meet them' ('The Use of Knowledge in Society', pp.83–4).
46 *New Studies*, p.187. The temporary character of economic knowledge is reflected not only in the sphere of production but also in consumption (see 'The Socialist Calculation', *Individualism and Economic Order*, pp.155–8).
47 *The Counter-Revolution of Science*, p.166.
48 'A central utilisation of necessarily widely dispersed knowledge of particular and temporary circumstances must forever remain impossible' (*Knowledge, Evolution and Society*, p.20).
49 *The Counter-Revolution of Science*, pp.174–5.
50 The function of entrepreneurship in bringing about spontaneous economic co-ordination is taken up in the third section of this chapter.
51 *Law, Legislation and Liberty*, II:109.
52 *The Counter-Revolution of Science*, p.177.
53 'Individualism: True and False', *Individualism and Economic Order*, p.15.
54 'Individualism: True and False', p.6.
55 Kukathas, *Hayek and Modern Liberalism*, pp.86, 124–5. Cf. Gray, *Hayek on Liberty*, p.130.
56 He contrasts this attitude with the 'pseudo-individualism' of social contract theories which 'regarded individual man as the starting point and supposed him to form societies by the union of his particular will with another in a formal contract' ('Individualism: True and False', p.10).
57 G. B. Madison, 'How Individualistic is Methodological Individualism?', *Critical Review*, 4, 1 and 2, 1990, p.42.
58 'Individualism: True and False', p.6
59 On the 'Collectivism of the Scientistic Approach', see *The Counter-Revolution of Science*, pp.93–110.
60 For a detailed account of scientism, see *The Counter-Revolution of Science*, pp.17–183. Later on, as Hayek admits in his preface to *Studies in Philosophy, Politics and Economics*, under the influence of Karl Popper, he modified this extreme view which was based on a misinterpretation of the methods of the natural sciences. As John Gray observes, however, the modification was only partial, relating to 'his acknowledging a unity of method in all the sciences, natural and social, where this method is seen clearly to be hypothetico-deductive' (*Hayek on Liberty*, p.20).
61 It has been suggested that this is an extension of 'Austrian subjectivism about value to the whole realm of social objects' (Gray, *Hayek on Liberty*, p.17). According to the 'subjective theory of value', the value of goods is determined by individual preferences and not by estimating the value of the labour needed to produce them. Thus, it was not production costs which determined the value of goods, as proposed by the 'labour or cost theory of value', but 'it was prices which operated as the indispensable signals telling producers what costs it was worth expending on the production of the various commodities and services' (*Knowledge, Evolution and Society*, p.19).
62 This has to be seen in the context of Hayek's view that all human knowledge is theory-guided, meaning that it rests on pre-existing systems of classification with reference to which objects and events are interpreted. Yet, natural science 'begins with the realisation that things which appear to us the same do not always behave in the same manner ... and it proceeds from this experience to substitute for the classification of events which our senses provide a new one which groups together not what appears alike but what proves to behave in the same manner in similar circumstances' (*The Counter-Revolution of Science*, p.31.

Cf. *The Sensory Order. An Inquiry into the Foundations of Theoretical Psychology*, London, 1952, p.173).

63 Gray, *Hayek on Liberty*, p.17. Cf. *The Counter-Revolution of Science*, p.44.

64 *The Counter-Revolution of Science*, p.44. Cf. *Knowledge, Evolution and Society*, p.23.

65 *The Counter-Revolution of Science*, p.93.

66 *The Counter-Revolution of Science*, pp.41, 61–76. Cf. 'Individualism: True and False', p.6.

67 In his earlier writings, for instance, Hayek maintained that 'the particular similarity between the objects of biology and those of sociology, which fitted so well in Comte's hierarchy of the sciences, does not in fact exist' (*The Counter-Revolution of Science*, p.102). This contrasts with what he writes in a later essay '... the social sciences, like much of biology but unlike most fields of the physical sciences, have to deal with structures of *essential* complexity ...' (*New Studies*, p.26).

68 'Individualism: True and False', p.4. The classical economists of the nineteenth century, notably John Stuart Mill and Herbert Spencer, combined elements of both types of individualism (ibid., p.11). Surprisingly enough, despite his rationalism, Kant is classified as a 'true individualist', and so is Locke, despite the fact that he belongs to the social contract tradition. As has been convincingly argued, the value of Hayek's distinction 'is highly questionable' (Kukathas, *Hayek and Modern Liberalism*, pp.207–13).

69 True individualism believes that, 'if left free, men will often achieve more than individual human reason could design or foresee' ('Individualism: True and False', p.9).

70 'Individualism: True and False', p.13. Cf. Ibid., p.17; 'We want the individual to have liberty because only if he can decide what to do can he also use all his unique combination of information, skills and capacities which nobody else can fully appreciate' (*Studies*, p.233).

71 'Individualism: True and False', pp.8, 32.

72 *Law, Legislation and Liberty*, I:99.

73 *New Studies*, p.10.

74 *The Sensory Order*, p.40.

75 'This order which we call mind is thus the order prevailing in a particular part of the physical universe – that part of it which is ourselves' (*The Sensory Order*, p.178). In contrast with the physical order which can be perceived directly, mental order cannot be perceived directly by our senses but has to be reconstructed.

76 Hayek explicitly refers to the relation of his own theory to 'Kant's conception of the categories that govern our thinking' (*New Studies*, p.45).

77 *The Counter-Revolution of Science*, p.84. Cf. *The Sensory Order*, pp.53, 143.

78 This phrase of William James is quoted by Hayek in *New Studies*, p.44. Cf. 'The fact that the world which we know seems wholly an orderly world may thus be merely the result of the method by which we perceive it' (*The Sensory Order*, p.176).

79 It is one of the basic tenets of Hayek's epistemology that 'the human mind indeed can never grasp a "whole" in the sense of all the different aspects of a real situation' (*The Counter-Revolution of Science*, p.122).

80 *The Sensory Order*, p.143. Cf. *New Studies*, pp.35–49.

81 *Law, Legislation and Liberty*, I:30.

82 *The Sensory Order*, p.53. Cf. 'All we can perceive of external events are therefore only such properties of these events as they possess as members of classes which have been formed by past "linkages" ' (ibid., pp.143, 167). 'Linkage' is defined as 'the most general lasting effect which groups of stimuli can impress upon the organisation of the central nervous system' (ibid., p.104).

83 'Although the system of sensory qualities is "subjective" in the sense of belonging to the perceiving subject ... it is yet inter-personal and not (or at least not entirely) peculiar to the individual' (*The Sensory Order*, p.23).

84 *The Sensory Order*, p.167.

85 *The Sensory Order*, p.166. Cf. Ibid., p.41–2.

86 *The Sensory Order*, p.143. Cf. Ibid., pp.168–9. The idea that sensory perception is theory-guided is what Hayek also refers to as 'the primacy of the abstract'. Hayek points out the similarities between his theory and Karl Popper's argument that 'the capacity to generalise comes first and the hypotheses are then tested and confirmed or refuted according to their effectiveness as guides to action' (*New Studies*, p.43). Yet, I think, the similarities are more apparent than real, for Popper does not claim that the rules governing man's mental capacity are ultimately beyond the level of consciousness, a point which is Hayek's recurrent theme.

87 *The Sensory Order*, pp.169–70.

88 *The Counter-Revolution of Science*, p.86.

89 *The Sensory Order*, p.185. Cf. Ibid., pp. 188–92.

90 'Of much that happens in our mind we are not aware, not because it proceeds at too low a level but because it proceeds at too high a level' (*New Studies*, p.45).

91 *Studies*, p.61.

92 A term coined probably by Michael Polanyi, *Personal Knowledge*, London, 1958. Cf. *The Tacit Dimension*, London, 1967.

93 *Studies*, pp.61–2. Cf. *New Studies*, p.46.

94 *Studies*, p.56. Cf. *New Studies*, pp.37–44.

95 *New Studies*, p.42.

96 *Law, Legislation and Liberty*, I:75. Strictly speaking, rules are not dispositions to act but resources upon which men draw to materialise their given dispositions. Cf. 'Rule' is the term 'by which a regularity of the conduct of individuals can be described, irrespective of whether such a rule is "known" to the individuals in any other sense than that they normally act in accordance with it' (*Studies*, p.67).

97 *Studies*, p.44. Practical knowledge refers to 'know how' rather than 'know that', a distinction which, as Hayek points out, was formulated by Gilbert Ryle. Cf. *New Studies*, p.38; *The Fatal Conceit*, p.78.

98 *Law, Legislation and Liberty*, I:30.

99 'Our actions form a coherent and rational pattern, not because they have been decided upon as part of a single plan thought-out beforehand, but because in each successive decision we limit our range of choice by the same abstract rules' (*Studies*, p.90).

100 *Law, Legislation and Liberty*, II:21.

101 *Law, Legislation and Liberty*, II:21.

102 *Studies*, pp.58–60.

103 *The Constitution of Liberty*, p.62. Cf. *Studies*, p.92.

104 *New Studies*, p.42.

105 Gray, *Hayek on Liberty*, p.42.

106 *Law, Legislation and Liberty*, II:24.

107 *Law, Legislation and Liberty*, II:25. Cf. *New Studies*, p.19. Elsewhere Hayek argues that a spontaneous order is 'an order which we cannot improve upon but only disturb by attempting to change by deliberate arrangement any one part of it' (*Studies*, p.92).

108 *Law, Legislation and Liberty*, II:25.

109 *The Sensory Order*, pp.42, 53. Cf. 'These several dispositions towards kinds of movements can be regarded as adaptations to typical features of the environment, and the "recognition" of such features as the activation of the kind of

disposition adapted to them' (*New Studies*, p.41); *The Constitution of Liberty*, p.63.

110 *The Sensory Order*, pp.145–6, 168–9, 175.

111 *The Constitution of Liberty*, p.23. Cf. 'It was not man's intelligence which created society, but cultural evolution which created man's intelligence' (*Knowledge, Evolution and Society*, p.56).

112 *New Studies*, p.42.

113 *New Studies*, p.84.

114 *Individualism and Economic Order*, p.17.

115 *The Constitution of Liberty*, pp.158–61.

116 *The Constitution of Liberty*, p.68.

117 *The Constitution of Liberty*, p.11.

118 *The Constitution of Liberty*, p.19. Cf. Freedom is 'independence of the arbitrary will of another' (ibid., p.12).

119 *The Constitution of Liberty*, pp.20–1. For a discussion of coercion see also, ibid., pp.133–47.

120 *The Constitution of Liberty*, pp.11, 12. Cf. 'Freedom and Coercion: Some Comments on a Critique by Mr. Ronald Hamowy', *Studies*, pp.348–50.

121 *New Studies*, p.77. Cf. *Law, Legislation, and Liberty*, I:94–144.

122 *Law, Legislation, and Liberty*, I:100.

123 *Law, Legislation and Liberty*, I:119.

124 Gray, *Hayek on Liberty*, p.71.

125 *Law, Legislation and Liberty*, I:119.

126 *The Constitution of Liberty*, p.153. David Miller calls this the 'extreme thesis' as distinguished from the 'moderate thesis' – the view that the rule of law constitutes a form of coercion – both of which are present in Hayek (*Market, State, and Community*, Oxford, 1989, pp.26–39).

127 *The Constitution of Liberty*, p.155.

128 *The Constitution of Liberty*, p.157.

129 *Law, Legislation and Liberty*, II:27.

130 *The Constitution of Liberty*, p.29.

131 *Law, Legislation and Liberty*, I:107.

132 *Individualism and Economic Order*, p.19.

133 *Law, Legislation and Liberty*, I:107.

134 *Law, Legislation and Liberty*, I:107.

135 *The Constitution of Liberty*, p.152.

136 *Law, Legislation and Liberty*, I:108.

137 *Law, Legislation and Liberty*, II:36.

138 *The Constitution of Liberty*, p.142.

139 As has been pointed out, Hayek seems to have been over-impressed by the logical distinction between a prohibition, which 'leaves an agent free to act in any of the indefinitely large number of ways compatible with not acting in the prohibited way', and a positive command, which 'leaves him unfree to act in any of the indefinitely large number of ways incompatible with acting in the commanded way'. Yet, what is important in judging whether a prohibition is coercive is not the simple number of permitted alternatives objectively open to an individual, but rather the degree to which his best unprohibited alternative is not more painful than the prohibited one (J. W. N. Watkins, 'Philosophy', *Agenda for a Free Society*, Arthur Seldon (ed.), London, 1961, p.39).

140 *Law, Legislation and Liberty*, II:37.

141 *Law, Legislation and Liberty*, I:50. Cf. Ibid., II:35.

142 *The Constitution of Liberty*, p.6.

143 *The Constitution of Liberty*, p.32 (emphasis mine).

144 Gray, *Hayek on Liberty*, p.59.

145 Gray, *Liberalisms*, p.92. Cf. William P. Baumgarth has described it as 'modified rule utilitarianism' ('Hayek and Political Order: The Rule of Law', *Journal of Libertarian Studies*, 2, 1, 1978, p.11).

146 See *Law, Legislation and Liberty*, II:17–23.

147 *Law, Legislation and Liberty*, II:20–1.

148 *Law, Legislation and Liberty*, II:27. Cf. 'The only "utility" which can be said to have determined the rules of conduct is thus not a utility known to the acting persons, or to any one person, but only a hypostatized "utility" to society as a whole' (ibid., p.22).

149 *Law, Legislation and Liberty*, II:126. Cf. John Gray maintains that the utilitarian aspect in Hayek's theory of the rule of law is manifested in his argument that 'the test of any system of rules is whether it maximizes an anonymous individual's chance of achieving his unknown purposes' (*Hayek on Liberty*, p.60). Another term for utility, which Hayek occasionally employs, is 'function'. He writes, for instance, 'the institution of private property served a function necessary for the maintenance of the spontaneous order of society ...' (*Law, Legislation and Liberty*, I:29).

150 *Studies*, p.77.

151 *Studies*, p.78.

152 For a brief discussion of the confusion to which this expression gives rise, see Roland Kley, *Hayek's Social and Political Thought*, pp.37–40.

153 Yet even this link does not adequately explain what Hayek takes to be a necessary connection between the ideas of cultural evolution and spontaneous order. As he writes, 'it is at least conceivable that the formation of a spontaneous order relies entirely on rules that were deliberately made' (*Law, Legislation and Liberty*, I:45).

154 *New Studies*, p.9.

155 *Law, Legislation and Liberty*, I:46–8.

156 Gray, 'F. A. Hayek on Liberty and Tradition', *Journal of Libertarian Studies*, 4:2, 1980, p.131. For an attempt to extend the application of the theory of spontaneous order beyond the market, see Gus DiZerega, 'Democracy as a Spontaneous Order', *Critical Review*, 3:2, 1989, pp.206–40.

157 Nozick, *Anarchy, State and Utopia*, p.21.

158 'It is through the mutually adjusted efforts of many people that more knowledge is utilized than any one individual possesses or than it is possible to synthesize intellectually' (*The Constitution of Liberty*, p.30).

159 *Law, Legislation and Liberty*, I:9.

160 'Through filtering processes can pass only things fitting P, because processes or structures filter out all non-P's' (Nozick, *Anarchy, State and Utopia*, p.21).

161 Nozick, *Anarchy, State and Utopia*, p.19. Cf. Hayek, *Individualism and Economic Order*, p.54; Edna Ullmann-Margalit, 'Invisible-Hand Explanations', *Synthese*, 39, 1978, p.267; Jon Elster, *Ulysses and the Sirens*, Cambridge, 1979, pp.28–30.

162 Martin Hollis, *The Cunning of Reason*, Cambridge, 1987, pp.49–56. For further examples of undesirable unintended consequences, see Jon Elster, *Nuts and Bolts*, Cambridge, 1989, pp.95–6.

163 'By pursuing his own interest he [the merchant] frequently promotes that of the society more effectually than when he really intends to promote it' (Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (1776), R. H. Campbell and A. S. Skinner (eds), Oxford, 1976, p.456).

164 *New Studies*, p.11.

165 See Nozick, *Anarchy, State and Utopia*, p.21.

166 Elster, *Nuts and Bolts*, p.101. 'Equilibrium processes' do not always result in *beneficial* orders. Individual rationality, lack of information, or both, can generate patterns which are disastrous for all involved (For examples, see ibid.,

pp.103–5). In such cases, co-operation cannot arise spontaneously but requires the intervention of an external agent who can impose the beneficial equilibrium by force (or threat of force), or provide individuals with the security they need in order to co-operate. This external agent provides the mechanism whereby the desirable order is produced; but since the mechanism explaining the pattern is not generated endogenously, the explanation cannot be described as 'invisible-hand'.

167 *Law, Legislation and Liberty*, I:36.
168 *Individualism and Economic Order*, p.36.
169 *Individualism and Economic Order*, p.38.
170 *Individualism and Economic Order*, p.41.
171 *Individualism and Economic Order*, p.38.
172 *Individualism and Economic Order*, p.46.
173 *Individualism and Economic Order*, p.42.
174 *Individualism and Economic Order*, p.46.
175 For an example of the function of entrepreneurship in 'discovering' consumer preferences, see Shaun Hargreaves Heap, *et al.* (eds), *The Theory of Choice: A Critical Guide*, Oxford, 1992, pp.189–90. The function of entrepreneurial alertness to opportunities for gain is fully developed by Israel M. Kirzner, *Competition and Entrepreneurship*, Chicago, 1973. Cf. Kirzner, 'Knowledge Problems and their Solutions: Some Relevant Distinctions', *Cultural Dynamics*, 3, 1, 1990, pp.32–47.
176 'Competition is as much a method for breeding certain types of mind as anything else: the very cast of thinking of the great entrepreneurs would not exist but for the environment in which they developed their gifts' (*Law, Legislation and Liberty*, III:76).
177 'Competition must be seen as a process in which people acquire and communicate knowledge; to treat it as if all this knowledge were available to any one person at the outset is to make nonsense of it' (*Law, Legislation and Liberty*, III:68). Cf. 'If anyone really knew all about what economic theory calls the *data*, competition would indeed be a very wasteful method of securing adjustment to these facts' (*New Studies*, 179).
178 *Law, Legislation and Liberty*, III:67.
179 *Individualism and Economic Order*, p.45.
180 *Law, Legislation and Liberty*, II:125.
181 *The Constitution of Liberty*, p.160. Cf. 'The order of society ... must be defined as a condition in which individuals are able, on the basis of their own respective peculiar knowledge, to form expectations concerning the conduct of others, which are proved correct by making possible a successful mutual adjustment of the actions of these individuals' (*New Studies*, p.9).
182 'Order is achieved by the individuals adjusting themselves to new facts whenever they become aware of them' (*Law, Legislation and Liberty*, I:106).
183 *Law, Legislation and Liberty*, II:125.
184 *Law, Legislation and Liberty*, II:125.
185 Gerald P. O'Driscoll, Jr, 'Spontaneous Order and the Coordination of Economic Activities', *Journal of Libertarian Studies*, 1, 2, 1977, p.146.
186 Steve Fleetwood notes that, prior to 1960, Hayek relied exclusively on the price system as the mechanism of co-ordination of individual plans. After 1960 however, rules of conduct become one of the key institutions of spontaneous co-ordination. Hayek now realises that 'the telecom system can only function when embedded in the network of social rules of conduct' (Fleetwood, *Hayek's Political Economy*, p.125).
187 *Law, Legislation and Liberty*, I:106.
188 Stavros Ioannides, *The Market, Competition and Democracy*, Aldershot, 1992, p.38.

189 *New Studies*, p.10.
190 *Law, Legislation and Liberty*, I:9.
191 Carl Menger, *Problems of Economics and Sociology*, Louis Schneider (ed.), Illinois, 1963, p.153.
192 Menger, *Problems of Economics and Sociology*, p.154.
193 For a further example of an 'equilibrium process', see Thomas Schelling, 'Models of Segregation', *American Economic Review*, 54, 1969, pp.488–93.
194 *Law, Legislation and Liberty*, II:109.
195 *Law, Legislation and Liberty*, II:109.
196 Eugene Heath, 'Rules, Function, and the Invisible Hand: An Interpretation of Hayek's Social Theory', *Philosophy of the Social Sciences*, 22, 1, 1992, p.29.
197 In the absence of a selection *mechanism*, an item's function (its beneficial effects) does not explain its occurrence. For instance, the utility of the giraffe's long neck (to reach taller branches) does not in itself explain the long neck's existence. Darwin's theory of evolution is an example of a valid functionalist explanation: it accounts for the existence of the giraffe's long neck via the selection mechanism of genetic transmission (On the legitimacy of functionalist explanations see Philippe Van Parijs, *Evolutionary Explanation in the Social Sciences*, London, 1981, ch. 2. Cf. Jon Elster, *Explaining Technical Change*, Cambridge, 1983, ch. 2).
198 *Law, Legislation and Liberty*, I:25. Cf. Ibid., I:29.
199 *Law, Legislation and Liberty*, III:154. Cf. *The Fatal Conceit*, p.25.
200 *The Fatal Conceit*, p.26. Cf. 'The basic conception of evolution is still the same in both fields' (*Law, Legislation and Liberty*, I:23).
201 'Although biological theory now excludes the inheritance of acquired characteristics, all cultural development rests on such inheritance – characteristics in the form of rules guiding the mutual relations among individuals which are not innate but learnt' (*The Fatal Conceit*, p.25).
202 *Law, Legislation and Liberty*, III:156. Cf. 'The slowness of [genetic evolution] ... makes it comparatively unimportant for cultural evolution' (*Law, Legislation and Liberty*, III:154); *The Fatal Conceit*, p.25.
203 Viktor J. Vanberg, *Rules and Choice in Economics*, London, 1994, p.81.
204 *The Fatal Conceit*, p.16.
205 *The Constitution of Liberty*, p.59 (emphasis mine).
206 Eugene Heath argues that Hayek seems to advance three theories of cultural selection: (1) the units of selection are social rules which are selected for because of individual adaptiveness; (2) the units of selection are rules which are selected for because of group adaptiveness; and (3) the units of selection are whole groups ('Rules, Function, and the Invisible Hand' pp.31–3).
207 *Law, Legislation and Liberty*, I:9. Cf. 'These rules of conduct ... have evolved because the groups who practised them were more successful and displaced others' (ibid., I:18).
208 'Cultural evolution operates largely through group selection' (*The Fatal Conceit*, p.25).
209 *Law, Legislation and Liberty*, I:18.
210 *Law, Legislation and Liberty*, III:161.
211 *Law, Legislation and Liberty*, III:161.
212 It is 'the rules which have been practised by a few and then imitated by many which created a social order of a particular kind' (*Law, Legislation and Liberty*, III:166).
213 *Law, Legislation and Liberty*, III:156–7.
214 Hayek writes: 'we know now that not only among animals such as birds and particularly apes, learnt habits are transmitted by imitation ... but also that such acquired cultural traits may affect physiological evolution – as is obvious in the case of language' (*Law, Legislation and Liberty*, III:155). Cf. 'We have

mentioned the capacity to learn by imitation as one of the prime benefits conferred during our long instinctual development. Indeed, perhaps the most important capacity with which the human individual is genetically endowed, beyond innate responses, is his ability to acquire skills, by largely imitative learning' (*The Fatal Conceit*, p.21).

215 *The Fatal Conceit*, p.20. Cf. 'Most of these rules have never been deliberately invented but have grown through a gradual process of trial and error in which the experience of successive generations has helped to make them what they are' (*The Constitution of Liberty*, p.157).

216 Heath, 'Rules, Function, and the Invisible Hand. An Interpretation of Hayek's Social Theory', p.39.

217 'The rules under which the citizens act constitute an adaptation of the whole of society to its environment and to the general characteristics of its members' (*The Constitution of Liberty*, p.157). Cf. 'Disliking these constraints [rules of just conduct] so much, we hardly can be said to have selected them; rather, these constraints selected us: they enabled us to survive' (*The Fatal Conceit*, p.14).

218 *Law, Legislation and Liberty*, I:18. Cf. 'It was not always even those who first initiated new practices (saving, private property, and such like) whose physical offspring thus gained better chances of surviving. For these practices do not preserve *particular* lives but rather increase the *chances* (or prospects or probabilities) of more rapid propagation of the *group*' (*The Fatal Conceit*, p.131); *Law, Legislation and Liberty*, I:9; ibid., II:4–5.

219 *Law, Legislation and Liberty*, III:161. Cf. 'These rules of conduct have ... evolved because the groups who practised them were more successful and displaced others' (ibid., I:18, 9, 44); *The Fatal Conceit*, pp.16, 131.

220 Several economists have presented the principles governing the process of the market as similar to those underlying biological evolution. See, for instance, Richard R. Nelson and Sidney G. Winter, *An Evolutionary Theory of Economic Change*, Cambridge, MA, 1982; Armen A. Alchian, 'Uncertainty, Evolution, and Economic Theory', *Journal of Political Economy*, 58, 1950, pp. 211–21; Geoffrey M. Hodgson, *Economics and Evolution*, Cambridge, 1993.

2 Spontaneous order and the limits of reason

As I demonstrated in Chapter One, Hayek's idea of spontaneous formations is above all a statement about the limits of human reason. The theory of spontaneous orders explains the emergence of social phenomena which are 'the results of human action but not of human design'. This theory, Hayek maintains, constitutes probably the most lasting contribution of Bernard Mandeville, David Hume and Adam Smith. In reaction to Cartesian constructivism, these thinkers 'built up a social theory which made the undesigned results of individual action its central object, and in particular provided a comprehensive theory of the spontaneous order of the market'.[1] Underlying this theory is not only a desire for a more parsimonious explanation of social order, but also the view that 'our intellect is not capable of grasping reality in all its complexity'.[2] Men cope with the inescapable fact of their constitutional ignorance by following abstract rules of conduct: 'the reliance on abstract rules is a device we have learned to use because our reason is insufficient to master the full detail of complex reality'.[3]

On the individual level, abstract rules of conduct facilitate decision-making in complex situations: they 'limit our range of choice' by 'singling out as relevant only some aspects' of a situation.[4] Furthermore, abstract rules of conduct enable individuals to adapt to 'ever new and unforeseeable circumstances': 'we adopt general rules for our lives not only to save us the trouble of reconsidering certain questions every time they arise, but mainly because only thus can we produce something like a rational whole'.[5] On the aggregate level, abstract rules of conduct, together with the price mechanism, make possible the spontaneous co-ordination of the separate actions of many individuals. As we saw, Hayek maintains that rules of conduct are *not* adopted as a result of *conscious rational choice*. Assuming that 'conscious reason ought to determine every particular action'[6] is, he argues, an error of 'rational constructivism'. Rules of conduct, whether innate or learnt, come to be adopted as a result of evolutionary processes. Innate or genetically transmitted rules are shaped by *biological* evolution; social or acquired rules are the product of *cultural* evolution.

Abstract rules of conduct, including the rules on which spontaneous market order depends, could not have been designed by man. 'At no

moment in the process could individuals have designed, according to their purposes, the functions of the rules that gradually did form the order.'[7] Spontaneous order comes about when individuals are restrained by an appropriate set of rules of conduct, 'while this consequence of observing these rules is wholly beyond their knowledge or intentions'.[8] Hayek refers to this interaction between individual rule-following and the resulting spontaneous order as 'the twin ideas of evolution and spontaneous order'. He attributes the origin of these ideas to the contributions of Bernard Mandeville, David Hume and Adam Smith. For Hayek, 'traditional rules' (market rules) gradually replaced man's innate rules of 'altruism' and 'solidarity' by a process of cultural evolution. These innate rules were appropriate in small tribal groups, but they became wholly unsuited to large market societies. The transition from the small group to the spontaneous market order is not a rational process: '*all progress must be based on tradition*'.[9] 'Tradition is not something constant but the product of a process of selection guided not by reason but by success. It changes but can rarely be deliberately changed. Cultural selection is not a rational process; it is not guided by but it creates reason.'[10]

As will be shown in the following chapters, neither Mandeville, nor Hume, nor Smith actually subscribe to the evolutionary theory which Hayek attributes to them. It will be argued, in particular, that there is no evidence in their writings of what Hayek calls the 'twin ideas of evolution and spontaneous order'. Their account of the origin of social institutions is more in line with a 'trial and error' explanation in which reason plays an important role. In this chapter, I argue that a tension exists between Hayek's ideas of cultural evolution and spontaneous order, rendering them disparate rather than 'twin'. Hayek claims, on the one hand, that evolution is a process guided not by reason but by success; on the other hand, he maintains that *deliberate* modification of rules of conduct is the only way in which we can affect the formation of spontaneous order. I also argue that, contrary to Hayek's evolutionary account, the rules on which the formation of spontaneous market order depends can neither originate nor be maintained spontaneously. I conclude that Hayek's emphasis on the unconscious mechanism of 'cultural selection' renders his theory inconsistent. Before proceeding to examine his evolutionary theory, I look at some problems with Hayek's definition of order and his claim that spontaneous market order is beneficial to *all* its participants.

Order and its benefits

Hayek's main concern lies with the *process* by which social order is brought about rather than with the character of that order. Yet we cannot evaluate the explanatory power of the theory of spontaneous orders, unless we have a clear idea of the types of patterns it is supposed to explain. The idea of 'social order' is not easy to define. Jon Elster, for instance, distinguishes

between two aspects of social order: (1) order defined in terms of regular, predictable patterns of behaviour; and (2) order as co-operative behaviour. The corresponding concepts of disorder are irregularity/unpredictability and lack of co-operation. An example of disorder as irregular and unpredictable behaviour is 'Macbeth's vision of life as "sound and fury, a tale told by an idiot, signifying nothing" '. An example of disorder as lack of co-operation is 'Hobbes's vision of life in the state of nature as "solitary, poor, nasty, brutish, and short" '.[11] Predictability and co-operation seem to capture dimensions to which Hayek's image of social order easily conforms: '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'.[12]

One obstacle to understanding precisely what sort of arrangement Hayek has in mind when he refers to 'order' arises from the fact that he gives more than one definition. In his most abstract definition, order is presented as 'a state of affairs in which a multiplicity of elements of various kinds are so related to each other that we may learn from our acquaintance with some spatial or temporal part of the whole to form correct expectations concerning the rest, or at least expectations which have a good chance of proving correct'.[13] Plainly, order according to this definition means predictability or correct foresight. Order is also described as 'system', 'structure', or 'pattern',[14] terms which are in turn so vague that they hardly add anything to the definition of order.

In more concrete terms, Hayek's description of social order is identical with his definition of 'economic equilibrium'. He writes: 'order with reference to society thus means essentially that individual action is guided by successful foresight',[15] which coincides with his definition of equilibrium.[16] Similarly, order is described as the 'matching of the intentions and expectations that determine the actions of different individuals'.[17] Again, he speaks of order as something which is created by the 'operation of the market system' or the 'game of catallaxy', where 'game' is in turn defined as 'a contest played according to rules and decided by superior skill, strength or good fortune'.[18] The definition of order as the outcome of market exchanges seems to be akin to the type of order referred to above as behavioural patterns of regularity and predictability. Regularity, as Hayek notes, 'means simply that the elements behave according to rules'.[19] As we saw, some degree of predictability is provided by individuals following rules of just conduct and by responding to information being released through the price system.

As I mentioned in Chapter One, Hayek maintains that general market equilibrium is never present in reality, for, as he explains, 'a high degree of coincidence of expectations is brought about by the systematic disappointment of some kind of expectations ...'.[20] Thus, the order of catallaxy is

better described as a '*tendency* towards equilibrium': market exchanges are constantly reshaped as individuals adjust their plans in the light of new information 'encoded' in price signals. When Hayek employs the term 'order' he does not have in mind either a well-structured or a static outcome. In being constantly reshaped, market order lacks a well-defined *structure*. Being subject to constant change, it lacks *stability*. Hayek explains that these two features are the reason why he prefers the term 'order' to that of 'equilibrium': 'the concept of an order ... has the advantage that we can meaningfully speak about an order being approached to various degrees, and that order can be preserved throughout a process of change'.[21]

Hayek also describes order as a 'system', with the capacity to *generate itself* through a mechanism of 'negative feedback'. Thus, the 'mutual adjustment of individual plans' – the social arrangement in which market order manifests itself – 'is brought about by what, since the physical sciences have also begun to concern themselves with spontaneous orders, or "self-organising systems", we have learnt to call "negative feedback"'.[22] This is a repetition of Hayek's argument that order in the market is brought about by the constant disappointment of some individual plans.[23] It simply means that individuals engaging in unproductive activities will be punished by not being rewarded, and will thereby be forced to redirect their efforts to more productive activities.[24] This corrective mechanism of rewards and punishments works because market participants (be they consumers or producers) are governed by a wish to make a profit. The function of 'incentives' is not so much to 'induce people to exert themselves sufficiently' as to tell them '*what to do*'.[25] Market order may be described as a 'self-organising' system, if by this we merely refer to individuals adjusting their activities by reading correctly the price signals.

Frequently, however, Hayek refers to market order as if it were an entity existing independently of its constituent members. He writes, for instance, that 'we know little of the particular facts to which the *whole of social activity continuously adjusts itself* in order to provide what we have learned to expect. We know even less of *the forces* which bring about this adjustment by appropriately co-ordinating individual activity'.[26] Similarly, he speaks of the 'overall order which continually adjusts itself to external changes'[27] and refers to the 'great achievement of economic theory that, 200 years before cybernetics, it recognised the nature of such self-regulating systems in which certain regularities ... of conduct of the elements led to constant *adaptation of the comprehensive order* to particular facts ...'.[28] Such statements are, at best, misleading. To begin with, there is nothing mysterious surrounding the 'forces' bringing about individual adjustment which would render them inaccessible to human understanding. Such forces, as we know, are the price mechanism and the rules of 'property, tort and contract'. Second, holistic remarks like 'the whole of social activity' *adjusting itself* and the 'adaptation of the *comprehensive* order' are at odds with Hayek's methodological individualism: it is not the order as a whole that adjusts *itself*, but merely individuals reacting to price signals and adjusting their plans accordingly. The preservation of order is ultimately the outcome of human *choice*, and not, as Hayek suggests, of forces which men find difficult to fathom.

Again, the analogy of the science of cybernetics is entirely misplaced and does not cohere with Hayek's earlier attack on scientism. Cybernetics deals with *hierarchically* arranged systems of communication and control in living organisms and machines. While the mind and the biological organism can be described as instances of such self-generating systems, it is difficult to see how such terminology can be applied to the spontaneous order of the market. The order of catallaxy, as Hayek constantly reminds us, relies on negative rules of conduct rather than on commands, and is not hierarchically organised. Moreover, Hayek's claim that market order is brought about by a mechanism known in the physical sciences as 'negative feedback' does not cohere with his earlier claim that 'the fact that all social phenomena have physical properties does not mean that we must study them by the methods of the physical sciences'.[29] Yet this is what he does when, in statements which carry functionalist overtones, he speaks of individual actions tending 'to secure the preservation or restoration' of the order, because individuals have acquired regularities of conduct conducive to the maintenance of the order'. We can say, Hayek continues, that order rests on *purposive* action, if we use the term 'purposive' as it is used in biology: as a 'teleological shorthand' which does not imply an awareness of purpose on the part of individuals, and which should be better substituted by the term 'function'.[30]

His *holistic* remarks notwithstanding, we can see the plausibility of Hayek's argument concerning the spontaneous formation of market order: though never complete, a high degree of mutual adjustment of individual plans takes place through the rewards and punishments the price mechanism provides. To repeat, 'order is achieved by the individuals adjusting themselves to new facts whenever they become aware of them'.[31] Individuals adapt to changing circumstances by being forced to change their misguided efforts when they are no longer remunerated.

The idea of order has, in addition, a *normative* dimension. Spontaneous market order, Hayek maintains, is beneficial to its constituent individual members, and therefore preferable to the made order of socialist economy. The overall benefit of the order of catallaxy is 'a more efficient allocation of resources than any design could achieve'.[32] What accounts for the ability to bring about beneficial outcomes is the mechanism on which spontaneous co-ordination relies. In addition to the price system, it is the *negative* rules of conduct which, by delimiting 'individual protected domains',[33] enable individuals to pursue their plans and induce them 'to contribute to the needs of others without caring or even knowing about them'.[34] The normative connotations of 'order' are better understood when contrasted with 'disorder'. Hayek writes: 'the obedience to unsuitable rules may well become the cause of disorder, and there are some conceivable rules of individual

conduct which clearly would make impossible the integration of individual actions into an overall order'.[35] I shall now address the question of the beneficial nature of market order.[36]

Hayek maintains that spontaneous market order serves the interests of each of its separate members.[37] At the same time, he argues that market co-ordination is brought about by the 'systematic disappointment' of some expectations. As we saw, he views such disappointment as part of the 'feedback mechanism' through which market order is formed and delivers its benefits: disappointment of some plans triggers off a redirection of unproductive activities to more productive ones, thereby bringing about a more *efficient* allocation of resources. If Hayek's argument that market order is beneficial to *all* its members is to make sense, he must regard such disappointment of plans as temporary, meaning that individuals whose expectations have been frustrated will be able to 'reconnect' to the 'economic nexus' and continue to profit from their voluntary exchanges. This is probably what he has in mind when he writes that 'the aim will have to be an order which will increase everybody's chances as much as possible – not at every moment, but only "on the whole" and in the long run'.[38]

This argument is rather problematic. Hayek stresses that the distribution of market goods is left to unforeseeable circumstances. Participating in the market, he writes, is 'as Adam Smith already understood, as if we had agreed to play a game, partly of skill and partly of chance'.[39] The 'game of catallaxy' leaves 'undetermined the degree to which the several particular needs will be met'.[40] In the market, particular outcomes remain unpredictable, because the competitors have different levels of skill and the factor of pure luck is involved. Behind the claim that market order is beneficial to all its members lies the implicit assumption that everyone is integrated into this order in the first place. Yet, as Hayek acknowledges, not everyone has *the means* to profit from market exchanges. He speaks, therefore, of the need for state provision for the old, the disabled and the unemployed.[41] The reference to the unemployed, in particular, indicates that the market does not only leave undetermined the degree to which particular needs are met, it also fails to integrate some of its members into its fabric and provide for their needs. The need for some degree of redistribution suggests that, *spontaneous* economic co-ordination does not prove to be beneficial for *all*.

Hayek qualifies his argument concerning the market's universally beneficial nature: the market, he admits, neither guarantees that *everyone* will manage to secure an income, nor does it bring about an equal or 'just' distribution of incomes. All the market achieves is to increase the total output of goods while leaving unpredictable their actual distribution among its members. The 'game of catallaxy' is simply the means 'through which, by playing it according to the rules, the pool to be shared is enlarged, leaving individual shares in the pool in a great measure to chance'.[42] Yet he makes the additional claim that the market 'is likely to increase everybody's chances' of 'attaining his ends'.[43] He continues, 'though the share of each will be unpredictable, because it will depend only in part on his skill and opportunities to learn facts, and in part on accident, this is the condition which alone will make it the interest of all so to conduct themselves as to make as large as possible the aggregate product of which they will get an unpredictable share. Of the resulting distribution it cannot be claimed that it is materially just, but only that it is the result of a process which is known to improve the chances of all ...'.[44] Now from the fact that a society's total output is increased, it does not follow that every individual benefits. This can be established by looking at how aggregate output is actually distributed among individuals. Hayek's claim that the distribution of market goods depends to a large extent on chance, together with his acknowledgment that some members are left outside the market network, weakens his argument that market order is beneficial to everyone.

There is a further normative aspect that can be discerned in Hayek's definition of order: the market order is an 'order of peace and mutually adjusted efforts',[45] brought about spontaneously within the framework of the appropriate rules of conduct.[46] Now the claim that relations of peaceful co-existence are brought about *spontaneously* in the market, is questionable. As we saw, the actual outcomes of the game of catallaxy are likely to thwart a number of expectations, leading to frustration or even conflict. Hayek maintains that, in market order, social conflict is avoided, because market forces (like natural forces) are impersonal, so there is no one directly to blame for unfortunate outcomes. He writes: 'even if the threat of starvation to me and perhaps to my family impels me to accept a distasteful job at a very low wage, even if I am "at the mercy" of the only man willing to employ me, I am not coerced by him or anybody else ... so long as the intent of the act that harms me is not to make me serve another person's ends, its effect on my freedom is not different from that of any natural calamity – a fire or a flood that destroys my house or an accident that harms my health'.[47] For Hayek, social inequalities are not the product of human responsibility, but depend on chance. The implication for public policy is that social inequalities, being similar to natural inequalities, cannot be rectified by intentional political action.

Yet, Hayek is forced to acknowledge that even in spontaneous market order there is a potential for conflict: among the legitimate tasks of government, he includes the 'assurance of a certain minimum income for everyone', for a system such as market society 'which aims at tempting large numbers to leave the relative security which the membership in the small group has given would probably soon produce great discontent and violent reaction when those who have first enjoyed its benefits find themselves without help when, through no fault of their own, their capacity to earn a living ceases'.[48] Moreover, steps to channel the likelihood of discontent (e.g. provision of a minimum income) are seen as being 'in the interest of those who require protection against acts of desperation on the part of the needy'.[49]

The assurance of a minimum income for everyone, Hayek also implies,

makes it in the interest even of those left *outside* the market order to accept its unpalatable outcomes: 'a society relying on the market order for the efficient use of its resources is likely fairly soon to reach an overall level of wealth which makes it possible for this minimum to be at an adequate level'.[50] The need for state action indicates, however, that a society *cannot* rely on *spontaneous* forces to convince everyone that it is in their interest to preserve the market order. Market order is indeed maintained only so long as its participants are willing and prepared to accept its frequently unpleasant consequences.[51] If prior acceptance of the unpalatable consequences of the market order is a condition for its existence, it can hardly be claimed that the market order is maintained *spontaneously*. It is perhaps more accurate to argue that 'the supposed "integrative" effects of the catallaxy would appear to be more convincingly explained as the producr of consensus than as an unintended outcome'.[52] We can therefore conclude that the *orderliness* of the catallaxy can hardly be considered spontaneous: not only does it depend on the participants' prior acquiescence in the prospect of unpleasant outcomes, but also, in cases where such outcomes assume the form of utter deprivation, it calls for deliberate state action. Moreover, as will be seen, the rules upon which market exchanges rely are themselves the product of prior agreement.

Hayek's definition of 'order' contains elements of both *holism* and *scientism* which are not compatible with his remarks on 'true' individualism. Moreover, as we saw, a market economy can be described as an *order* only once it is recognised that some degree of state interference is indispensable as a way of 'compensating' those of its members who are not integrated into the economic network. It appears therefore that spontaneous market order cannot deliver *all* of its benefits *spontaneously*. I shall now look at Hayek's argument concerning the spontaneous *origin* of the mechanism through which market order is brought about. According to this argument, rules of just conduct provide the basis on which the spontaneous formation of social order ultimately rests. Their indispensability is plain from the fact that without rules there can be no order. Despite Hayek's statement that 'it is at least conceivable that the formation of a spontaneous order relies entirely on rules that were deliberately made',[53] he believes that 'undoubtedly an order originally formed itself spontaneously because the individuals followed rules which had not been deliberately made but had arisen spontaneously'.[54] These rules (of 'property, tort and contract'), together with other behavioural rules, were followed unconsciously, and existed in an unarticulated form. In the following section, I try to reconstruct Hayek's argument relating to the process of articulating market rules.

Unconscious rule-following

Hayek maintains that human conduct is ultimately governed by abstract rules which cannot be articulated, and which are followed unconsciously. He speaks of man's conscious mental processes as being governed by 'rules

which in turn cannot be conscious – by a supra-conscious mechanism which operates upon the contents of consciousness but which cannot itself be conscious'.[55] Rules of *just* conduct – which make possible the formation of spontaneous market order – are also governed by this mechanism of supra-conscious rules: 'the capacity to judge actions of our own or of others as just or unjust, must be based on the possession of highly abstract rules governing our actions, although we are not aware of their existence and even less capable of articulating them in words'.[56] Man's capacity to follow rules of just conduct is ultimately derived by his 'sense of justice' which is 'that capacity to act in accordance with non-articulated rules ...'.[57] The 'sense of justice', Hayek seems to suggest, is an innate capacity similar to man's 'sense of language'. He writes, 'if what is called the *Sprachgefühl* consists in our capacity to follow yet unformulated rules, there is no reason why, for example, the sense of justice (the *Rechtsgefühl*) should not also consist in such a capacity to follow rules which we do not know in the sense that we can state them'.[58]

A general problem with Hayek's views concerning unconscious rule-following is that he does not specify how we are able to identify abstract rules of conduct. Such rules are 'supra-conscious', that is, beyond our intellectual capacity. He states that we are not aware of their existence. How, then, can we know not only that they do exist but also that the whole of our intellectual capacity *is determined* by them? Hayek could of course reply that, although we are somehow aware of their existence, we cannot *verbally* define them. But, surely, if we are even vaguely aware of their existence, abstract rules cannot be 'supra-conscious' – at least not to the degree that Hayek claims them to be. It appears then that these 'meta-conscious' rules, which are the *sine qua non* of our intellectual capacity, are taken by Hayek as *axiomatic*. Their existence and function are simply postulated rather than demonstrated. If so, then Hayek has not, in fact, demonstrated the limits of our ignorance.

The idea that human conduct is ultimately governed by 'meta-conscious' rules may be a plausible explanation of conduct involving the *mechanical* application of rules, like playing the piano or riding a bicycle. As Hayek states, 'the phenomenon [unconscious rule-following] is a very comprehensive one and includes all that we call skills. The skill of a craftsman or athlete which in English is described as 'knowledge how' (to carve, to ride a bicycle, to ski, or to tie a knot) belongs to this category ... So far as we are able to describe the character of such skills we must do so by stating the rules governing the actions of which the actors will usually be unaware'.[59] Yet, Hayek's definition of man's 'sense of justice' as the capacity to act in accordance with meta-conscious rules seems much less convincing.

To begin with, Hayek distinguishes between three kinds of rules of conduct: (1) rules which 'all individuals of a society will obey because of the similar manner in which their environment represents itself to their minds'; (2) other rules which individuals 'will follow spontaneously because they

will be part of their common cultural tradition'; and (3) rules which individuals 'may have to be made to obey, since, although it would be in the interest of each to disregard them, the overall order on which the success of their actions depends will arise only if these rules are generally followed'.[60] Rules of the third kind are the rules of *just* conduct. Now rules which individuals 'may have to be made to obey' cannot have developed unconsciously. Yet, Hayek insists that those who decided to enforce these rules 'may never have fully comprehended what function the rules served'.[61] Hayek also maintains that the rules of law are 'those rules which, because we can deliberately alter them, become the chief instrument whereby we can affect the resulting order'.[62] The fact that we can affect the resulting order by deliberately altering its rules indicates that we are aware of the existence of such rules, and also suggests that we understand the function they perform.

Hayek does not, of course, claim that *all* rules of just conduct remain either unconscious or unarticulated. He writes: 'most articulated rules are merely more or less successful attempts to put into words what has been acted upon before ... Yet it seems probable that no system of articulated rules can exist or be fully understood without a background of unarticulated rules which will be drawn upon when gaps are discovered in the system of articulated rules'.[63] The medium of this gradual process of articulation is, according to Hayek, the common-law judge. The judge is 'an institution of a spontaneous order'; his efforts are 'part of that process of adaptation of society to circumstances by which the spontaneous order grows ... He thus becomes an organ of that order'.[64] Yet it is unclear how judges can decipher rules of whose existence and function they are as unaware as anyone else and which they follow no less unconsciously than the other members of society.[65]

Hayek writes that the rules of just conduct 'would never have been discovered if the existence of a spontaneous order of actions had not set the judges their peculiar task',[66] implying that judges operate within an already formed spontaneous market order which they unreservedly endorse. The common-law judge 'is not a creator of a new order but a servant endeavouring to maintain and improve the functioning of an existing order'[67] which emerged by an evolutionary process. The judge 'assists in the process of selection [of rules] by upholding those rules which, like those which have worked well in the past, make it more likely that expectations will match and not conflict'.[68] This means that in selecting these particular rules, the judge must not only understand their function in bringing about spontaneous order, but he must in addition have a *conscious* preference for the preservation of this particular order.[69] Unless this element of conscious selection is introduced,[70] Hayek will have to explain the mechanism leading the judges to 'gradually approach a system of rules of conduct which is most conducive to producing an efficient order of actions'.[71] Yet introducing the concept of intentional selection of rules of conduct is at odds with Hayek's evolutionary account and unconscious rule-following.

According to this evolutionary account, cultural selection is a process which takes place independently of human understanding and itself shapes human intellectual capacity. Individuals obey inherited or culturally transmitted rules of conduct, usually without even being conscious of their doing so. In his words, 'the group may have persisted only because its members have developed and transmitted ways of doing things which made the group as a whole more effective than others; but the reason why certain things are done in certain ways no member of the group needs to know'.[72] Since the survival of the most efficient institutions is enhanced by the neutral mechanism of 'cultural selection', there is little room left for conscious human interference. In addition to the issue of the mechanism of selection of rules of just conduct, there is the question of how such rules emerge in the first place. The following section examines the plausibility of Hayek's evolutionary explanation concerning the origins and maintenance of rules of justice.

Evolution of rules of just conduct

Hayek's theory of cultural evolution seems to combine two types of explanation: (1) an *individualistic* process; and (2) a *collectivist* process.[73] Although there are substantial differences between the two, their precise connection is not systematically explored. It has been noted that there is a 'tacit shift' in his argument 'from the notion that behavioral regularities emerge and prevail because they benefit the individual practising them, to the quite different notion that rules come to be observed because they are advantageous to the group'.[74] In an individualistic evolutionary explanation, the emergence and maintenance of rules are accounted for at the level of separate individual choices in terms of the processes of *innovation* and *imitation*. In an environment of competition, the process of innovation generates new variants. In turn, successful innovations are selected by being imitated by an increasing number of individuals in the group.[75] The collectivist evolutionary process of 'group selection' is not at odds with the Darwinian individualistic mechanisms of natural selection in cases where patterns of behaviour advantageous to the group are at the same time beneficial to the individuals who actually practise them. The fact that they benefit the individual in itself explains why they are selected.[76]

The problem arises when the mechanism of group selection is used to explain cases where existing behavioural patterns are advantageous to the group but disadvantageous to the individuals adopting them. Hayek writes, for instance, that 'the properties of the individuals which are significant for the existence and preservation of the group, and through this also for the existence and preservation of the individuals themselves, have been shaped by the selection of those from the individuals living in groups which at each stage of the evolution of the group tended to act according to such rules as made the group more efficient'.[77] There is, however, no *necessary* connection between individual advantage and group efficiency, since it is often the case

that the pursuit of individual benefit runs counter to the benefit of the group as a whole, or that group benefit requires self-sacrificing behaviour on the part of individuals.[78]

Although Hayek concedes that various practices 'have prevailed because they were successful – often not because they conferred any recognisable benefit on the acting individual but because they increased the chances of survival of the group to which he belonged',[79] he never addresses the question of how practices which are not immediately advantageous to the individual emerge *in the first place*. If the practice is not favourable to the survival of the individual, it remains unclear why it should be imitated by others in the group. In claiming that cultural evolution 'operates largely through "group selection"', Hayek evidently abandons the individualistic explanation of cultural evolution, according to which innovation and imitation are viewed as the outcome of individual choice. He adopts instead the more controversial process of 'group success' as the mechanism of cultural evolution. The idea that cultural selection operates at a *collective* level directly conflicts with Hayek's methodological individualism. Moreover, even if we accept group selection as a sufficient explanation when referring to competition between groups,[80] it is impossible to show how, when self-sacrificial behaviour is required, the problem of free-riding *within* the group could be overcome *spontaneously*.

As will be seen, in a group of rational[81] self-seeking individuals, rules that require self-sacrificial behaviour cannot be expected to emerge spontaneously, for it will always be to the individual's advantage to free-ride, that is, to enjoy group benefits without contributing to the costs of their procurement.[82] Moreover, unless we postulate an altruistic motivation, exhibiting self-sacrificial behaviour implies that individuals recognise the function of the rules in bringing about group benefits. This would run counter to Hayek's claim that rules of conduct 'come to be observed because in fact they give the group in which they are practised superior strength, and not because this effect is known to those who are guided by them'.[83]

Hayek's collectivist account of 'group selection', according to which 'rules evolved *because* the groups who practised them were more successful and displaced others',[84] constitutes an *invalid* functionalist explanation. In the absence of a selection mechanism for the adoption of rules by individuals *within* the group, the function of rules (group benefit) cannot in itself explain their existence. Until it can be shown how and under what conditions individuals will *spontaneously* adopt and subsequently adhere to group beneficial rules, the explanatory power of the mechanism of 'group selection' will remain inadequate. The individualistic explanation of the emergence and subsequent selection of rules of conduct seems to be a more convincing mechanism of cultural evolution. It is to the examination of this mechanism that I now turn.

The individualistic evolutionist approach is more in line with Hayek's idea of spontaneous formations, according to which societal order emerges as

the spontaneous and unforeseen co-ordination of a multiplicity of separately pursued individual interests. It remains to be examined whether the rules responsible for bringing about such unintended co-ordination (rules of just conduct) can in fact be expected to arise out of such an individualistic spontaneous process in the absence of collective decisions or centrally directed efforts consciously aimed at their establishment. Hayek maintains that *all* rules of conduct *originate* in a process of cultural evolution. He concedes, however, that certain of the rules which are indispensable for the spontaneous formation of social order can, at least to some extent, be deliberately altered. Accordingly, he distinguishes between two kinds of rules: (1) rules which can be expected to emerge and be followed spontaneously, such as 'rules of morals and custom';[85] and (2) rules which *arose* spontaneously, but which 'people gradually learned to improve'. Rules of the second type, such as the rules of law, people 'may have to be made to obey, since, although it would be in the interest of each to disregard them, the overall order on which the success of their actions depends will arise only if these rules are generally followed'.[86] Hayek also recognises that rules of law are of the utmost importance, since 'because we can deliberately alter them, [they] become the chief instrument whereby we can affect the resulting order'.[87] Yet, the extent to which rules of law can be altered is very limited, for any alteration is to take place within the broader cultural context, which is determined by the evolutionary process. 'All we can hope for', Hayek contends, 'will be a slow experimental process of gradual improvement rather than any opportunity for drastic change'.[88] An improvement, in other words, which reckons with the forces of evolution.

Rules belonging to the first type (customs and conventions) provide solutions to recurring co-ordination problems and can therefore be called 'co-ordination rules'. In principle, such rules can be expected to emerge spontaneously, even if they may be the outcome of deliberate agreement in reality. Representative examples would be rules regulating road traffic, or rules concerning linguistic conventions. The main steps outlining the process of the spontaneous emergence and stability of a solution to a co-ordination problem are as follows. First, there exist among individuals randomly distributed preferences for various alternatives, with the practical implication that, 'it doesn't matter what one does as long as everybody does the same'.[89] Second, once a specific alternative chances to become more frequently practised, deviation from it becomes increasingly disadvantageous to the individual. For instance, the more people drive on the left side of the road, the more dangerous it becomes to drive on the right side. In this way, a particular alternative eventually becomes the general practice. Finally, and most importantly, once a behavioural rule is established, individuals have no strong incentive to deviate from it. Not only may co-ordination rules be expected to emerge spontaneously, they are also self-policing. Such rules are therefore suited to an individualistic evolutionist explanation simply because individual self-interest is served without interfering with the emergence or

maintenance of the final outcome. Once co-ordination rules are established, they cannot normally be expected to change by a similar individualistic spontaneous process. It is often the case that, even if a better alternative is perceived by individuals, it may still be too costly to deviate from the established convention *unilaterally* and introduce a new rule.[90] In such cases, the changing of a particular rule will require deliberate collective agreement.

Rules belonging to the second type cannot *in principle* be expected to emerge from an individualistic evolutionist process because the pursuit by rational individuals of their immediate self-interest will prevent co-operation. Problem situations of this type are known in rational choice theory as the 'collective action problem',[91] which results from the individual incentive to free-ride. The collective action problem is restricted to selfish, outcome-oriented benefits, that is, to personal consumption of the goods provided by the collective action. A crucial property of the collective good is its *non-excludability*: people who do not co-operate cannot be excluded from enjoying it once it is provided. The major characteristic of the collective action problem is that 'each individual benefits more under conditions of universal co-operation than under conditions of universal non-co-operation, but the individual always benefits more by not co-operating, regardless of what others do'.[92] In the collective action problem, the pay-off structure is that of an *n*-person *Prisoners' Dilemma* (PD). As in the two-person PD, the unilateral defector or free-rider gets the largest benefit, whereas the unilateral co-operator ends up with the worst outcome.[93] The outcome will in the end be universal non-co-operation, as each individual tries to avoid the worst outcome of co-operating while others free-ride, and chooses instead the most attractive alternative of not co-operating.

In a collective action situation, a behavioural rule bringing about universal co-operation cannot be expected to emerge spontaneously by means of an individualistic process. First, the dominant strategy for the individual will be to free-ride rather than to co-operate. Second, the greater the number of participants who choose to co-operate, the more attractive it becomes for the individual to free-ride. Third, even if such a rule is somehow spontaneously established, it cannot be expected to be self-enforcing, for there is an ever-present incentive for unilateral defection. Solutions to collective action situations could be expected to emerge through the spontaneous generation of certain additional incentives which would change the original incentive structure in such a way that the incentive to defect would no longer be the dominant individual strategy.

A mechanism that could spontaneously generate such incentives is *reciprocity*; that is, a mutual exchange of rewards and punishments in social interaction, in which fear of retaliation or hope of reciprocation would make unilateral defection an individually disadvantageous choice.[94] However, the mechanism of reciprocity can only be successful in small social groups with face-to-face interaction. It cannot be expected to be successful in the impersonal social setting of modern market society, for the larger the number of

interacting members in a group, the less likely it is that unilateral defection will be discovered. More importantly, the establishment of such a mechanism would mean that individuals understand fully the function of rules of just conduct and consciously endeavour to maintain them. Yet an explanation of the origins and maintenance of such rules in terms of individual intentionality is not in line with Hayek's evolutionary account: as we saw, he constantly stresses that rules of conduct emerge like accidental mutations, without individuals really understanding their function.

According to Hayek, abstract rules of conduct are the dictates of custom and tradition. 'The unconscious rules which govern our actions are often represented as "customs" or "habits"',[95] he writes. More importantly, he presents these acquired traditional abstract rules of conduct as replacements for the natural human instincts of 'solidarity' and 'altruism'.[96] In primitive societies, he argues, human conduct is governed by the natural good instincts of altruism (defined as 'our wish to serve the known needs of our known neighbours') and solidarity (defined as the need 'to join with our fellows in the pursuit of common purposes').[97] These primitive instincts remained the greatest obstacle to economic development until they were gradually suppressed by evolved abstract rules of behaviour (mistakenly called 'artificial rules')[98] which made possible the spontaneous order of modern market economies. The learned traditional rules of behaviour which replaced the primitive instincts are the rules of property and contract, which evolved by a process of selection, which made those groups who followed the new rules more prosperous than other groups, and which thus came gradually to govern the civilised part of the world'.[99] Nevertheless, since he fails to address the problems relating to group selection which I have mentioned above, Hayek does not successfully explain the mechanism through which rules of property and contract can be expected to emerge spontaneously and subsequently to be adopted by individual members within the group.

In market societies in particular, where the new rules of behaviour are supposed to prevail, the mechanism of reciprocity cannot be relied upon for the spontaneous self-enforcement of behavioural rules that are solutions to PD situations. The problem can be solved only by *deliberately* altering the conditions under which individuals act in order to make adherence to group beneficial behaviour individually advantageous.[100] In a large and impersonal social setting, like the spontaneous order of market society, a powerful organisation is required to enforce PD norms. This organisation is the state. The function of the state, as Hayek admits, is indeed the enforcement of PD norms, such as legal rules, and the provision of public goods which the market cannot provide. Yet, incorporating such *external* mechanisms of rule enforcement into a theory of cultural evolution 'would mean to assign a significant role to organised, political processes and would not seem to leave much room for some autonomous process of group selection operating beyond the level of man's choice'.[101] It would also imply that emphasis be

placed on rational foresight and intentionality in first identifying and subsequently implementing the 'appropriate' group beneficial rules. This would run counter to Hayek's anti-rationalistic doctrine of spontaneous formations.

The general problem presented by Hayek's views on the state is the following: if evolved rules of just conduct have to be enforced by an external agent, such as the state, it cannot be claimed that the spontaneous order is *self-maintaining*. It thus appears that dispersed individual action cannot be relied upon for the spontaneous maintenance of market order because of the constant presence of the possibility of free-riding. While Hayek places emphasis on the rule-following aspect of human nature, he does not ignore the rational and self-seeking aspects of human activity. For one thing, the very formation of the order of *catallaxy* rests on precisely such self-interested motivation. For another, he attributes the need for a coercive agent such as the state to the ever-present danger of free-riding.[102] Thus the maintenance of the spontaneous order has to be provided externally in the form of state enforcement of the rule of law.

There is, it seems, a tension between Hayek's evolutionary explanation of the emergence of rules of just conduct, and his emphasis on the need for state *enforcement* of such rules. 'Although it is conceivable', he writes, 'that the spontaneous order which we call society may exist without government, if the minimum of rules required for the formation of such an order is observed without an organised apparatus for their enforcement, in most circumstances the organisation which we call government becomes indispensable in order to assure that those rules are obeyed'.[103] Now since rules of just conduct are the product of natural selection and since they are followed unconsciously by individuals,[104] it is not clear why a *constructed* order such as government becomes indispensable for their enforcement. This tension weakens significantly Hayek's claims for the *spontaneous* formation of market order. An order whose mechanism of co-ordination has to be deliberately enforced cannot be called entirely spontaneous. If, on the other hand, the function of such rules is recognised, then they are not followed unconsciously.

Hayek could respond that state enforcement of abstract rules of conduct is essential in order to deal with cases of maladaptation. He argues that, due to their adaptive superiority,[105] rules of just conduct were naturally selected to survive, and gradually replaced man's natural 'group' instincts of 'solidarity' and 'altruism'. By implication, in the context of modern market society, man's 'tribal' instincts are maladaptive. Enforcement of the rules of just conduct, Hayek would argue, becomes indispensable, for these group instincts are so 'deeply ingrained in human nature' that they seek constantly to come to the surface, threatening thus to undermine the achievements of the 'Great Society'.[106] Moreover, the rise of the Great Society is a relatively recent event and has not yet enabled man to free himself entirely from the atavistic tribal instincts.[107] The viability of such a response depends on the credibility of Hayek's idea of adaptation. Civilisation, Hayek writes, 'has

largely been made possible by *subjugating* the innate animal instincts to the non-rational customs which made possible the formation of larger orderly groups of gradually increasing size'.[108] Now subjugation and repression is not what is normally meant by adaptation. Moreover, adaptive superiority and the mechanism of 'group selection', as Hayek himself acknowledges, do not *by themselves* explain sufficiently the origin and preservation of rules of just conduct.[109] Given that such rules are contrary to man's innate instincts, their observance has always relied on fear of punishment and retribution. In short, enforcement of rules of just conduct is not simply indispensable as a way of dealing with cases of maladaptation, but is itself the *means* of adaptation.

A further problem relates to the requirement of a set of rules *appropriate* to the evolution of social order. Rules of just conduct are the framework within which the overall social order can spontaneously emerge and continue to evolve. Hayek insists that an 'appropriate set' of rules of conduct is a prerequisite for the spontaneous formation of such an order. Recognising that 'some rules governing individual behaviour might clearly make altogether impossible the formation of an overall order', he goes on to state that the problem is 'what properties must the rules possess for the separate actions of the individuals to produce an overall order'.[110] Clearly, the spontaneous formation of societal order cannot be achieved under just *any* set of rules.[111] It requires a specified set which would be conducive to its evolution. Actually, it is questionable whether we can talk in a meaningful sense about evolution if we are to specify the environment within which it is to take place. Such specification implies that the process of spontaneous order is limited – not entirely spontaneous, but partially constructed.

Hayek maintains that particular outcomes of the spontaneous process can neither be guaranteed nor predicted. A specified set of rules, without promoting specific outcomes, ensures nevertheless that certain outcomes will be prevented from occurring. Such an order can be defined as a 'non-teleological construction' which 'does not guarantee an "end" or "end-state", but, rather, it bounds or limits the range of "ends" or "end-states" that may come about. It specifies what cannot exist, not what will exist'.[112] The evidence for this in Hayek is the fact that abstract rules of conduct are *negative* in character: they do not prescribe what individuals are allowed to do, but specify instead what they are *not* allowed to do. The specified framework within which social order is formed spontaneously is the set of negative rules of justice. Were this set of rules also the product of natural selection, Hayek's theory of cultural evolution would not be 'tainted' by constructivist connotations. Hayek states that legal rules *originate* in a process of evolution.[113] Yet, as already mentioned, *this* type of rules cannot be expected to *emerge* spontaneously, but requires collective agreement – or enforcement. Furthermore, even if such rules were to emerge spontaneously, the fact that they have to be *deliberately* maintained indicates that the *continuing* evolution of social order is in turn constrained.

A further problem with Hayek's theory of cultural evolution is this. Nothing in the process guarantees that the evolved rules and institutions will be those that best promote individual liberty. If there were such a guarantee how could we ever account for the emergence of totalitarian regimes? There is 'no guarantee of a tendency towards "equilibrium" in a spontaneously developing legal system as there is in a market because there is no device, such as the signals of the price system, to bring this about'.[114] By presenting men as following evolved 'meta-conscious' rules of action and perception over which they have no control, Hayek implies that the only option left open to them is to submit to the forces of evolution and the wisdom embodied in custom and tradition. Applied to institutional arrangements, Hayek's evolutionary doctrine leads to civil inertia rather than activism. It implies that, when faced with coercive or totalitarian regimes, men should sit back and patiently wait until such regimes are eventually displaced by the forces of evolution – even though it is precisely such coercion that he urges us to avoid by following rules of just conduct. As has been noted, 'it seems that Hayek is caught in something of a dilemma: if he accepts the consequences of his theoretical standpoint, he appears to be in a very weak position to contend against anti-liberal and particularly totalitarian regimes; but as a political observer he argues vehemently against the totalitarian regimes of our day'.[115] Hayek's own suggestions for *designing* appropriate institutions to limit the functions of government are themselves further indication that the forces of evolution cannot be relied upon to bring about institutional change.

Hayek is particularly emphatic about the need to revise the classical theory of representative government, according to which the tasks of legislating and law enforcement should be separated. Hayek points out that 'by allowing the division between the legislature and the administration to coincide with the division between an elected representative assembly and an executive body appointed by it',[116] the theory of representative government effectively combined the powers of legislation with those of government. Making parliament and government accountable to the will of the electorate, it provided no restraints against the potentially arbitrary will of the majority.[117] Allowing for the revival of an absolute power not restricted by the rule of law, the idea of democratically accountable representative government thus proved an inadequate safeguard of individual liberties.

For Hayek, individual liberties can be best protected, and the exercise of arbitrary power best prevented, if the powers of the executive and legislative branches of government are limited by a constitution.[118] 'Only limited government can be decent government.'[119] To this end he proposes the establishment of a special constitutional assembly. By safeguarding general rules of just conduct which 'nobody has the power to alter or abrogate',[120] this assembly prohibits 'even the legislature from all arbitrary restraints and coercion'.[121] Hayek's proposals for constitutional reform and the establishment of a tripartite system of government suggest that simple reliance on the forces of cultural evolution cannot guarantee the maintenance of a free society. Rather, the safeguards against arbitrary government action and the emergence of illiberal institutions can only be provided by conscious design. Seen in this context, 'the spontaneous order has now suddenly lost its spontaneity. We must *will* it to exist and *make* it happen'.[122] Far from being self-sustaining, Hayek's spontaneous orders require a high degree of what he calls 'rationalist constructivism'.

When critically examined, Hayek's theory of spontaneous order proves to be inconsistent. To begin with, market order is neither spontaneously beneficial for all its participants nor is its orderliness a spontaneous effect. As we saw, market order delivers its benefits by constantly thwarting some expectations; a fact that leads to frustration and resentment. Other members fail completely to connect to the network of market exchanges. In both cases, the external, and deliberately organised institution of the state is required to step in and, by providing some degree of material redistribution, fend off the danger of violent unrest.

Market order may be considered 'self-organising' only in the sense that individuals adjust their activities spontaneously by reading correctly the price signals. In contrast to the price mechanism however, the other key mechanism through which spontaneous order is formed – rules of just conduct – is neither generated nor maintained spontaneously. We have seen that both of Hayek's accounts of cultural selection – collectivist and individualistic – fail to explain the spontaneous emergence of rules of just conduct. The collectivist version (in which the unit of selection is the group as a whole) cannot account for the emergence and selection of rules which, while advantageous to the group, are not immediately advantageous to the individuals adopting them.

The individualistic version could in principle account for the spontaneous emergence and maintenance of co-ordination rules, such as traffic rules, rules of etiquette and conventions in general. However, market rules or, in Hayek's definition, 'rules of just conduct', are examples of collective action problem situations which result from the individual incentive to free-ride. Rules that bring about the spontaneous formation of market order, such as rules of property and contract, cannot be expected to emerge spontaneously, for the pursuit by rational individuals of their immediate self-interest will prevent co-operation. Even if we assume that market rules are somehow initially spontaneously established, individuals who adhere to them will be relatively worse off in comparison with those who free-ride. There is consequently an incentive for everyone to free-ride, resulting in universal non-co-operation.

Hayek recognises that, given the individual incentive to free-ride, the maintenance of market rules rests on their *deliberate* enforcement by an external organisation such as the state. Now the call for an external mecha-

nism of rule enforcement indicates that the formation of market order is not entirely spontaneous. More importantly, it means that individuals understand fully the function of market rules and consciously endeavour to preserve them. An explanation of rule selection in terms of individual intentionality runs counter to Hayek's evolutionary account according to which rules emerge like accidental mutations and are selected to survive without individuals really understanding their function.

Hayek contrasts his 'evolutionary rationalism' with the doctrine of rational constructivism (which maintains that social institutions, rules of behaviour, and, in short, society in its entirety are the outcome of rational design). He insists that 'tradition is not something constant but the product of a process of selection guided not by reason but by success. It changes but can rarely be deliberately changed. Cultural selection is not a rational process; it is not guided by but it creates reason'.[123] In his eagerness to discredit any misguided belief in the possibility or desirability of social engineering, Hayek has underplayed the role of human reason. He seems to ignore the possibility that between these two extremes, there might exist a third explanation which combines elements of both. According to this third possibility, rules and institutions are not just 'thrown up' in the context of an 'objective' process of natural selection. They rather emerge by a process of *intentional* selection. It may be the case that rational deliberation plays a vital part in the whole process of cultural evolution, by enabling individuals to choose rules and institutions which they consider either beneficial or desirable while discarding those considered harmful or undesirable. In short, cultural evolution may proceed 'by a process in which design and insight play an indispensable role, though the process as a whole is undesigned'.[124] As will be shown in the following chapters, it is this third possibility that Mandeville, Hume and Smith advocate.

Notes

1 *Studies*, p.99.
2 *Law, Legislation and Liberty*, I:32.
3 *The Constitution of Liberty*, p.66. Cf. *Law, Legislation and Liberty*, II:8, 20.
4 *Studies*, p.90. Cf. *Law, Legislation and Liberty*, I:30.
5 *Studies*, p.90.
6 *Law, Legislation and Liberty*, I:29.
7 *The Fatal Conceit*, p.72.
8 *Studies*, p.77.
9 *Law, Legislation and Liberty*, III:167.
10 *Law, Legislation and Liberty*, III:166.
11 Elster, *The Cement of Society*, Cambridge, 1989, p.1. Cf. Elster, *Nuts and Bolts*, p.101.
12 *Law, Legislation and Liberty*, I:36.
13 *Law, Legislation and Liberty*, I:36.
14 *Law, Legislation and Liberty*, I:35.
15 *The Constitution of Liberty*, p.160.
16 'It appears that the concept of equilibrium merely means that the foresight of the different members of the society is in a special sense correct' (*Individualism and Economic Order*, p.42). As we saw, Hayek rejects the unrealistic, end-state of equilibrium and replaces it with the notion of a 'tendency towards equilibrium' or order. In essence, however, he does not disagree with the neo-classical *definition* of economic equilibrium; he merely argues that it is a state that can only be approached but never fully realised.

17 *Law, Legislation and Liberty*, I:36.
18 *Law, Legislation and Liberty*, II:115.
19 *Law, Legislation and Liberty*, I:43. Hayek draws the analogy between rules obeyed by the elements of natural orders – like chemical compounds – and rules obeyed by individuals in society: 'the instances of spontaneous orders which we have given from physics are instructive because they clearly show that the rules which govern the actions of the elements of such spontaneous orders need not be rules which are "known" to these elements' (ibid., 43, 39–40, 44).
20 *New Studies*, p.185.
21 *New Studies*, p.184.
22 *New Studies*, p.184. Cf. Ibid., p.63.
23 'In the market it is through the systematic disappointment of some expectations that on the whole expectations are as effectively met as they are. This is the manner in which the principle of "negative feedback" operates' (*Law, Legislation and Liberty*, I:104).
24 'The whole reason for employing the price mechanism is to tell individuals that what they are doing, or can do, has for some reason for which they are not responsible become less or more demanded' (*New Studies*, p.187).
25 *New Studies*, p.187.
26 *The Constitution of Liberty*, p.25 (emphasis mine).
27 *Law, Legislation and Liberty*, I:106.
28 *New Studies*, p.11 (emphasis mine).
29 *The Counter-Revolution of Science*, p.120.
30 *Law, Legislation and Liberty*, I:39.
31 *Law, Legislation and Liberty*, I:106.
32 *New Studies*, pp.63–4.
33 *Law, Legislation and Liberty*, I:106.
34 *Law, Legislation and Liberty*, II:109.
35 *Law, Legislation and Liberty*, I:105. Cf. Ibid., I:44.
36 For a comprehensive discussion of this issue, see Kley, *Hayek's Social and Political Thought*, pp.96–110.
37 The spontaneous market order 'serves the multiplicity of separate and incommensurable ends of all its separate members'.(*Law, Legislation and Liberty*, II:108). Cf. 'The maintenance of a spontaneous order of society is the prime condition of the general welfare of its members' (*Law, Legislation and Liberty*, II:6).
38 *Law, Legislation and Liberty*, II:114–15.
39 *New Studies*, p.186. For further references to the market as a 'game' see ibid., p.60; *Law, Legislation and Liberty*, II:115–20, 126.
40 *Law, Legislation and Liberty*, II:114.
41 *The Constitution of Liberty*, pp.294–302. Cf. '*Outside* the market government may use distinct means placed at its disposal for the purpose of assisting people who, for one reason or another, cannot through the market earn a minimum income' (*New Studies*, p.92).
42 *New Studies*, p.186.
43 *Law, Legislation and Liberty*, II:122, 114.
44 *Law, Legislation and Liberty*, II:122.
45 *New Studies*, p.299. Cf. *Law, Legislation and Liberty*, II:136; *Studies*, p.163.

46 'If every person perceiving another were either to try to kill him or to run away, this would certainly also constitute a regularity of individual conduct, but not one that led to the formation of ordered groups' (*New Studies*, p.9).
47 *The Constitution of Liberty*, p.137. Cf. *Studies*, p.170–1; *Law, Legislation and Liberty*, II:33, 70.
48 *Law, Legislation and Liberty*, III:55.
49 *The Constitution of Liberty*, p.285.
50 *New Studies*, p.92.
51 'It is only because countless others constantly submit to disappointments of their reasonable expectations that every one has as high an income as he has; and it is therefore only fair that he accept the unfavourable turn of events when they go against him' (*Law, Legislation and Liberty*, II:128).
52 Richard Vernon, 'Unintended Consequences', *Political Theory*, 7, 1, 1979, p.66.
53 *Law, Legislation and Liberty*, I:45.
54 *Law, Legislation and Liberty*, I:44.
55 *Studies*, p.61.
56 *New Studies*, p.46.
57 *New Studies*, p.81.
58 *Studies*, p.45. Cf. *New Studies*, p.46.
59 *Studies*, pp.43–4.
60 *Law, Legislation and Liberty*, I:45.
61 *Law, Legislation and Liberty*, I:96.
62 *Law, Legislation and Liberty*, I:45.
63 *New Studies*, pp.81–2.
64 *Law, Legislation and Liberty*, I:95, 119.
65 Hayek writes, 'like most other intellectual tasks, that of the judge is not one of logical deduction from a limited number of premises, but one of testing hypotheses at which he has arrived by processes only in part conscious' (*Law, Legislation and Liberty*, I:120).
66 *Law, Legislation and Liberty*, I:123.
67 *Law, Legislation and Liberty*, I:119.
68 *Law, Legislation and Liberty*, I:119.
69 Hayek claims that the judge 'is committed to upholding the principles on which the existing order is based ... He must thus be conservative in the sense only that he cannot serve any order that is determined not by rules of individual conduct but by the particular ends of authority' (*Law, Legislation and Liberty*, I:120).
70 Hayek occasionally presents the process of selection of rules of justice as being effected by man's increased intellectual capacity and rational control. He writes, for instance, 'it was largely with the growth of individual intelligence and the tendency to break away from the habitual manner of action that it became necessary to state explicitly or reformulate the rules and gradually to reduce the positive prescriptions to the essentially negative confinement to a range of actions that will not interfere with the similarly recognised spheres of others' (*The Constitution of Liberty*, p.152).
71 *Law, Legislation and Liberty*, I:118.
72 *Law, Legislation and Liberty*, I:80. Cf. 'Neither the groups who first practised these rules, nor those who imitated them, need ever have known why their conduct was more successful than that of others, or helped the group to persist' (ibid., II:21).
73 Vanberg, 'Spontaneous Market Order and Social Rules', *Economics and Philosophy*, pp.81–98.
74 Vanberg, 'Spontaneous Market Order and Social Rules', p.83. An example is Hayek's statement that 'most of these steps in the evolution of culture were made possible by some individuals breaking some traditional rules and practising new forms of conduct – not because they understood them to be better, but because the groups which acted on them prospered more than others and grew' (*Law, Legislation and Liberty*, III:161).

75 *Law, Legislation and Liberty*, III:166. Cf. *Studies*, p.67; *The Fatal Conceit*, pp.19–20.
76 Hayek seems to employ this explanation when he writes: 'and the law-breakers ... simply started some practices advantageous to them which then did prove beneficial to the group in which they prevailed' (*Law, Legislation and Liberty*, III:161).
77 *Studies*, p.72.
78 To illustrate the case, Jon Elster refers to a number of examples taken from biology. See *Ulysses and the Sirens*, pp.22–3. Cf. *Nuts and Bolts*, pp.77–8.
79 *Law, Legislation and Liberty*, I:18. Cf. *Ibid.*, I:9; *Knowledge, Evolution and Society*, pp.39, 46–7.
80 For a brief discussion of the inadequacy of this explanation see David Ramsay Steele, 'Hayek's Theory of Cultural Group Selection', *Journal of Libertarian Studies*, 8, 2, 1987, pp.173–7. In particular, Steele draws attention to the limitations of each of the mechanisms of group selection postulated by Hayek, namely, 'population growth', 'conquest' and 'imitation'. Of these three mechanisms, only imitation appears to be plausible. Yet, as Steele correctly observes, it is the least convincing 'because it introduces the element of conscious, rational appraisal with which the entire argument is supposed to dispense' (ibid., p.176). Vanberg also notes the weakness of the mechanism of *'between-group imitation'*: it means that rules spread either by separate individual imitation (in which case the mechanism of group selection is redundant) or 'because of deliberate, collective choices by "outside groups" to adopt what is perceived as a "successful" rule' ('Spontaneous Market Order and Social Rules', p.85n).
81 'Rational' refers to behaviour that involves 'choosing the action which is the best means to realising one's goal, given certain beliefs which must themselves be justifiable by the available evidence' (Elster, 'Weakness of Will and the Free-rider Problem', *Economics and Philosophy*, 1, 1985, p.240). Hayek accepts both the rational and the rule-following aspects of human behaviour: 'man is as much a rule-following animal as a purpose-seeking one' (*Law, Legislation and Liberty*, I:11).
82 Hayek himself acknowledges this (*Law, Legislation and Liberty*, III:43–6). For an extensive analysis of the problem, see Mancur Olson, *The Logic of Collective Action*, Cambridge, MA, 1965. Cf. Elster, *Nuts and Bolts*, pp.124–34.
83 *Law, Legislation and Liberty*, I:19. Cf. Ibid., III:155, 161.
84 *Law, Legislation and Liberty*, I:18 (emphasis mine).
85 *Law, Legislation and Liberty*, I:46. Jon Elster calls these 'social norms', observing that 'social norms do coordinate expectations. They may or may not help people to achieve cooperation' (*The Cement of Society*, p.97).
86 *Law, Legislation and Liberty*, I:45.
87 *Law, Legislation and Liberty*, I:45.
88 *Studies*, p.92.
89 Elster, his 'Introduction', *Rational Choice*, Jon Elster (ed.), Oxford, 1986, p.8.
90 This statement has to be qualified, because whether a change in co-ordination rules will occur spontaneously depends on the nature of the particular convention. This is one of the reasons why Jon Elster distinguishes between social norms, such as rules of etiquette or consumption, and 'convention equilibria', such as traffic rules. He writes, 'convention equilibria are guided by outcomes in a substantive sense, not just in the formal sense that people want to avoid disapproval' (*The Cement of Society*, p.102). The costs of deviating from conventions vary according to the particular kind of

91 For extensive discussion, see Olson, *The Logic of Collective Action*; R. Hardin, *Collective Action*, Baltimore, 1982; Elster, *Nuts and Bolts*, pp.124–34; *The Cement of Society*, pp.17–49, and 'Weakness of Will and the Free-Rider Problem', pp.231–65.
92 Elster, 'Weakness of Will and the Free-Rider Problem', pp.238–9.
93 Elster, *Nuts and Bolts*, p.127.
94 The mechanism of reciprocity is, however, an *external* solution to PD problem situations. Still, such a mechanism forms a *decentralised* solution 'to the extent that the initiative for the changes in possibilities, attitudes or beliefs that constitute an external solution is dispersed amongst the members of the group' (Michael Taylor, *The Possibility of Cooperation*, Cambridge, 1987, p.23). Cf. Robert Axelrod, *The Evolution of Cooperation*, New York, 1984.
95 *Studies*, p.56.
96 *Knowledge, Evolution and Society*, pp.30–46.
97 *Knowledge, Evolution and Society*, p.38.
98 According to Hayek, they are not artificial because nobody ever invented them.
99 *Knowledge, Evolution and Society*, p.39.
100 In the case of small groups, this can be achieved by the imposition of social sanctions, whereas in large groups political enforcement is needed (Olson, *The Logic of Collective Action*).
101 Vanberg, 'Spontaneous Market Order and Social Rules', p.88.
102 *Law, Legislation and Liberty*, III:44.
103 *Law, Legislation and Liberty*, I:47.
104 *Law, Legislation and Liberty*, II:143.
105 It is not clear to what exactly rules of just conduct enable man, or society to adapt. Hayek provides a range of possibilities. (1) Rules of just conduct constitute an adaptation of society to 'its environment and to the general characteristics of its members' (*The Constitution of Liberty*, p.157. Cf. *Law, Legislation and Liberty*, II:5). (2) They adapt individual action to the spontaneous social order. 'The normative rules often serve to adapt an action to an order which exists as a fact' (*Studies*, p.78). (3) They constitute an adaptation to man's constitutional ignorance. Abstract rules of conduct are 'an adaptation to his [man's] ignorance of most of the particular facts of his surroundings' (*Law, Legislation, and Liberty*, I:30. Cf. Ibid., I:13; II:8).
106 'The demand for 'social justice' is indeed an expression of revolt of the tribal spirit against the abstract requirements of the coherence of the Great Society …' (*Law, Legislation and Liberty*, II:144). Cf. The demand for social justice 'has become a powerful incantation which serves to support deep-seated emotions that are threatening to destroy the Great Society' (ibid., 133). 'This conflict between what men still feel to be natural emotions and the discipline of rules required for the preservation of the Open Society is indeed one of the chief causes of what has been called the "fragility of liberty" (ibid., 147).
107 *Law, Legislation and Liberty*, II:146.
108 *Law, Legislation, and Liberty*, III:155, 160–1 (emphasis mine). Cf. 'Such rules [learnt (culturally transmitted)] will presumably be less strictly observed and it will need some continuous outside pressure to secure that individuals will continue to observe them' (*Studies*, p.78).
109 'The evolution of moral orders through group selection … cannot be the whole story'. In addition to the state, Hayek claims, religion has always been instrumental in making sure that rules of just conduct are generally observed (*The Fatal Conceit*, pp.136–40).
110 *Law, Legislation and Liberty*, I:44, 45.
111 'It is evident that in society some perfectly regular behaviour of the individuals could produce only disorder' (*Law, Legislation and Liberty*, I:44). Cf. 'Regular individual conduct does not necessarily mean order, but only certain kinds of regularity of the conduct of individuals lead to an order for the whole' (*New Studies*, p.9); *Studies*, p.67.

112 Roger A. Arnold, 'Hayek and Institutional Evolution', *Journal of Libertarian Studies*, 4, 4, 1980, p.347.
113 '[F]or most of the rules of law also have not been deliberately made in the first instance' (*Law, Legislation and Liberty*, II:58). Cf. Ibid., I:45, 100; *Studies*, pp.88, 92, 101).
114 Norman Barry', Hayek on Liberty', *Conceptions of Liberty in Political Philosophy*, J. Gray and Z. Pelczynski (eds), London, 1984, p.282.
115 Ellen Frankel Paul, 'Liberalism, Unintended Orders and Evolutionism', *Political Studies*, 36, 1988, p.259.
116 *Law, Legislation and Liberty*, III:35.
117 Hayek writes: 'I must frankly admit that *if* democracy is taken to mean government by the unrestrained will of the majority I am not a democrat, and even regard such government as pernicious and in the long run unworkable' (*Law, Legislation and Liberty*, II:39).
118 'The aim of constitutions has been to prevent all arbitrary action. But no constitution has yet succeeded in achieving this aim' (*Law, Legislation and Liberty*, III:36).
119 *Law, Legislation and Liberty*, III:11.
120 *Law, Legislation and Liberty*, III:129.
121 *Law, Legislation and Liberty*, III:111.
122 Michael Forsyth, 'Hayek's Bizarre Liberalism: A Critique', *Political Studies*, 36, 1988, p.250.
123 *Law, Legislation and Liberty*, III:166. Cf. Ibid., 156–7; *The Fatal Conceit*, p.14. This, and similar statements, invalidate Yeager's claim that Hayek does not 'oppose natural selection and cultural evolution to "rational selection" (Leland B. Yeager, 'Reason and Cultural Evolution', *Critical Review*, 3, 2, 1989, p.327.)
124 David Ramsay Steele, 'Hayek's Theory of Cultural Group Selection', p.188. A similar argument is put forth by Vanberg, *Rules and Choice in Economics*, pp.95–196.

3 Mandeville's paradox 'private vices, public benefits'

Bernard Mandeville (1670–1733) is acclaimed by Hayek as the thinker whose speculations mark 'the definite breakthrough in modern thought of the twin ideas of evolution and of the spontaneous formation of an order ...'.[1] His importance is reflected in the wide impact of his ideas, not least on the social philosophy of David Hume and his successors.[2] As we saw, Hayek's theory of spontaneous formations contains an *invisible-hand* explanation, according to which social order is the unintended consequence of the actions of many individuals separately pursuing their goals. It also contains an evolutionary account of the emergence of rules of conduct which make possible the spontaneous formation of social order (or the unintended mutual adjustment of divergent individual interests). An overall order, he argues, is brought about spontaneously if individuals are restrained by rules of just conduct which originate in a process of *cultural evolution*: a process which occurs independently of human reason, and 'in which practices which had first been adopted for other reasons, or even purely accidentally, were preserved because they enabled the group in which they had arisen to prevail over others'.[3]

Mandeville, Hayek argues, was the first to spell out clearly how 'the whole order of society, and even all that we call culture, was the result of individual strivings which had no such end in view, but which were channelled to serve such ends by institutions, practices, and rules which also had never been deliberately invented but had grown up by the survival of what proved successful'.[4] By doing so, Mandeville 'for the first time developed all the classical paradigmata of the spontaneous growth of orderly social structures: of law and morals, of language, the market, and of money, and also of the growth of technological knowledge'.[5] Hayek interprets Mandeville's pronouncement 'private vices, public benefits' as the earliest example of an invisible-hand explanation. 'The means through which in the opinion of Mandeville ... individual efforts are given such a direction [as to promote the public interest], however, are by no means any particular commands of government but institutions and particularly general rules of just conduct.'[6] According to Hayek, Mandeville's intention was to show that the mechanism by which the divergent interests of individuals are reconciled consists

in institutions and general rules of conduct which were not deliberately made – though it was the task of the legislator to improve them – but had been brought about by a process of cultural evolution: 'the identity of interests was thus neither "natural" in the sense that it was independent of institutions which had been formed by men's actions, nor "artificial" in the sense that it was brought about by deliberate arrangement, but the result of spontaneously grown institutions which had developed because they made those societies prosper which tumbled upon them'.[7]

In this chapter, I examine the extent to which Hayek's idea of spontaneous formations is reflected in Mandeville's thought. I argue that a closer look at Mandeville's paradox 'private vices, public benefits' does not confirm Hayek's conclusion that it is an early statement of the theory of cultural evolution. Hayek acknowledges Mandeville's repeated references to the 'dextrous management by which the skilful politician might turn private vices into public benefits'.[8] He nevertheless interprets them as expressions of the evolved rules of conduct whereby spontaneous order is brought about. It will be shown, however, that Mandeville's allusions to the 'management of the skilful politician' represent his 'historical' account of the process whereby man is transformed from an unsocial being into a social being. The mechanism by which private vices are transformed into public benefits, it will be argued, involves *intentional* manipulation of man's natural instinct of *pride* by those 'who undertook to civilise mankind'. Therefore this mechanism cannot be described as endogenous, for it involves external interference and human contrivance. It entails a complex understanding of the workings of human nature and considerable detachment on the part of politicians – to an extent which allows these politicians to discover the means by which man becomes socialised. Such understanding and foresight run counter to Hayek's theory of cultural evolution, according to which rules of conduct emerge like accidental mutations and are selected to survive in a process which takes place independently of human reason. For Mandeville, rules of conduct and institutions originate in a process in which reason constantly influences and *directs* the passions, the prime motor of human conduct.

Furthermore, I argue that the interpretation of Mandeville's paradox 'private vices, public benefits' as an invisible-hand explanation is only partly correct. This much is suggested by the simple fact that historians of ideas disagree about Mandeville's position in the *laissez-faire* vs mercantilism debate.[9] A *laissez-faire* economy rests on a spontaneous or invisible-hand co-ordination of market transactions within a framework of appropriate institutions; the doctrine of mercantilism, by contrast, is at odds with the concept of spontaneous co-ordination, for it demands direct governmental interference in the market. Since he does not come down squarely on the side of *laissez-faire*, Mandeville cannot be described as a fully-fledged advocate of the idea of spontaneous order.

Mandeville's psychological account of the origin of society

As Hayek correctly observes, Mandeville's medical training equipped him with 'an insight into the working of the human mind which is very remarkable and sometimes strikingly modern. He clearly prided himself on this understanding of human nature more than on anything else'.[10] Mandeville belongs to the tradition of seventeenth- and eighteenth-century empiricism, according to which the origin and development of societal institutions can be accounted for by looking at the constant elements of human nature. Thus, an attempt to reconstruct Mandeville's explanation of the origin of society needs to begin with a delineation of his views on human nature. His intention is to provide a realistic account of human nature, untainted by the false claims of contemporary morality.[11] His views on human psychology resemble those of Hobbes and French moralists like Nicole, La Rochefoucauld, La Fontaine, Esprit and Pascal.[12] Like his French predecessors, Mandeville stresses the predominance of the passions,[13] especially *amour-propre* or *pride*, in guiding human action. He believes that: (1) human motivation is always egoistic, and, (2) that reason is the dupe of the passions (in the words of La Rochefoucauld, 'l'esprit est toujours la dupe du coeur'[14]). He repudiates Shaftesbury's claims that society represents man's natural condition and is deeply rooted in man's natural feeling of love towards his fellow-men.[15] In the sharpest contrast to Shaftesbury, Mandeville attributes even the seemingly most altruistic acts to selfish motives. Like Rousseau, he denies man's natural sociability,[16] and his account of human nature and the pre-social 'state of nature' is similar to that of Hobbes.

Given the similarities between Hobbes' and Mandeville's description of human nature, I shall briefly outline Hobbes' explanation of the establishment of political society, as this will help us to understand Mandeville's own account of the origin of civil society. Hobbes describes the 'state of nature' as a state of universal quarrel, a war 'as is of every man, against every man', and calls the life of man in the state of nature 'solitary, poore, nasty, brutish and short'.[17] He stipulates three principal causes of quarrel, namely, *competition*, *diffidence* or fear, and *glory*. 'The first, maketh men invade for Gain; the second, for Safety; and the third, for Reputation.'[18] Having thus outlined man's pre-social condition, Hobbes goes on to explain the way out of it. His starting point is the claim that, in the state of nature, what everyone most desires is to escape this miserable existence and live in a state of peace. The possibility for realising this desire is provided partly by the passions and partly by reason. 'The Passions that encline men to Peace, are Feare of Death; Desire of such things as are necessary to commodious living; and a Hope by their Industry to obtain them. And Reason suggesteth convenient Articles of Peace, upon which men may be drawn to agreement.'[19] Hobbes calls these articles of reason (or maxims of prudence) laws of nature.[20] Now, since self-preservation is man's ultimate end, in the state of nature there are no restrictions on what one may do 'in preserving his life against his

enemyes'. From which it follows that in the state of nature 'every man has a Right to every thing; even to one anothers body'.[21] So long as men retain their natural right to everything, a state of insecurity prevails and the end of self-preservation is not realised.

The end of self-preservation gives rise to the first 'generall rule of Reason' which dictates *'That every man, ought to endeavour Peace, as farre as he has hope of obtaining it; and when he cannot obtain it, that he may seek, and use, all helps, and advantages of Warre'*.[22] Since peace cannot obtain unless men give up their right to everything, the second law of nature dictates that every man gives up his right to all things *provided every one else does the same*. Were it to be implemented, the second law of nature would put an end to the condition of war in the state of nature. Men could renounce their right to all things by mutual covenants. Yet, in the state of nature, covenants are not binding: 'if a Covenant be made, wherein neither of the parties performe presently, but trust one another; in the condition of meer Nature ... it is Voyd ... For he that performeth first, has no assurance the other will performe after; because the bonds of words are too weak to bridle mens ambition, avarice, anger, and other Passions, without the feare of some coërcive Power; which in the condition of meer Nature, where all men are equall ... cannot possibly be supposed. And therefore he which performeth first, does but betray himselfe to his enemy'.[23] Though prudential reason[24] shows men the way out of the state of nature, uncertainty about other men's intentions prevents them from bringing about peace. Lack of assurance that others will keep their promises prompts men to engage in pre-emptive attacks (defensive action). Furthermore, men are driven by strong passions which often incline them to break their promises (aggressive action). Those who are so inclined, Hobbes insists, would have to be coerced to act in accordance with their long-term interests (by keeping their promises). Hobbes concludes that in the absence of a 'visible Power to keep them in awe, and tye them by feare of punishment to the performance of their Covenants',[25] men would not be able to leave the state of nature.

The solution to man's predicament in the state of nature is the establishment of civil society or 'common-wealth'.[26] This involves the institution of a sovereign by a social contract: men surrender to the sovereign by mutual covenants their right to self-government, and the sovereign is given the monopoly of power and coercion for the sake of keeping peace between them and defending them against their enemies.[27] A problem associated with Hobbes' account of the institution of the sovereign is this: he argues that the only way in which men are able to leave the state of nature is by their all laying down their right of self-government and promising to obey a third party. But does their making this promise provide sufficient assurance that this third party will possess the power to enforce the covenant which alone can bring about peace? For mere realisation of the desirability of the covenant provides no motive for men to aid the sovereign in enforcing it at risk to themselves and without any assurance of others honouring their

promises.[28] Moreover, if it is not clear that the sovereign possesses the power to enforce the covenant, then, as in the state of nature, it may still be rational for men to engage in either defensive or aggressive behaviour.

A solution to this problem can be constructed as follows: when Hobbes addresses the question, 'by what door the Right, or Authority of Punishing in any case, came in', he replies that 'in the making of a Common-wealth, every man giveth away the right of defending another; but not of defending himselfe. Also he obligeth himselfe, to assist him that hath the Soveraignty, in the Punishing of another; but of himselfe not'.[29] Though one may not trust a man to keep the covenant who is foolish enough to break it, one can rely on everyone else being against the law-breaker; for each man wants the sovereign to punish every law-breaker except himself. Thus, 'the covenant makes the sovereign powerful, not at all because it involves an immediate keeping of promises, but because it creates a situation in which it becomes everyone's interest that some definite person (the sovereign) should get the better of anyone else he seeks to coerce'.[30] By writing that, in making the covenant, every man assumes an obligation to assist the sovereign in punishing law-breakers, Hobbes simply means that it becomes everyone's interest to do so.[31]

Mandeville and Hobbes do share a similar conception of the 'state of nature', but, beyond that, their theories soon diverge. While Hobbes intends his metaphor of the social contract primarily as a justification of political allegiance, Mandeville sets out to produce a realistic description of the origins of civil society. His account of the transition to political society is *not* based on the purposeful design of a social contract at all. Nor does he account for the achievement of civil peace through the establishment of a sovereign power. To use Hayek's terminology, Mandeville is not a 'rational constructivist'. Although he accepts Hobbes' contention that political society is founded upon man's vulnerability and the instinct of self-preservation, Mandeville endeavours to offer an alternative to Hobbes' rationalistic account of the origin of political society. He insists that society was the result of human action but not the outcome of deliberate agreement.

His starting point is a forceful denial of man's natural sociability. 'By Society' Mandeville writes, 'I understand a Body Politick ... For if by Society we only mean a Number of People, that without Rule of Government should keep together out of a natural Affection to their Species or Love of Company, as a Herd of Cows or a Flock of Sheep, then there is not in the World a more unfit Creature for Society than Man'.[32] This claim, that society cannot exist as anything but *political* society is rooted in his image of human nature and his emphasis on the role played by the passions. Society is *artificial*, that is, the product of human action. Its formation is necessitated by the leading natural passion of *fear* and by the instinct of self-preservation manifested in the passions of *self-love* and *self-liking* or pride.

The artificiality of society does not in itself preclude spontaneous order. Hayek explains that the term 'artificial' can refer to either a *spontaneous* or a *designed* pattern. When the Sophists classified phenomena as either 'natural' or 'artificial', the distinction referred either to 'the contrast between something which was independent of human action and something which was the result of human action' or to the contrast 'between something which had come about without, and something which had come about as a result of, human design'.[33] These Sophist distinctions, Hayek claims, are not merely limited but fundamentally erroneous. They altogether ignore the third category of 'spontaneous formations' – referring to patterns which are the result of human action but not of human design – and thus they effectively equate all human action with human design.

In what follows, I examine where Mandeville stands in relation to the distinction between 'natural' and 'artificial' phenomena. I argue that, although he does not present the establishment of society as the product of design, he nevertheless presents it as a *cumulative* process which is guided by reason. In Mandeville's account, the key to explaining the development of man's civilisation lies with the passions, but the role played by reason is both passive and active. Reason is passive in that it is determined by the nature and force of human passions. It is active in that it is also the agent whereby man's selfish and destructive tendencies are turned to everyone's advantage.

In reconstructing the process leading to the establishment of society, Mandeville replaces Hobbes's hypothetical 'social contract' with a more realistic account of 'what probably was done'.[34] He describes the method he uses to study the origin of human institutions in this way: 'When I have a Mind to dive into the Origin of any Maxim or political Invention, for the Use of Society in general ... I go directly to the Fountain Head, human Nature itself, and look for the Frailty or Defect in Man, that is remedy'd or supply'd by that Invention'. At the same time, he does admit that 'when Things are very obscure, I sometimes make Use of Conjectures to find my Way'.[35] He concludes that civil society is the product of a gradual process. It is formed over a long period of many ages, and it is determined by man's continuous efforts to satisfy a multiplicity of needs. The overall product is not only unintended but also unforeseen. According to Mandeville, the origin of society rests on two principal factors, namely, human vulnerability and the instinct for self-preservation. The actual transition from pre-social existence to social existence is characterised by three main stages. The initial impetus for the formation of society is provided by man's need for protection from the danger of wild beasts. The second step is supposed to have been taken as a response to the need for protection from one another. The third step is marked by the invention of letters, which by allowing the codification of existing verbal rules, puts an end to disputes arising out of uncertainty.

Mandeville starts his enquiry into the origins of civil society by taking the family as the unit of analysis.[36] Having rejected the idea that man is naturally sociable, he endeavours to provide an alternative explanation of the motives which could have led different families to associate. His argument

runs as follows. Since natural affection never extends beyond the family, it is not mutual affection which unites men into society but rather the defenceless condition in which they find themselves, that is, their physical vulnerability and the danger of attack by wild beasts. Hence, the first steps to society consist in men assisting each other in order to protect themselves from wild beasts.[37] At this stage, the impulse towards association is not provided by reason but by the instinct of self-preservation as manifested in the natural passion of *self-love*; the capacity to reason is undeveloped, which leaves man prey to the force of his passions.[38] These uncontrolled passions, 'boisterous, and continually jostling and succeeding one another', prevent him from having a 'regular way of thinking' or from pursuing 'any one Design with Steadiness'.[39] The limited role played by the faculty of understanding, combined with the absence of natural sociability, means that association can only be temporary at this stage. Mandeville writes: 'different Families may endeavour to live together and be ready to join in common Danger; but they are all of little use to one another, when there is no common Enemy to oppose'.[40] The question therefore remains, how does permanent society arise?

The second step towards society, Mandeville suggests, is necessitated by a different sort of danger threatening men in their pre-social existence: 'the Danger Men are in from one another'.[41] This second form of threat is due to one of man's strongest natural passions, that of *self-liking* or pride, which is described by Mandeville as the tendency to rank oneself above others.[42] The passion of self-liking reinforces that of self-love and both are aspects of the instinct of self-preservation.[43] Pride is accompanied by a 'diffidence' arising from the suspicion that we might indeed be over-valuing ourselves, and this makes us seek the 'Approbation' of others in order to confirm what we take to be our superior worth.[44] If the passion of pride is indispensable to self-preservation, it is also the root of antagonism and strife. In this uncivilised state, the qualities most valued are physical strength and prowess rather than the ability to reason. Consequently, people endowed with such qualities are prompted by self-liking (and by the impulses of ambition and 'love of dominion') to strive to establish their superiority and gain the approval and recognition of others. This 'must breed Quarrels, in which the most weak and fearful will, for their own Safety, always join with him, of whom they have the best Opinion'.[45] Thus, natural inequalities divide savage men into 'Bands and Companies', each with its own leader, in a situation where 'the strongest and most valiant would always swallow up the weakest and most fearful'.[46] This stage is hardly a dramatic improvement on the preceding one, but 'time and experience' do contribute to the enhancement of man's rational capacity, even though his 'unruly Passions' still prevail. Mandeville concludes, 'thus Men may live miserably many Ages', where continuous discord destroys their inventions and frustrates their designs.[47]

How do men extricate themselves from this miserable existence? It might be expected that experience would teach them that they should enter into

contracts promising to stop injuring one another. This, however, would not be feasible, because, 'among such ill-bred and uncultivated People, no Man would keep a Contract longer than that Interest lasted, which made him submit to it'.[48] Mandeville recognises that short-sighted rationality constitutes a serious impediment to the possibility of keeping mutual agreements. He rejects Hobbes's solution to the problem of the pervasive war confronting men in the state of nature. Hobbes thought that the establishment of a sovereign would circumvent the interference of short-sighted rationality, but he failed to take into account that this short-sightedness would in fact prevent the participants obeying the sovereign as they had pledged in the social contract. I shall now examine whether Mandeville produces an account of the establishment of civil society which is more successful than that of Hobbes.

According to Mandeville, after 'three or four generations' of precarious existence in bands and companies, the leaders, who had emerged because of their superior physical power, realised that, in order to obtain peace amongst their followers, they had to find ways of curbing man's destructive impulses. By the use of 'severe punishments', they tried to enforce prohibitions on such behaviour as 'the killing and striking one another' and 'the taking away by force the Wives, or Children of others in the same Community', and they soon found out that 'no body ought to be a Judge in his own Cause'.[49] At this stage, however, prohibitions consisted of 'oral traditions' which could not be relied upon: 'verbal Reports are liable to a thousand Cavils and Disputes, that are prevented by Records, which every body knows to be unerring Witnesses'.[50] The third and final step to society is not really taken until the invention of letters. Important as Mandeville considers this last step to be, it does not add anything substantial to his account of the origins of law. The essence of the effectiveness of law lies in its being obeyed, and as yet it is not clear how this came to be the case. 'When once Men come to be govern'd by written Laws', he writes, 'all the rest comes on a-pace. Now Property, and Safety of Life and Limb, may be secured'.[51] Yet the mere writing down of what should already be recognised as binding does not explain either how it came to be recognised as such, or how compliance with its dicta was achieved in the first place. Mandeville fails to show the manner in which the institutions of property and law originate.

All this certainly confirms Hayek's statement that perhaps Mandeville never demonstrated 'precisely *how* an order formed itself without design'.[52] Nonetheless, Hayek argues that Mandeville 'made it abundantly clear' that an order *did* form itself spontaneously, and it is to the examination of this claim that I now turn. In what follows, I reconstruct Mandeville's argument relating to how, *given man's unsocial and egoistic disposition*, we are to explain the emergence of an overall societal order. As will be seen, it is precisely this self-interested disposition, and in particular man's natural tendency to over-value himself, which, *when properly manipulated*, brings about not only societal order but also every single human achievement. I subsequently

question Hayek's claim that Mandeville introduces the 'twin ideas of evolution and of the spontaneous formation of an order'. I argue that, unlike Hayek, Mandeville does not put forward a *functionalist-evolutionary* theory of the emergence and maintenance of rules and institutions: he does not establish a direct link between the emergence of behavioural patterns and group selection. Rules and institutions do not evolve *because* the groups that hit upon them are more successful and displace others;[53] nor are they *deliberately constructed* according to a blueprint. They rather emerge in a gradual process of deliberate experimentation ('trial and error') in which reason and the passions constantly interact.

In order to understand Mandeville's account of the origins of society, we have to start with his description of human nature. Given that he repeatedly stresses man's selfish and unsocial disposition, it is hardly surprising that he defines society as 'artificial' rather than 'natural'. 'When we speak of the Works of Nature, to distinguish them from those of Art, we mean such, as were brought forth without our Concurrence', he writes. 'Societies ... cannot exist without the Concurrence of human Wisdom'.[54] Civil society, the only possible form of human community, is therefore artificial because it is the product of human effort. Nature, or *providence*, still has an important part to play, however, as it provides man with the ultimate qualities upon which society is built, the raw material as it were. Nature has made man fit for society 'as she has made Grapes for Wine'.[55] By making men vulnerable and in need of one another, nature has made possible their combining into societies. Man's *sociableness* or fitness for society[56] arises from two things: 'the multiplicity of his Desires, and the continual Opposition he meets with in his Endeavours to gratify them'.[57] The actual combination into a society, however, is the work of human art and intelligence, since '[t]o make Wine is an Invention of Man ... And so it is to form a Society of independent Multitudes; and there is nothing that requires greater Skill'.[58] Mandeville points out that man is usually characterised as a sociable creature because it is commonly imagined that society is his natural condition. This judgement, though mistaken, is not wholly unjustified, since society seems to benefit men more than it would any other animals were they to attempt it. Nevertheless, he argues whether man is by nature fond of society or not is of no real consequence,[59] for 'the Love Man has for his Ease and Security, and his perpetual Desire of meliorating his Condition, must be sufficient Motives to make him fond of Society; considering the necessitous and helpless Condition of his Nature'.[60]

Having established the 'artificial' character of society, Mandeville goes on to explain that, like all human inventions, society is the product of a slow and gradual process, in which '... the works of Art and human Invention are all very lame and defective, and most of them pitifully mean at first: Our Knowledge is advanced by slow Degrees, and some Arts and Sciences require the Experience of many Ages, before they can be brought to any tolerable Perfection'.[61] Society is a human invention, founded on empirical *a posteriori*

knowledge which is acquired through *trial and error*. As grapes acquire their 'vinosity' through the process of fermentation so do humans acquire their *sociability* (the capacity to live in society) through an analogous process, which '... is demonstrable in mutual Commerce ... Men become sociable by living together in Society'.[62] Mutual interaction transforms man from an 'untaught' into a *taught*,[63] that is, a civilised, being. The material for this transformation is provided by human nature itself in the form of the passion of *pride*. Reason does play an important role, but it is itself the product of experience. 'Man is a rational Creature, but he is not endued with Reason when he comes into the World' writes Mandeville, and '[t]hinking and Reasoning justly, as Mr. *Lock* has rightly observed, require Time and Practice'.[64]

According to Mandeville, men initially enter into temporary associations in order to guard themselves against the danger from wild beasts. Societal order does not arise, however, until there emerges some form of government embodied in the authority of 'natural' leaders of primitive groups, because '... no Species of Animals is, without the Curb of Government less capable of agreeing long together in Multitudes than that of Man'.[65] Now this argument brings Mandeville close to Hobbes' solution to the 'state of nature': the establishment of an absolute sovereign. It has been noted that in order to vitiate the possibility of readers giving Hobbesian punctuation to his work', Mandeville's project was 'to socialize egoism so that a political regime of absolutism would not be necessary to ensure social cohesion and political order'.[66] The first task confronting these rulers was to render men less harmful to one another. This they did by exploiting the important instinct of *fear*. The process whereby man becomes *sociable*, that is, capable of living peacefully in society, begins with the imposition of 'severe punishments' for transgression of the leader's commands. Fear of punishment and the instinct of self-preservation force man to contain his natural passion of *anger* and avoid the violence to which it gives rise, thus turning him into a *governable* creature.[67] Yet, '... it is impossible by Force alone to make him tractable, and receive the Improvements he is capable of'.[68] Societies cannot be kept together solely by force and the fear of punishment. At this stage, man has yet to become *sociable*, and, in order for this to be achieved, something is required in addition to manipulating the instincts of *fear* and *self-preservation*. I shall now examine this process by which man is transformed from an unsocial into a *sociable* being in order to establish whether it can be described as 'spontaneous' or 'designed'.

The 'skilful politician' and the process of moralisation

For Mandeville, the process by which man is eventually turned into a sociable creature rests on the passion of *self-liking* or *pride*. Anticipating Adam Smith,[69] he defines pride as 'that Natural Faculty by which every Mortal has any Understanding over-values, and imagines better Things

of himself than any impartial Judge, thoroughly acquainted with all his Qualities and Circumstances, could allow him'.[70] 'Lawgivers and other wise men' soon realise that in order to succeed in rendering man sociable they have to 'make the People they were to govern, believe, that it was more beneficial for every Body to conquer than indulge his Appetites, and much better to mind the Publick than what seem'd his private Interest'.[71] They endeavour, in other words, to *moralise* man. Yet, to make men act from genuine moral (altruistic) motives would require a radical transformation of human nature, and this, Mandeville insists, is practically impossible. Given the selfish nature of men, 'it is not likely that any Body could have persuaded them to disapprove of their natural Inclinations, or prefer the good of others to their own, if at the same time he had not shew'd them an Equivalent to be enjoy'd as a Reward for the Violence, which by so doing they of necessity must commit upon themselves'.[72] The leaders who took it upon themselves to civilise mankind fully recognised that the way to make man sociable is by indulging his selfish nature rather than suppressing it.

Having realised that men would not act at the expense of their self-interest, the leaders of society contrived an 'imaginary' compensation, which 'as a general Equivalent for the trouble of Self-denial should serve on all Occasions, and without costing any thing either to themselves or others, be yet a most acceptable Recompense to the Receivers'.[73] This compensation is found in the natural passion of *pride*, and it is presented in the form of *flattery*. What man lost in terms of self-denial was to be regained in terms of *praise*. These 'cunning politicians' started to exalt the 'Excellency of our Nature' and its superiority to the rest of the animal world. They particularly praised the 'Wonders of our Sagacity and Vastness of Understanding' and attributed our capacity to perform the noblest achievements to our unique faculty of reason. They then started to instruct men 'in the notions of Honour and Shame', representing the former as 'the highest Good to which Mortals could aspire' and the latter as 'the worst of all Evils'.[74] Thus they separated men into two broad and diametrically opposed categories. One consisted of the 'abject' and 'low-minded', who, unable to rise above their beastly nature, were entirely incapable of self-denial and public-mindedness. The other was made up of those 'lofty high-spirited Creatures', who, having devoted their lives to improving their rational capacity, succeeded 'by the Help of Reason' in subjugating their most 'violent inclinations' and, 'making a continual War with themselves to promote the Peace of others, aim'd at no less than the Publick Welfare and the Conquest of their own Passion'.[75] People in the first category were considered little better than mere 'Brutes' and thus worthy of contempt, while people belonging to the second received the highest public honours.

The outcome of this 'device' was that even those who followed their base natural inclinations were ashamed of openly admitting it. In their efforts to hide their imperfections, they *professed* an attitude of self-denial and public-spiritedness. They did not oppose the dicta of morality, since, on the one hand, they themselves profited from actions performed by 'high-spirited' individuals for the benefit of society as a whole, while, on the other hand, they felt that the greatest obstacle to gratifying their own selfish ends was met in those who were 'most like themselves'. Mandeville's account of the origin of morality culminates in a revealing statement. He claims that it was rational consideration of self-interest which ultimately led 'the very worst of them, more than any, to preach up Publick-spiritedness, that they might reap the Fruits of the Labour and Self-denial of others, and at the same time indulge their own Appetites with less disturbance', while agreeing with the rest of society to 'give the Name of VIRTUE to every Performance, by which Man, contrary to the impulse of Nature, should endeavour the Benefit of others, or the Conquest of his own Passions out of a Rational Ambition of being good'.[76] Virtue came to be associated with man's distinguishing feature – his rational capacity – and virtuous conduct was presented as something which only humans could attain and to which all humans should aspire.

This, says Mandeville, is how man's compliance with morality was achieved. Moral distinctions are *purposefully* established by exploiting man's natural susceptibility to *flattery*. In Mandeville's words, 'the nearer we search into human Nature, the more we shall be convinced, that the Moral Virtues are the Political Offspring which Flattery begot upon pride'.[77] According to this account, morality is 'artificial' rather than 'natural': it is brought about by the 'skilful Management of wary Politicians'[78] whose 'Power and Sagacity as well as Labour and Care ... in civilizing the Society, has been no where more conspicuous, than in the happy Contrivance of playing our Passions against one another'.[79] Mandeville adds that those 'skilful politicians' undertook to civilise mankind, not out of genuine concern for the public good, but rather out of desire to satisfy their own vanity and ambition. Their real motive was precisely what they urged their followers *not* to pursue: self-interest. He writes: 'the first Rudiments of Morality, broach'd by skilful Politicians, to render Men useful to each other as well as tractable, were chiefly contrived that the Ambitious might reap the more Benefit from, and govern vast Numbers of them with the greater Ease and Security'.[80]

It has been suggested that Mandeville seems to argue that 'society and morality are set up by clever, selfish, vicious, cynical superior beings manipulating selfish, vicious, but susceptible and gullible, inferiors. It is a trick played on fools by knaves'.[81] Yet this is not the case. According to Mandeville, the process of moralisation, being so much at odds with human nature, elicits an attitude of *hypocrisy* or dissimulation.[82] Without this the process of moralisation could not be completed. Fear of shame leads those incapable of self-denial and public-spiritedness to dissemble and pretend to moral conduct. Hypocrisy is thus presented as a *strategic* response whereby the unpleasant feeling of shame[83] is overcome. Hence, hypocrisy ultimately rests on the natural impulse of pride which prompts men to seek the approval of others in order to have their self-image confirmed, for no one

who is entirely indifferent to the opinion of others could ever be liable to feelings of shame. This strategy, adopted in order to combat shame, is a crucial step in the process of civilisation. Indeed Mandeville maintains that, were it not for hypocrisy, society would never have existed: 'it is impossible we could be sociable Creatures without Hypocrisy'.[84]

The above description of Mandeville's argument concerning the origins of morality does not cohere with Hayek's interpretation: 'that we do not know why we do what we do, and that the consequences of our decisions are often very different from what we imagine them to be, are the two foundations of that satire on the conceits of a rationalist age which was his initial aim'.[85] Mandeville clearly shows that both the 'skilful politicians' and the 'untaught' creatures they undertook to civilise knew very well what they were doing, and both were acting out of no other motive than self-interest. As far as human action is concerned, Mandeville repeatedly and forcefully denies the existence of any altruistic motivation.[86] Contrary to what Hayek claims, morality is presented by Mandeville as the outcome of human ingenuity. While for Hayek morality has not been cultivated deliberately,[87] for Mandeville it is a *conscious* device used by the 'skilful politicians' to render man capable of living peacefully in society and easier to govern. The process of moralisation rests on a complex understanding of human nature (notably man's susceptibility to flattery)[88] and on considerable foresight in discovering the means by which man becomes governable. Mandeville writes: 'whoever would civilize Men, and establish them into a Body Politick, must be thoroughly acquainted with all the Passions and Appetites, Strength and Weaknesses of their Frame, and understand how to turn their greatest Frailties to the Advantage of the Publick'.[89] Uncivilised man, at whom the process of moralisation was directed, responded with hypocrisy, an attitude which is itself a *conscious strategy* to avoid uneasy feelings brought on by the 'troublesome Sense of Shame'.[90]

Furthermore, Hayek argues that, for Mandeville, 'the whole order of society, and even all that we call culture, was the result of individual strivings which had no such end in view, but which were channelled to serve such ends by institutions, practices and rules which also had never been deliberately invented but had grown up by the survival of what proved successful'.[91] Mandeville is thus presented by Hayek as an exponent of a theory of *cultural evolution*, and passages in Mandeville's work are cited as aspects of it. Laws and regulations, for instance, are 'the Result of consummate Wisdom', very few of them being 'the Work of one Man, or of one Generation; the greatest part of them are the Product, the joynt Labour of several Ages'.[92] In relation to human inventions in general, Mandeville remarks that 'we often ascribe to the Excellency of Man's Genius, and the Depth of his Penetration, what is in Reality owing to length of Time, and the Experience of many Generations, all of them very little differing from one another in natural Parts and Sagacity'.[93] Such passages demonstrate Mandeville's belief in the limitations of human understanding as well as his

presentation of human knowledge as the product of experience (*a posteriori* rather than *a priori*).[94] Yet, though knowledge might be acquired only from experience and human achievements brought about only through a process of *trial and error*, there is in Mandeville's work no evidence of a theory that explains the evolution of behavioural patterns by the mechanism of *group selection*.

Though Mandeville certainly does present society, its institutions and many useful Arts and Sciences' as the outcome of gradual development, he clearly conceives of the process as a *combination* of 'human Sagacity in general, and the joynt Labour of many Ages'.[95] The role of reason is instrumental: 'we are ever pushing our Reason which way soever we feel Passion to draw it, and Self-love pleads to all human Creatures for their different Views, still furnishing every individual with Arguments to justify their Inclinations'.[96] Passions determine human ends, while reason provides the means for their attainment. Hence, most human achievements 'were brought to Perfection', because 'Men have always employ'd themselves in studying and contriving Ways and Means to sooth their various Appetites, and make the best of their Infirmities'.[97] When referring to human achievements, Mandeville does not distinguish 'Arts and Sciences', like engineering and architecture, from institutions, such as language and the legal system. Indeed, he writes that the way the legal system developed is not in the least different from the way ship-building did. Both were 'not the Offspring of a fine Understanding, or intense Thinking, but of sound and deliberate Judgement, acquired from a long Experience in Business, and a Multiplicity of Observations'.[98] Hayek cites this and a number of similar quotations as evidence of Mandeville's 'new genetic or evolutionary view'.[99] He admits, in passing, that Mandeville 'still struggles to free himself from the constructivist preconceptions',[100] but he fails to acknowledge that, for Mandeville, societal institutions, while certainly the product of a gradual development, are also *deliberate* constructions (and therefore at variance with the concept of spontaneous formations).

Hayek's failure to accept the constructivist aspect of Mandeville's social theory is probably due to his failure to distinguish between the mechanism of 'group selection' by which behavioural patterns evolve and the process of 'trial and error'. As we saw, Hayek identifies the process of 'trial and error' with unconscious adaptation and 'group selection' which takes place independently of human understanding. Yet, as already noted, the process of 'trial and error' involves *intentional* experimentation: 'design and insight play an indispensable role, though the process as a whole is undesigned'.[101] Mandeville's theory of institutional evolution definitely belongs to the type of 'trial and error'. Reason, like the rest of human progress, is the product of accumulated experience,[102] but human progress is also the product of reason (albeit reason confined to the discovery of means for the gratification of passions). For Mandeville, human achievements, be they social institutions or scientific discoveries, are the product of *experimental* reasoning. The

institution of government, for instance, evolves by public discourse and rational debate: 'what an infinite Variety of Speculations, what ridiculous Schemes have not been proposed amongst Men, on the Subject of Government; what Dissentions in Opinion, and what fatal Quarrels has it not been the Occasion of! And, which is the best Form of it, is a Question to this Day undecided ... What has seem'd highly advantageous to Mankind in one Age, has often been found, to be evidently detrimental by the succeeding'.[103] Therefore Hayek is not justified in claiming that 'institutions, practices, and rules' in the thought of Mandeville 'had never been deliberately invented but had grown up by the survival of what proved successful'.[104] The 'skilful politician' represents the *gradual* development of human institutions through the constant interaction between passions and reason. The process rests on cultural transmission effected by the institutions of family and education.[105] The end result is unforeseen, but incremental intentional improvements on inherited traditions and innovations (designed or accidental) are *consciously* selected to survive because they are found to serve particular human goals.

'Private vices, public benefits'

According to Mandeville, morality represents the means whereby man's selfish impulses (private vices) are channelled to a socially beneficial behaviour (public benefits). As his paradox indicates, however, public benefits are brought about in the absence of *genuine* moral conduct. Because of the inherent opposition between virtue and human nature, morality would have never made men sociable in the absence of hypocrisy. If virtue consists in self-denial and public-spiritedness, then vice consists in selfishness. If human motivation, as Mandeville insists, cannot be other than selfish, then virtue amounts to a denial of human nature and all human motivation is vice. Were it to be followed, virtuous conduct would actually be harmful to the public interest, Mandeville argues. It is rather through the pursuit of *private vice* that public benefits come about. A society whose citizens conquered their natural appetites and sacrificed their private interests to the public interest would regress to a primitive stage of subsistence. Mandeville warns:

> Bare Virtue can't make Nations live
> In Splendor; they, that would revive
> A Golden Age, must be as free,
> For Acorns, as for Honesty.[106]

His central claim in the *Grumbling Hive*, an allegorical poem first published in 1705, is that, contrary to the teachings of moralists, the public benefit rests on *vice* – meaning self-interested motivation and the indulgence of natural appetites. The thriving hive, which symbolises a prosperous society, is described as one where

> every Part was full of Vice,
> Yet the whole Mass a Paradise.[107]

Mandeville does not define public benefit according to the moral standards of civic humanism and Christianity (the ethical systems against which he argues).[108] Neither the civic nor the Christian notion of virtue includes an ideal of public prosperity, which is the kind of public benefit Mandeville has in mind. In effect, he replaces the civic and Christian moral ideal of public *good* with an alternative proto-utilitarian moral end of public *benefit*, defined in terms of prosperity and economic utility. His thesis is that virtue, consisting in self-denial and public-spiritedness, is simply incompatible with public *prosperity*. The moral of the *Grumbling Hive* is that,

> Fools only strive
> To make a Great an Honest Hive
> T'enjoy the World's Conveniencies,
> Be fam'd in War, yet live in Ease,
> Without great Vices, is a vain
> EUTOPIA seated in the Brain.[109]

Mandeville argues that human resourcefulness results from men's efforts to 'sooth their various Appetites, and make the best of their Infirmities'.[110] These 'various Appetites' are simply man's natural passions and needs, while selfish action to satisfy them is *Vice*. It is now possible to see why Mandeville is such a fervent advocate of vice. His message is that, if men followed the preachings of moralists and tried to suppress their natural inclinations, incentives for invention would immediately cease and limited demand would lead to economic stagnation. It is in this sense that vice is the driving force of civilisation and progress.

> THUS Vice nurs'd Ingenuity,
> Which joined with Time and Industry,
> Had carry'd Life's conveniencies,
> Its real Pleasures, Comforts, Ease,
> To such a Height, the very Poor
> Liv'd better than the Rich before.[111]

According to Mandeville, there is continuous interaction between vice and progress, need and prosperity. Human needs provide the impetus for progress and are simultaneously influenced by it. What constitutes present human need depends on the particular stage of human progress reached, as his discussion of luxury indicates. Luxury is everything that lies beyond absolute necessity, but 'many things which were once look'd upon as the Invention of Luxury, are now allow'd even to those that are so miserably poor as to become the Objects of publick Charity, nay counted so necessary, that we think no Human Creature ought to want them'.[112]

Mandeville's argument can be summarised as follows. The traditional moral ideals of self-denial and public-spiritedness are contrasted with *actual*

human conduct. Examination of human nature reveals that, contrary to the demands of virtue, human motivation is always selfish. Such motivation is not to be condemned but rather exalted, since it is selfish conduct, suitably channelled, that promotes societal prosperity. Egoism is thereby justified, and public prosperity takes the place of the moral good.[113] In this way, 'Mandeville has, on the one hand, pushed moral rigorism to extremes by refusing to admit as virtuous any action that would in the slightest degree favor the agent; on the other hand, he has identified economic prosperity with the public good, without more ado'.[114]

What Mandeville seeks to convey is that virtue, be it ascetic or civic, is incompatible with national power and prosperity. From this, however, it does not follow that he endorses vice in any real sense, for, in the context of his own quasi-utilitarian morality, 'private vices' acquire the status of moral virtues, since they alone promote public benefit. Thus, what would be discarded as vice by the standards of ascetic or civic morality, is praised by Mandeville as virtue. In this light, the dictum 'private vices, public benefits' can hardly be described as a paradox at all, since it turns out to be the logical conclusion of his own idiosyncratic definitions of *vice* and *benefit*.[115] What might at first appear to be an unlikely connection, is, in fact, a claim about the causal relationship between the two interdependent variables of need and prosperity. The observation that public benefits are the outcome of private vices should therefore be seen within the context of Mandeville's redefinition of the traditional conception of vice, and of what constitutes moral ends. As soon as economic utility is identified with the moral end and selfish motivation assumes the role of virtue, it becomes clear that there is no conflict between *vice* and *benefit*, since they both form part of Mandeville's proto-utilitarian moral doctrine.

It now remains to examine the process by which private vices are transformed into public benefits. The subtitle of *The Fable of the Bees*, 'Private Vices, Publick Benefits' is in fact elliptical. Mandeville repeatedly claims in the text that, 'Private Vices *by the dextrous Management of a skilful Politician* may be turned into Public Benefits'.[116] The concept of the 'skilful politician' plays a pivotal yet highly ambiguous role in Mandeville's thought. It certainly should not be confused with the myth of the 'wise legislator' as the inventor of civil laws. It is associated rather with the rejection of the need for an ascetic or civic morality.

Mandeville does present 'Lawgivers and other wise Men, that have laboured for the Establishment of Society' and 'undertaken to civilise Mankind'[117] as generating and promoting virtuous behaviour.[118] Yet the '*dextrous management*' of politicians lay *not* in inculcating men with belief in a moral code but rather in playing human passions against one another as a means of eliciting beneficial conduct. As Mandeville writes, 'man's natural Love of Ease and Idleness, and proneness to indulge his sensual Pleasures, are not to be cured by Precept: His strong Habits and Inclinations can only be subdued by Passions of greater Violence'.[119] Vices are turned into benefits by

manipulating man's natural passions in such a way that their damaging effects are neutralised. One passion in particular – *pride* – can be described as the lever by which the mechanism operates. 'Had Man been naturally humble', writes Mandeville, 'and proof against Flattery, the Politician could never have had his Ends, or known what to have made of him. Without Vices the Excellency of the Species would have ever remain'd undiscover'd ...'.[120]

The controversial nature of Mandeville's concept of the 'skilful politician' is evident from the debate surrounding it. It has been suggested, for instance, that the 'skilful politician' need not be taken literally but should rather be viewed as a 'Mandevillean fictive literary device': 'the attribution of the origin of society, moral virtue or honour to supposedly manipulative politicians simply provides a functional formulation of a genetic or developmental explanation'. In this light, the 'skilful politician' is to be understood merely as 'an elliptical way of pointing to a gradual development whose stages we may not know but which we can reconstruct conjecturally'.[121] This is very much the interpretation favoured by Hayek, to whom the 'skilful politician' represents Mandeville's 'new genetic or evolutionary view'[122] of society and institutions emerging 'not through the design of some wise legislator but through a long process of trial and error'.[123] According to Hayek, the 'skilful politician' represents the mechanism through which individual efforts 'are given such a direction as to promote the public interest' by relying not on 'particular commands of government but institutions and particularly general rules of just conduct'.[124] A commentary on Mandeville, which Hayek wholeheartedly endorses, holds that the phrase 'dextrous Management of the skilful politician' is most often just 'a convenient shorthand method for summarizing an essentially evolutionary process', and suggests that Mandeville 'was searching for a system where arbitrary exertions of government power would be minimized'.[125] Yet, contrary to Hayek's evolutionary theory of group selection, even this reading of the 'skilful politician' acknowledges the *intentional* aspect of Mandeville's evolutionary account. Private vices are not transformed into public benefits spontaneously; rather the skilful politician *creates* the set of institutions which channel private vices into public benefits: 'the work of the politician is not to repress man's egoistic impulses and action, but to provide the channels or grooves along which these impulses may be asserted'.[126] Accordingly, the 'dextrous management' of governments 'refers to the creation of a framework of wise laws' which 'would induce people, out of a concern only for their own interests (and however they chose to define these interests) to perform acts of a socially-useful sort'.[127]

These views contrast sharply with those of Jacob Viner, who argues that it is misinterpretation of Mandeville 'to read his motto, "Private Vices, Publick Benefits" as a laissez-faire motto, postulating the natural or spontaneous harmony between individual interests and the public good'.[128] Thus, the controversy centres on the degree to which governmental intervention is seen as contributing to the transformation of private vices

benefits. According to Viner, the 'skilful politician' is to be taken literally. Hayek, on the other hand, maintains that Viner is wrong in assuming 'that Mandeville favours what we now call government interference or intervention, that is, a specific direction of men's economic activities by government'.[129] As we saw, the 'dextrous management of the skilful politician' can be interpreted as representing Mandeville's idea of the gradual but intentional development of human inventions. I shall now examine the claim that it also represents the institutional framework, embodied in the rule of law and limited government regulation, which makes possible the transformation of vices into public benefits.

Mandeville's political economy

There is abundant textual evidence to support the view that Mandeville places emphasis on the role of a legal system in limiting the harmful effects of private vice. As he states,

> Vice is beneficial found,
> When it's by Justice lopt and bound.[130]

This statement appears to confirm that Mandeville advocates the establishment of a judicial framework as the sole means necessary to channel private vices into public benefits. When referring to the functioning of society as a whole, Mandeville uses the metaphor of a mechanical clock. Once the internal mechanism is discovered and the various parts are put together, the most complicated clock can be expected to work with the minimum of supervision. Correspondingly, once the legal system of a society has been developed, and its laws 'brought to as much Perfection, as Art and Human Wisdom can carry them, the whole Machine may be made to play of itself, with as little Skill, as is required to wind up a Clock'.[131] This seems to support Hayek's view that it is not 'particular commands of government but institutions and particularly general rules of just conduct' which bring about the reconciliation of 'men's divergent interests'.[132] Yet such an interpretation is contradicted by what Mandeville writes about the *actual* effect of justice. Immediately after mentioning the need for justice in restraining vice, he alludes to the corruption of judges, observing that,

> JUSTICE her self, fam'd for fair Dealing,
> By Blindness had not lost her Feeling;
> Her Left Hand, which the Scales should hold,
> Had often dropt 'em, brib'd with Gold.[133]

What can be deduced from Mandeville's ambivalence about justice? Although he seems to stress the necessity of the impartial administration of law,[134] he is fully aware of the possibility of abuse to which the exercise of justice lends itself. In the corrupt but thriving 'hive', written laws are supposed to bind everyone – even the king. Mandeville's depiction of human nature, however, suggests that judicial impartiality may be a very rare commodity. Like all human beings, the lawyers and judges, whose job is to enforce the rule of law, are motivated exclusively by self-interest. In practice, therefore, the legal process quite frequently results in unfairness and injustice. The so-called rule of law may mean that 'the Desp'rate and the Poor' are put to death,

> For Crimes, which not deserv'd that Fate,
> But to secure the Rich and Great.[135]

It is not at all clear that Mandeville considered this type of injustice suffered by the poor to be a very serious defect of the societal order he defended. He might even have viewed it as a necessary condition; the price to be paid for its eventual success and a symptom of the interests in which the system was established.

Mandeville's views on government regulation have been the subject of controversy arising from his remarks on political economy. While there is no disputing his mercantilist approach to the balance of trade,[136] his views on charity–schools have been variously interpreted, either as mercantilism,[137] or as a clear indication of the 'invisible hand' and *laissez-faire*.[138] On the surface, Mandeville's case against free education for the poor might appear to be an argument for *laissez-faire*. A careful examination reveals that it is not. His opposition to charity schools stems from his conviction that 'in a free Nation where Slaves are not allow'd of, the surest Wealth consists in a Multitude of laborious Poor'.[139] Free education for the children of the poor seemed to him a waste of public resources, because 'it is Precept and the Example of Parents, and those they Eat, Drink and Converse with, that have an Influence upon the Minds of Children'.[140] Consequently, no charity school could rectify the damaging effect that destitute parents exerted upon their children. Second, education made indigent children idle, since it 'incapacitates them ever after for downright Labour, which is their proper Province'.[141] Third, lack of education made the poor hard-working, content with low wages and more willing to accept the lowest and dirtiest jobs.[142] Finally, educating and training the poor for certain trades would disrupt 'the Harmony of the Nation'.[143]

The first reason which Mandeville gives against educating the poor is not a good one because it can similarly be argued that the bad influence poor parents have on their children is partly due to the fact that they are uneducated themselves. The remaining three reasons are interconnected and form part of Mandeville's belief in *providential* harmony. The fourth reason reflects his opposition to government intervention in the distribution of labour, which is best secured by *automatic* adjustment according to the laws of supply and demand. Specifically, the mechanism by which labour is automatically allocated is parental choice. In selecting education and professional training for their children, parents bear in mind the family's financial situation and the expected rewards and job security of the chosen profession.[144]

Direct public intervention to set up new trades or increase the number of workers in any existing trade (beyond the capacity as determined by demand) would be detrimental to national prosperity, since 'this Proportion as to Numbers in every Trade finds it self, and is never better kept than when no body meddles or interferes with it'.[145] Mandeville elsewhere warns that 'the short-sighted Wisdom, of perhaps well-meaning People, may rob us of a Felicity, that would flow spontaneously from the Nature of every large Society, if none were to divert or interrupt the Stream'.[146] These statements are cited by Hayek as evidence of Mandeville's endorsement of *laissez-faire*.[147]

Although Mandeville allows for a very limited amount of social mobility,[148] his vehement opposition to educating the poor is a direct reflection of his firm belief in the necessity of preserving a well-stratified and *immobile* society. 'In the Compound of all Nations, the different Degrees of Men ought to bear a certain Proportion to each other, as to Numbers', he claims, 'in order to render the whole a well-proportion'd Mixture'.[149] Educating the poor would upset the order of a hierarchically organised society which is 'never better attained to, or preserv'd, than when no body meddles with it'.[150] The type of societal order he has in mind is part of an overall providential order. Once the appropriate institutions are discovered and put into place, 'the Magistrates only following their Noses, will continue to go right for a great while ... Provided that the Care of Providence was to watch over it in the same manner as it did before'.[151] In the light of his rejection of Christian virtue, however, we might be sceptical about the sincerity of his belief in providence. Still, whether or not he believed in providence does not affect his main argument concerning the necessity of maintaining a large working population. He writes, 'if such People there must be, as no great Nation can be happy without vast Numbers of them, would not a Wise Legislature cultivate the Breed of them with all imaginable Care, and provide against their Scarcity as he would prevent the Scarcity of Provision it self?'[152] This reference to the 'wise legislature' indicates that his argument against charity schools is influenced by his adherence to the doctrine of mercantilism.

Mandeville's objections to improving the condition of the poor have to be seen in the context of his overall argument relating to the balance of trade. His comments on foreign trade are in full agreement with the mercantilist doctrine, according to which a country can only be considered prosperous when the value of its exports exceeds the value of its imports. Consequently, he advocates direct state intervention, as '[e]very Government ought to be thoroughly acquainted with, and steadfastly to pursue the Interest of the Country. Good Politicians by dextrous Management, laying heavy Impositions on some Goods, or totally prohibiting them, and lowering the Duties on others, may always turn and divert the Course of Trade which way they please'.[153]

On mercantilist grounds, Mandeville favours low wages to keep down the

costs of production and secure low prices in order to ensure the competitiveness of the country's products in international markets.[154] To attain cheap labour costs, he recommends the 'Management of the poor'.[155] A prosperous economy needed a population the bulk of which 'should be Ignorant as well as Poor'[156] since only ignorance and necessity force the poor to work hard for low wages. He effectively suggests that workers should be paid subsistence wages, because 'when Men shew such an extraordinary proclivity to Idleness and Pleasure, what reason have we to think that they would ever work, unless they were oblig'd to it by immediate necessity?'[157] The criterion on which his argument against charity schools ultimately rests is public utility. He believes that educating the children of the poor is 'pernicious to the Publick'[158] and that 'every Hour those [children] of poor People spend at their Book is so much time lost to the Society. Going to School in comparison to Working is Idleness, and the longer Boys continue in this easy sort of Life, the more unfit they'll be when grown up for downright Labour, both as to Strength and Inclination'.[159] The utility of the poor lies in their performing a number of unpleasant jobs which need to be done but which nobody would perform by choice. In Mandeville's words, 'no Body will do the dirty slavish Work, that can help it', but 'abundance of hard and dirty Labour is to be done, and coarse Living is to be complied with: Where shall we find a better Nursery for these Necessities than the Children of the Poor? none certainly are neater or fitter for it'.[160] Given that even minimal education reduces willingness to accept unwelcome jobs, he says of 'men who are to remain and end their Days in a Laborious, Tiresome and Painful Station of Life, the sooner they are put upon it at first, the more patiently they'll submit to it for ever after'.[161] A further policy advocated by Mandeville as a means of securing low wages was increasing the production and supply of food. He suggests that 'Agriculture and Fishery should be promoted in all their Branches in order to render Provisions, and consequently Labour cheap'.[162] *Ceteris paribus*, an increase in food production reduces food prices, thus making lower wages possible. In addition, it may encourage the growth of a larger working population, which he considers one of the basic requisites of a prosperous economy.

Mandeville's remarks on the damaging effects of charity-schools are really dictated by his views on foreign trade. Since these views are themselves solidly mercantilist, his stance on education cannot be taken as evidence of general *laissez-faire* assumptions. His 'objection to charity schools on the ground that they would alter for the worse the supplies of labor for different occupations was based on his belief that England, unlike some other countries, already had more tradesmen and skilled artisans than it needed'.[163] The belief that a large force of unskilled labour is indispensable to a prosperous economy leads Mandeville to recommend government neutrality in the allocation of different trades. When he writes the 'proportion as to Numbers in every Trade finds it self, and is never better kept than when no body meddles or interferes with it',[164] he puts forth what appears to be a

laissez-faire argument. He does indeed evoke the mechanism of automatic adjustment through the impersonal forces of the market in this instance, but when it is examined in the wider context of his economic thinking, his overall position remains clearly interventionist.

The economic policies suggested by Mandeville would require *'dirigiste'* regulation of the economy; something which runs counter to Hayek's conception of spontaneous order. It is clear that Mandeville accepts mercantilist assumptions and he cannot be described as a representative of the doctrine of *laissez-faire*. Although he stresses the importance of social institutions as a means of achieving overall societal order, he repeatedly compares societal harmony to the workings of a well-regulated machine. Such mechanistic analogies point to a 'made' rather than a spontaneous order. A machine is the outcome of design. It is constructed to serve a specific purpose, and its complexity lies within the limits of human intellectual capacity. The mechanistic analogy lacks all three of the defining elements of a spontaneous order, namely, *non-design*, *non-purpose* and *abstraction*. If society is said to be working like a machine, its complexity must be limited, accessible to the human intellect and capable of being controlled by it. Furthermore, such an analogy points to a static rather than a dynamic view of societal order. A 'mechanistic order' can hardly be described as spontaneous since a spontaneous order is dynamic: it is in constant change and its future form can never be predicted. Mandeville's conception of a static societal order is clear from his remarks on the 'labouring poor'.

Mandeville starts his investigation into the origins of society with a Hobbesian account of human nature. Yet, he rejects Hobbes's rationalistic device of the 'social contract' and the institution of the sovereign as the means of achieving peace. For Mandeville, civil society (the only form of peaceful human co-existence) emerges gradually and is the product of cumulative experience. Hayek interprets this account of gradual development as an early statement of his theory of cultural evolution: 'perhaps in no case did he [Mandeville] precisely show *how* an order formed itself without design, but he made it abundantly clear that it *did*, and thereby raised the questions to which theoretical analysis, first in the social sciences and later in biology, could address itself'.[165] Hayek also concedes that Mandeville 'still vacillates between the then predominant pragmatic-rationalist and his new genetic or evolutionary view'.[166] However, as I demonstrated in this chapter, Mandeville does not put forth an explanation of the emergence of behavioural patterns in terms of group selection. His account of the origin of political society rests on a thorough understanding of the workings of human nature and on rational foresight in devising the means whereby man becomes governable.

Mandeville's 'evolutionary' account shows that social order is not brought about by a spontaneous co-ordination of a multiplicity of individual interests. Were it not for *external* interference (subtle manipulation of man's passion of

pride), private vices would never be turned into public benefits. Accordingly, Mandeville's account of the evolution of rules seems to refute Hayek's claim that Mandeville's 'main contention became simply that in the complex order of society the results of men's actions were very different from what they had intended, and that the individuals, in pursuing their own ends, whether selfish or altruistic, produced useful results for others which they did not anticipate or perhaps even know'.[167] While not a constructivist, Mandeville's account of the evolution of behavioural patterns can be best described as a *trial and error* explanation: rules and institutions are the product of incremental *intentional* selection, while the final outcome is unforeseen. Moreover, his metaphor of the mechanical clock, the image of a well-stratified and immobile society, and his espousal of *dirigiste* political economy, do not point to an invisible-hand explanation of social co-ordination.

Notes

1 F. A. Hayek, 'Dr Bernard Mandeville', *New Studies*, p.250.
2 *New Studies*, p.252. Cf. 'I do not intend to pitch my claim on behalf of Mandeville higher than to say that he made Hume possible' (ibid., p.264).
3 *Law, Legislation and Liberty*, I:9. Cf. *New Studies*, p.9.
4 *New Studies*, p.253.
5 *New Studies*, p.253.
6 *New Studies*, p.259.
7 *New Studies*, p.260.
8 *New Studies*, p.258.
9 Jacob Viner, Thomas A. Horne, and Harry Landreth, for instance, interpret Mandeville as a 'thoroughgoing mercantilist' (Jacob Viner, *The Long View and the Short: Studies in Economic Theory and Policy*, Glencoe, 1958; Thomas A. Horne, *The Social Thought of Bernard Mandeville*, London, 1978, pp.51–75; Harry Landreth, 'The Economic Thought of Bernard Mandeville', *History of Political Economy*, 7, 1975). Nathan Rosenberg and Hayek interpret him as a *laissez-faire* theorist (Nathan Rosenberg, 'Mandeville and laissez-faire', *Journal of the History of Ideas*, 24, 1963; F. A. Hayek, *New Studies*, p.258). Alfred F. Chalk argues that he is a representative of the period of transition from mercantilism to *laissez-faire* (Alfred F. Chalk, 'Mandeville's *Fable of the Bees*: A Reappraisal', *Southern Economic Journal*, 33, 1966).
10 *New Studies*, p.250. For a detailed account of the influence of Mandeville's interest in medicine on his socio-political thought, see R. A. Collins, *Private Vices, Public Benefits: Dr Mandeville and the Body Politic*, unpublished D.Phil thesis, Oxford, 1988.
11 'One of the greatest Reasons why so few People understand themselves, is, that most Writers are always teaching Men what they should be, and hardly ever trouble their Heads with telling them what they really are' (*The Fable of the Bees*, F. B. Kaye, (ed.), Oxford, 1924, 2 vols, I:39).
12 For a discussion of their influence on Mandeville, see Laurence Dickey, 'Pride, Hypocrisy and Civility in Mandeville's Social and Historical Theory', *Critical Review*, 4, 3, 1990, pp.387–418.
13 'I believe Man ... to be a compound of various Passions, that all of them, as they are provoked and come uppermost, govern him by turns, whether he will or no' (*Fable*, I:39).
14 *Maximes*, Paris, 1977, no. 102, p.54.

16 For similarities in Mandeville's and Rousseau's accounts of human nature, see Malcolm Jack, 'One State of Nature: Mandeville and Rousseau', *Journal of the History of Ideas*, 1978, 39:119–24. A striking difference is this: while Rousseau takes *amour-propre* to be the cause of moral decline and corruption, Mandeville praises it as the continuing influence on the process of civilisation.
17 Thomas Hobbes, *Leviathan*, Richard Tuck (ed.), Cambridge, 1991, ch. 13, pp.88, 89.
18 *Leviathan*, ch. 13, p.88.
19 *Leviathan*, ch. 13, p.90.
20 A law of nature 'is a Precept, or generall Rule, found out by Reason, by which a man is forbidden to do, that, which is destructive of his life, or taketh away the means of preserving the same; and to omit, that, by which he thinketh it may be best preserved' (*Leviathan*, ch. 14, p.91).
21 *Leviathan*, ch. 14, p.91.
22 *Leviathan*, ch. 14, p.92.
23 *Leviathan*, ch. 14, p.96. Cf. ibid., ch. 15, p.110.
24 Anticipating Hume, Hobbes writes, 'the Thoughts, are to the Desires, as Scouts, and Spies, to range abroad, and find the way to the things Desired' (*Leviathan*, ch. 8, p.53).
25 *Leviathan*, ch. 17, p.117. What makes covenants binding in civil society is men's 'Feare of the consequence of breaking their word' (*Leviathan*, ch. 14, p.99. Cf. ibid., p.93).
26 Hobbes distinguishes between two types of commonwealth: a commonwealth *by acquisition* and a 'Politicall Common-wealth' or commonwealth *by institution*. In commonwealths by acquisition, the sovereign power is the result of force, as, for instance, when a conqueror subdues his enemies to his will. In commonwealths by institution, 'men agree amongst themselves, to submit to some Man, or Assembly of men, voluntarily, on confidence to be protected by him against all others' (*Leviathan*, ch. 17, p.121).
27 The parties confer on a sovereign their combined power and authority '*to the end he may use the strength and means of them all, as he shall think expedient, for their Peace and Common Defence*' (*Leviathan*, ch. 17, p.121). Compare this with Hobbes's argument concerning right reason: 'and therfore, as when there is a controversy in an account, the parties must by their own accord, set up for right Reason, the Reason of some Arbitrator, or Judge, to whose sentence they will both stand, or their controversie must either come to blowes, or be undecided, for want of a right Reason constituted by Nature' (ibid., ch. 5, pp.32–3).
28 It seems as if Hobbes entered into a circular argument: in the state of nature the sovereign has no power unless the participants keep their promises, but it is only his power that makes them keep their promises (John Plamenatz, *Man and Society*, London, 1963, I:135).
29 *Leviathan*, ch. 28, p.214.
30 Plamenatz, *Man and Society*, I: 136. For solutions to the problem of authorisation, see also David Gauthier, *The Logic of Leviathan*, Oxford, 1969, pp.158–61; Jean Hampton, *Hobbes and the Social Contract Tradition*, Cambridge, 1986, pp.173–88.
31 Hobbes argues that the institution of the sovereign makes it individually disadvantageous to break the covenant. Specifically, the man who thinks he can gain by breaking rather than keeping the covenant reasons like 'a Foole': 'the Foole hath sayd … to make, or not make; keep, or not keep Covenants, was not against Reason, when it conduced to ones benefit'. Yet, he 'that breaketh his Covenant, and … thinks he may with reason do so, cannot be received into any Society, that unite themselves for Peace and Defence, but by the errour of them that receive him; not when he is received in it, without seeing the danger of their errour; which errours a man cannot reasonably reckon upon as the means of his security' (*Leviathan*, ch. 15, pp.101, 102).

32 Mandeville, 'A Search into the Nature of Society', *Fable*, I: 347. Hobbes makes a similar claim when he compares the *natural* sociability of 'certain living creatures, as Bees, and Ants' to men's incapability of living peacefully in society in the absence of a 'Common Power, to keep them in awe, and to direct their actions to the Common Benefit' (*Leviathan*, ch. 18, pp.119–20).
33 'The Results of Human Action but not of Human Design', *Studies*, pp.96–7. Cf. *New Studies*, p.254.
34 *Fable*, II:245.
35 *Fable*, II:128.
36 *Fable*, II:200. The first rudiments of government are already present in the family, as evidenced by the absolute control enjoyed by the father over his children (*Fable*, II:202–4).
37 *Fable*, II:230, 242.
38 For Hobbes, the problem men face in the state of nature is different: one of the reasons that prevent them from living peacefully with one another is their *independency of judgement*. (See *Leviathan*, ch. 6, p.39.) Hence the need for 'an Arbitrator or Judge, whom men disagreeing shall by consent set up, and make his sentence the Rule thereof' (ibid.). Cf. 'The only way to erect such a Common Power … is, to conferre all their power and strength upon one Man, or Assembly of men … and therein to submit their Wills, every one to his Will, and their Judgements, to his Judgment' (ibid., ch. 17, p.120).
39 *Fable*, II:199.
40 *Fable*, II:266–7.
41 *Fable*, II:266.
42 For Hobbes, this is the third cause of quarrel, namely, *glory*.
43 *Fable*, II:129.
44 *Fable*, II:130.
45 *Fable*, II:267.
46 *Fable*, II:267.
47 *Fable*, II:267.
48 *Fable*, II:267–8.
49 *Fable*, II:268.
50 *Fable*, II:269.
51 *Fable*, II:283.
52 *New Studies*, p.251.
53 *Law, Legislation and Liberty*, I:18.
54 *Fable*, II:186.
55 *Fable*, II:185.
56 When we say that 'Man is a Sociable Creature, the Word implies no more, than that in our Nature we have a certain Fitness, by which great Multitudes of us co-operating, may be united and form'd into one Body' (*Fable*, II:183).
57 *Fable*, I:344. Cf. I:346.
58 *Fable*, II:185.
59 'I am willing to allow, that among the Motives, that prompt Man to enter into Society, there is a Desire which he has naturally after Company; but he has it for his own Sake, in hopes of being the better for it' and '… this pretended Love of our Species, and natural Affection we are said to have for one another, beyond other Animals, is neither instrumental to the Erecting of Societies, nor ever trusted to in our prudent Commerce with one another, when associated, any more than if it had no Existence' (*Fable*, II:183).
60 *Fable*, II:180. As will be seen, Mandeville's reference to man's 'perpetual Desire of meliorating his Condition' anticipates Smith.
61 *Fable*, II:186–7.

62 *Fable*, II:189.
63 *Fable*, I:205.
64 *Fable*, II:190.
65 *Fable*, I:41.
66 Dickey, 'Pride, Hypocrisy and Civility in Mandeville's Social and Historical Theory', p.396.
67 *Fable*, I:206.
68 *Fable*, I:42.
69 I discuss Smith's concept of the 'impartial spectator' in Chapter Five.
70 *Fable*, I:124.
71 *Fable*, I:42.
72 *Fable*, I:42.
73 *Fable*, I:42.
74 *Fable*, I:43.
75 *Fable*, I:43–4.
76 *Fable*, I:48–9.
77 *Fable*, I:51.
78 *Fable*, I:51.
79 *Fable*, I:145.
80 *Fable*, I:47.
81 M. M. Goldsmith, *Private Vices, Public Benefits*, Cambridge, 1985, p.53.
82 *Fable*, I:45, 68, 234, 235, 349; II:305.
83 Anticipating Smith's development of the 'impartial spectator', Mandeville defines shame as '*a sorrowful Reflexion on our own Unworthiness, proceeding from an Apprehension that others either do, or might, if they knew all, deservedly despise us*' (*Fable*, I:64).
84 *Fable*, I:349. Also, 'it is incredible how necessary an Ingredient Shame is to make us sociable' (ibid., p.68).
85 *New Studies*, p.250.
86 Even those acts commonly described as altruistic are directed at the fulfilment of some personal emotional need. See *Fable*, I:54–7; I:261.
87 He writes: 'It is naive – particularly in light of our argument that we *cannot* observe the effects of our morals – to imagine some wise elite coolly calculating the effects of various morals, selecting amonge them, and conspiring to persuade the masses by Platonic "noble lies" to swallow an "opium of the people" and thus to obey what advanced the interests of their rulers' (*The Fatal Conceit*, p.138).
88 Mandeville writes: those that have 'laboured for the Establishment of Society', 'thoroughly examin'd all the Strength and Frailties of our Nature, and observing that none were either so savage as not to be charm'd with Praise, or so despicable as patiently to bear Contempt, justly concluded, that Flattery must be the most powerful Argument that could be used to Human Creatures' (*Fable*, I:43).
89 *Fable*, I:208.
90 *Fable*, I:68.
91 *New Studies*, p.253.
92 *Fable*, II:321–2.
93 *Fable*, II:142.
94 See, for instance, *Fable*, I:170–1; ibid., II:164.
95 *Fable*, II:128. Cf. the purpose of behavioural rules is 'the curbing, restraining and disappointing the inordinate Passions, and hurtful Frailties of Man … the greater part of the Articles, in this vast Multitude of Regulations … [is] the Result of consummate Wisdom' (*Fable*, II:321).
96 *Fable*, I:333.
97 *Fable*, II:128.

98 *Fable*, II:322.
99 *New Studies*, pp.261, 260.
100 *New Studies*, p.261.
101 Steele, 'Hayek's Theory of Cultural Group Selection', p.188.
102 See *Fable*, II:164, 186, 190.
103 *Fable*, II:187.
104 *New Studies*, p.253.
105 'By Care and Industry Men may be taught to speak, and be made sociable, if the Discipline begins when they are very young' (*Fable*, II:191).
106 *Fable*, I:37.
107 *Fable*, I:24.
108 He rejects both the Christian conception of morality as self-denial and the civic humanist ideal of public-spiritedness as incompatible with human nature.
109 *Fable*, I:36.
110 *Fable*, II:128.
111 *Fable*, I:26.
112 *Fable*, I:169.
113 He writes, for instance, 'Religion is one thing and Trade is another. He that gives most Trouble to thousands of his Neighbours, and invents the most operose Manufactures is, right or wrong, the greatest Friend to the Society' (*Fable*, I:356).
114 Louis Dumont, *From Mandeville to Marx*, Chicago, 1977, p.75.
115 'Private vices, public benefits' belongs to the genre of *maxims*. In the eighteenth century 'the maxim was meant to convey a paradox, not in the nineteenth-century sense of an apparent logical contradiction which is nevertheless true, but as with Mandeville's "private vices, publick benefits", a proposition set against the *doxa*, "contre l'opinion commune" ' (E. J. Hundert, 'Bernard Mandeville and the Enlightenment's Maxims of Modernity', *Journal of the History of Ideas*, 56, 4, 1995, p.579).
116 *Fable*, I:369 (emphasis mine).
117 *Fable*, I:42.
118 *Fable*, I:42–7.
119 *Fable*, I:333.
120 *Fable*, I:334. Cf. ibid., I:63–80, 145; II:319.
121 Goldsmith, *Private Vices, Public Benefits*, p.62.
122 *New Studies*, p.261.
123 *New Studies*, p.260.
124 *New Studies*, p.259.
125 Rosenberg, 'Mandeville and laissez-faire', pp.195, 193.
126 Rosenberg, 'Mandeville and laissez-faire', p.189.
127 Rosenberg, 'Mandeville and laissez-faire', pp.191, 193.
128 Viner, 'Introduction to Bernard Mandeville, A letter to Dion', *Essays on the Intellectual History of Economics*, Douglas A. Irwin (ed.), Princeton, 1991, p.184.
129 *New Studies*, p.258. Viner mentions that 'Mandeville, in contrast to Adam Smith, put great and repeated stress on the importance of the role of government in producing a strong and prosperous society, through detailed and systematic regulation of economic activity' (Viner, 'Introduction to Bernard Mandeville, A letter to Dion', *Essays on the Intellectual History of Economics*, p.184).
130 *Fable*, I:37.
131 *Fable*, II:323.
132 *New Studies*, pp.259, 260.
133 *Fable*, I:23.
134 *Fable*, I:249.
135 *Fable*, I:23–4.

136 Rosenberg, who generally interprets Mandeville as an exponent of *laissez-faire*, admits that his treatment of foreign trade indicates that 'he completely embraced the central policy prescription of mercantilism' and that 'he may unquestionably be categorised as a Mercantilist in the sense that he recommended that the government ought to intervene in the normal market processes, with the use of a variety of regulatory devices, for the purpose of assuring the maintenance of a "favorable" balance of trade' (Rosenberg, 'Mandeville and laissez-faire', pp.184–6).
137 Viner, 'Introduction to Bernard Mandeville: A letter to Dion', *Essays on the Intellectual History of Economics*', p.184; Chalk, 'Mandeville's *Fable of the Bees*: A Reappraisal', p.12.
138 *New Studies*, p.259.
139 *Fable*, I:287. Cf. ibid., pp.286, 301, 314; II:259.
140 *Fable*, I:270.
141 *Fable*, I:299.
142 Low wages were, according to Mandeville, absolutely necessary for maintaining a trade surplus. Low costs through low wages would make products cheap and thereby increase exports.
143 *Fable*, I:299.
144 *Fable*, I:300.
145 *Fable*, I:299–300.
146 *Fable*, II:353.
147 *New Studies*, p.259.
148 *Fable*, II:352.
149 *Fable*, II:353. Cf. 'The Proportion of the Society is spoil'd, and the Bulk of the Nation, which should every where consist of Labouring Poor, that are unacquainted with every thing but their Work, is too little for the other parts' (*Fable*, I:302).
150 *Fable*, II:353.
151 *Fable*, II:323.
152 *Fable*, I:287.
153 *Fable*, I:115–16. Cf. ibid., p.249.
154 *Fable*, I:312–14.
155 *Fable*, I:313, 317.
156 *Fable*, I:288.
157 *Fable*, I:192. Cf. ibid., p.286.
158 *Fable*, I:285.
159 *Fable*, I:288.
160 *Fable*, I:302, 311, 287.
161 *Fable*, I:288.
162 *Fable*, I:248–9.
163 Viner, 'Introduction to B. Mandeville: A letter to Dion', *Essays on the Intellectual History of Economics*', p.184. Mandeville sums up this point by remarking that, 'in short, *Russia* has too few Knowing Men, and *Great Britain* too many' (*Fable*, I:322).
164 *Fable*, I:299–300.
165 *New Studies*, p.251.
166 *New Studies*, p.261.
167 *New Studies*, p.253.

4 Artifice and order in Hume

'While the Continent', Hayek writes, 'was dominated during the eighteenth century by constructivist rationalism, there grew up in England a tradition which by way of contrast has sometimes been described as "anti-rationalist"'.[1] As we saw, Hayek describes Bernard Mandeville as the first great figure in this 'anti-rationalist' tradition, and argues that his influence on Hume was significant: 'I do not intend to pitch my claim on behalf of Mandeville higher than to say that he made Hume possible'.[2] According to Hayek, David Hume (1711–76) took up and developed Mandeville's evolutionary explanation of the emergence and maintenance of social institutions. 'Hume's starting point is his anti-rationalist theory of morals ... He demonstrates that our moral beliefs are neither natural in the sense of innate, nor a deliberate invention of human reason, but an "artifact" ... that is, a product of cultural evolution' in which 'what proved conducive to more effective human effort survived, and the less effective was superseded'.[3] While Hayek correctly draws attention to Mandeville's influence on Hume, it will be shown in this chapter that Hume's moral theory can best be described as a reaction against, rather than an endorsement of, Mandeville's interpretation of moral conduct as mere hypocrisy.

As I demonstrated in Chapter Three, Mandeville starts with a Hobbesian account of human nature, viewing man as a selfish and unsocial being. He departs from Hobbes, however, in that he rejects the device of the 'social contract' as the means of securing peace. Social stability, Mandeville argues, is brought about by the 'dextrous management' of skilful politicians who manipulate man's natural instinct of pride. By flattery, political leaders have endeavoured to render men 'governable' by eliciting moral conduct from them. Far from being part of man's natural inclinations, Mandeville points out, moral virtues are artificial, 'the Political Offspring which Flattery begot upon pride'.[4] Politicians instruct men in 'the notions of honour and shame', to which men respond with an attitude of hypocrisy, thus pretending to moral conduct. Hume, as will be seen, dismisses Mandeville's account of moral virtues. Though he concedes that the 'artificial virtues' may be forwarded by the artifice of politicians', he adds that 'the utmost politicians can perform, is, to extend the natural sentiments beyond their original

bounds; but still nature must furnish the materials, and give us some notion of moral distinctions'.[5] Contrary to Hayek's claim, Hume does *not* demonstrate that moral beliefs are not natural (innate), for he argues that moral distinctions are rooted in man's *natural sentiment* of moral approbation.

Hayek also points out that Hume's political and legal ideas 'are most intimately connected with his general philosophical conceptions, especially with his sceptical views on the "narrow bounds of human understanding"'.[6] While Hayek is certainly correct in drawing attention to the relation between Hume's epistemology and his socio-political thought,[7] it will be shown that Hume's views on the limitations of human reason differ from Hayek's. As we saw, following Kant's epistemology, Hayek portrays the human mind as a classificatory apparatus whose main function consists in classifying undifferentiated masses of stimuli into groups or 'categories'. By stressing the mind's synthetic capacity in organising sensory perceptions, Hayek effectively rejects the Humean position regarding the existence of pure perceptions untainted by conceptual constructions. 'Every sensation', Hayek writes, 'even the "purest", must therefore be regarded as an interpretation of an event in the light of the past experience of the individual or the species'.[8] Hayek argues, moreover, that the mind's classificatory operations are ultimately governed by 'supra-conscious' abstract rules of conduct and perception which have developed in a process of evolution. These rules are like general purpose tools, enabling man to cope with a reality which is far too complex to comprehend. He thus concludes that: (1) man's conscious processes of thinking and acting are ultimately governed by rules which can be neither understood nor articulated; and (2) that mental categories are not immutable, for the mind's interpretative qualities are the product of constantly adjusting mechanisms of perception.

Unlike Hayek, Hume does not present man's mental capacity as the product of evolution; nor does he suggest that man's rational limitation lies in the inability to grasp the complexity of either empirical or social reality. He defines the mind as 'nothing but a heap or collection of different perceptions',[9] which are linked together by the operations of man's mental faculty of *imagination*. Our perceptions are not connected in an arbitrary way, but according to certain permanent and universal 'principles of association of ideas' which govern the imagination. These principles are: *resemblance, contiguity* in time or place, and *cause and effect*.[10] Hume treats the principles of association of ideas as natural propensities or '*original* qualities of human nature'[11] which cannot be further explained. The importance of these propensities is evident from the fact that they enable us to make inferences about matters of experience, which go beyond the evidence of our sensory perceptions. Inferences about matters of experience are made on the basis of *repeated* past experience. The medium through which men arrive at judgements about matters of fact/experience, however, is not reason, but the 'permanent, irresistable, and universal'[12] propensities of the imagination. Hume restricts the role of reason to the discovery of 'relations of ideas' and the establishment of the truth of analytic propositions (propositions which are true by virtue of the meaning of their constituent terms).

For Hume, the limits of reason lie not only in its inability to pronounce on judgements concerning matters of experience, but also in its impotence to induce action. Only the presence of a passion can motivate the will, and thus produce action, while 'reason is, and ought only to be the slave of the passions ...'.[13] A careful reading of his theory, however, indicates that, although passions are the sole motivating force of human conduct, reasoning (reflection) can indirectly produce action by *directing* the passions. As will be shown, this function of reasoning is most prominent in Hume's account of the origins and maintenance of the artificial virtues. His moral and political theory shows that judgement and reflection provide the mechanism whereby institutions indispensable to the very possibility of social order are selected and subsequently maintained. For Hume, therefore, human conduct does not consist in *mindless adaptation* to evolutionary change. On the contrary, men *purposefully* employ the psychological propensities of the imagination (custom or habit formation), first to *discover* rules and institutions perceived to be indispensable to the preservation of social order, and subsequently to *enforce* them. An example of such intentional exploitation of the effects of custom on the imagination is *education*.[14]

In this chapter, I reconstruct Hume's argument concerning the impact of reflection on the operations of the imagination, the passions and the establishment and maintenance of the artificial virtues. The first section deals with the operations of the understanding and, in particular, with the influence of custom on the imagination. I argue that, although Hume attributes our judgements about the relation of cause and effect to the unconscious process of belief, he also emphasises the importance of reflection in distinguishing between acceptable beliefs and mere credulity. Similarly, in the second section, I argue that notwithstanding his proclamation that reason is and ought to be the 'slave' of the passions, Hume reserves a more active role for the influence which judgement exerts on the passions; an influence reflected in his distinction between 'calm' (reasonable) and 'violent' (impulsive) passions. In the third section, I show that it is precisely the prevalence of the calm over the violent passions which gives rise to the artificial virtues and contributes to their subsequent enforcement. Combined, these three arguments show how far Hume is from Hayek's theory of spontaneous order.

The limits of reason

Hume starts his analysis of the faculty of understanding by postulating that all the contents of the mind are *discrete perceptions*,[15] which are divided into 'impressions' and 'ideas'. The distinction is clear enough since 'every one of himself will readily perceive the difference betwixt feeling and thinking'.[16] The main difference between impressions and ideas lies in the respective *force* and *vivacity* with which they strike the mind. Of the two, impressions are

the more forceful and vivid. Ideas are faint images or copies of impressions used in mental activities such as thinking, imagining and remembering. In general, 'the most lively thought is still inferior to the dullest sensation'.[17] Impressions are the primary source of our mental capacity, for '*all our simple ideas in their first appearance, are derived from simple impressions, which are correspondent to them, and which they exactly represent*'.[18] Impressions are divided into two types, those of *sensation* and those of *reflection*.[19] Impressions of *sensation* are immediate biological reactions, comprising sensory experience (hearing, seeing etc.) and physical sensations (pleasure or pain). Impressions of *reflection* arise from ideas (which are themselves copies of impressions), and comprise emotions, passions and desires. For instance, impressions of desire and aversion, love and hatred, hope and fear originate in the ideas of pleasure or pain which are copied impressions of sensation. Ideas are divided into those of *memory* and those of the *imagination*.[20] Memory produces exact copies of impressions by preserving their original form and sequence of appearance, whereas the imagination is not restrained by the original form and sequence of the impressions to such an extent but is at liberty '*to transpose and change its ideas*'.[21] In Hume's philosophy, the imagination is the faculty which accounts for all thought except simple recollection which is performed by the faculty of memory.[22]

Although it may seem that Hume is presenting the mind as the passive recipient of discrete perceptions, this is not really the case. He reserves, in fact, a more active role for the mind, that of linking together and ordering its various atomistic contents. What is true, however, is that, as has been observed, Hume 'stresses the involuntary and unconscious character of the process, and minimizes the extent of deliberate decision'.[23] The mental faculty linking together our separate perceptions is the *imagination*. Yet, as Hume admits, this faculty may separate and again unite our simple ideas 'in what form it pleases',[24] a feature which would render our perceptions inconsistent, incoherent and disorderly. This is generally avoided, for the imagination is governed by three universal principles of the association of ideas, namely, *resemblance*, *contiguity* in time or place, and *cause and effect*.[25] The effects of these principles are, Hume writes, 'every where conspicuous'. But as to their causes, 'they are mostly unknown, and must be resolv'd into *original* qualities of human nature, which I pretend not to explain'.[26]

The operations of the imagination give rise to two types of reasoning: (1) 'demonstrative reasoning', whose object is the discovery of *relations of ideas*; and (2) 'moral' or 'probable' reasoning, which deals with *matters of fact and existence*.[27] *Relations of ideas* are 'discoverable by the mere operation of thought'[28] and do not rely on empirical evidence. They are the subject of *a priori* reasoning, and are propositions of intuitive or demonstrative certainty. *Matters of fact* rely on experience, and are neither intuitively established nor logically proven. The difference between the two forms of reasoning is that rational demonstration results in *knowledge*, whereas reasoning about matters of fact and existence yields 'probabilities' or 'proofs' but never knowledge.[29]

Hume's criterion for distinguishing between these two types of reasoning is whether we can conceive of the negation of a proposition. For instance, analytic propositions, such as 'all bachelors are unmarried' or the Pythagorean theorem, are established by demonstrative or intuitive reasoning, and the possibility of a married bachelor is inconceivable, as it is inconceivable that the Pythagorean theorem will fail to hold true. On the other hand, propositions like 'all men must die', or 'the sun will rise tomorrow' are conclusions of probable reasoning, for we can at least conceive of immortal men, or the possibility of the sun not rising tomorrow.

Although based on experience, the conclusions of probable reasoning are *inferences* or conjectures about matters of fact, which lie beyond the testimony either of memory or of immediate sense perception. Hume devotes a substantial part of his epistemology to explaining the mental process accounting for the establishment of such inferences. He discusses three examples involving such inferences, namely, the existence of external objects, cause and effect, and personal identity. Of these three, he considers the relation of causality to be of utmost importance: 'all reasonings concerning matter of fact' he writes, 'seem to be founded on the relation of *Cause and Effect*. By means of that relation alone we can go beyond the evidence of our memory and senses'.[30] Hume's account of the *process* involved in forming judgements about matters of fact in general, and about the relation of cause and effect in particular, provides the link between his epistemology and his moral and political philosophy.[31] I shall therefore briefly outline his account of the formation of judgements concerning the relation of cause and effect.

Faithful to his theory of the contents of the human mind, Hume sets out to discover the impression from which the *idea* of causation is derived.[32] He first rejects the claim that sensory experience alone can account for the formation of judgements about causation. Sensory observation cannot discover any 'effect-producing' quality or power in the object regarded as cause. By seeing and handling bread, for instance, we cannot reach any conclusions about its nourishing powers, for 'our senses inform us of the colour, weight, and consistence of bread; but neither sense nor reason can ever inform us of those qualities which fit it for the nourishment and support of a human body'.[33] The impression on which the idea of causation is based is not, therefore, an impression of sensation. 'The idea, then, of causation', Hume continues, 'must be deriv'd from some *relation* among objects'.[34] First, we observe that two objects considered as cause and effect are always *contiguous* in time and place. Second, we observe that the effect is temporarily preceded by the cause. Succession and contiguity are the empirically established relations of causation. Yet, 'an object may be contiguous and prior to another, without being consider'd as its cause. There is a NECESSARY CONNEXION to be taken into consideration'.[35] What in essence defines causation is, thus, our idea of *necessary connection*, according to which we expect that similar causes *must* and will be followed by similar

effects. The question now is, what is the origin of the *idea* of necessary connection?

In contrast to contiguity and succession, the relation of *necessary connection* is not empirically discoverable. The idea of *necessity* is not derived from reason either, for judgements about causation do not refer to analytic propositions which could be intuitively established. Judgements about causation refer to *empirical* relations: 'they are still more frivolous', Hume writes, 'who say, that every effect must have a cause, because 'tis imply'd in the very idea of effect. Every effect necessarily pre-supposes a cause; ... But this does not prove, that every being must be preceded by a cause; no more than it follows, because every husband must have a wife, that therefore every man must be marry'd'.[36] Hume stresses once more that it is 'by EXPERIENCE only, that we can infer the existence of one object from that of another'.[37] But if neither the senses nor reason can discover the idea of necessary connection, on which impression is this idea based?

In addition to contiguity and succession, there is a third relation of causation which is empirically established, namely, the 'constant conjunction' between two events considered as cause and effect. The relation of constant conjunction is based on the observation that similar causes have been always followed by similar effects, which leads us to expect that similar causes *must* and will be followed by similar effects. This inference from the observed impression of the relation of constant conjunction to the idea of necessary connection is not the product of reason, for 'there can be no *demonstrative* arguments to prove, *that those instances, of which we have had no experience, resemble those, of which we have had experience.* We can at least conceive a change in the course of nature'.[38] Simple experience does not account for the inference either, for 'from the mere repetition of any past impression, even to infinity, there never will arise any new original idea, such as that of a necessary connexion'.[39] The relation of constant conjunction is important because, according to Hume, it gives rise to the *impression* of *belief* from which the *idea* of necessary connection is derived.

A *repeated* observation of the relation of constant conjunction creates a 'union in the imagination' such as we are instinctively led to make the transition from the actual impression or memory of an object to the idea of its 'usual attendant'.[40] The imagination transmits the 'force and vivacity' of an impression to the idea of its 'usual attendant', so that whenever we are presented with an impression of an event we not only form the idea of its usual attendant but we actually *believe* in its occurrence. Hume defines belief as '... a more vivid and intense conception of an idea, proceeding from its relation to a present impression'.[41] Belief can thus be described as a 'feeling of the mind', for it refers to the *manner* in which we conceive an idea. Hume aptly concludes that '... *belief is more properly an act of the sensitive, than of the cogitative part of our natures*'.[42] Belief is a *propensity* of human nature, a 'species of natural instinct' which 'no reasoning or process of the thought and understanding is able either to produce or to prevent'.[43] Hence, our judgements about causation, or about matters of existence in general, 'are *not* founded on reasoning',[44] for 'all probable reasoning is nothing but a species of sensation'.[45]

The idea of necessary connection between cause and effect is therefore derived from the impression of belief, which, being a sentiment, is an impression of *reflection*. This impression, Hume contends, is '... that propensity, which custom produces, to pass from an object to the idea of its usual attendant ... Upon the whole, necessity is something that exists in the mind, not in objects'.[46] Nevertheless, we think that necessary connection is a relation which exists in the objects because the imagination has a 'propensity to spread itself on external objects, and to conjoin with them any internal impressions, which they occasion ...'.[47] Hume concedes that his statement that causal necessity rests solely on the imagination's propensity to project its internal impressions to external objects will be 'treated by many as extravagant and ridiculous'.[48] He insists, however, that to think of necessary connection as a property of objects which exists independent of our perception of it means to be 'led astray by a false philosophy'.[49] Were it not for our repeated observation that objects considered as cause and effect have been constantly conjoined, belief in causal necessity would not arise. Hence, the principle which creates belief, and leads to the formation of judgements of causation, is 'Custom or Habit'.[50]

Custom acquires a special status in Hume's philosophy, and is described as the force behind all 'inferences from experience' and thus the principle 'so necessary to the subsistence of our species, and the regulation of our conduct, in every circumstance and occurrence of human life'.[51] Custom becomes the 'great guide of human life' without which 'we should never know how to adjust means to ends, or to employ our natural powers in the production of any effect. There would be an end at once of all action, as well as of the chief part of speculation'.[52] As will be seen, the influence of custom on the imagination provides the main link between Hume's epistemology and his moral philosophy. Custom, Hume maintains, operates on the imagination 'in such an insensible manner as never to be taken notice of, and may even in some measure be unknown to us'.[53] Statements like this would seem to indicate that Hume is advancing an argument about unconscious rule-following which is rather similar to Hayek's. Yet, despite certain similarities in their arguments, Hume in fact appeals to the intervention of *conscious* reflection as the mechanism whereby men correct their beliefs.[54]

By arguing that judgements about matters of existence are ultimately founded on a natural *propensity*, which reason is unable either to produce or to prevent, Hume seems to have removed the possibility of evaluating the legitimacy of such judgements. Does he then maintain that there is no way of distinguishing between acceptable beliefs and unfounded credulity? Clearly, this is not his intention: those who believe in the presence of 'spectres' he writes, 'may, perhaps, be said to reason, and to reason naturally too: But then it must be in the same sense, that a malady is said to be natural; as

arising from natural causes, tho' it be contrary to health, the most agreeable and most natural situation of man'.[55] Again, he argues that certain religious beliefs, or beliefs in dangerous political ideologies, may be felt vividly and widely, but are nevertheless unacceptable, the 'superstitions' of the 'vulgar' and the ignorant.[56] Flights of the imagination or fictitious beliefs do occur, and are no less natural than legitimate beliefs. 'Nothing is more dangerous to reason', Hume writes, 'than the flights of the imagination, and nothing has been the occasion of more mistakes among philosophers'.[57] How then do we distinguish between legitimate beliefs and mere credulity?

As we have seen, the imagination is governed by principles which are 'permanent, irresistable, and universal', but it is also influenced by principles which are 'changeable, weak, and irregular'.[58] This distinction is captured in Hume's juxtaposition of *judgement* or the *understanding* (the general and more established properties of the imagination) against the 'trivial suggestions of the fancy'.[59] It is not reason but the exercise of *judgement*, he maintains, which ultimately enables men to distinguish between legitimate and 'false' beliefs.[60] His argument runs as follows: custom has an impact not only on the regular principles, but also on the weak and irregular principles of the imagination. In such cases, men are inclined to form contradictory judgements about particular objects. As Hume writes, 'tho' custom be the foundation of all our judgments, yet sometimes it has an effect on the imagination in opposition to the judgment, and produces a contrariety in our sentiments concerning the same object'.[61] The imagination, for instance, has a tendency to believe that two objects *resembling* one another have the same causal consequences.[62] Similarly, men have a tendency to convert partial correlations into complete uniformities; a tendency which is the source of *prejudice*.[63]

This influence of custom on the weak principles of the imagination, Hume argues, can be countered by *conscious reflection*,[64] and, in particular, by applying the *general rules* which govern our understanding. For instance, we observe that two objects are frequently conjoined together and tend to think of them as cause and effect. A more careful consideration of the evidence, however, shows that on certain occasions the effect does not in fact occur. Careful observation enables us to avoid the tendency to generalise and form rash conclusions on the basis of scant evidence (mistake partial correlations for complete uniformities). 'A wise man, therefore, proportions his belief to the evidence. In such conclusions as are founded on an infallible experience, he expects the event with the last degree of assurance, and regards his past experience as a full *proof* of the future existence of that event. In other cases, he proceeds with more caution: He weighs the opposite experiments: He considers which side is supported by the greater number of experiments: to that side he inclines, with doubt and hesitation; and when at last he fixes his judgement, the evidence exceeds not what we properly call *probability*.'[65] This conscious weighing of the evidence is reflected in Hume's description of the application of general rules as the means by which 'we learn to distinguish the accidental circumstances from the efficacious causes; and when we find that an effect can be produc'd without the concurrence of any particular circumstance, we conclude that that circumstance makes not a part of the efficacious cause, however frequently conjoin'd with it'.[66] The general rules of the understanding are formed on the basis of uniform experience. They can thus be described as higher-order rules which can be used to reject the lower-order rules pertaining to the weak and irregular principles of the imagination. Now, as Hume concedes, this conscious effort at correcting mistaken beliefs is not universally followed. Whether men are generally inclined to follow the weak principles of the imagination or the well-established rules of the understanding depends largely 'on the disposition and character of the person. The vulgar are commonly guided by the first, and wise men by the second'.[67]

Hume's distinction between the 'wise' and the 'vulgar' points to a different epistemological theory from the one espoused by Hayek. As we saw, for Hayek, man's conscious mental processes are ultimately governed by *supra-conscious* rules of conduct and perception. For Hume, the mechanical application of the weak principles of the imagination leads to false conclusions which can be corrected by reflection (conscious appeal to the permanent rules governing the imagination). In claiming that man's mental processes are ultimately governed by supra-conscious rules which are evolutionary adaptations to man's inherent ignorance, Hayek removes the possibility of an external standard which would enable men to evaluate their judgements. In the context of his social theory, this epistemological stance does not only imply that men are unable to choose rules and institutions; it also points to the absence of an external criterion (outside the evolutionary process) by which men can criticise and deliberately alter evolved behavioural patterns. For Hume, the permanent principles of the imagination provide men with a criterion by which they can correct the prejudices and superstitions of the 'vulgar'. As will be seen, they also enable them to reflect on the desirability of rules and institutions that are indispensable to the maintenance of social order. Before examining Hume's theory of the establishment of social institutions, I shall provide a brief outline of his account of the role of reason in influencing human action.

Reason, passions and action

Hume, as we saw, divides the operations of the understanding into those which yield demonstrative certainty and those which yield empirical probability. In his epistemology, he restricts the role of reason to the establishment of certain relations of ideas (demonstrative propositions) and stresses its inability to make inferences about matters of experience. Judgements about empirical relations (probable reasoning) are made on the basis of certain natural propensities of the imagination. In his theory of action, as in his epistemology, Hume stresses the limits of reason. However,

in his theory of action (and, as will be seen, in his moral philosophy too), Hume extends the term 'reason' to include both demonstrative and probable reasoning.[68]

'Reason *alone*', Hume maintains, 'can never be a motive to any action of the will'.[69] In the absence of a passion, the mere establishment of the truth of a proposition will never move us to action. Similarly, the establishment of a causal connection between two events will not move us to action, if we are indifferent to the events: 'where the objects themselves do not affect us, their connexion can never give them any influence; and 'tis plain, that as reason is nothing but the discovery of this connexion, it cannot be by its means that the objects are able to affect us'.[70]

Not only is reason incapable of producing action, but also it 'can never oppose passion in the direction of the will'.[71] The only way reason could oppose a volition would be by creating a contrary one. Yet, as already mentioned, only the presence of a passion can give rise to volition. Given its impotence, 'reason is and ought only to be the slave of the passions, and can never pretend to any other office than to serve and obey them'.[72] To speak of a combat between passion and reason, Hume argues, merely indicates a careless use of terms. 'Tis not contrary to reason to prefer the destruction of the whole world to the scratching of my finger. 'Tis not contrary to reason for me to chuse my total ruin, to prevent the least uneasiness of an *Indian* or person wholly unknown to me. 'Tis as little contrary to reason to prefer even my own acknowledg'd lesser good to my greater, and have a more ardent affection for the former than the latter'.[73] The function of reason is simply different from the function of the passions: as the passions are incapable of establishing either truth or probability, so reason is incapable of producing action.

Only the presence of a desire or preference can motivate men to action. Yet reason can *indirectly* influence action: for instance, it can eliminate certain desires by informing us of the impossibility of satisfying them.[74] His proclamations to the contrary notwithstanding, Hume reserves an active role for reason. 'Human nature', he writes, 'being compos'd of two principal parts, which are requisite in all its actions, the affections and understanding; 'tis certain, that the blind motions of the former, without the direction of the latter, incapacitate men for society'.[75] Reason and passion are, therefore, *complementing* each other. Hume aptly observes that, when passions are 'accompany'd with some false judgment', they can be described as *unreasonable*.[76] There are two senses in which a passion can be called unreasonable: (1) when it is 'founded on the supposition of the existence of objects, which really do not exist'; and (2) when in pursuing a course of action, we 'chuse means insufficient for the design'd end, and deceive ourselves in our judgment of causes and effect'.[77] Fear of ghosts is an instance of an unreasonable passion, for reason tells us that ghosts do not in fact exist. Similarly, it is unreasonable to want to cut down an oak tree with a table knife.[78] Thus, a passion may be contrary to reason when it is accompanied by a false judgement. Yet, as Hume correctly points out, when this occurs it is, strictly speaking, not the passion that is contrary to reason but the judgement which accompanies it.

What is mistakenly taken to be a combat between reason and the passions, Hume notes, is simply a conflict between certain 'calm' passions and our more violent and impulsive desires. Calm passions 'produce little emotion in the mind' and are therefore often confounded with reason.[79] Men are frequently influenced by their violent desires and 'act knowingly against their interest', or they 'often counter-act a violent passion in prosecution of their interests and designs'. Which of these two motivating forces prevails, depends largely on 'the *general* character or *present* disposition of the person'.[80] It thus appears that, in addition to differences in their emotional intensity, there is another factor which distinguishes calm from violent passions: while violent passions urge us to gratify our immediate impulses, calm passions tend to direct us towards the advancement of our long-term benefit. 'What we call strength of mind', Hume writes, 'implies the prevalence of the calm passions above the violent'.[81] Strength of mind involves the application of judgement in (1) *evaluating* our preferences, and (2) in discovering the correct means for the procurement of the remote objects relevant to our long-term interest.[82] Calm passions are often confounded with reason simply because they are *governed* by reason.

Hume's thesis concerning the relation between reason and action can therefore be restated: although reason can never *by itself* be a motive to action, it can still affect action by *directing* the passions.[83] He elaborates on the way in which reason influences the passions in his discussion of the indirect passions of pride and humility.[84] The passion of pride, he argues, arises from the contemplation of a pleasant object which the imagination associates with the idea of *self*.[85] For instance, I do not feel proud at the sight of a beautiful house unless it is somehow related to myself (I built it or own it). Hume refers to the mechanism involved in producing the indirect passions as 'the double relation of ideas and impressions'.[86] Consider the example of pride: first, the imagination associates the idea of the cause of pride (e.g. beautiful house) with the idea of the object of pride (self); second, there is an association of *resemblance* between two impressions (the pleasant feeling produced by the cause of pride resembles the agreeable feeling of pride).[87] Now, as in the case of belief, Hume describes these processes of association in mechanical terms: 'in a word, nature has bestow'd a kind of attraction on certain impressions and ideas, by which one of them, upon its appearance, naturally introduces its correlative'.[88] As we saw, Hume allows for the possibility of correcting beliefs by conscious reflection, and in particular by the application of *general rules*. He forwards a similar argument concerning the direction of passions by customary reasoning.

Without denying that pride and humility are natural sentiments (original and inexplicable sensations), Hume points out that their causes (the objects which excite them) are determined by the influence of custom on properties

of the imagination. '*General rules*', he writes, 'have a great influence upon pride and humility, as well as on all the other passions'.[89] Such influence, for instance, explains why men tend to feel pride in belonging to distinguished families by male descent. Hume argues that it is one of the properties of the imagination, when presented with two objects, to pass with particular ease from the smaller to the larger object. In the case of marriage, the father is considered to be more important, so the imagination has a propensity to pass from the idea of the child to that of the father, rather than to the idea of the mother. This is why children bear their father's name and are considered to be of nobler or baser birth according to his family. 'And tho' the mother shou'd be possest of a superior spirit and genius to the father, as often happens, the *general rule* prevails, notwithstanding the exception, according to the doctrine above-explain'd.'[90] Similarly, the criterion whereby we distinguish between different social ranks is power or wealth and we tend to think that people's happiness varies in proportion to their material possessions. Yet, our tendency to correlate happiness with material possessions is not affected by cases in which factors like ill health or temperament prevent people from enjoying their riches. As in the case of judgements about cause and effect, customary thinking induces us to form beliefs that go beyond the immediate evidence. 'Custom readily carries us beyond the just bounds in our passions, as well as in our reasonings.'[91]

Without the influence of general rules, Hume maintains, men would not be able to judge the value of those objects which excite their passions: 'but as custom and practice ... have settled the just value of every thing; this must certainly contribute to the easy production of the passions, and guide us, by means of general establish'd maxims, in the proportions we ought to observe in preferring one object to another'.[92] Thus, customary reasoning influences action by showing men the objects which are worth pursuing.

In this section I have argued that Hume reserves a more active role for reason's influence on the passions than his declaration that 'reason is, and ought only to be the slave of the passions' would seem to allow. It is true, however, that, in relation to the above-mentioned examples, he concentrates on the influence of beliefs that seem to result from what he calls the 'weak, changeable, and irregular' properties of the imagination: he emphasises, in other words, the mechanical application of customary rules rather than conscious reflection in correcting mistaken opinions. This emphasis, though akin to Hayek's account of unconscious rule-following, does not mean that for Hume men lack the means of correcting mistaken beliefs. In contrast to Hayek, as we saw, Hume maintains that the 'wise' do indeed correct mistaken beliefs by relying on the 'permanent, irresistable, and universal' principles of the imagination. Moreover, for Hume, conscious reflection plays a vital role in the formation of moral judgements. This is the subject of the following section.

'Moral distinctions not derived from reason'

In book III of the *Treatise*, Hume introduces the subject of morality as one that 'interests us above all others: We fancy the peace of society to be at stake in every decision concerning it'.[93] He then reminds us of the distinction between impressions and ideas, and asks '*whether 'tis by means of our ideas or impressions we distinguish betwixt vice and virtue, and pronounce an action blameable or praise-worthy?*'[94] In his argument concerning the source of moral judgements, Hume highlights once more the limits of reason (used again in its extended definition). Morality, he maintains, is a *practical* discipline which has a direct influence on passions and actions: 'morals excite passions, and produce or prevent actions. Reason of itself is utterly impotent in this particular. The rules of morality, therefore, are not conclusions of our reason'.[95] As we saw, though reason is by itself unable to produce action, it can, by *guiding* the passions, exert a considerable influence on volition. It will now be shown that (just as in respect of the passions) reason influences moral judgements in a way which is more complex than Hume's initial remarks indicate.

Hume supports his claim that moral distinctions are not derived from reason with further arguments: 'reason', he writes, 'is the discovery of truth or falsehood. Truth or falsehood consists in an agreement or disagreement either to the *real* relations of ideas, or to *real* existence and matter of fact'.[96] Now relations of ideas extend to the animal world as well as to inanimate objects. If moral distinctions were derived from demonstrative reasoning they would also apply to inanimate objects.[97] Moral judgements are not judgements about matters of fact either, which can be discovered by probable reasoning. Take, for instance, Hume says, the case of 'wilful murder': in examining it we cannot possibly discover any observable quality that we call *vice*. 'In which-ever way you take it, you find only certain passions, motives, volitions, and thoughts. There is no other matter of fact in the case. The vice entirely escapes you, as long as you consider the object. You never can find it, till you turn your reflexion into your own breast, and find a sentiment of disapprobation, which arises in you, towards this action. Here is a matter of fact; but 'tis the object of feeling, not of reason. It lies in yourself, not in the object.'[98] Thus, it is not by means of reason, but by some impression or sentiment that we distinguish between vice and virtue. Hume concludes: morality, therefore, is more properly felt than judg'd of'.[99] Yet, he adds, since moral sentiments are of a 'soft and gentle' nature, men tend to confound them with ideas.[100]

Like all impressions, moral sentiments are 'original' impulses of human nature. An act is pronounced virtuous when, in contemplating it, we feel an agreeable sentiment, while it is pronounced vicious when we experience a sentiment of unease. These sentiments are of a *particular* kind, for not *every* agreeable or disagreeable sentiment gives rise to moral judgements. Like the indirect passions of pride and humility, or love and hatred, moral sentiments are nothing but *particular*

not elaborate on what precisely differentiates moral sentiments from other agreeable or disagreeable impressions. He seems to imply that, being original qualities, moral sentiments are beyond further explanation.[102] Still, moral sentiments are distinguished from other passions in one important respect. As we saw, the passions of pride and humility have *self* as their object. Similarly, the objects of the sentiments of love and hatred are always related to ourselves. Moral sentiments, by contrast, are *disinterested* by nature, for they are felt when we contemplate characters from an objective point of view: "tis only when a character is considered in general, without reference to our particular interest, that it causes such a feeling or sentiment, as denominates it morally good or evil'.[103] The good qualities of an enemy, for instance, may be harmful to me, but they may still command my esteem and respect. As Hume notes, however, not every one is capable of such impartial conclusions: 'it seldom happens, that we do not think an enemy vicious, and can distinguish betwixt his opposition to our interest and real villainy or baseness. But this hinders not, but that the sentiments are, in themselves, distinct; and a man of temper and judgment may preserve himself from these illusions'.[104] We can guess already the point Hume is trying to make: the ability to abstract from one's personal point of view requires conscious reflection and the application of general rules. I shall return to this point after having first described the mechanism by which moral sentiments arise.

'Moral sentiments', Hume writes, 'may arise either from the mere species or appearance of characters and passions, or from reflexions on their tendency to the happiness of mankind, and of particular persons'.[105] The mechanism by which these sentiments arise is *sympathy*.[106] Through sympathy men are able to go beyond their own emotions: to sympathise with others means to 'receive by communication their inclinations and sentiments, however different from, or even contrary to our own'.[107] Hume describes the operation of sympathy in mechanical terms: suppose, for example, I see a man in a joyous mood. By observing the external signs of his emotional reactions, I acquire an *idea* of the sentiment of joy. 'This idea is presently converted into an impression, and acquires such a degree of force and vivacity, as to become the very passion itself, and produce an equal emotion, as any original affection.'[108] The way in which sympathy gives rise to moral sentiments can be shown by the following example: I see someone torturing a fellow man. In observing the tortured man's signs of distress, I get an idea of pain which is, through sympathy, transformed into an impression of pain (I almost feel the pain myself). This primary impression of pain gives rise to the secondary impression of moral disapproval.

The sentiment of moral disapproval can arise by simply contemplating, rather than actually observing, the effects of this act of cruelty. "Tis certain', Hume observes, 'that sympathy is not always limited to the present moment, but that we often feel by communication the pains and pleasures of others, which are not in being, and which we only anticipate by the force of imagination'.[109] If moral sentiments arise under the influence of the imagination, they are also bound to be affected by the principles governing this faculty. The relation of cause and effect, for instance, explains why we still approve of someone who, though virtuous, is in fact incapable of realising his beneficial intentions (Hume gives the example of a man in a dungeon or in the desert). The reason for this is that 'where a character is, in every respect, fitted to be beneficial to society, the imagination passes easily from the cause to the effect, without considering that there are still some circumstances wanting to render the cause a compleat one'.[110] Similarly, the relation of contiguity in time and space accounts for our inclination to sympathise more with our countrymen than with foreigners, with relatives rather than with strangers, with our contemporaries rather than with historical characters.[111]

The influence of the principles of the imagination on sympathy creates a variation in our moral sentiments which is not reflected in our moral judgements. Though we sympathise more with our countrymen than with foreigners, Hume notes, 'we give the same approbation to the same moral qualities in *China* as in *England*. They appear equally virtuous, and recommend themselves equally to the esteem of a judicious spectator. The sympathy varies without a variation in our esteem'.[112] Once more, by applying the *general rules* which govern our understanding, we are able to 'correct' our partial sentiments of sympathetic approval. General rules enable us to abstract from our particular spatial or temporal position: 'in order ... to arrive at a more *stable* judgment of things, we fix on some *steady* and *general* points of view; and always, in our thoughts, place ourselves in them, whatever may be our present situation'.[113] Accordingly, the weak and irregular principles of the imagination which inform our moral sentiments can be corrected by the permanent and stable principles of the understanding which direct our moral judgements. As we saw, in his discussion of factual belief Hume distinguishes between the 'vulgar' who follow mechanically the irregular principles of the imagination and the 'wise' who correct their beliefs by consciously applying the permanent principles of the understanding. Similarly, he points out that not everyone is capable of correcting their partial moral sentiments by consciously adopting the impartial point of view which should inform moral judgements: 'here we are contented with saying, that reason requires such an impartial conduct, but that 'tis seldom we can bring ourselves to it, and that our passions do not readily follow the determination of our judgment'.[114] Yet, as we know, our passions can be *opposed* by reason which is manifested in a 'general calm determination of the passions, founded on some distant view or reflexion'.[115] Though the means by which we arrive at *impartial* moral judgements is still sympathy, it is a form of sympathy mediated by *conscious reflection*. For instance, though we tend to sympathise more with our contemporaries than with the ancients, we blame equally a bad action, which we read of in history, with one perform'd in our neighbourhood t'other day: The meaning of which is, that

we know from reflexion, that the former action wou'd excite as strong sentiments of disapprobation as the latter, were it plac'd in the same position'.[116] As will be shown, such conscious reflection is particularly important in the case of the artificial virtues, for it enables men to bridge the contradictions which arise between the *extended sympathy* that such virtues require and man's natural *limited generosity*.

Hayek interprets Hume's 'anti-rationalist' theory of morals as an exposition of the theory of cultural evolution. He writes: Hume 'demonstrates that our moral beliefs are neither natural in the sense of innate, nor a deliberate invention of human reason, but an "artifact" in the special sense in which he introduces this term, that is, a product of cultural evolution ... [in which] what proved conducive to more effective human effort survived, and the less effective was superseded'.[117] This reading clearly misconstrues a central aspect of Hume's moral philosophy. Contrary to Mandeville, and contrary to Hayek's interpretation, Hume stresses the fact that moral distinctions are rooted in *natural* moral sentiments, which, being original qualities of human nature, cannot be further explained. Moreover, as I have shown in this section, Hume's remark that 'morality is not derived from reason' has to be qualified. Given that moral sentiments are often influenced by partial considerations, conscious application of the permanent principles of the imagination is required in order to adopt the *disinterested* point of view necessary for the making of moral judgements. Hume separates moral virtues into *natural* and *artificial*. Natural virtues (e.g. benevolence), are derived from, and directly correspond to, natural (instinctive) motives. Artificial virtues (e.g. justice) are not based on instinctive motivation but are the product of human artifice or convention. If, as Hume admits, the artificial virtues are not derived from 'spontaneous' motivation, the dichotomy between morality and reason seems once more to be called into question.

The artificial virtues

The objects of moral judgements, Hume argues, are *motives* rather than actions; actions are simply the observable manifestations of the motives producing them. Since the 'principles in the mind and temper' which make up our motives cannot be directly observed, moral judgements are directed to their observable effects, that is, actions. Yet, 'actions are still considered as signs; and the ultimate object of our praise and approbation is the motive, that produc'd them'.[118] For an action to be considered virtuous, it has to be produced by a 'natural motive or principle' distinct from a 'regard to the virtue of the action', because 'to suppose, that the mere regard to the virtue of the action, may be the first motive, which produc'd the action, and render'd it virtuous, is to reason in a circle'.[119] We cannot, that is, meaningfully define a virtuous action as one which is motivated by a desire to act virtuously. Hume concludes that, '*no action can be virtuous, or morally good, unless there be in human nature some motive to produce it, distinct from the sense of its morality.*'[120] As will be seen, this is the case with the natural but not with the artificial virtues.

Hume asks whether our sense of virtue is natural or artificial. He replies that our sense of some virtues is artificial and our sense of others is natural.[121] Our sense of justice, for instance, belongs to the category of the artificial. Justice is one of those virtues 'that produce pleasure and approbation by means of an artifice or contrivance, which arises from the circumstances and necessities of mankind'.[122] Hume argues that it is impossible to find a *natural* motive leading us *instinctively* to perform 'acts of justice and honesty'. Self-love is ruled out, for, when this passion 'acts at its liberty, instead of engaging us to honest actions, [it] is the source of all injustice and violence'.[123] A 'regard to publick interest' is also excluded, for it is a motive which appears *after* the 'artificial convention for the establishment of these rules'.[124] In addition, this motive is 'too remote and too sublime to affect the generality of mankind', and, in a sentence reminiscent of Mandeville, Hume concedes that 'there is no such passion in human minds, as the love of mankind, merely as such, independent of personal qualities, of services, or of relation to ourself'.[125] Finally, 'private benevolence or a regard to the interests of the party concern'd' is not the motive either, for such a regard can be in direct conflict with the requirements and scope of the system of justice. For what, Hume asks, 'if he be my enemy, and has given me just cause to hate him? ... What if he be a miser, and can make no use of what I wou'd deprive him of? ... What if I be in necessity, and have urgent motives to acquire something to my family? In all these cases, the original motive to justice wou'd fail'.[126] Accordingly, Hume concludes that 'we have naturally no real or universal motive for observing the laws of equity, but the very equity and merit of that observance'.[127] The motive to acts of justice is thus our sense of moral obligation or duty. This motive, as will be demonstrated, is implanted in men by political artifice, education and an appeal to their interest in their own reputations.

The term 'artificial' refers only to *motives* and not to sources of evaluation or moral judgements. Moral judgements in relation to artificial virtues are as natural as those relating to natural virtues: they are both derived from the natural sentiment of approbation which men feel when contemplating their public utility.[128] 'Tho' justice be artificial, the sense of its morality is natural', Hume writes.[129] Still, in the case of the artificial virtues, this natural sentiment of approbation does not correspond to any 'original' or natural source of motivation. As Hume concludes, 'the laws of justice, being universal and perfectly inflexible, can never be deriv'd from nature, nor be the immediate offspring of any natural motive or inclination'.[130] There is no correspondence between natural motivation and action according to the rules of justice, whereas there is always a direct correspondence between natural impulses and actions of benevolence. If natural motivation to act in accordance with the rules of justice is lacking, how are these rules established in the first place, and how are they maintained once they have been

established? In other words, are the rules of justice established and maintained spontaneously or through rational deliberation? This is the question which I shall now examine.

'Of the origin of justice and property'

Of all creatures in nature, Hume notes, man alone is afflicted with a combination of a multiplicity of needs and a lack of means for their provision. Yet, in all its cruelty, nature also provides the remedy for man's weaknesses. Such remedy lies in the combination of men into society whereby their *force*, *ability* and *security* are significantly augmented.[131] Knowledge of such advantages, however, does not constitute the original motive for the formation of society: it is impossible for men 'in their wild uncultivated state, that by study and reflexion alone, they should ever be able to attain this knowledge. Most fortunately, therefore, there is conjoin'd to those necessities, whose remedies are remote and obscure, another necessity, which having a present and more obvious remedy, must justly be regarded as the first and original principle of human society. This necessity is no other than that natural appetite betwixt the sexes ...'.[132] The union resulting from this 'natural appetite' is the unit of family, which gradually leads to a 'more numerous society'. Society is thus created out of the natural bond of familial affection, and 'in a little time, custom and habit operating on the tender minds of the children, makes them sensible of the advantages, which they may reap from society, as well as fashions them by degrees for it ...'.[133] Hence, the establishment of society is explained by Hume in *naturalistic* terms.

Society, originating as it does in a natural rather than an 'artificial' sentiment, is not the outcome of deliberate design. Yet, while certainly the outcome of a gradual process, the type of 'society' Hume has here in mind cannot possibly be described as a *spontaneous order* as Hayek uses the term. While, for Hayek, spontaneous order is modern market society, Hume is here talking about society in an earlier historic sense.[134] As we saw, according to Hayek, the mechanism by which spontaneous order is brought about is an 'appropriate set' of rules of conduct. These rules emerge in a process of *cultural evolution* in which 'practices which had first been adopted for other reasons, or even purely accidentally, were preserved because they enabled the group in which they had arisen to prevail over others'.[135] Hayek places emphasis on the *non-intentional* character of the process.[136] Evolved rules of conduct are superior to anything human intelligence can possibly create, for they embody the accumulated knowledge of many generations. Hume's account of the origins of society does not conform to Hayek's description of spontaneous formations: at this initial stage, 'society' has not yet developed any set of rules for the spontaneous co-ordination of individual actions. Hume attributes the genesis of social rules to human 'artifice' and convention. As will be seen, while neither instinctual nor 'rationally constructed', such rules are instituted *intentionally*, and are selected *because* they are perceived to serve the self-interest of each individual participant. There is certainly no reference to a mechanism of *group selection*, nor are the rules of artifice 'accidental mutations' whose chance of survival depends on the competitive advantage of groups that were fortunate enough to have 'happened to fall'[137] on them.

Despite this 'natural affection' which gives rise to society, Hume continues, human nature is also governed by sentiments which, if not restrained, threaten the possibility of peaceful social existence. These sentiments are *selfishness*[138] and *limited generosity*. Society's existence would not be at risk, however, if the sentiments of selfishness and partiality in our affections were not combined with 'a peculiarity in our outward circumstances', namely, scarcity and easy transferability of possessions acquired by 'industry and good fortune'. As the multiplication of such goods is one of the chief advantages of society, so the 'instability' of their possession, along with their 'scarcity', constitute the chief impediments to its existence.[139] According to Hume, the remedy for such inconveniences lies in the artificial virtue of justice. Since it is not founded on any natural source of motivation, however, this virtue could never be expected to arise in man's 'uncultivated nature'. The remedy for these natural inconveniences resides in man's *cognitive* rather than affective capacity. In Hume's words, 'the remedy, then, is not deriv'd from nature, but from *artifice*; or more properly speaking, nature provides a remedy in the judgment and understanding, for what is irregular and incommodious in the affections'.[140]

Early socialisation instructs men in the 'infinite advantages' which life in society offers. Experience teaches them that the chief threat to society is rooted in the easy transferability of external possessions which, combined with their scarcity, results in violent competition for their acquisition. Gradually, men realise that this threat can be thwarted by transforming the unstable possession of such goods into a 'fix'd and constant' one, comparable to that of natural 'possessions' like the mind and body. They also realise that '[t]his can be done after no other manner, than by a convention enter'd into by all the members of the society to bestow stability on the possession of those external goods, and leave every one in the peaceable enjoyment of what he may acquire by his fortune and industry'.[141] The remedy, therefore, for the failings of human nature and the scarcity of easily transferable goods lies in the establishment and subsequent observance of rules of property.

The convention of property is not, however, contrary to those natural passions which necessitate its establishment. By introducing rules of property, men simply *restrain* rather than oppose the passions of selfishness and confined generosity. As Hume writes, 'instead of departing from our own interest, or from that of our nearest friends, by abstaining from the possessions of others, we cannot better consult both these interests, than by such a convention'.[142] How then does the convention of property arise? According to Hume, each man realises that his interest will be best served by abstaining from the possessions of others provided they do the same with his

possessions. 'I observe' Hume writes, 'that it will be for my interest to leave another in the possession of his goods, *provided* he will act in the same manner with regard to me. He is sensible of a like interest in the regulation of his conduct'.[143] Furthermore, the convention whereby rules of property are established 'is not of the nature of a *promise*: ... It is only a general sense of common interest; which sense all the members of the society express to one another, and which induces them to regulate their conduct by certain rules'.[144] It seems, therefore, that the rules of property arise out of an accidental convergence of individual interests. As has been suggested, 'in Hume's hypothetical account, partiality to one's interests supplies the initial motive to observe the rules of the convention ... Out of his particular interests, each comes to act for a common interest without intending to do so'.[145]

All that is required for the establishment of rules regulating the stability of possessions is that the sense of common interest is known to all individual participants and that every one is assured that the others will behave accordingly. The interposition of promises is not necessary because of the self-regulating mechanism which gives rise to the convention of property. This mechanism rests on the in-built condition that one does not act unless the other responds in a similar way. Hume's example that 'two men, who pull the oars of a boat do it by an agreement or convention, tho' they have never given promises to each other'[146] captures precisely this mechanism. In the context of this example, the outcome is that both men continue rowing, for they both know that as soon as one of them stops, the other will do the same and in the end both of them will be worse off. Hume's example, and consequently his account of the establishment of rules concerning the stability of possessions, assumes equality of power. In real situations, however, and especially in the uncultivated state of nature to which Hume refers, coercion by sheer superiority of physical force is more the rule than the exception.

A further requirement for establishing rules concerning the stability of possessions is the factor of *time*. As Hume writes, this rule 'arises gradually, and acquires force by a slow progression, and by our repeated experience of the inconveniences of transgressing it'.[147] Experience assures men that the sense of common interest is felt by every one and that every one will consequently behave accordingly. Rules regulating possessions are not the only human conventions. Institutions such as language, common measures of exchange and promise-keeping are also conventions which arise in a similar manner. As soon as the convention regulating the stability of possessions is established, 'there immediately arise the ideas of justice and injustice; as also those of *property*, *right*, and *obligation*. The latter are altogether unintelligible without first understanding the former'.[148] The artificial virtue of justice bestows, therefore, a moral character on the social convention of stability of possessions. Hume writes: 'a man's property is some object related to him. This relation is not natural, but moral, and founded on justice ... The origin of justice explains that of property'.[149] Property is the moral definition for the convention of stability of possessions.

It is now easy to see the sense in which justice is described by Hume as artificial. As already mentioned, justice is artificial because the motive initiating action in accordance with its rules is not instinctive, but requires the mediation of reflection in order to restrain the natural passions of selfishness and confined generosity. As Hume observes, it is 'impossible there can be naturally any such thing as a fix'd right or property, while the opposite passions of men impel them in contrary directions, and are not restrain'd by any convention or agreement'.[150] Far from being instinctive, the rules of justice arise to fill a need and constitute a corrective institution, for, if there were either an unlimited supply of goods, or universal generosity, justice would be completely superfluous.[151] Furthermore, even if 'the cause of the establishment of these laws had been a *regard* for the public good ... they wou'd still have been artificial, *as being purposely contriv'd and directed to a certain end*'.[152] The end for which rules of justice are established is the promotion of everyone's self-interest. The promotion of the public interest arises as a by-product of the establishment of rules of property. As Hume writes, the system of justice, 'comprehending the interest of each individual, is of course advantageous to the public; tho' it be not intended for that purpose by the inventors'.[153]

What makes justice a virtue is the natural sentiment of approbation men feel in contemplating its public utility. The artificial and the moral character of justice are summed up by Hume when he writes that justice has 'two different foundations, viz. that of *self-interest*, when men observe, that 'tis impossible to live in society without restraining themselves by certain rules; and that of *morality*, when this interest is once observ'd to be common to all mankind, and men receive a pleasure from the view of such actions as tend to the peace of society, and an uneasiness from such as are contrary to it'.[154] Hume argues that, initially, when communities are very small and men can observe one another, the sense of self-interest in maintaining the convention of property is a sufficient motive to induce action in accordance with its rules. In later stages, however, when societies become numerous, men lose sight of the fact that their self-interest is best served by restraining rather than indulging this passion and that social order breaks up as a result of their transgressing the rules regulating possessions.[155] Yet, though in their own actions they are inclined to satisfy their immediate wants instead of their long-term or 'enlightened' interest, they feel a sentiment of unease when seeing others breaching the rules of property; this sentiment rests on *sympathy* with those affected by such transgressions. Displeasure at individual instances of injustice and sympathy with the injured party gradually extend to sympathy with the public interest. While our disapproval of acts of injustice is derived only from contemplating the actions of others 'yet we fail not to extend it even to our own actions. The *general rule* reaches beyond those instances, from which it arose; while at the same time we naturally

sympathize with others in the sentiments they entertain of us'.[156] Hume concludes: '*self-interest is the original motive to the* establishment *of justice: but a* sympathy *with public interest is the source of the* moral approbation, *which attends that virtue*'.[157] Sympathy is therefore the basis for the sentiment of moral approval, and consequently, the basis for the *virtue* of justice. In what follows, I will show that while Hume maintains that justice originates in 'interested' or what he calls *natural* obligation,[158] he also recognises the inadequacy of this motive for the subsequent observance of its rules. He consequently argues that it is by the motive of *moral* obligation that justice is ultimately sustained.

Important as sympathy with the public interest may be, it is not as sufficiently strong a passion as to override the more pressing demands of short-sighted rationality. As we saw, the passions, and consequently action, are influenced by the principles governing the imagination. According to the principle of *contiguity*, any object that is close to us either in space or time creates in the imagination a 'strong and lively idea', that is, an impression which 'has a proportional effect on the will and passions, and commonly operates with more force than any object, that lies in a more distant and obscure light'.[159] The influence of this principle on action is that men prefer their short-term instead of their long-term interest. Even when we are aware of the fact that the latter is, upon the whole, more advantageous than the former, 'we are not able to regulate our actions by this judgment; but yield to the sollicitations of our passions, which always plead in favour of whatever is near and contiguous'.[160] The end served by justice – social peace and order – is a very remote one, which makes it all the more difficult for men to adjust their conduct according to its rules. Hence, the rules of justice are likely to be breached every time men are confronted with a more immediate interest, for 'the consequences of every breach of equity seem to lie very remote, and are not able to counterballance any immediate advantage, that may be reap'd from it'.[161]

The propensity to prefer a contiguous to a remote interest, or as Hume calls it, this 'narrowness of soul',[162] is not the only difficulty besetting the maintenance of the artifice of justice. The successful implementation of the general and inflexible rules of justice depends on the condition that they are *universally* observed. According to Hume, the end of artificial virtues, that is public utility, does not arise as a 'consequence of every individual single act' but depends entirely upon the concurrence of action 'by the whole, or the greater part of the society'.[163] The only difference between the 'natural' and the 'artificial' virtues is that 'the good, which results from the former, arises from every single act, and is the object of some natural passion: Whereas a single act of justice, consider'd in itself, may often be contrary to the public good; and 'tis only the concurrence of mankind, in a general scheme or system of action which is advantageous'.[164] Hume makes this point clear when he compares the happiness resulting from the natural virtue of benevolence to a 'wall, built by many hands, which still rises by each stone that is heaped upon it, and receives increase proportional to the diligence and care of each workman', while the happiness that results from the artificial virtue of justice is like 'the building of a vault, where each individual stone would, of itself, fall to the ground; nor is the whole fabric supported but by the mutual assistance and combination of its corresponding parts'.[165]

Hume concedes, however, that as soon as individual rationality or the problem of free-riding is taken into consideration, universal observance of the rules of justice seems impossible to obtain. These rules are likely to be breached by the majority of men, for, *from the individual point of view*, it is rational not to conform while all the rest conform. As Hume observes, 'a sensible knave, in particular incidents, may think that an act of iniquity or infidelity will make a considerable addition to his fortune, without causing any considerable breach in the social union and confederacy. That *honesty is the best policy*, may be a good general rule, but is liable to many exceptions; and he, it may perhaps be thought, conducts himself with most wisdom, who observes the general rule, and takes advantage of all the exceptions'.[166] Now if some commit acts of injustice the rest will imitate them, thinking that '... I should be the cully of my integrity, if I alone shou'd impose on myself a severe restraint amidst the licentiousness of others'.[167] If every one reasons thus, the outcome is universal non-observance of the artificial rules of justice. The self-regulating mechanism that accounts for the *emergence* of rules of equity cannot, therefore, serve as an account of their maintenance. The inability of men to resist a present temptation for the sake of a more remote advantage, and the requirement of universal observance of the general rules of justice, means that such rules cannot be preserved *endogenously* but call for *external* enforcement.

According to Hume, even if men were to resolve to be governed by what 'in an improper sense we call *reason*', that is, a consideration of our long-term interest, their violent passions would in the end prevail. An expedient has to be found 'by which I may impose a restraint upon myself, and guard against this weakness'.[168] The remedy does not lie in eradicating this weakness, for, as Hume aptly observes, 'men are not able radically to cure, either in themselves or others, that narrowness of soul, which makes them prefer the present to the remote. They cannot change their natures'.[169] All they can hope to do is to alter their circumstances 'and render the observance of justice the immediate interest of some particular persons, and its violation their more remote'.[170] The remedy, therefore, lies in political society, since these persons are no others than 'our governors and rulers'. Civil magistrates are also subject to the same weakness in human nature.[171] Hume does not claim that we have transformed their nature but that we have merely reversed their interests. By appointing them guardians of the rules of justice we have made justice their immediate rather than remote interest.

The function of government is not restricted to the preservation of social order by upholding the rule of law, but it also extends to the provision of public goods. Hume recognises that public goods such as 'bridges',

'harbours', 'canals', 'fleets' and 'armies' could not be provided spontaneously, that is, by a self-interested collective initiative. He writes: 'two neighbours may agree to drain a meadow, which they possess in common; because 'tis easy for them to know each others mind; and each must perceive, that the immediate consequence of his failing in his part, is, the abandoning the whole project. But 'tis very difficult, and indeed impossible, that a thousand persons shou'd agree in any such action'.[172] The problem is free-riding: 'each seeks a pretext to free himself of the trouble and expence, and wou'd lay the whole burden on others'.[173] Political society provides again the remedy, in that civil magistrates 'need consult no body but themselves' in the execution of any project that contributes to public interest.[174]

Yet the establishment of government does not significantly change the incentives of the 'sensible knave' to observe the general rule while taking 'advantage of all the exceptions'. In cases where the 'knave' perceives that he is not in danger of being caught, and therefore punished, it is still in his interest to transgress the rules of justice. By instituting government, the inherent instability of observance of the rules of justice is not entirely overcome. It is overcome only in so far as the presence of fear of punishment can serve as a deterrent to possible transgressions of justice. Hume indirectly recognises that *interested* obligation in maintaining the *artificial* rules of justice cannot provide a sufficient motive to prevent the sensible knave from committing acts of injustice whenever the opportunity presents itself. Hence, in his response to the reasoning of the sensible knave, Hume evokes man's *moral* obligation as the ultimate source of motivation in upholding the *virtue* of justice. 'If his heart', Hume writes, 'rebel not against such pernicious maxims, if he feel no reluctance to the thoughts of villainy or baseness, he has indeed lost a considerable motive to virtue; ... But in all ingenuous natures, the antipathy to treachery and roguery is too strong to be counterbalanced by any views of profit or pecuniary advantage. Inward peace of mind, consciousness of integrity, a satisfactory view of our own conduct; these are circumstances, very requisite to happiness, and will be cherished and cultivated by every honest man, who feels the importance of them'.[175] Hume's appeal to virtue as a natural *disposition* indicates that if justice fails to be maintained as artifice it can still be successfully upheld as a *virtue*. Moreover, the honest man is not less sensible than the sensible knave. As Hume concludes, 'the honest man ... will discover that they [the knaves] themselves are, in the end, the greatest dupes, and have sacrificed the invaluable enjoyment of a character, with themselves at least, for the acquisition of worthless toys and gewgaws'.[176] While justice originates in interested obligation, it is subsequently maintained by man's endorsement of its moral value.

Though the sentiment of moral approval relating to the artificial virtues is *natural*,[177] it is also forwarded by the 'artifice of politicians'. The moral *duty* to the virtue of justice appears in the 'civilised state' of human development when men are 'train'd up according to a certain discipline and education'.[178] Hume agrees with Mandeville that politicians 'in order to govern men more easily, and preserve peace in human society, have endeavour'd to produce an esteem for justice, and an abhorrence of injustice'.[179] Yet, in contrast to Mandeville, he argues that 'the utmost politicians can perform, is, to *extend* the natural sentiments beyond their original bounds; but still nature must furnish the materials, and give us some notion of moral distinctions'.[180] In addition to public praise, private education and instruction help to strengthen our esteem for justice: 'as parents easily observe ... that those principles [probity and honour] have greater force, when custom and education assist interest and reflexion: For these reasons they are induc'd to inculcate on their children, from their earliest infancy, the principles of probity, and teach them to regard the observance of those rules, by which society is maintain'd, as worthy and honourable, and their violation as base and infamous'.[181] The force of such early moral education is such that, in the end, this sense of moral commitment towards the preservation of artificial rules acquires 'such firmness and solidity, that they may fall little short of those principles, which are the most essential to our natures, and the most deeply radicated in our internal constitution'.[182] Successful inculcation of artificial virtues by public institutions relies on man's natural interest in his reputation.[183] The artificial virtues are ultimately upheld by man's sense of propriety and honour which takes shape in an environment of common culture. Thus, 'every one, who has any regard to his character, or who intends to live on good terms with mankind, must fix an inviolable law to himself, never, by any temptation, to be induc'd to violate those principles, which are essential to a man of probity and honour'.[184]

For Hume, public order depends on *purposeful* re-direction and subsequent reinforcement, by both private and public institutions, of the cognitive and affective impulses of human nature. How effective the motive of moral duty is in inducing obedience to artificial rules when it comes to real action is open to question and empirical investigation. What is important for the present analysis is that Hume recognises the problems presented to the preservation of social order by the spontaneous impulse of self-interest, and that he provides a plausible solution: the internalisation of a moral code by early socialisation in the family and institutions of public education.[185] Thus, in Hume's writings we do not encounter any metaphysical or inexplicable notions like Hayek's 'meta-conscious' rules of action. For Hume, men are not born with a cerebral classificatory apparatus of 'supra-conscious' rules, inducing blind rule-following, although it is true that moral education is successful because it is founded on the natural capacity of the imagination for habit-formation and customary reasoning. The Humean individual is not a born rule-follower but a 'conditioned' one. Such 'conditioning' does not involve an alteration of human nature, but rather, an *intentional* re-direction of certain of its features.[186]

Origins of government and sources of political allegiance

Hume maintains that, unlike justice, government is not necessary at all stages of social existence: 'tho' it be possible for men to maintain a small uncultivated society without government, 'tis impossible they shou'd maintain a society of any kind without justice, and the observance of those three fundamental laws concerning the stability of possession, its translation by consent, and the performance of promises'.[187] Primitive societies can exist without government though they cannot exist without justice. The reason is that, in the 'infancy of society', property does not need to be protected, for at this uncivilised stage of social development 'the possessions, and the pleasures of life are few, and of little value'; the temptation to deprive others of their property does not, therefore, arise. 'An Indian', for instance, 'is but little tempted to dispossess another of his hut, or to steal his bow, as being already provided of the same advantages'.[188] The need for enforcing the rules of justice (government's principal function) appears in 'large and polish'd'[189] societies in which men are tempted to breach the rules of equity.

Arguing against Hobbes and Mandeville, Hume writes that 'so far am I from thinking with some philosophers, that men are utterly incapable of society without government, that I assert the first rudiments of government to arise from quarrels, not among men of the same society, but among those of different societies'.[190] In a society without government, foreign war does not unite the members of the community against the common external danger, but leads rather to civil war and the complete break up of social order. The reason is once more the selfish aspect of human nature: 'in a foreign war the most considerable of all goods, life and limbs, are at stake; and as every one shuns dangerous posts, seizes the best arms, seeks excuse for the slightest wounds, the rules of society, which may be well enough observ'd, while men were calm, can now no longer take place, when they are in such commotion'.[191] To avoid the ills arising from social breakdown, men must agree to submit to leadership when faced with foreign attack. The leadership arising in times of war is not permanent but lasts only for as long as the community is under external threat. Nevertheless, experience of such authority is important, for it teaches men 'to have recourse to it, when ... their riches and possessions have become so considerable as to make them forget, on every emergence, the interest they have in the preservation of peace and justice'.[192] As experience teaches men the advantages of observing the rules of equity, it also guides them to the establishment of political society.

Hume maintains that, although the institution of government does not *originate* in *design*, it is men's recognition that their self-interest is best served by preserving social order which ultimately leads them to subject themselves to the authority of government. The establishment of government rests on *collective agreement* and man's awareness of the expediency of an external force to counter the adverse consequences of his short-sighted rationality. As Hume argues, government is originally instituted by a 'contract' in the sense

that '[t]he people ... voluntarily, for the sake of peace and order, abandoned their native liberty, and received laws from their equal and companion ... If this, then, be meant by the *original contract*, it cannot be denied, that all government is, at first, founded on a contract ... Nothing but their own consent, and their sense of the advantages resulting from peace and order, could have had that influence'.[193] This does not mean that the 'original contract' had to be explicit: 'the conditions, upon which they [men] were willing to submit, were either expressed, or were so clear and obvious, that it might well be esteemed superfluous to express them'.[194] By 'original contract' Hume simply means man's acquiescence to submit to, and therefore obey, government.

Hume concedes that, when government was *first* instituted, men did probably *promise* to obey the rulers: 'when men have once perceiv'd the necessity of government to maintain peace, and execute justice, they wou'd naturally assemble together, wou'd chuse magistrates, determine their power, and *promise* them obedience'.[195] He therefore grants that the binding force of the *original* promise to obey government is rooted in the moral obligation imposed by the already established artificial virtue of justice.[196] 'As a promise is suppos'd to be a bond or security already in use, and attended with a moral obligation, 'tis to be consider'd as the original sanction of government, and as the source of the first obligation to obedience'.[197] This remark, however, should not be taken as Hume's endorsement of the social contract theory of political obligation. He writes: 'I maintain, that tho' the duty of allegiance be at first grafted on the obligation of promises, and be for some time supported by that obligation, yet it quickly takes root of itself, and has an original obligation and authority, independent of all contracts'.[198] Specifically, he argues against those exponents[199] of the social contract theory who assert that justice is a *natural* virtue and therefore antecedent to human conventions, and who derive the artificial obligation to obey government from man's *natural* obligation to promise-keeping.[200] Yet, Hume argues, having established that the three fundamental laws of justice are in fact *artificial* (the outcome of human conventions), it becomes plain that it is pointless to seek 'in the laws of nature, a stronger foundation for our political duties than interest, and human conventions; while these laws themselves [justice] are built on the very same foundation'.[201] For Hume, the social contract theory of political obligation fails simply because the duty to obey government *does not depend* on the duty of promise-keeping.

His argument runs as follows. As soon as men realise that it is impossible to observe the three laws of justice *in the absence of an external force*, 'they establish government, as a new invention to attain their ends, and preserve the old, or procure new advantages, by a more strict execution of justice'.[202] Government is *purposefully* instituted: its principal object is to constrain man's natural weakness and enforce the artificial rules of justice. Given that promise-keeping is one of the three fundamental laws of justice, 'its exact observance is to be consider'd as an effect of the institution of

and not the obedience to government as an effect of the obligation of a promise'.[203] Obedience to government does not depend on promise-keeping, but is explained directly by an appeal to self-interest: 'to obey the civil magistrate is requisite to preserve order and concord in society. To perform promises is requisite to beget mutual trust and confidence in the common offices of life. The ends, as well as the means, are perfectly distinct; nor is the one subordinate to the other'.[204] There is no more reason, Hume argues, to base political obedience on the obligation to perform promises than to base observance of the rules of property on promise-keeping.[205] Each of these obligations are explained independently by means of their contribution to self-interest. Given that the ends served by each of them are distinct, the interest men have in observing the one is independent from their interest in obeying the other.

In addition to considerations of self-interest, political allegiance is accompanied by an independent moral sentiment which is derived from man's *sympathy* with the public interest. Short-sighted rationality, Hume concedes, may blind us to the advantages that are to be gained by obeying government; yet, 'tho' a present interest may thus blind us with regard to our own actions, it takes not place with regard to those of others; nor hinders them from appearing in their true colours, as highly prejudicial to public interest, and to our own in particular. This naturally gives us an uneasiness, in considering such seditious and disloyal actions, and makes us attach to them the idea of vice and moral deformity'.[206] Thus, it is not only the *natural* obligations of interest which are distinct in promise-keeping and obedience to government; the *moral* sentiment that accompanies allegiance is also independent from the one attached to promise-keeping. Since the interests served by each are distinct, the moral obligations to which they give rise are also independent from each other.[207] And, Hume adds, as in the case of the virtue of justice, *education* and the *artifice of politicians* strengthen our moral commitment to allegiance.

The artificial virtues and spontaneous order

Hume's account of the artificial virtues does not agree with Hayek's theory of spontaneous order. The principal point of departure is Hume's emphasis on the role of the understanding in selecting rules and institutions. As we saw, for Hayek, rules of just conduct constitute 'an adaptation to our ignorance'.[208] He stresses the epistemological value of rules of just conduct, and asserts that 'in a society of omniscient persons there would be no room for a conception of justice'.[209] Rules of justice embody the accumulated wisdom of past generations and are bearers of more knowledge than any individual mind can ever master. Hayek mistakenly attributes to Hume the argument that general rules should be obeyed, because 'human intelligence is quite insufficient to comprehend all the details of the complex human society ...'.[210] For Hume, the rules of justice are man's *conscious* adaptation to the

destructive tendencies of the passion of self-interest. The utility of the artificial virtue of justice, both for the public and individual interest, does not consist in enabling man to cope with the 'limitations of human understanding'; it is rather the unfortunate combination of human selfishness with scarcity of easily transferable goods which renders justice indispensable.[211] Hume writes: 'tis evident, that the only cause, why the extensive generosity of man, and the perfect abundance of every thing, woul'd destroy the very idea of justice, is because they render it useless'.[212] Far from being adaptations to our ignorance, the rules of justice are the product of conscious reflection: they are purposefully selected as the means whereby individual self-interest can be better satisfied.

Furthermore, Hayek maintains that rules of just conduct are the outcome of a process of cultural evolution in which rules are selected to survive 'because the group that had adopted them was more successful'.[213] He adds: 'the reason why one rule rather than another was adopted and passed on will be that the group that had adopted it did in fact prove the more efficient, not that its members foresaw the effects the adoption of the rule would have'.[214] As we saw, *group selection* takes place independently of human understanding and rational choice. In fact, Hayek claims about rules of conduct that 'we hardly can be said to have selected them; rather, these constraints selected us: they enabled us to survive'.[215] He wrongly ascribes to Hume a similar theory of group selection when he writes that Hume 'showed that certain abstract rules of conduct came to prevail because those groups who adopted them became as a result more effective in maintaining themselves'.[216] Yet the contrast between Hayek's theory of group selection and Hume's explanation of the establishment of the artificial rules of justice could hardly be more striking.

According to Hayek, 'men did not foresee the benefits of rules before adopting them, though some people gradually have become aware of what they owe to the whole system'.[217] Astonishingly, Hayek maintains that Hume noticed that these rules 'were not deliberately invented by men to solve a problem which they saw (though it has become a task of legislation to improve them)'.[218] It is difficult to see how Hayek could have arrived at this interpretation. Hume explicitly argues that rules of justice (while the outcome of gradual past experience) are established and subsequently maintained in the knowledge and anticipation of the ends they are intended to serve. What makes these rules 'artificial' is their 'being purposely contriv'd and directed to a certain end'.[219] This end is the promotion of individual self-interest. In their effort to satisfy their passion of self-love, men discover that 'as the self-love of one person is naturally contrary to that of another, these several interested passions are oblig'd to adjust themselves after such a manner as to concur in some system of conduct and behaviour'.[220] In adding that this system is 'advantageous to the public tho' ... not intended for that purpose by the inventors', Hume does not imply that the ensuing public benefit was not and could not have been *foreseen* by the inventors; he simply

stresses the fact that a consideration for the public interest is not the original motive, not the end for which the artificial rules of justice are established. In short, Hume argues that rules of justice are established when men are taught by experience that it is by restraining their self-love and by preserving public order that their several interests can be best satisfied.

Hayek, mistakenly again, points out that 'Hume may be called a precursor to Darwin in the field of ethics. In effect, he proclaimed a doctrine of the survival of the fittest among human conventions – fittest not in terms of good teeth but in terms of maximum social utility'.[221] Yet instead of explaining the emergence and preservation of rules of justice by their effects on the survival chances of the group that adopts them, Hume's argument, as has been pointed out, 'proceeds from the standpoint of each individual; when the social order maintained by justice becomes useless to him, then he must seek his own survival by whatever means are prudent and humane'.[222]

Hume's statement that only the presence of a passion can motivate men to action indicates that self-love can be restrained by being superseded by a stronger passion.[223] Yet, he writes, 'there is no passion, therefore, capable of controlling the interested affection, but the very affection itself, by an alteration of its direction'.[224] The re-direction of self-interest (manifested in the establishment of rules of justice) does not take place unless it is mediated by experience and *reflection*. 'This alteration must necessarily take place upon the least reflection; since 'tis evident, that the passion is much better satisfy'd by its restraint, than by its liberty, and that *by preserving society*, we make much greater advances in the acquiring possessions ...'.[225] However, important as it certainly is, increasing the acquisition of possessions is not the sole motive for men's wish to maintain social order. As Hume observes, men seek a means of preventing the dissolution of society because 'from their early education in society' they have become 'sensible of the infinite advantages that result from it' and have 'besides acquir'd a new affection to company and conversation'.[226]

Moreover, while Hayek and Hume are in agreement about the 'non-instinctual' origins of rules of justice, the similarities of their views are more apparent than real. To begin with, despite his occasional remarks on the possibility of spontaneous orders governed by rules which are deliberately constructed, Hayek usually presents rules of just conduct as the outcome of cultural evolution.[227] In addition to his claim that rules of justice are not instinctual, Hayek's evolutionism leads him to the stronger claim that the superiority of such rules lies in the fact that they replaced the innate but 'atavistic' impulses of *altruism* and *solidarity*. These instincts are suited to the needs of small tribal communities, but are entirely inappropriate to the formation of the spontaneous economic order of the 'Open Society'.[228] By contrast, instead of associating the emergence of rules of justice with the rise of a market order, Hume could not conceive of the possibility of *any* social order arising without the establishment of such rules. In fact, he mentions that some rules of equity are indispensable to the existence of any type of

group, small or large, primitive or modern, legal or illegal: 'robbers and pirates, it has often been remarked, could not maintain their pernicious confederacy, did they not establish a new distributive justice among themselves, and recall those laws of equity, which they have violated with the rest of mankind'.[229] Far from arguing that rules of justice come to replace our natural instincts of 'altruism' and 'solidarity', Hume maintains that the origins of justice lie precisely in the natural absence of such impulses.

Hayek's attempt to claim Hume as a precursor of the theory of spontaneous order is wholly unjustified. Hume's theory of artifice indicates that social order is brought about by rules and institutions which are the product of gradual development and past experience. Yet, contrary to Hayek's theory of group selection, Hume's account of the establishment of the institution of private property rests on rational deliberation and men's understanding of its indispensability. Similarly, government is introduced intentionally and rests on men's perception of the need for external enforcement of the rules of private property. More importantly, unlike Hayek, Hume acknowledges that social order cannot rely solely on objective enforcement of the rule of law but has to be embedded in an environment of moral consciousness.

Notes

1 *Studies*, p.108.
2 *New Studies*, p.264.
3 *Studies*, p.111.
4 *Fable*, I:51.
5 David Hume, *A Treatise of Human Nature*, L. A. Selby-Bigge (ed.), Oxford, 1978 (2nd edn), p.500 (hereafter T.). Cf. T.578.
6 'The Legal and Political Philosophy of David Hume' *Studies*, p.110–11.
7 See also David Miller, *Philosophy and Ideology in Hume's Political Thought*, Oxford, 1981; Frederick G. Whelan, *Order and Artifice in Hume's Political Philosophy*, Princeton, 1985.
8 *The Sensory Order*, p.166.
9 T.207.
10 T.255.
11 T.13.
12 T.225.
13 T.415.
14 See, for instance, T.116–17.
15 'What we call a *mind*, is nothing but a heap or collection of different perceptions, united together by certain relations, and suppos'd, tho' falsely, to be endow'd with a perfect simplicity and identity' (T.207. Cf. T.261).
16 T.1–2.
17 David Hume, *Enquiries*, L. A. Selby-Bigge (ed.), Oxford, 1975 (3rd edn), p.17 (hereafter E.I & II).
18 T.4.
19 T.7.
20 T.8–9.
21 T.10.
22 At one point, Hume writes that even memory is founded on the operations of the imagination: 'the memory, senses, and understanding are, therefore, all of them founded on the imagination, or the vivacity of our ideas' (T.265).

23 Miller, *Philosophy and Ideology in Hume's Political Thought*, p.22.
24 T.19.
25 T.11. Hume's definition of 'imagination' can be a source of much confusion. As he acknowledges, 'the word, imagination, is commonly us'd in two different senses; and tho' nothing be more contrary to true philosophy, than this inaccuracy, yet in the following reasonings I have often been oblig'd to fall into it. When I oppose the imagination to the memory, I mean the faculty, by which we form our fainter ideas. When I oppose it to reason, I mean the same faculty, excluding only our demonstrative and probable reasonings' (T.117–18). It seems that, in the broad sense (as opposed to memory), the imagination includes: (1) the 'fancy' (linking our ideas together in an arbitrary fashion); (2) 'reason' (establishing the truth of analytic propositions), and (3) 'judgement' or 'understanding' (the rule-governed imagination, enabling us to make judgements about matters of fact or existence).
26 T.13.
27 E.I:35.
28 E.I:25.
29 'Proof' is introduced by Hume as a special case of probable reasoning; it refers to matters of fact whose experience has been 'constant' and 'universal' and whose probability is considered to be so high that it leaves no 'room for doubt or opposition' (E.I:56n). Cf. Proofs are 'those arguments, which are deriv'd from the relation of cause and effect, and which are entirely free from doubt and uncertainty', whereas probability refers to 'that evidence, which is still attended with uncertainty' (T.124). Examples of proofs are propositions like 'all men must die' or the 'sun will rise tomorrow'.
30 E.I:26.
31 The key passage is to be found very early in the *Treatise* where Hume states that '... not only two objects are connected by the relation of cause and effect, when the one produces a motion or any action in the other, but also when it has a power of producing it. And this we may observe to the source of all the relations of interest and duty, by which men influence each other in society, and are plac'd in the ties of government and subordination' (T.12).
32 T.75.
33 E.I:33. Cf. T.75.
34 T.75.
35 T.77.
36 T.82. Judgements about causation are instances of *probable* rather than demonstrative reasoning. The proposition 'every effect has a cause' is established by demonstrative reasoning, for we cannot conceive of an effect without a cause. The proposition 'every event has a cause' is established by probable reasoning, for we can certainly *conceive of* an uncaused event. (See Miller, *Philosophy and Ideology in Hume's Political Thought*, p.24).
37 T.87.
38 T.89. Cf. T.91, 104.
39 T.88. In this way, as has been observed, 'Hume has exposed a tacit premise, if not cast doubt on the validity, of the whole of what is now termed inductive logic' (Whelan, *Order and Artifice in Hume's Political Philosophy*, p.50).
40 T.93. Cf. E.I:36, 47.
41 T.103. Cf. 'An opinion, therefore, or belief may be most accurately defin'd, A LIVELY IDEA RELATED TO OR ASSOCIATED WITH A PRESENT IMPRESSION' (T.96).
42 T.183.
43 E.I:46–7. Cf. T.183.
44 E.I:32.
45 T.103. Cf. E.I:41–2.

46 T.165.
47 T.167.
48 T.167.
49 T.168.
50 E.I:43. Cf. 'Now as we call every thing CUSTOM, which proceeds from a past repetition, without any new reasoning or conclusion, we may establish it as a certain truth, that all the belief, which follows upon any present impression, is deriv'd solely from that origin' (T.102); T.183.
51 E.I:43. Cf. E.I:55.
52 E.I:44. Cf. E.I:45.
53 T.103. Cf. 'The custom operates before we have time for reflection ... experience may produce a belief and a judgment of causes and effects by a secret operation, and without being once thought of' (T.104).
54 See J. A. Passmore, 'Hume and the Ethics of Belief', in *David Hume: Bicentenary Papers*, G. P. Morice (ed.), Edinburgh, 1977, pp.77–92.
55 T.226.
56 See, for instance, his essay 'Of Superstition and Enthusiasm' in *Essays*, Eugene F. Miller (ed.), Indianapolis, 1985, pp.73–9. Cf. T.271–3.
57 T.267.
58 He writes: 'I must distinguish in the imagination betwixt the principles which are permanent, irresistable, and universal; such as the customary transition from causes to effects, and from effects to causes: And the principles, which are changeable, weak, and irregular ... The former are the foundation of all thoughts and actions, so that upon their removal human nature must immediately perish and go to ruin. The latter ... are observ'd only to take place in weak minds, and being opposite to the other principles of custom and reasoning, may easily be subverted by a due contrast and opposition' (T.225).
59 T.267. Cf. Hume opposes judgement to the imagination (used here in the sense of the 'fancy'). T.148–9.
60 See T.143–55.
61 T.147–8.
62 'When an object appears, that resembles any cause in very considerable circumstances, the imagination naturally carries us to a lively conception of the usual effect, tho' the object be different in the most material and most efficacious circumstances from that cause' (T.149–50).
63 We meet, for instance, an unintelligent Irishman or a superficial Frenchman and conclude that 'an *Irishman* cannot have wit, and a *Frenchman* cannot have solidity; for which reason, tho' the conversation of the former in any instance be visibly very agreeable, and of the latter very judicious, we have entertain'd such a prejudice against them, that they must be dunces or fops in spite of sense and reason' (T.146–7).
64 We can 'correct this propensity by a reflection on the nature of those circumstances' (T.148).
65 E.I:110–11.
66 T.149. Compare this with Popper's falsification principle.
67 T.150.
68 T.413–14.
69 T.413 (emphasis mine).
70 T.414.
71 T.413.
72 T.415.
73 T.416.
74 '... we are no sooner acquainted with the impossibility of satisfying any desire, than the desire itself vanishes' (T.xviii).
75 T.493.

76 T.416.
77 T.416.
78 J. L. Mackie, *Hume's Moral Theory*, London, 1980, p.45.
79 T.417. As we recall, Hume distinguishes between impressions and ideas on the basis of the force and vivacity with which they are felt. While impressions are vivid and lively, ideas are, in general, of low emotional intensity. Early on in the *Treatise*, he anticipates the present characterisation of 'calm' passions: 'it sometimes happens, that our impressions are so faint and low, that we cannot distinguish them from our ideas' (T.2). Hume specifies that to the calm passions belong certain natural instincts, such as 'benevolence and resentment, the love of life, and kindness to children; or the general appetite to good, and aversion to evil, consider'd merely as such' (T.417).
80 T.418.
81 T.418.
82 In contrast with our violent passions, calm passions are directed towards more distant objects: 'the same good, when near, will cause a violent passion, which, when remote, produces only a calm one' (T.419).
83 '... the impulse arises not from reason, but is only directed by it' (T.414). Cf. 'The moment we perceive the falsehood of any supposition, or the insufficiency of any means our passions yield to our reason without any opposition' (T.416).
84 Hume defines passions as impressions of reflection: they proceed from some impression of sensation 'either immediately or by the interposition of its idea' (T.275). He divides them into 'direct' and 'indirect', referring to the mechanism involved in their production. Direct passions arise immediately from pain or pleasure, as, for example, desire, aversion, fear, grief, joy, hope, despair, security. Indirect passions arise from pain or pleasure *in conjunction with* other mental processes. Examples of indirect passions are pride, humility, ambition, vanity, love, hatred, envy, pity, malice, generosity. (T.276–7). Within the category of direct passions he includes a set of *instinctual* passions, such as 'the desire of punishment to our enemies, and of happiness to our friends; hunger, lust, and a few other bodily appetites' (T.439. Cf. E.II:201, 301). As David Miller observes, it seems wrong to describe instinctual passions as impressions of reflection, for no preceding impression is required to produce them. (*Philosophy and Ideology in Hume's Political Thought*, p.43).
85 'Any thing, that gives a pleasant sensation, and is related to self, excites the passion of pride, which is also agreeable, and has self for its object' (T.288). Humility is produced by the same process, but differs from pride in that it is a painful rather than a pleasant sensation.
86 T.286. In the preceding section, Hume shows that the imagination associates not only ideas, but also impressions. The only difference is that 'ideas are associated by resemblance, contiguity, and causation; and impressions only by resemblance' (T.283).
87 T.286–7.
88 T.289. Hume points to the similarity between the causal mechanisms by which pride and belief are produced: 'there is evidently a great analogy betwixt that hypothesis [production of belief], and our present one of an impression and idea, that transfuse themselves into another impression and idea by means of their double relation' (T.290).
89 T.293.
90 T.309.
91 T.293.
92 T.294.
93 T.455.
94 T.456. Cf. E.II:170.
95 T.457.

96 T.458. Cf. E.II:287. For a detailed account of these arguments, see D. D. Raphael, 'Hume's Critique of Ethical Rationalism' in *Hume and the Enlightenment*, William B. Todd and E. C. Mossner (eds), Edinburgh, 1974, pp.14–29.
97 Take for instance, Hume writes, the following case: let us suppose that an oak tree by dropping its seed produces a sapling which continues to grow until in the end it overtops and destroys the parent tree. Although the relations in this case are the same as in the case of parricide, we nevertheless do not attribute moral responsibility in both cases. Similarly, though the relations are the same, we do not consider acts of incest in animals as immoral. These examples indicate that moral judgements are not the outcome of demonstrative reasoning (T.466–7. Cf. E.II:293).
98 T.468–9.
99 T.470.
100 T.470. In this sense, moral sentiments are similar to 'calm' passions.
101 T.471.
102 'To have the sense of virtue, is nothing but to *feel* a satisfaction of a particular kind from the contemplation of a character. The very *feeling* constitutes our praise or admiration. We go no farther; nor do we enquire into the cause of the satisfaction. We do not infer a character to be virtuous, because it pleases: But in feeling that it pleases after such a particular manner, we in effect feel that it is virtuous. The case is the same as in our judgments concerning all kinds of beauty, and tastes, and sensations. Our approbation is imply'd in the immediate pleasure they convey to us' (T.471).
103 T.472.
104 T.472.
105 T.589.
106 Hume introduces the notion of sympathy when he discusses the passions of pride and humility. The feelings of pride and humility are enhanced by our perception of how others view us; a perception which is communicated to us through the mechanism of sympathy (T.316–24).
107 T.316.
108 T.317.
109 T.385.
110 T.585.
111 T.581.
112 T.581.
113 T.581–2.
114 T.583.
115 T.583.
116 T.584.
117 *Studies*, p.111.
118 T.477.
119 T.478. Hume elaborates on the circularity of such reasoning: 'we can never have a regard to the virtue of an action, unless the action be antecedently virtuous. No action can be virtuous, but so far as it proceeds from a virtuous motive. A virtuous motive, therefore, must precede the regard to the virtue; and 'tis impossible, that the virtuous motive and the regard to the virtue can be the same' (T.480).
120 T.479.
121 T.475.
122 T.477.
123 T.480.
124 T.480.
125 T.481.

126 T.482.
127 T.483. Cf. *Essays*, p.480.
128 E.II:183, 188, 204. As has been pointed out, when Hume refers to *public utility* as the '*sole* origin of justice' (E.II.183) 'public utility is to be understood as *mutual expected utility*, so that a rule or practice has public utility if and only if each person reasonably expects that rule or practice to be useful to himself' (David Gauthier, 'David Hume, Contractarian', *The Philosophical Review*, 88, 1, 1979, p.17). Yet, when 'public utility' is referred to as the source of the sentiment of moral approbation, it means 'general or overall advantage' (ibid., p.18). As will be seen, in the case of artificial virtues, acts aiming at personal utility have often the tendency to undermine the beneficial consequences for general utility. Hume argues that men cannot sympathise with and morally approve of acts whose personal utility is brought about *at the expense of* general advantage. (See T.499, 589–91).
129 T.619.
130 T.532.
131 T.485.
132 T.486.
133 T.486.
134 As already mentioned in the Introduction, Hayek seldom relates his theory of the evolution of rules to any historical context. Hume, by contrast, traces the origins of social institutions to early primitive societies.
135 *Law, Legislation and Liberty*, 1:9.
136 See, for instance, *The Fatal Conceit*, p.14; *Studies*, pp.70, 77.
137 *Knowledge, Evolution and Society*, p.46.
138 Hume, however, does not share Mandeville's view of human nature. He writes: 'so far from thinking, that men have no affection for any thing beyond themselves, I am of opinion, that tho' it be rare to meet with one, who loves any single person better than himself; yet 'tis as rare to meet with one, in whom all the kind affections, taken together, do not over-balance all the selfish' (T.487). Cf. 'Of the Dignity or Meanness of Human Nature', *Essays*, pp.80–6; Appendix II, E.II:295–302.
139 T.488.
140 T.489.
141 T.489.
142 T.489.
143 T.490.
144 T.490.
145 Samuel Freeman, 'Property as an Institutional Convention in Hume's Account of Justice', *Archiv für Geschichte der Philosophie*, 73:1, 1991, p.26.
146 T.490; E.II.306.
147 T.490.
148 T.490–1.
149 T.491.
150 T.491.
151 T.495.
152 T.529 (emphasis mine).
153 T.529.
154 T.533.
155 T.499.
156 T.499.
157 T.499–500.
158 T.498.
159 T.535.
160 T.535.

161 T.535.
162 T.537.
163 E.II.304.
164 T.579.
165 E.II.305.
166 E.II.282–3. The reasoning of Hume's 'sensible knave' is reminiscent of Hobbe's argument concerning the 'Foole': 'The Foole hath sayd ... to make, or not to make; keep or not keep Covenants, was not against Reason, when it conduced to ones Benefit' (*Leviathan*, p.101).
167 T.535.
168 T.536–7.
169 T.537. Cf. *Essays*, p.38.
170 T.537.
171 According to Hume, government is instituted to serve the public interest by maintaining the rules of justice. When civil magistrates abuse the power entrusted in them, the obligation (natural and moral) to obey government ceases and public rebellion is justified (see T.563). He also maintains that 'nothing is more essential to public interest, than the preservation of public liberty' (T.564). The type of government most conducive to public liberty is a 'mix'd government', as for instance that of the United Kingdom, in which power is shared among king, lords and commons and public liberty is preserved because each of these bodies has an interest in protecting its rights and privileges against encroachment by the others.
172 T.538.
173 T.538.
174 T.539.
175 E.II.283. Cf. 'And who can think any advantages of fortune a sufficient compensation for the least breach of the *social* virtues, when he considers, that not only his character with regard to others, but also his peace and inward satisfaction entirely depend upon his strict observance of them; and that a mind will never be able to bear its own survey, that has been wanting in its part to mankind and society?' (T.620)
176 E.II.283.
177 Hume writes: Justice is 'the combination of men, in a system of conduct, which renders any act of justice beneficial to society. But when once it has that tendency, we *naturally* approve of it; and if we did not so, 'tis impossible any combination or convention cou'd ever produce that sentiment' (T.619–20).
178 T.479.
179 T.500.
180 T.500 (emphasis mine). Hume has Mandeville in mind when he writes: 'some philosophers have represented all moral distinctions as the effect of artifice and education, when skilful politicians endeavour'd to restrain the turbulent passions of men, and make them operate to the public good, by the notions of honour and shame. This system, however, is not consistent with experience' (T.578). Cf. 'But nothing can be more evident, than that the matter has been carry'd too far by certain writers on morals, who seem to have employ'd their utmost efforts to extirpate all sense of virtue from among mankind' (T.500).
181 T.500–1. Cf. T.533–4.
182 T.501.
183 'There is nothing, which touches us more nearly than our reputation, and nothing on which our reputation more depends than our conduct, with relation to the property of others' (T.501).
184 T.501.
185 T.483, 486, 500.
186 T.500.

187 T.541.
188 T.539.
189 T.543.
190 T.539–40, 541.
191 T.540.
192 T.540.
193 Hume, 'Of the Original Contract', *Essays*, p.468. Cf. T.541–9. On Hume and the 'social contract' tradition see Gauthier, 'David Hume, Contractarian', pp.3–38; Stephen Buckle and Dario Castiglione, 'Hume's Critique of the Contract Theory', *History of Political Thought*, 12, 3, 1991, pp.457–80; P. E. Brownsey, 'Hume and the Social Contract', *Phil. Quarterly*, 28, 1978, pp.132–48.
194 *Essays*, p.468.
195 T.541.
196 As we saw, justice consists of the three fundamental 'laws of nature' concerning the stability of possession, its translation by consent and the performance of promises (T.541).
197 T.541.
198 T.542.
199 Hume's attack is primarily directed against Locke's version of the social contract theory.
200 'Tis reasonable for those philosophers, who assert justice to be a natural virtue, and antecedent to human conventions, to resolve all civil allegiance into the obligation of a promise, and assert that 'tis our own consent alone, which binds us to any submission to magistracy' (T.542).
201 T.543.
202 T.543.
203 T.543.
204 T.544.
205 'We might as well resolve the obligation to abstain from the possessions of others, into the obligation of a promise, as that of allegiance. The interests are not more distinct in the one case than the other' (T.545).
206 T.545.
207 'We blame all treachery and breach of faith; because we consider, that the freedom and extent of human commerce depend entirely on a fidelity with regard to promises. We blame all disloyalty to magistrates; because we perceive, that the execution of justice, in the stability of possession, its translation by consent, and the performance of promises, is impossible, without submission to government. As there are here two interests entirely distinct from each other, they must give rise to two moral obligations, equally separate and independant' (T.546).
208 *Law, Legislation and Liberty*, II:39, 20.
209 *Law, Legislation and Liberty*, II:39, 21, 127.
210 *Studies*, p.88.
211 John Gray has also drawn attention to Hayek's insistence on 'the primacy of tacit knowledge' which leads him to 'a knowledge-based defense of property rights'. As Gray points out, 'there is little in the writings of the Scottish philosophers that parallels Hayek's use of the idea of tacit knowledge. In Hume ... there is little that could be construed as a recognition, however oblique, of the importance of social institutions as storers or bearers of practical knowledge' (Gray, 'Hayek, the Scottish School, and Contemporary Economics', p.60).
212 T.496. E.II.188.
213 *Law, Legislation and Liberty*, II:5. Cf. Ibid., I:18; *The Fatal Conceit*, p.16; *Knowledge, Evolution and Society*, pp.39, 45–7.

214 *Law, Legislation and Liberty*, II:4–5.
215 *The Fatal Conceit*, p.14.
216 *Studies*, p.88. Cf. 'The Legal and Political Philosophy of David Hume', *Studies*, pp.106–21.
217 *The Fatal Conceit*, p.76.
218 *Studies*, p.115.
219 T.529.
220 T.529.
221 *Studies*, p.111.
222 Gauthier, 'David Hume, Contractarian', p.20.
223 For an exposition of the idea of 'countervailing passions', see Alfred O. Hirschman, *The Passions and the Interests*, Princeton, 1977.
224 T.492.
225 T.492 (emphasis mine). Cf. *Essays*, p.480.
226 T.489.
227 See, for instance, *Law, Legislation and Liberty*, I:45–6, 99–100, II:58; *Studies*, pp.88, 92.
228 Hayek writes, for instance, that 'the whole of economic history could be rewritten in terms of this gradual suppression of the primitive instincts by what we very mistakenly call "artificial" rules ...' (*Knowledge, Evolution and Society*, p.32. Cf. Ibid., pp. 30, 39, 45; *Law, Legislation and Liberty*, II:144–7; III:155, 160).
229 E.II.209.

5 Adam Smith: sympathy, 'invisible hand' and the 'man of public spirit'

According to Hayek, it was Adam Smith who first made systematic use of the evolutionary theory which Bernard Mandeville and David Hume initiated.[1] Adam Smith (1723–90) explores Mandeville's paradox 'private vices, public benefits' and recasts it in the language of the metaphor of the 'invisible hand'. As we saw, the idea of the invisible hand constitutes one of the components of Hayek's theory of spontaneous order (the other component being the idea of cultural evolution). Hayek regards the metaphor of the 'invisible hand' as Smith's most important contribution to social theory. Smith's great achievement, he claims, is 'the recognition that a man's efforts will benefit more people ... when he lets himself be guided by the abstract signals of prices rather than by perceived needs, and that by this method we can best overcome our constitutional ignorance of most of the particular facts, and can make the fullest use of the knowledge of concrete circumstances widely dispersed among millions of individuals'.[2] In a similar vein, Hayek writes that 'Adam Smith was the first to perceive that we have stumbled upon methods of ordering human economic co-operation that exceed the limits of our knowledge and perception. His "invisible hand" had perhaps better have been described as an invisible or unsurveyable pattern'.[3] For Hayek, Smith's acknowledgement of man's constitutional ignorance indicates clearly his hostility to the doctrine of 'rational constructivism'.[4] Smith's argument, in common with that of other Scottish thinkers of the time, 'is directed throughout against the Cartesian conception of an independently and antecedently existing human reason that invented these institutions and against the conception that civil society was formed by some wise original legislator or an original "social contract" '.[5] In contrast to rational constructivism, Smith maintains that 'man is led to promote an end which is no part of his intentions'.

Hayek identifies this end as the idea of 'spontaneous order', which is brought about because individuals are restrained by certain rules, while the order resulting from their 'observing these rules is wholly beyond their knowledge or intentions'.[6] Smith, according to Hayek, 'did not assume a natural harmony of interests, but rather contended that the divergent interests of the different individuals could be reconciled by the observance of

appropriate rules of conduct'.[7] The rules on which the reconciliation of divergent interests depends, Hayek argues, were not designed for 'the extended order did not of course arise all at once ... and the market order is comparatively late. The various structures, traditions, institutions and other components of this order arose gradually as variations of habitual modes of conduct were selected. Such new rules would spread not because men understood that they were more effective ... but simply because they enabled those groups practising them to procreate more successfully and to include outsiders'.[8] Hayek writes that Adam Smith realised the connection between population growth and the evolution of the institutions of market order.[9] He had noticed, specifically, that the 'division of labour is limited by the extent of the market, and that population increase is crucial to the prosperity of a country'.[10]

Though Hayek restricts the operation of the 'invisible hand' to modern market societies, Adam Smith himself uses the term in a far broader context. Specifically, Smith employs the term on three different occasions, only one of which coincides with Hayek's interpretation. In an essay on the history of astronomy, Smith speaks of the 'invisible hand of Jupiter', to whom primitive people attributed the occurrence of irregular events.[11] The regular course of nature is stopped, thwarted or disturbed by the 'invisible hand of Jupiter'.[12] In the *Theory of Moral Sentiments* and in the *Wealth of Nations*, the expression refers to the Christian Deity rather than to the primitive gods. In both the *Theory of Moral Sentiments* and the *Wealth of Nations*, the invisible hand of the Deity acts to safeguard the regular course of 'Nature', when this is disrupted by the designs of men.[13] In both books, Smith employs the 'invisible hand' in an economic context. Yet, while in the *Theory of Moral Sentiments* the term refers to economic arrangements in feudal societies, in the *Wealth of Nations* it refers to the commercial stage of socio-economic development. What he describes as the 'system of natural liberty' is that type of invisible hand peculiar to commercial societies. Only this manifestation of the invisible hand coincides with Hayek's description of spontaneous order as the matching of intentions and expectations of individuals separately pursuing their plans.

For Hayek, the rule of law is the pre-condition for the formation and existence of spontaneous social order. For Smith, every type of society would seem to constitute a spontaneous order, in the sense that the individual pursuit of self-interest results in unintended outcomes which are beneficial to the public: the agrarian kingdoms of feudal Europe can hardly be described as liberal, yet Smith sees the invisible hand operating in them too. Furthermore, as I argue in this chapter, a theory of cultural evolution (the second component of Hayek's idea of spontaneous order) is not present in Smith. Instead of stressing the unintentional character of the process by which social institutions arise, Adam Smith recognises that, if the system of natural liberty is to be preserved, a certain degree of *artifice* is required: as his science of political economy indicates, men can in principle fathom

(indeed they *have to* discover) the workings of the system of natural liberty and endeavour to set up appropriate institutions for its preservation. It will be argued that, in the *Wealth of Nations*, it is no longer the invisible hand of the Deity (Providence), but the more visible hand of the enlightened legislator (the 'man of public spirit'), that Smith sees as the guarantor of the system of natural liberty. Clearly, in the *Wealth of Nations*, the 'invisible hand' becomes *secularised*.[14]

It should be emphasised that an enlightened legislator is not one who designs institutions according to a preconceived blueprint. As Hayek correctly observes, Smith's argument against the 'man of system' is, perhaps, his most clear indictment of rational constructivism: 'the man of system', Smith writes, 'is apt to be very wise in his own conceit; and is often so enamoured with the supposed beauty of his own ideal plan of government, that he cannot suffer the smallest deviation from any part of it. He goes on to establish it completely and in all its parts, without any regard either to the great interests, or to the strong prejudices which may oppose it'.[15] Yet, his rejection of the 'man of system' notwithstanding, Smith reserves an active role for legislators. The man of system is juxtaposed against the man of public spirit: 'the man whose public spirit is prompted altogether by humanity and benevolence, will respect the established powers and privileges even of individuals, and still more those of the great orders and societies, into which the state is divided ... He will accommodate, as well as he can, his public arrangements to the confirmed habits and prejudices of the people ... When he cannot establish the right, he will not disdain to ameliorate the wrong; but like Solon, when he cannot establish the best system of laws, he will endeavour to establish the best that the people can bear'.[16] The end of every government, Smith maintains, is to promote the happiness of its people.[17] It can achieve this, not by opposing, or neglecting, but by respecting deeply ingrained rules and habits to which its people adhere. Smith and Hayek are in agreement on this. Yet, unlike Hayek, Adam Smith does not make the further claim that the reason for respecting these traditional rules is the fact that they are the product of cultural evolution, and that, as such, they embody the accumulated knowledge and experience of past generations.

A perceived discrepancy between the *Theory of Moral Sentiments* and the *Wealth of Nations* led to the coining of the phrase, 'das Adam Smith Problem'.[18] The 'problem' refers to an alleged difference in emphasis between the two books; in the former, human conduct is explained almost exclusively through the workings of sympathy, while in the latter, self-interest is postulated as the primary motive of human behaviour. This interpretation of the two works is now generally rejected on the ground that it misrepresents Smith's idea of sympathy. An enduring variant of this view, however, concentrates on the *nature* of order portrayed in the two books; it maintains that the perfectly harmonious natural order of the *Theory of Moral Sentiments* contrasts sharply with the order portrayed in the *Wealth of Nations* which appears to be in need of extensive human interference.[19] This idea that Adam Smith's two major works are inconsistent is counterbalanced by another reading which presents the two books as complementary parts of Smith's broader and unified philosophical system.[20]

In this chapter, I treat the two books as complementary rather than inconsistent. A careful reading of the *Theory of Moral Sentiments* shows that benevolence is regarded as the perfection of human motivation rather than its ordinary source, which is instead self-love; sympathy is the mechanism whereby moral distinctions arise and it should not be identified solely with the sentiment of compassion. The state receives scanty attention not because it is perceived as dispensable, but simply because the work focuses on exploring the nature and source of moral judgements rather than on dealing with questions of political economy. Moreover, the fact that more emphasis is placed on self-interest in the *Wealth of Nations* does not mean that benevolence ceases to play an important role in guiding human behaviour. It is therefore a mistake to attribute any apparent discrepancies between the two books to Smith's inconsistency, for differences in emphasis are due to differences in the subject matter of each book.

In what follows, I discuss first Smith's account of the way in which moral rules emerge by the mechanism of mutual sympathy. I argue that Smith's explanation of the emergence and maintenance of social norms does not conform to Hayek's description of cultural evolution: (1) the idea that amongst a number of competing rules those with adaptive superiority survive, is absent from Smith; and (2) Smith does not maintain that the process through which social norms emerge is in fact unconscious. For Smith, social and moral rules, though not rationally designed, originate in the *conscious* mechanism of sympathy and the 'impartial spectator'. Second, I outline Smith's description of the workings of the invisible hand manifested in the four types of socio-economic development. Contrary to Hayek, Smith does not merely identify the invisible hand with the price mechanism of market society. For Smith, the invisible hand stands for man's natural propensity to 'ameliorate his condition' which is present in all stages of socio-economic development. Third, I discuss Smith's account of the role of the state in commercial societies. Though an advocate of free trade and in favour of restricted government intervention, Smith believed that the institutions conducive to the harmonisation of individual interests cannot be expected to arise spontaneously. He saw, in other words, that political initiative is required to adapt institutions to changing socio-economic conditions. I conclude that Smith's explanation is free from the type of inconsistencies present in Hayek's theory. Smith does not forward a theory of *tacit* rule-following and knowledge-bearing traditions, so he does not face the problem of explaining how men are able not only to articulate rules of conduct but also deliberately to change social rules and institutions.

Sympathy and the 'impartial spectator'

While Hayek refers repeatedly to Adam Smith's metaphor of the 'invisible hand', it is rather striking that he completely ignores Smith's detailed account of the process of *sympathy* (the mechanism by which moral rules emerge) and his equally important metaphor of the 'impartial spectator'. Hayek's only reference to the mechanism of sympathy occurs in a discussion about the *unconscious* character of the process of imitation: 'what happens in all these instances is that an observed movement is directly translated into the corresponding action, often without the observing and imitating individual being aware of the elements of which the action consists or (in the case of man) being able to state what he observes and does'.[21] Evidently, Hayek fails to notice the central role which sympathy plays in Smith's moral philosophy. For Smith, sympathy does involve an element of instinctive imitation, but it signifies much more than this in total. It represents, as will be seen, a mechanism involving conscious reflection whereby men develop common standards of moral evaluation and conduct. From his account of sympathy, Smith develops the metaphor of the 'impartial spectator': a *conscious* process by which men acquire conscience.[22]

Neither the concept of sympathy nor that of the impartial spectator is entirely original. As we saw in the preceding chapter, sympathy plays an important role in Hume's theory of moral judgement, and, in his discussion concerning *impartial* moral evaluations, Hume uses the term 'judicial spectator'.[23] However, Adam Smith builds on Hume's account of sympathy and makes it the cornerstone of his moral philosophy. In the first pages of the *Theory of Moral Sentiments*, he makes clear that his definition of sympathy should not be confounded with the conventional use of the term as pity or compassion. Pity is a natural 'fellow-feeling' for the pain or distress of others. Sympathy is not confined to feelings of pain or sorrow but can '... without much impropriety, be made use of to denote our fellow-feeling with any passion whatever'.[24] 'Sympathy' is used by Smith to refer not only to the feeling itself, but also to the *process* enabling men to experience the feeling. The principle governing this process is man's faculty of the imagination, for, as we do not ourselves experience the sentiment, we form an idea[25] of the sentiments felt by others by imagining what we ourselves would feel in a similar situation.

A feature of the process of sympathy is that it involves an imaginary changing of places. The spectator endeavours to imagine, and in some sense 'reproduce', the original sentiments experienced by the agent: 'by the imagination we place ourselves in his [the agent's] situation, we conceive ourselves enduring all the same torments, we enter as it were into his body, and become in some measure the same person with him, and thence form some idea of his sensations, and even feel something which, though weaker in degree, is not altogether unlike them'.[26] This feature, which can be described as 'empathy', is similar to Hume's description of sympathy. As we saw, Hume defines sympathy as a 'communication of sentiments'. To 'sympathise with others', he writes, means 'to receive by communication their inclinations and sentiments, however different from, or even contrary to our own'.[27] I will presently show that, while accepting Hume's definition of sympathy, Smith also develops it into a complicated explanatory mechanism of how men reach objective moral evaluations.

A second feature of the process of sympathy is that 'it does not arise so much from the view of the passion, as from that of the situation which excites it'.[28] This broadening of sympathy, to include the situation in which the original passion occurs, means that the spectator is able to pronounce judgement about the *propriety* of the passion in the light of the situation, irrespective of whether the appropriate passion is actually exhibited. Smith writes: 'we sometimes feel for another, a passion of which he himself seems to be altogether incapable ... we blush for the impudence and rudeness of another, though he himself appears to have no sense of the impropriety of his own behaviour; because we cannot help feeling with what confusion we ourselves should be covered, had we behaved in so absurd a manner'.[29] As Smith describes it, the process of sympathy involves a *comparison* between the original sentiments exhibited by the agent and the sympathetic sentiments of the spectator. In this comparison, the sympathetic sentiments of the spectator are the *standard* by which he judges the sentiments of the agent.[30]

A third feature of sympathy refers to the *outcome* of the comparison between the original sentiment and the sympathetic sentiment. For Smith, sympathy does not consist in a mere 'communication' of sentiments; it also involves an *agreement* or a coincidence of sentiments.[31] Such an agreement leads to approval, while its opposite leads to disapproval of the sentiments or actions under consideration. Sympathy, in this sense, is synonymous with *approval*. The spectator approves of the passions of the agent when the sympathetic sentiments of the former accord with the actual passions of the latter: 'to approve of the passions of another, therefore, as suitable to their objects, is the same thing as to observe that we entirely sympathize with them; and not to approve of them as such, is the same thing as to observe that we do not entirely sympathize with them'.[32] Now equating sympathy with approval gives rise to problems: (1) if sympathy represents the mechanism whereby men reach moral evaluations, it cannot be at the same time synonymous with approval, for if it were, men would never be able to disapprove; (2) as Hume pointed out to Smith in a letter, equating sympathy with the agreeable sentiment of approval implies the impossibility of sympathy with disagreeable sentiments. In his response to this objection, Smith clarifies his position: 'in the sentiment of approbation there are two things to be taken notice of; first, the sympathetic passion of the spectator; and, second, the emotion which arises from his observing the perfect coincidence between this sympathetic passion in himself and the original passion in the person principally concerned. This last emotion, in which the sentiment of approbation properly consists, is always agreeable and delightful. The other may either be agreeable or disagreeable, according to the nature of

the original passion, whose features it must always, in some measure, retain'.[33] Smith, therefore, makes the distinction between the process of sympathy (defined as a communication of sentiments) and the sentiments of approval and disapproval which are the *outcome* of the comparison between sympathetic and original sentiments. Thus defined, approval and disapproval are evidently not restricted to moral judgements, but can refer to judgements about any type of sentiment or action, moral or non-moral.[34] Similarly, the mechanism of sympathy is not restricted to explaining the development of moral rules, but can be employed as an explanation of the emergence of any type of rules of conduct.

According to Smith, actions, or rather sentiments which are the causes of actions, can be pronounced virtuous or vicious in the light of two considerations: (1) *propriety*, and (2) *merit*. Smith writes: 'in the suitableness or unsuitableness, in the proportion or disproportion which the affection seems to bear to the cause or object which excites it, consists the propriety or impropriety, the decency or ungracefulness of the consequent action'.[35] As mentioned above, judgements about the propriety of an action are based on the spectator's sympathy with the feelings of the *agent*. If the spectator, upon imagining himself in the position of the agent, discovers that he shares the agent's sentiments, he approves of them, and of the action to which they may give rise, as 'proper'.

Judgements of merit are founded on a double sympathy, for they involve the additional move of the spectator's sympathy with the sentiments of the person *affected* by the action.[36] 'In the beneficial or hurtful nature of the effects which the affection aims at, or tends to produce, consists the merit or demerit of the action, the qualities by which it is entitled to reward, or is deserving of punishment'.[37] In the case of a beneficial act, for instance, the spectator, upon imagining himself in the position of the beneficiary, discovers that he shares the latter's feeling of gratitude towards his benefactor. Yet, the action is not considered meritorious or the proper object of gratitude, until, following again an imaginary changing of places, the spectator sympathises with the benefactor's motives, and thus approves of them as proper.[38] Hence, judgements of merit are *dependent* on judgements of propriety. An act performed out of malicious motives, but which, due to various accidents, still results in beneficial consequences, will not be judged meritorious, and thus worthy of reward. Similarly, in the case of a harmful act, the spectator sympathises with the sufferer's resentment but considers the act worthy of punishment only when he knows that it was performed out of malicious motives.

For Smith, imaginative sympathy is the mechanism whereby men with different experiences, occupying different positions, and frequently having conflicting interests, are able to develop *common* rules of conduct.[39] Yet, as we saw, the standards by which actual spectators judge the propriety of sentiments and actions in others are their *own* sympathetic sentiments. This *subjective* element involved in sympathetic approval implies that sympathy

cannot provide an adequate explanation of how men develop *common* standards of moral evaluation. If, as Smith argues, every man's sentiments are 'the standards and measures'[40] by which he judges of the sentiments of others, a considerable degree of disagreement about what constitutes 'proper' conduct is bound to arise. Smith accounts for the process by which common standards of moral evaluation emerge by evoking the concept of *mutual* sympathy: 'nothing pleases us more than to observe in other men a fellow-feeling with all the emotions of our own breast; nor are we ever so much shocked as by the appearance of the contrary'.[41] Moreover, we are not pleased only when others sympathise with us, but also when we are able to sympathise with them.[42]

The spectator's imaginative sympathy, Smith argues, is always imperfect, for it is never the same either in degree or in kind as that of the original passion felt by the person who is principally affected. Even if he tried to render his imaginative sympathy as perfect as possible, '... the emotions of the spectator will still be very apt to fall short of the violence of what is felt by the sufferer. Mankind, though naturally sympathetic, never conceive ... that degree of passion which naturally animates the person principally concerned'.[43] This happens because 'that imaginary change of situation, upon which their sympathy is founded, is but momentary'.[44] The spectator becomes again conscious of the fact that, after all, he is not really the sufferer; his awareness that the changing of places '... is but imaginary, not only lowers it [the sympathetic sentiment] in degree, but, in some measure, varies it in kind, and gives it a quite different modification'.[45]

The agent on his part, Smith continues, is aware of this discrepancy of sentiments, and at the same time 'passionately desires a more complete sympathy'. This he achieves by imagining himself in the spectator's position: 'as nature teaches the spectators to assume the circumstances of the person principally concerned, so she teaches this last in some measure to assume those of the spectators'.[46] Consequently, the agent is forced to lower his passion '... to that pitch, in which the spectators are capable of going along with him'.[47] In this way, the longed for correspondence of sentiments is achieved. While the resulting sympathy can never be complete, what really matters is that these two sentiments 'may, it is evident, have such a correspondence with one another, as is sufficient for the harmony of society. Though they will never be unisons, they may be concords, and this is all that is wanted or required'.[48] This effort by both spectator and agent to arrive at sympathetic agreement explains how repeated instances of mutual sympathy gradually take the form of crystallised common standards of moral evaluation. Common standards of evaluation cannot arise, however, unless men also share (and Smith assumes they do) common natural sentiments.

Furthermore, the process of mutual sympathy constitutes the first step towards the development of *conscience* (man's ability to evaluate the propriety of *his own* sentiments and conduct). As we judge the propriety of the sentiments of others by comparing them with our sympathetic sentiments, so too

do we evaluate our own sentiments and motives 'by endeavouring to view them with the eyes of other people, or as other people are likely to view them'.[49] For Smith, conscience is a social product.[50] Outside a social context, man cannot reflect on his character or the propriety of his own conduct any more than he can look at his external appearance without a mirror. 'Bring him into society, and he is immediately provided with the mirror which he wanted before'.[51] In society our first moral evaluations are directed at the character and conduct of others. Yet we soon discover that, as we scrutinise the behaviour of others, we are, in turn, the object of their scrutiny. The awareness that we are the object of the criticism of others, in combination with our wish for their sympathetic approval, results in our endeavouring to imagine how we would view ourselves *from the point of view of a spectator*.

It is only by taking the spectator's point of view, Smith maintains, that we can examine our conduct: 'we can never survey our own sentiments and motives, we can never form any judgement concerning them; unless we remove ourselves, as it were, from our own natural station, and endeavour to view them as at a certain distance from us'.[52] Becoming the spectator of our conduct enables us to abstract from our personal point of view. As Smith further explains, however, 'we endeavour to examine our own conduct as we imagine any other fair and impartial spectator would examine it'.[53] This *impartial* spectator, whose approval the agent endeavours to obtain, should not be confused with any *actual* spectator. The impartial spectator is purely fictitious, for no actual spectator can ever have full knowledge of our motives and the precise circumstances under which we act. This imagined impartial spectator is really *myself*: 'when I endeavour to examine my own conduct ... I divide myself, as it were, into two persons ... The first is the spectator, whose sentiments with regard to my own conduct I endeavour to enter into, by placing myself in his situation, and by considering how it would appear to me, when seen from that particular point of view. The second is the agent, the person whom I properly call myself, and of whose conduct, under the character of a spectator, I was endeavouring to form some opinion'.[54] The impartial spectator combines the impartiality of any actual *disinterested* observer with the privileged knowledge of all the circumstances relevant to the situation which is evaluated.

As Smith shows, examining our conduct from the point of view of an impartial spectator, enables us (1) to counter the influence of our self-love, and (2) to reach a standard of morality which is independent of social morality. By representing the point of view of a *disinterested* observer, the impartial spectator enables us to abstract from our partiality: 'it is only by consulting this judge within, that we can ever see what relates to ourselves in its proper shape and dimensions; or that we can ever make any proper comparison between our own interests and those of other people'.[55] The agent is influenced by partiality towards his own interests; similarly, the judgement of an actual spectator is influenced by partiality towards *his*

particular interests. In order to transcend both his own partiality and the partiality of an actual spectator, the agent endeavours to examine his own conduct from the point of view of a third person who is equally impartial to both. Smith writes: 'before we can make any proper comparison of those opposite interests [our own and the spectator's], we must view them neither from our own place nor yet from his ... but from the place and with the eyes of a third person, who has no particular connexion with either, and who judges with impartiality between us'.[56] Man, Smith explains, is by nature partial and prone to self-deceit: 'this self-deceit, this fatal weakness of mankind, is the source of half the disorders of human life. If we saw ourselves in the light in which others see us, or in which they would see us if they knew all, a reformation would generally be unavoidable. We would not otherwise endure the sight'.[57] 'Nature, however', he adds, 'has not left this weakness, which is of so much importance, altogether without a remedy; nor has she abandoned us entirely to the delusions of self-love'.[58] The remedy is 'reason, principle, conscience, the inhabitant of the breast, the man within, the great judge and arbiter of our conduct ... It is from him only that we learn the real littleness of ourselves, and of whatever relates to ourselves, and the natural misrepresentations of self-love can be corrected only by the eye of this impartial spectator'.[59] The impartial spectator enables us to abstract from our partiality and adapt our conduct to the precepts of morality.

According to Smith, moral conduct manifests itself in obedience to *general rules*. The faculty which ultimately explains the emergence of general rules is man's natural moral sentiments rather than his rational capacity.[60] Some of the acts we observe in others, Smith notes, 'shock our natural sentiments' and make those acts the object of our detestation, while we naturally approve of other actions and wish to 'honour and reward them'.[61] These observations, combined with our natural inclination to seek the approval or sympathy of others, result in our resolving to avoid, as a rule, actions of the former kind and perform those of the latter. 'It is thus', Smith concludes, 'that the general rules of morality are formed. They are ultimately founded upon experience of what, in particular instances, our moral faculties, our natural sense of merit and propriety, approve, or disapprove of. We do not originally approve or condemn particular actions; because, upon examination, they appear to be agreeable or inconsistent with a certain general rule. The general rule, on the contrary, is formed, by finding from experience, that all actions of a certain kind, or circumstanced in a certain manner, are approved or disapproved of'.[62] In grounding the possibility of general rules in natural moral sentiments, Smith, like Hume, rejects *ethical rationalism*.

The faculty by which we distinguish between right and wrong is not reason but our natural moral sentiments: 'it is altogether absurd and unintelligible to suppose that the first perceptions of right and wrong can be derived from reason, even in those particular cases upon the experience of which the general rules are formed'.[63] Yet, like Hume, Smith stresses that, though ultimately rooted in man's sentiments of approbation and

disapprobation, general rules are *inductive generalisations*, reached by the faculty of reason: 'it is by reason that we discover those general rules of justice by which we ought to regulate our actions: and it is by the same faculty that we form those more vague and indeterminate ideas of what is prudent, of what is decent, of what is generous or noble ... The general maxims of morality are formed, like all other general maxims, from experience and induction ... But induction is always regarded as one of the operations of reason. From reason, therefore, we are very properly said to derive all those general maxims and ideas'.[64] As we saw, Hume argues that men can abstract from their particular point of view by applying general rules. Smith reaches a similar conclusion: 'those general rules of conduct, when they have been fixed in our mind by habitual reflection, are of great use in correcting the misrepresentations of self-love concerning what is fit and proper to be done in our particular situation'.[65] The influence that general rules (or what is also called a 'sense of duty') exert on human conduct is demonstrated not only by the fact that they can restrain man's selfish passions; they can also make up for deficiencies in natural moral motivation.[66]

For Smith, in addition to countering the delusions of self-love, the impartial spectator serves an even more important function. As we saw, the impartial spectator is not only a disinterested observer, but he also possesses *full knowledge* of the agent's real motives and the circumstances under which the agent acts. This second quality is important in that it accounts for the development of an independent standard of morality to which the agent may ultimately refer. Smith's argument runs as follows: true virtue consists not only in being, but also in *deserving* to be, the object of approval.[67] Man naturally desires 'not only praise, but praise-worthiness; or to be that thing which, though it should be praised by nobody, is, however, the natural and proper object of praise. He dreads, not only blame, but blame-worthiness'.[68] The most sincere praise, Smith maintains, can give us little pleasure, unless we are convinced that we deserve it. Actual spectators may approve of our character on the basis of ignorance or a mistaken perception of our motives. Yet, 'the man who applaudes us either for actions which we did not perform, or for motives which had no sort of influence upon our conduct, applaudes not us, but another person'.[69] Taking the point of view of the *impartial spectator* enables us to discover whether we indeed deserve social approval. Becoming the spectator of our conduct enables us to establish what actual spectators would think if they knew everything relating to our conduct: when the agent examines his conduct 'in the light in which the impartial spectator would view it, he thoroughly enters into all the motives which influenced it. He looks back upon every part of it with pleasure and approbation, and though mankind should never be acquainted with what he has done, he regards himself, not so much according to the light in which they actually regard him, as according to that in which they would regard him if they were better informed'.[70]

The verdict of the impartial spectator (the voice of conscience) does not necessarily reflect actual social attitudes towards our conduct. While 'praise and blame express what actually are; praise-worthiness and blame-worthiness, what naturally ought to be the sentiments of other people with regard to our character and conduct'.[71] Smith's argument concerning man's natural desire of praise-worthiness is a direct attack on Mandeville: 'some splenetic philosophers ... have imputed to the love of praise, or to what they call vanity, every action which ought to be ascribed to that of praise-worthiness'.[72] 'Nature', Smith writes, 'when she formed man for society, endowed him with an original desire to please, and an original aversion to offend his brethren ... But this desire of the approbation, and this aversion to the disapprobation of his brethren, would not alone have rendered him fit for the society for which he was made. Nature, accordingly, has endowed him, not only with a desire of being approved of, but with a desire of being what ought to be approved of; or of being what he himself approves of in other men. The first desire could only have made him wish to appear to be fit for society. The second was necessary in order to render him anxious to be really fit'.[73] The first desire, that is, the love of praise, is not sufficient, for it would have made men mere hypocrites. It is the 'love of praise-worthiness' which renders them really moral. While Mandeville reduces morality to vanity, Smith draws a distinction between *vanity* (desire for social praise) and *virtue* (desire for praise-worthiness).[74]

To summarise, Adam Smith's theory of sympathy represents a complex explanatory mechanism: it shows how men develop a set of common rules of conduct by seeking each other's sympathetic approval. For Smith, sympathetic approval is the result of a conscious evaluative process, which is to be distinguished from a mere communication of sentiments. Sympathetic approval involves judgements about the *propriety* of sentiments, and is arrived at after careful examination of the situation in which the agent finds himself. As has been pointed out, 'one of the most striking features of Smith's account of sympathy is that while he allows that our natural, or as we would say spontaneous, instincts always incline us to seek the approval of others and to offer our own in return if we possibly can, our imaginative and critical faculties often seem to intervene, holding them in check in order to allow a complex evaluative process to take place before approval is offered'.[75] Hayek, by presenting sympathy as a process of unconscious imitation, ignores the central role of conscious reflection in Smith's theory of sympathy. Moreover, Smith's description of general rules of conduct as *inductive generalisations* (emerging by the application of man's rational faculty) does not conform to Hayek's theory of cultural evolution. For Hayek, 'by a process of selection rules have evolved which lead individuals to behave in a manner which makes social life possible'.[76] For Smith, rules of conduct emerge because men find from experience that they naturally either approve or disapprove of certain patterns of conduct. While for Hayek the process of selection of rules is *unconscious*, for Smith rules are consciously selected by men after repeated efforts to gain each other's sympathetic approval.

Conjectural history and the 'invisible hand'

Despite his claim about the universality and uniformity of natural moral sentiments, Adam Smith not only recognises, but also attempts to explain, variations in standards of evaluation across different social groups and different societies. The principle behind his explanation is *situational propriety*. As we saw, judgements of propriety involve taking into account the suitability of the action under examination to the situation or the particular circumstances in which it occurs. Examples of such particular circumstances are the age, social rank or profession of the agent whose conduct is being evaluated. Smith writes: 'we expect in old age, that gravity and sedateness which its infirmities, its long experience, and its worn-out sensibility seem to render both natural and respectable; and we lay our account to find in youth that sensibility, that gaiety and sprightly vivacity which experience teaches us to expect from the lively impressions that all interesting objects are apt to make upon the tender and unpractised senses of that early period of life'. Similarly, 'we expect in each rank and profession, a degree of those manners, which, experience has taught us, belong to it'.[77] We do not expect, for instance, the 'same sensibility to the gay pleasures and amusements of life in a clergyman, which we lay our account with in an officer'.[78]

Judgements of propriety are based on sympathetic approval resulting from an imaginary changing of places, but they are also influenced by custom. In the case of the clergyman, whose task is 'to keep the world in mind of that awful futurity which awaits them, who is to announce what may be the fatal consequences of every deviation from the rules of duty, and who ... seems to be the messenger of tidings, which cannot, in propriety, be delivered either with levity or indifference', we feel that, 'independent of custom, there is a propriety in the manners which custom has allotted to this profession', that is, 'that grave, that austere and abstracted severity, which we are habituated to expect in his behaviour'.[79] In this case, custom simply *reinforces* the conclusions of imaginative sympathy. The behaviour we are used to associate with an army officer, however, does not exactly tally with his real situation, for 'if we were to consider what mood or tone of temper would be most suitable to this situation, we should be apt to determine, perhaps, that the most serious and thoughtful turn of mind would best become those whose lives are continually exposed to uncommon danger'.[80] The 'gaiety, levity, and sprightly freedom' and even 'some degree of dissipation' we normally associate with the military profession is, thus, founded entirely on habit and the influence of custom'.[81]

Similarly, it is 'the different situations of different ages and countries' which explain variations in standards of moral evaluation across societies.[82] Smith mentions two types of such variation: one relates to 'the general style and character of behaviour'; the second refers to 'particular usages or practices'. An example of differences in the general style and character of behaviour is the degree of self-command which is considered appropriate in barbarous and civilised nations respectively. In civilised nations, the virtues based on humanity are cultivated more than those based on self-command; the opposite is true of rude and barbarous nations. Smith attributes such discrepancy to differences in the degree of economic progress. The circumstances of the savage, being those of extreme necessity and want, 'not only habituate him to every sort of distress, but teach him to give way to none of the passions which that distress is apt to excite'.[83] The savage learns to control his passions because he can expect no sympathy or compassion from those who live in similar circumstances. As Smith writes, 'before we can feel much for others, we must in some measure be at ease ourselves. If our own misery pinches us very severely, we have no leisure to attend to that of our neighbour: and all savages are too much occupied with their own wants and necessities, to give much attention to those of another person'.[84] The general security and prosperity enjoyed in civilised nations, by contrast, enable men to be more tolerant and indulgent to expressions of human weakness. In civilised ages, 'the abstinence from pleasure becomes less necessary, and the mind is more at liberty to unbend itself, and to indulge its natural inclinations in all those particular respects'.[85]

According to Smith, the 'general style and character of behaviour' is primarily influenced by the particular circumstances of the age and country and is, consequently, in accordance with man's natural feelings of propriety. Hence, the influence of custom and habit on natural moral sentiments is, as regards the general style of behaviour, not so great as it is in the case of particular usages. Smith writes: 'it is not therefore in the general style of conduct or behaviour that custom authorises the widest departure from what is the natural propriety of action. With regard to particular usages, its influence is often much more destructive of good morals, and it is capable of establishing, as lawful and blameless, particular actions, which shock the plainest principles of right and wrong'.[86] An example of 'particular usages' is the practice followed in ancient Greece of murdering or abandoning newborn children 'whenever the circumstances of the parent rendered it inconvenient' to raise them.[87] This is a practice which cannot easily gain our sympathetic approval, for it runs counter to our most basic natural sentiments. As Smith explains, this practice originated probably in 'times of the most savage barbarity' where the extreme indigence of the savage resulted not only in his inability to support his child, but also in his finding it difficult to support himself. Yet the continuation of the practice, well beyond the disappearance of the particular circumstances which necessitated it, can only be attributed to the influence of custom; an influence whose power can prove to be immense, for 'when custom can give sanction to so dreadful a violation of humanity, we may well imagine that there is scarce any particular practice so gross which it cannot authorise'.[88] The reason, Smith adds, why custom can never pervert man's natural sentiments to such an extent in so far as the general style of conduct is concerned is that 'no society could subsist a moment, in which the usual strain of men's conduct and behaviour was of a piece with the horrible practice I have just now mentioned'.[89]

Smith argues that 'the particular situations of different ages and countries' determine not only the rules of conduct which men obey, but also the type of institutions they develop. For instance, differences in systems of justice reflect differences in the 'particular situations' of the countries: 'in some countries, the rudeness and barbarism of the people hinder the natural sentiments of justice from arriving at that accuracy and precision which, in more civilized nations, they naturally attain to'. Although 'in no country do the decisions of positive law coincide exactly, in every case, with the rules which the natural sense of justice would dictate', systems of positive law deserve still 'the greatest authority, as the records of the sentiments of mankind in different ages and nations'.[90] For Smith, the most important factor which influences the 'particular situations of different ages and countries' seems to be the degree of economic development. Specifically, he distinguishes between four general types/stages of socio-economic development: 'there are four distinct states which mankind pass thro: 1st, the Age of Hunters; 2dly, the Age of Shepherds; 3dly, the Age of Agriculture; and 4thly, the Age of Commerce'.[91] In addition to differences in economic progress, each stage is characterised by different relations of social subordination. This is important, for, according to Smith, upon the distinction of ranks rests the peace and order of society.

Smith distinguishes between four sources of subordination: (1) superiority in personal qualities; (2) in age; (3) in fortune; and (4) in birth.[92] Personal qualities such as wisdom, virtue, prudence, justice or moderation of mind are the weakest source of public authority, for they are 'always disputable, and generally disputed'. Accordingly, 'no society, whether barbarous or civilised, has ever found it convenient to settle the rules of precedency, of rank and subordination, according to those invisible qualities; but according to something that is more plain and palpable'.[93] Although in the absence of private property, old age is the sole foundation of authority, it is man's natural admiration for 'the rich and the powerful' that gives rise to the most definitive source of subordination.[94] 'Nature', Smith writes, 'has wisely judged that the distinction of ranks, the peace and order of society, would rest more securely upon the plain and palpable difference of birth and fortune, than upon the invisible and often uncertain difference of wisdom and virtue'.[95] Man's natural admiration for the rich explains why, for Smith, each economic stage gives rise to different forms of subordination and political organisation.

The first stage in the history of man's social existence is that of 'hunters'. This is 'the lowest and rudest state of society, such as we find it among the native tribes of North America'.[96] Private property does not extend beyond possession, consisting simply of the hunting implements belonging to each individual.[97] Property in possession, Smith explains, originates in man's natural sentiments, and is instituted by the mechanism of sympathy. 'How is it', Smith asks, 'that a man by pulling an apple should be imagined to have a right to that apple and a power of excluding all others from it – and

that an injury should be conceived to be done when such a subject is taken from the possessor?'[98] It is because an actual impartial spectator would sympathise with 'the first possessor' in defending his acquisition and even in avenging himself when deprived of it. 'The cause of this sympathy or concurrence betwixt the spectator and the possessor is, that he [the spectator] enters into his [the possessor's] thoughts and concurs in his opinion that he may form a reasonable expectation of using the fruit or whatever it is in what manner he pleases'.[99] Hence, a man who takes possession of previously unowned objects naturally regards them as his, a universal human sentiment of which men naturally approve in one another. Moreover, the transgressor's act constitutes a violation of the virtue of justice, for it is regarded as injurious to the possessor.[100]

Given that property does not extend beyond possession, 'among nations of hunters ... age is the sole foundation of rank and precedency'.[101] Hunting communities consist of a few independent families who have no authority over one another. At this stage, 'there is no regular government; they live according to the laws of nature'.[102] As Smith explains, 'as there is almost no property amongst them, the only injury that can be done is the depriving them of their game. Few laws or regulations will <be> requisite in such an age of society ...'.[103] Consequently, 'there is seldom any established magistrate or any regular administration of justice'.[104] To the extent that there is any form of government, it is democratic, for decision-making requires the consent of the whole community.[105] The judicial power, for instance, 'in these nations as far as it extends is possessed by the community as one body' and 'the power of making peace and war in such nations belongs to the whole people'.[106] This stage is thus characterised by a high degree of equality and personal freedom. Obedience to the decisions of the community is entirely voluntary. As Smith concludes, 'universal poverty establishes there universal equality, and the superiority, either of age, or of personal qualities, are the feeble, but the sole foundations of authority and subordination. There is therefore little or no authority or subordination in this period of society'.[107]

The second stage (the stage of 'shepherds') is a 'more advanced state of society, such as we find it among the Tartars and Arabs'.[108] Smith attributes the transition from the first to the second stage to population increase.[109] The main differences between these two types of society are their size, their mode of subsistence, and, in particular, the sources of subordination prevailing in each of them. The most distinctive feature of the stage of pasturage is the appearance of property that can be *accumulated* and transmitted. Smith writes: 'the step betwixt these two [stage of hunters to stage of shepherds] is of all others the greatest in the progression of society, for by it the notion of property is extended beyond possession, to which it is in the former state confined'.[110] Property that can be accumulated inevitably gives rise to great inequalities of fortune, and together with birth, they constitute the most fundamental sources of personal distinction and social subordination.

The second period of society, Smith writes, 'admits of very great inequalities of fortune, and there is no period in which the superiority of fortune gives so great authority to those who possess it'.[111] In this still primitive stage of economic development, a high degree of direct personal dependency becomes a prominent feature of social relations: 'a Tartar chief, the increase of whose herds and flocks is sufficient to maintain a thousand men, cannot well employ that increase in any other way than in maintaining a thousand men. The rude state of his society does not afford him any manufactured produce, any trinkets or baubles of any kind, for which he can exchange that part of his rude produce which is over and above his own consumption. The thousand men whom he thus maintains, depending entirely upon him for their subsistence, must obey his orders in war and submit to his jurisdiction in peace ... his chieftainship is the necessary effect of the superiority of his fortune'.[112]

Accumulation of property necessitates for its protection the introduction of some form of government. Government arises, Smith writes, 'not as some writers imagine from any consent or agreement of a number of persons to submit themselves to such or such regulations, but from the natural progress which men make in society'.[113] In a vein similar to Rousseau, Smith maintains that 'the appropriation of herds and flocks, which introduced an inequality of fortune, was that which first gave rise to regular government. Till there be property there can be no government, the very end of which is to secure wealth, and to defend the rich from the poor'.[114] Once inequalities of fortune arise, 'the rich, in particular, are necessarily interested to support that order of things, which can alone secure them in the possession of their own advantages'.[115] Specifically, the smaller property owners combine to support those of 'superior wealth' in the possession of their property, in order that the latter will in turn help them to secure their possessions and consolidate their authority over their inferiors. In this way, a system of reciprocal dependences emerges, where those of inferior wealth 'constitute a sort of little nobility, who feel themselves interested to defend the property and to support the authority of their own little sovereign, in order that he may be able to defend their property and to support their authority'.[116]

This description shows how some form of government is gradually established, as a natural response to property inequalities. 'Laws and government may be considered ... as a combination of the rich to oppress the poor, and preserve to themselves the inequality of the goods which would otherwise be soon destroyed by the attacks of the poor, who if not hindered by the government would soon reduce the others to an equality with themselves by open violence'.[117] Yet Smith has not so far explained how property beyond possession is instituted; it is not therefore clear how property inequalities arise in the first place. Smith, it appears, believes that the institution of property beyond possession must involve some form of *agreement*. He writes: 'when once it has been agreed that a cow or a sheep shall belong to a certain person not only when actually in his possession but where ever it may have strayed, it is absolutely necessary that the hand of government should be continually held up and the community assert their power to preserve the property of individuals'.[118] For Smith, government represents an *intentional* response by the rich who soon realise that their wealth can be protected only by the permanent threat of punishment.[119]

The relations of authority and subordination which characterise the stage of shepherds are not only carried over, but are further developed in the next economic stage in which agriculture is the prevailing mode of production. Smith's analysis of this stage concentrates on the feudal monarchies of Europe which succeeded the demise of the Roman empire. The 'German and Scythian nations' that invaded the western provinces of the Roman empire had reached, according to Smith, the stage of pasturage and 'had even some little agriculture'.[120] During the period of confusion which followed the conquest of the Roman provinces 'the chiefs and principal leaders of those nations, acquired or usurped to themselves the greater part of the lands of those countries ... no part of them [the lands], whether cultivated or uncultivated, was left without a proprietor. All of them were engrossed, and the greater part by a few great proprietors'.[121] Huge discrepancies of wealth now manifest themselves in the form of land ownership and continue to be the basis of relations of social dependency and subordination. Smith comments further that, had it not been for the introduction of the laws of primogeniture and entails, this state of affairs would have been transitory and the land would have been gradually divided up into small parts either by succession or by alienation.[122] In those times, however, each estate was a separate principality and 'the security ... the protection which its owner could afford to those who dwelt on it, depended upon its greatness. To divide it was to ruin it, and to expose every part of it to be oppressed and swallowed up by the incursions of its neighbours'.[123] The purpose of these laws was precisely to prevent the breaking up of the allodial estates.

As in the stage of shepherds, the great property owners cannot spend their wealth on anything other than the maintenance of a multitude of dependants;[124] their authority over their tenants and dependants is absolute, extending to every part of their life. 'Upon the authority which the great proprietors necessarily had in such a state of things over their tenants and retainers, was founded the power of the antient [sic] barons. They necessarily became the judges in peace, and the leaders in war, of all who dwelt upon their estates'.[125] The power which the allodial lords enjoy often results in conflict and disorder: 'in those disorderly times, every great landlord was a sort of petty prince. His tenants were his subjects. He was their judge, and in some respects their legislator in peace, and their leader in war. He made war according to his own discretion, frequently against his neighbours, and sometimes against his sovereign'.[126] The king is too weak to stop them, for 'he was little more than the greatest proprietor in his dominions, to whom, for the sake of common defence against their common enemies, the other great proprietors paid certain respects'.[127]

The allodial system is succeeded by the introduction of feudal socio-economic arrangements.[128] As Smith argues, in order to secure constant supply of men for military service, the allodial lords have to provide their tenants with some security in the possession of land. The tenants are initially granted long-term leases of land which are subsequently extended for life. Gradually, the possession of these lands becomes hereditary. The arrangement is mutually beneficial, for, in exchange of military service, the feudal tenant is guaranteed security in the possession of his land. The need for mutual protection leads to similar feudal exchanges of duties and services among the great lords and the king. The feudal system, Smith contends, 'so far from extending, may be regarded as an attempt to moderate the authority of the great allodial lords. It established a regular subordination, accompanied with a long train of services and duties, from the king down to the smallest proprietor'.[129] By abolishing the autonomous and all-powerful 'territorial jurisdictions' enjoyed by the allodial lords, the feudal system strengthened the power of the king. Yet, it was still incapable of establishing 'order and good government', for it retained the old forms of property and relations of direct economic dependency. In other words, 'the authority of government still continued to be, as before, too weak in the head and too strong in the inferior members ... After the institution of feudal subordination, the king was as incapable of restraining the violence of the great lords as before ... the open country still continued to be a scene of violence, rapine and disorder'.[130] The power enjoyed by the feudal barons enabled them to declare war either on each other or on the king.

However, what the feudal institutions could not achieve, 'the silent and insensible operation of foreign commerce and manufactures gradually brought about'.[131] The introduction and subsequent expansion of commerce puts an end to the violence and disorders of the feudal system; it is a process whereby the feudal barons, without either intending or foreseeing it, but simply by trying to satisfy their vanity, lose gradually their wealth and, consequently, their authority over their dependants.

The stage of commerce is marked by radical economic and socio-political transformations, and represents a complete break from the preceding socio-economic stages. The introduction of a large scale division of labour and extensive specialisation results in ever greater productivity and economic efficiency.[132] This outcome is endorsed by Smith on the ground that its advantages become increasingly universal, extending 'to the lowest ranks of the people'.[133] Smith describes its beneficial effects by using a comparison which Locke and Mandeville had used before him: 'the accommodation of an European prince does not always so much exceed that of an industrious and frugal peasant, as the accommodation of the latter exceeds that of many an African king, the absolute master of the lives and liberties of ten thousand naked savages'.[134] The greater universal opulence resulting from the division of labour is, however, neither intended nor foreseen: 'the division of labour, from which so many advantages are derived, is not originally the effect of any human wisdom, which foresees and intends that general opulence to which it gives occasion. It is the necessary, though very slow and gradual consequence of a certain propensity in human nature which has in view no such extensive utility; the propensity to truck, barter, and exchange one thing for another'.[135] This propensity is uniquely human, and is due to man's rational faculty and capacity for speech.[136]

According to Smith, the preconditions for the transition from the agrarian to the commercial stage originate in the relative independence gained by the cities; an independence which is granted to them by the king. In the period which follows the demise of the Roman empire, the towns are subject to the arbitrary jurisdiction of the great lord in whose territory they are situated. The inhabitants of the towns, mainly 'tradesmen and mechanicks', are originally in the same servile condition as the rest of the population. Yet, as Smith writes, 'how servile soever may have been originally the condition of the inhabitants of the towns, it appears evidently, that they arrived at liberty and independency much earlier than the occupiers of land in the country'.[137] This development is due to a number of royal policies according to which the towns are allowed to farm the taxes they were due to pay, initially for a term of years but gradually for a certain fee which meant 'reserving a rent certain never afterwards to be augmented'.[138] The inhabitants of the town become 'jointly and severally answerable' for the fee due and, in time, the towns are granted the 'privilege of having magistrates and a town council of their own, of making bye-laws for their own government, of building walls for their own defence' and of having their own militia.[139]

These policies clearly weaken the power of the king, for, by fixing the farm rent of the towns, the sovereigns effectively relinquished 'that branch of their revenue, which was, perhaps, of all others the most likely to be improved by the natural course of things'; at the same time, the kings 'voluntarily erected a sort of independent republicks [sic] in the heart of their own dominions'.[140] These policies may not appear rational; they are, however, directed at curtailing the power of the feudal lords. The king, unable himself to protect the burghers from the 'oppression of the great lords', grants them the above mentioned privileges and provides them with 'all the means of security and independency of the barons which it was in his power to bestow'.[141] Moreover, by freezing the farm rent of their towns, the king secures the alliance of the burghers, for he thereby removes 'all ground of jealousy and suspicion that he was ever afterwards to oppress them'.[142] The relative independence gained by the cities is, in effect, the outcome of a mutually beneficial 'tactical alliance'[143] between the king and the burghers against their common enemy, the great feudal lords. As Smith writes, 'the burghers naturally hated and feared the lords. The king hated and feared them too; but though perhaps he might despise, he had no reason either to hate or fear the burghers. Mutual interest, therefore, disposed them to support the king, and the king to support them against the lords'.[144]

After his account of the development of the towns, Smith explains the way in which commerce contributes to the improvement of the agrarian sector and brings about public order throughout the country. The stimulus to economic growth is provided by the development of foreign trade, which is mainly carried on by the inhabitants of the cities. As Smith writes, 'the inhabitants of trading cities, by importing the improved manufactures and expensive luxuries of richer countries, afforded some food to the vanity of the great proprietors, who eagerly purchased them with great quantities of the rude produce of their own lands'.[145] Hence, trade in Europe initially consists in the exchange of a country's 'rude produce' for the luxury goods of more civilised nations.[146] Gradually, as demand grows at home, 'the merchants, in order to save the expence of carriage, naturally endeavoured to establish some manufactures of the same kind in their own country'.[147] The development of commerce and manufactures in the cities contributes, ultimately, to the improvement of the agrarian sector. Smith mentions three ways in which such improvement occurs: (1) by providing a market for agricultural products they stimulate the more intense cultivation of the land; (2) wealthy merchants buy and cultivate land which had remained uncultivated;[148] and (3) commerce and manufactures bring about the demolition of the relations of *direct* subordination characteristic of feudal agrarian communities: 'commerce and manufactures gradually introduced order and good government, and with them, the liberty and security of individuals among the inhabitants of the country, who had before lived in a continual state of war with their neighbours, and of servile dependency upon their superiors'.[149] This change in the relations of subordination leads to the transformation of the prevailing political institutions.

As we saw, before the advent of commerce, the great landlords of the allodial system, and the feudal barons who succeeded them, spent most of their wealth on the maintenance of a multitude of retainers and dependants. Upon the expansion of commerce and manufactures, the luxury goods which are now available on the market provide the feudal lords with a means of spending their entire wealth on themselves, rather than on the maintenance of tenants and retainers.[150] For the gratification of the 'most childish, the meanest and the most sordid' of vanities, 'for a pair of diamond buckles perhaps, or for something as frivolous and useless, they exchanged the maintenance, or what is the same thing, the price of the maintenance of a thousand men for a year, and with it the whole weight and authority which it could give them'.[151] The old service relations of direct dependency give way to relations of indirect dependency. In a market economy, a great proprietor may not directly maintain a large number of dependants, but, 'indirectly, perhaps, he maintains as great or even a greater number of people than he could have done by the antient [sic] method of expence'.[152] By paying the price of a commodity, he pays indirectly the wages of a number of workers as well as the profits of their employers. Yet, 'though he contributes, therefore, to the maintenance of them all, they are all more or less independent of him, because generally they can all be maintained without him'.[153] By purchasing the commodity, he is paying only a tiny fraction of the profits and wages of each employer and worker. It is thus a multiplicity of 'invisible' consumers who in the end indirectly contribute to the maintenance of a single worker rather than one wealthy landowner who directly maintains a multiplicity of workers.

Prompted by the most powerful instinct of self-interest, and without even suspecting it, the feudal barons gradually forsake both their judicial and military power. Being no longer able to maintain them, the great proprietors dismiss their retainers, and are forced, by the need to obtain a greater surplus to rent their land to their tenants; an improvement which ultimately leads to the establishment of long leases. The tenants become thereby independent, for 'his landlord must not expect from him [the tenant] even the most trifling service beyond what is either expressly stipulated in the lease, or imposed upon him by the common and known law of the country'.[154] The tenants are no longer under the arbitrary jurisdiction of their landlord, nor are they obligated to follow him in military campaigns. 'Having sold their birth-right, not like Esau for a mess of pottage in time of hunger and necessity, but in the wantonness of plenty, for trinkets and baubles ... they [the great proprietors] became as insignificant as any substantial burgher or tradesman in a city.'[155] The feudal barons are, consequently, no longer capable of interfering with the regular execution of justice or of disrupting the peace of the country.

The public order that emerges is neither foreseen nor intended. Both the feudal lords and the merchants are acting out of a self-interested motivation rather than a consideration for the public good.[156] Smith writes: 'a revolution of the greatest importance to the publick happiness, was in this manner brought about by two different orders of people, who had not the least intention to serve the publick ... Neither of them had either the knowledge or foresight of that great revolution which the folly of the one, and the industry of the other, was gradually bringing about'.[157] However, while this account reveals how the feudal relations of direct dependency and subordination are gradually demolished, it does not fully explain how a regular administration of justice, and the political stability which accompanies it, ultimately emerge. In the following section, I argue that, as the preconditions for the expansion of commerce and manufactures are enhanced by the initiative of the king, the social order in the commercial stage is also the outcome of intentional political initiative.

Smith's 'historical' account of socio-economic progress is an *invisible-hand* explanation. As we saw, changes in the material conditions of society[158] give rise to different forms of social subordination. The driving force behind economic progress is man's natural desire 'to better his condition';[159] a desire which 'comes with us from the womb, and never leaves us till we go into the grave' and which manifests itself in man's in-

accumulate wealth: 'an augmentation of fortune is the means by which the greater part of men propose and wish to better their condition'.[160] It is, according to Smith, vanity, ambition, the desire for recognition, or, in more familiar language, man's natural desire to be the object of sympathy and approval, that lie behind the universal struggle for the 'augmentation of fortune'.[161] Vanity and the desire for social approval are the primary forces of human progress. Smith writes: it is man's natural 'love of distinction'[162] and, in particular, his deception that happiness lies in the 'pleasures of wealth and greatness', 'which rouses and keeps in continual motion the industry of mankind. It is this which first prompted them to cultivate the ground, to build houses, to found cities and commonwealths, and to invent and improve all the sciences and arts, which enoble and embellish human life'.[163] The reason for which 'wealth and greatness' become the objects of public admiration is that men sympathise more easily with sentiments of pleasure than with sentiments of pain[164] and the possession of wealth seems to be 'the most vulgar and the most obvious'[165] means to happiness. 'The palaces, the gardens, the equipage, the retinue of the great, are objects of which the obvious conveniency strikes every body ... Of our own accord we readily enter into it, and by sympathy enjoy and thereby applaud the satisfaction which they are fitted to afford him [the possessor].'[166] The 'uniform, constant, and uninterrupted effort of every man to better his condition'[167] is, accordingly, a process of conscious striving for the attainment of social recognition and approval.[168] In the commercial stage, man's efforts to better his condition represent society's self-correcting mechanism when faced with abuses in political economy.[169]

For Smith, man's natural desire for bettering his condition represents a manifestation of the 'invisible hand' of Nature: in simply pursuing their self-interest, and without intending it, men bring about a state of affairs which is universally beneficial.[170] In fact, the more insatiable this desire the better for the public interest, for as it happens, 'the rich consume little more than the poor, and ... though the sole end which they propose from the labours of all the thousands whom they employ, be the gratification of their own vain and insatiable desires, they divide with the poor the produce of all their improvements'.[171] The outcome is, Smith continues, that men 'are led by an invisible hand to make nearly the same distribution of the necessities of life, which would have been made, had the earth been divided into equal portions among all its inhabitants, and thus without intending it, without knowing it, advance the interest of the society, and afford means to the multiplication of the species'.[172]

Hayek maintains that Adam Smith made systematic use of the 'twin concepts of the formation of spontaneous order and of selective evolution'.[173] If my reading of Hayek is correct, the twin ideas of evolution and spontaneous order refer to two types of explanation: *invisible hand* and *cultural evolution*. According to the invisible-hand explanation, social order is formed spontaneously by the actions of many individuals separately pursuing their goals; but, 'it is merely because in doing so they are restrained by rules that an overall order results, while this consequence of observing these rules is wholly beyond their knowledge or intentions'.[174] Hayek seems to identify spontaneous order with modern market society. Smith, by contrast, does not ground the order that results from an invisible hand on an appropriate set of antecedent rules of conduct. He thus regards the invisible hand of nature (manifested in man's desire to better his condition) to be at work in all stages of economic development. In this sense, as the example of medieval Europe indicates, the invisible hand is not necessarily connected with public *order*. For Hayek, as indeed for Smith, the order characteristic of modern commercial/market society, is due to the reconciliation of divergent interests by an *appropriate* set of rules of conduct. 'Adam Smith's decisive contribution' Hayek writes, 'was the account of a self-generating order which formed itself spontaneously if the individuals were restrained by appropriate rules of law. His *Wealth of Nations* marks ... the beginning of the development of modern liberalism. It made people understand that those restrictions on the powers of government which had originated from sheer distrust of all arbitrary power had become the chief cause of Britain's economic prosperity'.[175] Freedom of economic activity meant for Smith freedom under the rule of law, and not the absence of all government action.[176]

As we saw, Hayek maintains that evolved rules of conduct embody the cumulative experience of past generations. He warns that an effort to replace them with made rules is likely to result in loss of precious knowledge stored in them. Yet he concedes that evolved rules and institutions can be subjected to criticism and even *deliberate* improvement.[177] It is not clear, however, how we can ensure that, in the attempt to improve them, the danger of foregoing part of the knowledge they embody can be avoided. A similar ambiguity does not arise in Smith. Unlike Hayek, Smith's historical account of socio-economic progress does not rest on a theory of group selection taking place independently of human reason; nor does he forward a theory of knowledge-bearing traditions and tacit rule-following. As will be seen, his invisible hand explanation is not in principle incompatible with some degree of constructivism.

The visible hand of the state

In Book V of the *Wealth of Nations*, Smith elaborates on the way in which the institutional framework appropriate in commercial society emerges. A distinction running through his analysis is that between the commercial stage and the less advanced stages which precede it. He opens the discussion with the issue of defence. A feature shared by all three stages prior to the expansion of commerce is that defence is not conducted at public expense. In hunting communities, for instance, 'every man is a warrior as well as a hunter ... His society, for in this state of things there is properly neither sovereign nor commonwealth, is at no sort of expence, either to prepare him

for the field, or to maintain him while he is in it'.[178] This is similarly the case in shepherd and agricultural societies.[179] Yet, 'in a more advanced state of society, two different causes contribute to render it altogether impossible that they, who take the field, should maintain themselves at their own expence. Those two causes are, the progress of manufactures, and the improvement in the art of war'.[180]

The former development implies that a large part of the population become wage-earners. Consequently, 'the moment that an artificer, a smith, a carpenter, or a weaver, for example, quits his workhouse, the sole source of his revenue is completely dried up ... When he takes the field, therefore, in defence of the public, as he has no revenue to maintain himself, he must necessarily be maintained by the publick [sic]'.[181] The second development means that, in commercial society, the art of war becomes extremely complicated; in order to be carried out successfully it has to become a separate profession. Yet, in contrast with the rest of the arts, the profession of the soldier cannot be introduced spontaneously (by individual initiative), but requires state action. Smith writes: 'into other arts the division of labour is naturally introduced by the prudence of individuals, who find that they promote their private interest better by confining themselves to a particular trade, than by exercising a great number. But it is the wisdom of the state only which can render the trade of a soldier a particular trade separate and distinct from all others'.[182] In addition, the more advanced the society, the more urgent becomes the exercise of political initiative for public defence. In commercial society, the martial spirit of the people declines and military exercises tend to be neglected, while its very wealth becomes the target of invasion.[183] Hence, 'unless the state takes some new measures for the publick defence, the natural habits of the people render them altogether incapable of defending themselves'.[184] After examining the respective advantages of a militia and a standing army, Smith favours the solution of the standing army as more appropriate to the demands of commercial society.

After defence, Smith discusses the second duty of the sovereign which is 'that of protecting, as far as possible, every member of the society from the injustice or oppression of every other member of it, or the duty of establishing an exact administration of justice ...'.[185] In less-advanced societies in which relations of direct and absolute subordination prevail, the execution of justice is highly arbitrary. In commercial society, the expansion of the division of labour necessitates the separation of the judicial from the executive power: 'the administration of justice became so laborious and so complicated a duty as to require the undivided attention of the persons to whom it was entrusted'.[186] Smith advocates the impartial administration of justice on the ground that, upon it 'depends the liberty of every individual, the sense which he has of his own security'.[187] He argues, in addition, that individual rights can best be protected when the judiciary is not only separate but also independent from the executive, for 'the persons entrusted with the great

interests of the state may, even without any corrupt views, sometimes imagine it necessary to sacrifice to those interests the rights of a private man'.[188]

In commercial society, the need for individual protection becomes urgent: the expansion of commerce does not only bring about the demolition of relations of direct dependency; it also harbours the danger of a 'deepening conflict of interests'.[189] Smith identifies as dominant in commercial society, three economic groups: the landowners, the wage-earners, and the merchants.[190] Of the three, he points out, the narrow-minded pursuit of the mercantile interest does not coincide with the public interest. 'People of the same trade', he writes, 'seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the publick [sic], or in some contrivance to raise prices. It is impossible indeed to prevent such meetings, by any law which either could be executed, or would be consistent with liberty and justice. But though the law cannot hinder people of the same trade from sometimes assembling together, it ought to do nothing to facilitate such assemblies; much less to render them necessary'.[191]

Merchants, Smith argues, often succeed in manipulating public policy in a way that promotes their narrow interests at the expense of the public interest. The mercantile system of political economy, which they establish, obstructs the functioning of what Smith calls the 'system of natural liberty'.[192] An example of government manipulation by the mercantile interest is the establishment of colonial monopolies.[193] By raising the rate of profit, such monopolies are advantageous to the interests of the mercantile order. Yet the outcome for the public interest is that 'all the original sources of revenue, the wages of labour, the rent of land, and the profits of stock, the monopoly renders much less abundant than they otherwise would be. To promote the little interest of one little order of men in one country, it hurts the interest of all other orders of men in that country ...'.[194] In general, 'all the different regulations of the mercantile system' disturb the natural distribution of capital, while 'without any intervention of law, therefore, the private interests and passions of men naturally lead them to divide and distribute the stock of every society, among all the different employments carried on in it, as nearly as possible in the proportion which is most agreeable to the interest of the whole society'.[195] In addition to his proposals concerning the abolition of restrictions on free trade in foreign commerce, Smith advocates the abolition of apprenticeship regulations, the repeal of laws of primogeniture, entails and other restrictions on free trade in land, and the abolition of any existing restrictions on domestic free trade.[196] Smith's vehement attack on mercantilist policies rests on the argument that, by obtaining government concessions, the mercantile order distorts the natural distribution of national resources; it thereby reduces the economy's overall efficiency and infringes upon the freedom of other economic participants.

Hayek correctly observes that Adam Smith saw that the entrepreneur 'is

led to benefit more people by aiming at the largest gain than he could if he concentrated on the satisfaction of the needs of known persons. He is led by the invisible hand of the market to bring the succour of modern conveniences to the poorest homes he does not even know'.[197] However, Hayek fails to notice that Smith recognises that, in contrast to the other two economic orders, the interest of the mercantile order rarely coincides with the public interest.[198] For Smith, the interest of landlords 'is strictly and inseparably connected with the general interest of the society;'[199] the real rent of land, and thus the proprietor's wealth, increases with an increase in economic prosperity.[200] Similarly, the interest of wage-earners is 'strictly connected' with the public interest. The wages of the labourer are rising as demand for labour increases.[201] When society becomes stationary, his wages fall to a mere subsistence level.[202] When society is in decline, his wages fall below subsistence level. 'The order of proprietors may, perhaps, gain more by the prosperity of the society, than that of labourers: but there is no order that suffers so cruelly from its decline'.[203] The employers of stock (merchants and master manufacturers) live by profit. Yet, unlike rent and wages, the rate of profit does not 'rise with the prosperity, and fall with the declension of the society. On the contrary, it is naturally low in rich, and high in poor countries, and it is always highest in the countries which are going fastest to ruin'.[204] The interest of the 'dealers' lies in expanding the market and narrowing competition. A wide market, Smith remarks, is in accordance with the public interest; 'but to narrow the competition must always be against it, and can serve only to enable the dealers, by raising their profits above what they naturally would be, to levy, for their own benefit, an absurd tax upon the rest of their fellow-citizens'.[205]

According to Smith, not only do merchants have a motive to 'deceive and oppress the publick'; they often succeed in doing so.[206] The mercantile order, he explains, consists of men who are acutely aware of their interest; a similar awareness, by contrast, is rarely found either in landlords or in wage-earners. Why should this be the case? Smith writes: 'the understandings of the greater part of men are necessarily formed by their ordinary employments'.[207] Landlords 'are the only one of the three orders whose revenue costs them neither labour nor care, but comes to them, as it were, of its own accord, and independent of any plan or project of their own. That indolence, which is the natural effect of the ease and security of their situation, renders them too often, not only ignorant, but incapable of that application of mind which is necessary in order to foresee and understand the consequences of any publick regulation'.[208] Wage-earners are even less capable of grasping either their own or the public interest. In commercial society, the division of labour often reduces work to a 'few very simple operations', and 'the man whose whole life is spent in performing a few simple operations, of which the effects too are, perhaps always the same ... has no occasion to exert his understanding ... He naturally loses, therefore, the habit of such exertion, and generally becomes as stupid and ignorant as it is possible for a human creature to become'.[209] His education and habits 'render him unfit to judge even though he was fully informed'.[210] Not surprisingly, he often falls prey to the exploitation of his employers.[211]

Merchants, by contrast, are constantly engaged in 'plans and projects', and acquire 'more acuteness of understanding than the greater part of country gentlemen ... Their superiority over the country gentleman is, not so much in their knowledge of the publick interest, as in their having a better knowledge of their own interest than he has of his'.[212] Merchants are, thus, successful in deceiving the public, simply because they understand their own interest more than any other economic group. They try to acquire political influence and secure legislation that promotes their narrow interests. Smith's advice to legislators is extreme caution and constant vigilance: 'the proposal of any new law or regulation of commerce which comes from this order, ought always to be listened to with great precaution, and ought never to be adopted till after having been long and carefully examined, not only with the most scrupulous, but with the most suspicious attention'.[213] However, constant vigilance, though necessary, is not by itself sufficient to prevent the subversive influence of merchants on government; it has to be complemented by appropriate institutions.

As already mentioned, one institutional safeguard lies in the separation of the legislature from the executive. A further example of the need for state initiative in commercial society is Smith's proposals for the provision of free education for the labouring poor.[214] The wage-earner in commercial society becomes not only incapable of conducting 'even the ordinary duties of private life', but also of judging 'the great and extensive interests of his country' and of 'defending his country in war'. In general, 'his dexterity at his own particular trade seems, in this manner, to be acquired at the expence of his intellectual, social and martial virtues. But in every improved and civilized society this is the state into which the labouring poor, that is, the great body of the people, must necessarily fall, *unless government takes some pains to prevent it*'.[215] Smith's concrete recommendations for remedying the 'mental mutilation' of the labouring poor consist in teaching them 'the elementary parts of geometry and mechanicks' and in restoring their 'martial spirit' by military exercises. Restoring their martial spirit 'would necessarily diminish very much the dangers to liberty, whether real or imaginary, which are commonly apprehended from a standing army'.[216] More importantly, Smith argues that the state derives a considerable advantage from instructing the poor: 'the more they are instructed, the less liable they are to the delusions of enthusiasm and superstition, which, among ignorant nations, frequently occasion the most dreadful disorders ... In free countries, where the safety of government depends very much upon the favourable judgment which the people may form of its conduct, it must surely be of the highest importance that they should not be disposed to judge rashly or capriciously concerning it'.[217]

The driving forces of commerce are man's natural desire of bettering his condition, the pursuit of ambition, and the need for social approval. Smith recognises, however, that, unless these forces are contained, commerce will not always be beneficial to the public. As shown in this section, merchants realise that their particular interests can best be satisfied by subverting the political and legal process in order to reduce competitive pressure and guarantee artificially high prices. It is natural for them to behave thus, for attempts at manipulating the political process are the natural offshoot of unleashing the pursuit of private ambition. Yet the merchants' gain is to the detriment of the public interest. Smith demonstrates that, *given the nature of commercial activity*, the institutions which restrain its driving forces cannot be expected to arise spontaneously. In addition, Smith deplores the effects of the division of labour on the moral attitudes and intellectual capacities of the labouring poor, and the solution he proposes involves a clear endorsement of state initiative rather than reliance on the impersonal forces of evolution.

According to Smith, the institutions appropriate to commercial society are adopted in response to economic change. The state in commercial society does not simply enforce or safeguard rules whose superiority is evidenced by their sheer survival. Despite his opposition to the 'man of system', Smith sees that the harmonisation of individual interests cannot be left entirely to the workings of the invisible hand. Political initiative is required to adapt institutions to changing socio-economic circumstances.[218] It is the task of the 'man of public spirit' to provide the mechanism by which economic interests can be prevented from colonising the political sphere: namely, a system of limited government based on the separation of powers, with the functions and prerogatives of each branch of government strictly defined. Smith also sees the need for state education of the labouring class, in order to secure the constant public vigilance which alone can protect the public interest from the threat of mercantile conspiracy.

According to Hayek, Smith belongs to the British tradition of Locke, Hume and Burke, who based their arguments for liberty on the rule of law.[219] They were not complete *laissez-faire* theorists, for they recognised that it was the evolution of 'well-constructed institutions' that 'had successfully channelled individual efforts to socially beneficial aims'.[220] Their arguments accounted for both the proper functions as well as the proper limits of state action.[221] For Hayek, however, the rules on which the reconciliation of divergent interests depends are the outcome of a process of cultural evolution: a process in which rules of conduct are selected *not* because individuals understand their function, but because those groups which happen to develop them 'will prevail over others'.[222] This evolutionary explanation of rules, as we have seen, conflicts with Hayek's suggestion that evolved rules of conduct may prove dysfunctional to the working of spontaneous order and be in need of deliberate adjustment. Hayek's theory of cultural evolution simply cannot explain how men may

distinguish institutions which are essential to the preservation of a liberal order from those that stand in need of improvement. Since the human mind itself is a product of cultural evolution, moreover, it is not clear why men should have confidence in their powers to improve upon the results of evolution. Yet Hayek expects men to devise constitutional arrangements to entrench and safeguard the liberal order. For Smith, as indeed for Mandeville and Hume, this problem does not arise. Their theories can accommodate intentional political action because they see the gradual development of rules and institutions as a result of deliberate selection taking place in a process of trial and error.

Notes

1 *The Fatal Conceit*, p.146. Cf. *Studies*, p.101. Hayek writes that Darwin 'got the basic ideas of evolution from economics', and especially from Adam Smith: as we know from Darwin's notebooks, when in 1838 he was formulating his own theory he was reading Adam Smith's *Theory of Moral Sentiments*, but there is no evidence that Darwin read the *Wealth of Nations* (*The Fatal Conceit*, p.24).
2 *New Studies*, p.269. Cf. *Law, Legislation and Liberty*, II:145. Hayek writes elsewhere: 'man's knowledge, as Smith knew, is dispersed. As he wrote, "What is the species of domestic industry his capital can employ, and of which the produce is likely to be of the greatest value, every individual, it is evident, in his local situation, judges much better than any statesman or lawgiver can do for him" '(*The Fatal Conceit*, p.14).
3 *The Fatal Conceit*, p.14.
4 As we saw, what Hayek means by 'rational constructivism', or 'Cartesian rationalism', is the explanation of the establishment of human institutions in terms of rational deliberation and design.
5 *The Constitution of Liberty*, p.57. Further evidence of Smith's hostility to such an explanation is to be found in his celebrated passage against the 'man of system' (*The Theory of Moral Sentiments*, D. D. Raphael and A. L. Macfie (eds), Oxford, 1976 [hereafter TMS], TMS.VI.ii.2.17).
6 *Studies*, p.77.
7 *New Studies*, p.135. Cf. 'neither Smith nor any other reputable author I know has ever maintained that there existed some original harmony of interests irrespective of those grown institutions' (*Studies*, p.100).
8 *The Fatal Conceit*, p.16.
9 *The Fatal Conceit*, p.120.
10 *The Fatal Conceit*, p.155.
11 Smith writes: 'fire burns, and water refreshes; heavy bodies descend, and lighter substances fly upwards, by the necessity of their own nature; nor was the invisible hand of Jupiter ever apprehended to be employed in those matters. But thunder and lightning, storms and sunshine, those more irregular events, were ascribed to his favour, or his anger' ('The History of Astronomy', *Essays on Philosophical Subjects*, W. P. D. Wightman, J. C. Bryce and I. S. Ross (eds), Oxford, 1980, pp.49–50). For a comment on Smith's use of the expression in all his writings, see Alec Macfie, 'The Invisible Hand of Jupiter', *Journal of the History of Ideas*, 32, 1971, pp.595–9.
12 'Man', Smith writes, 'the only designing power with which they [primitive men] were acquainted, never acts but either to stop, or to alter the course, which natural events would take, if left to themselves. Those other intelligent beings, whom they imagined, but knew not, were naturally supposed to act in

the same manner; not to employ themselves in supporting the ordinary course of things, which went on of its own accord, but to stop, to thwart, and to disturb it' ('The History of Astronomy', p.50).

13 For instance: 'in the political body, however, the wisdom of nature has fortunately made ample provision for remedying many of the bad effects of the folly and injustice of man; in the same manner as it has done in the natural body, for remedying those of his sloth and intemperance' (*An Inquiry into the Nature and Causes of the Wealth of Nations*, R. H. Campbell and A. S. Skinner (eds), Oxford, 1976 [hereafter WN], WN.IV.ix.28). Cf. TMS.IV.1.10; VII.ii.1.45.

14 Jacob Viner notes: 'the emphasis in the *Theory of Moral Sentiments* upon a benevolent deity as the author and guide of nature is almost, though not quite, completely absent in the *Wealth of Nations*' ('Adam Smith and Laissez Faire', *Essays on the Intellectual History of Economics*, p.93).

15 TMS.VI.ii.2.17.

16 TMS.VI.ii.2.16.

17 TMS.IV.1.11.

18 Richard F. Teichgraeber, *'Free Trade' and Moral Philosophy*, Durham, 1986, p. xiii. For a review of the original literature on the 'Adam Smith Problem' see Glen R. Morrow, *The Ethical and Economic Theories of Adam Smith*, New York, 1923, pp. 1–11. Cf. August Oneken, 'The Consistency of Adam Smith', *The Economic Journal*, 7, 27, 1897, pp. 443–50; D. D. Raphael and A. L. Macfie, 'Introduction' to *The Theory of Moral Sentiments*, pp. 20–5; R. F. Teichgraeber, 'Rethinking Das Adam Smith Problem', *Journal of British Studies*, 20, 1981, pp.106–23; Vivienne Brown, 'Signifying Voices. Reading the "Adam Smith Problem"', *Economics and Philosophy*, 7, 1991, pp.187–220.

19 This is Jacob Viner's view. He writes that, once Smith's exceptions to the natural harmony in the economic order have been taken into consideration, 'they demonstrate beyond dispute the existence of a wide divergence between the perfectly harmonious, completely beneficent natural order of the *Theory of Moral Sentiments* and the partial and limited harmony in the economic order of the *Wealth of Nations*' ('Adam Smith and Laissez Faire', p.99).

20 Some of the proponents of this reading are: Raphael and Macfie, 'Introduction' to *The Theory of Moral Sentiments*, pp.20–5; Morrow, *The Ethical and Economic Theories of Adam Smith*; Macfie, *The Individual in Society*; T. D. Campbell, *Adam Smith's Science of Morals*, London, 1971; Donald Winch, *Adam Smith's Politics*, Cambridge, 1978; R. B. Lamb, 'Adam Smith's System: Sympathy not Self-Interest', *Journal of the History of Ideas*, 35, 1974, pp.671–82; Jerry Evensky, 'The Two Voices of Adam Smith: Moral Philosopher and Social Critic', *History of Political Economy*, 19, 1987, pp.447–68.

21 *Studies*, p.48. In a footnote, Hayek cites Smith who writes: 'the mob, when they are gazing at a dancer on the slack rope, naturally writhe and twist and balance their own bodies, as they see him do, and as they feel that they themselves must do if in his situation' (TMS.I.i.1.3).

22 TMS.III.

23 T.581.

24 TMS.I.i.1.5.

25 As used by Smith, the term 'idea' should not be confused with the specific meaning it has in a Humean context. As has been neatly summarised, in Hume 'sympathy' stands for a fairly simple psychological process: 'when a man perceives the expression of a passion in another man, he forms an idea of this passion on the basis of his own earlier experience, and this idea is turned into an impression, that is, into a passion similar to the original one in the other person, by the enlivening presence of the impression of the spectator's self' (Knud Haakonssen, *The Science of a Legislator*, Cambridge, 1981, p.46. Cf. Hume, T.317–18; T.427).

26 TMS.I.i.1.2.

27 T.316. Hume also writes, 'as in strings equally wound up, the motion of one communicates itself to the rest; so all the affections readily pass from one person to another, and beget correspondent movements in every human creature' (T.576).

28 TMS.I.i.1.10.

29 TMS.I.i.1.10. Smith provides further illustrations: we sympathise with someone who is not in command of his rational faculty though he is 'altogether insensible of his own misery' (TMS.I.i.1.11). We even sympathise with the dead, though they cannot possibly exhibit any passion (TMS.I.i.1.13).

30 'Every faculty in one man is the measure by which he judges of the like faculty in another' (TMS.I.i.3.10). Cf. Campbell, *Adam Smith's Science of Morals*, p.95.

31 Communication of sentiments, as Smith acknowledges, is of course a prerequisite for agreement (see TMS.VII.iv.28).

32 TMS.I.i.3.1. Cf. 'If, upon bringing the case home to our own breast, we find that the sentiments which it gives occasion to, coincide and tally with our own, we necessarily approve of them as proportioned and suitable to their objects' (TMS.I.i.3.9).

33 TMS.I.iii.1.9 (footnote).

34 Smith writes, for instance, 'he who laughs at the same joke, and laughs along with me, cannot well deny the propriety of my laughter ... if my admiration is either too high or too low to tally with his own; if I laugh loud and heartily when he only smiles ... in all these cases ... according as there is more or less disproportion between his sentiments and mine, I must incur a greater or less degree of his disapprobation' (TMS.I.i.3.1).

35 TMS.I.i.3.6.

36 'The sense of merit seems to be a compounded sentiment, and to be made up of two distinct emotions; a direct sympathy with the sentiments of the agent, and an indirect sympathy with the gratitude of those who receive the benefit of his actions' (TMS.II.i.5.2).

37 TMS.I.i.3.7.

38 As has been pointed out, when we try to evaluate the merit or demerit of an action, 'we try to do so as independent spectators, that is, in terms of our own sympathetically created feelings of gratitude/resentment and not in terms of the actual feelings of gratitude/resentment in others' (Haakonssen, *The Science of a Legislator*, p.64).

39 Campbell, *Adam Smith's Science of Morals*, p.103.

40 TMS.I.i.3.1.

41 TMS.I.i.2.1.

42 'As the person who is principally interested in any event is pleased with our sympathy, and hurt by the want of it, so we, too, seem to be pleased when we are able to sympathise with him, and to be hurt when we are unable to do so' (TMS.I.i.2.6).

43 TMS.I.i.4.7.

44 TMS.I.i.4.7.

45 TMS.I.i.4.7.

46 TMS.I.i.4.8.

47 TMS.I.i.4.7.

48 TMS.I.i.4.7.

49 TMS.III.1.2.

50 Cf. Raphael, 'The Impartial Spectator', *Essays on Adam Smith*, Andrew S. Skinner and Thomas Wilson (eds), Oxford, 1975, pp. 83–99; Campbell, *Adam Smith's Science of Morals*, ch.6.

51 TMS.III.1.3.

52 TMS.III.1.2.

53 TMS.III.1.2.
54 TMS.III.1.6.
55 TMS.III.3.1.
56 TMS.III.3.3. Hume had made a similar remark: "tis only when a character is considered in general, without reference to our particular interest, that it causes such a feeling or sentiment, as denominates it morally good or evil' (T.472).
57 TMS.III.4.6. Elsewhere Smith uses Hume's example: 'If he [someone] was to lose his little finger to-morrow, he would not sleep to-night; but, provided he never saw them, he will snore with the most profound security over the ruin of a hundred millions of his brethren ...' (TMS.III.3.4). Hume had written: "tis not contrary to reason to prefer the destruction of the whole world to the scratching of my finger' (T.416). This argument indicates that, contrary to what a number of critics argue, in the TMS Smith does not present benevolence as the strongest motivation of human nature.
58 TMS.III.4.7.
59 TMS.III.3.4. This is an indirect attack on Hume who had argued that our sentiments of self-love are countered by those of 'humanity' (see B.II:272–5).
60 'Our continual observations upon the conduct of others, *insensibly* lead us to form to ourselves certain general rules concerning what is fit and proper either to be done or to be avoided' (TMS.III.4.7, emphasis mine).
61 TMS.III.4.7.
62 TMS.III.4.8.
63 TMS.VII.iii.2.7.
64 TMS.VII.iii.2.6.
65 TMS.III.4.12.
66 A man who lacks the sentiment of gratitude, for instance, may still be led by the sense of duty to pay all the appropriate respects to his benefactor. 'Though his heart therefore is not warmed with any grateful affection, he will strive to act as if it was, and will endeavour to pay all those regards and attentions to his patron which the liveliest gratitude could suggest ... The motive of his actions may be no other than a reverence for the established rule of duty, a serious and earnest desire of acting, in every respect, according to the law of gratitude' (TMS.III.5.1).
67 'To be amiable and to be meritorious; that is, to deserve love and to deserve reward, are the great characters of virtue' (TMS.III.1.7).
68 TMS.III.2.1.
69 TMS.III.2.4.
70 TMS.III.2.5.
71 TMS.III.2.25.
72 TMS.III.2.27. Mandeville, as we saw, concludes that all morality is a manifestation of hypocrisy. For Smith's more comprehensive attack on Mandeville, see TMS.VII.ii.4.
73 TMS.III.2.6–7.
74 'To desire, or even to accept of praise, where no praise is due, can be the effect only of the most contemptible vanity. To desire it where it is really due, is to desire no more than that a most essential act of justice should be done to us ... This self-approbation, if not the only, is at least the principal object, about which he [the wise man] can or ought to be anxious. The love of it, is the love of virtue' (TMS.III.2.8). It has been argued that Mandeville's influence on Smith was much greater than Smith would ever wish to acknowledge. For instance, Bert Kerkhof claims that, in Smith, virtue 'appears to be a form of vanity' or 'a more effective way of receiving applause from the audience – internalized as the "impartial spectator" ' ('A Fatal Attraction? Smith's "Theory of Moral Sentiments" and Mandeville's "Fable" ', *History of Political Thought*, 16, 2, 1995, p.221). This interpretation, I believe, fails to take into account Smith's theory of *situational propriety*, and man's natural desire for being *worthy* of approval as opposed to being merely approved of.

75 Nicholas Phillipson, 'Adam Smith as Civic Moralist', in *Wealth and Virtue*, Istvan Hont, and Michael Ignatieff (eds), p.184.
76 *Law, Legislation and Liberty*, I:44.
77 TMS.V.2.4.
78 TMS.V.2.5.
79 TMS.V.2.5.
80 TMS.V.2.6.
81 Smith does not imply that the behaviour of the army officer is irrational, for he goes on to explain that 'it requires so great an effort to conquer the fear of death' that those who are constantly exposed to it find it easier to cope with it by avoiding thinking about it. They consequently adopt an attitude of carelessness and indifference, and 'plunge themselves, for this purpose, into every sort of amusement and dissipation' (TMS.V.2.6). The point Smith is making is simply that the suitability of such behaviour to its situation is not immediately obvious to the spectator, and that judgements about its propriety are mainly due to the influence of past experience.
82 'The different situations of different ages and countries are apt, in the same manner, to give different characters to the generality of those who live in them, and their sentiments concerning the particular degree of each quality, that is either blamable or praise-worthy, vary, according to that degree which is usual in their own country, and in their own times' (TMS.V.2.7).
83 TMS.V.2.9.
84 TMS.V.2.9.
85 TMS.V.2.8.
86 TMS.V.2.14.
87 TMS.V.2.15.
88 TMS.V.2.15.
89 TMS.V.2.16.
90 TMS.VII.iv.36. Cf. TMS.VI.ii.1.12–13.
91 *Lectures on Jurisprudence*, R. L. Meek, D. D. Raphael and P. G. Stein (eds), Oxford, 1978 [hereafter LJ], LJ(A).i.27. As has been correctly pointed out, these stages are used by Smith as a heuristic device, that is, as four 'ideal types' on the basis of which variations in socio-political institutions are explained (Knud Haakonssen, *The Science of a Legislator*, p.155). See also Andrew S. Skinner, 'Adam Smith: An Economic Interpretation of History', *Essays on Adam Smith*, p.175.
92 WN. V.i.b.4–11. Cf. LJ(B).12.
93 WN.V.i.b.5.
94 'Upon this disposition of mankind, to go along with all the passions of the rich and the powerful, is founded the distinction of ranks, and the order of society' (TMS.I.iii.2.3).
95 TMS.VI.ii.1.20. Cf. 'Birth and fortune are evidently the two circumstances which principally set one man above another. They are the two great sources of personal distinction, and are therefore the principal causes which naturally establish authority and subordination among men' (WN.V.i.b.11).
96 WN.V.i.a.2.
97 'The notion of property seems at first to have been confined to what was about ones [sic] person, his cloaths and any instruments he might have occasion for. This would naturally be the custom amongst hunters, whose occupation lead [sic] them to be continually changing their place of abode' (LJ(A).i.47). Smith concedes that 'even in the age of hunters there may be fixt habitations for the

families, but property would not be extended to what was without the house' (LJ(A).i.48).

98 LJ(A).35.

99 LJ(A).36.

100 Smith explains the foundation of the virtue of justice as follows: a harmful action which proceeds from malicious motives gives rise to sentiments of resentment, and calls for retribution. This is the basis for the virtue of justice. 'The violation of justice is injury: it does real and positive hurt to some particular persons, from motives which are naturally disapproved of. It is, therefore, the proper object of resentment, and of punishment, which is the natural consequence of resentment' (TMS.II.ii.1.5).

101 WN.V.i.b.6.

102 LJ(B).19.

103 LJ(A).i.33. Cf. 'Men who have no property can injure one another only in their persons or reputations. But when one man kills, wounds, beats, or defames another, though he to whom the injury is done suffers, he who does it receives no benefit. It is otherwise with the injuries of property. The benefit of the person who does the injury is often equal to the loss of him who suffers it' (WN.V.i.b.2); LJ(A).iv.19.

104 WN.V.i.b.2.

105 'In the age of hunters there can be very little government of any sort, but what there is will be of a democraticall [sic] kind' (LJ(A).iv.4). Cf. 'For tho' there may be some among them who are much respected, and have great influence in their determinations, yet he never can do any thing without the consent of the whole' (LJ(B).19).

106 LJ(A).iv.4–5.

107 WN.V.i.b.7.

108 WN.V.i.a.3.

109 'In process of time, as their numbers [in the stage of hunters] multiplied, they would find the chase too precarious for their support ... The most naturally [sic] contrivance they would think of, would be to tame some of those wild animalls [sic] they caught ...' (LJ(A).i.28). Population increase is also the cause of transition from the second to the third stage.

110 LJ(A).ii.97.

111 WN.V.i.b.7. Cf. LJ(A).iv.8.

112 WN.V.i.b.7. Cf. LJ(A).iv.8–9; LJ(B).21.

113 LJ(A).iv.19. Cf. Smith criticises social contract theory in LJ(A).v.112–20; LJ(B).15–18.

114 LJ(B).20. Cf. 'Civil government, so far as it is instituted for the security of property, is in reality instituted for the defence of the rich against the poor, or of those who have some property against those who have none at all' (WN.V.i.b.12); LJ(A).iv.21–3.

115 WN.V.i.b.12.

116 WN.V.i.b.12.

117 LJ(A).iv.23. Smith seems to contradict himself when he argues that the utility of government is grasped only after its introduction: the 'inequality of fortune' which appears in the age of shepherds 'introduces some degree of that civil government which is indispensably necessary for its own preservation: and it seems to do this naturally, and even independent of the consideration of that necessity. The consideration of that necessity comes no doubt afterwards to contribute very much to maintain and secure that authority and subordination' (WN.V.i.b.12).

118 LJ(A).iv.21.

119 'When in the manner above mentioned some have great wealth and others nothing, it is necessary that the arm of authority should be continually

stretched forth, and permanent laws and regulations ... settle in what the infringement of this property consists and in what cases they will be liable to punishment' (LJ(A).iv.22).

120 LJ(A).ii.97; Cf. WN.V.i.b.16; LJ(B).50.

121 WN.III.ii.1.

122 WN.III.ii.2.

123 WN.III.ii.3.

124 LJ(B).51.

125 WN.III.iv.7.

126 WN.III.ii.3. Cf. WN.III.iv.8; LJ(B).51.

127 WN.III.iv.7.

128 The process of the transition from the allodial to the feudal system is described in LJ(B).53–7.

129 WN.III.iv.9.

130 WN.III.iv.9. Cf. LJ(A).i.127–8.

131 WN.III.iv.10.

132 Smith cites as an example of extended division of labour 'the trade of the pin-maker' in which 'the important business of making a pin is, in this manner, divided into about eighteen distinct operations ...' (WN.I.i.3).

133 WN.I.i.10.

134 WN.I.i.11. Cf. Mandeville, *Fable*, I:169.

135 WN.I.ii.1.

136 WN.I.ii.2.

137 WN.III.iii.3.

138 WN.III.iii.4.

139 WN.III.iii.6.

140 WN.III.iii.7.

141 WN.III.iii.8.

142 WN.III.iii.8.

143 Skinner, 'Adam Smith: An Economic Interpretation of History', p.163.

144 WN.III.iii.8.

145 WN.III.iii.15.

146 For instance, 'the wool of England used to be exchanged for the wines of France, and the fine cloths of Flanders, in the same manner as the corn of Poland is at this day exchanged for the wines and brandies of France ...' (WN.III.iii.15).

147 WN.III.iii.16. Smith also remarks that, in addition to manufactures which are introduced by imitation, some manufactures may also develop 'naturally' and 'of their own accord, by the gradual refinement of those houshold [sic] and coarser manufactures which must at all times be carried on even in the poorest and rudest countries' (WN.III.iii.20).

148 'Merchants are commonly ambitious of becoming country gentlemen, and when they do, they are generally the best of all improvers'. This is the case because of different habits between merchants and country gentlemen which, in turn, affect their temper and disposition. A merchant, for instance, 'is accustomed to employ his money chiefly in profitable projects; whereas a mere country gentleman is accustomed to employ it chiefly in expence' (WN.III.iv.3).

149 WN.III.iv.4.

150 Commerce and manufactures 'gradually furnished the great proprietors with something for which they could exchange the whole surplus produce of their lands, and which they could consume themselves without sharing it either with tenants or retainers. All for ourselves, and nothing for other people, seems, in every age of the world, to have been the vile maxim of the masters of mankind' (WN.III.iv.10).

151 WN.III.iv.10.
152 WN.III.iv.11.
153 WN.III.iv.11.
154 WN.III.iv.14.
155 WN.III.iv.15.
156 Smith's description of the order and good government resulting from the barons' self-interested activity, that is, the satisfaction of their vanity, is reminiscent of the Mandevillian paradox, 'private vices, public benefits'.
157 WN.III.iv.17.
158 Such changes are due to various factors: population increase, technological progress or geographical discoveries. According to Smith, geographical discoveries have been some of the most important events in the history of mankind. See WN.IV.vii.c.80; WN.IV.i.32.
159 WN.II.iii.31. Cf. WN.II.iii.28; WN.I.viii.44; WN.III.iii.12; WN.IV.v.b.43; WN.IV.ix.28. Mandeville had also remarked: 'the restless Industry of Man to supply his Wants, and his constant Endeavours to meliorate his Condition upon Earth, have produced and brought to Perfection many useful Arts and Sciences' (*Fable*, II:128. Cf. *Fable*, II:181).
160 WN.II.iii.28.
161 For Smith's vivid description of the struggle, see TMS.IV.1.8–9. Cf. 'From whence, then, arises that emulation which runs through all the different ranks of men, and what are the advantages which we propose by that great purpose of human life which we call bettering our condition? To be observed, to be attended to, to be taken notice of with sympathy, complacency, and approbation, are all the advantages which we can propose to derive from it. It is the vanity, not the ease, or the pleasure, which interests us. But vanity is always founded upon the belief of our being the object of attention and approbation' (TMS.I.iii.2.1).
162 TMS.IV.1.8.
163 TMS.IV.1.10.
164 'It is because mankind are disposed to sympathize more entirely with our joy than with our sorrow, that we make parade of our riches, and conceal our poverty' (TMS.I.iii.2.1).
165 WN.II.iii.28.
166 TMS.IV.1.8. Smith explains that, if we ask why the spectator comes to admire the condition of the rich, we will find that it is not so much because of the 'superior ease or pleasure', in other words, the utility, that their possessions afford them, as of the fact that they possess the *means* to such ease and pleasure. The spectator 'does not even imagine that they are really happier than other people: but he imagines that they possess more means to happiness', and it is this latter which is the source of his approbation (ibid.).
167 WN.II.iii.31.
168 In pungent language, Smith observes that it is only in old age that men come to realise the futility of the striving as it dawns upon them that they have sacrificed their life for something which can offer them no real satisfaction. 'Power and riches appear then to be, what they are, enormous and operose machines contrived to produce a few trifling conveniences to the body' and which, in reality, 'keep off the summer shower, not the winter storm, but leave him [the possessor] always as much, and sometimes more exposed than before, to anxiety, to fear, and to sorrow; to diseases, to danger, and to death' (TMS.IV.1.8).
169 WN.II.iii.31.
170 As will be seen, Smith qualifies this assertion.
171 TMS.IV.1.10.
172 TMS.IV.1.10. Cf. WN.IV.ii.9.

173 *The Fatal Conceit*, p.146.
174 *Studies*, p.77.
175 *New Studies*, p.125.
176 *The Constitution of Liberty*, pp.220–1.
177 'Recognising that rules generally tend to be selected, via competition, on the basis of their human survival-value certainly does not protect those rules from critical scrutiny' (*The Fatal Conceit*, p.20).
178 WN.V.i.a.2.
179 'When a Tartar or Arab actually goes to war, he is maintained, by his own herds and flocks which he carries with him, in the same manner as in peace' (WN.V.i.a.4). Cf. 'Among those nations of husbandmen ... every man, in the same manner, either is a warrior, or easily becomes such ... it seldom costs the sovereign or commonwealth any expence to prepare them for the field' (WN.V.i.a.6). Similarly, '[b]oth before and for some time after the establishment of what is properly called the feudal law, the great lords, with all their immediate dependents, used to serve the crown at their own expence' (WN.V.i.a.7).
180 WN.V.i.a.8.
181 WN.V.i.a.9.
182 WN.V.i.a.14.
183 See, WN.V.i.f.59; WN.V.i.a.15.
184 WN.V.i.a.15.
185 WN.V.i.b.1. Cf. LJ(A).i.9.
186 WN.V.i.b.24.
187 WN.V.i.b.25.
188 WN.V.i.b.25.
189 See John Robertson, 'The Legacy of Adam Smith: Government and Economic Development in the *Wealth of Nations*', *Victorian Liberalism*, Richard Bellamy (ed.), London, 1990, p.21. Cf. Donald Winch, *Adam Smith's Politics*, p.80.
190 'Wages, profit, and rent, are the three original sources of all revenue as well as of all exchangable value' (WN.I.vi.17). Cf. WN.xi.p.7; WN.II.ii.1.
191 WN.I.x.c.27. Cf. 'But the reverse of this is their interest as merchants. As sovereigns, their interest is exactly the same with that of the country which they govern. As merchants their interest is directly opposite to that interest' (WN.IV.vii.c.103).
192 'All systems either of preference or of restraint, therefore, being thus completely taken away, the obvious and simple system of natural liberty establishes itself of its own accord. Every man, as long as he does not violate the laws of justice, is left perfectly free to pursue his own interest his own way, and to bring both his industry and capital into competition with those of any other man, or order of men' (WN.IV.ix.51). Elsewhere, Smith refers to the system of 'perfect liberty': WN.IV.vii.c.44; WN.IV.ix.17; WN.I.x.a.1; WN.I.vii.6,30. Smith's description of the system of natural liberty is similar to Hayek's description of the spontaneous formation of market order.
193 WN.IV.vii.b.49. Cf. WN.IV.vii.c; WN.IV.viii.34; WN.I.viii.12; WN.IV.viii.4.
194 WN.IV.vii.c.60.
195 WN.IV.vii.c.88. Cf. WN.IV.ii.9; WN.I.x.c.19; WN.IV.v.b.4.
196 Viner, 'Adam Smith and Laissez-Faire', *Essays on the Intellectual History of Economics*, Douglas A. Irwin (ed.), Princeton, 1991, p.98.
197 *Law, Legislation and Liberty*, II:145.
198 WN.I.xi.p.10. Cf. WN.IV.iii.c.10.
199 WN.I.xi.p.8.
200 WN.I.xi.p.1–5.

201 WN.I.xi.p.9. Cf. 'It is not the actual greatness of national wealth, but its continual increase, which occasions a rise in the wages of labour' (WN.I.viii.22).
202 WN.I.xi.p.9. Cf. WN.I.viii.24.
203 WN.I.xi.p.9.
204 WN.I.xi.p.10.
205 WN.I.xi.p.10.
206 WN.I.xi.p.10.
207 WN.V.i.f.50. Hume makes a similar remark in his essay 'Of National Characters', *Essays*, p.198.
208 WN.I.xi.p.8.
209 WN.V.i.f.50. Cf. 'Manufactures, accordingly, prosper most, where the mind is least consulted, and where the workshop may, without any great effort of imagination, be considered as an engine, the parts of which are men' (Adam Ferguson, *An Essay on the History of Civil Society*, D. Forbes (ed.), Edinburgh, 1966, pp.182–3). Smith contrasts this effect of commercial society with 'barbarous societies' in which 'the varied occupations of every man oblige every man to exert his capacity, and to invent expedients for removing difficulties which are continually occurring. Invention is kept alive, and the mind is not suffered to fall into that drowsy stupidity, which, in a civilized society, seems to benumb the understanding of almost all the inferior ranks of people' (WN.V.i.f.51).
210 WN.I.xi.p.9.
211 'In the publick deliberations, therefore, his voice is little heard and less regarded, except upon some particular occasions, when his clamour is animated, set on, and supported by his employers, not for his, but their own particular purposes' (WN.I.xi.p.9).
212 WN.I.xi.p.10.
213 WN.I.xi.p.10.
214 John Robertson argues that, 'liberating the moral potential of the labouring class, it would yet enable it to play its part in public life – and so join the landowners in countering the anti-social designs of merchants and manufacturers' ('The Legacy of Adam Smith', p.24).
215 WN.V.i.f.50 (emphasis, mine).
216 WN.V.i.f.59.
217 WN.V.i.f.61.
218 See Robertson, 'The Legacy of Adam Smith: Government and Economic Development in the *Wealth of Nations*', p.28; Winch, 'Adam Smith's "enduring particular result"', in *Wealth and Virtue*, Istvan Hont, and Michael Ignatieff (eds), p.267; Rosenberg, 'Some Institutional Aspects of the *Wealth of Nations*', *Journal of Political Economy*, 68, 1960, pp.557–70; Joseph Cropsey, 'Adam Smith and Political Philosophy', in *Essays on Adam Smith*, Andrew S. Skinner and Thomas Wilson (eds), p.147.
219 As Hayek points out, what they meant by law as the proper safeguard of freedom 'were only those rules of just conduct which constitute the private and criminal law, but not every command issued by the legislative authority. To qualify as law ... the rules enforced by government had to possess certain attributes which a law like the English Common Law of necessity possessed, but which the products of legislation need not possess' (*New Studies*, p.134–5).
220 *The Constitution of Liberty*, p.60. The term 'well-constructed institutions' is borrowed from E. Burke's *Thoughts and Details on Scarcity*, in *Works*, VII, 398. Hayek also points out that, together with the rest of the British liberal philosophers, Smith has 'given us an interpretation of the growth of civilisation that is still the indispensable foundation of the argument for liberty ...' (*The Constitution of Liberty*, p.57).

221 *The Constitution of Liberty*, p.60. Cf. Smith, as indeed Hume, was aware that government had also positive tasks, namely, the provision of public goods (*Studies*, p.121).
222 *New Studies*, p.9. Cf. *Law, Legislation and Liberty*, I:9.

Conclusion

Although Hayek's theory of spontaneous order has been the focus of extensive critical scrutiny,[1] his claims about the intellectual origins of the theory are rarely questioned.[2] As we saw, Hayek grounds his theory of spontaneous order in what he identifies as the tradition of 'classical liberalism', and, in particular, in the work of Bernard Mandeville, David Hume and Adam Smith. These philosophers, Hayek maintains, 'have given us an interpretation of the growth of civilization that is still the indispensable foundation of the argument for liberty. They find the origin of institutions, not in contrivance or design, but in the survival of the successful'.[3] For Hayek, the lasting contribution of these thinkers lies in the development of the anti-constructivist doctrine of the 'twin ideas of evolution and of the spontaneous formation of an order'.[4] Following what he sees as the 'anti-rationalist' insights of these thinkers, Hayek develops what he takes to be a similar defence of liberalism: a defence which is 'based on an evolutionary interpretation of all phenomena of culture and mind and on an insight into the limits of the powers of the human reason'.[5] Liberalism, for Hayek, 'derives from the discovery of a self-generating or spontaneous order in social affairs'.[6]

Hayek's theory of spontaneous order provides a *scientific* explanation of how social order is brought about in the absence of human design. I have argued that, as the expression 'twin ideas' of evolution and the spontaneous formation of an order indicates, Hayek combines two types of explanation: (1) an *invisible hand* explanation, according to which market order is not brought about by design, or collective agreement, but as the unintended consequence of the actions of many individuals separately pursuing their goals; and (2) a theory of *cultural evolution* of rules which provide the mechanism for the spontaneous formation of social order. For Hayek, cultural evolution is a process which occurs independently of human reason: rules are not selected because individuals understand their functions; rather, 'practices which had first been adopted for other reasons, or even purely accidentally, were preserved because they enabled the group in which they had arisen to prevail over others'.[7] In this book, I have questioned Hayek's pronouncements on the intellectual roots of his theory of spontaneous order.

Specifically, I have demonstrated that neither Mandeville, nor Hume, nor Smith, do in fact develop a theory of cultural evolution. They advance instead a theory of *trial and error* which is governed by *intentional* experimentation. In Hayek's description of cultural evolution, group selection takes place *independently* of human understanding; in a process of trial and error, by contrast, rules are introduced intentionally and come to be observed because individuals recognise their advantages, either to themselves or to the community as a whole, rather than because the group practising them expands and displaces other less successful groups.

According to Hayek, it was Bernard Mandeville who first adumbrated the 'twin ideas' of evolution and of the spontaneous formation of social order. His 'anti-rationalist' approach explains how social order is the unintended result of the actions of many individuals separately pursuing their goals. In Hayek's view, Mandeville's paradox 'private vices, public benefits' aims at showing that the spontaneous reconciliation of divergent individual interests is brought about by an appropriate set of rules of conduct and institutions; rules and institutions which emerge not because individuals are able to foresee their advantages, but because 'they made those societies prosper which tumbled upon them'.[8] The importance of Mandeville's evolutionary theory, Hayek maintains, is evidenced by its wide impact on subsequent thinkers, not least on David Hume and Adam Smith.

Mandeville does indeed offer an 'anti-constructivist' account of the emergence of social institutions: they are the 'Result of consummate Wisdom', and only few of them are 'the Work of one Man, or of one Generation; the greatest part of them are the Product, the joint Labour of several Ages'.[9] Social order, in general, is brought about by a process of *gradual* development. Yet, as we saw, a careful look at Mandeville's 'historical' description of the development of social institutions does not warrant Hayek's conclusion that he provides an early statement of the theory of cultural evolution. Mandeville vehemently denies man's natural sociability; he advances instead a Hobbesian picture of the pre-social 'state of nature' which depicts men as being in constant danger from one another. He rejects Hobbes's solution of the 'social contract' as the means of establishing peace. Human nature, and, in particular, the natural instinct of pride, provides the material by which man is transformed from an unsocial into a social being. Such transformation, Mandeville argues, is the work of the 'dextrous management' of skilful politicians who succeed in rendering men governable: those who 'undertook to civilise mankind' *manipulate* man's instinct of pride, and, by *flattery*, elicit moral conduct from him.

Intentional manipulation of men by politicians implies: (1) that social order is brought about by *external* interference rather than endogenous co-ordinating forces; and (2) that it involves a detailed understanding of the workings of human nature on the part of politicians. Both of these elements point to a degree of constructivism which is at odds with Hayek's theory of spontaneous order. For Mandeville, to 'form a Society of independent

Multitudes' is an invention of man; and 'there is nothing that requires greater Skill'.[10] Similarly, social institutions are human inventions which, though 'not the Offspring of a fine Understanding, or intense Thinking', are still the product of 'sound and deliberate Judgement, acquired from a long Experience in Business, and a Multiplicity of Observations'.[11] Furthermore, I argued, a close look at Mandeville's political economy indicates that economic co-ordination is not brought about spontaneously but involves a fair degree of interventionism. Despite his selective citations from the *Fable of the Bees*, Hayek is forced to recognise, if only reluctantly, the constructivist aspects in Mandeville's thought. He concedes that Mandeville 'still vacillates between the then predominant pragmatic-rationalist and his new genetic or evolutionary view'.[12] Yet Hayek fails to see that these constructivist elements are central to Mandeville's thought rather than peripheral.

Hayek maintains that Mandeville's evolutionary approach is further developed by David Hume and Adam Smith. He claims, in particular, that Hume's sceptical views on the 'narrow bounds of human understanding' are reflected in his anti-rationalist theory of morals. Hume shows that our moral beliefs are neither innate nor a deliberate invention of human reason, but an 'artifact' or a product of cultural evolution.[13] Adam Smith, in Hayek's view, was the first to observe the dispersed character of knowledge and perceive that 'we have stumbled upon methods of ordering human economic cooperation that exceed the limits of our knowledge and perception'.[14] Moreover, Smith's metaphor of the 'invisible hand' explains how co-ordination of divergent individual interests is brought about because men are restrained by appropriate rules, while the order resulting from rule-following is beyond individual knowledge or intentions. Rules on which market order depends arise as variations of habitual behavioural patterns and spread, not because men understand that they are more effective, but because they enable those groups practising them to procreate and to include outsiders.[15]

I have argued that, contrary to Hayek's claims, both Hume and Smith attribute the selection of rules to individual intentionality and understanding of their benefits. Hayek exaggerates Hume's 'sceptical' views on the limitations of human reason. As we saw, Hume confines the role of reason to the discovery of 'relations of ideas' and the establishment of the truth of analytic propositions. At the same time, however, he reserves an active role for reflection or what he calls 'probable reasoning'. His declaration that 'reason is and ought only to be the slave of the passions' notwithstanding, Hume maintains that reflection can influence action by *directing* the passions. For Hume, it is conscious reflection rather than accident which explains the emergence and maintenance of artificial virtues, such as justice and political allegiance. While the outcome of past experience, rules of justice are selected in the knowledge and anticipation of the ends they serve: rules of justice are 'artificial' in 'being purposely contriv'd and directed to a certain end'.[16] The end which rules of justice serve is individual self-interest. Individuals are motivated by the passion of self-love, but

the self-love of one person is contrary to that of another. Experience and reflection teach men that their self-love can be best served by restraining it. Unlike Hayek, who maintains that men do not foresee the benefits of rules before adopting them,[17] Hume writes that 'upon the least reflection' it becomes evident that the passion of self-love 'is much better satisfy'd by its restraint, than by its liberty, and that by preserving society, we make much greater advances in the acquiring possessions'.[18] Thus, for Hume, men *purposefully* employ the propensities of the imagination to establish and subsequently maintain rules and institutions perceived to be indispensable to the preservation of social order.

Adam Smith, I have argued, shows that rules, though not rationally designed, emerge by the conscious process of sympathy and the device of the 'impartial spectator'. Sympathetic approval is a complex evaluative process by which men arrive at moral judgements about the *situational propriety* of sentiments – judgements for which we rely on our imaginative and critical faculties. Repeated instances of sympathetic approval account for the formation of general rules. Though rooted in man's natural sentiments of approbation and disapprobation, general rules are, for Smith, *inductive generalisations*, reached by the faculty of reason. Far from maintaining that rules are selected independently of reason, Smith contends that rules are selected after repeated efforts by men to gain each other's sympathetic approval. Furthermore, Smith does not identify the invisible hand with market order, for he does not ground the workings of the invisible hand on an antecedent set of rules of just conduct. As we saw, he regards rather the invisible hand of nature (manifested in man's desire to better his condition) to be at work in all stages of human development. In market order, for Hayek, as indeed for Smith, the reconciliation of divergent individual interests is brought about by an appropriate set of rules and institutions. Yet, unlike Hayek, Smith does not maintain that rules and institutions are the product of cultural evolution; he rather presents them as the responsibility of 'the man of public spirit'.

Despite his opposition to the 'man of system', Smith recognises that, in commercial society, harmonisation of individual interests cannot be left entirely to the workings of the invisible hand; political initiative is required in order to adapt institutions to changes in socio-economic conditions. For Smith, the driving forces of commerce bring about greater prosperity, but also the possibility of an increasing conflict of interests. Though he commends the activities of merchants as beneficial to the public, he also points out that the pursuit of their narrow interest conflicts with the public interest. Merchants are both better informed and able to further their particular interests: by subverting the political and legal process they manage to reduce competitive pressure and obtain high profits. However beneficial they may otherwise be, the activities of the mercantile order have to be contained by appropriate institutions which, by preventing economic interests from colonising the state, guarantee the benefits gained from free trade.

Smith concedes that, given the nature of commercial activity, such institutions cannot be expected to arise spontaneously; they have to be provided by the 'man-of public spirit'.

Thus Mandeville, Hume and Smith are not so supportive of Hayek's social theory as he would have us believe. They all assign a greater role to reason in the development of rules and institutions. By contrast, Hayek tries to rely exclusively on a non-rational process of cultural evolution. It has been my main contention that it is precisely this element which renders his theory of spontaneous order inconsistent. I have argued that Hayek advances two types of explanation of the mechanism of selection of rules, and that these are at odds with one another.

1 There are intimations in his writings of an *individualist* account of cultural evolution, which does not establish a direct link between the emergence and persistence of rules and group selection. The emergence and maintenance of rules is rather explained by their being individually advantageous. They are socially beneficial only through the aggregate benefit to the individual members.
2 Throughout most of his writings, however, Hayek advances a *collectivist* version of cultural evolution, which draws a *direct link* between group advantage and the selection of rules of conduct. Rules come to be observed *because* they are advantageous to the group.[19] Such a direct link, I have argued, is not immediately obvious, for it is often the case that the pursuit of individual benefit runs counter to the benefit of the group as a whole, or that group benefit requires self-sacrificing behaviour on the part of its individual members. Hayek's collectivist version of cultural evolution cannot explain the spontaneous emergence of practices which, while advantageous to the group, are not immediately advantageous to the individuals practising them. Similarly, the mechanism of group selection cannot account for the subsequent maintenance of rules, for it does not in fact explain how the problem of free-riding within the group can be overcome *spontaneously*. I conclude that, unless it is shown how and under what conditions individuals will spontaneously adopt and subsequently adhere to group-beneficial rules, the explanatory power of the mechanism of group selection will remain inadequate.

Even the individualist version of Hayek's theory of cultural evolution is not suited to explain the spontaneous emergence and maintenance of the *type* of rules it is intended to explain. Hayek maintains that behavioural patterns such as customs, conventions and rules of just conduct (property, tort and contract) *originate* spontaneously. I have argued that, though customs and conventions can in principle be expected to arise spontaneously, rules of just conduct cannot be expected either to be introduced or to be maintained spontaneously. Property rules, for instance, cannot be introduced by individual initiative or experimentation, for abstaining from another's possessions is not immediately advantageous to an individual. Similarly, they cannot be maintained spontaneously, for they require universal co-operation while the pursuit by individuals of their immediate self-interest (incentive to free-ride) prevents co-operation. In short, the establishment and maintenance of rules of justice constitute solutions to 'collective action problems', and, as such, they require collective agreement.

Collective agreement requires, in turn, a degree of individual foresight and intentionality, both of which are precluded in Hayek's theory of cultural evolution. As we saw, Hayek maintains that rules of justice emerge like *accidental mutations*: 'the structures formed by traditional human practices are ... the result of a process of winnowing or sifting, directed by the differential advantages gained by groups from practices *adopted for some unknown and perhaps purely accidental reasons*'.[20] He argues, in addition, that rules of justice are followed unconsciously, not because individuals understand their function, but because the group that develops them has reproductive advantages.[21] At the same time, Hayek claims that there is room for improving evolved rules. Though of spontaneous origin, 'people gradually learned to improve' rules of just conduct. More importantly, 'because we can deliberately alter them, [they] become the chief instrument whereby we can affect the resulting order'.[22] Moreover, Hayek argues that our mental processes, including our capacity to judge actions as just or unjust, are ultimately governed by highly abstract rules, 'although we are not aware of their existence and even less capable of articulating them in words'.[23] Yet, if rules are followed unconsciously, and if men do not really understand their function, it is not clear how men manage not only to articulate them, but also to improve them intentionally. This lack of clarity leads to contradictory *practical* conclusions. On the one hand, Hayek claims that men can intentionally improve evolved rules of conduct. On the other hand, he argues that evolved rules embody the cumulative knowledge of past generations which no individual can grasp in its entirety. He thus cautions against attempts at altering such rules for fear of foregoing knowledge which is stored in them. Such contradictory conclusions can be avoided by replacing Hayek's theory of cultural evolution with a theory of *intentional experimentation* with human behavioural patterns. As I hope to have demonstrated in this study, a convincing critique of the main tenets of cultural evolution can be provided by the very thinkers whom Hayek cites as its intellectual forefathers.

Notes

1 Kley, *Hayek's Social and Political Thought*.
2 I am aware only of two articles that question Hayek's claims about the origin of the idea of spontaneous order in Mandeville, Hume and Smith: Gray, 'Hayek, the Scottish School, and Contemporary Economics', and Steele, 'Hayek's Theory of Cultural Group Selection'.
3 *The Constitution of Liberty*, p.57.
4 *New Studies*, p.250. Cf. *Studies*, pp.77, 101; *The Fatal Conceit*, p.146.

5 *Studies*, p.161.
6 *Studies*, p.162.
7 *Law, Legislation and Liberty*, I:9. Cf. *The Fatal Conceit*, p.16.
8 *New Studies*, p.260.
9 *Fable*, II:321–2.
10 *Fable*, II:185.
11 *Fable*, II:322.
12 *New Studies*, p.261.
13 *Studies*, p.111.
14 *The Fatal Conceit*, p.14.
15 *The Fatal Conceit*, p.16.
16 T.529.
17 *The Fatal Conceit*, p.76.
18 T.492.
19 'It was not always even those who first initiated new practices (saving, private property, and such like) whose physical offspring thus gained better chances of surviving. For these practices do not preserve particular lives but rather increase the chances (or prospects or probabilities) of more rapid propagation of the group' (*The Fatal Conceit*, p.131). Cf. *Law, Legislation and Liberty*, I:9, 18.
20 *Law, Legislation and Liberty*, III:155 (emphasis mine).
21 *The Fatal Conceit*, p.16.
22 *Law, Legislation and Liberty*, I:45.
23 *New Studies*, p.46.

Bibliography

Alchian, Armen A., 'Uncertainty, Evolution, and Economic Theory', *Journal of Political Economy*, 58, 1950.

Arnold, Roger A., 'Hayek and Institutional Evolution', *Journal of Libertarian Studies*, 4, 4, 1980.

Axelrod, Robert, *The Evolution of Cooperation*, New York: Basic Books, 1984.

Baumgarth, William P., 'Hayek and Political Order: The Rule of Law', *Journal of Libertarian Studies*, 2, 1, 1978.

Bellamy, Richard (ed.), *Victorian Liberalism*, London: Routledge, 1990.

Birner, Jack and Zijp, Rudy Van (eds), *Hayek, Co-ordination and Evolution*, London: Routledge, 1994.

Boettke, Peter J., 'The Theory of Spontaneous Order and Cultural Evolution in the Social Theory of F. A. Hayek', *Cultural Dynamics*, 3, 1, 1990.

Brown, Vivienne, 'Signifying Voices. Reading the "Adam Smith Problem"', *Economics and Philosophy*, 7, 1991.

Brownsey, P. F., 'Hume and the Social Contract', *Phil. Quarterly*, 28, 1978.

Buchanan, James M., *Liberty, Market and State*, Brighton: Wheatsheaf, 1986.

Buckle, Stephen and Castiglione, Dario, 'Hume's Critique of the Contract Theory', *History of Political Thought*, 12, 3, 1991.

Caldwell, Bruce, 'Hayek's Transformation', *History of Political Economy*, 20, 4, 1988.

Campbell, T. D., *Adam Smith's Science of Morals*, London: Allen & Unwin, 1971.

Capaldi, Nicholas, *Hume's Place in Moral Philosophy*, New York: Lang, 1989.

Castiglione, Dario, 'Hume's Conventionalist Analysis of Justice', *Annali della Fondazione Luigi Einaudi*, Torino, 21, 1987.

Chalk, Alfred F., 'Mandeville's *Fable of the Bees*: A Reappraisal', *Southern Economic Journal*, 33, 1966.

Clark, Henry C., 'Conversation and Moderate Virtue in Adam Smith's *Theory of Moral Sentiments*', *The Review of Politics*, 54, 2, 1992.

Cohen, G. A., 'Illusions about Private Property and Freedom' in *Issues in Marxist Philosophy*, John Mepham and David-Hillel Ruben (eds), vol. IV, Brighton: Harvester, 1981.

Collins, R. A., *Private Vices, Public Benefits: Dr. Mandeville and the Body Politic*, D.Phil Thesis, Oxford, 1988.

Cottle, Charles E., 'Justice as Artificial Virtue in Hume's *Treatise*', *Journal of the History of Ideas*, 40, 3, 1979.

Dickey, Laurence, 'Pride, Hypocrisy and Civility in Mandeville's Social and Historical Theory', *Critical Review*, 4, 3, 1990.

DiZerega, Gus, 'Democracy as a Spontaneous Order', *Critical Review*, 3, 2, 1989.
Dumont, Louis, *From Mandeville to Marx*, Chicago, IL: University of Chicago Press, 1977.
Elster, Jon, *Ulysses and the Sirens*, Cambridge: Cambridge University Press, 1979.
—— *Explaining Technical Change*, Cambridge: Cambridge University Press, 1983.
—— 'Weakness of Will and the Free-Rider Problem' *Economics and Philosophy*, 1, 1985.
—— (ed.), *Rational Choice*, Oxford: Basil Blackwell, 1986.
—— *The Cement of Society*, Cambridge: Cambridge University Press, 1989.
—— *Nuts and Bolts*, Cambridge: Cambridge University Press, 1989.
Evensky, Jerry, 'The Two Voices of Adam Smith: Moral Philosopher and Social Critic', *History of Political Economy*, 19, 1987.
Ferguson, Adam, *An Essay on the History of Civil Society*, D. Forbes (ed.), Edinburgh: Edinburgh University Press, 1966.
Fleetwood, Steve, *Hayek's Political Economy: The Socio-Economics of Order*, London: Routledge, 1995.
Forsyth, Michael, 'Hayek's Bizarre Liberalism: A Critique', *Political Studies*, 36, 1988.
Freeman, Samuel, 'Property as an Institutional Convention in Hume's Account of Justice', *Archiv für Geschichte der Philosophie*, 73, 1, 1991.
Gamble, Andrew, *Hayek: The Iron Cage of Liberty*, Cambridge: Polity Press, 1996.
Gauthier, David, *The Logic of Leviathan*, Oxford: Clarendon Press, 1969.
—— 'David Hume, Contractarian', *The Philosophical Review*, 88, 1, 1979.
Gissurarson, Hannes H., *Hayek's Conservative Liberalism*, New York: Garland Publishing, 1987.
Goldsmith, M. M., *Private Vices, Public Benefits*, Cambridge: Cambridge University Press, 1985.
Gray, John, 'F. A. Hayek on Liberty and Tradition', *Journal of Libertarian Studies*, 4, 2, 1980.
—— *Hayek on Liberty*, Oxford: Basil Blackwell, 2nd edn, 1986.
—— 'Hayek, the Scottish School, and Contemporary Economics' in *The Boundaries of Economics*, Gordon C. Winston, and Richard F. Teichgraeber III (eds), Cambridge: Cambridge University Press, 1988.
—— 'Hayek on Liberty, Rights and Justice', in *Liberalisms*, London: Routledge, 1989.
Gray, J. and Pelczynski, Z. (eds), *Conceptions of Liberty in Political Philosophy*, London: Athlone Press, 1984.
Haakonssen, Knud, *The Science of a Legislator*, Cambridge: Cambridge University Press, 1981.
Hamowy, Ronald, 'Law and the Liberal Society: F. A. Hayek's Constitution of Liberty', *Journal of Libertarian Studies*, 2, 4, 1978.
Hampton, Jean, *Hobbes and the Social Contract Tradition*, Cambridge: Cambridge University Press, 1986.
Hardin, R., *Collective Action*, Baltimore, MD: Johns Hopkins University Press, 1982.
Harrison, Jonathan, *Hume's Theory of Justice*, Oxford: Clarendon Press, 1981.
Hayek, F. A., *The Road to Serfdom*, London: Routledge, 1944.
—— *Individualism and Economic Order*, London: Routledge, 1949.
—— *The Sensory Order: An Inquiry into the Foundations of Theoretical Psychology*, London: Routledge, 1952.

—— *The Constitution of Liberty*, London: Routledge, 1960.
—— *Studies in Philosophy, Politics and Economics*, London: Routledge, 1967.
—— *New Studies in Philosophy, Politics, Economics and the History of Ideas*, London: Routledge, 1978.
—— *The Counter-Revolution of Science. Studies on the Abuse of Reason*, Indianapolis, IN: Liberty Press, 2nd edn, 1979.
—— *Law, Legislation and Liberty*, 3 vols., London: Routledge, combined edn, 1982.
—— *Knowledge, Evolution and Society*, London: Adam Smith Institute, 1983.
—— *The Fatal Conceit. The Errors of Socialism*, London: Routledge, 1988.
Heap, Shaun Hargreaves, Hollis, Martin, Lyons, Bruce, Sugden, Robert and Weale Albert (eds), *The Theory of Choice: A Critical Guide*, Oxford: Basil Blackwell, 1992.
Heath, Anthony, *Rational Choice and Social Exchange*, Cambridge: Cambridge University Press, 1976.
Heath, Eugene, 'Rules, Function, and the Invisible Hand. An Intetpretation of Hayek's Social Theory', *Philosophy of the Social Sciences*, 22, 1, 1992.
Hirschman, Alfred O., *The Passions and the Interests*, Princeton, NJ: Princeton University Press, 1977.
Hobbes, Thomas, *Leviathan*, Richard Tuck (ed.), Cambridge: Cambridge University Press, 1991.
Hodgson, Geoffrey M., *Economics and Evolution*, Cambridge: Polity Press, 1993.
Hollis, Martin, *The Cunning of Reason*, Cambridge: Cambridge University Press, 1987.
Hont, Istvan and Ignatieff, Michael (eds), *Wealth and Virtue*, Cambridge: Cambridge University Press, 1983.
Hope, V. M., *Virtue by Consensus*, Oxford: Clarendon Press, 1989.
Horne, Thomas A., *The Social Thought of Bernard Mandeville*, London: Macmillan, 1978.
Hume, David, *Enquiries*, L. A. Selby-Bigge (ed.), Oxford: Clarendon Press, 3rd edn, 1975.
—— *A Treatise of Human Nature*, L. A. Selby-Bigge (ed.), Oxford: Clarendon Press, 2nd edn, 1978.
—— *Essays*, Eugene F. Miller (ed.), Indianapolis: Liberty Classics, 1985.
Hundert, E. J., *The Enlightenment's Fable*, Cambridge: Cambridge University Press, 1994.
—— 'Bernard Mandeville and the Enlightenment's Maxims of Modernity', *Journal of the History of Ideas*, 56, 4, 1995.
Ioannides, Stavros, *The Market, Competition and Democracy*, Aldershot: Elgar, 1992.
Jack, Malcolm, 'One State of Nature: Mandeville and Rousseau', *Journal of the History of Ideas*, 1978.
Kerkhof, Bert, 'A Fatal Attraction? Smith's "Theory of Moral Sentiments" and Mandeville's "Fable"', *History of Political Thought*, 16, 2, 1995.
Kirzner, Israel M., *Competition and Entrepreneurship*, Chicago, IL: University of Chicago Press, 1973.
—— 'Knowledge Problems and their Solutions: Some Relevant Distinctions', *Cultural Dynamics*, 3, 1, 1990.
Kley, Roland, *Hayek's Social and Political Thought*, Oxford: Clarendon Press, 1994.
Kukathas, Chandran, *Hayek and Modern Liberalism*, Oxford: Clarendon Press, 1989.
La Rochefoucauld, *Maximes*, Paris: Gallimard, 1977.

Lamb, R. B., 'Adam Smith's System: Sympathy not Self-Interest', *Journal of the History of Ideas*, 35, 1974.
Landreth, Harry, 'The Economic Thought of Bernard Mandeville', *History of Political Economy*, 7, 1975.
Lavoie, D., *Rivalry and Central Planning: The Socialist Calculation Debate Reconsidered*, Cambridge: Cambridge University Press, 1985.
Livingston, Donald W., *Hume's Philosophy of Common Life*, Chicago, IL: University of Chicago Press, 1984.
Macfie, A. L., *The Individual in Society*, London: Allen & Unwin, 1967.
—— 'The Invisible Hand of Jupiter', *Journal of the History of Ideas*, 32, 1971.
Machlup, Fritz, 'Liberalisms and the Choice of Freedoms' in *Roads to Freedom*, Erich Streissler (ed.), London: Routledge, 1969.
Macintyre, Alasdair, *Whose Justice? Which Rationality?*, London: Duckworth, 1988.
Mackie, J. L., *Hume's Moral Theory*, London: Routledge, 1980.
Madison, G. B., 'How Individualistic is Methodological Individualism?', *Critical Review*, 4, 1 and 2, 1990.
Mandeville, Bernard, *The Fable of the Bees*, F. B. Kaye (ed.), Oxford: Clarendon Press, 1924.
Menger, Carl, *Problems of Economics and Sociology*, Louis Schneider (ed.), Urbana, IL: University of Illinois Press, 1963.
Miller, David, *Philosophy and Ideology in Hume's Political Thought*, Oxford: Clarendon Press, 1981.
—— 'The Fatalistic Conceit', *Critical Review*, 3, 2, Spring, 1989.
—— *Market, State and Community*, Oxford: Clarendon Press, 1989.
Monro, H., *The Ambivalence of Bernard Mandeville*, Oxford: Clarendon Press, 1975.
Moore, James, 'Hume's Theory of Justice and Property', *Political Studies*, 24, 2, 1976.
Morrow, Glen R., *The Ethical and Economic Theories of Adam Smith*, New York: Longmans, 1923.
Nelson, Richard R. and Winter, Sidney G., *An Evolutionary Theory of Economic Change*, Cambridge, MA.: Belknap Press of Harvard University Press, 1982.
Norton, David F., *The Cambridge Companion to Hume*, Cambridge: Cambridge University Press, 1993.
Nozick, Robert, *Anarchy, State and Utopia*, Oxford: Blackwell, 1974.
O'Driscoll, Gerald P., Jr., 'Spontaneous Order and the Coordination of Economic Activities', *Journal of Libertarian Studies*, 1, 2, 1977.
Olson, Mancur, *The Logic of Collective Action*, Cambridge, MA: Harvard University Press, 1965.
Oneken, August, 'The Consistency of Adam Smith', *The Economic Journal*, 7, 27, 1897.
Passmore, J. A., 'Hume and the Ethics of Belief', in *David Hume: Bicentenary Papers*, G. P. Morice (ed.), Edinburgh: Edinburgh University Press, 1977.
Paul, Frankel Ellen, 'Liberalism, Unintended Orders and Evolutionism' *Political Studies*, 36, 1988.
Plamenatz, John, *Man and Society*, London: Longman, 1963.
Polanyi, Michael, *The Logic of Liberty*, London: Routledge, 1951.
—— *Personal Knowledge*, London: Routledge, 1958.
—— *The Tacit Dimension*, London: Routledge, 1967.

Raphael, D. D., 'Hume's Critique of Ethical Rationalism', in *Hume and the Enlightenment*, William B. Todd and E. C. Mossner (eds), Edinburgh: Edinburgh University Press, 1974.
Rawls, John, *A Theory of Justice*, Oxford: Oxford University Press, 1972.
Raz, Joseph, *The Morality of Freedom*, Oxford: Clarendon Press, 1986.
Rosenberg, Nathan, 'Some Institutional Aspects of the *Wealth of Nations*', *Journal of Political Economy*, 68, 1960.
—— 'Mandeville and laissez-faire', *Journal of the History of Ideas*, 24, 1963.
Schelling, Thomas, 'Models of Segregation', *American Economic Review*, 54, 1969.
Seldon, Arthur (ed.), *Agenda for a Free Society. Essays on Hayek's The Constitution of Liberty*, London: Hutchinson, 1961.
Shearmur, Jeremy, *Hayek and After: Hayekian Liberalism as a Research Programme*, London: Routledge, 1996.
Skinner, Andrew S. and Wilson, Thomas (eds), *Essays on Adam Smith*, Oxford: Clarendon Press, 1975.
—— *The Market and the State*, Oxford: Clarendon Press, 1976.
Smith, Adam, *An Inquiry into the Nature and Causes of the Wealth of Nations*, R. H. Campbell and A. S. Skinner (eds), Oxford: Oxford University Press, 1976.
—— *The Theory of Moral Sentiments*, D. D. Raphael and A. L. Macfie (eds), Oxford: Oxford, University Press, 1976.
—— *Lectures on Jurisprudence*, R. L. Meek, D. D. Raphael and P. G. Stein (eds), Oxford: Oxford University Press, 1978.
—— *Essays on Philosophical Subjects*, W. P. D. Wightman, J. C. Bryce and I. S. Ross (eds), Oxford: Oxford University Press, 1980.
Steele, David Ramsay, 'Hayek's Theory of Cultural Group Selection', *Journal of Libertarian Studies*, 8, 2, 1987.
Streissler, Erich (ed.), *Roads to Freedom*, London: Routledge, 1969.
Stroud, Barry, *Hume*, London: Routledge, 1977.
Taylor, Michael, *The Possibility of Cooperation*, Cambridge: Cambridge University Press, 1987.
Teichgraeber, Richard F. III, 'Rethinking Das Adam Smith Problem', *Journal of British Studies*, 20, 1981.
—— *'Free Trade' and Moral Philosophy*, Durham, NC: Duke University Press, 1986.
Ullmann-Margalit, Edna, 'Invisible-Hand Explanations', *Synthese*, 39, 1978.
Vanberg, Viktor J., 'Spontaneous Market Order and Social Rules', *Economics and Philosophy*, 2, 1986.
—— *Rules and Choice in Economics*, London: Routledge, 1994.
Van Parijs, Philippe, *Evolutionary Explanation in the Social Sciences*, London: Tavistock, 1981.
Vernon, Richard, 'Unintended Consequences', *Political Theory*, 7, 1, 1979.
Viner, Jacob, *The Long View and the Short: Studies in Economic Theory and Policy*, Glencoe, IL: Free Press, 1958.
—— *Essays on the Intellectual History of Economics*, Douglas A. Irwin (ed.), Princeton, NJ: Princeton University Press, 1991.
Watkins, J. W. N., 'Philosophy', *Agenda for a Free Society*, Arthur Seldon (ed.), London: Hutchinson, 1961.
Whelan, Frederick G., *Order and Artifice in Hume's Political Philosophy*, Princeton, NJ: Princeton University Press, 1985.

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Winch, I
1978.
Wood, Jo
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Yeager, L