

## **F.A. Hayek on Liberty and Tradition\***

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### 1.

One of the most salutary results of the recent revival of scholarly interest in the intellectual traditions of classical liberalism is that F.A. Hayek's social and political writings have begun to be taken as seriously as they deserve.<sup>1</sup> Reasons for this development are not hard to find. By any standards, Hayek must be regarded as among the foremost contemporary exponents of the liberal tradition. Thus it has been justly observed that "Hayek constructs a coherent and powerful case for liberty the equal of which in our present century it is difficult to find."<sup>2</sup> Again, there is much in Hayek's defense of a regime of liberty which answers to the spirit of our age. His skepticism about the ability of governments to promote the public good, his sense of the dangers inherent in unlimited democracy, his critique of current conceptions of distributive or social justice and his demonstration of the vanity of large-scale social engineering—these are themes in his writings which elicit a ready response in a wide constituency of readers. No less important, perhaps, is the fact that Hayek's ideas form a system; they endorse a view of human nature, a conception of the scope and limits of the capacity for conscious reflection and of the uses of knowledge in society, which informs many of the positions Hayek adopts in economic theory, in the philosophy of law and in the methodology of the social sciences. In virtue of its apparently unitary and systematic character, Hayek's thought seems well suited to the purposes of those who seek a doctrine of liberty.

It will be the burden of my argument here that, whereas the appearance of unity in Hayek's thought is not wholly delusive, his readers are mistaken if they think they find in his writings a seamless garment, a fully adequate and self-consistent theory of the liberal order. Within the total framework of Hayek's thought there are unresolved difficulties, tensions and conflicts. I will explore these areas of tension in two main contexts. First, I will investigate Hayek's epistemology and methodological ideas, arguing that his neo-Kantian theory of knowledge commits him to a form of skepticism whose

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radical implications he shows little evidence of acknowledging. Second, I will examine Hayek's evolutionary view of mind and society and try to assess how this bears on his defense of a liberal order, concluding that nothing in Hayek's argument supports the belief that a spontaneous order or cosmos in society must conform with the moral and political principles of classical liberalism. The upshot of my argument is that Hayek's social thought embodies competing and irreconcilable commitments, conservative and libertarian, traditionalist and individualist, skeptical and rationalist. The programmatic conclusion of the paper is that, for all that we have learned and have yet to learn from it, Hayek's social and political thought cannot provide the basis for a satisfactory liberal doctrine.

## 2.

One of the most basic postulates of the Hayekian system is contained in his endorsement of the Austrian thesis of the autonomy of the human mind. What does this entail? In the first place, Hayek maintains that there is an in-eradicable indeterminacy and unpredictability in human knowledge and valuation. Men's preferences, expectations and beliefs are liable to sudden changes which for all practical purposes and perhaps in principle are unknowable in advance of their actual occurrence. Hayek's insistence on the unpredictability of such basic shifts in human thought and practice figures centrally in his argument for liberty. In part, no doubt, his argument for human ignorance is one which invokes insuperable difficulties in historical prediction. In this it parallels closely Popper's argument, stated at length in *The Poverty of Historicism*<sup>3</sup> and echoed throughout Popper's writings, that man's future cannot be predicted, if only because the course of social change depends crucially on the inherently unpredictable growth of knowledge. It is in Hayek's *The Counter-Revolution of Science: Studies on the Abuse of Reason* that we find what in some ways remains the most powerful criticism of those approaches to the study of society which are oriented around an effort at historical prediction. There is much more to Hayek's argument for ignorance than this, however. In part, Hayek's contention is that we are never in a position to know things in themselves. His position here is strongly Kantian in that he maintains, against traditional empiricism, that sensory perception is never uncontaminated by categorial notions and theoretical frameworks and, against Aristotelianism, that these a priori categories and principles are constitutive of the human mind and not necessary features of the natural world. But Hayek moves closer to a radical kind of skepticism when he denies that there is reason to suppose these basic categories to be invariant. Hayek's strongly conventionalist view of the categories and concepts that go to make up our picture of the world distinguishes his position from any sort of essentialism. Indeed, insofar as he has taken pains to deny that any of the categories of our thought is an invariant

feature of the human mind and has rejected the view that these categories reflect an unchanging nature in things, Hayek's epistemology, like Popper's, is in the end hard to distinguish from a form of pragmatism with deeply skeptical implications. It is a pragmatist view in that it is denied that the adequacy of our conceptual frameworks can ever be ascertained either by any scrutiny of their formal properties or by an effort to assess their correspondence with the world; rather, those ways of thought which survive a natural selection process of competition with others are presumed to contain some truth about the world. Hayek's conception of knowledge is thus one in which an appeal to practice is primary: knowledge is conceived as being embodied in dispositions to act successfully, rather than in well-articulated theoretical systems. Part of Hayek's argument for ignorance is precisely in the negative contention that, whereas our theoretical constructions are unavoidably so abstract that they can tell us little about the real world, the practical knowledge of concrete things on which we must rely can never be systematized in any very complete or precise fashion.

More positively, Hayek argues that the human mind must always remain partially unknowable to itself. As he puts it, drawing on his sadly neglected treatise on psychology, *The Sensory Order*, in which his epistemological position is most systematically expounded, we must consider "whether mental activity must always be guided by some rules which we are in principle not able to specify." He goes on: "If it should turn out that it is basically impossible to state or communicate all the rules which govern our actions, including our communications and explicit statements, this would imply an inherent limitation of our possible explicit knowledge, and, in particular, the impossibility of ever fully explaining a mind of the complexity of our own."<sup>4</sup>

Hayek's case for the market process and for a social order which allows for the spontaneous growth of practices and institutions is one which appeals primarily to these considerations. The human mind itself is recognized to be a product of a process of cultural evolution whose character it can only dimly grasp. Its further evolution is seen as demanding that we abandon the attempt to achieve "conscious control" over social and intellectual life. It is worth noting at this point that, whereas Hayek insists that an adequate view of society must rest on a true theory of human nature, he is at pains to disavow the claim that there is a determinate and unalterable human nature whose principles we can specify definitely. He declares that "there can be no justification for representing the rules of just conduct as natural in the sense that they are part of an external and eternal order of things, or permanently implanted in an unalterable nature of man, or even in the sense that man's mind is so fashioned once and for all that he must adopt those particular rules of conduct."<sup>5</sup> Indeed, one aspect of Hayek's criticism of sociobiology derives from his belief that its proponents subscribe to the error that human life is a mixture of unalterable instincts and

conscious contrivance—a view which in Hayek's judgment neglects the spontaneous growth of culture through the competition of traditions. Hayek's belief that the human mind must forever remain partly unknown to itself, and his conviction that man can never know what are the unalterable aspects of his own nature, seem to express an uncertainty which is epistemological rather than metaphysical.<sup>6</sup> It is not denied that man (like other things) has a nature or essence, but rather that it can ever be known what this is. It seems that Hayek might well endorse the statement of Stuart Hampshire, that any characterization of human nature cannot avoid being provisional and corrigible:

Aristotle believed that the nature of man was something finally ascertainable, fixed and certain, because he held that correct definitions and classifications of things corresponded to some single, eternal scheme of reality. No critical philosopher can now believe that an inquiry into the concept of man, and therefore into that which constitutes a good man, is the search for an immutable essence. He will rather think of any definition or elucidation of the concept as a reasoned proposal that different types of appraisal should be distinguished from each other in accordance with disputable principles derived from a disputable philosophy of mind. He will admit that this is the domain of philosophical opinion, and not of demonstration.<sup>7</sup>

Whether or not this standpoint is one which involves Hayek in a self-referential skeptical paradox is not a question I can pursue here. It suffices to say that Hayek's account of the autonomy of the mind seems to have its source in a strongly fallibilist epistemology combined with a naturalistic and evolutionary view of intellectual life rather than in any metaphysical positions in the philosophy of mind and action. Hayek does not suppose that the argument for liberty presupposes any particular stance in the dispute about free will and determinism, though his own position is not far from the compatibilist and pragmatist view of many positivists. Nor does Hayek ever repudiate a physicalistic ontology according to which mental phenomena are ultimately reducible to states of physical processes. His claim is the methodological claim that, since our minds are products of a cultural evolution which we can never hope to understand fully and since conscious thought must always remain less complex than the structures which produce it, the realm of the human mind must always be an autonomous domain as far as our knowledge of it is concerned. Throughout his writings Hayek seems to want to claim a kind of metaphysical neutrality for the epistemological beliefs which he places at the heart of liberalism. Unlike J. W. N. Watkins, for example, who denies<sup>8</sup> that any adequate view of freedom as a human condition having intrinsic value can consist with determinism, Hayek does not suppose that liberalism presupposes a libertarian (or any other) resolution of the debate about free will and determinism; and, unlike classical liberals in the Aristotelian tradition such as Henry Veatch, Hayek

sees no connection between liberal principles and an essentialist ontology. Hayek's position is at least disputable, however, in that his insistence on the relativity of our ontological commitments seems to leave little room for a reasoned defense of the conception of human nature on which his social philosophy depends. I will recur to the nature of Hayek's skeptical liberalism, its scope and limits, toward the end of my argument.

Hayek's affirmation of the relative autonomy of the mind must severely reduce the scope of prediction in the social studies and has broad implications for the methodology of social science. Insofar as he has identified the role of man's beliefs and concepts in constituting the objects of the social world, Hayek's recognition of the permanent possibility of unpredictable fluctuations in such entities must inevitably introduce a very large measure of uncertainty into any sort of forecasting of future states of society.<sup>9</sup> It raises the question, also, of the status of the central axioms of economics, and of the trends and tendencies which social and political scientists hypothesize as existing in society. It is not easy to summarize Hayek's position on these questions. In general, Hayek goes along with most members of the Austrian School of Economics in emphasizing a sharp methodological dualism as between the natural and social sciences. Unlike Mises and Rothbard, however, who aim to build up a science of human action or praxeology on the basis of a highly parsimonious set of axioms about purposefulness in time, Hayek typically treats all but the pure-logic-of-choice portions of economic theory as empirical, testable and refutable. As his discussion of the role of the notion of equilibrium in economics shows,<sup>10</sup> he parts company with those Austrians who conceive of economics as an aprioristic deductive science.

Hayek's attribution to the idea of spontaneous order of a central place in the study of society is of a piece with his polemic against constructivist rationalism. Some of the difficulties in his formulation and use of this idea will occupy me at length at a later stage in my argument, but at this point it is worth observing that Hayek traces the source of the fallacies of constructivist thought back to ancient Greek antinomies of nature and convention which found a full expression in Greek Platonism but were revived in Cartesian rationalism and its manifold offspring. Hayek's objection to any form of rationalism which accords to human reason the role of an architect of the civilization which has produced it is stated most succinctly in one of his most recent statements:

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 creates reason.<sup>11</sup>

The rationalist tradition, which Hayek sees himself as continuing, he identifies as that of Aristotle and Cicero, preserved in the work of Aquinas

and later Scholastics and receiving a more comprehensive formulation in the thought of the Scottish Enlightenment. Within this other current of rationalist thought, which Hayek sees as exemplified presently in the critical rationalism of Karl Popper, constructivism is recognized as a dangerous form of hubris. For it fosters an "engineering attitude" toward grown social institutions, and, especially, a catastrophic neglect of that traditional or practical knowledge without which social life cannot be sustained. In this part of his argument Hayek's claims are supported by Gilbert Ryle's distinction<sup>12</sup> between "knowing how" and "knowing that", a distinction adopted by Michael Oakeshott in his attack on rationalist politics.<sup>13</sup> It echoes, also, Polanyi's stress<sup>14</sup> on the irreducible "tacit dimension" of knowledge beyond explicit articulation, which informs all scientific and social activity. In all this Hayek may be seen as opposing the Platonic identification of knowledge with the products of conscious reflection.<sup>15</sup>

The repudiation of constructivist rationalism has, as Hayek sees it, large consequences for social theory. One belief which Hayek's argument seeks to undermine is the belief that social arrangements can be criticized from a transcendental standpoint by appeal to a state of nature—to the wants and needs of the natural man, or the inescapable exigencies of man's prepolitical circumstance. For Hayek, all political and moral criticism must be immanent criticism, invoking a part of the inherited stock of traditional standards so as to illuminate and correct the rest.<sup>16</sup> Thus we cannot adopt in moral or political theory anything resembling an Archimedean vantage-point—Rawls' original position, perhaps—which holds in suspension all the values inherent in current moral practices and social institutions. Nor can we reform or reconstruct society—and this is Hayek's next target—in conformity with design principles expressing principles of reason or morality which somehow transcend the processes of social and cultural evolution, since those very principles will turn out on inspection to be abridgements or summaries of some aspect of our historical inheritance. Hayek's argument is not here simply a version of Neurath's metaphor, borrowed by Popper, according to which we are all afloat on the high seas in a ship which cannot be rebuilt at once, but only repaired piecemeal. Hayek's is the more radical claim that a society does not in any essential respect resemble a ship: it is not a product of any sort of design, most of our knowledge of it is embodied in rules and conventions which can never be articulated exactly or completely, and it serves no range of purposes of even the relatively determinate and commensurable sort for the sake of which ships are built. There is a problem here, to be sure, in that in Hayek's account moral and political principles can have no transcendental justification, but must be conceived as mutable products of social and cultural evolution. This is an account in which the prospects of normative moral and political theory must be severely limited and, indeed, in which there is some difficulty in distinguishing genetic or explanatory from normative and justificatory approaches to social institutions.

Hayek's social philosophy may here fruitfully be contrasted with Popper's. Popper's "critical dualism of facts and decisions" embodies that very nature-convention dichotomy which Hayek deplors. Further, it leads him to treat social institutions as if they were no more than instruments for the attainment of human purposes. This instrumentalist or externalist approach to social institutions in turn supports Popper's advocacy of piecemeal social engineering—a sort of political technology in which "social problems" are supposed to become amenable to scientific discussion and rational settlement. We have here an attempted assimilation of democratic policy-making to Popper's ideal-typical scientific community. Popper's advocacy of piecemeal social engineering has been forcefully criticized by the Wittgensteinian philosopher Rush Rhees. As Rhees has put it, "There is nothing about human societies which makes it reasonable to speak of the application of engineering to them. Even the most important 'problems of production' are not problems of engineering."<sup>17</sup> Contrary to Popper's view, he asserts that social problems are not, typically, problems of a technical sort in which there is disagreement about how to achieve agreed ends; most often, they involve conflicts between different ways of life which share no hierarchy of aims or values. In a society (such as our own) which contains irreducibly diverse and frequently conflicting ways of life, "social problems" will themselves be conceived in widely differing fashions, according to the differing moral practices which belong to the various ways of life. Popper's talk of improving civilization, of solving common problems by implementing a political technology, endorses a view of society no less monistic than that of the utopian social engineers he is concerned to criticize. At the same time, in transposing to areas of social conflict the shared standards of objectivity and impartiality which are supposed to characterize scientific communities, Popper's interventionist social engineering brings about a dualism in society between those (the rational planners, who possess political power) and the rest (who do not). Rightly, Rhees claims that Popper's social thought is permeated by a naively monistic interventionism, which receives support from his doctrine of the critical dualism of facts and standards.

Hayek's work intimates a very different approach. His criticisms of scientism in the social studies and his espousal of a methodological dualism as between natural and social science express his conviction that there is little in common between the growth of knowledge in the physical sciences and the acquisition and use of knowledge of the social world. His defense of market competition as a discovery procedure, and of purpose-independent legal rules as the indispensable framework within which individuals may pursue their own purposes, reflects his belief that our explicit knowledge of society is unavoidably so abstract as to preclude anything like conscious planning even of specific social institutions ("piecemeal social engineering"). Further, a major part of Hayek's argument for a system of liberty is in his claim that it is precisely the presence of conflicting moral and intellectual traditions in our society that warrants the institution of a liberal order. For

such an order provides a neutral framework within which peaceful competition may occur between rival forms of social life, so that those best adapted to changing circumstances may come to prevail.

For Hayek, indeed, the only appropriate area of social policy is that of constitution-making, which is concerned to specify the permanent (but in detail always revisable) legal framework of general and abstract rules which facilitate the emergence of social order but which can never guarantee any definite outcome for any specific group. In the Hayekian system, the crucial objection to interventionist programs, whether motivated by ideals of social justice or of public welfare, is not merely that the results of such programs are unpredictable (when they cannot reasonably be expected to be self-defeating): it is that interventionism presupposes a synoptic and concrete knowledge of society which no one man or group of men can in the nature of things possess. Market competition, and the system of several or private property which the market order requires, can in this perspective be seen as institutional vehicles for the use of that decentralized body of concrete knowledge upon which any society must primarily depend for the coordination of its activities.

Hayek himself conceives the constitutional order which confers a framework of security in which men may pursue their diverse projects as being a variant of the Kantian *Rechtstaat*, but this identification is objectionable for at least two major reasons. First, as Ronald Hamowy has demonstrated in several important papers,<sup>18</sup> the requirements of generality and equality in application which Hayek makes of rules before they are to be regarded as being part of the rule of law are wholly *insufficient* as tests of the legal framework of a liberal order. A Hayekian *Rechtstaat* conforming with such requirements could contain peacetime conscription, invasive intervention in peaceful market exchange (tariffs, subsidies, heavy taxation), forced segregation and immigration controls. A stable and mild traditional tyranny, on the other hand, might tolerate freedom in all these areas, and yet fail the tests which Hayek mistakenly regards as *necessary* for a free society. Secondly, as Bruno Leoni has powerfully argued,<sup>19</sup> Hayek's goal of providing security in which men can formulate and implement plans of life is more reliably achieved by refinement of our common-law inheritance than by adopting liberal legislation of the sort which Hayek typically sponsors. In recent years, Hayek has shown evidence of realizing that he may have been mistaken in supposing the German *Rechtstaat* to be the ideal juridical form of the free society. His self-criticism in this regard should spur liberals and libertarians to greater efforts in the difficult domain of jurisprudential philosophy.

### 3.

Hayek's argument may be summarized thus far, given its background of epistemological and methodological commitments: human reason is a gift



of civilization and not a special faculty which might one day fully understand (or control) social development. The use of reason consists always in the refinement of traditions of thought and practice which, like Wittgenstein's forms of life, must in any given context be taken simply as given. A society such as our own, however, contains a diversity of contending traditions. A regime of liberty is warranted, Hayek tells us, inasmuch as it facilitates the impersonal coordination of men's projects and activities in a rapidly changing environment. The framework of liberal institutions may properly be designed (or reformed) so as to maximize the chances of any unknown individual's realizing his ends at minimum cost to himself and others. Hayek's argument for liberty, to repeat, invokes our necessary ignorance of most of the knowledge from which we benefit and on which social order depends. In its emphatic statement of mankind's intellectual limitation and imperfection, Hayek's thought reveals important affinities with that of European conservatism. How far does this kinship with conservatism go?

Hayek's thought *contrasts* with political thought in the conservative tradition in several respects, some of which he has himself specified in his well-known Postscript to *The Constitution of Liberty*. According to the account Hayek gives there, conservatives cannot help having an opportunistic approach to prevailing trends and circumstances, since they lack any firm principles on which a stand could be made. Further, conservatives differ from liberals in their attitude to established authorities, which they seek to place (or keep) in the right hands, rather than to limit in scope. Partly because they do not understand the self-regulating forces within the economy and partly in virtue of their ingrained pessimism, conservatives are afraid to let social change run its course and are ever ready to resort to coercion to preserve the traditional character of society. Again, in an earlier piece, "The Intellectuals and Socialism,"<sup>20</sup> Hayek illuminates still more clearly the contrast he perceives between liberalism and conservatism, claiming that "What we lack is truly liberal Utopia, a programme which seems neither a mere defence of things as they are nor a diluted kind of socialism, but a truly liberal radicalism . . . which is not too severely practical and which does not confine itself to what appears today as politically possible." In these and similar statements, Hayek emphasizes the character of liberalism as a system of principles, and contrasts it with conservatism, which he sees as embodying a quietistic adaptation to whatever it is that history throws up.

At the same time, Hayek distinguishes his own brand of liberalism from the rationalistic, "French" variety, which he sees as emanating from Descartes and his disciples and whose influence via the Philosophical Radicals he judges to have been largely responsible for the decline of the true, "English" tradition. Hayek's characterization of his own "true" liberalism involves a number of theses in intellectual history, particularly a thesis

about the rupture of the liberal utilitarian tradition in England, which are highly disputable and, in some cases, manifestly wrong, but it is not my purpose to argue this here. Rather, I want to ask a question about the status in Hayek's thought of those principles whose systematic articulation constitutes liberal doctrine. Hayek repeatedly emphasizes that "the institutions of freedom . . . were not established because people foresaw the benefits they would bring."<sup>21</sup> His claim is that liberal institutions arose naively out of initial limits placed on the arbitrary power of rulers: men came to perceive only retrospectively the beneficial effects of freedom when they investigated the general conditions of the market order whose products had enriched their lives. In this account, liberal principles are represented as embodied in a rational reconstruction of the institutional framework conducive to general welfare. This account of liberalism is embedded by Hayek in a broader evolutionary perspective on the selection and adaptation of rules, practices and forms of social life. "No institution will continue to survive," he tells us, "unless it performs some useful function."<sup>22</sup> He goes on to affirm that, though it is "a mistake to believe that we can draw conclusions about what our values ought to be simply because we realize that they are a product of evolution," still "all that we know is that the ultimate decision about what is good or bad will be made not by individual human wisdom but by a decline of the groups that have adhered to the 'wrong' beliefs."

The difficulties posed by passages such as these, in which Hayek espouses a sort of evolutionist functionalism in social theory, are many and grave. Most obviously, what is the *criterion* for the utility which the continued existence of a social practice is evidence that it has? In his review of *Constitution of Liberty*,<sup>23</sup> Jacob Viner puts this difficulty, acidulously but fairly, when he says: "I do not see how this doctrine can be distinguished from 'social Darwinism', or from that 'historicism' which Hayek has elsewhere so persuasively warned us against. I miss a discussion of the rate of speed at which institutions of the past, like serfdom, slavery, caste, trial by torture, latifundia, religious persecution, head-hunting and so on, which at least today many regard as never having been useful, got displaced, through spontaneous forces, by 'useful' institutions." Hayek's evolutionary version of a form of rule-utilitarianism faces special difficulties, connected with those to which Viner alludes, in view of Hayek's denial of the validity of interpersonal comparisons of utility and the lack in his published writings of any proposal as to what is to be the *measure* of utility. Further, even if a presumption does hold that spontaneously grown forms of life are in some sense optimally adaptive, it will hold only (it seems to me) against the background of a liberal order in which the peaceful coexistence and nonviolent competition of forms of life is guaranteed. When the natural selection of forms of life and their associated rules and practices occurs in the form of competition *between* political orders, it seems wildly unrealistic to suppose that liberal societies always have the advantage. This is only to support

another of Viner's observations, when he remarks that "It seems feasible. . . to apply Hayek's method of speculative history to government itself, and to treat it, with all its defects and such merits as Hayek may concede it, as itself an institution which is in large degree a spontaneous growth, inherently decentralized, experimental, innovating. . . ." <sup>24</sup> Our experience of the growth of government regulation of private economic activity, which Professor Hughes has chronicled in the American context <sup>25</sup> and of which there are countless instances in the bureaucratic welfare states of Britain and Western Europe, should have taught us that (in Hayek's idiom of *cosmos* and *taxis*) the *cosmos* is not always liberal. <sup>26</sup> Bureaucratic expansionism, typically, itself exhibits a form of spontaneous order in that a specific distribution of forces emerges which no one intended and which, given the limitations of individual reason, no one could have planned and which no one fully understands.

Of course, it is open to Hayek to object that the phenomena to which I have alluded can occur only in statist systems, or in liberal orders associated with an unlimited democratic government, where only a moral tradition or a set of constitutional guarantees provides some safeguard against the abuse of the market in votes and the depredations of special interests. But Hayek himself affirms <sup>27</sup> that, even within the framework of a Hayekian liberal order, "legislative dead-ends" might arise, in which dangers to political stability would have to be abridged by the use of extraordinary powers. More fundamentally, however, Hayek's emphasis on the virtues of grown social practices is at odds with his strong liberal commitment, in that he can in consistency give no encouragement to liberal activists in stable and long-standing illiberal regimes. Reformers seeking radical changes in the economic and political institutions of the U.S.S.R., for example, could be resisted with the Hayekian argument that existing institutions represent unplanned adaptations of ancient traditions to modern circumstances. It seems that a recent reviewer is correct in saying of Hayek <sup>28</sup> that he offers his readers a foundationless liberalism, suited only to the needs of established liberal orders threatened by collectivist movements, but offering nothing to preliberal (or, for that matter, postliberal) societies.

Hayek's political thought seems inevitably, if I am not mistaken, to occupy an unstable middle ground between two competing perspectives. One perspective is that of skeptical conservatism, argued for classically in the writings of Montaigne and Pascal and exemplified in our own day in the work of Michael Oakeshott. This is an intellectual tradition which aims to show that standards of rationality are and can be no more than abridgements of traditional manners of thought and behavior, making different demands in different times and places, which can be subject to no transcendental criticism but must, in the end, be taken simply as given. The other of the two intellectual traditions between which Hayek's writings oscillate is that of classical liberalism, which issues in principles which may condemn

even the most immemorial institutions and forms of life as unjust or less than maximally productive of welfare. This is to say that the classical liberal, conceived as an exponent of the "system of principles", must always be an abolitionist. Hayek's thought cannot issue in such principles (though they are presupposed by many of his detailed arguments about policy) since, while he agrees with the natural lawyers and parts company with legal positivists in thinking that "true law" consists of *nomoi* which are discovered rather than invented, he allows no limit to the cultural variability of the *nomoi* which are thus elicited. Thus Hayek cannot avoid a relativist posture which must deprive liberal principles of much of their critical force. Further, Hayek faces in a sharp form the standard dilemma of the utilitarian reformer, inasmuch as any disturbance of time-honored arrangements is bound to undermine those reasonable expectations whose protection figures so prominently in utilitarian accounts of the general interest.

At this point it may be appropriate to try to counter a predictable objection to my argument. It will be disputed that my criticism of Hayek's thought is overschematic and insensitive both to its internal complexity and to its cultural antecedents in that it neglects the tradition of skeptical liberalism of which Hayek's philosophy is a notable contemporary example. Now I do not wish to deny that Hayek's thought may fruitfully be characterized as belonging to a modern tradition of skeptical liberalism. I aim only to stress that skeptical liberalism itself is best conceived as an adaptation of the skeptical tradition within conservative thought to a circumstance of pre-existing cultural pluralism. In this conception, the skeptical liberal reinforces appeals to political prudence as grounds for extending equal rights by a deflationary criticism of the truth-value of competing moral ideals and religious beliefs (for example). Such a form of liberal argument may well have considerable persuasive force in some circumstances—in those of the last decades of the Hapsburg Empire, perhaps, in which Hayek himself grew up—but will have less salience in societies dominated by a single uniform culture, and it will typically counsel prudent nonresistance or internal emigration when an intolerant orthodoxy has been successfully imposed on a hitherto diverse society. In other words, it has yet to be shown that a skeptical liberal has reason to attempt to promote liberty in a stable preliberal order, or to resist the orthodoxy promulgated within a successful and popular postliberal tyranny.

So far I have avoided confronting directly, or examining in any very extended way, Hayek's use of Polanyi's idea of a spontaneous order in society,<sup>29</sup> but a confrontation cannot any longer be delayed. The initial difficulties in Hayek's use of the idea are two-tiered. First, as he uses it, it appears to be a generalization of an idea whose original home is in the understanding of the market process. In economic life, at any rate when markets are unhampered, we can find a clear sense for the idea that a tendency to the coordination of activities may be observed. Where the price mechan-

ism does not operate, however, it is not so clear what are the processes which might bring about this equilibrium. Secondly, as Hayek has himself emphasized, if a tendency to equilibrium is observable in the market process, it is strictly contingent on the ability of entrepreneurs to learn and profit from their mistakes. As Lachmann and others in the Austrian tradition of economic thought have observed, however, there may well be circumstances in which this learning process fails to take place. If the spontaneous coordination of activities may fail even in the marketplace, how strong is the presumption that it will occur elsewhere? Now I am not denying and would like indeed to emphasize, that the order emerging from voluntary human transactions will typically be longer-lasting and more resilient to disturbance than the order (if order it be) that is imposed by violence. Nor do I intend any support for interventionist policies aimed at restoring equilibrium to unbalanced or volatile markets, since typically such policies aggravate rather than abate underlying disequilibria. Further, it must be acknowledged that Hayek's thesis that the complex, self-maintaining institutions we find in society are not normally the product of conscious design embodies an insight of fundamental importance and one which a constructivist approach to society has done much to suppress. Finally, Hayek's emphasis on the spontaneous character of social order will have done us a service if it helps deflate the pretensions of social engineering. Notwithstanding these virtues, 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. Since Hayek recognizes that market institutions themselves emerge spontaneously, this is a defect of some practical importance in his treatment of the economic foundations of the liberal order.

There are in Hayek's view, indeed, intimations that he is inclined to accord some plausibility to the view that liberal orders are subject to large-scale and on occasion self-destructive instability, and, to this extent, that he is prepared to allow that spontaneous order emerges only in rather restricted milieus. I refer here to Hayek's apparent endorsement of the idea, first intimated in modern times in the writings of Smith and Ferguson and restated in Schumpeter's *Capitalism, Socialism and Democracy*, that economic liberalism emerged against the background of strong moral traditions which further development could not help eroding but whose maintenance is indispensable for the stability and even the survival of the liberal order. This is the idea, now in wide currency owing to the writings of Irving Kristol and Daniel Bell, that capitalism cannot avoid squandering the moral capital on which it lives. It should be noted that this is a much broader thesis than another, also endorsed by Hayek and argued for in a wide variety of liberal writings (such as those of Tocqueville, J.S. Mill, H.L. Mencken, and Salvador de Mandariaga) that liberal institutions cannot coexist with unlimited majoritarian power. This latter idea, running throughout the modern liberal

tradition, is a thesis essentially about the economic contradictions of democracy rather than about the cultural contradictions of capitalism. Without necessarily endorsing the strong thesis that liberal society is somehow inherently self-destructive, a thesis to which I will try to respond in the next and last part of my argument, I would like to comment that Hayek's conservative critics are right in their judgment that liberal economy emerges morally naked in Hayek's account of it. Indeed, without the support of a widespread sense of justice embodied in an intellectually cogent conception of individual rights, the prospects for the liberal order certainly are bleak.

Hayek's awareness of some of these difficulties may be gleaned from his account of the different sorts of individualism, "true" and "false".<sup>30</sup> He maintains that the kind of radical individualism associated with Humboldt and which informs Mill's *Liberty*, an individualism infused with anticustom radicalism and with hostility to uncritical reverence for inherited moral traditions—such individualism, Hayek warns, constitutes a threat to liberal civilization. For intolerance of uncritical deference to tradition precipitates a gradual but almost irresistible decay of the unconscious forbearances without which the liberal order becomes unworkable and a Hobbist sovereign inevitable. Hayek comes close at the point to explicitly disavowing the Popperian idea that the liberal order is an open society in which all things are held permanently in question and to adopting instead the view, defended by Polanyi, Röpke and Barth, that some moral traditions at least ought to be exempt from continual criticism, if liberal society is to prosper. We find in John Stuart Mill what is in many ways a more lucid and sensitive treatment of these issues, when in the *Logic* he identifies the conditions essential to social stability. Contrary to many hostile commentators, there is nothing in the account of social stability given in the *Logic* which is incompatible with the doctrine of the *Liberty*. The doctrine of the *Liberty*, like that of the *Logic*, is that tolerance is limited (and defined) by respect for others' rights. Within these limits, however, the claims of "individuality"—of personal taste and self-development—are to be honored and supported. It is the absence in Hayek's thought of any coherent conception of moral rights which motivates his melancholy conservatism and accounts for his opposition to moral individualism.

I do not want to say that Hayek's emphasis on the role of invisible-hand processes in forming social institutions (an insight directly traceable to the founders of the Austrian school and put to work in the Misesian account of the emergence of money) is without interest or value. Apart from its explanatory power, it is helpful in imagining how a society without social engineering would manage itself. Nozick's recommendation of filter as opposed to design devices<sup>31</sup> as especially appropriate to the meta-utopian framework and as capturing a social analogue to biological evolution by natural selection, clearly draws on considerations very similar to Hayek's "argument from ignorance." The ignorance which legitimates an unplanned

order is not one that can be diminished substantially by scientific advance; rather it is the irremediable ignorance resulting from the practical and inevitably dispersed character of most of the knowledge on which we all rely. Nozick's application of this idea to the design of his meta-utopian framework is helpful, also, incidentally, in showing how anomie and social agoraphobia could be avoided in a liberal order. For, though the meta-utopian framework itself supplies individuals with no moral traditions which could determine how they are to live their lives (apart from the negative injunction forbidding violation of others' rights), the many communities which the liberal order contains might each be as moralistic and paternalistic as any lost soul could wish. Each might be intensely conservative about its cherished moral traditions, without there being any moral tradition common to them all. In this construction, each man's individuality, in principle limited only by a libertarian self-constraint, would in practice have a narrower range of options framed by available communities within the liberal order: the actual range of men's options would not be fixed once for all, however, in that new ideas and new products on the marketplace would continually alter it. A wager on the assumption that such a polymorphous society would be more (not less) stable than our own, strikes me as being not an unreasonable one. In general, Nozick's conception of the meta-utopian framework has considerable advantages over Hayek's construction. It preserves the idea that, whereas a society in which there are many available lifestyles does not thereby expand freedom (which should be understood as denoting merely the absence of force and of the threat of force), it does extend men's options and so encourage "experiments in living." Further, though Nozick does endorse an argument from ignorance in support of his conception, it is not (as in Hayek's case) the fundamental consideration in support of it. For Nozick the ultimate justifying considerations for the liberal order derive from a conception of rights. For Hayek, lacking such a theory, there is always the danger that skepticism may be turned against the liberal order itself. His admonitory remarks on the self-destructive character of liberal societies may accordingly represent a failing of his own defense of liberalism at least as much as they reflect the real-world dangers captured in theories of "the fragility of liberty."

#### 4.

Hayek's thought contains much of great value which I have not discussed. His recent critique<sup>32</sup> of current ideas of social justice, with its supporting distinctions between catallaxy and economy and its account of the catallaxy as a cosmos in which individuals pursuing incommensurable ends produce unpredictable dispersions of income and wealth, identifies an insuperable obstacle to the realization of some at least of the dominant distributive conceptions. His contributions to the calculation debate<sup>33</sup> have even now

failed to produce their full impact on economists' discussions of resource allocation within socialist orders and in *dirigiste* regimes. His advocacy of bicameralism,<sup>34</sup> while it is in some measure marred by a tone of constructivist utopianism of the sort he elsewhere deplors, renews the liberal search for constitutional safeguards of liberty. His contributions to the revisionary history of early capitalism<sup>35</sup> have given further momentum to the movement initiated by Hartwell, which seeks to supplant or at least to drastically modify accepted beliefs in the area of economic history. Finally, Hayek's forceful statement of the Austrian objections to macroeconomic aggregation of indefinitely complex relationships between different factors of production has been a significant contribution to current debate in several cases of policy and inquiry.

My purpose in this paper has not been to assess these contributions, but simply to indicate several related kinds of difficulties in Hayek's social thought in virtue of which it must fail as a comprehensive and fully viable liberal social philosophy. I have contended that Hayek's thought lacks a well-conceived view of justice and of moral rights, and I have suggested that Hayek's foredoomed attempt to marry individualism with traditionalism is partly to be accounted for by reference to this defect in his thought. For classical liberals and radical libertarians, the weakness of Hayek's thought should support the search for a theory of justice and moral rights. The final failure of Hayek's system of ideas suggests that classical liberals can afford neither to neglect the hazardous enterprise of normative political theory nor to ignore the questions in epistemology and metaphysics in which such theory is inevitably implicated.

## NOTES

1. Published commentary on F. A. Hayek's social philosophy is as yet somewhat exiguous. The following collections are useful: *Agenda for a Free Society*, ed. Arthur Seldon and published for the Institute of Economic Affairs (London: Hutchinson, 1961), esp. papers by J. W. N. Watkins and H. B. Acton; *Roads to Freedom*, ed. Erich Streissler (London: Routledge and Kegan Paul, 1969); and *Liberty and the Rule of Law*, ed. Robert L. Cunningham (College Station, Texas: Texas A & M University Press, 1978), especially papers by Machan, Miller, Raz and Sartorius.

Three important reviews of Hayek's *Constitution of Liberty* are those of J. C. Rees, "Hayek on Liberty," *Philosophy* (1961); Lionel Robbins, "Hayek on Liberty," in Robbins, *Economics and Politics* (London: Macmillan, 1963); and Jacob Viner, "Hayek on Freedom and Coercion," *Southern Economic Journal* 27 (January 1961): 230-36.

Other published papers relevant to Hayek's political thought are Morris M. Wilhelm, "The Political Thought of F. A. Hayek," *Political Studies* 20 (June 1972): 169-84; Anthony de Crespigny, "Freedom for Progress," in *Contemporary Political Philosophers*, ed. A. de Crespigny and Kenneth Minogue (London: Methuen, 1976); Joseph Raz, "The Rule of Law and Its Virtue," *Law Quarterly Review* 93 (April 1977): 185-211, reprinted in Cunningham, *Liberty and Rule of Law*; William P. Baumgarth, "Hayek and Political Order: The Rule of Law," *Journal of Libertarian Studies* 2 (1978): 11-28; Ronald Hamowy, "Law and the Liberal Society: F. A. Hayek's Constitution of Liberty," *ibid.*,



pp. 287-98, a paper which draws on Hamowy's two earlier critiques of Hayek's social philosophy in "Hayek's Concept of Freedom: A Critique," *New Individualist Review* 1 (April 1961): 28-31, to which Hayek replied in his "Freedom and Coercion: Some Comments on a Critique by Mr. Ronald Hamowy," *New Individualist Review* 1 (Summer 1961), reprinted in Hayek's *Studies in Philosophy, Politics and Economics* (London: Routledge and Kegan Paul, 1967), pp. 348-50, and for Hamowy's most systematic and extended discussion, "Freedom and the Rule of Law in F. A. Hayek," *Il Politico* (1971): 349-77; A. A. Shenfield, "The New Thought of F. A. Hayek," *Modern Age* 20 (Winter 1976): 54-61.

Two important recent works on Hayek's social ideas are: N. P. Barry, *The Social and Political Thought of F. A. Hayek* (London: Macmillan, 1979); and Samuel Brittan, "Hayek and the New Right," *Encounter* 54 (January 1980): 30-46.

Two as yet unpublished papers have helped me. They are: Jeremy Shearmur, "Libertarianism and Conservatism in the Work of F. A. von Hayek," originally presented to the Carl Menger Society in London, 1976; and T. E. Flanagan, "F. A. Hayek on Property and Justice," presented to the Theory of Property Summer Workshop at the University of Calgary, July 7-14, 1978.

Two books of special relevance to Hayek's philosophy of law are Bruno Leoni, *Freedom and the Law* (Princeton, N. J.: D. Van Nostrand, 1961); and Kenneth Davis, *Discretionary Justice: A Preliminary Inquiry* (Baton Rouge, La.: Louisiana State University Press, 1969).

Three useful books in understanding Hayek's methodological ideas are: Edwin G. Dolan, ed., *The Foundations of Modern Austrian Economics* (Kansas City: Sheed and Ward, 1976), esp. papers by Rothbard, Kirzner and Lachmann; Louis M. Spadaro, ed., *New Directions in Austrian Economics* (Kansas City: Sheed Andrews and McMeel, 1978), esp. papers by Lachmann and Spadaro; and Gerald P. O'Driscoll, Jr., *Economics as a Coordination Problem* (Kansas City: Sheed Andrews and McMeel, 1977).

2. Rees, "Hayek on Liberty," p. 347.
3. K. R. Popper, *The Poverty of Historicism* (London: Routledge and Kegan Paul, 1961), pp. v-vii.
4. Hayek, *Studies in Philosophy*, p. 60. Hayek develops his argument further when, having observed that "it is impossible that our brain should ever be able to produce a complete explanation of the particular ways in which it classifies stimuli," he goes on to suggest that "this would follow from what I understand to be Georg Cantor's theorem in the theory of sets according to which in any system of classification there are always more classes than things to be classified, which presumably implies that no system of classes can contain itself," *ibid.*, p. 61. He comments further that "It would thus appear that Gödel's theorem is but a special case of a more general principle applying to all conscious and particularly all rational processes, namely the principle that among their determinants there must always be some rules which cannot be stated or even be conscious," p. 62.
5. Hayek, *Law, Legislation and Liberty*, 3 vols. (London: Routledge and Kegan Paul, 1973-79), 2:59-60.
6. In *The Sensory Order* (London: Routledge and Kegan Paul, 1952), section 89.8, Hayek puts his view most clearly: "Our conclusion, therefore, must be that *to us* mind must forever remain a realm of its own which we can know only by directly experiencing it, but which we shall never be able fully to explain or to 'reduce' to something else." For Hayek's explicit acknowledgement that the methodological mind-body dualism he embraces is compatible with a physicalist ontology, see section 8.87.
7. Stuart Hampshire, *Thought and Action*, (London: Chatto and Windus, 1970), p. 233. Anthony de Crespigny, *Contemporary Philosophers*, p. 54, has noted the affinity between Hayek's rejection of a fixity view of human nature and Hampshire's view as expressed in the latter's "Uncertainty in Politics," *Encounter* (January 1957): 35. See also Hampshire's "On Having a Reason," chap. 5 of G. A. Vesey, ed., *Human Values*, Royal Institute of Philosophy Lectures, vol. 11, 1976-77 (Hassocks, Sussex, U.K.: Harvester Press, 1978), p. 88. There Hampshire speaks in Hayekian fashion of "a Cartesian error, which was not consistently Descartes', and which consists of assuming a necessary connection between thought on the one side and consciousness and explicitness on the other..."

8. See J. W. N. Watkins, "Three Views of Freedom," in R. S. Peters, ed., *Nature and Conduct*, Royal Institute of Philosophy Lectures, vol. 8, 1973-74 (London: Macmillan, 1975).
9. A statement by Ludwig M. Lachmann, which G. L. S. Shackle uses as the epigraph to his book, *Epistemics and Economics* (Cambridge: Cambridge University Press, 1976), puts the point well: "As soon as we permit time to elapse we must permit knowledge to change, and knowledge cannot be regarded as a function of anything else." Lachmann, "Professor Shackle on the Economic Significance of Time," *Metroeconomica* 11 (April/August 1959): 64-73, reprinted in Lachmann, *Capital, Expectations, and the Market Process*, ed. Walter E. Grinder (Kansas City: Sheed Andrews and McMeel, 1977), pp. 81-93. Shackle has himself (p. 239) put the point more dramatically: "Rationalism, the belief that conduct can be understood as part of the determinate order and process of Nature, into which it is assimilated in virtue of the fact that men choose what is best for them in their circumstances, is a paradox. For it claims to confer upon men freedom to choose, yet to be able to predict what they will choose. . . for the sake of preconconciliation of choices, and also for its own unfathomable possibilities, the future must be assumed away. Thus the value-construct describes free, preconconciled, determinate choices in a timeless system. Beauty, clarity and unity are achieved by a set of axioms as economic as those of classical physical dynamics. Can the real flux of history, personal and public, be appropriately understood in terms of this conception? The contrast is such that we have difficulty in achieving any mental collation of the two ideas. Macbeth's despair expresses more nearly the impact of the torrent of events."
10. See Hayek, "The Use of Knowledge in Society," in *Individualism and Economic Order* (London: Routledge and Kegan Paul, 1949), chap. 4.
11. Hayek, *Law, Legislation and Liberty*, 3:166.
12. Gilbert Ryle, "Knowing How and Knowing That," *Proceedings of the Aristotelian Society*, 46 (1945-46): 1-16.
13. Michael Oakshott, "Rational Conduct," in *Rationalism in Politics* (London: Methuen, 1962), esp. pp. 97-100.
14. Michael Polanyi, *The Tacit Dimension* (London: Routledge and Kegan Paul, 1967).
15. Hayek would surely concur with L. L. Whyte, who observes in his *The Unconscious Before Freud* (London: Tavistock Publications, 1962), p. 5, "We still tend to assume that great achievements are possible only by conscious selection of an aim and conscious attention to the means of accomplishing it. Certainly that assumption makes the human achievement incredible. . . . The strangeness of our own history disappears once we assume that the same kind of ordering process that guides their [crystals, plants, animals] growth also guided the development of man and does so still. Man can order, and even communicate, before he understands." Further (pp. 8-9): "The European and Western ideal of the self-aware individual confronting destiny with his own indomitable will and sceptical reason as the only factors in which he can rely is perhaps the noblest aim which has yet been accepted by any community. . . . But it has been evident that this idea was a moral mistake and an intellectual error, for it exaggerated the ethical, philosophical and scientific importance of the awareness of the individual."
16. Thus in *Law, Legislation and Liberty*, 2:25, Hayek says: "Particular aspects of a culture can be critically examined only within the context of that culture. We can never reduce a system of rules or all values as a whole to a purposive construction, but must always stop with our criticism of something that has no better grounds for existence than that it is the accepted basis of the particular tradition." The skeptical and relativist implications of this statement should need no special emphasis.
17. Rush Rhees, *Without Answers* (London: Routledge and Kegan Paul, 1969), p. 49. See M. Oakshott, *Rationalism in Politics*, p. 4: "The assimilation of politics to engineering is, indeed, what may be called the myth of rationalist politics." For the role of the nature-convention dichotomy in supporting this myth, see Peter Winch, "Nature and Convention," *Proceedings of the Aristotelian Society* 60 (1959-60): 231-52, reprinted as chap. 3 in Winch, *Ethics and Action* (London: Routledge and Kegan Paul, 1976). For Hayek's acknowledgement that, while there may be affinities between his own conception

of immanent criticism and Popper's piecemeal social engineering, there are more important differences, see *Law, Legislation and Liberty*, 2:157, fn. 25, where he says "[piecemeal social engineering] suggests to me too much a technological problem of reconstruction on the basis of the total knowledge of the physical facts, while the essential point about the practicable improvement is an experimental attempt to improve the functioning of some part without a full comprehension of the structure of the whole."

18. See the references to Hamowy in note 1, *supra*.
19. See Leoni, *Freedom and Law*.
20. Reprinted in Hayek, *Studies in Philosophy*, pp. 178-94. The quoted passage occurs on p. 194.
21. Hayek, *The Constitution of Liberty* (London: Routledge and Kegan Paul, 1960), p. 54.
22. *Ibid.*, p. 433, n. 2.
23. Viner, "Hayek on Freedom and Coercion," p. 235.
24. *Ibid.*
25. See Jonathan R. T. Hughes, *The Governmental Habit* (New York: Basic Books, 1977), for an account of this process.
26. For a discussion of a form of spontaneous social order that is more thoughtful and candid than Hayek's, see chap. 31 of David Friedman, *The Machinery of Freedom* (New Rochelle, N.Y.: Arlington House, 1978), where it is argued that the laws emerging from anarcho-capitalist order need not always have a libertarian content.
27. See Hayek, *Law, Legislation, and Liberty*, 1:88-89, and 3:124-26.
28. David Miller, Review of *Law, Legislation and Liberty*, Vol. II: *The Mirage of Social Justice* in *British Journal of Law and Society* IV (Summer 1977): 142-45.
29. Hayek acknowledges his use of Polanyi's conception in *Constitution of Liberty*, p. 160.
30. See Hayek's seminal essay on "Individualism: True and False," in his *Individualism and Economic Order*, chap. 1.
31. See for this the last section of Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), esp. pp. 312-17.
32. Hayek, *Law, Legislation and Liberty*, vol. 2.
33. See the essays collected in Hayek, *Individualism and Economic Order*.
34. See Hayek, *Law, Legislation and Liberty*, vol. 3.
35. See the essays collected in Hayek, *Capitalism and the Historians* (London: Routledge and Kegan Paul, 1954).