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Liberty between the Lines in a Statist and Modernist Age: Unfolding the Adam Smith in Friedrich Hayek

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Abstract: This article interprets Friedrich Hayek as having been constrained by the statism and modernism of his times, and as writing in a way that obscured some of his central ideas. I suggest that between the lines we can see a focus on liberty understood hardily as *others not messing with one's stuff* – even though Hayek in *The Constitution of Liberty* defined *liberty* in ways that tended to obscure this hardy definition, and Hayek often used code words like “competition,” “the market,” and “spontaneous” where “liberty” or “freedom” would have been plainer, albeit more offensive to the culture. Seeing the hardy definition of liberty between the lines in Hayek enables us to see his focus on the liberty principle and his case for a presumption of liberty. That focus, then, enables us to interpret his thoughts on spontaneous order, with its distinction between noncentral and central decision making, for the liberty principle enables us to see that certain frames of that distinction are focal in Hayek. In its focal frame, the word “spontaneous” is essentially code for free or freer. Meanwhile, “order,” in context, usually carries a judgment of better, more desirable, or better coordinated. Such reading of Hayek, I suggest, is true to Adam Smith, who expounded a central message that by and large the liberty principle holds, and that it deserves the presumption in our culture and politics.

Keywords: Spontaneous order, liberty, Friedrich Hayek, Adam Smith, invisible hand.

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In December 2009 I participated in an exchange at Cato Unbound on Friedrich Hayek and spontaneous order. The lead part was taken by Timothy Sandefur, a senior staff attorney at the Pacific Legal Foundation and author of *Cornerstone of Liberty: Property Rights in 21st Century America* (2006) and *The Right to Earn a Living: Economic Freedom and the Law* (2010). Sandefur's lead essay in the exchange, “Four Problems with Spontaneous Order,” insightfully questions the coherence or operability of the modifier “spontaneous” and, at least implicitly, whether the noun “order” has any particular meaning.

Focusing especially on institutions, conventions, and rules, Sandefur suggests that whether their emergence is “spontaneous” is indeterminate, as it depends on the frame with which we view the matter, and that renders indeterminate the drawing of any practical guidance from Hayek’s discourse.

In the exchange, Sandefur makes declarations for rationalism and idealism that succinctly express his impetus against Hayek. Sandefur writes as though there is Ethics, which tell us what is Right, and then there are “positive” understandings, to which we may then apply our ethical conclusions.

I more see it as one big conversation, with is and oughts naturally and tacitly interwoven and easily translated one into the other. So I can’t really enter in Sandefur’s mode of thought.

Sandefur concludes his lead essay: “Nothing a planner can do – and everything a planner can do – would violate Hayek’s precepts.”

But here I’d change “precepts” to “statements.”

Between the Lines in a Modernist Age

By 1930, largely by way of Ludwig von Mises, Hayek had come round to a quite firm classical liberalism. At the heart of any true liberal’s thinking are two notions: the distinction between voluntary and coercive action, and the maxim that freer is better. But he didn’t lead with these liberal notions. He sensed problems with them as simple formulas, and he tried to trace out warrants that would deliver them as implications. Much of his resulting work could be termed excavation, yielding a lot of insight that did indeed help to develop the warrants for the presumption of liberty. Within that work there was a lot of vagueness, and some circumlocution and tenuous reasoning, even gerrymandering and inconsistency, all inviting necessary criticism like that which Sandefur provides.

I’m a sucker for Hayek, however, and tend to forgive the shortcomings. I can’t help seeing him as an historic figure, struggling desperately after the collapse and vanquishing of liberalism, the professionalization of scholarship, and the fierce advance of modernism. That hardy distinction between voluntary and coercive action – a

distinction I here refer to as *The Distinction* – was anathema to contemporary intellectuals, and today remains a matter of deep pervasive taboo. Western civilization’s most precious jewels –the semantics of liberalism, the liberal lexicon – have been systematically confused and degraded.

Hayek was aristocratic in upbringing and genteel in temperament, destined to make his thinking palatable, acceptable. In *The Constitution of Liberty* he defined liberty not properly, not hardily, as *others not messing with one’s stuff*, but vaguely and inconsistently, mostly in terms of some of its appealing correlates. Had he, like Herbert Spencer, William Graham Sumner, and Mises, worked plainly and explicitly from *The Distinction* in developing his ideas, his fate would have been very different – well, very much like that of Spencer, Sumner, and Mises. Strategic or not, Hayek’s circumlocutions may have been for the best.

To some extent Hayek wrote in code. When he wrote of “custom” being between instinct and reason, he mainly or often meant liberal principles; of “competition as a discovery procedure,” freedom as a discovery procedure; of “the market,” free enterprise; of noncentral versus central decision-making, freer versus less free. All liberals still practice such code when circumstances warrant it. Between the lines, then, is focus on *The Distinction*.

Sandefur is right that we apply the noncentral-central distinction at different frames, but some frames are more focal than others. Though the noncentral-central distinction can be applied to skating in the roller rink or tasks within the firm, Hayek the political thinker is often referring specifically to a frame of freer versus less free. “Spontaneous” often means free (or freer). I would second Sandefur’s criticism that Hayek unduly denied and downplayed the rationalistic deployment of the liberty principle, for it is a powerful analytical fulcrum and engine of inquiry – three cheers for Jeremy Bentham’s rationalistic challenge to Adam Smith on usury, and for Walter Block’s defenses of the undefendable! – but I don’t have difficulty salvaging much cogency from Hayek’s discourse and forgiving much of his obscurantism.

Then there is the second word, “order.” Sandefur raises important issues, but goes too far. In one sense, order is any old order: Even right after the deck is repeatedly shuffled, the cards are in an order. Strictly speaking, spontaneous-order talk frames some

concatenation and says merely that, by some relevant comparison, the decision-making is noncentral. But what makes spontaneous order especially intriguing is when – as in the concatenation flowing into Smith’s woolen coat or Leonard Read’s pencil, or in the spontaneous processes by which language, money, and other beneficial conventions emerge – that order exhibits coordination much better than would come from relevant more-centralized approaches. Such an order is, in Smith’s words, “not originally the effect of any human wisdom, which foresees and intends that general opulence to which it gives occasion” (WN, 25). “Spontaneous order,” *per se*, does not imply pleasing concatenate coordination, but *in context it typically does*. Sandefur misses that or looks beyond it – as when he writes of accounting services spontaneously answering demands induced by tax law. A complicated tax code and heavy burden produces a less pleasing, less well coordinated social concatenation.

Back to Adam Smith

I think that concatenate coordination is an evaluative affair, one based on sensibilities we ascribe to the being we imagine to behold the concatenation in question. If we refer to the concatenation within a firm, it is natural for the beholder to correspond to the owners, and to assume that the criterion behind coordinativeness is honest profits – a fairly precise and accurate rule. But when Hayek, Ronald Coase, and many others took the idea of coordination beyond the firm, the precision and accuracy melted away. For the concatenation of the great skein, the imagined beholder is much less clearly defined. That did not stop them, however, from talking about coordination of the vast concatenation. Concatenate coordination invokes a Smithian sort of beholding, that of a figurative being (whose hands are invisible!). In talking about concatenate coordination we develop ideas of the sensibilities proper to such a being. Those sensibilities are, as Smith put it, “loose, vague, and indeterminate” – by which he did not mean purely arbitrary or lacking any standard at all. Smith likened such ethical rules to “the rules that critics lay down for the attainment of what is sublime and elegant in composition” (TMS, 175, 327). Picking up on Smith, Lon Fuller (1969) refers to such rules as the *morality of aspiration* – making becoming use of what is one’s own. Such rules are still rules, and they are still

instructive. In talking coordination, we learn both about mechanisms on the ground and about the sensibilities we should hold and uphold. Those larger sensibilities are where we may find warrant for the presumption of liberty – and for the exceptions we would make to it. Liberty is a political grammar and commutative justice a social grammar, to be associated with what Fuller called the *morality of duty* (refrain from what is another's).

In Hayek's day, the Smithian approach was unacceptable in several respects. Science, the modernists said, was about precision and accuracy, so one could not fess up to the loose, vague, and indeterminate. Second, science was value-free: positive, not normative. Our social scientists, it was thought, are not here to help us explore and cultivate our ethical sensibilities. Third, the Smithian approach is about developing important truths that are true by-and-large, not categorically. Fourth, the most important of those truths, or verities, revolve around the liberty principle and its contravention, matters surrounded by taboo. Fifth, the development of such nexus of learning doesn't fit the modernist image of a progressive research program, epistemically conquering the cosmos and administered by specialists and expert-advisors.

Hayek was significantly out of step with the modernists (including Mises, by the way). In his day – and today – Smithianism had to be somewhat covert; in fact, *The Theory of Moral Sentiments* was long neglected. And, during the twentieth century, even talk of “coordination” (in the sense of concatenate coordination) ebbed away, as notions of “efficiency,” “optimality,” and “social welfare,” each carrying an ostentatious semblance of precision, pervaded the discourse, at least in economics.

Still, in Hayek, Coase, Fuller, Michael Polanyi, and others, sometimes somewhat esoterically, and nowadays more exoterically in folks like Russ Roberts, Tyler Cowen, Don Boudreaux, James Gwartney, Robert Lawson, James Otteson, Richard Epstein, especially Deirdre McCloskey – to mention a few Americans, haphazardly – one can find something more sensible, the Smithian way.

The Mind-Society Spiral

I believe I have made honest use of what I know about the world in which we live. The reader will have to decide whether he wants to

accept the values in the service of which I have used that knowledge.

- Friedrich Hayek, Preface, *The Constitution of Liberty*, UChicagoP, 1960, p. 6.

In his response to me, Sandefur writes that Hayek's "arguments ... just don't work as a normative critique of economic and legal planning." They don't work as critique of every case of such planning, but, when we enter into Hayek's liberal foci (The Distinction, the liberty maxim), they work against much of the statist folly and misadventure of his day and ours.

Sandefur posits walled communities and pleas for free exit, that glorious principle. And then asks: "And where does that principle come from?" Well, it must go way back, but, proximately, it comes from Sandefur. Sandefur cites $system_i$ – the nexus and legacies of the walled communities – and then adds himself (and, accordingly, the legacies he carries), augmenting $system_i$ and yielding $system_{i+1}$. No quarrels there. But if you want to do the spontaneous-vs.-rationalistic thing, you get a spiral – no First moment, no Last moment. Others put it in terms of circles of "we," again a sequence in which each circle gets a subscript.

Sandefur quotes Hayek on the embeddedness of the mind, and infers Hayek to be saying that "patterns of thought ... cannot stand outside the system and criticize it." But speaking of "the system" is wrongheaded; we need subscripts on "system," and it is wrong to infer Hayek to be saying someone cannot stand with at least one foot outside $system_i$ and criticize it. Such is the Janus-headed way of the Smithian ideal of spectating impartially: One face spectating each part sympathetically, the other face turning away from each part and assessing, weighing, and aggregating the parts (cf. Forman-Barzilai 2005). Sandefur's critique is helpful as caution against some of Hayek's muddy swirls and dubious ratiocinations, but not as challenge to his central drift.

In his final paragraph, Sandefur writes, "there is no conceptual distinction between spontaneous and constructed orders *such that* constructed orders are bad and

spontaneous orders good.” As a matter of “every,” that’s correct. But when we mind Hayek’s liberal foci, what about *preponderantly*?

In most policy conversations, an enlightened view holds that, mostly, more freedom, good, more coercion, bad. Hayek negotiated a way up and stood tall for that presumption.

1 ½ Cheers for Sandefur’s Impetus

But in an important respect I second Sandefur’s stand for rationalism, and, correspondingly, some dissatisfaction with Hayek.

As I see it, we organize classical liberal thought as a web of statements. Those more central to the web may be called *verities* –important by-and-large truths.

The central verity of liberalism/libertarianism concerns the *liberty principle*, which says: In a choice between a dyad of policy reforms (one of which may be no reform at all), the reform that ranks higher in liberty is the more desirable.

The central verity of liberalism/libertarianism may be called the *liberty maxim*, which says: **By and large, the liberty principle holds.**

If Sandefur would drop the “by and large,” making the liberty principle the central verity of liberalism/libertarianism, then I think he’s mistaken.

But that aside, I, too, see the liberty principle as an analytic fulcrum and engine of inquiry. The liberty principle deserves the presumption, placing the burden of proof on the interventionists, even when they are defending the status quo. I favor that some – not all – liberals go on the offensive swinging the liberty principle at most anything standing in its way. I hazard to say that, in a significant way, Hayek thought so, too. He wasn’t one of those suited to proceeding in such fashion. But when Walter Block asked him to contribute a Foreword endorsing Block’s *Defending the Undefendable*, Hayek graciously did so and tipped his hat to Block’s regimen of “shock therapy.”

The approach – working off the liberty principle – is, however, often less patent and elementary than some think. In many areas of policy there are issues of disagreement between direct and overall liberty (for the distinction, see Klein and Clark, forthcoming). In those troublesome areas, if we define the liberty maxim in terms of direct liberty

(which I think we usually do), the “by and large” qualification grows in significance. If we define it in terms of overall liberty, its application becomes much fuzzier. (Did bailing out the banks augment or reduce overall liberty? Did the US’s pitching in against Hitler augment or reduce overall liberty?)

Sandefur, then, usefully points out problems, but, when we adjust our viewpoints, Hayek and “spontaneous order” come through quite OK, perhaps even with new luster.

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