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13 Hayek on justice and the order of actions

INTRODUCTION

In this chapter I provide a constructive account of F.A. Hayek’s views on justice.¹ Hayek does not have a thoroughly developed and persuasive theory of justice. (Who does?) Nevertheless, I hope to show that Hayek has interesting and illuminating things to say about justice – especially about the justification of the rules of just conduct – and that his views about justice play a more central role in his evolved teaching than has generally been recognized. The rules of just conduct are essentially the fundamental norms compliance with which generates peaceful coexistence and mutually beneficial coordination in large-scale pluralistic societies in which (almost) every individual comes into contact with and interacts with many individuals who are unlike him himself in circumstances, knowledge, skills, preferences, and personal codes of value.² Although the particular articulation of these norms will vary with time and place, they are essentially general prohibitions against trespass on persons and their liberty and property and against violations of persons’ contractual rights. I shall maintain that Hayek rejects anything that can appropriately be called a utilitarian vindication of these norms and proposes an alternative teleological [but non-utilitarian] justification for rules of just conduct. I do not claim that everything that Hayek says about justice and the rules of just conduct fits into the specific account that I shall offer.

I shall take Hayek’s three-volume work, Law, Legislation, and Liberty (1973; 1976b; 1979) as my primary text. This work is Hayek’s culminating pronouncement in social and legal theory,³ and the first two volumes of this work, Rules and Order (RO) and The Mirage of
Social Justice [MS]}, together provide Hayek's most sustained examination of the rules of just conduct and their possible rationales. We should note at the outset that the general subtitle of Law, Legislation, and Liberty is, A New Statement of the Liberal Principles of Justice and Political Economy. Since these volumes do not even attempt to provide a new statement of principles of political economy, the point of the subtitle must be that Law, Legislation, and Liberty offers a new statement of liberal principles of justice. Hayek says as much in his general introduction. He there characterizes his project as a new effort to ground liberal constitutionalism. This effort must overcome the problems to which past liberal constitutionalism has succumbed; and the most fundamental reason for the unraveling of past liberal constitutionalism has been "the loss of belief in a justice independent of personal interest" [RO, p. 2]. So any new effort must center on a new vindicating statement of liberal principles of justice. This new statement, I maintain, turns upon the identification of a special justifying telos for the rules of just conduct, namely, the abstract order of actions that will be manifested in some particular but unpredictable way whenever there is general compliance with those rules. This abstract order of actions is the pattern or structure of peaceful coexistence and cooperative interaction that respect for these rules facilitates. This "guiding conception of the overall order to be aimed at is ... not only the indispensable precondition of any rational policy, but also the chief contribution that science can make to the solution of the problems of practical policy" [RO, p. 63].

I will proceed as follows: in the second section, I recount some of Hayek's basic insights about social order and law. According to Hayek, the "great tragedy of our time" has been the "destruction of values by scientific error"—especially social-scientific error about the nature of social order and law. This "scientific error tends to dethrone" the values which are "the indispensable foundation of all our civilization" [RO, pp. 6-7]; but the correction of this error will re-enthroned these vital values. In the third section, I distinguish among various forms of utilitarian justifications for rules of just conduct and distinguish between all utilitarian justifications and non-utilitarian teleological [telic] justification. Employing these distinctions on Hayek's behalf, I argue in the fourth section that he rejects all types of utilitarian justification and moves instead to a quite different telic justification of those norms. In the fifth section, I further describe this telic justification, especially the telos that corrected social science establishes as the rational end of social norms and their enforcement.

THE GREAT SOCIETY VERSUS THE DESIGNED SOCIETY

We need to begin by considering briefly Hayek's understanding of the liberal individualist order that has arisen in the west in the modern era and of the structure of rules that is indispensable to this social order. The liberal individualist order, which Hayek calls the "Great Society," is an immensely complex network of highly variegated interactions and relationships among individuals and the associations that individuals form in the pursuit of their diverse goals. The complexity of this network and its capacity to advance the varied ends of those who participate in it arise from the freedom that each of its members enjoys to pursue his own ends in his own chosen way—informed by his own particular understanding of his values, circumstances, and opportunities for value-enhancing voluntary interactions with other members of society. The Great Society, therefore, is founded upon respect for individual freedom—understood as ranging over both "personal" and "economic" liberties. The legal order of the Great Society is more or less limited to the articulation and enforcement of negative general rules that prohibit each agent from infringing upon the lives, personal liberties, estates, and particular contractual claims of other individuals. Indeed, for Hayek, to be free is to live under the protection of—but, also, under the constraints of—such general rules. This freedom and this correlative abstract order of rules are the two sides of the coin which is the crucial facilitating currency for the complex and rewarding concrete social and economic order that is manifest at any given time within the Great Society.

The Great Society is composed of individuals who differ from one another in their personal values, aspirations, and commitments, in their convictions, knowledge, and beliefs, in their social and economic skills and capacities, and in their particular social and economic circumstances. Yet, remarkably, they are brought together in peaceful and mutually beneficial relationships by the articulation and enforcement of rules that—whatever their specific
details - preclude gains from trespass and plunder, protect individuals in their possession and chosen use of the fruits of their invested labor, forbid violation of contractual undertakings, and protect individuals in their gains from trade and contractual interactions. Anticipation of the enforcement of such general negative norms diverts individuals from strategies of plunder (or defense against anticipated plunder) and toward strategies of production and trade. Nor are the coordinating processes that take place when individuals seek to advance their diverse ends within an environment of protective norms limited to economic decisions and outcomes. That protective framework also moves individuals to use their local information about values, preferences, and available courses of action to discover and craft accommodating social relations or at least systems of peaceful coexistence. The expectation of reciprocal compliance with basic protective norms channels individuals who are not moved by shared ultimate ends into increasingly complex cooperative interactions. The information on which the emergent order depends is scattered among the participants in the Great Society; it is not and could not be possessed in synoptic form by any agent who might seek more directly to impose a comprehensive cooperative scheme upon these individuals. The overall factual order that arises from this intricate coordinating process is an unintended, non-designed, "spontaneous" order. While we can, according to Hayek, predict that some such spontaneous factual order will arise under an order of protective general norms, we cannot predict the particulars of this order. For we will not know the particular circumstances or particular perceptions of circumstances within which those many individuals will deliberate and act; and we would not know what decisions they will reach and how they will act even if we did know their particular (perceived) circumstances. For similar reasons, we cannot predict the consequences of interventions that are intended to achieve some specific concrete result within a spontaneous order.

Hayek contrasts spontaneous social order with designed social order, i.e., organization. In a fully designed social order, all the actions of the members of the order are directed toward and are to be assessed in terms of the achievement of that organization's purpose. So, each member of a fully organized firm or military force will and should perform the specific action which, in conjunction with the specific actions performed by other members, maximally promotes that firm's or army's end. The whole point of an organization is to coordinate individuals to some common end by means of instructions issued by the chief executive or commander to each member about what his assigned role is. Of course, almost no actual organization is fully organized. For it is almost always recognized that particular members may better serve the organization's ends if they retain some discretion to act on the basis of their own local information and initiative. Nevertheless, the distinctive feature of organization is that it marshals its human (and non-human) resources into a common enterprise directed as far as is thought possible by the synoptic vision of the enterprise's leaders. A designed society mobilizes its human (and non-human) resources toward the achievement of its (presumed) end or hierarchy of ends. The characteristic law of an organized society will be a body of commands issued by the sovereign authority directing each member of society to do his or her part in the joint promotion of that society's (or sovereign's) purpose or hierarchy of purposes. In contrast, a spontaneous social order has no end or purpose of its own; it is a structure and a process that facilitates the pursuit by individuals of their diverse ends and commitments.

A great deal of Hayek's message is simply that a well-ordered society exhibiting rational coordination among its members need not be a designed and commanded order. Freedom and the choices of free individuals can also be the source of rational coordination. Indeed, a well-ordered society that is complex and pluralist cannot be a designed and commanded order. Once one escapes from the grip of the idea that coordination requires organization, one sees how much more an environment of general protective rules expedites cooperation than does design and its associated directives. Organizations will, however, be prominent among the associations that individuals will form within the Great Society. Salient among them will be government, which is organized (primarily at least) for the purpose of articulating and enforcing the general protective rules that facilitate non-designed coordination. Such a government does issue directives that guide particular individuals in accordance with a deliberate plan to sustain a regime of rules of just conduct. However, the individuals who are subject to and guided by those directives are the employees of the government, not members of the Great Society.
at large. The law that governs members of society at large remains an articulation of general and fundamentally negative rules of just conduct.

Hayek, therefore, rejects the “constructivist rationalist” view that human institutions will serve human purposes only if they have been deliberately designed for these purposes, often also that the fact that an institution exists is evidence of its having been created for a purpose, and always that we should so re-design society and its institutions that all our actions will be wholly guided by known purposes. (RO, pp. 8–9)

The most obvious form of constructivist rationalism is the belief that the concrete social and economic order of a society must be deliberately designed if it is to be rational. However, Hayek focuses on the further constructivist contention that the abstract order of rules that facilitates concrete social order must be deliberately designed if it is to be rational. Against this further contention, Hayek emphasizes the “grown” or “evolved” character of the law that makes spontaneous concrete social order possible. Law long precedes legislation. It is not the product of human will, but rather of an evolutionary process in which groups whose members tend to “follow” rules that facilitate intramural peace and cooperation are more apt to survive, expand, and be imitated than groups whose members have not stumbled onto such rules. Only gradually do individuals even perceive themselves as following rules, and only gradually are these rules articulated. Even when those rules are articulated and codified, they are perceived as discovered norms of conduct—as laws—the normative force of which does not derive from their being expressed or enforced by some political agency.

UTILITARIAN VERSUS NON-UTILITARIAN
TEOLEOGICAL JUSTIFICATION

As Hayek portrays it, constructivist rationalism does not merely hold that only deliberately designed concrete factual orders and abstract normative orders are rational. It also demands that concrete social orders and abstract orders of norms be subjected to critical scrutiny and that there be a rational “demonstration” of their justification. Constructivist rationalism demands that “the traditional rules of morals and law” be subjected to critical scrutiny and that we refuse “to recognize as binding any rules of conduct whose justification [has] not been rationally demonstrated” (RO, p. 25). According to Hayek, this demand for demonstrative vindication, like the belief that the deliberate use and only the deliberate use of reason can generate a well-ordered society, embodies an overestimation of the power of reason. In fact, Hayek appears at times to reject entirely the enterprise of justifying fundamental social norms. For he seems to say that it is a fundamental problem with constructivist rationalism that it seeks to determine whether rules are “rationally justified” (RO, p. 25). Nevertheless, this cannot be Hayek’s position. Although we may be nostalgic for an era in which principles were held “as no more than unreasoned prejudice,” once “the instinctive certainty is lost,” there is no recourse except to an explicit vindicating restatement of those principles (RO, p. 60). No sensible person can reject a call for the “rational examination of the appropriateness of existing rules” (MS, p. 18). Hayek subscribes to Locke’s claim in the Essays on the Law of Nature that it is within the province of reason to search for and discover the rules that constitute the law of nature. We need, then, to identify just what Hayek is rejecting when he rejects rationalist demonstration and what model of vindication for rules of just conduct he embraces despite his rejection of demonstration.

This identification is made difficult by the dearth of precise terminology in Hayek for designating and distinguishing among alternative strategies for justifying rules of just conduct. In order to better express Hayek’s own stance and distinguish it from any stance that is more naturally described as utilitarian, most of the remainder of this section is devoted to terminological clarification. Let us follow Hayek in using “utilitarianism” very broadly. Any doctrine that bases its judgments about rightness in action on its judgments about the relative value or ranking of alternative available concrete social outcomes will count as utilitarian. Act versions of utilitarianism begin by projecting what alternative overall factual outcomes will be engendered (or can be expected to be engendered) by each of the actions under consideration and by ranking those alternative outcomes on some scale of “utilitarian” value. Once we have that ranking of anticipated overall factual outcomes, we can identify the right action as the one that engenders (or can be expected to engender) the most highly ranked outcome. Rule versions of utilitarianism begin by projecting the consequences of general compliance with
competing sets of principles. For each set of principles under consideration, we are to anticipate what overall concrete social order will ensue from general compliance with that set of rules. And we are to ascribe rightness to that set of rules general compliance with which will conduce to the best of these anticipated social outcomes. Particular actions will derive their rightness from their compliance with the set of rules to which rightness has thus been ascribed. We have here a broad characterization of utilitarianism, not only because it equally admits both act and rule forms, but also because this characterization does not at all limit what may be the scale of value for ranking alternative outcomes. In this broad sense, a utilitarian need not ascribe ultimate value only to pleasure or preference-satisfaction.

All of this is completely standard – except for the description of the alternative outcomes as overall factual orders or concrete social outcomes. The force of these Hayekian locutions is that the utilitarian ranking of competing outcomes is a ranking of arrays of particular factual states of affairs – a ranking of, for example, the array that would consist of A enjoying five units of pleasure and B enjoying seven units of accomplishment against the array that would consist of A enjoying four units of pleasure and B enjoying nine units of pleasure. (Or perhaps for each action or each set of rules under consideration what can be projected is some distribution of more- or less-probable resulting arrays of individual states of affairs. Then the ranking must be a ranking of something like the expected value of the overall outcomes of the contending actions or contending sets of rules.) Utilitarianism in the broad sense rests its judgment about the rightness of actions on a comparison of the value of alternative available concrete social worlds (or on a comparison of the expected value of alternative probability distributions of concrete social worlds).

Hayek tells us that there is a “wide sense” of the term “utilitarian” in which he, along with Aristotle, Aquinas, and Hume, counts as a utilitarian. “In this wide sense everyone who does not regard all existing values as unquestionable but is prepared to ask why they should be held would be described as ‘utilitarian’” [MSJ, p. 17]. One might interpret Hayek here as saying that anyone who attempts any sort of rational vindication for rules of just conduct is a utilitarian in this wide sense. This would not quite be correct; and it would not explain Kant’s absence from this list. Rather, to be a utilitarian even in this wide sense one has to seek to vindicate the rules of just conduct by identifying “the function [such rules and institutions] perform in the structure of society” [MS], p. 17]. One needs to cite what Hayek refers to as the aim or the goal or the telos of these rules. So to be a utilitarian in this wide sense is to be an advocate of some form of teleological justification for the rules of just conduct and, thereby, for actions in accordance with those rules. Hayek’s identification of the “rational examination of the appropriateness of existing rules” with inquiry into the function, aim, goal, or telos of those rules reveals his own implicit identification of all justification with teleological justification.

It should be clear that one can be a utilitarian in Hayek’s wide sense without being a utilitarian in the broad sense involved in holding that the justifying aim – the telos – for the rules of just conduct or for action is the production of the best available factual social order. Since, as we shall see, Hayek rejects any vindication for actions or rules of just conduct that turns on the production of some purported best concrete social world, Hayek cannot be a utilitarian in this broad sense; he can only be a utilitarian in the wide sense that amounts to offering a justifying telos for rules of just conduct. Since, as we shall see, the justifying telos that Hayek offers for rules of just conduct is strikingly different from any justifying aim offered by utilitarianism in the broad sense just described, clarity will be served by explicitly distinguishing between utilitarianism in its broad sense and non-utilitarian teleological (or “telic”) justification of rules of just conduct. Given this terminology, we can say – but still need to show – that Hayek rejects all utilitarian justification as being guilty of the sins of constructivist rationalism. And we can say – but still need to show – that Hayek does not reject entirely the justificatory enterprise; for he proposes a telic, but non-utilitarian, vindication of the rules of just conduct.

Although I have spoken of Hayek’s appeal to the telos of rules of just conduct, Hayek himself often speaks of the rules of just conduct rather than the telos of those rules as the fundamental value that he seeks to restore. This reflects his strong interest in highlighting the importance of rules – even if they are ultimately to be vindicated by a telos that they serve. It also reflects a more strictly Kantian strand in Hayek according to which one must respect freedom and abide by
rules of just conduct because to fail to do so is to treat individuals as means rather than as ends-in-themselves. “Coercion is evil precisely because it thus eliminates an individual as a thinking and valuing person and makes him a bare tool in the achievement of the ends of another” (Hayek 1966, p. 21). Still, Hayek is uncomfortable with any purely deontic doctrine; hence his pursuit of a stance that transcends standard forms of teleological vindication without abandoning the teleological intuition that rules must draw their validity from some purpose that they serve.

There is a further advantage to speaking of Hayek’s project as telic but not utilitarian. For Hayek, a condition of any overall state of affairs or order being the rational end for legal rules and rule-enforcing institutions is that state of affairs or order being (at least) ex ante mutually advantageous. This condition is often expressed by Hayek as the condition of being rationally agreeable to all individuals. The language of telic justification more readily accommodates this mutual advantage condition than does the language of utilitarian justification. As we shall see, the abstract “order of actions” satisfies the condition of being ex ante mutually advantageous although no particular anticipated factual order (or distribution of possible concrete factual orders) satisfies it.

One final terminological caution is necessary. Hayek operates with only two terms to name sub-categories of teleological (in his language, “utilitarian”) justification. These are “act-utilitarianism” and “rule-utilitarianism.” For this reason, Hayek tends to classify whatever he rejects in the way of teleological justification as act-utilitarianism and, by paucity of sub-categories, he tends to classify whatever he accepts in the way of teleological justification as rule-utilitarianism. The result is that he often writes as though he is arguing specifically against act-utilitarianism and on behalf of rule-utilitarianism; and he is often described by commentators as an advocate of some sort of rule-utilitarianism. We shall see how this description is importantly mistaken.

THE CRITIQUE OF UTILITARIAN JUSTIFICATIONS

In rejecting constructivist demonstration Hayek is most clearly and straightforwardly rejecting case-by-case determination of whether one ought to comply with a given applicable rule of conduct.

According to Hayek, such case-by-case determination, in its rationalist hubris, jettisons rather than vindicates action in accordance with principles. This hubris is exemplified by Hans Reichenbach’s declaration that

the power of reason must be sought not in rules that reason dictates to our imagination, but in the ability to free ourselves from any kind of rules to which we have been conditioned through experience and traditions. (RO, p. 23)

Principles in themselves count for nothing. They are, if anything, barriers to genuinely rational decision. Reason is directly in operation only when we determine how we should act by identifying which available action most advances the particular ends that we desire. Similarly, Hayek cites Keynes’ account of the views that he and youthful contemporaries embraced:

We entirely repudiated a personal liability to obey general rules. We claimed the right to judge every individual case on its merits . . . We repudiated entirely customary morals, conventions, and traditional wisdom. We were, that is to say, in the strict sense of term, immoralists. (RO, p. 24)

As Hayek sees it, Keynes is entirely correct to say that judging every case on its own merits leads not merely to the repudiation of general rules but to immoralism. This is because of two converging considerations. First, the intended case-by-case assessment of available actions turns on a ranking of the concrete factual social orders that would respectively be engendered by those actions – the right action being the action the results of which rank highest. Second, reason cannot provide any such ranking of alternative factual social orders. Thus, even if we could know what the particular results of the various actions under consideration would be, reason could not provide an ordering of those actions. Any ranking of the available factual orders will be an expression of non-rational will; and this non-rational willfulness will be bequeathed to any endorsement of one of the available actions that is based upon this willful ranking.

Not every advocate of case-by-case assessment recognizes that this amounts to immoralism. For many such advocates have the mistaken belief that “reason can transcend the realm of the abstract and by itself is able to determine the desirability of particular actions” (RO, p. 32). These advocates are under the “illusion” that
reason by itself can “tell us what we ought to do” in the sense of disclosing “common ends” that “all reasonable men ought to be able to join in the endeavor to pursue” [RO, p. 32]. Indeed, the illusion is that reason discloses a formula for weighing these common ends against one another so that we can determine which array of realizations of those ends constitutes the best available factual social order. Reason is presumed to deliver a specification of one of the available factual orders as best so that “the whole of society [can be organized as] one rationally directed engine” in service of that best factual order [RO, p. 32]. However, all such purported deliverances of reason are, in reality, nothing but “the decisions of particular wills” [RO, p. 32]. Rationalist hubris embraces what is actually an atavistic craving for a hierarchy of common ends. Since reason cannot in fact satisfy that craving, the “over-estimation of the powers of reason leads through disillusionment to a violent reaction against the guidance of abstract reason, and to an extolling of the powers of the particular will” [RO, p. 32]. “It is the over-estimation of the powers of reason [to predict and know the relative value of alternative concrete social orders] that leads to the revolt against the submission to abstract rules” [RO, p. 33].

Several things should be noted here. First, although Hayek certainly thinks it is a grave error to believe that we can have knowledge or even well-justified belief about what factual order will be engendered by this or that particular action, his emphasis is not on our factual ignorance but rather on our normative ignorance. Omniscient people would be “in agreement on the relative importance of all the different ends” [MSJ, p. 8]. However, as normatively ignorant beings, we lack even well-grounded beliefs about the relative importance of persons’ diverse ends. To the best of my knowledge, the most extensive statement of this view appears in Hayek’s very early and interesting essay, “Freedom and the Economic System”:

Economic planning [for a socially best outcome] always involves the sacrifice of some ends in favor of others, a balancing of costs and results, a choice between alternative possibilities, and the decision always presupposes that all the different ends are ranked in a definite order according to their importance, an order which assigns to each objective a quantitative importance which tells us at what sacrifices of other ends it is still worth pursuing and what price would be too high... Agreement on a particular plan requires... for a society as a whole the same kind of complete quantitative scale of values as that which manifests itself in the decision of every individual, but on which, in an individualist society, agreement between the individuals is neither necessary nor present. [Hayek (1939) 1997, p. 201]

The ranking of alternative social outcomes presupposes... something which does not exist and has never existed: a complete moral code in which the relative values of all human ends, the relative importance of all the needs of different people, are assigned a definite quantitative significance. [Hayek (1939) 1997, pp. 201–2]

Constructivists say that each of these diverse ends--and not merely the various means to those ends--possess the common valuable attribute of “utility.” Yet this is nothing but a futile attempt “to describe a supposedly common attribute of the different ends” that the various available means would serve and, thereby, to fulfill “the rationalist desire explicitly to derive the usefulness of means from known ultimate ends,” i.e., from the utility and, hence, the value of known ultimate ends. But distinct important human ends do not have “a measurable common attribute” [MSJ, p. 18]. And it is clear that Hayek means both that there is no common descriptive attribute and that there is no common sort of value that attaches to these different ends. The value of instantiations of one sort of ultimate human end is not commensurable with the value that attaches to instantiations of any other sort of ultimate human end. A crucial part of what is wrong with case-by-case assessment of actions is not so much its case-by-caseness, i.e., its act-utilitarian character, but, rather, its reliance upon rankings of alternative overall factual social orders. And a crucial part of what is wrong with reliance upon such rankings is our lack of the normative information necessary to justify such rankings.9

The second point to be noted is that the passages we have just surveyed reflect a central and constant polarity within Hayek’s worldview between, on the one hand, reason, science, and the abstract and, on the other hand, will, ignorance, and the particular. For Hayek, scientific knowledge is fundamentally knowledge of the abstract; it is knowledge of lawful general relationships. “Evolutionary [i.e., Hayekian] rationalism... recognizes abstractions as the indispensable means of the mind which enable it to deal with a reality it cannot fully comprehend” [RO, p. 30]. The
evolution of mind and rationality is the evolution of our propensity to act in accordance with the abstract — which includes both our propensity to recognize general lawful relationships and our propensity to abide by rules [RO, pp. 17–21, 29–31]. The evolution of rationality in action as much involves an orientation toward the abstract — in the form of an evolution of our disposition to abide by general rules — as does the evolution of rationality in belief. Man is, of course, a "purpose-seeking" animal. Nevertheless, he is "as much a rule-following animal" [RO, p. 11]. And his rationality as an acting being is tied to the rule-following, abstract-oriented dimension of his behavior. To be a reasonable man is to be disposed to recognize and acknowledge the directive force of the "rules which have by a process of selection been evolved in the society in which he lives" (RO, p. 11). In contrast, particular states of the world are not the objects of scientific knowledge — though, of course, various individuals are acquainted with certain particular states of the world. Furthermore, particular outcomes — whether they be local factual outcomes for this or that individual or overall concrete social orders — are not the objects of rational action. In their particularity, such factual states can only be the objects of non-rational will. This polarity suggests that Hayek must hold that rational action is simply action in accordance with certain abstract rules — unless he can identify an abstract end that will serve as a justifying telos for those rules. As we shall see, for Hayek, the "order of actions" that is engendered by compliance with the rules of just conduct is the end that satisfies this abstractness condition.

The third point to be noted is that the basic reasons that Hayek offers against case-by-case, act-utilitarian determination of whether an individual should comply with an applicable rule applies also to rule-utilitarian proposals about the vindication of rule-abiding conduct. Both normative ignorance about our common ends and factual ignorance about what concrete social order will be engendered by our decisions and conduct cut as deeply against rule-utilitarian Justifications as they cut against act-utilitarian Justifications. This is especially clear if we understand rule-utilitarianism as it was explicated in the previous section, namely, as the doctrine that begins assessment of actions by ranking the concrete social outcomes of general compliance with contending sets of rules and goes on to ascribe rightness to actions that comply with the optimizing set of principles. I shall designate this as "rule-utilitarianism proper." Rule-utilitarianism proper accommodates the deontic intuition that an action can be and be known to be productive of the best available overall outcome while also being and being known to be wrong. It accommodates this intuition by insisting that such an optimizing action will be wrong if it violates a rule that is within the set of optimizing rules and will be known to be wrong if that set of rules is known to be the optimizing set. This insistence is, of course, what inspires the recurrent charge of rule worship.

Whether or not the rule-utilitarian proper has an answer to this charge, it should be clear that she presumes both the factual and the normative knowledge that Hayek denies. Just as the act-utilitarian believes he can predict what factual orders will result respectively from particular actions, the rule-utilitarian proper believes that she can predict what factual orders will result respectively from general compliance with specific sets of rules. Moreover, just as the act-utilitarian believes he can rationally rank predictable factual orders, the rule-utilitarian proper believes that she has knowledge of our common ends that enables her to rank predictable factual orders. Hayek himself provides a remarkably explicit statement of this defect within rule-utilitarianism proper.

Nor can the choice of the appropriate set of rules be guided by balancing for each of the alternative set of rules considered the particular predictable favourable effects against the particular unfavourable effects, and then selecting the set of rules for which the positive net result is greatest; for most of the effects on particular persons of adopting one set of rules rather than another are not predictable. (MS, p. 3)

Of course, the predictions of either sort of utilitarian may be merely probabilistic. For each action under consideration, the act-utilitarian may merely (!) attempt to ascertain the probabilities of its engendering various possible overall factual outcomes. Similarly, for each set of rules under consideration, the rule-utilitarian proper may merely (!) attempt to ascertain the probabilities that general compliance with those rules will eventuate in various possible overall factual outcomes. But these parallel attempts at probabilistic predictions will meet with parallel failure in virtue of the factual ignorance on which Hayek insists. Neither for the act-utilitarian nor for the rule-utilitarian proper does a shift to assessment based upon assignments
of probabilities circumvent dependence upon information that is unavailable to the assessor. Moreover, even if the rule-utilitarian proper could justifiably assign probabilities to the relevant possible outcomes, her normative ignorance of our common ends and how they are to be weighed against one another would leave her equally unable to choose rationally between the contending sets of rules.

Among the members of a Great Society, who mostly do not know each other, there will exist no agreement on the relative importance of their respective ends. There would exist not harmony but open conflict of interests if agreement were necessary as to which particular interests should be given preference over others. (MSJ, p. 3)

This divergence in the weighting of different interests is not subject to rational resolution — because we are ignorant of the relative value of distinct important human ends.

I have spoken of rule-utilitarianism proper in anticipation of discussing another doctrine that is usually taken to be a version of rule-utilitarianism, namely, “indirect utilitarianism.” The crux of indirect utilitarianism is a Hayekian-sounding appreciation for the fallibility and unprofitable costs of case-by-case assessment of contending actions. Case-by-case assessment is taken to be much more fallible and costly than assessment on the basis of standing norms of commonsense morality. Of course, any act-utilitarian can recognize that these standard norms are helpful rules of thumb and that it will often be better to follow them than to enter into potentially self-deceived or self-serving case-by-case calculations. What makes one an indirect utilitarian is the conviction that case-by-case decisions are so characteristically fallible and costly that it is always — except, perhaps, for very narrowly defined circumstances — more expeditious in terms of actual or expected concrete outcomes to abide by the applicable standard norm rather than to seek to judge each case on its own apparent merits. Except perhaps under those very narrowly defined circumstances, action in conformity to the applicable commonsense norm is the best bet for realizing that “supposedly common [valuable] attribute of the different ends.”

Within indirect utilitarianism, then, the standard utilitarian goal of engendering the best overall factual order or the best probability distribution of overall factual orders remains in place and is merely supplemented with the comforting, but highly speculative and implausible, view that action in accordance with standard norms is (almost) always our best bet for achieving this end. Indirect utilitarianism is, then, subject to the same basic criticisms that Hayek advances against act-utilitarianism. For it is committed to factual judgments about the likelihood that particular actions will yield particular concrete results and to normative judgments about the ranking of alternative distributions of possible concrete results that presume a factual and normative knowledge that Hayek denies.

In his most extended discussion of utilitarianism in Law, Legislation, and Liberty (MSJ, pp. 17-23), Hayek does not appreciate the large remaining gap between indirect utilitarianism and his own position. For he thinks that those who abandon the naive act-utilitarianism that justifies actions on the basis of (presumed) knowledge about what concrete results those actions will have, fully assimilate the lessons of Hayekian ignorance. He believes that these “utilitarians” thereby become intellectually “bound to assume the existence of rules not accountable for by utilitarian considerations and thus must abandon the claim that the whole system of moral rules can be derived from their known utility” (MSJ, p. 19). But, while it is true that indirect utilitarianism abandons the naive claim that the whole system of moral rules can be derived from their known utility, it is not true that this doctrine is bound to assume the existence of rules not accountable for by utilitarian considerations. Indeed, as I have indicated, it rests on its own highly speculative and contentious claims about the likely concrete outcomes of rule-compliant actions.

We can further see the distance between Hayek’s own view and indirect utilitarianism by examining Hayek’s contentions in the pivotal chapter on “Principles and Expediency” in RO. Hayek there seems to offer an indirect utilitarian case for abiding by freedom-protecting principles even when it appears that violation of those principles will procure particular benefits. The problem with deciding “each issue solely on what appear to be its individual merits” (RO, p. 57) is that the gain from the violations of a rule that is protective of freedom will almost always be more apparent and vivid than the opportunity costs of the violation. We will usually have the problem that the infringement on freedom is intended to solve directly before us (and will believe that, if we really intend to solve the problem, it will be solved), while we will hardly ever see
what problem-solving activities individuals would have engaged in had their freedom not been restricted:

Since the value of freedom rests on the opportunities it provides for unforeseen and unpredictable actions, we will rarely know what we lose through a particular restriction of freedom. Any such restriction, any coercion other than the enforcement of general rules, will aim at the achievement of some foreseeable particular result, but what is prevented by it will usually not be known. [RO, pp. 56–57]

For this reason, “If the choice between freedom and coercion is thus treated as a matter of expediency, freedom is bound to be sacrificed in almost every instance” [RO, p. 57]. From the point of view of expediency, one wants not to make decisions on particular issues on the basis of expediency. But if it is, I believe, Hayek’s view that, if expediency is the only reason one has to decide particular issues on the grounds of expediency, one will not resist the siren call of expediency in particular cases. For, in the face of apparently great net gains through the violation of freedom-protecting norms, one will not be able to say to oneself that one ought to respect freedom as a matter of principle:

The preservation of a free system is so difficult precisely because it requires a constant rejection of measures which appear to be required to secure particular results, on no stronger grounds than that they conflict with a general rule, and frequently without our knowing what will be the costs of not observing the rule in the particular instance. [RO, p. 61]

Somewhat paradoxically, although expediency is a basis for wanting strict compliance with freedom-protecting principles, one will not get that compliance and that expediency if one’s fundamental aim is the achievement of the expedient. This is why Hayek follows the passage just cited with the conclusion that, “A successful defence of freedom must therefore be dogmatic … Freedom will prevail only if it is accepted as a general principle whose application to particular instances requires no justification” [RO, p. 61]. Freedom and the greater advantages it brings “can be preserved only if it is treated as a supreme principle which must not be sacrificed for particular advantage” [RO, p. 57]. Any appeal to expediency — including the indirect utilitarian appeal — undermines the standing of principles as principles. The recognition that expediency would be served by belief in principles as principles does not itself generate or sustain such belief.

We need belief in certain “general values whose conduciveness to particular desirable results cannot be demonstrated” [RO, p. 58]. Once useful “unreasoned prejudice” on behalf of such principles is lost, a vindicating restatement of those principles is needed. Such a statement must point to some overall aim to which compliance with rules of just conduct is always conducive. But it is not possible to show as a matter of empirical fact that compliance with a given set of norms is always conducive to any particular overall factual outcome or even to any distribution of possible overall factual outcomes. And even if this could be shown, it could not be shown that this factual outcome or anticipated distribution of possible factual outcomes is the concrete outcome or anticipated distribution of possible concrete outcomes that ought to be promoted. Hayek’s commitment to the teleological character of the justification of fundamental principles requires, then, that there be something to which compliance with those principles is always conducive, but his insistence on our factual and normative ignorance precludes that something being any best overall factual order or any best anticipated distribution of possible overall orders. What Hayek needs, therefore, is something between the abstract order of norms that he seeks to vindicate and the overall factual orders or distributions of possible factual orders to which all species of utilitarian vindication appeal. He needs a telos for rules of just conduct that stands between those rules and the unpredictable and unrankable arrays of concrete outcomes that compliance with those rules might engender. This telos cannot itself be a distinct concrete factual order (or distribution of possible concrete factual orders), and it must be non-contingently connected with compliance with those rules so that we can know that compliance will always (tend to) sustain or promote that telos.

NON-UTILITARIAN TELIC JUSTIFICATION

So what is the proposed telos? As anticipated in the introductory section, it is the structure or pattern of peaceful coexistence and mutually advantageous coordination among the highly diverse members of a large-scale and pluralist society that will obtain in some concrete but largely unpredictable manifestation when there is general compliance with rules of just conduct.” “The general rules of law that a spontaneous order rests on aim at an abstract
order, the particular or concrete content of which is not known or foreseen by anyone” [RO, p. 59, emphasis added]. Constructivist rationalism calls upon us “to reject all general values whose conduc-
viveness to particular desirable results cannot be demonstrated” (RO, p. 98). However, this turns out to be a recipe for the rejection of all general values, i.e., all principles. Hayek’s innovative proposal is not to reject demonstrable conduciveness to desirable results as the grounding of general principles but, rather, to reject conduc-
viveness to particular concrete results. Independently it makes sense to turn away from partial results because the particular is not within the purview of scientific knowledge or practical rationality:

What helpful insight science can provide for the guidance of policy consists in an understanding of the general nature of the spontaneous order, and not in any knowledge of the particulars of a concrete situation, which it does not and cannot possess ... The only theory which in this field can lay claim to scientific status is the theory of the order as a whole; and such a theory [although it has, of course, to be tested on the facts] can never be achieved inductively by observation but only through constructing mental models made up of observable elements. [RO, pp. 63–64]

A social scientific understanding of spontaneous social order enables us to predict that compliance with general rules of a certain character — in particular rules that define rights of personal integrity, property, and contract*4 — will sustain and promote a pattern or structure of cooperative relationships. It is our grasp of abstractions — certain theoretical models — rather than comprehensive acquaintance with particular facts that enables us to see that

it is only by constantly holding up the guiding conception of an internally consistent model [of the overall order] which could be realized by the consistent application of the same principles, that anything like an effective framework for a functioning spontaneous order will be achieved. [RO, pp. 64–65]

Telic justification for rules of just conduct in terms of this framework for a functioning spontaneous order is available because “it is possible to distinguish between those rules and the resulting order” [RO, p. 98].

Only when it is clearly recognized that the order of actions is a factual state of affairs distinct from the rules which contribute to its formation can it be understood that such an abstract order can be the aim of rules of just conduct. [RO, pp. 113–14]

That is, it is only when Hayek recognizes this distinction that he sees a path between unreasoned affirmation of rule compliance for its own sake and rationalist demonstration with all its false assumptions about our factual and normative knowledge. Only with this recognition of a distinguishable end for which compliance with rules of just conduct is the means can he accommodate his implicit prem-
ise that all rational justification of rules or action must invoke some desirable end without stepping into the abyss of constructivism.5

On the account that I have advanced, Hayek proposes to provide a secure grounding for rules of just conduct — a grounding that re-enthrones them — by presenting compliance with those rules as the necessary and certain means for a newly identified fundamental value or end. Many passages in RO — especially those that describe the role of the judge within a legal order conducive to spontaneous social order — support this account. “The aim of jurisdiction [i.e., judicial decision] is the maintenance of an ongoing order of actions” (RO, p. 98). A judge operating within such an order first turns to its explicit and implicit rules:

The question for the judge here can never be whether the action [under examination] was expedient from some higher point of view, or served a particular result desired by authority, but only whether the conduct under dispute conformed to recognized rules. The only public good with which he can be concerned is the observance of those rules that individuals could reasonably count on. [RO, p. 87]

But the invocation of these rules itself serves and ultimately is governed by the guiding conception of a framework of cooperative interaction:

What must guide his decision is not any knowledge of what the whole of society requires at the particular moment, but solely what is demanded by general principles on which the going order of society is based. [RO, p. 87, emphasis added]

Indeed, the Hayekian judge is guided not by an attachment to those rules as such but by insight into the relationship between the body of [legally enforced] rules and the framework of spontaneous factual order served by those rules. Judges are at least to be guided by such
insight when the existing explicit rules do not simply and mechanically dictate a particular decision. In such a case, the judge will not be free to pronounce as he pleases or as will advance any particular political agenda. Rather,

The rules which he pronounces will have to fill a definite gap in the body of already recognized rules in a manner that will serve to maintain and improve that order of actions which the already existing rules make possible. [RO, p. 100]

Hayek's position, therefore, constitutes an interesting stance on the question of whether judges can go beyond the existing, explicitly recognized legal norms without being willful makers of law. If the decision facing a judge cannot be logically deduced from recognized rules, it still must be consistent with the existing body of such rules in the sense that it serves the same order of actions as these rules ... [The judge must decide such a case in a manner appropriate to the function which the whole system of rules serves. [RO, p. 116]]

This stance is available precisely because it is possible to distinguish between the norms and the order of actions that they serve.

In contrasting law that arises originally from custom and precedent with law that expresses the will of a political authority, Hayek says that the former will consist of purpose-independent rules which govern the conduct of individuals towards each other, are intended to apply to an unknown number of further instances, and by defining a protected domain of each, enable an order of actions to form itself wherein the individuals can make feasible plans. [RO, pp. 85–86]

However, in light of the identification of the order of actions as the telos served by such rules, the Kantian characterization of these rules as purpose-independent needs to be qualified:

[If we include in “purpose” the aiming at conditions which will assist the formation of an abstract order, the particular contents of which are unpredictable, Kant’s denial of purpose is justified only so far as the application of a rule to a particular instance is concerned, but certainly not for the system of rules as a whole. [RO, p. 113]

Further confirmation of Hayek’s non-utilitarian, telic stance comes from volume 3 of Law, Legislation, and Liberty. In this volume, Hayek sketches a model constitution, a crucial feature of which is that a Legislative Assembly will be charged with articulating and revising rules of just conduct that will apply to all agents within the spontaneous social order. To guide and constrain the Legislative Assembly, the constitution will contain a “basic clause” that goes beyond the requirement that the law it articulates be applicable to “an indefinite number of unknown future instances.” The basic clause also will require that the law “serve the formation and preservation of an abstract order whose concrete contents are unforeseeable” [Hayek 1979, p. 109]. The constitution includes this further requirement because government can only assist (or perhaps make possible) the formation of an abstract pattern or structure in which the several expectations of the members of society match each other ... It can only assure the abstract character and not the positive content of the order that will arise from the individuals’ use of their knowledge for their purpose by delimiting their domains against each other by abstract and negative rules. [Hayek 1979, p. 130]

Benthamite constructivists on the one hand and Kant on the other hand were unable to conceive of an abstract order as a goal. For such an order was too much at variance with what most people regarded as an appropriate goal of rational action. The preservation of an enduring system of abstract relationships, or the order of a cosmos with constantly changing content, did not fit into what men ordinarily understood as a purpose, goal, or end of deliberate action. [RO, p. 112]

However, the development of “social theory, particularly economics” [RO, p. 112] enables us to conceive of this abstract order as a candidate for being the appropriate goal of rational action. And, once it is available, two converging lines of Hayekian argument point to the reasonableness of its selection. The first is the rejection of any constructivist doctrine that directs us to any particular overall concrete social order (or any distribution of possible overall concrete orders) as the goal of rational action. A recognition of our factual and normative ignorance radically undermines the project of ranking such ends and identifying and securing the performance of the actions that would yield any putatively most highly ranked overall factual end. The second is the positive appreciation of our disposition to comply with rules as being a
crucial strand within our evolved rationality – a rationality that has evolved so as to circumvent the problems of our factual and normative ignorance. Hayek’s association of practical rationality with compliance with abstract constraining norms rather than with the pursuit of particular ends intimates a non-telic, genuinely deontic, moment within his thought. Nevertheless, his commitment to the vindication of norms having some sort of telic structure leads Hayek to search for a purpose that is predictably served by (and only by) compliance with those norms and the adoption of which is compatible with our normative ignorance. The purpose that he finds is that set of abstract relationships in and through which individuals – in particular ways that are not subject to prediction – will live peacefully and interact to mutual advantage with one another. Service to that abstract order is the rationale for compliance with rules of just conduct, and compliance necessarily serves that abstract end while violation of those rules necessarily subverts it.18

This abstract order is the appropriate goal of rational action for individuals who are faced with the opportunity of life within a large-scale social order inhabited by individuals who are highly diverse in their circumstances, knowledge, skills, preferences, and valued aspirations. It is the goal that is – because of its abstract character – reasonably agreeable to all individuals faced with that opportunity. “[R]ational policy” does not require “a common scale of concrete ends”: rather “policy … may be directed toward the securing of an abstract overall order” [MSI, p. 114]. Given our lack of reasonable agreement upon a specific hierarchy of ends that would rank alternative particular outcomes, our factual ignorance is a blessing in disguise. For our factual ignorance prevents our rationally staking out particular and, hence, conflicting concrete social outcomes as candidates for the appropriate societal goal. Our common ignorance requires, instead, that we each give our allegiance to the abstract order of peaceful and mutually beneficial interactions that is ex ante advantageous to each:

What is crucial to the existence of the Great Society – in contrast to narrow command societies – is “the discovery of a method of collaboration which requires agreement only on means and not on ends” [MSI, p. 3].

It should be clear that what Hayek here speaks of as agreed-upon means is what he elsewhere refers to as the ultimate ends or values – the most fundamental ends or values vis-à-vis rational policy. Speaking of the abstract rules that “serve the preservation of an equally abstract order,” Hayek says that “though these rules ultimately serve particular [though mostly unknown] ends, they will do so only if they are treated not as means but as ultimate values, indeed as the only values common to all and distinct from the particular ends of individuals” [MSI, pp. 16–17]. And it is rational to treat these rules – or the abstract order they serve – as ultimate social ends or values because it is not rational to endeavor to see through the predictable abstract order to the particular overall factual order through which that abstract order will be manifested. Due to our ignorance, we rationally converge on the abstract order served by rules of just conduct as our common end – an end which is to be labeled “a value” because “it will be a condition which all will want to preserve” [RO, p. 104].

The “values” which the rules of just conduct serve will thus not be particulars but abstract features of an existing factual order which men will wish to enhance because they have found them to be conditions of the effective pursuit of a multiplicity of various, divergent, and unpredictable purposes. The rules aim at securing certain abstract characteristics of the overall order of our society that we would like it to possess to a higher degree. [RO, p. 105]

These abstract features alone “can constitute a true common interest of the members of a Great Society, who do not pursue any particular common purpose” [RO, p. 121].19

Hayek tells us that

It is only if we accept such a universal order as an aim, that is if we want to continue on the path which since the ancient Stoics and Christianity has been characteristic of Western civilization, that we can defend this moral system [of universal rules] as superior to others. [MSI, p. 27]

There is no proof of the value of this universal order either in the sense of a constructivist demonstration of its production of the best overall factual
outcome or in the sense of deriving this value from some yet more fundamental [proven?] value. But that, I think, does not belie Hayek’s claim that the only sensible, reasonably agreeable, end for individuals who stand as potential co-members of a Great Society is that universal order – “a timeless purpose which will continue to assist individuals in pursuit of their temporary and still unknown aims” [MSJ, p. 17].

NOTES

1. I gratefully acknowledge summer research support from the Murphy Institute of Political Economy at Tulane University. Mary Sirridge and Jerry Caus provided helpful conversation. I have profited greatly from my involvement in colloquia sponsored by the Liberty Fund on the work of F. A. Hayek.

2. For Hayek, there is a deep connection between justice and cooperation to mutual benefit. Justice is action in accordance with norms that make cooperation possible. Part of the reason for identifying negative protective norms as the norms of justice is that these norms protect cooperation to mutual advantage.

3. The other candidate for culminating work in Hayek’s The Fatal Conceit [1988]. However, the extent of Hayek’s authorship of this volume has been challenged. See Caldwell 2004a, pp. 316–19 and, especially, Ebenstein 2005.

4. Hayek continually conflates the claim that reason creates or designs moral norms and the claim that reason can confirm or justify those norms. Since he is so eager to deny the first, he is continually driven to deny the second as well.

5. See the passage from Locke cited in n. 45, p. 151 of RO. This passage is cited in full or in part in three essays [collected in Hayek 1967c] that anticipate the doctrine of Law, Legislation, and Liberty. See Hayek [1965] 1967, n. 1 on p. 84; 1967b, n. 7, p. 98; and [1961] 1967, n. 2, p. 107. A portion of this passage that does not include the claim that reason searches for and discovers the law of nature appears in Hayek 1989, p. 49.

6. See e.g. Ebenstein 2005, p. 249 and the citations in n. 27, p. 383. For Hayek’s invocation of the distinction between act- and rule-utilitarianism see Hayek 1960, p. 455, n. 20, and MSJ, p. 156, n. 16.

7. The passage is from Reichenbach 1951, p. 141.

8. The passage is from a talk by Keynes entitled “My Early Beliefs.” See Keynes 1949, p. 97.

9. Also see the entire section of Law, Legislation, and Liberty that is entitled “A Free Society Is a Pluralistic Society Without a Common Hierarchy of Particular Ends” [RO, pp. 109–11].

10. To avoid the position that a reasonable man acknowledges the directive force of whatever rules operate within his society, Hayek needs to emphasize that he is talking of rules that jointly facilitate an order of peaceful coexistence and mutually beneficial interaction.

11. Unlike the rule-utilitarian proper, the indirect utilitarian does not say that a given action can be known to be productive of the best overall outcome and still be known to be wrong.

12. Highly similar claims about the need for freedom or liberty to be “accepted as an overriding principle,” “to be treated as the supreme principle,” if the benefits of freedom are to be attained, appear in Hayek 1960. “We shall not achieve the results we want if we do not accept it [freedom] as a creed or presumption so strong that no considerations of expediency can be allowed to limit it.” All these passages are on p. 68. However, nothing like the justification of freedom or freedom-protecting norms in terms of the abstract order of actions that respect for freedom facilitates appears in Hayek 1960.

13. This notion of an abstract order of actions (“a general order”) first appears in Hayek’s essay “The Legal and Political Philosophy of David Hume,” originally published in 1963 and republished in Hayek 1967c, at p. 114. The notion is ubiquitous in Hayek’s “Notes on the Evolution of Systems of Rules of Conduct” [1967a], apparently written shortly before its publication in the same collection.

14. See the characterization of rules that are conducive to the formation of concrete spontaneous social orders in RO, p. 107.

15. One is tempted to set this out in Hegelian fashion. Hayek’s position is the synthesis that overcomes the conflict between the thesis of unreasoned adherence to principle and the antithesis of the need to justify principles in terms of their usefulness.

16. Chapter 5 of RO is the high point of Hayek’s invocation of the abstract order of actions as the telos of judicial decision. Nevertheless Hayek slips into utilitarian-sounding pronouncements about the goal of judges being to “maximize the fulfillment of expectations as a whole” [RO, p. 103] or to achieve a “maximal coincidence of expectations” [RO, p. 106].

17. See also the striking sentences in which Hayek endorses the judicial nullification of already articulated rules that “are in conflict with the general sense of justice” [RO, p. 138].

18. There are different possible abstract orders of actions corresponding to different possible articulations of the rules of just conduct. These different abstract orders cannot be ranked against one another; but, according to Hayek, the telos for each particular set of rules of just conduct is the specific abstract order of actions that this set of rules tends to serve. No
philosophical selection of one of the abstract orders is possible or necessarily needed.

19. "A Great Society has nothing to do with, and is in fact irreconcilable with 'solidarity' in the true sense of unitedness in the pursuit of common goals" [MSJ, p. iii].

14 Hayek the cognitive scientist and philosopher of mind

F.A. Hayek's long-neglected monograph *The Sensory Order: An Inquiry into the Foundations of Theoretical Psychology* (1952b) has in recent years begun to garner some attention, most of it from economists or political scientists curious to see what bearing that work has on the foundations of Hayek's economics and social and political thought. Some commentators have also noted the book's relevance to contemporary cognitive science, in particular its foreshadowing of connectionism. Yet few have considered its distinctly philosophical significance - either its place in the history of twentieth-century philosophy or the light it might shed on current controversies in the philosophy of mind.

This is by no means surprising, given that Hayek was not a philosopher by trade. He does not frame the issues he discusses in primarily philosophical terms, and he does not apply to those issues the methods a philosopher would. Notwithstanding his being Wittgenstein's cousin [Hayek (1977) 1992] and his friendship with Karl Popper, he appears not to have sought, nor (except from Popper) was he given, the attention of the mainstream analytic philosophical tradition that dominated the three countries - Austria, England, and the United States - in which he did the bulk of his teaching and writing. Nevertheless, it is arguably as a work of philosophy that *The Sensory Order* is of the greatest interest. That it foreshadowed connectionism seems at the end of the day a point of merely historical significance; and its status as the "foundation" for Hayek's economics and politics has, I think, been exaggerated, claims for such a status typically resting on little more than the fact that the book characterizes the mind just as Hayek characterized