

AN ATTEMPT TO UNDERSTAND THE NATURE
AND ORIGIN OF HAYEK'S TRANSFORMATION

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Although the work of F. A. Hayek (1899-1992) has attracted a good deal of attention in recent years, many important questions about the nature and origin of his thought remain unanswered. This is particularly true regarding his so-called “transformation,” during which he all but abandoned technical economics and instead decided to pursue broader questions in political and social philosophy. In this dissertation I examine the system of beliefs that guided his thought, and argue that a number of important questions can be usefully addressed by seeing Hayek in the light of the Natural Law tradition. I argue that there are important reasons to consider Hayek part of this tradition. Many of the central ideas of Natural Law doctrine (especially as they appear in the classical liberal philosophers of the 18th century) are clearly present in Hayek's work, and he was, as a matter of fact, under the governing influence of the Natural Law tradition for most of his life. The Natural Law connection helps account for a number of otherwise mysterious features of Hayek's work, for instance, why he adopted a theory of natural selection at the level of the group as the centerpiece of his mature theory. Moreover, the link with Natural Law doctrine goes a long way toward accounting for the immense rhetorical power of his theory. Meanwhile, I claim, Hayek's reliance on central tenets of Natural Law doctrine had important unintended, unanticipated and unwelcome consequences.

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PREFACE

Although I started thinking about the work of Friedrich A. Hayek some years ago, this dissertation is to a great extent the result of a number of long conversations with Prof. Mark Perlman of the Department of Economics at the University of Pittsburgh. As anybody familiar with his work in the history of economic thought will know, the influence is reflected at every stage of the argument. For coming out of retirement to supervise this project, and for his extraordinarily stimulating suggestions and constant support, I owe the greatest debt of gratitude. Moreover, I am deeply grateful to the other members of my dissertation committee, Prof. Steven Husted of the Department of Economics, Prof. Henry Krips of the Department of Communication, and Prof. Nicholas Rescher of the Department of Philosophy, all at the University of Pittsburgh, for their criticism and encouragement.

My understanding of the institutional context and its impact on Hayek's thought benefited enormously from an interview with Prof. Erich Streißler at the University of Vienna, at what turned out to be a critical juncture. The text – in part or whole – has benefited from the creative destruction unleashed by a number of friends and colleagues, including Zvi Biener, Dr. Elizabeth Blum, Abel Franco, Brian Hepburn, Morgan Marietta, David Miller, Dr. Gualtiero Piccinini, and Rebecca Skloot. My thanks go to the above, and to all others (too numerous to mention) who at some point or other have been willing to discuss these ideas with me.

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most creative years of my graduate studies. I also gratefully acknowledge the support of The Sweden America Foundation, *Borgrättsfonderna* at the Office of the Marshal of the Realm (Sweden), *Byzantinska resefonden* at Uppsala University, *Carl Erik Levins Stiftelse* at *Skandinaviska Enskilda Banken*, the Institute for Humane Studies, the *Fondazione Famiglia Rausing* at the Swedish Institute in Rome, and the FAS–PBC Fellowship Graduate Fund at the University of Pittsburgh.

The dissertation is dedicated to my father, mother, brother and sister. For all of the above, the usual caveat applies.

1.0 INTRODUCTION

In recent years there has been a remarkable surge in interest in the work of Friedrich A. von Hayek (1899-1992). For example, until the year 2000, eight years after his death, there was not a single book-length biography. Since then no less than four such biographies have appeared in print. The first, written in German (and so far not translated into English), was Hans Jörg Hennecke's *Friedrich August Hayek: Die Tradition der Freiheit* (Hennecke 2000). Subsequently, three English language biographies were published in quick succession: Alan Ebenstein's *Friedrich Hayek: A biography* (2001) and *Hayek's Journey: The mind of Friedrich Hayek* (2003), and Bruce J. Caldwell's *Hayek's Challenge: An intellectual biography* (2004). As of late Hayek has also attracted a good deal of attention outside of academia, in the popular press and best selling books (cf. Frank 2000; Postrel 2004; Sen 2004).

In spite of all the attention, however, many important questions about Hayek's life and work remain unanswered. For an economist, the trajectory of Hayek's career was highly unusual. Although he started out as a pure economic theorist, in the 1930's and 1940's Hayek gradually abandoned technical economics and turned toward broader questions in social and political philosophy. It is to his later work that Hayek owes most of his prominence. This work was also in great part the reason why he won the 1974 Nobel Memorial Prize in Economics. According to the press release announcing the award: "The [Royal Swedish] Academy [of Sciences] is of the opinion that von Hayek's analysis of the functional efficiency of different economic systems is one of his most significant contributions to economic research in the broader sense" (Kungliga Vetenskapsakademien 1974). Although Hayek's shift away from technical economics – an episode typically referred to as "Hayek's transformation" (Caldwell 1988) – has been discussed in some

detail, many questions about what caused it and how Hayek's mature work should be interpreted remain open.

In this dissertation I attempt to develop a richer understanding of the nature and origin of Hayek's transformation. My hope is that a historical study can help us address several interrelated questions, including: In what did Hayek's transformation consist? How did it come about? What was its significance? I approach the problem by a close study of the texts that Hayek produced during the relevant period, but also by taking seriously the personal, intellectual, cultural and political background against which he was operating.

My main thesis is that Hayek should be seen as part of the Natural Law tradition, or as I will say for short, that he should be seen as a Natural Law philosopher. I will argue that a great number of the central tenets of Natural Law doctrine – especially as interpreted by previous economists in the Natural Law tradition – are clearly present in Hayek's mature work. These include Hayek's emphasis on order, his distinction between "natural" and "artificial," his belief in natural tendencies toward order, his commitment to "economic harmonies," the clear normative element in his work, his focus on property rights and the family as paradigmatic examples of evolved institutions, his characterization of government action as "interference" that is likely to do more harm than good, and his distinction between law and legislation. Moreover, I will claim that Hayek was in fact under the governing influence of Natural Law doctrine for most of his life, first during his Roman Catholic upbringing, and later during his studies toward a law degree at the University of Vienna and his acquaintance with the thinkers of the Scottish Enlightenment in England. The Natural Law background to some of Hayek's thought is confirmed by his footnotes, in which he traces the historical roots of some of his ideas to major Natural Law thinkers.

Seeing Hayek as a Natural Law philosopher helps account for a number of otherwise mysterious features of Hayek's work. In particular, I argue, the interpretation helps account for his

use of terms like “natural,” “spontaneous,” and “artificial,” his view about the proper role of government (specifically, why Hayek explicitly rejected both *laissez-faire* and conservatism), his ambition to demonstrate the superiority of free market capitalism on scientific rather than ideological grounds, his decision to adopt a theory of cultural evolution through group selection as a central element of his system, his lack of attention to the distinction between explanation and justification (as in the distinction between giving an account of how the market order came about, and defending it), as well as the absence of discussion about what constitutes the Common Good or any clear criteria by which to judge how good a society is. Incidentally, the fact that the Natural Law perspective allows us to accommodate otherwise puzzling features of Hayek’s work offers additional though indirect support for my thesis.

In my work I have been inspired by the historiographical perspective developed by Mark Perlman and co-authors (see e.g. Perlman and Charles R. McCann 1998; Morgan Marietta and Perlman 2000; Perlman 2003). Their approach, which is referred to as the *authorities approach*, is based on the concept of an *authority system* or *patristic legacy*, viz. “a working matrix of one’s mind,” a set of beliefs that guide our thinking (Marietta and Perlman 2000, 152). The beliefs that constitute the authority system guide our thinking in the sense that they regulate our views about the nature of the subject matter, what constitutes an adequate theory, what counts as evidence, and so on. Authority systems present special obstacles to the historian of science, in that they are not always explicit; they may be considered too obvious to require elaboration, or we may not be aware of the fact that they are there. Nevertheless, identifying them can potentially present great benefits, as they help explain why different economists make different theoretical and other commitments, and why some people find a given theory persuasive and others not.

In my view, the authorities approach is particularly useful in the context of Hayek scholarship since it encourages us to look for the continuities in his development. Many Hayek

scholars tend to emphasize the discontinuities in his work, both between different stages of his life and between Hayek and the thinkers who came before. Obviously, I do not wish to deny that many of these continuities were real and important. Nevertheless, as I hope to show, there were important continuities as well, both within Hayek's career and between Hayek and earlier thinkers. Focusing on these continuities, I believe, allows us to shed a great deal of light on central features of his work, and to develop a richer understanding of the trajectory of his career. Obviously, I do not mean to suggest that I am the first to focus on the continuities in Hayek's work. The best example of somebody who has done so, and whose perspective has proven extraordinarily fruitful, is Erich Streißler (e.g. 1992).

Deeper study of Hayek's work, I would argue, is worthwhile for a variety of reasons. For one thing, it can help account for the remarkable appeal of Hayek's thought on contemporary intellectual life. Viktor Vanberg, in his entry on Hayek in the *International Encyclopedia of the Social and Behavioral Sciences*, called him "one of the preeminent social philosophers of [the twentieth] century" (Vanberg 2002, 6482; cf. Postrel 2004). A 2000 profile in *The New Yorker* maintained that "it is hardly an exaggeration to refer to the twentieth century as the Hayek century" (Cassidy 2000, 45). Moreover, a better understanding of the meaning and significance of Hayek's thought should help prepare the ground for an accurate assessment of it. It may be worth emphasizing that this dissertation is a purely historical one, and that I make no attempt to assess Hayek's work. Yet, a proper understanding of the meaning and significance of somebody's work is a *sine qua non* for an adequate assessment of it.

Finally, a better understanding of Hayek's work – as well as its reception – can shed some light on recent American and European history. It appears that Hayek has had a real impact on political as well as intellectual life. In her autobiography *The Downing Street Years* (1993), former British Prime Minister Margaret Thatcher wrote:

[Books] like ... Hayek's powerful *Road to Serfdom* [1944] ... not only provided crisp, clear analytical arguments against socialism, ... but ... also gave us the feeling that the other side simply could not win in the end ... It left a permanent mark on my own political character, making me a long-term optimist for free enterprise and liberty and sustaining me through the bleak years of socialist supremacy in the 1960s and '70s" (Thatcher 1993, 12-13).

The economist and 1976 Nobel laureate Milton Friedman suggested that Hayek's writings contributed to the fall of the Iron Curtain (Friedman 1994, xix). Anders Åslund, who served as an economic advisor to Boris Yeltsin during the Russian post-Soviet reforms during the early 1990's, claimed that his efforts were inspired by Hayek's work (Åslund 2002, 100).

The dissertation is organized as follows. I start out, in Chapter 2, by offering a brief history of doctrines of Natural Law, from the pre-Socratics to Saint Thomas Aquinas and beyond. Next, in Chapter 3, I discuss how doctrines of Natural Law have affected, and continue to affect, the development of economic thought. Because of their importance for the development of economic thought in general, and for Hayek's in particular, I focus on the Physiocrats, Adam Smith, and the Austrian School. In Chapter 4, I present an argument to the effect that many of the central claims of the Natural Law tradition are clearly present in Hayek's work. Next (in Chapter 5) I discuss the various sources of Natural Law influence on Hayek, and how his work reflects the influence of specific figures in this tradition. In Chapter 6 I discuss a number of factors that have been discussed in Hayek literature as playing a role in Hayek's transformation and explore how they fit in with the Natural Law perspective. Finally, in Chapter 7, I summarize the main findings, spell out some implications of the analysis, and discuss its limitations.¹

¹ Whenever possible, I have used authoritative translations of primary and secondary sources. Unfortunately, reliable translations are not always available.

Before proceeding, I should make two points by way of clarification. First, I do not mean to imply that Hayek explicitly committed himself to any given doctrine of Natural Law, or even that he would have done so. Everything I am saying is that Hayek was under the influence of a powerful intellectual tradition, which – quite possibly without his conscious awareness – guided his thoughts in significant ways. Second, I do not claim to be the first to argue that Hayek was part of the Natural Law tradition.² H. H. Leibhafskey (1971), in an appendix called ‘Logical Positivist, Natural Law, and Instrumentalist Philosophies in Economics,’ took Hayek to represent a “current form of natural law philosophy in economics” (1971, 567). In her dissertation *Nyliberal politisk filosofi: En kritisk analys av Milton Friedman, Robert Nozick and F. A. Hayek*, Anna-Maria Blomgren (1997) argued that Hayek’s thought “is very close to the natural law tradition” (Blomgren 1997, 234).³ More recently, Marietta and Perlman (2000) made the case for a number of prominent modern economists including Hayek (Marietta and Perlman 2000, 159). The two authors called their reading “a bold interpretation” (Marietta and Perlman 2000, 168). All the same, in what follows I argue that this interpretation of Hayek is both accurate and helpful. Still, the interpretation is far from standard. For example, Bruce Caldwell’s recent biography mentions Natural Law only to say that the historical school – which Hayek opposed – rejected it (Caldwell 2004, 43).⁴

² My treatment does differ from the ones mentioned here, primarily in that it is far more thorough.

³ The quote is from the English summary (Blomgren 1997, 224-236).

⁴ For more about the historical school and Natural Law, see section 3.4 below.

2.0 THE NATURAL LAW TRADITION

The concept of Natural Law, or Law of Nature, has a long and convoluted history. As we will see below, the idea goes back to the pre-Socratics and – in various shapes and forms – has had a remarkable impact on the development of Western thought. It goes without saying that thinkers in the Natural Law tradition have had some very different aims and purposes. As a result, the various doctrines that they have defended differ among themselves in important ways. Though I do not pretend to be able to identify necessary and sufficient conditions for something being a theory of Natural Law, I do hope to show (mainly by way of example) that there is a clearly identifiable tradition to which the label usefully applies. The point of this chapter will be clear in the next, in which I discuss those aspects of the Natural Law tradition that have been adopted by economists.

In the context of the present work, it would be impossible to offer anything remotely similar to a complete history of the tradition. Instead, I will rest content with offering a brief historical sketch, and, on this basis, try to extract a more analytical statement of the main tenets of the tradition. The result, of course, will be unlikely to accurately represent the beliefs of any given individual thinker. However, it may serve to give an adequate characterization of what e.g. an economist familiar with the tradition will take away from it. For this chapter, I have relied on a number of authorities, including, most prominently, John W. Salmond (1895), James Bryce (1901), Pierre Struvé (1921), Frederick Pollock (1969 [1922]),⁵ O. H. Taylor (1929; 1930), Joseph A.

⁵ Pollock's second chapter, called 'History of the Law of Nature' (Pollock 1969, 31-79), is especially interesting in this context.

Schumpeter (1954), Richard Wollheim (1967), Paul E. Sigmund (1971), Francis H. Eterovich (1972), and Mark Perlman and Charles McCann (1998).

Though the Natural Law tradition is often taken to have its origin in Aristotle (384-322 B.C.),⁶ there were a number of precursors. These include pre-Socratics like Pythagoras (570?-495?), Heraclitus (c. 500 BC), and Parmenides (early fifth century B.C.). Their thought was typically motivated by an interest in finding unity behind flux. These philosophers aspired “to find the permanent element, the ground of being, the core of reality, the fixed essence of substance, which may be called *the nature of being*, a nature which operates as a standard in the midst of a changing, pluralistic, and contingent world” (Eterovich 1972, 22, italics in original). Though the answer to the fundamental question differed across philosophers, one thing that united them was that they saw the universe as, at a fundamental level, an *orderly* one. Thus, for example, Pythagoras taught that a certain harmony based on numbers could be found in both man and cosmos (Sigmund 1971, 1). In this tradition, in Eterovich’s words: “Nature manifests a law or design, and design calls for a designing reason” (Eterovich 1972, 22).

Philosophers who succeeded the pre-Socratics were interested not only in whether there was something constant in a changing (physical) universe, but also in whether there was a law that governed human behavior and that was valid everywhere and always (Windelband 1958, 73). The Sophists of the fifth century B.C. found such a law grounded in human nature (Eterovich 1972, 23-26). Plato (427-347 B.C.) in particular offered a strong affirmative answer. In his view, the Idea of Justice is eternal, unchanging, and perfect. Although such Ideas (or Forms) reside in a separate realm, they are accessible to the mind. A person or *polis* is just if, or insofar as, it partakes in the Idea of Justice. Plato gives an account of the just individual or *polis* in terms of notions of harmony and

⁶ In this section, dates of birth and deaths are taken from Audi (1995).

order. An individual or a *polis* is just when its elements – the “parts” of the soul, or the social classes – perform their proper function (Sigmund 1971, 28-29; Solari 1931, 983).

In Aristotle, each natural thing – be it a man, horse, or acorn – is endowed with an inner principle or source of change (Eterovich 1972, 30). In the *Politics*, Aristotle defined the nature of each thing as its end (*telos*), and the end of a thing as what each thing is when fully developed (*Politics* i.2-1252b32; in Ackrill 1987, 509). For human beings, the *telos* is the good life or flourishing. Since it is impossible to reach this goal in isolation from others, people form families, villages and ultimately the *polis*. Hence, “man is by nature a political animal” (*Politics* i.2-1253a2; in Ackrill 1987, 509). In Aristotle’s view, reaching one’s end, fulfilling one’s potential, is associated with attaining perfection or excellence (*Politics* i.2-1252b34; in Ackrill 1987, 509). Justice is a virtue that is required for an individual to be in harmony with himself and with other members of the *polis* (Eterovich 1972, 33). As Schumpeter remarked: “the Natural ... he associated with the Just, thus setting an example for ages to come” (Schumpeter 1954, 108). We should note that Aristotle also associated the Natural (and Just) with expedience, and with the good life and flourishing of all. In the *Nichomachean Ethics*, Aristotle also drew a distinction between the “naturally just” and the “conventionally just” (or “legally just”) (*Nichomachean Ethics* v.7-1134b18; in Ackrill 1987, 412). Natural justice has everywhere the same force, and exists no matter what people think about it, whereas conventional justice relates to matters that are indifferent until laid down by some authority.

The Stoic philosophers of the third and second centuries B.C. drew on Aristotle, Plato, and the pre-Socratics. Like Aristotle and Plato, the Stoics envisioned the *polis* as a natural order, but they also saw the universe – the *cosmos* – as a *polis*. Both the *cosmos* and the *polis* were ruled by universal and divine Reason, which had designed the world for the good of man (Struvé 1921, 297; Eterovich 1972, 36). Thus, “man and the universe about him blend into one single unit, and Reason rules men

and things alike” (Eterovich 1972, 40). The cosmos is therefore a harmonious one. In Struvé’s summary:

Les stoïciens professaient que tout ce qui existe dépend absolument d’une loi générale qui se trouve à la base de l’univers. Cette loi universelle, à laquelle tout est soumis, est en même temps une loi de la nature, une loi de la raison, et une loi morale.... On peut dire que cette conception a imprimé son cachet à la pensée économique de siècles entières (Struvé 1921, 297).

While stones and animals must obey the laws – out of physical necessity or instinct, respectively – man’s capacity for choice makes it possible for him to violate the Law; but by doing so he violates Reason (Wollheim 1967, 451). Fortunately, since man has the ability to reason, and since he is part of the *cosmos*, the universal Design or Natural Law is directly accessible to him (Solari 1931, 983).

The Stoic ideas of Natural Law were passed along to Cicero (106-43 B.C.) and the Roman jurists, and, through them, to the Christian thinkers of the Middle Ages (Struvé 1921, 298; cf. Buckle 1991, 164-166). The Church Fathers, among them St. Augustine (354-430), identified Nature with God, and the Law of Nature with that part of the Law of God which can be known independently of revelation (Salmond 1895, 130). Augustine distinguishes between the temporal law, which is made by men and governs human states, and the *lex aeterna*, which proceeds from the divine mind and rules the City of God (Salmond 1895, 130). According to Augustine, the state is justified as the only way to achieve eternal peace on earth, where peace is characterized by order, harmony and coordination of the parts with the whole (Solari 1931, 984).

St Thomas Aquinas (1225-1274) continued the efforts to construct a philosophical system that combined and harmonized Christian doctrines with those of ancient thought (Salmond 1895, 131). He accepted Augustine’s account of eternal law and natural law. In addition, he incorporated elements of Aristotelian thinking. In particular, he adopted Aristotle’s ideas of an inner principle of change, and of a natural end state, and believed that the good of everything consists in actualizing its

inherent potential. In Aquinas view “the precepts of natural law are inherent in man” (Eterovich 1972, 50-52). Thus, Aquinas shared the idea of an underlying law that governed both the operations of the physical world and human behavior, although he found the basis of that law in the Christian God (Salmond 1895, 134).

By the beginning of the 17th century, the Natural Law tradition took a new turn, best represented by the work of Hugo Grotius (1583-1645) and Samuel Pufendorf (1632-1694) (cf. Buckle 1991, 166-168). What characterized the new period is the gradual dissociation of Natural Law doctrine from theology. As Salmond puts it:

Though rarely rejecting as actually invalid the Scholastic conception of the divine will as legislative, philosophers begin to disregard it as at least irrelevant in a secular science, and to seek another and independent source for the precepts of natural law. This source is the rational nature of man. The ancients derived this law from the universal nature; medieval theologians from the divine nature; modern philosophers from human nature (Salmond 1895, 135).

Thus, the modern natural law philosophers aspired to find a basis for law in the natural tendencies and demands of human nature (Solari 1931, 984). Meanwhile, they continued to regard natural law as absolutely binding, and unchanging across time and space. As an illustration, it has been argued that the utilitarian philosophers fall in the Natural Law tradition. Thus, Pollock wrote that

... utilitarianism is just as much a system of natural law as any other dogmatic system of ethics or politics. Indeed, the political principles of the Imperialist doctors come very near to the well-known theistic form of utilitarianism, according to which utility is the test of right conduct because God wills the happiness of his creatures (Pollock 1969, 47; cf. Schumpeter 1954, 132).

Either way, it is clear that the tradition of the tradition of Natural Law did not perish at the dawn of the modern era.

As we have seen, the various representatives of the Natural Law tradition, from the pre-Socratics to the moderns, differ among themselves in important ways. There is nothing surprising about such differences, of course, given that the tradition spans more than two thousand years of intellectual activity, and that different schools had radically different aims and purposes. Although it is important not to exaggerate the similarities between different Natural Law thinkers, it is possible to identify some intellectual currents that are shared by all or most of these thinkers, and that can be seen as the main tenets of the tradition. My assumption is that these tenets represent, albeit in a rough way, what someone like Hayek may have learned about Natural Law from his acquaintance with it.

Most prominent among the tenets of Natural Law doctrine is the belief that the universe is, at a fundamental level, an *orderly* one. It need not be *actually* ordered, but at least it has the *potential* to be so under the appropriate circumstances. In some versions, this order is due to Divine Reason or the Christian God, in other versions it is divorced from theological implications. In either case, the natural order is characterized by harmony, both between the individual parts and between the parts and the whole. Also, the natural order is associated with justice, expedience, perfection, adjustment to the nature of things, and the common good. Moreover, in the natural order we find the foundation for an eternal, incorruptible, and immutable principle – the Natural Law – that governs the behavior of all natural things, whether animate or inanimate. Man, however, being endowed with the ability to reason, is not bound by relations of physical necessity the way that stones and oaks are. As a result, he can violate the Law. Such behavior goes against nature, however, and lacks the virtue of justice. Fortunately for man, he can use his reasoning abilities in order to understand the natural order, and to bring his actions in line with the Law.

This brief characterization illustrates that there are at least two important dimensions along which doctrines of Natural Law differ from each other. The first relates to the source of authority,

whether Natural Law derives from divine reason, God, human nature, or something entirely different. The second relates to the actuality of the normative order. On some accounts, as Buckle put it, “there is a normative order that is part of the natural world” (Buckle 1991, 162). Such accounts, which Buckle associates with Plato, differ from those that he associates with Aristotle, and according to which what is natural need not be unchanging. Aristotle’s account, Buckle wrote, “requires only that changes occur as the result of the natural inner working of a being” (Buckle 1991, 163).

3.0 NATURAL LAW IN ECONOMICS

There is little doubt that the tradition of natural law has been a major influence on the development of social science in general and economic thought in particular. As Struvé (1921) wrote, “la science de l’économie politique se caractérise tout entière dans son développement, par une tendance à éclairer toute la variété complexe des phénomènes économiques par la conception de la loi naturelle” (Struvé 1921, 294). In this chapter I discuss how a few prominent economists have been affected by the Natural Law tradition, and offer a brief characterization of the impact that Natural Law doctrine has had on economic theory in general. The endeavor is complicated by the fact that many of the claims of the Natural Law tradition strike people as so obvious as to not need elaboration or even articulation. Still, I hope to offer an outline that is sufficiently detailed, and sufficiently accurate, to serve as a basis for my later argument. In this chapter, I will rely most heavily on Struvé (1921), Taylor (1929; 1930), Schumpeter (1954), and Perlman and McCann (1998).⁷

⁷ The 1929 article by O. H. Taylor was singled out for praise in Schumpeter’s magisterial treatment of Natural Law in economics (1954, Part II, Chapter 2). Schumpeter called Taylor’s essay “[the] only study I can commend for correct appraisal of the work done under the auspices of the natural-law idea” (Schumpeter 1954, 107). However, he also mentions Pollock (1922) and Struvé (1921).

3.1 François Quesnay and the Physiocrats

In the eighteenth century, the notion of Nature as something endowed with ends and goals – as we have seen, a fundamental idea of some versions of Natural Law doctrine – was common and widespread. In the words of O. H. Taylor (1930):

The idea of “Nature” as a power that works towards ends, was embodied in commonplace phrases which occur with special frequency in eighteenth-century literature. Physical science appeared to have revealed a harmonious order in the physical universe, which “Nature” was supposed to maintain or ensure by imposing the laws of physics on all bodies. And there was a belief that “Nature” would produce a similar harmonious order in the system of human activities constituting the life of society, if men, rightly using the faculties which Nature had given them for this purpose, would recognize and obey her moral laws or precepts for the proper regulation of these activities (Taylor 1930, 211).

Thus, Natural Law doctrine, along the lines discussed in the previous chapter, found application in the realm of the social as well as the physical.

It was in this environment that the Physiocratic School, and its most important representative François Quesnay (1694-1774), emerged. The school is perhaps best known for its conviction that agriculture is the only truly productive sector of the economy and the only real source of national wealth; and that, as a result, internal tariffs should be removed and agricultural activity stimulated (Perlman and McCann 1998, 162). Their doctrine was explicitly based on a foundation of Natural Law. In the words of Perlman and McCann (1998): “Formally known as *les économistes*, the group adhered to a socio-political-economic doctrine predicated on the rule of Natural Law—the word *Physiocracy* in fact means ‘natural rule’” (Perlman and McCann 1998, 162).

The Physiocrats are particularly interesting in this context since their doctrine and its Natural Law roots are more explicit than in the work of later writers in the same tradition. According to Taylor (1930), the Physiocrats “gave explicit and clear-cut development to the fundamental ideas of the political economy of liberalism; ideas which in the writings of other and more influential architects of that system remained latent or half-expressed” (Taylor 1930, 215). Moreover, as we will see below, there is reason to think that the Physiocrats exerted a certain influence on later writers, including Adam Smith and the Austrian economists.

The Physiocratic vision of Natural Law is forcefully presented in Quesnay’s 1765 article ‘Natural Right,’ originally published as ‘Le droit naturel’ in the *Journal de l’agriculture, du commerce et des finances* (see Quesnay 1962 [1765], 43-56). Unfortunately, the argument is often difficult to follow. Indeed, one might say, as one of his translators does, that “Quesnay’s style is often extremely irritating” (Meek 1962, 39). Though the text offers the possibility for alternative interpretations, I hope to show that the Natural Law foundation is plainly visible.

Quesnay gave an idea of what he meant by Natural Law in the following passage, which I assume serves as a definition of the term. According to Quesnay, Natural Law consists of two types of law:

Natural laws are either physical or moral.

I am here taking physical law to mean *the regular course of all physical events in the natural order which is self-evidently the most advantageous to the human race.*

I am here taking moral law to mean *the rule of all human action in the moral order conforming to the physical order which is self-evidently the most advantageous to the human race.*

These laws taken together constitute what is called *natural law* (Quesnay 1962, 53, italics in original).

Quesnay went on to claim that the natural laws were “instituted by the Supreme Being” and “are immutable and indisputable and the best laws possible” (Quesnay 1962, 53-54). Indeed, “their aim is to bring about good” (Quesnay 1962, 50).

On Quesnay’s account, natural law is directly accessible through the use of reason, which explains his frequent use of the term “self-evident” and its cognates. Natural right is defined in the following way: “The natural right of man can be loosely defined as the right which man has to things suitable for his use” (Quesnay 1962, 43). However, the term used in the French original, *jouissance* (cf. Quesnay 1965 [1888]) means “enjoyment” or “joy, pleasure, delight” as well as “possession, use” (Girard 1962, 438). No doubt the idea is that the ideal order, which conforms to, or is produced by, natural law, is one in which natural right is respected and people experience pleasure and enjoyment.

In Quesnay’s view, of course, natural right should serve as a basis for legal right. As he wrote:

The natural right of man differs from his *legal* right, or the right conferred by human laws, in that it is self-evidently recognized through the light of reason, and through this self-evident character alone is binding independently of any coercion; whereas *legal* right, defined by positive law, is binding because of the penalty attached to transgression by the sanction of this law (Quesnay 1962, 45).

Since natural laws are for the best, they should serve as a basis for positive law. Quesnay wrote that natural laws “are the foundation of the most perfect government, and the fundamental rule for all positive laws. For positive laws are nothing but laws of administration relative to the natural order which is self-evidently the most advantageous to the human race” (Quesnay 1962, 54).

As a matter of fact, however, actual legal right typically fails to conform to natural right. As Quesnay wrote:

Legal right often restricts natural right, because the laws of man are not as perfect as the laws of the Author of nature.... The host of contradictory and absurd laws which nations have successively adopted proves clearly that positive laws are often apt to deviate from the immutable rules of justice and of the natural order which is most advantageous to society (Quesnay 1962, 45).

Thus, there is a natural order that conforms to, or is constituted by, natural laws. However, there is often a great deal of tension between this natural right and the legal right. In Quesnay's view, it seems, the many negative consequences of such laws supports the claim that natural laws are advantageous for mankind.

Some of these passages may strike a modern reader as confusing, as they seem to conflate a number of different ideas. In Taylor's view, the Physiocrats' concept of social or moral law can be said to include at least three separate ideas:

It includes the rules of *droit naturel*, which, as embodied in legislation and in the moral consciousness of citizens in the new social order, will regulate their behavior in accordance with their natural rights and duties. It may also be said to include the rules of rational economic behavior, which will guide individuals in pursuing their economic interests within the limits fixed by the rules of justice. Both of these sets of rules are precepts or injunctions of Nature, which men must discover and obey. But the general conception also includes the laws of economics in the proper sense of that expression, i.e., the laws of the causal interconnections among the actions of separate individuals which make up economic life.... It was the view of the Physiocrats that this process would ensure the working out of all desirable adjustments in the economic system, when all individuals should have become rational or prudent men, living in a rational and just society with its "natural" scheme of institutions (Taylor 1930, 219-220).

No matter what the exact relation between these ideas, it is clear that the Physiocrats associated the just, the harmonious, and the rational, and believed that the natural laws were conducive to all of the above.

This aspect of their Natural Law doctrine provided the underpinnings for the Physiocratic vision of the proper role of government. Since they believed that agriculture was the only truly productive sector of the economy, policy should be designed in such a way that agriculture is stimulated. Specifically, Quesnay and the Physiocrats favored free trade in corn, since this would stimulate investment in agriculture. They favored a single tax on land as the least destructive means to raise funds. Moreover, they opposed policies that favored manufacturing and trade at the expense of agriculture (Young 2002, 11). At a more fundamental level, however, the policy prescriptions were based on the idea of Natural Law. As Taylor put it:

With universal free exchange and competition, prices and incomes would be kept at their “natural” levels, supplies in all markets would adjust themselves to demands, and the economic system would become the efficient and harmonious mechanism which Nature intended it to be (Taylor 1930, 224).

Although the Physiocrats wanted to repeal tariffs and promote trade, their ideal government does not remain passive. In Taylor’s words:

It should be clear from what I have said that the *laissez-faire* maxim, as used by the Physiocrats, was not a counsel of inaction. Their “legal despotism” was to be a vigorous and active government, but active only along the wise lines pointed out by Nature. The immediate program of action which they had in mind, of course, was one of destruction of old abuses. But the permanent task of enforcing the rules of *droit naturel* meant the carrying out of a definite tho simple program of “social control” of economic life (Taylor 1930, 224).

Thus Physiocrats' policy prescriptions were firmly grounded in their belief in a natural order.

It should be clear that Quesnay and the Physiocrats accept a great number of the central tenets of the Natural Law tradition. There is, in their work, a firm belief in a rational, harmonious and just natural order, instituted by the Supreme Being. There is, moreover, a commitment to natural laws, which describe or govern natural tendencies, and which tend toward order. Humans, being endowed with freedom, can oppose this order. However, they do so at their own peril. The natural order is for the better; indeed, its aim is the common good. Positive legislation should be modeled on the natural law, so that the role of government is to help enforce the natural order. This means that government is often required to stand aside and let the natural tendency run its course, but it does not imply complete inaction. As we will see, many of these ideas are reflected also in the work of Adam Smith.

3.2 Adam Smith

Adam Smith (1723-1790) was an Oxford-educated Professor of Moral Philosophy at Glasgow (Perlman and McCann 1998, 58). Smith is best known as the author of *An Inquiry into the Nature and Causes of the Wealth of Nations* (1976 [1776]), and the metaphor of the invisible hand. The metaphor also appears in the earlier *The Theory of Moral Sentiments* (2002 [1759]), which many consider his better work. Throughout Smith's writings, Natural Law plays a central role. T. E. Cliffe Leslie (1870) argued:

We shall see that the original foundation [of Smith's philosophy] is in fact no other than that theory of Nature which, descending through Roman jural philosophy from the speculations of Greece, taught that there is a simple Code of Nature which human institutions have disturbed,

though its principles are distinctly visible through them, and a beneficial and harmonious natural order of things which appears wherever Nature is left to itself (Leslie 1870, 551).

In this section I will discuss in greater detail the precise role of Natural Law doctrine in Smith's work.

In the context of Natural Law and economics, Smith is of the greatest importance. This is so in part because of the prominent place of Natural Law thinking in his system, but also because of the extraordinarily strong influence he exerted on later economic thought. Smith is often considered the father of modern economics. As such, he did much to promulgate central tenets of Natural Law doctrine among economists. As Charles M. A. Clark (1992) put it:

For all practical purposes, the Natural Law Outlook becomes part of preconceptions of economic theory through the work of Adam Smith. This is not to downplay the importance of the Natural Law Outlook for the Mercantilists, or particularly the Physiocrats, but merely to note the paramount influence of Smith on the subsequent development of economic theory. With Smith, the Natural Law Outlook becomes synonymous with a scientific approach to the study of society (Clark 1992, 35).

This, and Smith's significant influence on Hayek, is the explanation for my emphasis on Smith (as opposed to other eighteenth century moral philosophers) in this chapter.

There are many indications that Smith was impressed by the success of Newtonian mechanics, and that Newton's system served as a model for Smith's own. According to Clark (1992), for example: "Smith studied Newton and his method, and was directly influenced by him" (Clark 1992, 36). Smith appears to have thought that Newton had validated the Natural Law approach in science, and aspired to follow him because his method had been proven to reveal the natural laws

and God's design (Clark 1992, 42). Newton's influence appears to have gone beyond this, however, to include the notion of the world as an ordered, harmonious place. Taylor (1930) wrote:

The task of the natural sciences, according to Smith, is to find "connecting links" between events or phenomena which at first appear unrelated. In this way it reduces the apparent chaos of phenomena to an ordered system, and in the end gives us the inspiring conception of the universe as a single, vast "machine," whose parts work together as if according to a plan (Taylor 1930, 228).

As Taylor suggested, it is eminently plausible that Smith tried to do for political economy – the study of "the nature and causes of the wealth of nations" (Smith 1976, 200) – what Newton had done for natural philosophy (Taylor 1930, 228).

Smith's commitment to Natural Law doctrine, and the similarities between his views and those of the Physiocrats, are perhaps nowhere clearer than in Book IV, Chapter IX of *The Wealth of Nations* (1976 [1776], 182-209). The chapter, which discusses and evaluates Physiocratic doctrine, concludes with several paragraphs that point to a shared Natural Law heritage. Smith asserted:

It is thus that every system which endeavors, either, by extraordinary encouragements, to draw towards a particular species of industry a greater share of the capital of the society than what would naturally go to it; or, by extraordinary restraints, to force from a particular species of industry some share of the capital which would otherwise be employed in it; is in reality subversive of the great purpose which it means to promote. It retards, instead of accelerating, the progress of the society towards real wealth and greatness (Smith 1976, 208).

In Smith's view, there exists a natural share of capital that would be used in a certain industry in the absence of preference or restraint by government. Moreover, this natural share of capital is that

which best promotes national wealth. Many policies upset this natural state of affairs, however, to the detriment of wealth and greatness.

To this conclusion, Smith added that the natural system will establish itself, provided government abandons policies that may prevent it from doing so. He wrote:

All systems of either preference or restraint, therefore, being thus completely taken away, the obvious and simple system of natural liberty established itself of its own accord. Every man, as long as he does not violate the laws of justice, is left perfectly free to pursue his own interest his own way, and to bring both his industry and capital into competition with those of any other man, or order of men (Smith 1976, 208).

Similarly, in a lecture offered some time around 1755, he said that

... projectors disturb nature in the course of her operations in human affairs; and it requires no more than to let her alone, and give her fair play in the pursuit of her ends, that she may establish her own designs (Smith 1755; in Ross 1995, 108).

In this system of natural liberty, every man is free to pursue his own interests and will in fact do so. As a result, the system of natural liberty is conducive to individual happiness as well as national wealth.

The assumption underlying this argument is that if men are free to invest into whatever venture they prefer, then each industry will receive the natural share of capital. This assumption is more explicit in the following passage, one of the two in which the famous “invisible hand” makes an appearance. After noting that it is often more profitable for a given private individual to invest in domestic rather than foreign industry, Smith argued:

By preferring the support of domestic to that of foreign industry, he intends only his own security; and by directing that industry in such a manner as its produce may be of the greatest

value, he intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end which was no part of his intention. Nor is it always the worse for the society that it was no part of it. By pursuing his own interest he frequently promotes that of the society more effectively than when he really intends to promote it (Smith 1976 [1776], Vol. I, Book IV, Chapter II, 478).

Thus, perhaps surprisingly, the common good is better served by individuals pursuing their private interest than by individuals deliberately trying to promote the common good.

Interestingly, Smith offers additional arguments, firmly based on a Natural Law foundation, why any alternative government policy is likely to backfire. In the system of natural liberty, Smith continued:

The sovereign is completely discharged from a duty, in the attempting to perform which he must always be exposed to innumerable delusions, and for the proper performance of which no human wisdom or knowledge could ever be sufficient; the duty of superintending the industry of private people, and of directing it towards the employments most suitable to the interest of society (Smith 1976, 208).

This passage suggests that limitations associated with human wisdom and knowledge are an important reason to think that alternatives to the system of natural liberty will fail. The argument appears to be that in any system other than that of natural liberty, the ruler must supervise the activities of a vast number of individuals, and that completing this task is much too complicated for any human being.

Elsewhere, Smith offered other arguments for the conclusion that governments should abandon all policies “of preference and restraint.” Thus, he said:

... little else is requisite to carry a state to the highest degree of opulence from the lowest barbarism, but peace, easy taxes, and a tolerable administration of justice; all the rest being brought about by the natural course of things. All governments which thwart this natural course, which force things into another channel, or which endeavour to arrest the progress of society at a particular point are unnatural, and to support themselves are obliged to be oppressive and tyrannical (Smith 1755; in Ross 1995, 108).

In the previous paragraph, we saw that, on Smith's view, governments which abandon the natural system of liberty must attempt to superintend the industry of private people, and that this task would be too complicated for mere humans. In the more recent quote, the idea is that rulers who do attempt to violate the natural system of justice also become oppressive and tyrannical. This may very well, on Smith's view, be a consequence of their having to direct private activity.

What, then, is the proper role of government under the natural system of liberty? Smith offers a brief characterization in the following quote:

According to the system of natural liberty, the sovereign has only three duties to attend to; three duties of great importance, indeed, but plain and intelligible to common understandings: first, the duty of protecting the society from the violence and invasion of other independent societies; secondly, the duty of protecting, as far as possible, every member of society from the injustice or oppression of every other member of it, or the duty of establishing an exact administration of justice; and, thirdly, the duty of erecting and maintaining certain public works and certain public institutions, which it can never be for the interest of any individual, or small number of individuals, to erect and maintain; because the profit could never repay the expence [sic] to any individual or small number of individuals, though it may frequently do much more than repay it to a great society (Smith 1976, 208-209).

Thus, the role of government is relatively circumscribed, and in the main dedicated to enforcing the natural system of liberty.

Smith is not the dogmatic *laissez-faire* theorist that he is sometimes made out to be, however. Although there is a certain amount of disagreement about the exact extent of his tolerance for government activity, he obviously saw a role for state action in a range of situations. In a book chapter called ‘Public Economic Policy: Adam Smith on What the State and Other Public Institutions Should and Should not Do,’ Richard Stone (1992) has outlined Smith’s views about the role of the state. Stone wrote:

The first duty of the state is that of protecting the society from the violence and invasion of others.... The second duty is that of protecting as far as possible every member of the society from injustice and oppression of other members, which means establishing an efficient administration of justice. The third is that of promoting works and institutions which facilitate commerce. The fourth is encouraging the education of the people. And the fifth is supporting the dignity of the sovereign (Stone 1992, 64).

Like that of the Physiocrats, therefore, Smith’s government does not remain passive. Indeed, in Smith’s view the government should be actively involved in the organization of a functioning administration of justice, the provision of certain public works and institutions, and so on.

Smith’s system of natural liberty is intimately connected with his moral psychology, and in particular with his account of “sympathy.” In *The Theory of Moral Sentiments*, Smith used “sympathy” to denote “our fellow-feeling with any passion whatever” (Smith 2002 [1759], Part I, Section I, Chapter I, §5, 13). Part of the reason why people’s individual self-interested actions tend to lead to a harmonious order, rather than complete chaos, is that humans have a propensity to feel sympathy for others. In the presence of sympathy, self-interested behavior is not typically selfish. In Smith’s work, as Taylor (1930) put it:

The natural propensities and feelings of men ... were represented as the main agencies at work. And in the fact that these propensities and feelings, which were due to the original endowments of human nature, tended to produce a harmonious order in social life, he found warrant for an inference that “Nature” or the “Author of Nature” was working through human propensities and feelings to realize a beneficent purpose that transcended human purposes (Taylor 1930, 229).

Put another way, “the moral feeling that makes us approve what is in fact socially useful is produced, not by our conscious intention to promote society’s welfare and our knowledge of how to promote it, but by the springs with which Nature has equipped our mental and emotional machinery” (Taylor 1930, 230). The presence of sympathy, therefore, is part of Smith’s argument in favor of the beneficence of Natural Law (cf. Clark 1992, 50). The role of sympathy also has important epistemological implications. In Smith’s view, we learn about Natural Law through empirical study of the working of man’s mind (including his feelings of sympathy). In this Smith differs from the Physiocrats and earlier Natural Law thinkers, who believed in essential properties more directly accessible to the mind (cf. Young 2002).

In sum, Smith’s system is in many ways similar to those of Quesnay and the Physiocrats. There are differences, of course. First, Smith used his moral psychology to offer a different – and more sophisticated – argument for the beneficence of Natural Law. Second, Smith recommended empirical study to acquire knowledge of Natural Law.⁸ Other than that, however, the similarities are remarkable. In the words of Taylor (1930):

The economic and social philosophies of the Physiocrats and Adam Smith, though very different in character, thus came to similar results. Under a “natural” régime of institutions, or of

⁸ Smith’s view of the role of God is still a matter of contention (cf. Young 2002, 21-22).

law and policy, a “natural” economic process would ensure the working out of the right adjustment in the economic system and the maximization of economic wealth. For the Physiocrats, the “natural” legal system was the one indicated by Nature, through certain simple and obvious facts of social life, to the “reason” of the reformer, as the system intended and calculated to promote the general welfare. For Adam Smith it was the system which harmonizes with the moral sentiments that Nature engenders in men’s minds through the workings of sympathy (Taylor 1930, 239).

The two systems were similar also in their policy conclusions. Taylor (1930) continued:

The character of the ideal system was about the same for both. It would guarantee to all men certain rights and liberties, thereby denying to every man all the privileges inconsistent with the rights of others. It was therefore not a system that implied passivity on the part of governments, or an absence of “social control” of individual behavior and the course of economic events. The “natural” economic process was not an uncontrolled process but the process intended by Nature, and capable of complete realization as the actual economic process only if the state should do its part by establishing the laws and policies prescribed by Nature (Taylor 1930, 239).

In spite of their slightly different foundations, the policy prescriptions that came out of their systems were substantially alike.

It is unclear exactly how much the Physiocrats affected the development of Adam Smith’s thought (cf. Young 2002, 7). Taylor asserts: “Their influence upon Smith, especially in respect of such ideas as I am here concerned with [i.e. Natural Law], was probably almost nil” (Taylor 1930, 215). However, there are a number of considerations that contradict this contention. For one thing, Smith visited prominent members of the Physiocratic School in France in 1766, after he had published *The Theory of Moral Sentiments* (2002 [1759]), but before he had published *The Wealth of*

Nations (1976 [1776]) (cf. Young 2002, 10). Moreover, Smith had many positive things to say about the theory offered by Quesnay and the Physiocrats. Consider:

This system, however, with all its imperfections, is, perhaps, the nearest approximation to the truth that has yet been published upon the subject of political œconomy, and is upon that account well worth the consideration of every man who wishes to examine with attention the principles of that very important science (Smith 1976, 199).

I will not try to resolve this question here. It is interesting to note that Smith was well aware of the ancient Greek roots of Natural Law. Thus, in *The Theory of Moral Sentiments* (2002 [1759]), he made reference to a great number of Natural Law philosophers. In one passage, he wrote:

The ancient Stoics were of the opinion, that as the world was governed by the all-ruling providence of a wise, powerful, and good God, every single event ought to be regarded, as making a necessary part of the plan of the universe, and as tending to promote the general order and happiness of the whole: that the vices and follies of mankind, therefore, made as necessary a part of this plan as their wisdom or their virtue; and by that eternal art which educes good from ill, were made to tend equally to the prosperity and perfection of the great system of nature (Smith 2002, 44).

Again, I will not try to resolve issues of the Ancients' influence on Smith here, but it is interesting to note that Smith was well aware of the intellectual roots of his system.

3.3 Carl Menger and the Austrian School of Economics

The Austrian School of Economics had its origins in the work of Carl Menger (1840-1921), and emerged as an independent intellectual tradition in the late nineteenth century (Perlman and

McCann 1998, 420). However, a number of figures played a critical role in the establishment of Austrian economics as a distinct tradition. Menger's disciple Eugen von Böhm-Bawerk (1851-1914) was one of them. In the words of Perlman and McCann: "Menger initiated the program which was to become Austrian economics; Böhm-Bawerk fabricated the superstructure" (Perlman and McCann 1998, 429). Böhm-Bawerk's brother-in-law Friedrich Freiherr von Wieser (1851-1926) was another disciple of Menger's, and succeeded Menger as economics chair after his retirement (Perlman and McCann 1998, 434). The fourth Austrian figure who will be mentioned in this section is Ludwig Edler von Mises (1881-1973). In the words of Perlman and McCann: "Mises perceived himself principally as a follower and intellectual successor of Carl Menger and Böhm-Bawerk, placing him squarely in the third generation of Austrian economist-scholars" (Perlman and McCann 1998, 442).

Menger, Böhm-Bawerk, Wieser and Mises deserve our attention in this context, both because of the Natural Law element in their theorizing and because of their influence on Hayek. The Natural Law background of the Austrian economists has not (to my knowledge) received anything like the attention bestowed upon Smith's. One exception is H. H. Leibhafsky (1971) who argued that Mises "adopts a crude natural law point of view in a disguised form" (Leibhafsky 1971, 567). Similarly, R. A. Gonce (1993) claimed that "Mises' system embodies individualistic, secular natural law philosophy" (Gonce 1993, 491). In this section, I will try to show that the work of all the Austrians in fact contains important elements of Natural Law doctrine.⁹ This is important, since the Austrian economists' influence on Hayek was extraordinarily strong (see sections 5.3 and 5.4).

One place in which the Natural Law element in Austrian thought is evident is in Menger's account of institutions of "organic origin." Such institutions were discussed in his both of his main works: *Principles of Economics* of 1871 (Menger 1981) and *Problems of Economics and Sociology* of 1883

⁹ Because of his singular importance in the development of Austrian economic thought in general and Hayek's in particular, I give pride of place to the work of Menger.

(Menger 1963). According to Menger, to say that a social structure is of organic origin is to say that it was not organized by a thinking mind, but arose in a natural process of development. In Menger's words, phenomena of organic origin are not the result of "an *intention aimed at this purpose*," but "present themselves to us as 'natural' products (in a certain sense), as *unintended results of historical development*" (Menger 1963 [1883], p. 130, italics in original). Menger believes that social structures of this kind are relatively common, and include phenomena such as law, language, money, and markets (Menger 1963, pp. 130, 158).¹⁰

Like many other writers in the Natural Law tradition, Menger drew a distinction between "law" and "positive legislation." He described positive legislation the "intended result of the will of an organized national community or of its rules" (Menger 1963, 223). Law need not appear as the result of positive legislation, but may be the result of an organic process (Menger 1963, 223). Menger also suggested that law of organic origin is often conducive to the common good. He wrote that "here, as in the above case of money, we are met with a social structure which in the most outstanding sense benefits the common welfare" (Menger 1963, 223). Indeed, accounting for the existence of such structures is one of the most important problems of social science:

An unintended product of social development which conditions and advances the welfare of society, and this perhaps to a higher degree than any social institution which is the work of human intention and calculation—the explanation of this remarkable phenomenon is the difficult problem which social science has to solve (Menger 1963, 223).

Thus, Menger appears to share the belief that the natural process of development is, at least at times, for the better. It should be noted, however, that Menger did not entertain the naïve belief that

¹⁰ See Angner (2002a, 710-711) for a more detailed discussion of Menger's views.

institutions of organic origin are always for the best, and could never be improved upon. Concerning the alleged “higher wisdom” of common law, for example, he wrote:

The meaning of the allusion can rationally be only that common law, in spite of its not turning out to be the result of a social will aimed consciously at the common good, benefits the latter nonetheless to a higher degree than a corresponding positive legislation could. This assertion is, however, erroneous in every conceivable respect. For ... [it] contradicts experience (1963, p. 233).

In another, distinctly sarcastic passage Menger dismisses such assertions as “conservative basic principles highly useful to the ruling interests” (1963, p. 91).

According to Emil Kauder, Menger, Böhm-Bawerk and Wieser were committed to a version of the belief in a natural order with clear normative aspect. Kauder (1957) wrote:

Obviously in this field a far-reaching difference between the three authors cannot be found. All three authors are social *ontologists*. They believe that a general plan of reality exists. All social phenomena are conceived in relation to this master plan. This structure of reality serves “both as a logical starting point and as a criterion of validity.” The ontological structure does not only indicate what is, but also what ought to be. Man will understand the essence of economizing and then must organize his actions so that the frictionless functioning of the eternal organon will be materialized in real life (Kauder 1957, 417, italics in original).¹¹

If Kauder is correct, then one of the most central convictions of the Natural Law tradition, viz. that the natural order was also a normative order, was present in the Austrian economists discussed in this chapter.

¹¹ A footnote has been omitted.

The Austrian economists' place in the Natural Law tradition is perhaps clearest when it comes to their policy prescriptions. To a great extent, the policy prescriptions of the Austrians reflect their classical liberal belief in a natural order that is easily disturbed by policy. Judging by the lectures that Menger gave to the Crown Prince Rudolph, Menger showed a deep commitment to Smith's vision of the function of the market and the role of the state. Erich Streißler wrote:

Menger himself was a very decided and outright economic liberal, though he published little on these questions. But the lecture notes of Crown Prince Rudolph in 1876 show him teaching a liberalism possibly even more rigorous than that of Adam Smith. In 'normal' cases economic action of the state is always harmful: it is only to be allowed in 'abnormal' cases. In a very modern way state action is *solely* justified by *external effects* (as the abnormal cases), i.e. interactions between private individuals who do not enter into the economic calculations of those individuals who cause them, and therefore make market prices faulty indicators of economic scarcity (Streißler 1988, 201, italics in original).

This stance was supported by skepticism about the power of the state to improve matters by policy-making. As Streißler wrote: "Menger was evidently also imbued with Adam Smith's notion of the *futility* of much of state action" (Streißler 1988, 201, italics in original).

At the same time, the policy prescriptions of the Austrian economists reflected the prevailing Austrian ideology, which was only mildly liberal and had a clear paternalistic element (Kauder 1957, 420; Streißler 1988, 200). In the words of Kauder:

Until 1848 the publication of an economic textbook based on the principles of Adam Smith was not permitted by the Austrian administration. In the eyes of the Viennese censor Adam Smith was a revolutionary. The principle of laissez-faire ran counter to old Austrian statesmanship and social philosophy.

The men who forbade this book believed that the paternal state is all wise and that the citizen is not intelligent enough to take care of his welfare. The archdukes, chancellors, ministers considered themselves social engineers who had to supervise and regulate the social mechanism (Kauder 1957, 420).

Indeed, some of the Austrian economists took political positions that were clearly flavored by the prevailing ideology. As Streißler wrote: “Schumpeter was mildly liberal and Wieser was by instinct at least an unabashed paternalistic interventionist, if not to say finally a fascist” (Streißler 1988, 200). Over time, Kauder claimed, Wieser returned to the old Austrian tradition of emphasizing “not freedom but order, not progress but stability” (Kauder 1957, 421).

Thus, when it came to policy prescriptions, the Austrian economists were torn between two poles. From the point of view of the present, almost without exception, Austrian Economics tends to be associated with the classical liberal pole, as opposed to the Austrian paternalist one. Perhaps more than anybody else, it is the position of Mises – the most fiercely classical liberal – that has come to represent the Austrian school (Streißler 1988, 200). Incidentally, Streißler suggested that Mises’ policy stance could be explained by the fact that he, as an employee of the Austrian Chamber of Commerce, was “a professional representative of the Austrian entrepreneurs (not to say their lobbyist)” (Streißler 1988, 200). Yet, the School was more heterogeneous than many people think. As Streißler noted: “The present ‘Austrian School’ in the United States and England should remember that and perhaps reconsider the appellation if they do not wish to associate with Wieser too closely” (Streißler 1986, 105).

There is little doubt that Menger and the Austrian economists drew on Smith. Similarly, it is clear that they were in the tradition of the Physiocrats. At the time, it was well known that the concept of a natural order went back to the Physiocrats. Consider the entry for “*Natürliche Ordnung*” in a contemporary German dictionary of economics, *Nationalökonomie: Theorie und Geschichte* (Heller

1926). The entry reads: “eine d. Grundbegriffe d. physiocratischen Lehre. Es ist hierbei d. ungestörte Grundzusammenhang d. Gesellsch.-beziehungen, usw. in erster Reihe d. Wirtsch.-beziehungen gemeint” (Heller 1926, 121). Incidentally, the French term “*ordre naturel*” must have been in relatively common use at the time, for the dictionary has a separate entry for it (Heller 1926, 125). This fact supports the belief that the Physiocratic roots of the concept were well known.

3.4 Discussion

In this section, I offer a more analytic discussion of the various ways in which the Natural Law tradition has influenced the development of economic thought. Many writers have attempted to develop a general account of this influence. I quote some of the secondary literature at length in order to show later how accurate their characterization of Natural Law doctrine is in the case of Hayek.

First of all, Natural Law doctrine inspired economists, like it inspired other scientists, to search for and articulate laws of nature, in the sense of universally true generalizations about empirical phenomena. As Taylor noted: “Economic theory of the traditional type has always purported to be a ‘scientific’ statement of the most general ‘laws’ of society’s economic life” (Taylor 1929, 1). The idea that science should aspire to uncover laws of nature, and the conviction that it is capable of doing so, clearly have their roots in the tradition of Natural Law. In the following passage, Schumpeter (1954) elaborates:

I have said that social science discovered itself in the concept of natural law. This will be particularly clear if we visualize it ... as distilled from the ‘nature of the case,’ the *rei natura*. Taken in this sense, the ideal of natural law embodies the discovery that the data of a social situation determine—in the most favorable case, uniquely—a certain sequence of events, a logically coherent

process or state, or *would do so if they were allowed to work themselves out without further disturbance* (Schumpeter 1954, 112, italics in original).

The last (italicized) phrase in the Schumpeter quote points to another influence of Natural Law on the development of economics. According to the Natural Law philosophers, as we have seen, man differs from inanimate things and animals in that he has the ability to choose. Choice makes it possible for him to interfere with the operation of, or to act in opposition to, the Law of Nature. This is the background to Schumpeter's last remark, which presupposes that people have the ability to disturb, or interfere with, the natural development of things. It is also, presumably, the origin of the thought that economic laws are accurate representations of reality only in a qualified manner, viz., in the absence of any interference.¹² The same point is made by O. H. Taylor (1929), who wrote that modern economists think of economic law not as "inexorable" or "rigid," but as "rough descriptions of tendencies" or "statistical" (Taylor 1929, 30).

The tradition of Natural Law also inspired economists to adopt – or retain – an irreducibly normative element in their system of thought. Schumpeter (1954) reminded us of the tendency of Natural Law philosophers to think of the end state of a process of natural development as just, adjusted to the nature of things, and conducive to the common good. He then added:

Hence the equation between just and natural, natural and normal. Hence also the ease with which they passed from normative doctrine to the analytic theorem and vice versa.... Hence, finally, the relation—not, of course, amounting to identification—that subsists with them between justification and explanation (Schumpeter 1954, 112).

¹² Because of people's ability to interfere with the natural development of the economy, economic laws are often taken to be different from physical or biological laws, which deal with entities that are not endowed with the ability to reason, and which therefore do not need to be so qualified.

In Taylor's view, over the previous century the idea had even gained ground among economists:

... while the notion that economic laws are inexorable has been decaying in recent decades, the notion that they are in some measure beneficent, or that they guarantee a certain measure of "harmony" in the working of the whole economic system, has hardly shown the same signs of disappearing completely. Accepted by the classical economists only in a limited form, it enjoyed, in the second half of the nineteenth century, a certain renaissance and further development (Taylor 1929, 30).

To the tradition of Natural Law, we owe the notion – at least implicit in a great deal of economic writing – that the processes described by economic laws are both just and somehow conducive to societal harmony and the greater good. Thus:

In the eighteenth century, and by many writers in the nineteenth, the economic mechanism was regarded as a wise device of the Creator for causing individuals, while pursuing only their own interests, to promote the prosperity of society; and for causing the right adjustment to one another of supplies, demands, prices, and incomes, to place automatically, in consequence of the free action of all individuals. This doctrine of "economic harmonies" was entirely in accord with the corresponding notions of contemporary natural, as well as moral, scientists (Taylor 1929, 16-17).

The doctrine of economic harmonies goes a long way toward accounting for the views of classical economists, like Adam Smith (1723-1790), on the proper role of government. Taylor wrote:

Their belief that government could only do a few things to increase economic welfare, and that much of its more or less well-intentioned and quite effective activity was mischievous, had two main causes:

In the first place, they retained, as I have said, a limited form of the belief in economic

harmonies. Individuals, if free to seek their best markets, would generally do just the things that were best for the nation, because the “operation” of economic laws would insure a coincidence of their own interests with the national interest.... In other words, this kind of “interference” with “natural” tendencies was opposed on the ground that the latter are, not irresistible or unalterable, but better for the nation than the new tendencies “artificially” created by the interference.

In the second place, such methods as were then available or even conceivable for changing or modifying the action of other “natural” economic tendencies that were freely admitted to be less beneficial to the nation, were in many cases regarded by the economists, for one reason or another, as unpromising, unsafe, or undesirable (Taylor 1929, 23-24).

This passage also clarifies that the doctrine of economic harmonies does not say that relying on the “natural” tendencies is *always* for the best. The classical economists allowed for the possibility that it was not. Still, they were sufficiently skeptical of the possibility that government could do better for them to often recommend reliance on natural tendencies also in such cases.

This raises the question of what motivated the adoption – or retention – of the doctrine of economic harmonies specifically, and ideas of Natural Law generally, in economics. In Taylor’s view, opposition to socialism – and, one would expect, its vision of nationalized industries and central direction of all productive activity – offers a partial answer:

To look at a different aspect of the matter, opposition to socialism was undoubtedly a factor in causing various economists to argue that in our present economic system, the play of “natural” forces brings about a large or maximum social product, and a fairly equitable division or distribution of it among individuals and among social classes. The great majority of the theorists now writing are more cautious; but the doctrine of “economic harmonies,” understood not as meaning that we live in the best of all possible economic worlds, but as meaning merely that the

“natural” or spontaneous tendencies which work themselves out in a more or less freely “competitive” society are very often socially desirable tendencies—this doctrine, or opinion, cannot be said to be entirely dead (Taylor 1929, 30-31).

Again, the doctrine of economic harmonies does not presuppose an absolute principle necessarily leading to a maximum product and fair distribution, but a vague or statistical tendency toward something more socially desirable. Note, by the way, how Taylor used “natural” and “spontaneous” synonymously.

Quite arguably, the normative element is more strongly present in economics – throughout its development – than it is in other sciences. Economists have always been concerned not only with identifying and articulating the most general principles governing the economy, but also with what makes a social change desirable, and how to bring such change about. For example, one of the most central questions of the prominent subdiscipline of welfare economics concerns under what conditions a change is socially desirable.

In spite of the vast influence of Natural Law doctrine on the development of economic thought, it is not the case that all economists can be considered part of this tradition. Indeed, the Historical School – whose most famous proponents were Wilhelm Georg Friedrich Roscher (1817-1894) and Gustav von Schmoller (1838-1917) – explicitly rejected Natural Law doctrine (Perlman and McCann 1998, 411-420; Caldwell 2004, 43). As Caldwell put it:

Central among the beliefs was a rejection of natural law doctrines.... The French philosophes believed that natural law was discoverable by reason and, once revealed, was applicable to all human societies. Echoing Hegel and Herder, the German historians demurred. For them, each society was unique, each had its own complex developmental history, and each had its own *Geist*, or “nature,” which depended on the specific characteristics of its people (Caldwell 2004, 43).

Because of the view that social phenomena are inherently unique and varied, the Historical School favored detailed description over broad generalization (Caldwell 2004, 44). The proper method for the social sciences was the topic of the famous *Methodenstreit*, a debate between representatives of the Austrian school of economics and the German historical school. In Perlman and McCann's words:

[The] *Methodenstreit* ... centered on the question of whether the study of economics should include the entire social, political, economic, religious, and moral record of a society (Schmoller's practice) or whether it should focus on distilling from the totality the essential features of economic life, while eliminating the accidental or extraneous elements (much as physicists deal with ideal gases) (Perlman and McCann 1998, 427).

4.0 NATURAL LAW IN THE WORK OF F. A. HAYEK

In this chapter, I argue that many of the central tenets of Natural Law doctrine are clearly present in Hayek's work. This claim is the first part of my argument that Hayek should be seen as a *bona fide* member of this tradition. In the last chapter we saw that economics has been inspired by Natural Law throughout its development. This fact makes it *prima facie* likely that we should find at least traces of Natural Law doctrine in Hayek's work. However, as we will see, Hayek's work reflects more than trace elements of Natural Law doctrine.

First, the most prominent indication that Hayek was inspired by the Natural Law tradition is his emphasis on *order*. Indeed, the notion of order – in its two main forms, spontaneous and artificial – is perhaps the central concept in Hayek's system. It figures essentially in the definitions of a number of crucial concepts, and is intimately connected with his theory of cultural evolution. Indeed, in Hayek's view, orders that emerge as the unintended result of individual action provides the *raison d'être* for social science: "It would be no exaggeration to say that social theory begins with—and has an object only because of—the discovery that there exist orderly structures which are the product of the action of many men but are not the result of human design" (Hayek 1973, 37).

In *Law, Legislation and Liberty* (1973), Hayek offered a definition of the term:

By 'order' we shall throughout describe *a state of affairs in which a multiplicity of elements of various kinds are so related to each other that we may learn from our acquaintance with some spatial or temporal part of the whole to form correct expectations concerning the rest, or at least expectations which have a good chance of proving correct* (Hayek 1973, 36, italics in original).

In Hayek's view, orders can be found both in the inanimate realm, and among animals and humans. He wrote: "There are in the physical world many instances of complex orders," among which he mentions crystals and complex organic compounds (Hayek 1973, 39). In his important article 'Notes on the Evolution of Systems of Rules of Conduct,' Hayek gave a number of examples from animal societies. The examples included the "arrow formation of migrating wild geese, the defensive ring of the buffaloes, [and] the manner in which lionesses drive the prey towards the male for the kill" (Hayek 1967, 69). He also pointed out that "every society must in this sense possess an order," and that without an order, we would not be able to satisfy even elementary needs (Hayek 1973, 36). Hayek was well aware of the historical roots of the concept of an order. In a footnote to his 1973 work, he noted: "It would seem that the currency of the concept of order in political theory goes back to St Augustine" (Hayek 1973, 155). He knew, however, that the concept went back even farther than this (cf. below).

Second, Hayek draws a distinction between orders of natural (or spontaneous) and artificial origin. In Hayek's work, *spontaneous* orders are "orderly structures which ... are not the result of human design" (Hayek 1973, 37). According to Hayek, language, morals, law and money are spontaneous orders, but the most important one is the competitive market (Hayek 1973, 38; 1979, 163). The opposite of spontaneous, of course, is *artificial* (Hayek 1973, 37). Hayek indicated that the distinction between spontaneous and artificial orders had roots in classical Greek philosophy:

Classical Greek was more fortunate in possessing distinct single words for the two kinds of order, namely *taxis* for a made order, such as, for example, an order of battle, and *kosmos* for a grown order, meaning originally 'a right order in a state or community' (Hayek 1973, 37).

In fact, Hayek occasionally uses the Greek terms himself. This quote suggests that in Hayek's view even the Greeks had the notion of order, and an idea of a natural tendency for order to appear.

Hayek also traced the idea to the Scholastic thinkers. He wrote: "There occurred later one promising

development in the discussion of these questions by the medieval schoolmen, which led close to a recognition of the intermediate category of phenomena that were ‘the result of human action but not of human design’” (Hayek 1973, 21; cf. p. 84).

Third, the relevance of the distinction between natural and artificial orders is assured by a belief in natural tendencies for orders to appear without conscious human intervention. The process by which this occurs take clearer shape in Hayek’s later work. In 1979, he wrote: “We understand now that *all* enduring structures above the level of the simplest atoms, and up to the brain and society, are the results of, and can be explained only in terms of, processes of selective evolution” (Hayek 1979, 158, italics in original).¹³ In order to account for the development of large-scale systems like societies, Hayek introduced the theory of group selection. According to this theory, natural selection acts on the order of the group. Groups with orders that are beneficial survive and multiply, whereas other groups shrink and perish. As he wrote: “The structures [orders] formed by traditional human practices are ... the result of a process of winnowing or sifting, directed by the differential advantages gained by groups from practices adopted for some unknown and perhaps purely accidental reasons” (1979, p. 155). In Hayek’s view, the theory had allowed him to achieve what no earlier economist had, viz. to paint “what now seems to me a tolerably clear picture of the nature of the spontaneous order of which liberal economists have so long been talking” (Hayek 1967, 92).¹⁴

A belief in the tendency of evolution to produce order does not commit Hayek to the existence of any kind of “inexorable law” of development. Indeed, Hayek wrote that there are no laws in evolution, “in the sense of a statement of a necessary sequence of particular stages or phases

¹³ A reference has been omitted.

¹⁴ See Angner (2002a; 2004) for a more detailed discussion of Hayek’s theory of cultural evolution through group selection.

through which the process of evolution must pass and which by extrapolation leads to predictions of the future course of evolution”(Hayek 1973, 23). The reason why we cannot find laws and make precise predictions is that the exact course of evolution depends on a great number of facts that we can never hope to know in their entirety (Hayek 1973, 23-24). Hayek concluded: “We are in consequence confined to ‘explanations of the principle’ or to predictions merely of the abstract pattern the process will follow” (Hayek 1973, 24). The last phrase clearly suggests that we can make predictions about orders, which by definition are abstract patterns, even though we cannot make predictions about individual elements. Hayek was only committed to the existence of a rough or statistical tendency for order to appear (e.g. in the process of group selection), something that is perfectly compatible with his rejection of “laws of evolution.” Incidentally, Hayek’s rejection of inexorable laws is perfectly consistent with Taylor’s contention that modern economics is moving away from inexorable laws and toward statistical tendencies (see Section 3.4 above).

Fourth, the doctrine of economic harmonies is alive and well in Hayek’s work. The natural order is associated with harmony in the sense of a certain coordination between the beliefs and actions within and across individuals. In the following quote, Hayek indicates why in his view society cannot exist without order:

Living as members of society and dependent for the satisfaction of most of our needs on various forms of co-operation with others, we depend for the effective pursuit of our aims clearly on the correspondence of the expectations concerning the actions of others on which our plans are based with what they really will do. This matching of the intentions and expectations that determine the actions of different individuals is the form in which order manifests itself in social life; and it will be the question of how such an order does come about that will be our immediate concern (Hayek 1973, 36).

In Hayek's view, then, society depends critically on the possibility for coordination between different individuals, and order is what allows coordination to take place. In this sense, clearly, order is associated with harmony. Indeed, it is the harmonious nature of the spontaneous order that gives it an advantage in the process of evolution, and that allows it to survive the process of natural selection in the first place. Thus, the natural order is also associated with a certain kind of harmony between the individual and the whole. As Hayek indicates in the last sentence of the quote, the question of the origin of such orders is a central one.

Fifth, the normative element is clearly present in Hayek's work. Spontaneous orders are consistently described in normatively loaded terms. Hayek often described the rules and orders of surviving groups as "efficient," "beneficial," "advantageous," and so on, and he emphasized that it is difficult or impossible to improve on such orders.¹⁵ In the third volume of *Law, Legislation and Liberty*, he wrote: "That ... the inherited traditional rules ... should often be most beneficial to the functioning of society, is a truth the dominant constructivistic [socialist] outlook of our time refuses to accept" (1979, p. 162). Many scholars have pointed to the normative element in Hayek's thought, especially in the context of spontaneous orders. Thus, Martin de Vlieghere (1994) wrote that according to Hayek: "In the course of history only those cultural attainments can survive and spread that are beneficial. So, the very longevity of an institution proves its value" (de Vlieghere 1994, p. 293; cf. Gray 1989, p. 98).

Sixth, Hayek's paradigmatic examples of evolved rules of conduct are characteristic of Natural Law doctrine. Consider a paragraph like the following:

Capitalism presumes that apart from our rational insight we possess a traditional endowment of morals, which has been tested by evolution but not designed by our intelligence. We have never

¹⁵ See Angner (2004) for a more thorough discussion of the normative element in Hayek's account of spontaneous order.

invented private property because we understood these consequences, nor have we ever invented the family. It so happens that these traditions ... cannot be the result of our intellectual insight but must be the result of a moral tradition, which as I now put it is the result of group selection and not individual selection, something we can ex post interpret (Hayek 1994, 72-73).

Here, Hayek offers two examples of evolved and beneficial norms. It is perhaps no coincidence that Hayek's two examples are well known in the Natural Law tradition. Aristotle talked about the family, and any number of Natural Law philosophers – including Aquinas and Locke – talked about property rights as natural (Perlman and McCann 1998).

Seventh, Hayek largely shared the classical economists' view about the proper role of government. Hayek firmly believed that it was better to rely on the forces of the competitive market than on government "intervention." In his last book, Hayek wrote:

This book argues that our civilization depends, not only for its origin but also for its preservation, on what can be precisely described only as the extended order of human cooperation, an order more commonly, if somewhat misleadingly, known as capitalism (Hayek 1988, 6).

We should note that he did not reject out of hand, on principled grounds, the possibility that the government can improve on the spontaneous order of the market. He did maintain, however, that in practice such interference was unlikely to be for the better. Indeed, he often warned that attempts to replace the spontaneous order of the market with an artificial order (as advocated by socialists) could only lead to disaster. Thus, he wrote: "To follow socialist morality would destroy much of present humankind and impoverish much of the rest" (Hayek 1988, 7). Like in the case of earlier Natural Law economists (cf. Section 3.4 above), those of Hayek's writings that reflect the Natural Law legacy most clearly were typically motivated by opposition to socialism.

Finally, Hayek's distinction between law and legislation – which is so central e.g. in the three volumes of *Law, Legislation and Liberty* (1973; 1976; 1979) – is closely related to the distinction drawn by earlier Natural Law philosophers between natural law and positive law. In Hayek's words: "Legislation is the deliberate making of law" (Hayek 1973, 72). Thus, law may have its basis in positive legislation, but it may also be a result of a natural process of development.

While taking note of the many ways in which Hayek's work incorporates elements of Natural Law doctrine, we should also pay attention to the ways in which it differs. We have already seen that Hayek rejected the idea of inexorable laws in economics. In keeping with Taylor's characterization of modern economics as moving away from the conception of inexorable laws (see Section 3.4 above), he explicitly rejects the notion that the outcome of a process of cultural evolution can be precisely predicted. Another important deviation from the views of e.g. the Physiocrats and Adam Smith is that Hayek's system is explicitly secular. He sees no place for a Supreme Being. Accordingly, on Hayek's view, the natural or spontaneous order does not reflect the intentions of the Christian God.¹⁶

In this chapter, we have seen that many – though not all – of the central tenets of Natural Law doctrine are clearly present in Hayek's work. This suggests that Hayek is best seen as a member of the Natural Law tradition. Indeed, Hayek's very distinction between the "natural" (or "spontaneous") and the "artificial" reveals such a connection. If he did not operate against the background of a Natural Law type conception of the world, it would be unclear what it even meant to assert that some things are natural and some are not. Incidentally, the contention that Hayek should be seen as a Natural Law philosopher is supported by Hayek's references. Hayek himself indicates that he was aware of the Natural Law roots of much of his thinking. He clearly knew that the emphasis on order could be traced back to Augustine and the ancient Greeks. Below (in Section

¹⁶ On Hayek's rejection of the divine underpinnings of the natural order, see quotes in Section 7.1 below.

5.2), we will see that Hayek had a thorough education in the history of law. Thus, he must have known that these sources represented the Natural Law tradition.

5.0 NATURAL LAW INFLUENCES ON HAYEK

In this chapter, I argue that the fact that Hayek's work incorporates a good deal of Natural Law doctrine is no mere coincidence. In fact, I argue, he was under the influence of Natural Law doctrine for most of his life. In particular, I emphasize the influences from Hayek's childhood and youth. As William M. Johnston wrote in *The Austrian Mind* (1972):

The example of parents, schools, and church, and later of military service, profession, and hobbies channels a man's thinking, reinforcing some options and foreclosing others. Early influences leave an indelible imprint precisely because a child cannot choose them; he inherits them (Johnston 1972, 3).

Moreover, there is plenty of evidence that Hayek's exposure to Natural Law doctrine had a real impact on his intellectual development. This is so, in particular, when it comes to Adam Smith and the Austrian economists. Hence, Hayek was not only exposed to the ideas of Natural Law doctrine, but he often absorbed those ideas directly from the Natural Law thinkers that preceded him.

5.1 Hayek's childhood and youth

One early source of Natural Law doctrine for Hayek was his Roman Catholic upbringing in Vienna. Some clues about Hayek's early exposure to, and his attitudes towards, the teachings of the Catholic Church can be gleaned from his autobiographical reminiscences in *Hayek on Hayek* (1994).

According to Hayek, his parents were members of the Roman Catholic Church, and his school

required him to receive religious instruction and to attend mass (Hayek 1994, 40). Around the age of ten or eleven, Hayek said, he developed “strong religious feeling under the influence of a religious teacher” (Hayek 1994, 41). Meanwhile, Hayek said, his parents “held no religious beliefs” and offered him frequent excuses not to go to church (Hayek 1994, 40). Perhaps under the influence of his parents, according to Hayek, by the age of 15 he had convinced himself that it was meaningless to affirm a belief in God (Hayek 1994, 41).

Although Hayek’s upbringing cannot be called religious, he was obviously immersed in a Roman Catholic intellectual environment. In spite of the fact that Hayek did not develop mature religious feeling, there is no doubt that he must have internalized many of the beliefs and attitudes explicit or implicit in the teachings of the Church. As Johnston (1972) wrote: “Among impulses that are first inherited only later to be embraced or rejected, religion plays a paramount role.... Even the most secularized of Austrian thinkers imbibed during childhood Jewish or Christian attitudes that could not easily be shed” (Johnston 1972, 3). A belief in Natural Law, especially in the teaching of the Church Fathers, was of course a central part of belief system of the Roman Catholic Church.

In this context it may be worth mentioning Hayek’s “most sustained hobby,” viz. botany (Ebenstein 2001, 12; cf. Hayek 1994, 42-43). His father August von Hayek – who, according to Ebenstein, “had more influence on [Friedrich] than anyone else” (Ebenstein 2001, 15) – was a dedicated amateur botanist, who introduced his son to the ideas, methods and practices of botany at an early stage. In Ebenstein’s words: “Hayek was the little scholar helping his father with his botanical work and attending meetings of the Vienna Zoologic and Botanical Society with him” (Ebenstein 2001, 14).¹⁷ Of course, botany is based on the assumption that there is order in nature, and that scientific exploration can reveal this order.

¹⁷ The interests of both August and Friedrich Hayek are likely to have been shaped in part by the influence of Hayek’s paternal grandfather – Gustav Edler von Hayek – who was a teacher of natural science at the *Gymnasium* in Vienna.

Interestingly, August Hayek also exposed his son to evolutionary theory relatively early. In Ebenstein's words: "At fourteen or fifteen, growing intellectually dissatisfied with the classificatory aspects of biology, he desired more theoretical knowledge" (Ebenstein 2001, 14). Hayek said: "When my father discovered this, he put in my hand what was then a major treatise on the theory of evolution" (Hayek 1983, 22; quoted in Ebenstein 2001, 14). Though Hayek later claimed that he was too young to appreciate the book at the time, he added: "If he had given me this a year later, I probably would have stuck with biology. The things did interest me intensely" (Hayek 1983, 22; quoted in Ebenstein 2001, 14; cf. Hayek 1994, 43-44). The theory of evolution is often seen as offering a (secular, scientific) account of the natural process that is responsible for generating the order that can be observed in nature. It is not unlikely that this is how the two Hayeks saw the theory as well.

During his studies at the *Gymnasium*, it appears that Hayek came across the thought of Aristotle. Hayek said:

The beginning of my definite interest in economics I can clearly trace back to a logic lesson in the seventh form of the *Gymnasium*, late in 1916, when the master explained to us the threefold Aristotelian division of ethics into morals, politics, and economics—which seemed to me perfectly to cover the field in which I was interested (Hayek 1994, 47).

This logic class may not have been the only time Hayek heard about Aristotle, or other Natural Law philosophers, since the *Gymnasium* education that Hayek received contained a definite classics component. In the words of Johnston (1972):

Ebenstein wrote: "He wrote systematic works in biology, some of which became relatively well known" (Ebenstein 2001, 8).

As late as 1914 the curriculum at gymnasium required eight years of Latin, studied six hours per week except for two years of eight hours per week, as well as five or six years of Greek at five hours per week. In better gymnasien ... the Greek course culminated in the reading of Aristotle (Johnston 1972, 68).

The exact extent to which Hayek got acquainted with Aristotle and other Natural Law philosophers at this stage is unclear. However, even if he did not study Natural Law doctrine in any detail, his *Gymnasium* education certainly helped prepare him for his later studies of classical thought (see the following section). His early education may also have made him more receptive to the ideas he encountered during those studies.

5.2 Hayek's legal studies in Vienna

Even more so, Hayek was exposed to Natural Law doctrine during his studies toward the first degree in law at the University of Vienna. The reasons why he first decided to study law appear to have been rather practical, as he envisioned a career in the diplomatic service. The fall of Austria-Hungary undermined this plan, but he decided to pursue such studies anyway, since they would include economics, and since he thought he might want to be a lawyer or civil servant (Hayek 1994, 48). In the end, he appears to have spent as little time on law as he could get away with, since his main interests were in psychology and economics (Hayek 1994, 62; Caldwell 2004, 135-136). Hayek said: "Strictly speaking I devoted only the one academic year (1920-21) to an intense study of modern law" (Hayek 1994, 62).

Nevertheless, it is clear that Hayek came out of his studies with a good amount of knowledge of, and appreciation for, the history of law.¹⁸ Hayek said that “what legal knowledge I have retained is much more due to the three-semester course on the history of law, and particularly Roman law, than to this year of cramming for the examination” (Hayek 1994, 63). Hayek was obviously impressed with his teachers at the faculty of law, whom he called “very brilliant” (Hayek 1994, 53). He said:

Among the lawyers there were some great scholars, like Wlassak in Roman law and Stooss (criminal law); and a few brilliant lecturers like Bernatzik (who died halfway through an encyclopedic introduction to the political sciences to which I went during my first year) (Hayek 1994, 53).

The reason why a legal education at the time contained a significant element of history of law – especially the history of Roman law – was that the Austrian legal system (which was modeled on that of Imperial Germany) in many ways was based on ancient Roman law (Johnston 1972, 88).

It is hard to imagine that a course in the history of law, with special emphasis on Roman law, would not have included significant segments on Aristotle, the Stoics, Cicero and the Roman jurists, as well as the Church Fathers, that is, on the tradition of Natural Law. The fact that Hayek learned so much in this course indicates that he for some reason found the history of law – perhaps especially Roman law – particularly interesting. There is evidence that Hayek as a student had little patience for subjects in which he was not interested. About his early education, for example, Hayek said: “Except for biology, few of the school subjects interested me, and I consistently neglected my homework, counting on picking up enough during lessons to scrape by” (Hayek 1994, 42). For this reason, he was “commonly regarded as intelligent but lazy” (Hayek 1994, 44). Obviously, an

¹⁸ See Section 3.3 above for further discussion of the historical component of a legal education at the time.

“encyclopedia introduction to the political sciences” is likely to have covered a sequence of Natural Law philosophers as well. This is particularly likely given that Hayek’s teacher Edmund Bernatzik (1854-1919), author of e.g. *Rechtsprechung und materielle Rechtskraft: Verwaltungsrechtliche Studien* (1886) and *Das österreichische Nationalitätenrecht* (1917), was a legal scholar as well as a political scientist.

There is at least one other way in which Hayek’s legal studies may have affected the course of his later work. The German/Austrian concept of *Ordnung* had a much more prominent place in Austrian political thought than does the concept of order in Anglo-Saxon thought. For one thing, Robert Harry Inglis Palgrave’s three-volume *Dictionary of Political Economy* (1910) does not even contain an entry for order, except in the sense of “bill or note payable to” (Palgrave 1910, Vol. III, 39). Moreover, it has different connotations than the corresponding English concept. The entry for “*Ordnung*” in *Cassell’s German Dictionary* (1978) reads: “[i] arrangement; [ii] classification, order, system, array; [iii] tidiness, orderliness; [iv] class, rank; [v] order, succession, series; [vi] rules, regulations” (Betteridge 1978, 452). Of particular interest is (vi), “rules, regulations.” In German, order refers not just to a state of orderliness, but also to rules and norms regulating behavior. In this tradition, no doubt, there is an underlying presumption that order on the social level requires individuals to follow applicable rules and regulations.

5.3 Hayek’s economic studies in Vienna and London

Perhaps the most important source of Natural Law doctrine, however, was the economists in whose footsteps Hayek walked. These include, of course, the economists discussed above, especially Smith (and his contemporaries) and the Austrian economists. As we saw in Chapter 3.0 above, it can be argued that all of these thinkers were members of the Natural Law tradition.

The British moral philosophers of the eighteenth century – most notably Bernard Mandeville (1670-1733), David Hume (1711-1776), Adam Smith (1723-1790), and Adam Ferguson (1723-1816), but also Jeremy Bentham (1748-1832) – are interesting for a number of reasons. For one thing, these thinkers are often mentioned alongside Menger as the most important influences on Hayek's evolutionary thought (cf. Angner 2002a, Section 5.2). I have argued elsewhere that we should reject the thesis that Hayek borrowed his theory of cultural evolution from them (Angner 2002a, Section 5.2). However, this does not exclude the possibility that they affected Hayek's intellectual development in other ways.

It appears that Hayek got acquainted with the thought of the eighteenth century British thinkers in Vienna, well before his arrival in England. Hayek said: "To begin with, I think it was Mises himself who made me familiar with utilitarianism, and in my early stages I studied them very much" (Hayek 1994, 140). Also, Menger's *Principles* (1981 [1871]) – which Hayek (1994, 48) said had such an impact on him – contains a number of references e.g. to Quesnay and Smith. Anyway, we know that Hayek was acquainted with at least Hume and Smith upon his arrival in London, since he makes reference to them already in his inaugural lecture (Hayek 1933, 129).

Even so, it seems that Hayek studied the British eighteenth century thinkers much more carefully during his time in England. In London, Hayek said, he studied the papers of Jeremy Bentham and in fact undertook "the highly urgent task" of organizing them, although his work was cut short by World War II (Hayek 1994, 140). Judging by Hayek's published work, the British moral philosophers received greater prominence in his thought after his arrival in England. Consider his 1945 lecture published as 'Individualism: True and False' (Hayek 1949, 1-32), according to which "true individualism"

... began its modern development with John Locke, and particularly with Bernard Mandeville and David Hume, and achieved full stature for the first time in the work of Josiah Tucker, Adam

Ferguson, and Adam Smith and in that of their great contemporary, Edmund Burke (Hayek 1949, 4)

True individualism, obviously enough, contrasts with “false individualism” which “is represented mainly by French and other Continental writers” (Hayek 1949, 4).

Judging by his writings, Hayek continued to study the work of the British eighteenth century thinkers also during his later career (cf. Ebenstein pp. 248-249). For example, his historical study ‘The Legal and Political Philosophy of David Hume’ was delivered as a lecture in 1963 and published in 1967 (Hayek 1967, 106-121). His paper ‘Dr. Bernard Mandeville’ was offered as a lecture in 1966 (cf. Hayek 1978, 249-266), and ‘Adam Smith’s Message in Today’s Language’ was first printed in 1976 (cf. Hayek 1978, 267-269). The impression is confirmed by a simple reference count. The number of references to Hume rose from one in *Road to Serfdom* (1944), to 21 in *Constitution of Liberty* (1960) to 43 in *Law, Legislation and Liberty* (1973; 1976; 1979). References to Smith in the same books rose from none to 17 to 22. Since the books get progressively longer, we should perhaps expect a rising number of references. Yet, references to Mises went from zero to 20 to 10. This suggests, at least, that his interest in the British moral philosophers of the eighteenth century did not wane after his arrival in the U.S., and that it may even have gained in prominence relative to e.g. Mises.¹⁹

5.4 The impact of Smith, Menger et al. on Hayek’s thought

It is difficult to identify Hayek’s intellectual debt to Smith, Menger etc. with precision. Since the general claim that they influenced Hayek’s intellectual development in decisive ways is

¹⁹ All figures in this paragraph derive from Ebenstein (2001, 187).

uncontroversial, I will focus on a small number of arguments that Hayek appears to have borrowed from the earlier economists. The passages in question show, I believe, that many of Hayek's most central claims were at least inspired by the writings of especially Smith and Menger. Moreover, as we will see, many of these claims were part and parcel of the Natural Law outlook from the very beginning.

Consider Hayek's views on public policy, which are presented in terms strongly reminiscent of Smith and Menger. In his 1956 preface to the *Road to Serfdom* (Hayek 1994, xxvii-xliv), Hayek strongly rejects conservatism, which he denounces for "its paternalistic, nationalistic, and power-adoring tendencies" as well as for its "traditionalistic, anti-intellectual, and often mystical propensities" (Hayek 1994, xxxvi). In the body of the text, he also distances himself from the dogmatic *laissez-faire* position. He wrote:

It is important not to confuse opposition against this kind of planning with a dogmatic laissez-faire attitude. The liberal argument is in favor of making the best possible use of the forces of competition as a means of co-ordinating human efforts, not an argument for leaving things just as they are. It is based on the conviction that, where effective competition can be created, it is a better way of guiding individual efforts than any other. It does not deny, but even emphasizes, that, in order that competition should work beneficially, a carefully thought out legal framework is required and that neither the existing nor the past legal rules are free from grave defects. Nor does it deny that, where it is impossible to create the conditions necessary to make competition effective, we must resort to other methods of guiding economic activity (Hayek 1994, 41).

Hayek proceeded to stress the importance of the freedom to engage in transactions as they please. He wrote:

It is necessary in the first instance that the parties in the market should be free to sell and buy at any price at which they can find a partner to the transaction and that anybody should be free to produce, sell and buy anything that may be produced or sold at all. And it is essential that the entry into the different trades should be open to all on equal terms (Hayek 1994, 42).

The key to Hayek's position appears to be that constraints to the freedom to engage in transactions on a free market undermines the operation of the price system, which serves to convey information that allows the effective coordination of individual efforts (cf. Hayek 1994, 42). Yet, in Hayek's view, this position is compatible with a great deal of government action, such as the restriction the methods of production, the provision of "an extensive system of social services," the "adequate organization of certain institutions like money, markets, and channels of information—some of which can never be adequately provided by private enterprise," the provision of a functioning legal system "designed both to preserve competition and to make it operate as beneficially as possible," and, in the presence of externalities and the like, the substitution for competition of some other method to provide goods and services (Hayek 1994, 42-44). The role that Hayek envisions for the government can hardly be adequately characterized as either conservatism or dogmatic *laissez-faire*, but is in many ways strongly reminiscent of Smith's (cf. section 3.2) and Menger's (cf. section 3.3).

Hayek's debt to the thinkers who preceded him has been usefully discussed, in much greater detail, in Streißler's brilliant essay 'Hayek on Information and Socialism' (1992), which traces the influences on Hayek's critique of socialism. Streißler began by quoting Gordon Tullock, who wrote: "One of the more immutable of the immutable economic laws is that every sentence in the *Wealth of Nations* will eventually become a book" (Tullock 1969, 287; quoted in Streißler 1992, 258). To this, Streißler adds: "In the case of Hayek, one sentence of Adam Smith apparently even became the nucleus of a Nobel-prize-winning idea" (Streißler 1992, 258).

The sentence that Streißler has in mind is the one in which Smith discusses how “no human wisdom or knowledge could ever be sufficient” for “superintending the industry of private people, and of directing it towards the employments most suitable to the interest of the society” (Smith 1976, 208; cf. Section 3.2 above). As Streißler noted: “This sentence is not merely incidental to Adam Smith’s argument; it is much rather the key sentence, in which he presents his ideal system” (Streißler 1992, 258). This passage may well be the origin of Hayek’s thoughts about the dispersion of knowledge, and the inability of a single mind to grasp all the information that would be required to run a socialized economy.

Moreover, in Streißler’s view, this passage gives us an indication of the origin of Hayek’s extraordinarily wide definition of “socialism.” According to this definition, the essence of socialism is the aspiration to substitute an artificial order for the spontaneous order of the free market. Streißler noted that the passage in Smith just quoted

... tells us immediately what Hayek meant by socialism. Any “sovereign,” i.e. any administration with coercive powers, which tries to direct “private people” in their “employments,” practices “socialism” as he understands it.... To attempt to do so is not only sure proof of utter folly, but also shows arrogant presumption, contempt for other people’s abilities by those who perpetrate this rash act (Streißler 1992, 259).

Streißler (1992, 259) also quotes another passage from *The Wealth of Nations* (1976 [1776], Vol. I, Book IV, Chapter II, 474-495), in which Smith argues that no sovereign is fit to make judgments about individuals’ investments:

What is the species of domestic industry which his capital can employ, and of which the produce is likely to be of the greatest value, every individual, it is evident, can, in his local situation, judge much better than any attempt to direct private people in what manner they ought to employ

their capitals, would not only load himself with a most unnecessary attention, but assume an authority which could safely be trusted, not only to no single person, but to no council or senate whatever, and which would no-where be so dangerous as in the hands of a man who had folly and presumption enough to fancy himself fit to exercise it (Smith 1976, 478).

In his commentary on these passages, Streißler (1992) wrote:

Here we have Hayek in a nutshell: his strictures on the intellectual haughtiness of the “constructivist”; his doubts even of the wisdom to assign too many economic duties, particularly the rights of economic redistribution, to parliaments; and, finally, his best-known notion of “dispersed knowledge” (Streißler 1992, 259).

Again, it is not unlikely that Hayek drew inspiration from those of Smith’s paragraphs referred to here.

In the same context, Streißler could also have quoted the moment in *The Theory of Moral Sentiments* in which Smith criticizes the arrogance of “the man of system” (2002 [1759], Part IV, Section II, Chapter II, §§ 15-18, 274-276). The man of system, Smith said, is often motivated by a certain “fellow-feeling with the inconveniences and distresses to which some of our fellow-citizens may be exposed” (Smith 2002, 274). Smith continued:

The leaders of the discontented party seldom fail to hold out some plausible plan of reformation which, they pretend, will not only remove the inconveniences and relieve the distresses immediately complained of, but will prevent, in all time coming, any return of the like inconveniences and distresses. They often propose, upon this account, to new-model the constitution, and to alter, in some of its most essential parts, that system of government under which the subjects of a great empire have enjoyed, perhaps, peace, security, and even glory, during the course of several centuries together. The great body of the party are commonly

intoxicated with the imaginary beauty of this ideal system, of which they have no experience, but which has been represented to them in all the most dazzling colours in which the eloquence of their leaders could paint it (Smith 2002, 274).

Smith's description of "the man of system" is very close to Hayek's account of "socialists" and "constructivists." The similarity is particularly clear regarding their effects on the general population. But the man of system, in Smith's view, is under an illusion. He went on:

He seems to imagine that he can arrange the different members of a great society with as much ease as the hand arranges the different pieces upon a chess-board. He does not consider that the pieces upon the chess-board have no other principle of motion besides that which the hand impresses upon them; but that, in the great chess-board of human society, every single piece has a principle of motion of its own, altogether different from that which the legislature might chuse [sic] to impress upon it. If these two principles coincide and act in the same direction, the game of human society will go on easily and harmoniously, and is very likely to be happy and successful. If they are opposite or different, the game will go on miserably, and the society must be at all times in the highest degree of disorder (Smith 2002, 275).

Again, the spirit of this passage is very close to that of Hayek. Indeed, this very quote serves as the epigraph to Chapter 2 of *Law, Legislation and Liberty* (Hayek 1973, 35). It is likely that Hayek to some extent derived inspiration from Smith – and some of these passages – when developing his critique of socialists and constructivists.

A similar case can be made for Smith's passage (quoted in Section 3.2 above) in which he warns that any departure from the system of natural liberty will lead to tyranny and oppression. The main thesis of *The Road to Serfdom* (Hayek 1944), after all, is that any attempt to substitute an artificial order for the spontaneous order of the free market – like socialists want to do – involves a

considerable danger of sliding into serfdom. As Hayek wrote in his 1956 preface to the book, “fascism and communism are merely variants of the same totalitarianism which central control of all economic activity tends to produce,” and “even democratic socialism is a very precarious and unstable affair” (Hayek 1994, xxxii).

Yet another source of Natural Law doctrine for Hayek was the influence of the Austrian economists, especially Menger, Wieser and Mises. Hayek never knew Menger personally, but he obviously got well acquainted with his work. It was thanks to Menger’s writings, Hayek said, that he decided to pursue a degree in economics in the first place, and he returned to those writings many times over the course of his life (Hayek 1994, 48; cf. Angner 2002a, Section 5.1). Wieser was Hayek’s teacher at the University of Vienna (Hayek 1994, 57). Hayek only got to know Mises in 1921, when Hayek started working for the Office of Accounts, which Mises directed (Hayek 1994, 64). In 1927, Mises would help Hayek set up the Austrian Institute for Business Cycle Research, which Hayek headed from 1927 until he left for England (Hayek 1994, 69-72). Of the three Austrians, Mises appears particularly important. From Mises, Hayek said that he had “probably learned more than from any other man” (Hayek 1994, 68).

Streißler has emphasized Hayek’s intellectual debt to the Austrian economists who preceded him. In 1988, Streißler wrote that the liberal arguments against socialism that were formulated by the earlier Austrian economists

... were summarised in Hayek’s very widely read *Road to Serfdom* (1944) and in more comprehensive fashion in his *The Constitution of Liberty* [1960]. Through Hayek’s work they have become the common property of the classical liberal counter-revolution against the welfare state of our time (Streißler 1988, 201).²⁰

²⁰ References have been omitted.

In his 1992 paper, Streißler offered a little more detail. He pointed out that Menger, Wieser and Mises had developed arguments against socialism on the basis of consideration about information and its distribution. Streißler wrote:

Smith, Menger, Wieser, and Mises, that makes four famous economists altogether from whom Hayek could have taken ideas on information: The notion of the significance of the use of knowledge in society, and in particular of the difficulties which certain types of economic organization or certain types of economic policy may encounter if they disregard the problem of the creation, gathering and transmission of economic information just seems to have too many fathers to credit Hayek with it (Streißler 1992, 260-261).

This state of affairs, Streißler went on, may suggest the following scenario:

If a young scholar asks you how he should go about to gain a Nobel Prize in economics you might answer: “Take the well-known idea of four of the best known leaders of the profession; repeat and reiterate this idea often enough; and you are sure to gain a Nobel Prize (as proof of this, just look at Hayek)!” (Streißler 1992, 261).

At the end of the day, Streißler does conclude that Hayek in fact had original, path-breaking ideas on information and socialism (Streißler 1992, 261).²¹ But this does not take away from the fact that many of the ideas that Hayek expressed on the topic were borrowed from the work of his Austrian predecessors and from that of Smith. As we know from previous sections, these positions were closely tied in with Smith and Menger’s Natural Law heritage.

²¹ The true innovations, according to Streißler, include the following argument: “Knowledge is uncentralizable because we do not even know what knowledge we use and therefore cannot communicate it fully to others” (Streißler 1992, 277).

5.5 Discussion

In this chapter I have discussed how Hayek came to be part of the Natural Law tradition. I have shown, first, how Hayek was exposed to Natural Law thinking from a variety of sources for most of his life, and second, that these sources appear to have had a real impact on the development of his thought. Moreover, the ideas that Hayek borrowed and incorporated into his own system – including various arguments against socialism, as well as the very concept of ‘socialism’ that he used – were very often part and parcel of the Natural Law approach taken by the earlier economists.

There are a great number of thinkers, whom I have not mentioned here, but whose work may have influenced the development of Hayek’s thought one way or another. These thinkers include Georg Wilhelm Friedrich Hegel (1770-1831), whose system Schumpeter characterized as an expression of “evolutionism” (Schumpeter 1954, 413). Particularly interesting in the context is Hegel’s view of the development of freedom. As H. B. Acton put it in *The Encyclopedia of Philosophy* (1967): “Hegel considered that the history of the human race is a development from less to greater freedom and from less adequate forms of freedom to freedom in its perfection” (Acton 1967, 446). According to Acton, important aspects this view derived from the philosophers of the Enlightenment (Acton 1967, 436). As in the case of many other thinkers, the exact degree to which Hegel served as a source of inspiration for Hayek is unclear.²² It is worth noting, however, how common ideas about spontaneous development, and about the harmony, freedom, etc. associated with the result of such development, were among philosophers and social thinkers at the time. I take this fact to illustrate the important place of Natural Law doctrine in Western thought.

²² The situation is complicated by the fact that Hayek was sharply critical of Hegel, among other things for the belief that “evolution must run a certain predetermined course” (Hayek 1973, 24).

6.0 OTHER FACTORS IN HAYEK'S INTELLECTUAL DEVELOPMENT

In this chapter, I discuss a number of other factors that may have played a role in determining the trajectory of Hayek's career. Many of them have already been discussed in Hayek literature, often under the heading of "Hayek's transformation" (see Section 6.1 below). I begin this chapter by considering a number of factors that may have caused Hayek to turn away from technical economics. Next, I discuss a number of factors that may help account for the specifics of his later career, among other things why he turned to study of rules and order, and why he ultimately adopted a theory of group selection as a central element of his system. I believe a deeper understanding of these factors helps paint a fuller picture of Hayek's development, and how his commitment to Natural Law doctrine came to express itself in the manner that it did. However, I will argue, Hayek's commitment to Natural Law doctrine was prior – both temporally and logically – to the other factors discussed here.

6.1 Hayek's transformation

So far as I know, it was Caldwell (1988) who formed the expression "Hayek's transformation." The expression is intended to refer to Hayek's "movement away from technical theory" (Caldwell 1988, 515). In his article, Caldwell discussed a number of different factors that he believed played a role in Hayek's transformation. One of them, in Caldwell's view, was Hayek's evolving definition of "equilibrium." In his early work during the late 1920's and early 30's, according to Caldwell, Hayek expressed a number of misgivings concerning the standard notion of a "timeless, stationary

equilibrium,” but nevertheless insisted that “any legitimate *economic* explanation must employ *some* form of equilibrium construct” (Caldwell 1988, 514, italics in original). In the 1937 article “Economics and Knowledge,” Caldwell wrote, Hayek offered “a new definition of equilibrium, one which explicitly links the concept of equilibrium with an assumption concerning knowledge and its acquisition” (Caldwell 1988, 514). In Hayek’s words: “It appears that the concept of equilibrium merely means that the foresight of the different members of society is in a special sense correct” (Hayek 1937, 41).

It is worth noting, by the way, that there is something inherently dynamic about the new definition of “equilibrium.” One advantage of the new concept of equilibrium, in Hayek’s view, is that it does not presuppose the data – in the sense of objective facts, and of people’s beliefs about them – are constant (Hayek 1937, 40-41). Thus, it appears that Hayek’s transformation was associated with a movement away from statics and toward dynamics. Hayek also points out that his concept of equilibrium does not assume that the underlying process is stationary (Hayek 1937, 41). Thus, his transformation seems to have been associated with a movement away from the study of stationary processes, to more complex dynamic ones.²³

Most important, Caldwell wrote, the evolution of Hayek’s concept of equilibrium was intimately connected with his emergent ideas of the central problems of social science in general and economics in particular (Caldwell 1988, 514). Later on in the 1937 essay, Hayek said that the problem was “how the combination of fragments of knowledge existing in different minds can bring about results which, if they were to be brought about deliberately, would require a knowledge on the part of the directing mind which no single person can possess” (Hayek 1937, 52). Hayek referred to this problem as the “coordination problem.” The problem, then, is to explain how it is possible for

²³ In so doing, it may be said that Hayek rejected the more static framework of his teachers, and returned to a more Mengerian position.

people to acquire the knowledge (foresight) that allows them to coordinate their plans in the absence of central direction. Thus, Hayek's new conception of the central problem, like the new notion of equilibrium, has a clear dynamic character.

What may be described as *the* critical event in Hayek's transformation, on Caldwell's account, was Hayek's realization that equilibrium methods were incapable of offering an adequate solution to the central problem of social science. As Caldwell wrote, in Hayek's view "standard equilibrium theory, because it assumes perfect foresight, is incapable of providing any insight concerning the solution of the problem" (Caldwell 1988, 515). As Hayek wrote: "Our problem of knowledge here is just the existence of this correspondence which in much of the current equilibrium analysis is simply assumed to exist" (Hayek 1937, 50). Presumably, the problem afflicts not just "standard" equilibrium theories, but also those that rely on the new concept of equilibrium.

In Caldwell's view, these passages from Hayek's work help explain why he turned away from pure economics (Caldwell 1988, 515).²⁴ If economics has to rely on equilibrium methods, and equilibrium methods are incapable of addressing the central problem of social science, it is only natural that Hayek should give up on standard economic theorizing. The reason why Hayek later turned to an investigation of spontaneous order, in this view, is that such a project upholds the promise of answering how a spontaneous order might solve the coordination problem (Caldwell 1988, 533).

The other main factor that Caldwell discusses is Hayek's participation in the "socialist calculation debate" of the 1930's. As Caldwell wrote:

²⁴ In this context, Caldwell wrote: "Though I will not claim that his participation in the debate *caused* Hayek's transformation, a knowledge of his role will be helpful in understanding why events unfolded as they did" (Caldwell 1988, 516). It is not clear to me why Caldwell hesitates to make the causal claim.

In the 1930's Oskar Lange, Abba Lerner, E. M. F. Durbin, H. D. Dickinson and other advocates of market socialism came up with a simple but dramatic counter to the Austrian position. The essence of their argument is that the standard static equilibrium can be used to represent either a socialist or market economy.... Formally, there is no logical difference between a market economy and a planned one; both can be represented by the standard equilibrium model....

Rational calculation was possible after all, at least at the theoretical level (Caldwell 1988, 534).

Caldwell continued: "A necessary assumption for such a defense [of a socialist economy] is that the planners have complete and objectively correct knowledge about the state of the economy. What better way to defeat them than to challenge [this] assumption, and to put in its place a thoroughly Austrian assumption of subjectively-held and dispersed knowledge?" (Caldwell 1988, 536). Hayek's position in the socialist calculation debate, then, required him to explain how plans can be coordinated in a world of dispersed knowledge. In Hayek's view, as we have seen, equilibrium analysis upholds no hope of solving this problem. Worse, it may give the misguided impression that the central planning of the economy may, in fact, work.

Caldwell's analysis goes a long way to explain why Hayek turned away from technical economics. The analysis is well supported by textual evidence, and Caldwell's hypothesis about Hayek's involvement in the socialist calculation debate, as well as the importance he assigned to the coordination problem, is convincing. Incidentally, Hayek himself awarded special importance to the 1937 article. In a 1964 lecture, 'Kinds of Rationalism' (in Hayek 1967, 82-95), he wrote:

Though at one time a very pure and narrow economic theorist, I was led from technical economics into all kinds of questions usually regarded as philosophical. When I look back, it seems to have all begun, nearly thirty years ago, with an essay on "Economics and Knowledge" in which I examined what seemed to me some of the central difficulties of pure economic theory (Hayek 1967, 91).

It goes without saying that such retrospective remarks should not be taken at face value, especially given the fact that Hayek made the remarks almost thirty years after the appearance of the article. Nevertheless, Hayek's autobiographical note gives us some reason to look closely at this particular work.

In his article 'More on "Hayek's Transformation"' Nicolai Juul Foss aspired to extend Caldwell's analysis. He discussed evidence from the early 1930's and argued that Hayek's transformation was driven also by issues in technical economics. Foss wrote: "The logic behind Hayek's transformation was just as much a matter of problems inherent in his business cycle theorizing as it was a recognition that static equilibrium theory could be used in the service of socialism" (Foss 1995, 361). As Foss points out, however, this does not contradict Caldwell's contention that the coordination problem led Hayek away from technical economics, and that the socialist calculation debate provided impetus in this direction.

6.2 Physics and Hayek's evolving philosophy of science

It is quite likely that Hayek's rejection of equilibrium theory in economics was closely associated with his rejection of methods borrowed from the physical sciences. The latter is a theme that he developed in great detail in his 1952 book *The Counter-Revolution of Science* (Hayek 1952a). In this book Hayek's main concern is to refute *scientism*, viz. "the slavish imitation of the method and language of Science" (Hayek 1952a, 24), where Science with a capital S is to be "understood in the modern narrow meaning" (Hayek 1952a, 20). Hayek did not specify what that narrow meaning is, but he obviously had in mind the method of physical – and to some extent biological – sciences (Hayek 1952a, 20). Hayek maintained that the "ambition to imitate Science in its methods rather than its

spirit ... has contributed scarcely anything to our understanding of social phenomena,” and that it continued “to confuse and discredit the work of the social disciplines” (Hayek 1952a, 21).

One important implication of Hayek’s analysis is that the kind of prediction that can be made on the basis of social science is radically different from that of e.g. physics. Whereas a physicist can in practice make precise predictions on the basis of his knowledge of the facts and the laws of physics, a social scientist will never know enough about the properties of the elements that constitute his subject matter to make such predictions. Hayek wrote:

The number of separate variables which in any particular social phenomenon will determine the result of a given change will as a rule be far too large for any human mind to master and manipulate them effectively. In consequence our knowledge of the principle by which these phenomena are produced will rarely if ever enable us to predict the precise result of any concrete situation.... The distinction between an explanation merely of the principle on which a phenomenon is produced and an explanation which enables us to predict the precise result is of great importance for the understanding of the theoretical methods of the social sciences. It arises, I believe, also elsewhere, for example, in biology and certainly in psychology (Hayek 1952a, 73-74).²⁵

In particular, Hayek claimed, the system of equations that constitute Walrasian general equilibrium theory do not allow us to make precise predictions:

These systems show merely the principle of coherence between the prices of the various types of commodities of which the system is composed; but without knowledge of the numerical values of all the constants which occur in it and which we never do know, this does not enable us to predict the precise results which any particular change will have (Hayek 1952a, 74-75).

²⁵ A reference has been omitted.

The distinction between different kinds of prediction is closely related to Hayek's rejection of inexorable laws in economics.

It is probably no coincidence that several of many seminal thinkers in the neo-classical tradition – to which Hayek reacted – were inspired by physics and in particular mechanics. In the words of H. Thoben: “Especially Jevons and Walras give an explicit statement of their ambitions to construct a science of economics according to the basic pattern of mechanics” (Thoben 1982, 294). Thus, Léon Walras (1834-1910), who is credited with the development of general equilibrium theory (cf. Perlman and McCann 1998, 493), wrote that the “pure theory of economics is a science which resembles the physico-mathematical sciences in every respect” (Walras [1926] 1954, 71). Walras continued:

If the pure theory of economics or the theory of exchange and value in exchange, that is, the theory of social wealth considered by itself, is a physico-mathematical science like mechanics or hydrodynamics, then economists should not be afraid to use the methods and language of mathematics (Walras [1926] 1954, 71).

Walras himself obviously drew on methods and language borrowed from physics. He may well have borrowed the very notion of equilibrium from mechanics or hydrodynamics.²⁶

It is easy to see how the historical background of neo-classical economics may have suggested to Hayek that it was a mistake to use physical methods and concepts in economics. Given that an application of such methods had led Walras to an extensive use of the concept of equilibrium, which Hayek felt was useless in answering the central problem of social science as well

²⁶ Very likely, Hayek had other misgivings about the use of models inspired by physics too. As suggested above, for instance, he may have thought that models borrowed from physics in general (as well as equilibrium models in particular) tended to promote the misconception that we are capable of predicting the exact development of the economy.

as potentially misleading, it is easy to see that Hayek would repudiate such methods. Thus, my hypothesis is that Hayek's rejection of equilibrium methods in economics helped convince him that it was a mistake for economists to borrow their scientific methods from physics.

Hayek's views on this topic were to change. Hayek himself ascribed the change in some significant part to his new colleague Karl Popper (1902-1994). In the Preface to *Studies in Philosophy, Politics and Economics* (1967) Hayek wrote:

Readers of some of my earlier writings will notice a slight change in the tone of my discussion of the attitude which I then called 'scientism'. The reason for this is that Sir Karl Popper has taught me that natural scientists did not really do what most of them not only told us that they did but also urged the representatives of other disciplines to imitate (Hayek 1967, viii).

Clearly, this development is eminently relevant to the present topic. So long as Hayek believed it was a mistake to borrow "methods and language" from a natural science like biology, it is unlikely that he would have adopted a theory of natural selection.

This development of Hayek's has been traced by Caldwell in the working paper 'Hayek, *The Sensory Order*, and Psychology' (manuscript b). The explicit purpose of the paper is "to make sense of Hayek's varying positions on psychology by examining the origins of *The Sensory Order* and its role in the development of Hayek's thought" (Caldwell manuscript b, 2). *The Sensory Order* (1952b) was a work in theoretical psychology, based originally on a paper Hayek had written while a student in Vienna shortly after he had spent a few weeks working in a brain anatomy laboratory (Caldwell manuscript b, 3).

According to Caldwell, *The Sensory Order* marks an important transition on Hayek's part. While working on this book, Hayek came to see the mind as yet "another example of a spontaneously forming order, analogous to the social orders that formed as the result of the unintended consequences of human action" (Caldwell manuscript b, 17). As a result, Hayek rejected

his previous contention that there was a fault line between the natural and the social sciences, and instead grouped sciences on the basis of whether they dealt with simple or complex phenomena.

Caldwell wrote:

When he had tried to characterize the subject matter of economics and other social sciences in his “Scientism” essay in the 1940s, his basic dividing line was between the natural and the social sciences. But by the middle of the 1950s Hayek had come to a startling observation, one fully compatible with his new readings: The complex adaptive orders that had been identified by the classical economists, by philologists and others, the sort of order that he had encountered again in his research on the brain, were in fact to be found in a variety of other *scientific* fields. He drew the conclusion that the basic dividing line among all the sciences was not between the natural and the social, but between those that studied simple and those that studied complex phenomena (Caldwell manuscript b, 17-18, italics in original).

These thoughts allowed Hayek to argue that economics was a true science, even though it did not rely on the methods of physics, and even though it does not allow us to make precise predictions (Caldwell manuscript b, 19).²⁷ In this respect, according to Hayek, economics is similar to biology. Indeed, Caldwell wrote: “Evolutionary theory was Hayek’s chief exemplar of [sciences that study complex phenomena] in his 1955 essay ‘Degrees of Explanation,’ though he also clearly realized there (and indeed emphasized) the ubiquity of such phenomena” (Caldwell manuscript b, 18).

Caldwell concluded:

²⁷ Hayek’s later conception of sciences of simple and complex phenomena, as well as the ability of different sciences to make different kinds of prediction, is elaborated especially in the 1955 essay ‘Degrees of Explanation’ (in Hayek 1967, 3-21).

Economics was a science, but it was one among the sciences that studied complex phenomena.

That is why we can do no better than to make pattern predictions. And *that* implies limits on what social planners and other constructivist rationalists could accomplish (Caldwell manuscript b 19).

This thought is intimately connected with that expressed in *The Counter-Revolution of Science* (1952a) concerning the impossibility of using social science to make precise predictions, and further underpins Hayek's contention about the impossibility of central planning.

Hayek's new way of grouping the sciences was an important step toward the adoption of a theory of group selection. Clearly, as noted above, it would have been difficult for Hayek to adopt a theory of group selection so long as he insisted that it was a mistake for social scientists to adopt methods from the natural sciences. Now, however, he drew the distinction between sciences that dealt with simple phenomena and those that dealt with complex ones. When he needed an account of the origin of complex orders in economics, it would seem that nothing would be more natural than to look for inspiration in the (other) preeminent example of a science of complex phenomena, viz. biology.

It is true that Hayek continued to insist that the theory of cultural evolution originated not in Darwin but in the social sciences. For instance, in the first volume of *Law, Legislation and Liberty* (1973), Hayek wrote:

As the conception of evolution will play a central role throughout our discussion, it is important to clear up some misunderstandings which in recent times have made students of society reluctant to employ it. The first is the erroneous belief that it is a conception which the social sciences have borrowed from biology. It was in fact the other way around, and if Charles Darwin was able successfully to apply to biology a concept which he had largely learned from

the social sciences, this does not make it less important in the field in which it originated (Hayek 1973, 22-23).

He added: “A nineteenth-century social theorist who needed Darwin to teach him the idea of evolution was not worth his salt” (Hayek 1973, 23). These passages suffer from a critical ambiguity, in that it remains unclear what exactly Hayek meant by “evolution.” However, if he meant evolution by natural selection – which is probably the way in which many readers interpret this passage – the claims are difficult to sustain. In spite of many passages that are often interpreted as anticipating the theory of natural selection, thinkers before Darwin did not develop anything that can be described as a coherent theory of natural selection (Hodgson 1994, 408).

One may of course ask why Hayek should insist that the theory of evolution had its roots in social science. The passage above suggests that he wanted to counter a fear, which he thought might have been prevalent among social scientists, of borrowing ideas from biology. Of course, as we saw above, Hayek was one of the people who may have been responsible for promoting that fear. Perhaps, moreover, Hayek wanted to preempt the objection that he illegitimately imported ideas from biology (cf. Angner 2002a, 715). Finally, insofar as Hayek wanted to appeal to an audience of economists, it is possible that he thought it would be more rhetorically useful to refer to giants like Menger, Hume and Smith, than to Darwin. Either way, the fact that Hayek emphasized the social scientific roots of evolutionary theory does not mean that he was not guided by the biological patristic legacy. As I hope to have shown in Angner (2002a), there is a wealth of evidence that he was.

6.3 *Road to Serfdom*

If Hayek's participation in the socialist calculation debate is what led to his transformation, as Caldwell maintains, there is little doubt that the experiences associated with the writing and publication of *The Road to Serfdom* (1944) provided more momentum for this development. Indeed, in some autobiographical passages, Hayek took this book to mark the beginning of his work outside of technical economics. In his 1976 preface to the reprint edition of *The Road to Serfdom* (Hayek 1994b, xxi-xxv), for example, Hayek noted: "This book, written in my spare time from 1940 to 1943, while my mind was still mainly occupied with problems of pure economic theory, has unexpectedly become for me the starting point of more than thirty years' work in a new field" (Hayek 1994b, xxi).

The reason why he got started on this new topic, Hayek claimed in the same preface, was a common misunderstanding of the true nature of totalitarian movements. He wrote: "This first attempt in the new direction was caused by my annoyance with the complete misinterpretation in English 'progressive circles' of the character of the Nazi movement" (Hayek 1994b, xxi). The thought had been further developed in the original introduction to *The Road to Serfdom*, where he wrote: "Few are ready to recognize that the rise of fascism and nazism was not a reaction against the socialist trends of the preceding period but a necessary outcome of those tendencies" (Hayek 1994b, 6). He added: "As a result, many who think themselves infinitely superior to the aberrations of nazism, and sincerely hate all its manifestations, work at the same time for ideals whose realization would lead straight to the abhorred tyranny" (Hayek 1994b, 6). Far from being a serious alternative to Nazism, in Hayek's view, socialism was a precursor to it. Because of its socialist tendencies, he feared that England would repeat the fate of Germany (Hayek 1994b, 4). This explains why Hayek in 1944 would write a treatise against socialism at a time when national socialists and fascists were considered the great enemy.

One instantiation of the socialist tendencies that Hayek deplored in “progressive circles” of the 1930’s and 40’s may have been the eugenics movement. There is no doubt that Hayek at the time knew the movement from up close. The Director at the London School of Economics, Alexander M. Carr-Saunders (1886-1966), was one of the principal figures of the British eugenics movement, Honorary Past President of the Eugenics Society, editor of *The Eugenics Review*, and first recipient of the Galton Medal in 1944 for “the invaluable services which he had rendered in the past and continued to render both to the Society and to the cause of eugenics” (Blacker et al. 1967, 4). Moreover, Hayek’s colleague John Maynard Keynes (1883-1946) was associated with the movement. Geoffrey Fishburn wrote that eugenics for Keynes was a “life-long preoccupation” (Fishburn 1983, 3). Between 1937 and 1944 he served as the vice-president of the Eugenics Society (Fishburn 1983, 5). In a 1946 tribute to Carr-Saunders at the Society, Keynes praised eugenics as “the most important, significant, and, I would add, *genuine* branch of sociology which exists” (Blacker et al. 1967, 5, italics in original). Surely, Hayek considered eugenicists’ attempts to improve the racial stock of society a clear instantiation of the socialist or “engineering” mindset, which he denounced e.g. in *The Counter-Revolution of Science* (Hayek 1952a, 165-182; cf. Angner 2002a, 715-716).

According to Hayek, he continued to pursue the issues discussed in *The Road to Serfdom* because of his sentiment that they were both more difficult and more important, and in need of further attention. Again, in his 1976 preface, Hayek wrote:

But though I tried to get back to economics proper, I could not free myself from the feeling that the problems on which I had so undesignedly embarked were more challenging and important than those of economic theory, and that much that I had said in my first sketch needed clarification and elaboration (Hayek 1994b, xxii).

Part of the reason, he claimed, was that in 1944 he still suffered from confusion and ignorance that needed to be cleared up. However, he also appears to have felt the need to be more constructive. He

wrote: “And the discussion of the consequences of socialist policies which the book attempts is of course not complete without an adequate account of what an appropriately run market order requires and can achieve” (Hayek 1994b, xxii). Indeed, he added: “It was to the latter problem that the further work I have since done in the field was mainly devoted” (Hayek 1994b, xxii). It is true that *The Road to Serfdom* is in the main a negative tract, carefully describing the problems associated with central planning; it does not describe in any detail what a proper market order would look like, or how it is possible for such an order to appear even though it was never planned. Thus, he had not yet answered the question of “how a spontaneous order might emerge to solve the coordination problem” (Caldwell 1988, 533).

Thus, it is clear that Hayek’s work in fields other than technical economics were motivated not only by his participation in the socialist calculation debate, but also by the perceived naiveté of British “progressives” and by his experiences surrounding *The Road to Serfdom*. Nothing of this contradicts Caldwell’s account, but helps paint a fuller picture. Judging by his own words, Hayek’s continued attention to the issues raised in this book appears motivated in part by his desire to clear up confusions in his earlier work, and to offer his readers a more constructive account about the proper functioning of a market economy. He apparently felt the need to be more constructive, and to explain both how a market order would solve the coordination problem, and how it is possible for such an order to appear in spite of not being planned.

6.4 Hayek’s wartime experiences

Hayek’s experiences during World War I appear to have been important also for his intellectual development. As Ebenstein wrote, Hayek was fifteen years old when World War I broke out, and eighteen when sent to the Italian front (Ebenstein 2001, 18). In Ebenstein’s view: “The political

excitement connected with the war and later break-down of the Austro-Hungarian Empire shifted his interests from the natural to the social sciences” (Ebenstein 2001, 18). Hayek said: “It was during the war service in Italy that I more or less decided to do economics” (Hayek 1994, 48). His interest in social science was sparked by poor volumes on economics, as well as by socialist pamphlets (Hayek 1994, 47; cf. Ebenstein 2001, 20).

In one interview, Hayek gave a more specific idea about what drew his attention to social science. He said:

I think the decisive influence was really World War I, particularly the experience of serving in a multinational army, the Austro-Hungarian army. That’s when I saw, more or less, the great empire collapse over the nationalist problem. I served in a battle in which eleven different languages were spoken. It’s bound to draw your attention to the problems of social organization (Hayek 1994, 48).

Witnessing the descent into world war and the fall of empires can raise many questions about the nature of social orders. More or less everybody must have asked themselves how it could be possible for an established social order to break down so completely. Some of those who were more thoughtful must have gone further, and asked how it is possible for social orders to get established and persist at all. Given their evident fragility, it may seem like a mystery that social orders ever manage to remain intact for any extended period of time. Surely Hayek asked himself questions of this nature. With ten million people dead across the continent (Ebenstein 2001, 21), there could be no doubt about the importance of the issue.

According to Ebenstein, Hayek’s experiences in post-war Vienna also helped shape his interest in political, economic and social issues. For one thing, in Vienna Hayek got better acquainted with socialist thought. He had started reading socialist pamphlets during the *Gymnasium*, and obviously found himself attracted to the ideas expressed in them (Hayek 1994, 47). Indeed, this

interest in socialism was in part what motivated him to study economics (Hayek 1994, 47; Hayek 1983, 12; quoted in Ebenstein 2001, 23). Later, Hayek said he had question about the feasibility of socialism. He asked: “I mean, how realistic were these socialist plans which were found so attractive?” (Hayek 1983, 12; quoted in Ebenstein 2001, 23). In Vienna, he found that Marxism had suddenly become intellectually respectable (Hayek 1992, 20-21; quoted in Ebenstein 2001, 22).

Hayek said:

The nearness of the Communist revolution, ... the sudden academic respectability of Marxism, the rapid expansion of what we have since learned to call the welfare state, the then-new conception of the ‘planned economy,’ and above all the experience of an inflation of a degree which no living European remembered, determined very largely the topics of discussion (Hayek 1992, 20-21; quoted in Ebenstein 2001, 22).

Hayek said that he was “never captured by Marxist socialism. On the contrary, when I encountered socialism in its Marxist, frightfully doctrinaire form – and the Vienna socialists, Marxists, were more doctrinaire than most other places – it only repelled me” (Hayek 1983, 12; quoted in Ebenstein 2001, 23). This is the point in time when he must have started to develop a distaste for socialism. If it is true, as Taylor suggested, that many economists articulated a Natural Law position in order to attack socialism, this event may have been a critical juncture in Hayek’s development.

6.5 The London School of Economics

It is plausible to assume that Hayek – while staying true to his Austrian roots – started thinking about evolution by group selection when he was in London. By all accounts, Hayek’s time at the London School of Economics (LSE) in the 1930’s and 40’s was a most fruitful one. He obviously

enjoyed the intellectual environment. For example, he wrote that the School included “a quite extraordinary array of great talents and conversational gifts” (Hayek 1994, 81). Hayek’s autobiographical writings (especially Hayek 1994) do not reveal much about how exactly the new intellectual environment affected his thinking, except insofar as he was influenced by his interactions with his colleagues. Certainly, while in London, Hayek met figures like Keynes, Carr-Saunders and Popper.

Hayek disagreed with Keynes on a range of issues and used him as a target for much of his criticism (Hayek 1994, 88; Ebenstein 2001, 67-73). It is probably fair to say that Hayek often shaped his ideas in opposition to those of Keynes. Of particular interest in this context, in Hayek’s words, is Keynes’ “refusal to recognize as binding any rules of conduct whose justification had not been rationally demonstrated” (Hayek 1973, 25). Hayek quotes, with evident disgust, a passage in which Keynes describes himself and his friends circa 1905. Keynes wrote:

We entirely repudiated a personal liability on us to obey general rules. We claimed the right to judge every individual case on its merits, and the wisdom, experience, and self-control to do so successfully.... So far as I am concerned, it is too late to change. I remain, and will always remain, an immoralist (Keynes 1949, 97; quoted in Hayek 1973, 26).

My guess is that Keynes’ strong rejection of received morals encouraged Hayek to develop or sharpen his argument for the thesis that such morals and other complex orders often are more desirable than those that have been artificially constructed.

Popper may have influenced Hayek’s intellectual development in many ways, as the two were close friends and colleagues for many years (cf. Ebenstein 2001, Ch. 20). In one passage, Hayek wrote: “The intellectual debt which I owe to this old friend for having taught me this is but one of many, and it is therefore appropriate that this volume should be in gratitude inscribed to him” (Hayek 1967, viii). Above (in Section 6.2) we saw that Popper appears to have contributed to the

softening of Hayek's anti-scientism. The point about the softening anti-scientism is particularly interesting in this context, since Hayek's change preceded (or perhaps coincided with) his incorporation of biological themes into his work. It is possible that Popper, knowingly or not, helped Hayek accept the idea that natural science in general, and evolutionary theory in particular, was a legitimate source of inspiration and intellectual support.²⁸

Carr-Saunders was one of the first biologists to develop a theory of group selection, as he called it. Elsewhere I have argued that he significantly inspired Hayek to adopt such a theory himself (Angner 2002a). It is certain that Hayek disapproved of many of the policies promoted by Carr-Saunders, who was a prominent member of the British eugenics movement (Blackler et al. 1967). Some of these policies, I would argue, resulted from an application of the theory of group selection. Nevertheless, Hayek obviously accepted the theory, and consistently invoked Carr-Saunders' work in its support (Angner 2002a, Section 3).²⁹

Hayek was still in London when World War II broke out. There is no doubt that the war, and the events leading up to it, had a lasting impact on Hayek's intellectual development. In particular, it surely contributed to Hayek's shift toward more fundamental issues e.g. in methodology and political philosophy. Hayek clearly felt the need to counteract totalitarian ideology in its various forms. I take it that the best way to do so, in his view, was not by working on e.g. monetary theory, but by addressing more fundamental issues in political thought. Presumably, as an economist, Hayek believed that he was in a good position to defend the virtues of a society based on the spontaneous order of the free market. As we saw above, in Hayek's view the economist's most important task is to study spontaneous orders.

²⁸ However, see Caldwell (manuscript a) for a deeper discussion about the relationship between Hayek and Popper.

²⁹ In his recent Hayek biography, Caldwell strongly rejected my thesis that Carr-Saunders was one of the most important influences on Hayek's evolutionary thought (Caldwell 2004, 355).

After the outbreak of the war Hayek remained in England, but joined a small number of faculty – including Carr-Saunders – who were relocated to Cambridge (Watkins, 1997, pp. 657-658). One of Hayek’s main achievements there was *The Road to Serfdom* (1944), the writing of which Hayek considered part of the war effort (Ebenstein 2001, 119). Incidentally, work he did starting in 1940, Hayek wrote, led to a close study of the work of John Stuart Mill (1806-1873) (Hayek 1994, 128-129; Ebenstein 2001, Chapter 24).

6.6 The University of Chicago

What made Hayek move to Chicago in 1950 was “in the first instance solely that it offered the financial possibility of that divorce and remarriage which I had long desired and which the war had forced me to postpone for many years” (Hayek 1994, 126). However, he added that the position “offered me almost ideal opportunities for the pursuit of the new interests I was gradually developing” (Hayek 1994, 126). Among other things, Hayek was afforded the opportunity to run seminars of a more interdisciplinary nature (Ebenstein 2001, 179). Caldwell wrote that “the course provided him the opportunity to expand his interests in biology and other areas of investigation” (Caldwell 2000, 11).

In Chicago, Hayek met several highly recognized evolutionary theorists. Resident biologists included Sewall Wright (1889-1988), who is known among other things as an adherent to group selection (Caldwell 2000, 11). Caldwell wrote that one reason why Hayek switched to biological metaphors was “the interaction Hayek began to have with natural scientists at the University of Chicago in the 1950s, among them the geneticist Sewell [sic] Wright, an early proponent of group selection” (Caldwell 2001, 542). Another important Chicago biologist was Alfred E. Emerson (1896–1976). Emerson studied social insects like termites, ants and bees, and relied on a theory of

group selection to account for the evolution of their elaborate social structures. Hayek's work shows clear signs of Emerson's influence. Not only is Emerson quoted in a large number of passages on cultural evolution, but when Hayek used examples from the animal kingdom he often referred to termites, ants and bees (cf. Hayek 1967, 66 ff).

In 1959, the University of Chicago hosted a Darwin Centennial celebration. As Caldwell notes, the conference "was preceded by a year of paper presentations and panel discussions" (Caldwell 2001, 542). The celebration was attended by the eminent Oxford zoologist Julian S. Huxley (1887-1960), as well as by Hayek, Wright, and Emerson. It is most likely that Hayek found the conference stimulating. Caldwell notes: "Given his work on *The Sensory Order*, it comes as no surprise that Hayek participated on a panel called 'The Evolution of Mind'. But another panel titled 'Social and Cultural Evolution' doubtless also piqued his interest" (Caldwell 2001, 542). Elsewhere, I have argued that Huxley became one source of inspiration for Hayek's theory of cultural evolution (Angner 2002a, 705-706).

6.7 Hayek's disappointment with previous theories of cultural evolution

Part of the answer to the question of why Hayek turned to group selection was that he found previous attempts at formulating what he would call a theory of cultural evolution to be in some ways deficient. As we saw above, Caldwell wrote that Hayek's theory of group selection was intended to answer the question that appeared already in 'Economics and Knowledge' (Hayek 1937), viz. how institutions capable of solving the coordination problem can appear even though there were never planned. In Caldwell's terms, Hayek took the theory of group selection to be

... a necessary component for answering his central questions, namely: How did those rules of conduct, moral codes, and institutions of capitalism, practices that can make us so

uncomfortable, that are repugnant to both our nature and to our reason, ever get established? And how is it that, once they got established, they not only persisted but thrived?” (Caldwell 2000, 198-199).

More specifically:

Hayek turned to group selection to answer these questions because (1) he didn't think (unlike, say, someone like Menger) that all such institutions could be explained as the outcome of self-interested individual action, and (2) he saw the only other alternative framework, that of sociobiology, as being too single-minded, too all-encompassing (Caldwell 2000, 299).

In this section, I will discuss Hayek's disappointment with earlier theories of cultural evolution in greater detail.

When it comes to social Darwinism, Hayek was explicit about his reason for rejecting it. In 1973, for example, Hayek wrote: “The error of ‘Social Darwinism’ was that it concentrated on the selection of individuals rather than on that of institutions and practices, and on the selection of innate rather than on culturally transmitted capacities of the individuals” (Hayek 1973, 23).³⁰ Regarding Menger's theory, there appears to have been several reasons why Hayek chose not to adopt it. It seems to me that the question should be answered by considering the role that Hayek wanted his theory of cultural evolution to play in his system. He did not just want to develop a descriptive account for the evolution of norms, rules and practices. Reacting to the rise of academic Marxism and the crimes committed in the name of totalitarian ideology, Hayek was convinced that spontaneous orders were superior to artificial ones, even though they often did not seem so to the people affected by them, and he wanted a convincing argument to this effect.

³⁰ See also the Epilogue to the third volume of *Law, Legislation and Liberty* (Hayek 1979, 153-176).

Hayek's own theory of cultural evolution could be used to develop an argument in favor of this conclusion. In Angner (2004) I claim that Hayek in fact adhered to an argument along the following lines. Since the competitive market is a spontaneous order, since spontaneous orders evolve in a process of natural selection at the level of groups, and since the outcome of an evolutionary process tends to be desirable (in a normative sense), the spontaneous order of the competitive market is a desirable social arrangement. Meanwhile, there is no reason at all to assume that the people affected by the spontaneous order should be aware of its desirable qualities. In fact, Hayek argues, people in general (intellectuals included) are often completely ignorant about the benefits associated with the competitive market.

My hypothesis is that in Hayek's view, Menger's work did not support this conclusion strongly enough. If, say, the institution of money developed as a result of individuals learning how to act in their self-interest, it seems that they would typically realize that the institution of money makes them better off. If, on the contrary, people did not immediately realize this, it should not be difficult to explain to them what the advantages were. Therefore, if on Menger's theory people would in general grasp the advantages associated with orders of organic origin, the theory would not support Hayek's view. Moreover, so far as I can tell, there is no obvious way to modify the account in such a way that it does. In contrast, by relying on the legacy of biology – especially zoology and Darwinian evolutionary theory – Hayek could develop an argument to the effect that spontaneous orders are superior but that we often fail to see it. If it is indeed true that the legacy of Menger did not (easily) allow for the development in favor of Hayek's preferred conclusions, this goes a long way toward explaining why Hayek rejected Menger's account of the genesis of institutions of organic origin.

6.8 Discussion

In light of the considerations explored in this chapter, a fuller story of Hayek's life emerges. As we have seen, many different events which may have jointly predisposed Hayek to thinking in terms of order: his Roman Catholic upbringing, his early interest in botany, his experiences during WWI, his studies in law – especially the history of law – at the University of Vienna, his acquaintance with the British moral philosophers of the eighteenth century, and so on. For a number of reasons, some of which were decidedly practical, he decided to pursue economics and to seek a job where he would find use for his knowledge of technical economics. Thus, he ended up working for Mises.

When Hayek arrived in England, it appears that he had something of a culture shock. British academics in general, and economists in particular, did not share Hayek's view of the economy as an organism too complex to have been designed and to be rearranged at will. While Hayek emphasized the Mengerian perspective from the very beginning, the rise of Nazism and Fascism abroad, and the respectability of socialism and eugenics in England, appears to have suggested to Hayek that popular opinion was not only mistaken, but also dangerous. Moreover, he had developed the feeling that technical economics would not allow him to make the point in a forceful enough manner.

In order to develop a clear and convincing case that the economy is a spontaneous order that can only be rearranged at great cost, Hayek realized that the theory of group selection (with which he had gotten acquainted through the work of Carr-Saunders and other biologists) could be of use. Thus, he recast the theory. While Carr-Saunders had argued that selection operates on different races and social classes, Hayek argued that it operates on different economic systems, and that competitive markets emerged in such a process. Relying on the theory of group selection allowed Hayek to argue that his case was based on science, rather than ideology, and to cast his opponents as mistaken on matters of fact, rather than morally deficient.

On this account, Hayek's commitment to Natural Law doctrine stands out as both temporally and logically prior to the other factors that played a role in his intellectual development. Although his evolving view of the concept of equilibrium, his participation in the socialist calculation debate, and so on, played an important role, the commitment to Natural Law was constant over time, and in many ways may have acted as an engine of intellectual change. Meanwhile, it is worth pointing out that a commitment to Natural Law doctrine as a driving force behind Hayek's trajectory is not inconsistent with the other main accounts of the trajectory.

7.0 DISCUSSION

In this chapter I sum up the argument so far, and discuss the various ways in which Hayek's relationship to the Natural Law tradition helps shed new light on the content and origin of his thought. Next, I discuss the aspects of Hayek's life and work that do not fit easily with the Natural Law perspective. I argue that Hayek was too complex to be accurately described as the member of a single tradition, and that his work must ultimately be understood as part of a multiplicity of different and occasionally inconsistent traditions. Finally, I try to articulate the story that emerges about Hayek's life, and contrast this story with that offered in other accounts.

7.1 A potential problem

The thesis that Hayek should be seen as a Natural Law philosopher may seem to be contradicted by the following quote, in which Hayek rejects the use of the term 'Natural Law' as applied to his work. Hayek wrote:

One of the chief sources of confusion in the field is that all theories which oppose legal positivism are alike labelled and lumped together under the misleading name of 'natural law', though some of them have nothing in common with each other except their opposition to legal positivism. This false dichotomy is now insisted upon mainly by the positivists, because their constructivist approach allows only that the law should be either the product of the design of a human or the product of the design of a superhuman intelligence. But as we have seen, the term 'natural' was used earlier to assert that law was the product not of any rational design but of a

process of evolution and natural selection....

The position maintained in this book is therefore likely also to be represented by positivists as a natural law theory. But though it is true that it develops an interpretation which in the past has been called ‘natural’ by some of its defenders, the term as currently used is so misleading that it ought to be avoided. (Hayek 1976, 59).³¹

In brief, Hayek thought the term ‘natural law’ should be avoided because it was misleading. As Hayek points out, the term is often associated with a certain theological doctrine. However, as he also points out, there are other ways of understanding the term ‘natural.’ As we saw by the end of chapter 2.0, there are varieties of Natural Law doctrine which do take God to be the source of authority. Thus, this passage does not contradict the claim that Hayek’s system can correctly be described as Natural Law theory, if that term is properly understood.

The same thing is true for the passage that follows directly upon the one in the previous paragraph. Here, Hayek wrote:

Though 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, it does not follow from this that the rules of conduct which in fact guide him must be the product of a deliberate choice on his part; or that he is capable of forming a society by adopting any rules he decides upon; or that these rules may not be given to him independent of any particular person’s will and in this sense exist ‘objectively’ (Hayek 1976, 59-60).

³¹ A reference has been omitted.

Again, Hayek denies both the view that rules, norms and practices must stem from human or superhuman intelligence, will, or design. He also denies that the exact result of the natural process of development – including the rules, norms and practices that will regulate behavior under the spontaneous order – is predetermined. Insofar as the term ‘natural law theory’ suggests that Hayek endorses either one of these claims, it is misleading. Again, however, there is nothing in this passage that forbids the use of the term ‘Natural Law theory’ properly understood to describe Hayek’s system. Incidentally, these quotes illustrate the claims made above (in Chapter 4.0) about the various ways in which Hayek’s version of Natural Law doctrine differs from those of e.g. the Physiocrats and Adam Smith.

7.2 Advantages of the Natural Law perspective

A major test of the fruitfulness of the approach that I have adopted is whether it is capable of generating new answers to old questions about Hayek and his work. In this section I will argue that the Natural Law perspective, indeed, can account for a number of otherwise puzzling features of Hayek’s work. This, in my view, is an important reason why we should pay attention to Hayek’s Natural Law heritage.

First of all, the Natural Law perspective helps account for Hayek’s use of the terms “natural” and “spontaneous” and their antonyms.³² In the absence of a Natural Law type framework, it is unclear what those terms would mean, if they have any meaning at all. Second, it explains why Hayek never gave a clear definition of “advantageous,” “beneficial,” and other terms that he used to describe spontaneous orders, and why he never offered any clear criteria by which an advantageous or beneficial order could be recognized. For somebody in the Natural Law tradition, presumably, it

³² Angner (2002b, 383) raises some of these questions.

is so obvious that the natural is just, expedient, and so on, that such propositions need not be further defended.

Second, seeing Hayek as a representative of the Natural Law tradition helps account for his position regarding the proper role of government. Many authors have found it hard to pinpoint Hayek's position. Although both conservatives and laissez-faire economists have wanted to claim him as one of their own,³³ we have seen that Hayek explicitly rejected both. In broad outline, he took the position outlined by Taylor (1929), according to which the natural tendencies are largely for the better, but not necessarily so. Thus, there are conditions under which government action is eminently justifiable. Still, although in principle governments can often improve matters, and although there is no in principle reason why it would be bad or unjust for them to try, for practical reasons – e.g. for lack of sufficient knowledge – they are often unable to do so.

Third, characterizing Hayek as a Natural Law philosopher helps account for his explicit ambition to demonstrate the superiority of free market capitalism on purely scientific – as opposed to ideological – grounds. For instance, in the Introduction to *Law, Legislation and Liberty*, he added:

The demonstration that the differences between socialists and non-socialists ultimately rest on purely intellectual issues capable of a scientific resolution and not on different judgments of value appears to me one of the most important outcomes of the train of thought pursued in this book (Hayek 1973, 6).

In *The Fatal Conceit* (1988) Hayek claimed that the conflict between socialists and non-socialists is due to a factual error by the former, and added: “As a question of fact, this conflict must be settled by scientific study” (1988, 7). This feature of Hayek's work makes most sense in the framework of Natural Law doctrine, according to which it is axiomatic that the natural, spontaneous development

³³ See for instance Madsen Pirie's article 'Why F. A. Hayek is a Conservative' (1987).

– which can be known by careful study of the natural world – is associated with the just, with the expedient, and with the promotion of the common good. In this tradition, the superior social arrangement is both identified and defended by showing that it is the outcome of a natural process of development.

Fourth, seeing Hayek as part of the Natural Law tradition helps account for his adoption of a theory of cultural evolution through group selection. My hypothesis is that Hayek took the theory of natural selection at the group level to offer a scientific basis for – indeed, proof of – his convictions borrowed from the doctrine of natural law, specifically, that there is a natural tendency for order to appear, that such orders tend to be beneficial, that the market order (and its underlying norms of respect for private property and the like) is such a spontaneous order, and that as a result free market capitalism is superior to any artificial order that socialists may want to impose on us. The theory of cultural evolution through group selection – unlike e.g. Menger’s account of institutions of organic origin – has the advantage that it supports the claim that individual members of the group may fail to understand the superiority of the spontaneous order.

This hypothesis about the origin of Hayek’s theory of cultural evolution is supported by the fact that others before Hayek have drawn similar (though less developed) conclusions on the basis of their reading of Natural Law doctrine. Interestingly, by the end of his historical survey, Taylor asked whether there was a grain of truth worth preserving in Natural Law doctrines. According to Taylor, we can preserve a belief in tendency toward order and harmony even if we dissociate ourselves from the theological connotations of many doctrines of Natural Law (Taylor 1929, 34). He wrote:

For even when we reject the notion that Providence ordained the laws of nature, we do not therefore necessarily reject the belief, which must of course be tested by facts, that the processes described by scientific laws are processes of adjustment of things to changing conditions, which

tend to preserve a certain measure of “order” and “harmony”; or to insure, under all conditions, the effective functioning of individual entities in the systems of which they are parts. Nor has this idea ever disappeared from scientific thought. Even the theory of evolution by natural selection ... is an alternative explanation, and not a denial, of the “adaptations” on which that argument was based (Taylor 1929, 31).

In Taylor’s view, the theory of evolution captures the sense in which natural developments are conducive to order and harmony. He added that there’s an analogous process in economic life:

There is certainly an analogy between this and the idea that in the economic life of human societies, the ‘natural’ working of competition brings about an adjustment or adaptation of the whole economic system to the physiographic environment, and of every individual to the economic system of which he is part (Taylor 1929, 32).

This passage implies that the theory of natural selection might have a role to play in social science as well as in biology. In a later passage, Taylor talks about those “elements in the institutional fabric which further ‘group survival’” (Taylor 1929, 38). This phrase indicates that what matters in social science is the performance of the group, rather than that of the individual. This is not to say, of course, that Taylor believed in a theory of group selection. However, there is only a small step from Taylor’s position – which as we have seen was thoroughly infused with Natural Law doctrine – to that of Hayek.

Fifth, the Natural Law perspective helps explain why Hayek’s work should exert such tremendous appeal on readers across the Western world and across generations. There is little doubt that the affinities between Hayek’s thought and Natural Law contributed to the appeal of his thought, and continues to do so. Talk about what is natural, the natural order, and the natural development of things, is – and has been for the entire modern era – deeply ingrained in our mode

of thought. Our deep familiarity with such talk makes it appear eminently reasonable to us, at least at first blush. As Richard Wollheim wrote:

... the remarkable persistence of a teleological mode of thinking can be accounted for only by the fact that it does in many respects accord with the ways in which we think and speak about the natural world. We talk of the natural functions or the proper development of man, of the needs that it is right to satisfy, or of how certain privations stunt or damage the personality (Wollheim 1967, 452).

The fact that Hayek's theory relies on a conception of natural development likely helped increase the *prima facie* plausibility of his system.

This contention is supported by the fact that relying on the theory of natural selection in order to argue for the superiority of spontaneous orders also had clear rhetorical benefits. In multiple passages, Hayek took advantage of the possibility to argue that his views – including his policy prescriptions – could be based on solid science rather than shaky ideology. Around the time when Hayek developed his evolutionary argument, in the 1950's, 1960's, and 1970's, evolutionary biology enjoyed a particularly strong position. Although Menger continued to be a highly respected figure in economics, Hayek wanted to reach a broader audience. He may very well have assumed (correctly, no doubt) that a defense based on Darwin's theory would have more cachet than would a defense based on Menger's. It is quite possible that this aspect of Hayek's rhetoric has helped him achieve the standing that he currently enjoys.

Sixth, and paradoxically, at the same time there is no doubt that Hayek's reliance on central tenets of natural law undermines the plausibility of his argument in the eyes of many observers. Natural Law theories are commonly seen as afflicted with a number of serious problems. Perhaps the most central one relates to the question of how to determine whether a given empirically observable feature of the world is “natural” or not. Assuming that we would want to articulate

guides of proper conduct, there is no way to do so on the basis of our knowledge of empirical regularities alone. As Wollheim put it:

... it is idle to pretend that we can extract a uniform message from nature. Are we, for instance, to model ourselves upon the peaceful habits of sheep or upon the internecine conflicts of ants? Is the egalitarianism of the beaver or the hierarchical life of the bee the proper exemplar for human society? Should we imitate the widespread polygamy of the animal kingdom, or is there some higher regularity of which this is no more than a misleading instance? In the light of these and similar questions, it becomes impossible to regard the maxim “Follow nature” as a substantive guide to conduct (Wollheim 1967, 451).

If we were to take all these generalizations to serve as a basis for human conduct, we would fall into inconsistency. Thus, we need some principled manner to identify those generalizations that are natural and therefore can serve as a guide for behavior. Short of postulating a benevolent divine will to clarify matters, it is difficult to see how this problem can be solved in a satisfactory way. Even if it could, it is not clear how one should go about justifying the claim that natural tendencies are conducive to the common good (see Angner 2004, 360).

Precisely these problems have, indeed, been raised in commentary on Hayek. As an example, we can consider Joseph Stiglitz’s discussion of the topic in his book *Whither Socialism?* (1994). He wrote:

It seems nonsensical to suggest that we should simply accept the natural outcome of the evolutionary process. What does “natural” mean? How do we know whether or not any particular perturbation that we might propose, such as more or less government, is or is not part of the “natural” evolutionary process? ... The evolutionary process has involved enormous changes over the past centuries, so we cannot simply reject all change (Stiglitz 1994, 275).

Similarly, Stiglitz argued that there is no “well-articulated normative basis for the widespread belief in the “desirability” of evolutionary forces—or the often-drawn policy conclusion that government intervention in the evolutionary process would either be futile or, worse, be a retrograde step” (Stiglitz 1994, 274-275).

As Hayek was fond of pointing out, however, human action typically has unintended, unanticipated, and unwelcome consequences. By adopting a Natural Law outlook, in spite of all its appeal Hayek may have undermined the long-term credibility of his argument. Since the time when he published his main works of cultural evolution, most biologists and philosophers have come to see theories of group selection as little more than historical curiosities. If group selection is a possibility at all, they would argue, it is at best a minor factor in evolution. Similarly, few if any biologists and philosophers of biology believe that the outcome of a process of natural selection tends to be desirable in any interesting sense. Thus, two of Hayek’s most important premises are widely considered disconfirmed. Although tapping into the legacy of evolutionary biology probably seemed like a good idea at the time, Hayek effectively pegged the value of his argument to the value of a particular scientific theory. As this theory lost credibility, so did his argument.

Indeed, because of the persistent problems associated with theories of Natural Law, modern observers often find all such theories unconvincing. In concluding his historical exposé of Natural Law in the *Law Quarterly Review*, John W. Salmond claimed: “As far as secular science is concerned, the history of the doctrine of natural law is for the most part but a chapter in the history of human error” (Salmond 1895, 142). It may be that a theory of Natural Law only appears convincing so long as its fundamental assumptions remain implicit. Insofar as his audience understand the fundamental assumptions Hayek borrowed from the Natural Law tradition, they may hesitate to accept his case – assuming that they understand its presuppositions – in favor of cultural evolution, group selection, and the superiority of a society based on free enterprise and competitive markets. To put it

differently, given many modern readers' distaste for ideas of Natural Law, Hayek's incorporation of elements from the this tradition is likely to limit the rhetorical appeal of his ideas.

Incidentally, in my view, the fact that the Natural Law perspective helps us address so many open questions about Hayek and his work is additional support in favor of my thesis that Hayek should be seen as a modern representative of the Natural Law tradition. In this section I hope to have shown, at the very least, that seeing Hayek as a Natural Law philosopher of sorts is a promising approach if we want to make sense of old puzzles regarding Hayek and his work. Insofar as this is correct, it offers supporting evidence for my thesis.

7.3 Concluding discussion

In his *History of Economic Analysis* (1954), Schumpeter called utilitarianism "the last" natural law system (Schumpeter 1954, 132). It would be far from me to quarrel with Schumpeter. However, in the above I have laid out a case that Hayek should be seen as a modern representative of the Natural Law tradition. This conclusion is supported by the prominence in Hayek's work of virtually all the central tenets of Natural Law doctrine, by his occasional notes tracing the roots of his ideas to various Natural Law philosophers, and by the fact that he was under the governing influence of Natural Law doctrine for his entire life. Seeing Hayek as a part of the Natural Law tradition is helpful, since it allows us to account for a number of otherwise puzzling features of his work. In particular, I have argued, Hayek's relationship to the tradition of Natural Law helps explain why he turned to a theory of cultural evolution through group selection.

If this is so, it sheds light on Hayek's personal history. It has long been something of a mystery why Hayek all but abandoned technical economics and instead turned to broader issues in social and political philosophy. The various accounts of the transformation have left open many

important questions (Caldwell 1988; Angner 2002a). It is clear that the shift was triggered in part by a number of important events in Europe in the 1930's and 40's, most prominently, the rise of fascism in Italy and national socialism in Germany, and the respectability of socialism and eugenics in England. In light of the above, it seems that Hayek's transformation was in large part a return to his roots in Natural Law doctrine, which he had picked up during his youth, and especially during his studies in law and economics at the University of Vienna. Hayek has made it clear that he disagreed with the view of society that he thought was favored by many British intellectuals, and which was inconsistent with Natural Law doctrine, according to which society and the economy was a construction or at least could be rearranged at will. Perhaps it would be correct to say that with the rise of the war, Hayek went from seeing this view as a serious misconception to a dangerous misconception, and that he put aside his research in technical economics in order to emphasize his view, with its origin in Natural Law doctrine, that society is a natural growth that can only be radically rearranged at great cost. The adoption of a theory of group selection, then, was a means for Hayek to make this central point, while remaining grounded in social science. Moreover, the resulting system can be described as a return to the Mengerian approach to the study of economic systems, in that it emphasizes the dynamics, as opposed to the statics stressed by many of his followers (starting with Böhm-Bawerk).

Meanwhile, it should be noted that Hayek remains a complex figure, and that he fits easily into no one tradition. His mature system is the result of an attempt at constructing a synthesis between a number of different intellectual traditions. Most prominent among them, perhaps, are the Natural Law tradition and the tradition of evolutionary biology. In Hayek's view these traditions were not only consistent, but mutually supporting. Thus, my claim that the Natural Law perspective can shed light on Hayek's intellectual development should not be taken to mean that it explains it all.

Though I believe that the Natural Law tradition is a particularly important one, Hayek can correctly be placed in other traditions as well. As a result, there is plenty of space for future work in the area.

In closing, I should note that nothing that has been said so far is intended as criticism of Hayek's work. In the above, I have merely pointed out that Hayek's theory relies crucially on elements borrowed from doctrines of Natural Law, and that this feature of the system – given current intellectual predispositions – limits its rhetorical appeal. Neither of these claims implies that Hayek was wrong. I do think, however, that we can develop a deeper understanding of an intellectual endeavor by tracing its historical roots, and that such understanding should inform our assessment of its content and significance. Thus, I hope that the historical analysis offered here can serve to inform future work on the adequacy of Hayek's system.

Moreover, I hope to have illustrated the usefulness of both the authority approach, and the study of the Natural Law roots of modern economics. In the early to mid-century, as we have seen, a number of great historians of economics argued that economic thought had been influenced by Natural Law doctrine throughout its existence. While it is true that some recent work has argued that modern economics owes a considerable debt to the Natural Law writers of the past (see especially Perlman and co-authors), the perspective remains promising. Similarly, I hope to have shown that the authority approach has great potential. If this dissertation served to stimulate further work along these lines, I would be pleased indeed.

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