

Unintended Order and Intervention: Adam Smith's Theory of the Role of the State

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Is it possible to give a coherent account of Smith's theory of the role of the state in a system of natural liberty? If by "coherent" we mean reducible to a single principle or even slogan such as "laissez-faire," then the answer, of course, is "No." Ever since Jacob Viner (1928, 153–54) pointed out at the occasion of the celebration of the sesquicentennial of the publication of the *Wealth of Nations* (*WN*) that "Adam Smith was not a doctrinaire advocate of laissez faire," scholars have come to appreciate that Smith actually advocated "a wide and elastic range of activity for government." As a catalog of all the specific policies Smith is seen to support somewhere in the pages of *WN*, Viner's article is still the locus classicus. However, Viner made no attempt to provide a coherent account of the principles that might be seen to underpin and perhaps unify Smith's agenda. Indeed, he seems to have thought that such a project would be impossible, as he suggests that Smith must have forgotten, for example, that he advocated certain regulations of interest rates and banks when he came to write book 5 on the duties of the sovereign (139).

Notwithstanding Viner's authority in the history of economics, the question of Smith's views on the state remains controversial. Robert Heilbroner (1996), for example, emphasizes the significant list of things Smith thought government should do, while E. G. West (1990) and George Stigler (1976) champion Smith as an advocate of economic liberty and the limited state.

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Other commentators in the modern era have concentrated on underlying principles and policy norms. Andrew Skinner (1996, 204), for example, sees certain general principles informing Smith's agenda for state action, and he argues that these, not the specific agenda itself, are what is important and of general application. Another significant modern approach is that associated with Donald Winch (1978, 1983, 1992, 1996) and Knud Haakonssen (1981, 1996). They focus on the science of the legislator of which Smith considers political economy to be a branch. In this view natural jurisprudence provides the normative foundation for Smith's theory of the role of the state. Many, such as T. D. Campbell and I. S. Ross (1981), have focused on the utilitarianism of Smith's approach to policy, and there is now a growing recognition of Smith's concern for distributive equity as another distinct policy norm (Young and Gordon 1996; Witztum 1997; Verburg 2000).

The problem, as Viner has so well identified, is that *WN* reveals a fundamental tension in Smith's treatment of the state. On the one hand, we have the famous passages that extol the virtues of natural liberty and unintended order pointing toward a policy of *laissez-faire*. But, on the other hand, Smith, throughout the text, endorses a significant laundry list of specific government interventions in addition to those public works he assigns to the government outright in book 5. However, while at one level it may be entirely appropriate to view this list as *ad hoc*, it is not without philosophical underpinning. Indeed, this dialectical tension runs throughout Smith's thought and is inherent in his Humean epistemology.

At a deeper level we may express this tension as one between the "standpoint of ordinary life," to use Charles Griswold's (1999, 13) expression, and the perspective of the philosopher, "whose trade it is, not to do anything, but to observe everything" (*WN*, I.i.9). Agents, who are assumed to learn solely from empirical experience (including the experience of their own passions) unintentionally generate and perpetuate orderly patterns of social life. They make decisions and moral judgments on the basis of what Haakonssen (1981, 79) calls "contextual knowledge." In *Essays on Philosophical Subjects*, Smith (1980, II.12) calls philosophy "the science of the connecting principles of nature," and as such it represents to the imagination "invisible chains which bind together . . . disjointed objects." The philosopher's trade, then, is to produce what Haakonssen (1981, 79) calls "system knowledge." A defining attribute of philosophy, then, is that it in some sense reveals what is hidden to agents in ordinary life. (Although anyone could become a philosopher.)

Take the division of labor as an example. While Smith declines to offer a positive explanation of its origins, he categorically states it “is not originally the effect of any human wisdom, which foresees and intends the general opulence to which it gives occasion” (*WN*, I.ii.1).¹ The “propensity to truck, barter, and exchange” (I.ii.1) leads agents in ordinary life to spontaneously engage in division of labor. Only when one of them, after the fact, takes a philosophical, systematic point of view will humans make the connection between it and “general opulence.” Yet Smith is frequently critical of philosophy’s tendency to create systems of thought far removed from empirical human experience. Without going into the specifics of Smith’s critique of the Stoics, we might note as an example, from *The Theory of Moral Sentiments* (*TMS*), that “the plan and system which Nature has sketched out for our conduct, seems to be altogether different from that of the Stoical philosophy” (VII.iii.i.43). Here is a clear tension between standards of virtue and conduct arising out of ordinary human experience and those that arise out of purely philosophical speculation. There is also the “man of system” who imagines “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” (VI.ii.2.17). Quoting Griswold (1999, 13) again, Smith qua philosopher was “a devoted and resourceful defender of the standpoint of ordinary life.” The philosopher who respects and defends this standpoint will continually rein in the tendency of the mind to create metaphysical systems divorced from human experience and only offer suggestions for improvement consistent with that perspective.

Following Skinner’s suggestion that we concentrate on principles, in this essay I show that once we understand the complexities of Smith’s overall philosophical position, it is possible to give a coherent account of his position on the role of the state in terms of two dialectical tensions between competing policy norms. These are, first, the relation between justice, understood as commutative justice, and utility, understood as the common good, and, second, the relation between commutative justice and distributive justice, understood as equity. His general position on both of these relationships is not difficult to discern. He states it clearly early on in *TMS*, and he sticks with it throughout *WN*. It is a theory of unintended order in which the passions inherent in human nature, not a perception of utility, are the original source of justice that is

1. Elsewhere (Young 1997, 2001), I have attempted to fill in a Smithian explanation of the origins of the division of labor.

responsible for establishing social order, the good of the whole. Utility is an unintended consequence. Similarly, distributive equity emerges spontaneously as an unintended consequence of individual behavior rooted in the passions. The characteristic feature of this track of the dual relation is that justice serves as both a necessary and a sufficient condition for public utility. Justice emerges out of the interactions of ordinary life, based on agents acting on contextual knowledge. The same general pattern emerges again in *WN* where the natural sentiments of humanity—for example, self-interest, the propensity to truck and barter, the virtue of prudence, desire to be admired—become the efficient causes of increasing population and national wealth, the main indicators of public utility, the final cause. The standard of living of the lowest members of society is raised in the process above that of an African king, and so distributive equity is served as well.

However, once the perspective of the philosopher appears on the scene (not necessarily in the form of a specialist, at least not at first), the central problem we must address is that the general model does not work in all contexts. Someone, the first true Smithian philosopher, will notice that from a systemic point of view, spontaneous, unintended orders are not always beneficial, nor is equity always guaranteed as an outcome of market processes. Along this second track of the dialectical relationship, justice is a necessary but not a sufficient condition for public utility. In such instances it becomes the philosopher's job to offer the statesman advice to correct the problem. Utility will be the primary policy norm, but, as I will argue, even when offering utilitarian advice the philosopher (and statesman who implements policy) must not stray from the perspective of the sympathetic impartial spectator. This produces a tension between unintended order and intervention, which recurs throughout both *TMS* and *WN*. The instances of tension between commutative justice, utility, and equity in *TMS* map into parallel instances in *WN*. Smith's position on the role of the state is, thus, complex. He has at least three policy norms, and he has two models of their interrelationship. However, since these models are both grounded in the same philosophical system at this level, there is both consistency and coherence in Smith's theory taken as a whole.

This essay is divided into three parts plus a brief conclusion. I present the general model as it appears in both *TMS* and *WN* in the first part. In the second, I show how the general principles of intervention on both utilitarian and equity grounds are set out in *TMS* and then followed

through in *WN*. The upshot is that in *WN* Smith would retain some of the laws of police as necessary to protect public utility, and he would perhaps favor some others on equity grounds. The third part begins with the three duties of the sovereign first laid out at the end of book 4 and shows how they support commutative justice, distributive equity, and public utility. Both tracks, or models, are evident in these duties and in Smith's treatment of taxation.

The Theory of Unintended Order

In a recent book James R. Otteson (2002) has argued that the theory of unintended order, which he aptly describes as a "market place" model, is the central feature of Smith's thought in both *TMS* and *WN*. For lack of anything better, I refer to this simply as Smith's "general" model. Smith sets out this model and applies it to an analysis of the interplay between justice and utility in part 2, section 2 of *TMS*. Having first contrasted the virtues of justice and benevolence, Smith defines the laws of justice as those that guard a person against injury in the form of loss of life, health, possessions, estate, or personal rights (*TMS*, II.ii.2.2).² Such injuries arouse the resentment of the impartial spectator and cause him to sympathize with the victim's desire for revenge. The sense of justice arises out of the unsocial passions: "Resentment . . . is the safeguard of justice and the security of innocence" (II.ii.1.4). Remorse is the sentiment that arises in the heart of the perpetrator when he "reflect[s] on the sentiments which mankind must entertain with regard to him," that is, he views his action from the perspective of the impartial spectator. Then he will sympathize with the sense of resentment other men feel for him (II.ii.2.3). The desire to be approved of leads him to "humble the arrogance of his self-love and bring it down to something which other men can go along with" (II.ii.2.2).

In this way the natural desires and moral sentiments of individuals lead ultimately to the evolution of the rules of justice, the only rules of virtue capable of exact specification and breaches of which are to be punished. There is, of course, more to the story than this. The point, though, is that Smith derives these rules from the supposed interactions of ordinary people functioning in a society. The people themselves are assumed

2. It is perhaps worth noting that this is a broader, more common, conception of justice than Hume's. As is well known, Hume virtually equated justice with property, while for Smith justice protects persons, health, and character as well as possessions.

to have no knowledge of the larger social consequences of their actions. A person is injured, and the observer immediately feels resentment toward the perpetrator and sympathy for the victim. These actions are not the result of reasoned reflection, although the process of achieving mutual sympathy does require some significant mental activity, at least until it is thoroughly learned. The agents are essentially operating on natural feelings about the actions that they observe among others. The pleasure of mutual sympathy alone leads to the proper degree of self-command and of fear of remorse necessary to generate just behavior as the norm.³

The scene shifts in the next chapter when Smith points out that this “constitution of Nature” has utility. From looking at justice from the perspective of the natural desires and knowledge of the individual agents involved, Smith asks us to step back and take a larger, philosophical perspective on the same set of actions. From this perspective we learn that “it is thus that man, who can subsist only in society, was fitted by nature to that situation for which he was made” (II.ii.3.1). Indeed, we learn that justice is the *sine qua non* of society itself: “Beneficence . . . is less essential to the existence of society than justice. Society may subsist, though not in the most comfortable state, without beneficence; but the prevalence of injustice must utterly destroy it” (II.ii.3.3). Justice is a necessary condition for the existence of society.⁴

3. The administration of justice is, of course, one of Smith’s three primary duties of the state. As such I discuss it in the third part of the essay. However, since I am drawing a contrast between the unintended order arising out of ordinary life and the intended order arising from government action, a point of clarification may be useful. In using the term *intervention* to describe such government action, I do not mean to imply that Smith has some other sort of story to tell about the origin of formal governmental institutions or about the functions those institutions perform in society. In that sense government institutions are endogenous to Smith’s general model. A case in point here is justice, as is money and the role of the mint. Even though these formal institutions are assigned the role of administering justice, this does not change the fact that the first origin of the rules of justice would be an unplanned, spontaneous process. The same story could be told about the origin of the institutions of government itself, the courts, parliament, monarch, etc. In using the term *intervention* I mean to imply that these institutions are well developed, especially the legislative function, and that “system knowledge” (whether true or not is not the question here) is being employed to intentionally promote social utility.

4. Smith’s view of justice is incremental. The existence of society does not require “perfect justice,” as we may infer from a comment Smith makes in the context of criticizing François Quesnay: “If a nation could not prosper without the enjoyment of perfect liberty and perfect justice, there is not in the world a nation which could ever have prospered. In the political body, however, the wisdom of nature has fortunately made ample provision for remedying the bad effects of the folly and injustice of man; in the same manner as it has done in the natural body, for remedying those of his sloth and intemperance” (WN, IV.ix.28). There will be other instances when public utility, the good of society, may override justice in particular instances. Thus, when Smith says that justice is a necessary condition for society to exist, I take him to

There follows immediately a lengthy paragraph on the importance of being able to distinguish between efficient and final cause in a world where “we observe the means adjusted with the nicest artifice to the ends which they are intended to produce” (II.ii.3.4). In particular, when it comes to understanding social life, phenomena produced by the actions of the mind, we are likely to confuse ends and means and to suppose that knowledge of the ends is the explanation for the emergence of the means.

But though, in accounting for the operations of bodies, we never fail to distinguish in this manner the efficient from the final cause, in accounting for those of the mind we are very apt to confound these two different things with one another. When by natural principles we are led to advance those ends, which a refined and enlightened reason would recommend to us, we are very apt to impute to that reason, as to their efficient cause, the sentiments and actions by which we advance those ends, and to imagine that to be the wisdom of man, which in reality is the wisdom of God. (II.ii.3.4)

Apparently Smith is specifically thinking here of Hume's theory of justice, which Smith interprets as doing precisely what he says one should not do: derive the laws of justice from a perception of their utility. Smith then goes on to refute this view by offering “many obvious observations” such as the fact that our concern for society arises from and is compounded of our concern for specific individuals in the society (II.ii.3.10).

Here now is the general pattern: utility, seen as the good of society, is the unintended, beneficial outcome of numerous individual actions. Smith explains these actions and the institutions that result (the laws of justice) on the basis of natural reactions of individual agents to specific events. Their knowledge of each is “contextual,” because it is confined to the event itself. They have no knowledge of—and, therefore, no intent to promote—the good of society, neither its existence nor its preservation.

Justice in the sense of refraining from injuring another is the same as “what Aristotle and the Schoolmen call commutative justice” (VII.ii.1.10). There is another sense of the word *justice* in which

we are said not to do justice to our neighbour unless we conceive for him all that love, respect, and esteem, which his character, his situation, and his connexion with ourselves, render suitable and proper for

mean that the “usual strain of men's conduct” must be to follow the rules of natural justice and to refrain from injuring each other (*TMS*, V.2.16).

us to feel, and unless we act accordingly. It is in this sense that we are said to do injustice to a man of merit who is connected with us, though we abstain from hurting him in every respect, if we do not exert ourselves to serve him and to place him in that situation in which the impartial spectator would be pleased to see him. (VII.ii.1.10)

This is distributive justice, and for Grotius it entailed the proper practice of the virtue of benevolence. It is this meaning of the term that became standard in the natural jurisprudence tradition. In the *Lectures on Jurisprudence* (*LJ*), we find that Smith treats distributive justice as an imperfect right, the same as charity, or benevolence. These duties are part of morals, not jurisprudence properly speaking (*LJ*[A], 1.14–15). Thus, Smith confines justice to its commutative sense only, and this is his meaning whenever he uses the term. He does not, however, ignore distributive equity as a matter of ethical concern for the distribution of income and wealth, particularly the standard of living of the poorest members of society.⁵

The general model of unintended order that Smith develops to explain the relationship of commutative justice to public utility reappears in the relation between commutative justice and distributive equity. This is the invisible hand's one appearance in *TMS*:

The produce of the soil maintains at all times nearly that number of inhabitants which it is capable of maintaining. The rich only select from the heap what is most precious and agreeable. They consume little more than the poor, and in spite of their natural selfishness and rapacity, though they mean only their own conveniency, though the sole end which they propose from the labours of all the thousands whom they

5. In previous work Barry Gordon and I attempted to argue that Smith did use distributive justice understood in its jurisprudential sense of an imperfect right as a governmental policy norm, and as such he, implicitly at least, elevated it to nearly the same status as justice (Gordon and Young 1996; Young 1997). However, Gloria Vivenza (2001, 198), speaking from a deep knowledge of the classical roots of the concept, has argued that "it is wrong to associate the latter [Smith's concept of fairness] with distributive justice." Moreover, in his most recent book, D. D. Raphael (2001, 114) asserts that "it is certainly mistaken . . . [to suppose] that Smith regards the needs of the poor as a claim of justice." Amos Witztum and I (2003) have recently attempted to counter these arguments, but pursuing this is beyond the scope of the present essay. There is broad agreement that Smith was concerned about the distribution of income and wealth, although, as I shortly show, he spoke in terms of "equity" rather than "justice" per se. Thus, to avoid unnecessary controversy or misunderstanding, in this essay, I refer to the third policy norm as "distributive equity," or "equity" for short, rather than as "distributive justice." Following Smith, I use "justice" in its commutative sense only.

employ, be the gratification of their own vain and insatiable desires, they divide with the poor the produce of all their improvements. They are led by an invisible hand to make nearly the same distribution of the necessaries of life, which would have been made, had the earth been divided into equal portions among all its inhabitants, and thus without intending it, without knowing it, advance the interest of the society, and afford means to the multiplication of the species. (IV.1.11)

Commutative justice, which protects the property rights of the rich, is here the guarantor of distributive equity, the welfare of the poor. This in turn promotes the common good by providing a means for population growth. The general model applies to both securing the good of the society and caring for the poor. Even though the example here of that “rustick hospitality” of the “great proprietors” refers to the precommercial state of society (*WN*, III.iv.5), we will see that the model holds for commercial society as well, at least in its progressive state.

The general model of unintended social order maps quite readily from *TMS* into *WN*. The principle of unintended beneficial social outcomes pervades the book, beginning with the division of labor “from which so many advantages are derived” but which is “not originally the effect of any human wisdom, which foresees and intends that general opulence to which it gives occasion” (*WN*, I.ii.1). The invisible hand metaphor is repeated once more, this time without any reference to distributive effects, and the foundational role of the rules of justice in the economy is brought out in the famous penultimate paragraph of book 4:

All systems of preference or of restraint, therefore, being thus completely taken away, the obvious and simple system of natural liberty establishes itself of its own accord. Every man as long as he does not violate the laws of justice, is left perfectly free to pursue his own interest his own way, and to bring both his industry and capital into competition with those of any other man, or order of men. 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 the society. (*WN*, IV.ix.51)

As justice functions to make society possible in *TMS*, it functions here to make the economy function. It stands in the same relation to public

utility here as it does in *TMS*, and in both the general pattern prevails of final causes emerging as the unintended consequences of the efficient causes. The latter are based in principles inherent in human nature.

The same may be said of the relation between commutative justice and distributive equity. In a commercial society “the produce of labour constitutes the *natural recompence* or wages of labour” (*WN*, I.viii.1; emphasis added). This is a matter of commutative justice, as failure to pay the recompense would result in an injury to the laborer. However, with the establishment of commutative justice there is security of possession, the prerequisite for capital accumulation. Thus, commercial society, even the imperfect one of Smith’s contemporary world, had generated a long-term trend of economic growth that produced a sustained rise in the “real recompence” of labor, as the accumulation of capital led to the demand for labor growing faster than the supply (I.viii.35).

Is this improvement in the circumstances of the lower ranks of the people to be regarded as an advantage or as an inconveniency to the society? The answer seems at first sight abundantly plain. Servants, labourers and workmen of different kinds, make up the far greater part of every great political society. But what improves the circumstances of the greater part can never be regarded as an inconveniency to the whole. No society can surely be flourishing and happy, of which the far greater part of the members are poor and miserable. It is *but equity besides*, that they who feed cloath and lodge the whole body of the people, should have such a share of the produce of their own labour as to be themselves tolerably well fed, cloathed and lodged. (I.viii.36; emphasis added)

The improvement in the real standard of living of the lower ranks of the people that Smith sees having taken place over the previous century is beneficial to society, that is, public utility, but it is also beneficial as a matter of equity. The clear indication in the passage is that equity is a distinctly different norm from public utility.

The normal functioning of commercial society not only has the utilitarian property of maximizing the value of the annual product, it also supports equity by enriching the poor. What rustic hospitality did in the precommercial society the market accomplishes in commercial society. The general model applies to both public utility and equity, and Smith deploys it in both books. In short, commutative justice is both a necessary and a sufficient condition for both public utility and distributive equity.

The Theory of Intervention

In *TMS*, once he has established the general model, Smith immediately raises a possible objection:

Upon some occasions, indeed, we both punish and approve of punishment, merely from a view to the general interest of society, which, we imagine, cannot otherwise be secured. Of this kind are all punishments inflicted for breaches of what is called either civil police, or military discipline. (II.ii.3.11)

In the case of military discipline

a sentinel, for example, who falls asleep upon his watch, suffers death by the laws of war, because such carelessness might endanger the whole army. This severity may, upon many occasions, appear necessary, and for that reason, just and proper. When the preservation of an individual is inconsistent with the safety of a multitude, nothing can be more just than that the many should be preferred to the one. (II.ii.3.11)⁶

As D. D. Raphael (1972–73, 95) has shown, though, this is the exception that proves the rule, because the spectator feels differently about this case compared with the norm, even though the spectator approves of the punishment. As Smith explains:

Yet this punishment, how necessary soever, always appears to be excessively severe. The natural atrocity of the crime seems to be so little, and the punishment so great, that it is with great difficulty that our heart can reconcile itself to it. Though such carelessness appears blamable, yet the thought of this crime does not naturally excite any such resentment, as would prompt us to take such dreadful revenge. A man of humanity must recollect himself, must make an effort, and exert his whole firmness and resolution, before he can bring himself either to inflict it, or to go along with it when it is inflicted by others. (*TMS*, II.ii.3.11)

6. Raphael (1972–73, 96) claims that in the sentinel case Smith concedes too much to Hume by asserting that the utility of the punishment makes it just. I agree with Raphael; Smith should not have claimed that the utility of the punishment makes it just. Justice and utility are distinct principles of ethical judgment, which can come into conflict with each other, and normally Smith himself treats them as distinct. It would have been more consistent with his theory to simply say that sometimes a greater public good overrides justice, as I have also argued elsewhere (Young 1997). This is the sense in which I interpret the sentinel case in this essay.

Nonetheless, the case represents a counterinstance to the general model. Left to their own volition, the natural sentiments of humanity would not punish the sentinel so severely. Consequently, sentinels would become lazier and armies would be lost. The general model breaks down. The natural sentiments do not lead to utilitarian results.

As is well known, Smith goes on, in part 4, to mount an extended defense of his theory against Hume's utilitarianism. In part 7, following Hume's and Hutcheson's empiricism, Smith claims:

But though reason is undoubtedly the source of the general rules of morality, and of all the moral judgments which we form by means of them; it is altogether absurd and unintelligible to suppose that the first perceptions of right and wrong can be derived from reason, even in those particular cases upon the experience of which the general rules are formed. These first perceptions, as well as all other experiments upon which any general rules are founded, cannot be the object of reason, but of immediate sense and feeling. . . . If virtue, therefore, in every particular instance, necessarily pleases for its own sake, and if vice as certainly displeases the mind, it cannot be reason, but immediate sense and feeling, which, in this manner, reconciles us to the one, and alienates us from the other. (VII.iii.2.7)

However, contrary to Hume, these "first perceptions" are not perceptions of the utility of the sentiments:

But still I affirm, that it is not the view of this utility or hurtfulness which is either the first or principal source of our approbation and disapprobation. These sentiments are no doubt enhanced and enlivened by the perception of the beauty or deformity which results from this utility or hurtfulness. But still, I say, they are originally and essentially different from this perception. (IV.2.3)

Rather, the "sentiment of approbation always involves in it a sense of propriety quite distinct from the perception of utility" (IV.2.5). Smith has already shown, in part 1, that judgments of the propriety of sentiments precede those of the consequences of actions. He then goes on to show that many virtues, which are normally thought to be virtuous because they are useful, either to society or to individuals, arise out of a perception of their propriety, not their utility. Among these is the virtue of public spirit, putting the interest of society ahead of one's own.

Smith is clear that utility cannot be the origin of moral judgment, but nonetheless it is a principle of moral judgment.

This utility, *when we come to view it*, bestows upon them [public-spirited men], undoubtedly, a new beauty, and upon that account still further recommends them to our approbation. This beauty, however, is chiefly perceived by *men of reflection and speculation*, and is by no means the quality which first recommends such actions to the natural sentiments of the bulk of mankind. (IV.2.11; emphasis added)

We note here two significant aspects of utility as a principle of moral judgment. First, it is an *ex post* judgment, and, second, it is philosophers who make it. It is the philosopher, adopting a systematic, holistic perspective, who notices after the fact that public-spirited behavior is praiseworthy because of its beneficial social consequences. This further suggests that what the “man of humanity” is doing when he “recollects himself” is rendering a philosophical judgment of the sleeping sentinel, and that in this case philosophical argumentation, not “immediate sense and feeling,” is needed to obtain moral approbation of the punishment.

However, even in the case of rendering judgments on the basis of social utility, the philosopher will still refer to the sympathetic judgment of an impartial spectator. The impartial spectator views the interests of the many as superior to the interests of a single individual or small group:

The patriot who lays down his life for the safety . . . of this society, appears to act with the most exact propriety. He appears to view himself in the light in which the impartial spectator naturally and necessarily views him, as but one of the multitude, in the eye of the equitable judge, of no more consequence than any other in it, but bound at all times to sacrifice and devote himself to the safety, to the service, and even to the glory of the greater number. (VI.ii.2.2)

When the impartial spectator puts himself or herself in the position of the philosopher, he or she adopts the utilitarian ethic that the good of the whole trumps the good of the individual.

The *ex post*, holistic judgments of the philosopher are ultimately rooted in Smith's general model in that an impartial spectator would approve of invoking utilitarian standards when viewing the system holistically instead of contextually. There are three significant implications of this. First, there is a definite role for discovering and implementing rules, laws, or general policy purely from a utilitarian perspective if they

can be shown to truly promote the good of the whole. Second, those in governmental authority should exhibit that sort of public spirit which is “founded upon the love of humanity, upon the real fellow-feeling with the inconveniencies and distresses to which some of our fellow-citizens may be exposed” (VI.ii.2.15). The best leaders will put themselves in the position of “fellow-citizens.” Thus, the same kind of process that Smith uses to explain the origin of social order is used here to guide the rulers of the government to motivate them to rule in the public interest. Third, if the ruler engages in this imaginative change of place with his subjects he will

respect the established powers. . . . He will accommodate, as well as he can, his public arrangements to the confirmed habits and prejudices of the people; and he will remedy as well as he can, the inconveniencies which may flow from the want of those regulations which the people are averse to submit to. . . . like Solon, when he cannot establish the best system of laws, he will endeavour to establish the best that the people can bear. (VI.ii.2.16)

In a sort of ironic twist, Smith’s general model guides the philosopher and the lawgiver even in those cases where it seems to break down. In this way Smith can construct a theory of intervention that maintains the integrity of the perspective of common life and the daily interactions of individuals following their natural sentiments and interests.

Smith’s theory of intervention, then, brings philosophical speculation, which discovers the need for utilitarian rules promulgated by governmental authority, as well as governmental authority itself under the authority of the judgments of the impartial spectator. Smith identifies two broad areas where this would apply: civil police (or more broadly the laws of police that include the regulation of economic activity) and military discipline. In considering those governmental rules, intentionally instituted to promote public utility, I identify three distinct cases. First, as in the case of the sentinel, the spontaneous results of people following their natural sentiments may produce results that all reasonable people (people of humanity) will agree after reflection are destructive of the common good and are, therefore, pathological. In this case legislation, or governmental authority of some type, must intervene to regulate individual behavior.

Second, there may be practices, or laws, that have emerged over time that violate justice to promote a larger public good. However, in this case

customs and traditions may preserve such practices and allow them to live on beyond their original justification, hindering people's abilities to perceive their essential injustice. This is the case of infanticide and euthanasia in the ancient and savage societies:

The extreme indigence of a savage is often such that he himself is frequently exposed to the greatest extremity of hunger, he often dies of pure want, and it is frequently impossible for him to support both himself and his child. We cannot wonder, therefore, that in this case he should abandon it. One who, in flying from an enemy, whom it was impossible to resist, should throw down its infant, because it retarded his flight, would surely be excusable; since by attempting to save it, he could only hope for the consolation of dying with it. That in this state of society, therefore, a parent should be allowed to judge whether he can bring up his child, ought not to surprise us so greatly. In the latter ages of Greece, however, the same thing was permitted from views of remote interest or conveniency, which could by no means excuse it. Uninterrupted custom had by this time so thoroughly authorised the practice, that not only the loose maxims of the world tolerated this barbarous prerogative, but even the doctrine of philosophers, which ought to have been more just and accurate, was led away by the established custom, and upon this, as upon many other occasions, instead of censuring, supported the horrible abuse, by far-fetched considerations of public utility. (V.2.16)

There is no indication here that the conditions that render the practice "excusable" also render it just. Thus, the practice can be sanctioned only on grounds of utility. Once it has outlived its utility, the injustice should become obvious, and it would, if the natural sentiments had not been dulled by custom.

That infanticide continues to be sanctioned by "far-fetched considerations of public utility" brings us to the third possible case. Some laws may be instituted contrary to the natural sentiments of justice for reasons of public utility that turn out on close inspection to be false. In the *Lectures on Jurisprudence* Smith included the case of wool smugglers in the same paragraph with that of the sentinel.

Thus some years ago the British nation took a fancy (a very whimsical one indeed) that the wealth and strength of the nation depended entirely on the flourishing of their woollen trade, and that this could

not prosper if the exportation of wool was permitted. To prevent this it was enacted that the exportation of wool should be punished with death. This exportation was no crime at all, in natural equity, and was very far from deserving so high a punishment in the eyes of the people; they therefore found that while this was the punishment they could get neither jury nor informers. No one would consent to the punishment of a thing in itself so innocent by so high a penalty. They were therefore obliged to lessen the punishment to a confiscation of goods and vessel. (*LJ[A]*, ii.91–92; also *LJ[B]*, 182)

This case is similar to the sentinel case in that reasons of public utility are thought to override and justify a violation of justice in the form of a punishment disproportionately severe compared with the crime. However, it differs in that the reasons of public utility are said to be whimsical, such that they cannot overcome the people's natural inclination to view the smuggler as innocent.

To summarize, Smith's theory of intervention as it appears in *The Theory of Moral Sentiments* and in the *Lectures on Jurisprudence* is based on those cases where justice does not appear to entail utility as an unintended outcome. This introduces space within which the law can operate to regulate individual behavior for the good of the whole. These cases appear in three variations depending on whether the reasons of public utility are legitimate for all times and places, legitimate in some stages of society but not in others, or simply false. These are respectively the cases of the sentinel, infanticide in ancient Greece, and wool smuggling.

The infanticide case also touches on distributive equity in an interesting way. Recall that in the *TMS* passage quoted above (V.2.16) Smith notes that, in the savage state, society allowed the parent to decide whether to rear the child. In that age the parent's responsibility toward the child was treated as a matter of benevolence, not justice:

We may observe . . . that in the early and more rude periods of society men were not conceived to be bound to alimnt their children (or maintain them). It was not supposed that one was bound to do any thing for those who did not do their part to their own maintenance. As now men are only bound not to hurt one another and to act fairly and justly in their dealings, but are not compelled to any acts of benevolence, which are left intirely [*sic*] to his own good will, so in the ruder times this was extended to the nearest relations, and the obligation they were under to do for one another was supposed to be binding only

by their inclination; and all kindnesses betwixt them were reckon'd as acts of benevolence and not as what they were bound in justice to perform. . . . This was extended at first much farther, and a parent was considered as at liberty either to maintain and educate his children or to leave them at the mercy of the weather and the wild beasts. (*LJ*[A], iii.78–79)

It was only with the establishment of Christianity that the practice of exposing children was finally eliminated, but not as a matter of justice. Rather, it was a case of legally compelling acts of beneficence:

A superior may, indeed, sometimes, with universal approbation, oblige those under his jurisdiction to behave, in this respect, with a certain degree of propriety to one another. The laws of all civilized nations oblige parents to maintain their children, and children to maintain their parents, and impose upon men many other duties of beneficence. The civil magistrate is entrusted with the power not only of preserving the public peace by restraining injustice, but of promoting the prosperity of the commonwealth, by establishing good discipline, and discouraging every sort of vice and impropriety; he may prescribe rules, therefore, which not only prohibit mutual injuries among fellow-citizens, but command mutual good offices to a certain degree. . . . Of all the duties of a law-giver, however, this, perhaps, is that which it requires the greatest delicacy and reserve to execute with propriety and judgment. To neglect it altogether exposes the commonwealth to many gross disorders and shocking enormities, and to push it too far is destructive of all liberty, security, and justice. (*TMS*, II.ii.8)

Even though Smith excludes benevolence, which entails distributive justice and equity, from jurisprudence, there is still some justification for the sovereign to intervene by establishing laws that go beyond strict commutative justice. As in the case of intervention to promote public utility, such benevolent interventions also receive the approval of the impartial spectator. Just as we saw certain exceptions to the general model of the relation between commutative justice and public utility, commutative justice does not always ensure distributive equity. In such cases, it is legitimate for the sovereign to intervene and command acts of beneficence. The parents' obligation to support and educate their children is one such example.

We thus end up with four cases of intervention on utilitarian or distributive grounds.⁷ Each has its counterpart in *WN*. First, the sentinel case, where reasons of public utility overrule justice, appears in the form of market failure. The general pattern that unites these two cases is that the spontaneous behavior of individuals following their natural sentiments fails to secure the common good. In terms of a modern prisoner's dilemma game, the sentinel clearly has an incentive to choose the noncooperative strategy of falling asleep. Similarly, market failure entails individuals choosing noncooperative behavior in the absence of any legal or social sanction. In *WN* this means that the pursuit of self-interest does not maximize public utility, the case of market failure. There are two well-known examples of this in the book: regulations of interest rates and regulations on banknote issues.

With respect to interest rates the problem is what we now call asymmetric information leading to adverse selection. If interest rates were allowed to rise to clear the market of a credit shortage, for example, then only high-risk borrowers would be left in the market:

If the legal rate of interest in Great Britain, for example, was fixed so high as eight or ten per cent., the greater part of the money which was to be lent, would be lent to prodigals and projectors, who alone would be willing to give this high interest. Sober people, who will give for the use of money no more than a part of what they are likely to make by the use of it, would not venture into the competition. A great part of the capital of the country would thus be kept out of the hands which were the most likely to make a profitable and advantageous use of it, and thrown into those which were most likely to destroy it. Where the legal rate of interest, on the contrary, is fixed but a very little above the lowest market rate, sober people are universally preferred, as borrowers, to prodigals and projectors. (*WN*, II.iv.15)

Clearly in the context of this particular market the spontaneous pursuit of self-interest leads to the destruction of society's capital. As in the case of the sentinel, a utilitarian standard must be intentionally imposed. In this sense the regulation of the interest rate parallels the sentinel case of *TMS*.

7. The natural sentiments that establish the rules of commutative justice can come into conflict with either distributive equity or public utility. However, it would appear from the passages cited on distributive equity that public utility and distributive equity do not conflict. Thus, the liberal reward of labor is good on both utilitarian and equity grounds, as is the requirement that parents maintain their children.

The regulation of banknotes is a similar example of market failure causing adverse selection in banking. In the absence of regulations against issuing small denomination banknotes, “many mean people are both enabled and encouraged to become bankers” (*WN*, II.ii.90). The result is a system that is less secure, more prone to bank failure with attendant harm to the general public. Shortly thereafter Smith lays down a general rule for intervening to correct market failure:

Such regulations may, no doubt, be considered as in some respect a violation of natural liberty. But those exertions of the natural liberty of a few individuals, which might endanger the security of the whole society, are, and ought to be, restrained by the laws of all governments; of the most free, as well as of the most despotical. The obligation of building party walls, in order to prevent the communication of fire, is a violation of natural liberty, exactly of the same kind with the regulations of the banking trade which are here proposed. (II.ii.94)

Unlike the discussion of the sentinel in *TMS* there is no indication here that the social good of the regulation makes it just. As a violation of the natural liberty of the few to protect the many, it represents a clear case of overruling considerations of justice for the common good.⁸ Since the general rules of justice originate unintentionally in the interactions of ordinary life where agents possess only contextual knowledge, such regulations as these require the perspective of the philosopher and must be implemented intentionally through governmental authority.

Second, the laws of primogeniture and entails, leftover from precommercial society, were once useful, though contrary to natural justice, but the circumstances that made them such have now passed. Consequently, their present effects constitute a net loss to society. The law of primogeniture, although a violation of the natural law of succession, came into being, “that the power, and consequently the security of the monarchy, may not be weakened by division.” Thus, “in those disorderly times,” it had its usefulness (*WN*, III.ii.3). However,

laws frequently continue in force long after the circumstances, which first gave occasion to them, and which could alone render them reasonable, are no more. In the present state of Europe, the proprietor of

8. Recall that Smith's conception of justice is incremental. Thus, in cases where we see the rules of justice being superseded by considerations of public utility, it is really only a marginal loss of justice that is involved. The general system of the laws of justice must remain intact for society to continue to exist.

a single acre of land is as perfectly secure of his possession as the proprietor of a hundred thousand. The right of primogeniture, however, still continues to be respected, and as of all institutions it is fittest to support the pride of family distinctions, it is likely to endure for many centuries. (III.ii.4)

The same applies to entails, “the natural consequences of the law of primogeniture” (III.ii.5).

The harmful social consequences of these laws operating together arise out of the fact that they contribute to maintaining large tracts of land in an unimproved state. “It seldom happens, however, that a great proprietor is a great improver” (III.ii.7; see also *LJ[B]*, 163). The improvement of the land is like a commercial project. It therefore requires the attention of those in the habit of undertaking such projects. “Merchants are commonly ambitious of becoming country gentlemen, and when they do, they are generally the best of all improvers” (III.iv.3). Entails prevent merchants from buying up all the land they might want, and the result is that large tracts of land remain unimproved.

These laws fit closely the pattern of our second case, infanticide in the rude state. They were useful in precommercial society, but they impede improvement in commercial society. Moreover, being of long standing, they have become embedded in the customs and habits of the people. Tradition, therefore, stands in the way of abolishing the practices. The parallel in these examples is not exact, however, as infanticide requires the sovereign to enact positive law requiring parents to care for their children. In the present example, the offending practices are already embodied in positive laws, and all that is called for is their removal. Once this is effected the pattern would become that of the general model. The laws of justice would cause people following their self-interests to promote the common good, as land would then flow to its highest-valued use, and the large estates would be broken up into smaller holdings.

This brings us to the third case, wool smuggling. The sort of intervention called for here goes to the heart of what Smith was trying to do in *WN*, his “very violent attack” on the mercantile system (1987, 208). Although some of the regulations and special privileges he criticized would fit into the pattern of the previous case in that they may have been useful at one time, the general pattern of Smith’s attack is that they arise from a false conception of public utility.

It is by this superior knowledge of their own interest that they [merchants and manufacturers] have frequently imposed upon his [landlord's] generosity, and persuaded him to give up both his own interest and that of the publick, from a very simple but honest conviction, that their interest, and not his, was the interest of the publick. The interest of the dealers, however, in any particular branch of trade or manufactures, is always in some respects different from, and even opposite to, that of the publick. (*WN*, I.xi.p.10)

This sincere confusion, the mean spirit of monopoly, and the prejudices of the people coupled with the sophistries of the mercantile system resulted in a whole system of law that sacrificed justice for a fallacious conception of the common good. Again, from the perspective of an impartial spectator, the interests of the many overbalance the interests of one or a few. So it is from this perspective that Smith, the philosopher, condemns the mercantile system.

Specific examples of such laws are so numerous as to prevent any exhaustive treatment. The example of the laws against wool smuggling and the injustice of the severe punishments they meted out appears twice in *WN* (IV.viii.17; V.ii.k.64). Indeed, all the laws that Smith cites as supporting the system fit the pattern. Apprenticeship laws violate the "property which every man has in his own labour" in order to protect the public from incompetence, but the interest of the employer would be more effective in judging the ability of a workman (I.x.c.12). The Corn Laws, which prohibit the exportation of corn, essentially "sacrifice the ordinary laws of justice to an idea of publick utility, to a sort of reasons of state" (IV.v.b.39). Exclusive privileges of corporations establish monopolies against the public, and so on. Smith calls for the dismantling of the entire system at the end of book 4 (see *WN*, IV.ix.51, quoted above). This is actually a far-reaching policy of intervention into the existing economy. Another way of looking at it is to say that the laws of justice must replace the laws of police.⁹ As in the second case, once this is accomplished the general model will prevail. Commutative justice will serve to promote public utility.

9. In treating of systems of political economy in book 4, Smith never called the system of natural liberty a system of political economy. The fact that he viewed the central message of the book as a call to eliminate the laws of the mercantile political economy so that the laws of justice would be the primary regulators of economic activity may shed light on why he might not have viewed natural liberty as a system of political economy. I have argued this point more extensively elsewhere (Young 2001).

There is some indication in Smith's denunciation of the mercantile system that he also views it as offending against equity. The domestic manufacturers of linen cloth, for example, "by extorting from the legislature" bounties on the exportation of the cloth coupled with encouragements to the importation of the linen yarn, the raw material, are able to profit at the expense of the domestic spinners of the yarn. But the domestic spinners are "poor people, women commonly, scattered about in all different parts of the country, without support or protection." Smith concludes: "It is the industry which is carried on for the benefit of the rich and the powerful, that is principally encouraged by our mercantile system. That which is carried on for the benefit of the poor and the indigent, is too often, either neglected, or oppressed" (IV.viii.4). The elimination of the system will bring about greater distributive equity. Thus, to the extent that the system creates inequities, its abolition will allow commutative justice to promote greater equity.

There are, however, also some instances in *WN* parallel to the fourth case of intervention where commutative justice cannot alone function as the guarantor of distributive equity. In Smith's attack on the Corn Laws and the regulations that have the unintended consequence of turning a scarcity of corn into a famine, there is at least a hint of concern about equity.

The freedom of the corn trade is almost every where more or less restrained, and in many countries, is confined by such absurd regulations, as frequently aggravate the unavoidable misfortune of a dearth, into the dreadful calamity of a famine. . . . In a Swiss canton, or in some of the little states of Italy, it may, perhaps, sometimes be necessary to restrain the exportation of corn. In such great countries as England and France it scarce ever can be. To hinder, besides, the farmer from sending his goods at all times to the best market, is evidently to sacrifice the ordinary laws of justice to an idea of publick utility, to a sort of reasons of state; an act of legislative authority which ought to be exercised only, which can be pardoned only in cases of the most urgent necessity. The price at which the exportation of corn is prohibited, if it is ever to be prohibited, ought always to be a very high price. (IV.v.b.39)

This passage, in conjunction with the entire digression in which it is found, is sometimes taken to show that Smith's commitment to the primacy of the laws of justice is absolute (Hont and Ignatieff 1983, 19–22;

Rashid 1998, 117). This position is understandable, since Smith is clearly attempting to make a strong case, against popular superstition, that the laws of justice, not legislative authority, ought to govern the corn trade. However, he does suggest that in emergencies legislative authority would be justified in intervening to prevent starvation. As it would be the poorest members of the state who would be most exposed, there is a basis for intervention on equity grounds. Seen in this light, the passage is at least reminiscent of the paragraph quoted above from *TMS* (II.ii.8), which also supports a similar agenda—benevolent intervention in extreme cases. Thus, famine might be one of those “shocking enormities” that the legislator is authorized to prevent, even at the expense of laws of justice. As in the case of utilitarian intervention, such benevolent intervention also receives the support of the impartial spectator.

We can also detect some concern for distributive equity in Smith's critique of the herring buss bounty. Being a tonnage bounty, it tends to increase the number and size of the boats, but it does not necessarily actually increase the catch. Thus we find that

in many parts of Scotland, during certain seasons of the year, herrings make no inconsiderable part of the food of the common people. A bounty, which tended to lower their price in the home market, might contribute a good deal to the relief of a great number of our fellow-subjects, whose circumstances are by no means affluent. But the herring buss bounty contributes to no such good purpose. (*WN*, IV.v.a.34)

Smith has not necessarily endorsed such a bounty, but he has suggested that it might be beneficial. This would, then, be another example of a regulation in the state of natural liberty designed to help the poor.

In this section I have identified four cases or types of interference that Smith is seen to authorize (or condemn) in his moral philosophy and jurisprudence. These were the cases of the sentinel, infanticide, the wool smuggler, and the care for children. Each was shown to have its counterpart in *WN*. The abolition of laws that have either outlived their usefulness or are based on false conceptions of public utility, while requiring an extensive agenda of interference into the contemporary system, presents no fundamental difficulty for the general model. Once these issues have been addressed, commutative justice will promote public utility and distributive equity even more extensively. The remaining two cases, however, imply a role for intervention even in the state of natural liberty on both utilitarian and distributive grounds.

The Duties of the Sovereign

In the first two parts I have attempted to give an account of Smith's theory of the role of the state in terms of the interrelationships among three policy norms: commutative justice, distributive equity, and public utility. The theory results in a dual, two-track model of unintended order and intervention. In each case I hope to have shown that we can map quite readily from the principles of the moral philosophy to the application of those principles in *WN*. My task in this section is to do the reverse: namely, to take Smith's statement of the duties of the sovereign and trace them back to the policy norms. Superficially, this is an easy task, since justice and utility are explicitly stated norms. It is also easy to account for all three norms in Smith's maxims of taxation.

The presumption now is that the system of natural liberty has been established. Laws based on a false conception of public utility and those that are no longer useful have all been eliminated (unless they serve to promote a legitimate end, such as national defense).

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 the society from the injustice and 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 to any individual or small number of individuals, though it may frequently do much more than repay it to a great society. (*WN*, IV.ix.51)

Aligning these three duties with the two of the three policy norms is immediately obvious. Defense and justice support the norm of commutative justice. Without national defense there would be no system of justice to maintain; similarly, without the administration of justice there would be no justice. These duties are the necessary counterpart to the general model. Public utility justifies the third duty, which rests on the recognition that certain types of works, such as investments in infrastructure, and institutions, such as schools, would not spontaneously arise

without government encouragement even though they are of great public benefit. Government must provide what the market will not. This marks the appearance of the second track of the model in the sovereign's duties.

It is not too hard to also account for at least some concern for distributive equity. The corruption of the majority of the people, the loss of the martial virtues, and the mutilation of the mind are well-known consequences of the division of labor: "In every improved and civilized society this is the state into which the labouring poor, that is, the great body of the people, must necessarily fall, unless government takes some pains to prevent it" (V.i.f.50). Society can establish schools modeled on the Scottish parish schools, and it can impose on the public the necessity of acquiring a basic education. It can subsidize the pay of the teachers, offer "badges of distinction" to encourage the common people to send their children to the schools, and require an examination as a prerequisite for practicing a trade (V.i.f.55–57). Since the poor are the beneficiaries of these subsidies and encouragements, the state's attention to education serves the norm of distributive equity as well as public utility.

Distributive equity should also be an attribute of the system of taxation, as the first maxim of taxation states the ability to pay principle (V.ii.b.3). This is further refined to entail the principle of progressive taxation when Smith discusses the inequality of taxes on house-rents: "It is not very unreasonable that the rich should contribute to the publick expence, not only in proportion to their revenue, but something more than in that proportion" (V.ii.e.6). Moreover, all the maxims of taxation are of "evident justice and utility," thus indicating that the same three norms underpin Smith's evaluation of the system of taxation in a system of natural liberty (V.ii.b.7).

The three norms are quite evident in the sovereign's duties and in the maxims of taxation, as are the two tracks of unintended order and intervention. Along the latter, for example, Smith is quite willing to use the tax system to alter behavior "in the name of the public interest" (Skinner 1996, 186), and Skinner concludes that this opens a field of intervention of "wide application" (187). Moreover, the provision of public works and institutions, "which it can never be for the interest of any individual, or small number of individuals, to erect and maintain," opens a wide range of activities, where markets will not of themselves provide public utility (*WN*, IV.ix.51; see also V.i.c.1). While Smith does not revisit issues, such as the regulation of interest rates and banknotes, the third duty of the sovereign rests on the same underlying principles. The

system knowledge of the philosopher is required to promote public utility in cases of market failure.¹⁰

However, with respect to distributive equity Smith may well have thought that the natural growth-enhancing properties of commercial society, attention to the education of the poor, and equity in the tax system would largely suffice to establish distributive justice, at least to the extent that he was concerned about it. Intervention to prevent starvation in an emergency I think Smith would condone, but given his conception of a properly functioning grain market, such instances would be rare.

Conclusion

As Viner persuasively argued many years ago, Smith endorsed a wide range of government involvement in the economy, much of which was uncodified and outside the three duties of the sovereign. The complexity and inchoate nature of Smith's treatment continues to generate controversy. In this essay I have attempted to offer a coherent account of Smith's theory of the role of the state, which incorporates not only the three duties but also the specific regulations Smith proposed elsewhere in *WN*. To do so I have identified three interacting policy norms in his moral philosophy: commutative justice, distributive equity, and public utility.

These three interact in different ways depending on the context. In recognition of this I have identified a two-tiered approach in the theories of unintended order and of intervention. The former is Smith's general model; the latter recognizes breakdowns either in the general model or in the existing society. At both levels there is a very close, if not exact, correspondence between the moral philosophy and *WN*. The general model runs throughout, but we can also discern throughout the workings of the theory of intervention. The salient feature of the general model is that commutative justice is both necessary and sufficient to ensure both distributive equity and public utility via the theory of beneficial unintended consequences.

10. It is interesting to note that just as Smith's theory of the spontaneous emergence of justice informs the way he would apply a utilitarian standard to making *ex post* judgments of public utility, his theory of the beneficial unintended results of market processes is used to suggest that market principles and incentives be used wherever possible in the provision of public services. Thus, for example, he advocates a competitive market for religion in preference to a state monopoly church.

In the general model, utility is an unintended consequence. It is a by-product of agents interacting in ordinary life, and it points to the need to establish the system of natural liberty. However, utility is an *ex post* philosophical judgment, not the origin of the fundamental rules of social order. Having established the systematic perspective of the philosopher, we see that it is possible *ex ante* to generate rules, which also promote public utility, but will not emerge spontaneously. Such is the case of the sentinel, and, I have argued, it is the case of market failure. This is the basis of what I have been calling the interventionist track. While the two norms of justice and utility dominate Smith's thought on governmental intervention, he does not lose sight of distributive equity, rooted in the virtue of benevolence, as another policy norm.

There is a fundamental unity and coherence to the whole in that the utilitarian norm of the philosopher, which evaluates systems of law and government, is itself a product of the impartial spectator theory of the general model, as is the benevolence norm of distribution. The dialectical tension between the perspective of ordinary life and that of the philosopher creates a similar tension between laissez-faire and intervention. To use the Boettke-Horwitz (this volume) dichotomy we can also see this as a tension between economist as student and economist as savior. While Smith would certainly be critical of attempts to remake society in the image of some philosophically generated plan, there is no a priori presumption against government intervention in specific cases. As I have shown, these tensions run throughout Smith's works. They carry over into his economics where the pursuit of self-interest frequently, but not always, serves the public interest, and commutative justice may not always guarantee distributive equity. Seeing Smith's program as the varied interaction of three norms along the two tracks gives us a greater appreciation of the complexity of what he was trying to do. In this essay I hope to have given this complexity a greater degree of coherence than has yet appeared in the Smithian literature.

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