

Review of Ronald Hamowy, *The political sociology of freedom: Adam Ferguson and F.A. Hayek*

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Daniel B. Klein

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This volume collects 10 of Ronald Hamowy's previously published papers. Each article appears in its originally published images. Roughly half of the papers deal with the Scottish enlightenment, and half with Hayek. Thus, the book explores two ends of the doctrine of spontaneous order, but does not form an integrated whole.

The essays offer great value to anyone interested in the Scots or Hayek. Hamowy is learned, insightful, and eloquent. In my opinion, the reader may put great trust in his judgment.

The essays on the Scots

Hamowy's essays on the Scots focus on David Hume, Adam Smith, and especially Adam Ferguson, and mention Francis Hutcheson, Lord Kames, Gilbert Stuart, Thomas Reid, John Millar, and Dugald Stewart. The main theme is that the Scot's adumbrated the idea that good results and institutions often come from a skein of actions and experiments that had aimed elsewhere. Since Hayek, this idea has been called "spontaneous order." Its most developed form is market theory, based on local knowledge, price signals, and the pursuit of individual gain. The Scots, especially Smith, richly developed that form of spontaneous order. However, Hamowy's book teaches that the Scots maintained an idea of undesigned beneficial order that extends far beyond market-process theory. They inferred invisible hands that reached to the dynamics of moral sentiments, culture, and the historical evolution of political institutions. In these contexts, "spontaneous" would not translate into "free." The Scots certainly tended to be libertarian in their policy views, and the libertarian idea of liberty was fundamental in their thought (e.g., 167). But, those features can divert readers from the fact that they believed in invisible hands at the level of governmental selection and emergence. This is true also of Adam Smith, whose statements about moral

D. B. Klein (✉)

Department of Economics, George Mason University, Fairfax, VA 22030-4444, USA
e-mail: dklein@gmu.edu

sentiments and the history of political institutions often assert invisible-hand results that would involve mechanisms quite beyond the level of Hayekian spontaneous order. As Hamowy summarizes the Scot's key theme:

[Social] structures come into being as a consequence of the aggregate of numerous discrete individual actions, none of which aims at the formation of coherent social institutions. Society is not the produce of calculation but arises spontaneously, and its institutions are not the result of intentional design but of men's actions which have as their purpose an array of short-term private objectives. (p. 39)

The complex social patterns of Smithian market dynamics are not the only, and maybe not even the most central, representative of Scottish spontaneous-order thinking. Their focus was more on the historical emergence of institutional structures, not on the price mechanism and the like.

The spontaneous-order belief lent itself to a certain pride and confidence in current institutions. The Scots were disposed to the "Whig theory of history," which said that the centuries leading up to the present (the eighteenth century) were a history of progress, arrived at by spontaneous developments, not intelligent design. Hamowy points out the key tension in Scottish thought, a tension between two meanings of "spontaneous." At the higher, historical level, where "spontaneous" involves episodic political machinations, the Scots exhibited what Hamowy calls a "conservative bias," a Whiggish pride, that "militates against any program of comprehensive reform" (p. 71). At the market-theory level, where "spontaneous" means free, spontaneous order theory would seem to call for comprehensive reform wherever political institutions still stood in the way of freedom.

Hamowy's essays have helped me to understand the Adam Smith paradox. Adam Smith generally propounds natural liberty, often quite ardently, and closely linked natural liberty with his system of justice. Yet, on numerous interventions that Smith should have opposed and that were the *status quo* in his Scotland, Smith either waffles (e.g., on education) or gives endorsement (e.g., on usury, the option clause, small-denominated notes, paying workers in kind). Hamowy's book helps one to understand that the Scottish circle was a kind of cultural royalty, and that Smith was the king. Smith may have felt that making challenging claims for liberty would not have befitted his cultural position and in the long term would have forsaken the royal air that he enjoyed and cultivated. Further, Hamowy's insight into the larger, Whig spontaneous-order view, suggests that Smith was simply unenthusiastic about any systematic program aiming to reforming policy to fit a simple maxim like the liberty maxim. Maybe Smith's oppositions to libertarian reforms (such as on education) were sincere, maybe some (such as on the financial restrictions) were more diplomatic, because lifting his declared adherence to the liberty maxim from 90 to 97% would have offended the gradualist Whig sensibility, and, again, would have sacrificed the air of cultural royalty. In the later case, maybe Smith figured that he would leave some of the policy battles to future liberal authors. After Bentham smashed Smith on usury restrictions, Smith, it is said, conceded orally to his intimates that Bentham was right, but he did not put such concession into print, nor did he revise his endorsement of usury restrictions in the subsequent editions of *The wealth of nations*. (By the

way, Benthan's critique is a brilliant and inspiring sample of Hayekian criticism of interventionism.)

Hamowy often says or implies that the Scots developed a theory of spontaneous order, which had applications both at the level of government itself and at the level of social processes like the market economy and evolution of language. Here, I offer a criticism. Hamowy seems to count as "a theory of spontaneous order" any discussion that maintains that results, especially beneficial social structures, tend to come about without design. Although the Scots maintained that political institutions adapted and improved historically toward structures that were never foreseen, they do not seem to have formulated mechanisms in that realm that would provide a general account of such beneficial results. From reading Hamowy's essays and Smith, I have the impression that the Scots do not have a theory of spontaneous political order like they have a theory of spontaneous economic order. It seems, rather, that they trace the evolution of institutions historically and show spontaneous development, without really formulating general mechanisms that characterize those developments. In treating political institutions, the Scots put forth a *doctrine* of spontaneous order, but did they provide a *theory* of spontaneous order? I'm not so sure they did.

The essays on Hayek

Of the six essays on Hayek, three are significant criticisms. The criticisms again revolve around the tension between guarding the gradual process of political adaptation and criticizing existing political institutions for not being more libertarian.

The first critical essay is Hamowy's famous criticism of Hayek's efforts at defining *liberty* in *The Constitution of Liberty*. In that great work of political philosophy, Hayek never came out and defined liberty in the intuitive, classical fashion of Locke and the Scots, rooted in the reciprocal logic of property and consent. In brief, liberty is freedom from others messing with your stuff. Instead, Hayek offered a series of circumlocutions, including ones about "abstract rules," "general rules," and being free of the "arbitrary will" of another, all deriving from his emphasis on the rule of law. As I see it, Hayek characterized liberty by reference to some of its important and appealing correlates, but avoided saying what liberty is. Hamowy dissects the various characterizations offered by Hayek, and shows that they do not provide a viable definition of liberty. Hamowy was the first of many to take Hayek to task on this matter.

Next, Hamowy criticizes Hayek's model of an ideal constitution, offered in the third volume of *Law, legislation, and liberty*. In offering formal qualities of law and a structure for law and government, Hayek again resorts to abstract circumlocutions of unknown and dubious content. Hamowy hammers him again for failing to get down to brass tacks:

Only by placing unequivocal, substantive limitations on what laws may be enacted would it be possible to control the areas in which the legislature may intervene, and, even then, one would still require a vigilant and suspicious judiciary to ride herd on the legislature. The decisions concerning which areas must be off limits to the legislature can be made only on the basis of a theory

of rights, which logically precedes a theory of government. This is a conception that Hayek, for some reason, fails to come to grips with. . . (p. 235)

Hamowy writes that Hayek's whole model of government is "conceived in the mistaken notion that the political mechanism in society can itself be made subject to its own order" (p. 236). Again, Hamowy faults Hayek for not recognizing that within liberal civilization, a presumption of Hayek's conversation, there sits on the tabletop of our cultural living-room what Smith called "the obvious and simple system of natural liberty," plain and intelligible to common understandings. Hayek should recognize its availability, its independent status, and explicitly use it as brickwork in his notes on a model political constitution.

The final critical essay concerns Hayek's tale of the common law. Hayek's idea of spontaneous order is most prominently applied to the complex workings of the economy—"the incredible bread machine"—but also finds application in the evolution of customs, language, law, and science. Hayek was keen to show the viability of capturing a dynamic system of law under the conceptual umbrella of spontaneous order. In making his case, he portrayed the English common law as such a system. Hamowy looks hard at the history and character of English common law, and concludes that Hayek's historic tale fails on two counts: first, its substance was not all that libertarian, and second, its evolution was not all that spontaneous. Hamowy advises us against citing the English common law as an example of spontaneous-order law.

Although not stated as such, the underlying theme of the volume is that, when the idea of liberty finds a kind of historical ascendancy, it is tempting for the libertarian to claim some kind of invisible-hand process at work in that ascendancy. But, the institutions within which liberty was ascendant will not be entirely libertarian. They may in some respects be even grossly antilibertarian. Liberty might then be used as an engine of criticism of the status quo. The principle criticizes and proposes to change the very set of institutions from which it draws authority.

Hamowy's essays provide insights into this tension. If they have a tendency, it is toward the view that authority ought to flow not from institutional lineage, but rather from responsible argumentation and learning. Hamowy's ideas of liberty and justice are more in keeping with his close friend Murray Rothbard, who saw liberty as an unrelenting challenge to any form of institutionalized coercion. Oddly, not once does Hamowy mention or cite Rothbard. Incidentally, the spirit of unrelenting criticism is something that links Rothbard and Bentham.

The collection is not an integrated work, and I have passed over a couple of essays on Hayek that are rather trifling. But, most of the essays are extremely valuable investigations, and illuminate large and important issues in liberal thought.