

HOW TO TALK: RICHARD WHATELY, THE CONSTITUTIONAL
CONVERSATION, INFORMAL SOCIAL GROUPS, AND REFORM

by

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DEDICATION

This is dedicated to my steadfast, lovely, and praiseworthy wife, Jessica, so glad you decided to come with me on this journey; and my daughters, Micah and Rachael.

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LIST OF ABBREVIATIONS

Adam Smith <i>The Theory of Moral Sentiments</i>	TMS
Adam Smith <i>An Inquiry into the Nature and Causes of the Wealth of Nations</i>	WN
Adam Smith <i>Lectures on Jurisprudence</i>	LJ

ABSTRACT

HOW TO TALK: RICHARD WHATELY, THE CONSTITUTIONAL CONVERSATION, INFORMAL SOCIAL GROUPS, AND REFORM

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This thesis describes opens the black box of “government by discussion” by examining the place of sympathetic exchange in shaping social order through the catallactic lens of Richard Whately. James Buchanan taught us to think about the constitutional stage of rule development. The social contract is the outcome of a conversation, and language is the currency for sympathetic exchange. Therefore, the conversation itself must be governed by rules. The rules of conversation are partially determinative of the constitution that emerges from the constitutional stage. The right constraints on conversation are essential to establishing a legitimate liberal constitution. Whately provides instruction on how to talk, and he walks the walk.

In informal settings, rules for social interaction emerge, just as price emerges in a market. Informal social groups develop a *tacit* social contract embodied in a repertoire. Informal social groups lack an authorized decision maker, so they have difficulty engaging

in exchanges as a unit. Formal associations may emerge from an informal social group, like firms emerging in the market, with local decision makers authorized to engage in exchanges. Formal associations may pursue social profits or social rents, analogous to a market firm. Informal factions may also develop within an informal social group. Factions may simply be specialized sub-groups, or they may adopt party-spirit that demonstrates antipathy to outsiders.

Whately is an exemplar of the sort of engagement in policy development that *economists should do*, setting the mold that Vining and Buchanan later describe in the abstract. Whately was more involved in the discussions over abolition than has previously been explored. He promotes a plan for compensated emancipation that provides a Pareto improvement for all parties concerned by introducing a revenue neutral shift to a self-assessed tax and political representation, inclusion in the discussion over shared rules.

INTRODUCTION

Preamble: Why Whately?

The scholarship on the “still underrated” Cowen (2012) Richard Whately remains thin. This dissertation initiates a remedy. Joseph Schumpeter (1954 [2006], 458-9) commented of Richard Whately,

He was not profound or very learned. He was not original or even brilliant. But his clear and strong intellect grasped calmly and firmly whatever it did grasp within an unusually wide range of interests. And in his age, country, and world, he was a leader of the formative type, an ideal illustration of what is meant by a key man. He led quietly, without seeming to do so, by the weight of his personality and of his advice which was never more valuable than when it was obvious. For in ecclesiastical politics, as in economics, the obvious is sometimes precisely what people are most reluctant to see.

Whately shows us, though we may be reluctant to see it, if even Schumpeter saw, that the way we talk shapes the sorts of rules we develop in relationships, in markets, and in politics. For *fair* exchanges to obtain, and to avoid *foul* exchanges, we must attend first to the proper exchange of sympathies. The study of catallactics—including the exchange of sympathies—is the proper field of investigation for the political economist. The catallactic approach provides insight into the way constitutions develop within a polity, within formal associations, and within informal contexts. The catallactic perspective sets constraints on the participation of the political economist in policy discussions.

Mainline economics is the study of human behavior within the context of exchange relationships. James M. Buchanan says,

The elementary and basic approach I suggest places “the theory of markets” and not the “theory of resource allocation” at center stage. My plea is really for the adoption of a sophisticated “catallactics,” an approach to our discipline that has been advanced earlier, much earlier, by Archbishop Whately and. . . others. . . . [T]he view that they advanced, and one which has never been wholly absent from the main stream of thinking, is perhaps more in need of stress now than it was during the times in which they worked. (Buchanan 1964, 214)

The marvel of human exchange, the mutual gains obtained from exchange, and the patterned behavior that emerges through repeated exchanges over time describe the central insights that political economy specializes in.

Catallactics implies more than the exclusive benefits obtained by each party to an exchange, but also an exchange of sentiments. F.A. Hayek (1973 [1982], 108) understood that:

[t]he term ‘catallactics’ was derived from the Greek verb *katallattein* (or *katallassein*) which meant, significantly, not only ‘to exchange’ but also ‘to admit into the community’ and ‘to change from enemy into friend.’

Whately, who coined the term, had a deeper understanding than Hayek.

Whately introduces *catallactics* as a way out of a semantic dilemma:

I have stated my objections to the name of Political-Economy. It is now, I conceive, too late to think of changing it. A. Smith, indeed, has designated his work a treatise on the ‘Wealth of Nations;’ but this supplies a name only for the subject-matter, not for the science itself. The name I should have preferred as the most descriptive, and on the whole least objectionable, is that of CATALLECTICS, or the ‘Science of Exchanges’ (Whately 1831, 6).

Whately, as an Oxford Don, was familiar with the term *katallasso* from reading the New Testament in the original Greek. The New Testament uses *καταλλάσσω* or its related

terms to refer to reconciliation, or to “change mutually” according to Strong’s concordance. (Strong’s #2644, see also Strong’s #2643, καταλλαγή). In Romans 5:10 the Greek reads: “ἐχθροὶ ὄντες **κατηλλάγημεν** τῷ θεῷ” which translates to: “while we were enemies we were **reconciled** to God.” 2 Corinthians 5:18 translates from “θεοῦ τοῦ **καταλλάξαντος** ἡμᾶς ἑαυτῷ” to “who **reconciled** us to Himself.”

John Thayer’s (1886) Greek-English lexicon confirms the Greek use of the terms,

καταλλαγή . . . 1. exchange; of the business of money-changers, exchanging equiv.values [(Aristot., al.)]. Hence 2. adjustment of a difference, reconciliation, restoration to favor, [fr. Aeschyl. on]; in the N.T., of the restoration of favor to sinners that repent and put their trust in the expiatory death of Christ.

and:

καταλλάσσω. . . prop. to change, exchange, as coins for others of equal value; hence to reconcile (those who are at variance). (Thayer 1886, 333).

Whately understood exchange as a *reconciliatory* force, and applied that understanding to his own analysis.

For example, in his analysis of other thinkers, Whately sought to find the point of reconciliation, and exhibited a charitable approach to reading others. Michael Thomas (2009, 7) interrogates Whately’s reading of Adam Smith and Bernard Mandeville, and finds Whately (1831) charitable towards each. “Whately reads Smith into Mandeville in order to see the two systems as similar.” Whately makes excuses for Smith’s reading of Mandeville, “[h]e assumes that Smith has not read [Mandeville’s] second volume.” Whately (1831, II.16) likewise charitably suggests that Mandeville’s first volume is properly read as a “reduction ad absurdum.” Though he might have gotten Smith on

Mandeville wrong, Whately is engaged in *reconciling* Smith and Mandeville for greater purposes, “the problem of ignoring poverty” (Thomas 2009, 8).

Whately promotes a Pareto-improving, reconciling, solution to the Parliamentary debates over the abolition of slavery. Whately later seeks reconciliation within the Church of England and identifies a *via media* between contentious camps in the Gorham Controversy. Whately’s *Infant Baptism Reconsidered* (1850) functions, as we might hope a report from a neutral expert witness for the court (Sidak 2013) might, between parties in favor of and opposed to paedobaptism, and finds a way of *reconciliation* without sacrificing essential doctrines.

F. Y. Edgeworth (1881) used the concept of the “catallactic molecule” (31) to describe the relationship between two individuals engaged in exchange. As compared to market-scale supply and demand phenomenon, in which each buyer and seller takes prices as datum, the catallactic moment excites sympathies such that a bargaining curve between the two parties might be described. An offer to buy below a seller’s threshold may not only result in no exchange, but may even destroy the relationship (Levy & Peart 2017). Edgeworth (28) describes Robinson Crusoe looking to hire Friday for some labor, but when the wage offer is too low, Friday chooses to work for himself. Maintaining sympathy, protecting the catallactic relationship, facilitates exchange. “As the coefficients of sympathy increase, utilitarianism becomes more *pure*, . . . *the contract-curve narrows down to the utilitarian point*. (53, n. 1). Edgeworth notes that sympathy will improve not only domestic, but also political contracts. We need sympathy, party-feeling, to discover the set of actions that we all can approve of, and to know what is out of bounds. Edgeworth’s

original box (28) was unconstrained, and included satiation points as derived from mutual sympathy. Mutually beneficial exchanges, catallactic relations, reinforce sympathy and facilitate reconciliation.

Ludwig von Mises (1949 [1998], 155) had resurrected “catallaxy” but used it to describe exchange apart from its reconciliatory property, and considered exchange of sentiments only as a byproduct of market exchange. Mises seems to leave sentiment out of the liberal project altogether:

Liberalism is based upon a purely rational and scientific theory of social cooperation. The policies it recommends are the application of a system of knowledge which does not refer in any way to sentiments, intuitive creeds for which no logically sufficient proof can be provided, mystical experiences, and the personal awareness of superhuman phenomena.

Catallactics to Mises was about market exchange: price theory, rightly understood.

In contrast, catallactics in Whately’s understanding extends beyond the exchange of goods and services in Mises’ understanding, beyond the political exchanges that Buchanan studied, and includes exchange of *sentiment*, sympathetic exchange, as Bart Wilson and Vernon Smith are uncovering from Adam Smith’s *Theory of Moral Sentiments* (Wilson & Smith, 2019).

Schumpeter (1954 [2006], 483) connects Whately’s catallactics to Nassau Senior’s “Great Science of Legislation.” We shall see that legislation apart from exchange of language, the medium of sentimental exchange, fails to identify a set of collective ends consistent with liberal principles.

Whately’s catallactics permeated his thought. Buchanan sought to apply the catallactic way of thinking to the subject matter of economics, in part as a corrective

to unresolved errors in his teacher's work. Buchanan (1987, 61) says of Frank Knight that "he was never able to escape the maximizing paradigm" and to substitute for it a catallactic perspective.¹

We can press further with catallactics into Buchanan's constitutional political economy, to consider an exchange paradigm that endogenizes the conversation behind the veil of uncertainty. We shall see that treating the constitutional conversation, essential to the Knightian concept of deliberative democracy, as a setting for sympathetic catallactics moves our understanding of political economy forward on multiple fronts. Among these, treating the constitutional conversation as an exchange of sympathies: (1) frees us from a narrow unanimity condition, (2) allows us to begin with the status quo, (3) resolves distinctions between democracy by deliberation and democracy by bargaining (Ryan Muldoon 2008), and (4) relaxes the normative content of analysis of the constitutional stage, allowing for motivational symmetry among those engaged in deliberation (Andrew Farrant & Maria Pia Paganelli 2005).

Whately provides for us a key to understanding these phenomena by explaining how to talk. By imposing a competitive context upon the agents engaged at the constitutional stage we can answer the question raised by Farrant and Paganelli (2005, 85) "How can we assure that the constitutional rules are the "right" ones? And how do we assure that the "right" rules are enforced?"

¹ See, however, Levy & Peart (2017a, 20 n.6) "Knight's technical economic views – taking the family as the unit of analysis and noting that economic theory applies better to vending machines than to people–may owe a good deal more to the catallactic tradition than is usually noticed."

Whereas Farrant and Paganelli (85, n16) claim:

Constitutional political economy, while prima facie appearing a political economy decrying any reliance on preaching as a means of social salvation, appears to ultimately have no recourse to any alternative other than preaching: namely, attempting to inculcate what Buchanan elsewhere refers to as a “constitutional attitude.”

We will see that a preacher, an Archbishop actually, resolved the problem.

We can step away from best-case theorizing to positive analysis as well, agreeing with Buchanan, and Farrant and Paganelli, that worst-case theorizing results in better analysis, but also that at some point ethics determines the outcomes of the constitutional stage. This is consistent with Deirdre McCloskey’s (2010) *humanomics* project but within Buchanan’s (1996 [2001], 275) system. “Perhaps more *important than formal constitutional changes are changes in ethical attitudes that would make attempted reforms workable.*”² A liberal order will emerge if the deliberative process is liberal in nature. The institution that obtains is determined by the process by which the agents internal to that institution deliberate over the rules of that institution. The agents themselves need not be angels. But only when, if perhaps by accident or by survivorship, that conversation follows liberal rules, will we obtain a liberal order. The British Constitution is identified by Farrant and Paganelli (74) and David Hume as the consequence of such a long term conversation. The British constitution is similar to the constitution of an informal group in that it is an ongoing conversation. It is the product of a catalytic process.

Whately, logician, rhetorician, political economist, and Archbishop of Dublin teaches us *how to talk*. In 1822 Whately delivered eight sermons regarding the evils of

² Emphasis added by Farrant & Paganelli (2005) p. 85.

“Party-Spirit,” and how to avoid practices that cause or encourage factious behavior. Though first delivered to a religious-academic audience at Oxford, the principles outlined by Whately can be applied to the constitutional stage of development of any governance structure, formal or informal. From Whately we learn how to follow the basic rules of democratic deliberation, the principles of a liberal order. The normative content of Buchanan’s constitutional political economy is consistent with Whately’s rules of deliberation.

When we look to Buchanan’s constitutional stage we must worry about the problem of infinite regression (Buchanan & Gordon Tullock 1962). If we say that there must be rules that determine the behavior of participants in the constitutional conversation, must there be rules for establishing those rules as well? We can at least acknowledge and identify the principles of liberal conversation as potentially determinative of the discussion that will take place, and causally related to the rules that will emerge from that conversation. To qualify the normative foundations of Buchanan’s system we can simply demonstrate that there is a causal relation between the rules that govern a conversation and the rules that emerge from that conversation. Whatever form the constitutional conversation takes will be partially determinative of the rules derived from that conversation.

Liberal democratic governance is most likely to emerge from a discussion that is: (1) open to everyone, with free entry and exit; (2) focused on the instrumental, actual policies and their outcomes; rather than the expressive, the purely symbolic; and (3) transparent, with no secret conditions that will only be revealed after the conversation

takes place. The result is a conversation that is: (a) deliberative rather than decisive, (b) egalitarian rather than hierarchical, and (c) mutually beneficial.

Apart from a liberal foundation for the constitutional conversation a society will encounter the problem of Babel, in which sentimental exchange is in some ways foreclosed upon, leaving some potential gains on the table. For example, if a conversation is dominated by a particular personality, we might expect the constitution that emerges to reflect a tyranny, which is (a) decisive rather than deliberative. If some participants in the conversation are given priority over of voice over others the constitution that emerges might be expected to incorporate (b) hierarchy rather than egalitarianism. If faction develops among the participants of a conversation, producing obstacles to sentimental exchange, the constitution that emerges will exclude some opportunities for (c) mutual gain.

Whately opens the use of language as a mechanism for exchange of *sentiment*, social approbation and disapprobation, and how sentimental exchange is analogous to and interfaces with political and market exchange.

The first chapter of this dissertation, *On Deliberative Democracy*, describes where talk fits into Constitutional Political Economy and then recovers from Whately's (1822) *The Use and Abuse of Party-Feeling in Matters of Religion* rules for liberal deliberation. First we must understand the role of conversation in egalitarian governance systems. Then, through Whately, we understand the individual and corporate work required to maintain open conversation.

The normative content of egalitarian governance structures is located in the constraints placed upon exchange of sentiments as embodied in the rules of conversation. Constitutional Political Economy recognizes the need for liberal democracy to be government by discussion such that public ends are agreed upon by consensus, if not unanimity (Buchanan & Tullock 1962, 85-96). The political economist describes to the public, as it deliberates, the constraints that establish the sets of available rules; and the relevant tradeoffs involved in selecting among sets of rules (Rutledge Vining 1956). Then the operations researcher, or applied economist, can assist the agent selected to manage the public means for achieving agreed-upon ends within the set of established rules.

In the conversation regarding rules, exchange fosters reconciliation among individual and factional differences in preferences pertaining to the choice of ends, and preferences among the rules that will achieve those ends. The parties exchange sentiment, approbation and disapprobation, as communicated through language, symbol, and practice: our *repertoires*. Among problems that may arise are that: (1) conversation is naturally influenced by social distance, having a tendency to prefer the local over the catholic; the rules establishing *who may participate* in the conversation must be agreed upon; (2) conversation will tend to the expressive rather than the instrumental; the rules establishing the *substance* of conversation must be agreed upon; and (3) conversation will tend to become less frank and more vernacular; the rules establishing the *transparency* of conversation must be agreed upon. Good conversation includes every individual holding a stake in the outcome of the conversation; does not allow the conversation itself, the *means*,

to take precedence over the *ends*, the exchange; and requires that all the relevant knowledge be shared with those in conversation.

Whately identifies the obstacles to fruitful conversation and their remedies regarding religious controversy, with the tools of a political economist. The problems that arise in conversation have analogies to problems that emerge in markets. We understand that our social problem is resolved through exchange. In early stages of economic development, exchange exists only as arm's-length barter. As specialization develops, more complex exchanges can obtain. However, transactions costs can may impede some exchanges. Money prices overcome many transactions costs. The firm also overcomes transactions costs. However, market participants may also seek out circumstances that foreclose upon some exchanges to their particular benefit: the capture of rents.

The problems that we observe in markets can be analogized to problems that occur in conversations. A shared language is a shared currency for sentimental exchange. We can better discuss the rules of governance, realizing Pareto-improvements to corporate action, when transactions costs to conversation are overcome. Similarly, by specializing in particular topics we increase the number of topics that can be discussed. However, party-spirit can develop that forecloses upon the exchange of sentiment through abuse of language. Whately provides guidance on how to encourage fruitful conversation.

How can a society guard against on the one hand, opportunism by individuals who would foreclose upon exchanges, resulting in lost opportunities to some and the capture of rents by others; and on the other hand the attempt to block entrepreneurial actions that would result in more overall exchanges, but that might result in the creative destruction of

incumbent enterprises? We must first get our talk right, to create conversations that are open, instrumental, and transparent.

The second chapter, *The Political Economy of Informal Sentimental Exchange*, explains how *informal* social groups form and interact with markets and politics, and how *formal* associations emerge within the social sphere. A shared language overcomes transactions costs that might otherwise foreclose on exchange opportunities. The development of social groups with specialized ends enables more exchanges to obtain. However, social groups should adhere to Whately's lessons to avoid turning inward, foreclosing on exchange opportunities.

We understand some patterns of arm's-length market exchanges and how the emergence of the firm influences those patterns of exchange. Entrepreneurs seek profits through competitive actions, or seek rents through anti-competitive action. Much of the activity that takes place in the political sphere can be explained as the product of exchange relations. To describe the activities of social interaction as exchanges of approbation and disapprobation, analogous to the patterns observed in markets and the political sphere, and to outline patterns analogous to profit seeking and rent seeking, provides insights into how people behave in social relations.

An informal group shares an implicit constitution within the rules of language, a repertoire, practiced by its participants. Formal associations, like firms, emerge from within formal groups and typically have more explicit rules that differ in important ways from the shared rules of the informal group.

An informal group cannot engage in direct exchange with external or overlapping entities. The traveling fans of the Grateful Dead cannot collectively exchange with the city of Portland to turn a public campground into a rock festival over a weekend. A formal entity must consummate the exchange. However, a large influx of Deadheads might influence the manager of a public campground to develop certain amenities, should an impromptu concert occur. A large body of voters that all participate in an informal group might not be able to coordinate such that a particular candidate secures their votes in concert. But the presence of that body of voters might influence the issues that are discussed by candidates and the policies that are proposed by incumbents to office seeking reelection.

Chapter three, *Richard Whately, Political Economist Exemplar*, shows Whately modeling the appropriate role of the political economist in policy discussions as he promotes a careful proposal for the abolition of slavery. Vining and Buchanan describe the appropriate role for the economist in policy discussions. Buchanan gives an abstract description, and Vining provides a lengthy example. Buchanan was working within his understanding of Whately's description of the field of economics, catallactics, or the study of human action within the context of exchange relationships. Whately was working within the boundaries described by Vining and Buchanan.

Recently recovered was Whately's promotion, as published in the press, of a compromise, or reconciliation, for the abolition of slavery (Levy & Peart 2008, 45-48). Overlooked, from the same source material, was Whately's discrete advance, while still a political economist and not yet Archbishop or statesman, of this proposal to the man who was soon to become Prime Minister, the Second Earl Grey, and who would preside over

Parliamentary debate on abolition. The proposal that Whately advances, drafted by Samuel Hinds, has been shown to advocate for a self-assessed *ad valorem* tax on the ownership of slaves, such that the funds could be raised to purchase emancipation. What was not noticed was that part of the exchange involved affording the newly tax-paying citizens of West Indian territories representation in Parliament. The exchange, on net, if sympathetic exchanges are included, is a Pareto improvement.

Whately soon was appointed Archbishop by Grey, and as the debate in Parliament wore on, made public the proposal, addressing the Anti-Slavery Society, as reported in Levy & Peart (2008). That debate eventually did arrive at a compromise solution, with gradual emancipation and compensation to those with an interest in slaves. The details about how that compensation, £20 million, was distributed is the subject of ongoing research at the University College of London.

Whately did not forget the proposal he promoted, and later, when the United States was debating emancipation in the face of the Civil War, wrote to Harriet Beecher Stowe, author of *Uncle Tom's Cabin* (1852), and shared the proposal with her. His correspondence with Stowe was ongoing, and he writes again much later, very gently correcting her speech.

Through Whately we learn how to engage in sympathetic exchange so as to encourage reconciliation, catallactic relations, and proper participation in the grander public conversation.

I: ON DELIBERATION AND DEMOCRACY: HOW TO TALK

[T]he discussion of social problems, and of ends generally, requires and presupposes norms of validity other than those of natural science; and I maintain that we must, and can, and do discuss ends, including social problems. – Frank Knight (1936 [1947], 54).

Rutledge Vining (1956) identifies the appropriate role of the political economist in policy discussions: to advise the individuals engaged in conversation choosing the rules to constitute their society. Vining’s vision, in the vein of Frank Knight, saw democracy as “government by discussion.”³ David Levy and Sandra Peart (2019) show that Vining’s work initiated the development of the Virginia School of Political Economy that worked to recover a liberal engagement with democracy. Vining’s recruitment of James Buchanan to the University of Virginia moved that agenda forward. Buchanan developed the ideas of Knight and Vining into a liberal Constitutional Political Economy. Buchanan returned to Richard Whately’s description of economics as *catallactics* to concentrate his analysis on the processes of exchange. We can better understand Buchanan, and build upon his contributions, by understanding Vining and Whately.

Vining saw that discussion within democracy could be fruitful, but that it also could be foreclosed upon, and he provides real-world examples. The role of the political economist is to advise the individuals in a constitutional conversation by describing the

³ Ross Emmett notes “Knight uses “government by discussion” in almost every essay he writes about liberalism from the 1930s on. He acknowledges Viscount James Bryce as the expression’s source.” It is perhaps of interest that the phrase “government by discussion” does not occur in Viscount Bryce’s cannon as available through the Liberty Fund’s Online Library of Liberty. However, the phrase “government by public opinion” does occur 7 times in the second volume of his *The American Commonwealth*. (1850 [1995], v.2) Ample use of “discussion” throughout Bryce’s works may justify Knight’s formulation.

relevant tradeoffs among alternative sets of rules. However, as we shall learn from Whately (1822), the conventions observed among the individuals in a constitutional conversation will shape the deliberation and the outcome of that conversation. A shared language is necessary for the agreement upon ends, or rules, in the formation of a social contract. We should expect that a liberal constitution is more likely to emerge from a conversation that observes liberal conventions.

Language is the medium for sentimental exchange, and the fundamental component of all other exchange, so *the way we talk* matters.

Social action, in the essential and proper sense, is group self-determination. The content or process is rational discussion. . . . Discussion is social problem-solving, and all problem-solving includes (social) discussion (Knight 1956 [1941], 133).⁴

In conversation we truck and barter, we persuade, we communicate our approbation and disapprobation for each other's actions. Shared language is sufficient to constitute small groups. Shared language can provide incentives for group members to avoid behaviors that impose negative externalities on one another.

Among the indicators available to identify which direction a discussion is headed Vining identifies (1) appeals to special knowledge or authority, (2) a lack of transparency, and (3) the use of fallacious argument. Each of these maladies was *earlier* identified by Whately who also identified (4) appeals to expressive rather than instrumental objectives among conversational maladies. Whately's *The Use and Abuse of Party Feeling in Matters*

⁴ As quoted in Emmett (2011, 68)

of Religion (1822) provides a set of guidelines on *how to talk* so as to avoid and remedy these maladies and achieve a liberal constitutional conversation.

A. The Political Economist in the Constitutional Conversation

Vining described a specialization within economics in his 1956 report to UNESCO, *Economics in the United States of America: A Review and Interpretation of Research*. The political economist advises the participants in the constitutional conversation. In contrast, the applied economist, an operations researcher, provides assistance to an agent selected by the members of the society, according to the rules established at the constitutional level. The applied economist helps this agent to manage the public means such that the constitutionally agreed-upon ends are achieved most efficiently within the set of established rules, according to established standards of efficiency. Efficiency measures can only be measured once the set of available means is established for the achievement of an already-agreed upon end.

The political economist describes to the public, as it deliberates, the sets of available rules; and the relevant tradeoffs involved in selecting among sets of rules. Constitutional Political Economy allocates the decision of ends to be achieved through formal institutions to a conversation among citizens. Vining categorized three economic problems: (1) an individual or a firm solves the problem of selecting the best available means to a given end; (2) an individual solves the problem of selecting the ends he seeks; and (3) individuals in groups together solve the problem of selecting the constraints and regulations governing the pursuit of (1) and (2).

The Economic Problems

The first economic problem can be described as a constrained optimization, or an operations research, exercise. The decision-maker faces the tradeoffs of the world as it is, the status quo, and seeks to make the most of it. There is no social problem for this decision-maker, he is alone.

When he solves the first problem the decision-maker is the man-on-the-spot (Hayek 1946, 524), responding to data about exogenous change. He must decide how to direct the resources under his command. If the resources under his command include an employee he must generate rules to guide and limit her discretion. He will observe how well a vector of allocations performs and seek out improvements.

The manager in this sense acts as a technician. “The technicians in designating a ‘best’ procedure do not strictly choose. They measure and arrange, and they have no other alternative than to select the ‘best’ as this is defined” (Vining 1956, 16). However, narrowly defining economics as merely “a science which studies human behavior as a relationship between ends and scarce means which have alternative uses” as articulated by Lionel Robbins (1932, 16) is a distraction for the political economist. There is more important work, more appropriate to our specialization, for us to do.

In the case of a firm, articulation of rules to employees is conveyed through language when a precise measurable proves impractical and a firm’s success is in part a result of actions often better coordinated through language than by market transactions (Coase 1937). However, this use of language is *dictation* rather than *discussion*.

In the second economic problem the individual selects her preferred ends, the most direct act of choice. The individual may represent a household, or be a household unto herself, thus the problem she solves is *oikonomic* rather than *catallactic*. Individual preferences cannot always be fully explained and are not bounded by what currently exists. Though she might create lists of pros and cons for alternatives available to her, and might even assign measures and weights to each item on her list, yet she may in the end choose the alternative with the “losing” score. She will choose what she wants, accounting for opportunity costs that cannot be articulated, and all of the apparatus she may have used in deciding immediately becomes unintelligible to any observer (Buchanan 1969). “[T]he individual is not a technical instrument for the attainment of a predetermined end. All that can be said in this regard is that the individual is his own end” (Vining 1956, 16). There is no *social problem* for the person choosing for herself, “and optimum is undefined so far as the technician is concerned.”

The simple act of choosing does not necessarily imply any exchange, and so the problem as faced by the individual cannot be said to be *catallactic* in nature (Buchanan 1964, 217). Crusoe on the island alone chooses, “Max U” (McCloskey 2016) chooses, doing whatever he wants to since *de gustibus non est disputandum* (Stigler & Becker 1977). The act of choice, so far as it goes, is reclusive.⁵

⁵ A *reclusive* agent is that ideal atomistic agent whom Deirdre McCloskey has named “Max U.” In a modern microeconomics textbook’s (Pindyk & Rubinfeld 2000, 568-573) illustration of the “Edgeworth Box” this agent’s satiation point is outside of the arena of exchange, implying he would achieve greater utility if the other agent were left with nothing.

The third economic problem is of the individuals, choosing in groups, the rules by which each will be constrained or regulated when choosing for herself. Vining (17) says,

[A] society of individuals is not a means to an end. The society is not a designed instrument for a designated purpose. A society of individuals is simply a collection of persons who mutually recognize situations calling for joint action. . . No meaning can be attached to the concept of efficiency when the reference is to this collection of jointly choosing individuals. . . The individuals who jointly choose the constraints are the same individuals whose actions are constrained, and they are continually engaged in reviewing the performance of these enactments.

There is no social welfare function such that surpluses can be measured and compared to identify Kaldor / Hicks efficiency criteria (Landsburg 2014, 274-275).

However, some consequences of different sets of rules on the opportunities for exchange can be identified, and so Pareto improvements can be proposed and adopted through consensus. The consensus decision is itself the outcome of *sympathetic* exchange within conversation. That an exchange is consummated is sufficient evidence to acknowledge that mutual benefits obtain, without needing to measure the distribution of those surpluses or to compare them inter-subjectively.

Reaching Consensus through Communication

Vining identifies the core problem for the economist, to *describe* for the members of a society alternative sets of rules for constraining the behavior of individuals, and the relevant tradeoffs among the alternative rules and behavioral choices. The very act of description brings sympathetic exchange into the situation. Just as the individual faces

tradeoffs when choosing for herself, society faces tradeoffs when jointly choosing.

Here arises the potential for social conflict.

The members of the society must reach a consensus, and the choice is based upon a joint evaluation. This involves the resolution of conflicting evaluations through argument and discussion. . . [T]he technical problem, beyond the measurement and prediction of performance characteristics, is that of facilitating the social inter-action and communication leading to a consensus. (Vining, 18)

Facilitation of communication will allow sympathetic exchanges to also provide side-payments for the consideration under discussion. Brennan and Buchanan agree, “the objective here is to understand the workings of alternative political institutions so that choices among such institutions (or structures of rules) can be more fully informed” (Brennan & Buchanan 1985, xvii). The search is for ways that “man can organize his own association with his fellows in such a manner that the mutual benefit from social interdependence can effectively be maximized (Buchanan and Tullock 1962, 306).”⁶ The members then *discuss* the alternatives to reach consensus as to which set of rules will be adopted.

Vining’s work becomes part of the research agenda for constitutional political economy as developed by Buchanan. Buchanan (1964, 214) agrees that economists should place “‘the theory of markets’ and not the ‘theory of resource allocation’ at center stage. [His] plea is for a sophisticated ‘catallactics.’” Rather than Robbins’ utility-maximizing approach, Buchanan’s approach is toward endogenous institutional development.

⁶ As highlighted by Vanberg (2015, 10-11).

The Constitutional Stage

The constitutional stage of analysis incorporates a Smithian concern for the liberty and dignity of each individual as a participant in group conversation about the choice of rules. Vining (9-10) says:

The touchstone, it is said, of any legislative constraint upon individual action that may be imposed lies in the question whether a rational people could have imposed such a law on itself. Social discussion is always a discussion of this question. It was the question at the base of Adam Smith's and David Ricardo's discussions and analyses, no different in any respect from the essential question involved in any contemporary issue of public policy. In this sense, the third type [the choice of rules] is the classical economic problem.

Vining frames his discussion through an observable, open deliberation within legislative bodies. He provides examples, including testimony before Congressional Committees, of conversations at work, among parties directly engaged in making policy and economists describing relevant opportunity costs for alternative policies. This too, derives from Smith.

According to Vining (14):

Adam Smith regarded political economy 'as a branch of the science of a statesman or legislator'. His treatise, *The Wealth of Nations*, was in its entirety a critical review of the performance characteristics of various 'systems of political economy'. . . [T]he analytical and predictive problem was to compare systems of political economy with respect to this measure or quantity. This comparison and evaluation is the essential subject matter of his work. The price and value theory, the monetary theory, the economic history are all developed and presented as incidental to the discussion of this main topic.

All of the "incidentals" have an end: to overcome transaction costs otherwise foreclosing consensus on social ends. Statesmen and legislators rightly fill this role of the middleman if not corrupted.

On Statesmen and Legislators

Adam Smith praises statesmen and legislators who avoid corruption throughout his corpus. Unless disqualified by some corrupting influence, especially a turn to “system,” the statesman and the legislator occupy positions of honor among poets, men of letters, generals, and heroes (Winch 1983, Viner 1965). However, corruption may lead men astray. Whately (1822, 41) explains, mistaking the means for the end is identified as a source of social deterioration through faction. “[U]ndue preference [] of the means to the end,—of the distinctions of a party, to the original purpose of it,—may be regarded as one grand characteristic of party-spirit.”⁷ The “man of system” or “politician” turns away from the proper end of statesmanship, social coordination, and takes misguided steps toward using a system for his private ends, or ends determined outside of public deliberation. Statesmen and legislators maintain Smith’s approbation when they are limited to the role of facilitating democratic deliberation.

Catallactic Political Exchange

Successful facilitation of healthy democracy requires that the statesman overcome the free rider problem, maintain *transparency*, and avoid faction. The free rider problem at the level of society is overcome by a political exchange: taxation is a political transaction.

Many are apt to think Taxes quite a different kind of expense from all others, and either do not know, or else forget, that they receive any thing in *exchange* for the Taxes. But, in reality, this payment is as much an exchange as any other. You pay money to the baker and butcher for feeding you, and to the tailor for clothing you, and you pay the King and Parliament for protecting you from plundered, murdered, or cheated (Whately 1833, 66-67).

⁷ Italics in quotes from Whately are in the original.

What is catallactic in politics is not harmful. Buchanan (1964, 220) sets aside the term “political” as distinct from that which is catallactic in social decision making. “Economics is the study of the whole system of exchange relationships. Politics is the study of the whole system of coercive or potentially coercive relationships.” Consensus decisions indicate egalitarian exchanges, not coercion. Transparent communication overcomes the principal-agent problem between legislators and the executive. Open and plain language (transparency in words) safeguards against the development of faction and social cartels in politics and social settings, as in markets.

The middleman between Smith and then Vining and Buchanan runs through Knight, and they say so. Vanberg (2015, 11) illustrates this connection by quoting from Knight (1940, 27):

[Economics’] practical problems are those of social policy. And the first requisite for ‘talking sense’ about social policy is to avoid the nearly universal error of regarding the problem as in any sense closely parallel to the scientific-technological problem of using means to realize ends. The social problem ... is in no sense a scientific-technical or manipulative problem unless we consider ‘society’ under the form of a dictatorship over which the dictator is proprietor as well as sovereign, and as an enterprise which is to be managed solely in his interest. ... If society is in any sense democratic or free, its problems are problems of group decision and of group self-determination, in connection with which control is a misleading term.

The role of economics is to provide information to groups such that they can talk sense together, openly.

Conversation is central to the development of agreed upon rules within a society. However, Vining and Buchanan do not investigate what happens *within* the conversation

about the determination of ends. Perhaps they were warned off by Knight. According to Ross Emmett (2010, 68):

[F]or Knight [] we cannot know the outcome of the substance of the discussion ahead of time. That is, talking about discussion cannot reveal what discussion itself will conclude. Commitment to a free society is commitment to government by discussion; but commitment to government by discussion cannot guarantee that the outcomes of collective action will not restrict individual freedom. Why? Because discussion is always centered on the solution of a particular problem; and solving that problem may involve the social decision to use coercive action.

Buchanan (1990 [1999], 384) does note that the approach he primarily applies to legislative discussion also applies to “a wide array of membership groupings ... Clubs, trade unions, corporations, parties, universities, associations.”⁸ A step further and we notice that rules also emerge among participants within any setting of repeat exchange, including social exchange of approbation. The tools of the economist find application in understanding people’s conversations when conversation is understood as an exchange of approbation that suffers from interventions analogous to those that we understand about markets.

Furthermore, conversation is fundamental to the generation of rules at every level of society. Informal social exchange is an example of coordination among otherwise free and rival individuals constrained and ordered by patterns of language and practice, repertoires. Participants in a liberal conversation must guard against recourse to authorities that are outside of the discussion. To participate in exchange, market, political, or sentimental, within such a group requires proper use of language within boundaries. “Foul”

⁸ As quoted by Vanberg (2015, 14).

language leads to ostracism and loss of exchange opportunities including social approbation.⁹

Language and Sentimental Exchange

Every association has a constitutive conversation, whether formal or informal. This conversation is emergent, and may be ongoing, but is essential to the association. *Figure 1* illustrates differences among relations according to two axes, reclusive / sympathetic and hierarchical / egalitarian.

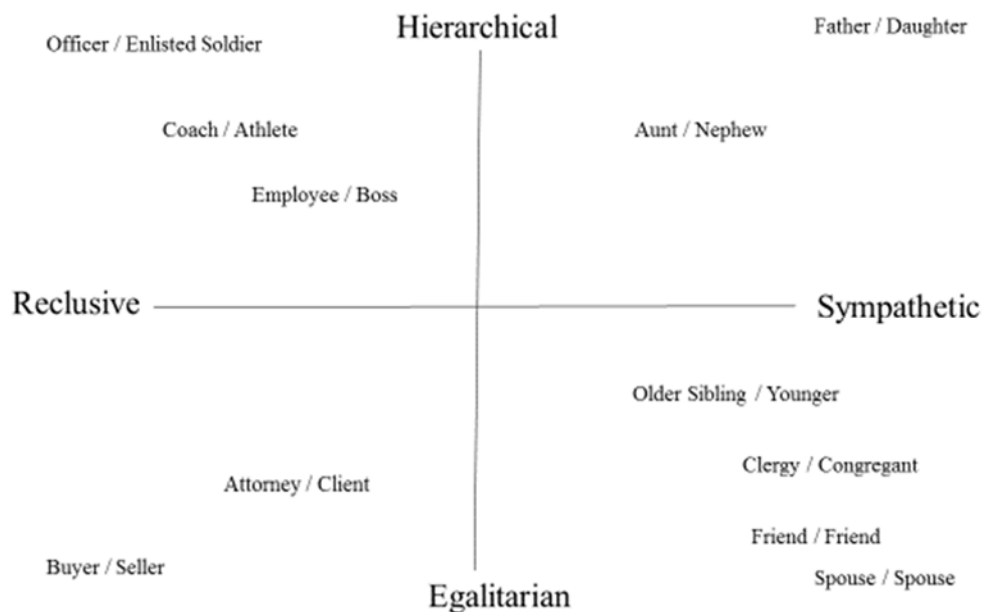


Figure 1: Two spectrums of interpersonal relation

⁹ For a technical description of what “foul” means within an exchange context see Levy (1988).

A friendship develops as an exchange, a *reconciliation*,¹⁰ of sentiments that advances to sympathy and affection, often in the context of other exchanges.

Friendship exists subjectively in the minds of the friends, the observable artifacts of the friendship are the communications shared between them. In that relationship each person must be careful not to use *foul* language in conversation with the other, according to the standard of foul vs. *fair* that develops between them. Typically, in a friendship of equals, the boundary case will be the same for each of them. Compared to a friendship, conversation in a relationship between a professor and a student will exhibit a different standard for fair vs. foul, and the boundary case for the professor and the student will not be equal. In a relationship that requires hierarchy the language will be more formal and sometimes opaque. An officer may shout an order at an enlisted soldier in a manner that would end a friendship of equals, or cause a child to doubt his father's affection.

Many relations that entail some degree of hierarchy are entered into voluntarily. The athlete hires her coach, with some expectations of discipline. The employee accepts a job offer knowing that his time and productivity will be monitored (Alchian & Demsetz 1972). The soldier may have enlisted voluntarily, well aware that he might become the object of a shout. Presumably the soldier in that case would be more handsomely compensated than if he had been drafted. Of course, the draft may be treated as a part of a more fundamental social contract.

¹⁰ Recall from this dissertation's introduction Whately's understanding of *catallactics*.

In initiating a new relationship a different *repertoire* is appropriate, and each person relates to the other with less exchange of sympathy, a more impersonal and what Philip Wicksteed called “non-tuist” (1910, 180) attitude, and with less transparency. If the participants in that conversation share no sympathy toward one another the scale and scope of the conversation may be limited to reclusive and utility-maximizing objectives. However, as the participants get to know one another, and come to sympathize with one another, exchange of sentiment can overcome transactions costs that otherwise limit their shared activities. Sentiment may be exchanged as a side-payment to other exchanges.

Formation of Groups

People exchange goods and services; political powers, privileges, and liberties; and sentiments: approbation and disapprobation. We do not exchange goods and services with *everyone*, even if transactions costs were so low as to enable us to exchange with *anyone*, such as is becoming more possible through Internet retailers and remote piece-workers. We are regular customers at many establishments, physical and virtual. Similarly, we do not exchange sentiments with everyone, even if we can become friends with anyone through social media. We visit our friends and colleagues, and their online posts, more frequently than others’.

Among those with whom a person more frequently exchanges sentiments party-feeling can develop. Richard Whately describes party-feeling as:

[T]hat principle in our nature which attaches men to any Society or Body of which they may be members; (which seems to arise from the disposition to afford, and to delight in, mutual sympathy)... (Whately 1822, xx).

and, “a certain limited local-feeling, distinct from that which connects together all mankind” (Whately 1822, xix). We have greater attachment to some people than to others, some are at a greater social distance than others. Adam Smith described social distance by comparing one’s concern over a trifling injury to oneself and a great calamity to a multitude at a great distance (TMS III.3.4). Party-feeling is a neutral term in Whately’s analysis. For party-feeling gone wrong he reserves the term “party-spirit.”

Party-feeling is reinforced through shared repertoires: languages and practices with specialized meanings among those who share a peculiar attachment. Maintenance of a repertoire may be sufficient to constitute an informal group, whether a beneficent association or a faction. The repertoire itself constitutes the social contract.

The Social Contract

A social contract is the product of the conversations taking place among the participants of an informal social group. The emergence of a social contract is analogous to the emergence of order in a market, as described by Buchanan (1982, 5):

I want to argue that the “order” of the market emerges *only* from the *process* of voluntary exchange among the participating individuals. The “order” is, itself, defined as the outcome of the *process* that generates it. The “it,” the allocation-distribution result, does not, and cannot, exist independently of the trading process. Absent this process, there is and can be no “order.”

The order of a social contract emerges from the process of sympathetic exchange. The particulars of a social contract will be shaped by the process that generated it. A social contract cannot emerge absent a conversation. Just as the market order is continuously refreshing through voluntary exchanges, the social contract is continually being reinterpreted and re-established by the conversations we participate in. Again, similar to

Buchanan's description of the market process, in the constitutional conversation "[t]he potential participants *do not know until they enter the process* what their own choices will be" (Buchanan 1982, 5).

The emergence of a social contract, whether behind a veil of uncertainty or not, reflects the qualities of the sentimental exchanges consummated by individuals bound by that social contract. The initial constitutional conversation might be entirely non-tuist, as in a Nozickian (1974) framework.¹¹ In that case the scale and scope of collective action, the activities that are a part of public sphere, might be very limited. But as shared sentiment, party-feeling, develops, side-payments of approbation may make it possible to increase the scale and scope of collective action to the mutual benefit of all participants in the constitutional conversation.

Of course, the conversation might be dominated at once by some personalities. In a hierarchical setting some Leviathan may *dictate* his own rules for governance: that is not a conversation. Though a dictator might even choose a productivity-maximizing set of edicts (Tullock 1987), yet the exchange of sympathy remains blocked.

In a deliberative democracy a constitutional conversation takes place. Sentimental exchange creates opportunities for *reconciliation* among individual and factional differences in preferences pertaining to the choice of ends, and preferences among the rules that will achieve those ends. Individuals exchange approbation and disapprobation, as communicated through their repertoires.

¹¹ Robert Nozick's proposed regime consisted of a "night watchman state" in which individual liberty is maximized rather than the Utilitarian maximized net utility of outcome, the "greatest good for the greatest number."

At the constitutional stage, the group deliberates over the rules that will constrain each individual's behavior, including the constraints on each individual's actions in crafting legislation and administrative rules. Together, the governed discuss "the appropriate design, construction, and maintenance of *rules* that set limits on the way in which each person is allowed to order his conduct toward others" (Brennan & Buchanan 1985, xvi). This discussion generates a social contract consummating the first political exchange.

A participant in democratic deliberation bargains with others over the tradeoffs between powers and liberties, the imposition of externalities without specific permission, and in pursuit of sympathy and affection from other parties. Provided that conversation be conducted according to liberal norms, it can be treated as an arena of exchange, generative of a spontaneous order, in which "individuals in following their own interests can further the interests of others." (Brennan and Buchanan 1985, xvi).

Liberal democracy requires governance by discussion such that public ends are agreed upon by consensus, if not unanimity (Buchanan and Tullock 1962, 85-96). Public ends are defined negatively as constraints on: (1) individual, or utility maximizing action, and (2) three forms of social, *catallactic*, or exchange-based action: (a) market, (b) political, and (c) sentimental. The proper role of the political economist is to describe to the public, as it deliberates, the constraints that establish the sets of available rules; and the relevant tradeoffs involved in selecting among sets of rules.

Constraints on Social Action

A liberal constitution sets constraints on human action, as determined through deliberation. Social constraints can be categorized into two sets: limits on individual action, and limits on social action.

Individual utility-maximizing action occurs without regard for others in society. To the extent that an action has no bearing beyond the individual, outside of social dialogue, that person may behave like the character “Max U” described by Deirdre McCloskey or like Robinson Crusoe before Friday reveals himself. This individual will fit all the reclusive models of modern price theory, choosing his own ends and seeking out the lowest opportunity cost means, subjectively determined, for achieving those ends. The rules established at the constitutional level will describe the limits on individual reclusive actions that may adversely affect others.

Social action takes place in interaction with others, like the interactions between Crusoe and Friday, and can be divided into three overlapping spheres: (a) market, (b) political, and (c) sentimental action. Constraints on social action will seek to maximize opportunities for each individual to participate in the exchange of goods and services, liberties, and sympathies. The rules agreed upon in deliberation will concentrate on opportunities to reconcile individual ends that might conflict, mediated by exchange within and among the overlapping spheres. A rule that prohibits a particular individual action will only achieve consensus if a side-payment is offered to the inhibited individual such that on net the outcome is a Pareto improvement. Otherwise he makes like Edgeworth’s version of Friday and walks away. Sympathy is broken. Analogously, an alternative set of rules will

only achieve consensus if it is Pareto improving once sympathetic side-payments have been included.

The normative content of egalitarian governance structures can be located in the appropriate conventions for the exchange of sentiments. For example, in economically developed societies it is difficult to communicate sentiments to every member of society. So, a commercial ethic emerges that allows us to interact reclusively toward most other people most of the time, to every person's mutual benefit. This commercial ethic identifies a set of behaviors that, if violated, are considered foul, because they frustrate coordination at the faire, in the market. But the requirements of each person toward the other are minimal. This kind of interaction requires little collective action, and generates few negative externalities, so the constitutional conversation need not spend very long dealing with commercial matters.

Attempts to introduce centralized planning to replace free commerce imagined that large positive externalities could be gained by increasing the scope of the constitutional conversation. The task of the economist in this case is to examine the consequences of a change in the constitution, and to identify the relevant opportunity costs. Hayek and Mises performed this task appropriately in the socialist calculation debate. Their contention was that the imagined positive externalities could not obtain because the market process is essential to generating the information that a central planner would require. They did not place a similar emphasis (except perhaps in Hayek's *Road to Serfdom* 1943) on the incentive compatibility of the position of central planner to the achievement of his intended task. If submitted to the constitutional conversation, the economist would demonstrate the

angelic character requirements for the position of central planner and the potential consequences should a knave obtain that position instead. The participants in the constitutional conversation might nevertheless opt to try for the promised gains from central planning. The economist would then remind them that the task assigned to the central planner is impossible, even if performed by an angel. Hence, both Hayek's and Buchanan's critiques of central planning are essential to the political economist engaged in the constitutional conversation, in contrast to Farrant (2002).

Academic Agreement

Suppose the political economist were to apply the "as-if" assumption, to try to imagine what sort of rules would emerge from a constitutional conversation.

It is one thing to say that, conceptually, men in some genuinely constitutional stage of deliberation, operating behind the veil of ignorance, might have agreed to rules something akin to those that we actually observe, but it is quite another thing to say that men in the here and now should be forced to abide by specific rules that we imagine by transporting ourselves into some mental-moral equivalent of an original contract setting where men are genuine "moral equals."

Unless we do so, however, we must always accept whatever structure of rule that exists and seek constitutional changes only through agreement, through consensus. (Buchanan 1977, 84)

We cannot know what sort of rules would emerge from a constitutional conversation any more than we can know what price will emerge in a market for a good or service. Apart from the market process prices are not discovered. Similarly, apart from a constitutional conversation, rules cannot be discovered.

Crucially, this means that even if we could place ourselves behind a veil of some sort, apart from the process of living together the information needed to discover rules to

govern individual conduct would not become available. To extend the analogy, the right rules for a society are contingent on specific factors of time and space. Just as the discovery of a market clearing price in one period does not guarantee that the same price will clear the market in any other period, so the discovery of rules that achieve consensus in one period cannot guarantee that the same rules will be appropriate to another period. The conversation must be ongoing.

This is not to say that the constitutional stage of analysis is irrelevant or impossible. Rather, the constitutional stage is essential and perpetual.

Mario Rizzo asks,

How do research standards emerge in an academic discipline? James Buchanan would say that they are not independent of how the “group” is formed and the rules by which researchers interact. Before people simply assume that the “best methods” will rise to the top we need to know how the professional groups are constituted. “Best” is relative to a social framework. (Rizzo 2019)

In the same way that markets, if freed to competition, gradually correct for past injustices, the constitutional conversation, though we can never place ourselves back behind a veil of uncertainty or ignorance, can by practicing the appropriate conventions for conversation, gradually correct for past improprieties.

Whately teaches us ways to improve the conversation among participants engaged in the constitutional convention, such that the resulting set of rules is a Pareto-improvement. Another way to say this is to agree with Deirdre McCloskey that a shift in ethics deriving from a change in rhetoric is in part determinative of the set of possible institutional arrangements for a society. By way of Whately, the consensus arrived at through

conversation replaces the philanthropic conception often supposed of public decision makers by less skeptical theorists. Perhaps we have resolved one level of regress in Buchanan's system the exchange of sentiment in conversation.

B. How to Talk, Richard Whately and the Proper Rules of Conduct to the Prevention of Party-Spirit

[H]uman conduct altogether would be an inexplicable riddle to any one who should deny or overlook the existence of party-feeling as a distinct, and powerful, and general principle of our nature. –Whately (1822) p. 9

As Ross Emmett notes about Knight's understanding of deliberative democracy, "Without rules, discussion is just shouting. Without novelty, discussion is just talk." (Emmett 2011b, 66-67) One need not accept Knight's conception about social evolution to accept his approach to a structure of governance established through a liberal process.

Whately (279-290) must be understood, from the first reading of the term *catallactics*, to be concerned with mechanisms for *reconciliation*.

Let him hope however that by patient zeal, he may in time wear out both Obloquy and Suspicion;—that by unconquerable gentleness, he will at length disarm hostility; —that by his firmness and activity, he will gradually do away the imputation of weakness and insincerity;—and that whenever the storm of angry passion shall subside, the steady though quiet current of sound reason will prevail. He may trust at least, that if he incur the censure of the intemperate and bigoted on both sides, the candid and judicious on both sides will support him by their approbation. And let him remember, that in proportion as he is advancing in the good opinion of the members of opposed parties, he is also promoting their benefit. In proportion as they become reconciled to him, they will also approach towards a reconciliation with each other.

This attitude has broad application, from the correction and prevention of party-spirit, to correction of biased presentation of evidence in adversarial litigation. Whately

recommends that we each play the role of reconciler. To hear each argument fairly, to think clearly and understand as best as possible the truth. To discount arguments over trifles. To, on the whole, diminish the powers of party-spirit. A functioning public conversation requires constant vigilance over these matters. By learning how to talk we improve the chances that we can build a liberal society.

Whately emphasized clarity of thought, avoidance of fallacy, and care in how we talk to one another. Rhetorician Carol Poster (2006, 44) notes that among other clerical responsibilities, Whately regularly interviewed confirmands “making sure that they understood the catechism and creeds rather than merely being able to recite them by rote.” Whately (1822, 31) wanted the young to understand the *instrumental* implications of their lessons, how the creeds should influence their thoughts and actions; and not merely the *expressive* implications, how symbols, belief systems, and ceremonies work to hold a group together. Since we are engaged together in democratic deliberation, since we are self-governing, we need to “guard against the faults, not so much of our opponents, as of ourselves” (11). As we pursue a liberal order through conversation, maintenance of concord and avoidance of discord, we do well to attend to Whately’s lessons on *how to talk*.¹²

Party-*feeling* is necessary for the constitution of groups. Whately (13-14) explains that:

[T]he strength of any feeling, and the ardour of any pursuit, are heightened by mutual sympathy, and by mutual consciousness of that sympathy; and men feel encouraged and confirmed in their common belief

12 Dr. Johnson’s (1755, 437) dictionary defines *Concord*: “1. Agreement between persons or things; suitableness of one to another; peace; union; mutual kindness.”

by a sort of tacit appeal to each other's authority. Moreover, a party have the advantage of acting in concert, and thereby of cooperating far more effectually than if each acted singly and independently, in pursuit of the very same objects: they may consult together, and jointly form plans for simultaneous exertion, deriving strength, like the bundle of lances in the well known fable, from mutual support. They have likewise the benefit of mutual control and regulation, so necessary to prevent any individual member from interfering, by his own fault or imprudence, with the common benefit of the body; whence arise, in political communities, the advantages of civil government.

It is by sympathetic exchange that we coordinate, "act in concert," and find mutual support. Sympathy informally establishes tacit recognition of each other's agency and implied authority over each person's decisions. It is thanks to sympathetic side-payments that we agree to "mutual control and regulation." It is through sympathetic consultation that civil government develops in its *advantageous* manifestation. For Whately, a decade before Viscount Bryce (whom Knight frequently (mis)quoted) was born, governance by discussion, by sympathetic exchange, is mutually beneficial, as are all voluntary exchanges, and even some involuntary exchanges.

However, *party-feeling* may give way to *party-spirit*, discord, faction. Whately (30) is anxious to provide guidance such that we "obtain the advantages of party-feeling, yet avoid its evils; and promote peace, without falling into indifference." Too great of an "attachment to any party implies hostility to every opposed or rival party" (26). The errors that can lead to party-spirit have to do primarily with how we talk.

Whately (xxv – xxvi) tells us that:

The cautions suggested with respect to the language employed are, first, to be duly on our guard against the *ambiguity* of terms; secondly, not too rashly to judge of men's doctrines from their phraseology,—insisting too strongly on their employing the same terms with ourselves; and thirdly, to avoid adhering too closely to any such fixed set of expressions as have been made,

or are likely to become, the cant *language of a party*; which has a tendency not only to gender “strifes about words,” but also, both to deaden men’s attention to the *things* signified, and to lead to *erroneous theories* for explaining the doctrines in question.

To the list of warnings listed in this passage we can add looking too much to the symbol of a thing will “deaden our attention to things signified.” This is an example of what Whately describes as attending too much to the means, and forgetting the end.

When individuals participate in a conversation, each must avoid *foul* language, in the sense that some language is considered outside what others consider permissible, or *fair*. Whately uses many terms that can be categorized into fair and foul:

Fair: friendly feelings, mild, conciliatory, anxiety for others, bear with, patiently, allowance, candid, diligent, inquiries of truth, teach, enlighten, convince, didactic, meek,

Foul: resentment, vengeance, sarcasm, wrath, satire, reviling, scorn, hatred, insolent exultation, offend, provoke, scorn, sophistry, misrepresentation, fallacies, opposition, polemic, contend, strive

The rules for conversing shape the rules that a society will adopt at the constitutional conversation.

It remains to say something of the subject-matter of the discussions; taking into consideration at the same time (as is obviously necessary) the language, which is the instrument and vehicle of those discussions; and to suggest such rules of procedure as may conduce to the objects proposed.

We must not avoid those we disagree with, and foreclose those conversations,

by abstaining from all mention of every doctrine that is likely to afford matter of controversy. . . [lest we] in fact put an end to the very existence of the society itself. (28-29)

The norms observed in a society will reflect the norms enforced in democratic deliberation. For example, a liberal democratic order—inclusive, instrumental, and transparent—may develop out of an egalitarian discussion.

Conversation is naturally influenced by social distance. A teacher living in Los Angeles and his son living in London have a closer sentimental relation than the same man shares with a foreign exchange student advisee from London that he sees in person every day. People have a tendency to prefer the local over the catholic, thus the rules establishing *who may participate* in the conversation must be agreed upon. Conversation will tend to the expressive, symbolic actions that seek group approbation, rather than the instrumental, actions that are advocated for the objective consequences that follow; the rules establishing the *substance* of conversation must be agreed upon.

Conversation strays toward the less frank and more vernacular, the rules establishing the *transparency* of conversation must be agreed upon. Avoidance of zero-sum and negative-sum games in conversation can be advanced by identifying, exposing, and resolving fallacies. Good conversation invites in every individual who has a stake in the outcome of the conversation; does not allow the conversation itself, the *means*, to take precedence over the *ends*, the exchange; and requires that all the relevant knowledge be shared with those in the conversation.

Among the problems that emerge among participants in a constitutional conversation are exclusivity, propaganda, and secrecy. These concerns are nearly synonymous. Perhaps the distinction among them is that each is observed as a different symptom of the same malady of a conversation gone wrong. We can observe a conversation

that explicitly excludes certain individuals or certain groups. We can observe a conversation that includes expressive rather than instrumental language. We can observe a conversation in which some persons are off to the side whispering. Prohibiting each of these behaviors is not exhaustive of the possible set of symptoms that may evidence a poor conversation; but, they are enough to get us started, and to help point to what a fruitful conversation would look like.

We must “avoid, as much as possible, introducing or keeping up the use of any peculiar *set* of words and phrases, as the badge of a party” (202). Anything can be used as a symbol, and any instrumental objective can be corrupted into a symbol.

[A] party should have some external marks and badges of distinction—often an arbitrary symbol—to indicate their internal sentiments and dispositions; that the members of it may be kept apart from others, and mutually known among themselves, and held together.

The badge may be (39-40).

either some peculiarity in their language, habit, or mode of living, or the observance of some peculiar ceremony, often having as little *natural* connexion with the objects of the party, as the military standard has with war. All these signs of distinction have the effect, not only of keeping the party united and entire, but also of increasing men’s attachment to it. The human mind is so formed, as to take an interest in every thing that is, in any way, a *peculiarity*; and party-feeling is roused and invigorated by every circumstance which reminds the partisans of their being a distinct body, and, of the tie subsisting between them.

The process of generating expressive symbols is that once a word, a practice, or a habit becomes “intrinsically precious” though it be a “secondary object” it loses its real meaning. Whately (41) compares it to fortifications about a town that “are sedulously guarded and kept in repair [while] the city itself [] fall[s] into decay.”

A liberal conversation will adopt clear terms, but will be generous toward others' use of different terms. A liberal conversation will avoid "cant," the (206) "peculiar and characteristic *language* of a party; viz. the constant and unvaried use of certain fixed technical words and phrases." We must not respond to our adversary as a *stereotypical* member of the opposing party. Individuals may fall into parties, and beneficial ones, for the purposes of cooperation, as Whately mentions above. To become a member of a party might include a sort of self-stereotyping, a way of decreasing the cost of an outsider gaining information about oneself (Levy 2019). However, when contention emerges, one must answer a person according to the instrumental points of his understanding, rather than according to the stereotypical elements of the party he professes. By doing so we preserve any beneficial qualities of party-feeling without encouraging party-spirit.

Whately has anticipated Vining (11), who says that "it is the definition of terms which in many instances gives the trouble." This acknowledgement quiets a complaint that Schumpeter (1954 [2006]) offered regarding Whately and Senior. Schumpeter flags, after Whately's *Introductory Lectures on Political Economy* (1831), the *Appendix to Whately's Logic*: "On certain Terms which are peculiarly liable to be used ambiguously in Political Economy" about which Schumpeter (1954, 485) notes,

With his usual common sense, Whately pointed out (in his *Elements of Logic*) that many of the issues economists quarreled about were purely verbal and that loose use of terms, both a cause and a consequence of loose thinking, was a fertile source of misunderstandings. But he overshot the mark, when he seemed to consider the possession of "a vocabulary of general terms as precisely defined as the mathematical," not only as an important desideratum but practically as the only thing needful.

A proclivity to focus on use of terms is identified by Schumpeter (485-486) as a flaw in Senior, perhaps inherited from Whately. But for Whately language is the medium for sentimental exchange, so careful use of terms is important. Schumpeter can be excused for discounting Whately's and Senior's attention to definitions of terms to the extent that Schumpeter discounts the investigation of sentimental exchange and instead adopts a Misesian (1949) focus on catallactics in markets for goods and services. If Whately is right, the use of appropriate language is crucial for the exchange of sentiments.

Incentive Problems

Some of the problems with party-spirit are related to incentive incompatibility of systems that emerge. As a conversation develops, some behaviors will turn that conversation inward. "The most remarkable characteristic of party-spirit—the disposition to prefer the means to the end,—the party itself, and whatever tends to maintain it,—to the object it originally proposed." If the means-ends relation is set askew, the ends are forgotten, and the only thing holding the group together is the repertoire.

Among those involved in a party, if the party takes on formal trappings, will be the selected or appointed leader. Whately (1822, 85) warns to watch for those with "desire of taking the lead." A leader of a party will almost certainly be more concerned about the maintenance of the party than the accomplishment of any end the party had been organized to accomplish. Indeed, the leader of a party might sabotage actions that would achieve the end of the party, obviating the need for the party to exist at all, and eliminating the function that had afforded the leader "fame or influence" among his peers.

Similarly, the love of disputation is not appropriately constrained within the constitutional conversation (94).

He who is conscious of being a skillful and successful disputant, if, on candid and careful self-examination, he find himself tempted, by the desire of exercising his talent, to raise or prolong controversies unnecessarily, and thus excite or keep up a spirit of party, in himself or in others, will do well to direct his attention to other subjects, on which he may innocently, and even usefully, employ his acuteness in argument.

The constitutional conversation can be prolonged unnecessarily, raising the cost of agreement to everyone involved, especially by people who would persist in a point of disagreement solely to capture approbation for skill at dispute. Knight suggested a rule that one person, one opportunity to speak, such that no one could control the conversation more than anyone else. (Emmett 2011, p 10). The use of the arena of conversation to capture status rather than to reconcile differences over goals is to confound, once again, the means for the ends. The disputant carries on, neglecting the end of the conversation, instead turning the means, the discussion, into an end in itself, and may even, if once started upon playing the devil's advocate, persuade himself into adopting a falsehood "contrary to his real sentiments."

Whately (95) allows that occasionally those skilled in disputation will be called upon to practice their specialized skills, but warns that "it becomes difficult to restrain within due bounds those who have been thus, as it were, trained to war."

Also incentive incompatible (87) is a "love of novelty." Fads develop into cliques, groups that form about some new idea or thing simply for the novelty of it. The newest thing is likely to be expressed in peculiar terms. One thinks of the effects of social media on the development of party-spirit, or we call it tribalism, observed in public discussion

today. When something new is adopted without careful thought, simply because it is new, there develops a competition for always having the newest thing, but little deliberation over whether the new thing has instrumental value or purpose.

Whately emphasizes maintaining an open conversation space. He demonstrates his commitment to this principle in that he advocated for Jewish relief from discrimination, and for Catholics as well. He warns against condemning those who are different from oneself, and not to form party-spirit over trifling matters. When someone says something disagreeable it is better to “regard him as inconsistent, rather than wholly erroneous” (119). We are not to exclude someone from conversation simply because they were wrong about something else. Such behavior may simply encourage the excluded person to join into a different party. Including or excluding individuals cannot sustain party-feeling among large numbers but will provoke party-spirit (122).

Let the most candid and favourable construction possible be put on every profession, till we are compelled to understand it otherwise; where the case will allow of it, let blame be laid rather on the form of expression, than on the doctrine intended to be conveyed; let us in each case, endeavour to begin by ascertaining points of agreement, rather than of difference; and lastly, where it is manifest that incorrect notions are entertained, let it always be considered whether they may not be attributed rather to weakness of intellect, and inaptitude for accurate statements, than to culpable perversion of the truth.

Again, Whately reminds us to seek out opportunities for reconciliation, points of agreement, rather than dwelling on points of difference. Many points of difference can simply be excluded from the constitutional conversation if there exists no side payment to overcome the transactions costs in place. The scope of the emerging set of rules will exhibit the set of topics that can be agreed upon.

Avoid then matters both too deep and too trifling. The bounds of foul vs. fair lie on both sides of this spectrum. Those matters that are unprofitable to discuss because too profound are not comprehensible to reason. It is hard to know when a matter goes too far, but we can know the principle that causes men to mistake the true boundaries. Pride, an unhealthy thirst for knowledge as an end in itself rather than as a means, an insistence in having a full scientific knowledge of everything. An expert can easily fool himself into thinking that those things familiar to him are well understood. However, Whately reminds us of the innumerable mysteries that surround us.

On the other hand, debates over the minute are not profitable (197):

For it should be remembered, that not only does every question that can be raised, lead to differences of opinion, disputes, and parties, but also, that the violence of the dispute, and the zeal and bigoted spirit of the party, are by no means proportioned to the importance of the matter at issue. The smallest spark, if thrown among very combustible substances—, may raise a formidable conflagration; and when men are disposed for strife, the discussion of any question, however insignificant, may engage them in a contest, in which the zeal and animosity of the disputants will inflame each other, to a degree which appears to calm observers almost incredibly disproportionate to the magnitude of the point itself.

A small disagreement can conflagrate an otherwise peaceful discussion. Rather, the conversation is to remain instrumental, and to keep proportionality in mind.

It is charitable to treat those who make errors as imperfect rather than obstinate. Those who have a feeble understanding of the truth are better to include than those who are certain of falsehoods, or believing “so many things that ain’t so.”¹³ We can treat this as an example of preferring a robust estimate to a more precise estimate. Those certain of

¹³ Attribution is frequently given to Twain, but remains unverified.

falsehoods have strong models in mind. Those with a feeble grasp of the truth are working with more robust models.

Whately warns us not to divide over matters of taste, as well. There is a connection to the golden rule in this. Exchange enables coordination with others who are different from us and who have different preferences. “If we deal with others as we should wish them to deal with us, we shall be using the most likely means to produce a similar conduct in them” (142). Thus we avoid censure, jealousy, and contempt, attitudes that foreclose upon exchange opportunities and would shut down the conversation. Whately always encourages us to start with self-examination, to put aside hubris, such that we can be more gracious to our adversaries.

Errors, when identified, should be treated on fair terms, on their instrumental elements rather than any expressive, or party-infused meanings. Thus in correction we do not fortify the attachment to party. If an adversary senses that they are receiving personal disapprobation for their thoughts they will retreat into the opposing party, and exchange opportunities will be foreclosed upon. Therefore it is important to not respond in kind to those who might use foul language.

Ideological Turing Test

Whately incorporates something that we might recognize as what Bryan Caplan (2011) calls the ideological Turing test.

There are many who systematically abstain altogether from the use of such terms as have been thus drawn into the service of a party, and made the Shibboleth by which the members of it are mutually recognized. Now such a procedure is not surely the most likely to break down party-distinctions; but tends rather to establish them the more firmly, by strictly confining the

words and phrases in question to that use to which they have been thus appropriated. The most effectual method by which to defeat the object of one who should design to form or support a distinct party, is, for those who do not belong to it, not only not to avoid, but even studiously to employ the characteristic language of that party; sometimes, if there be in it no intrinsic unfitness) in the same sense in which it is used by them; sometimes, and perhaps oftener (if the general rules of language permit) in a different sense; sometimes again, employing, in both cases, other, equivalent, terms also; studying to vary as much as possible (so that no impropriety nor ambiguity be admitted) the modes of expression adopted, for conveying the same sense. By this means, the use of the terms in question will speedily lose its peculiar force and significancy as indicative of a certain set of opinions: and besides that we shall avoid those other ill consequences formerly mentioned, as resulting from such a restricted employment of a certain peculiar phraseology, its influence as the badge of a party will be destroyed.

By using a term that has become a shibboleth (a common marker of party-spirit) more liberally, that shibboleth is robbed of its force. Most such “badges of party” are not consciously so. By using a term outside of the party’s peculiar meaning, the other person is invited into an open space of dialog. Semantics can devolve into party on the most trifling of terms, because the goal is not right understand of the term itself, but the intention to form party. Never call out a member of a party by the name of that party.

Arnold Kling (2016, 65-70) has developed the Ideological Turing Test in a way that prepares people to challenge themselves to listen to others for different points of view. Whately encourages this activity as well. The goal is to understand the way your opponent uses terms so well that sympathy can develop between you, and then gradually open the use of the term to other meanings so as to open up more exchange opportunities. Gradually move the use of the term back toward its instrumental purpose and away from the expressive usage of it. Insisting on a particular usage of a term reduces the exchange opportunities, forecloses upon them, blocking sympathy and any chance for reconciliation.

Whately (27) believes there is a natural corrective to party-spirit, in the long run.

Once party-spirit is active it tends

to produce not only bitter animosity between opposite parties, but also internal divisions in each. . . to subdivide and multiply them; and thus to destroy its own works, by separating into hostile factions the very persons whom it had originally drawn together.

Faction is formed by failing to maintain appropriate conventions of conversation. Once faction is formed those within faction will continue with debasing discourse, leading to further factions forming, and so on, leaving no society. What is lost are the potential gains from sympathetic exchange that have been foreclosed upon, one on top of another, like the multiple monopoly toll castles on the Danube river, each foreclosing upon some part of the market until river traffic is but a trickle (Yoon & Shughart II 2013).¹⁴ At some point there are no more rents to be captured and the castles cannot be supported. The factions dissipate. However, once the factions are gone, the work of rebuilding party-feeling sufficient to allow for exchange will have to begin anew.

With these rules in place, we talk among one another and reduce party-spirit while encouraging party-feeling. The interests of everyone affected by the conversation are heard, and opportunities for side-payments through exchange of sympathy facilitate a more robust set of rules. We have learned how to talk.

¹⁴ The commerce besides which any nation can carry on by means of a river which does not break itself into any great number of branches or canals, and which runs into another territory before it reaches the sea, can never be very considerable; because it is always in the power of the nations who possess that other territory to obstruct the communication between the upper country and the sea. The navigation of the Danube is of very little use to the different states of Bavaria, Austria and Hungary, in comparison of what it would be if any of them possessed the whole of its course till it falls into the Black Sea. (WN I.3.8)

II: THE POLITICAL ECONOMY OF THE INFORMAL SOCIAL GROUP, AND THE ORIGINS OF LEGITIMACY

In fact, human conduct altogether would be an inexplicable riddle to anyone who should deny or overlook the existence of party-feeling as a distinct, powerful, and general principle of our nature. Every page of history might teach us, if the experience of what daily passes before our eyes were not sufficient, how slight an attraction is enough to combine men in parties, for any object, or for no object at all,—how slender a tie will suffice to hold them together,—whether a community of interests, or of situations, or of opinions, (or even the colour of an ornament, as in the celebrated case of the rival parties in the Byzantine circus;) and with what eagerness, often what disproportionate eagerness, men engage in the cause of the party they have espoused. Even when they unite for the sake of some object which they previously had much at heart, what an accession of ardour do they receive from their union! like kindled brands, which, if left to themselves, separately, would be soon extinct, but when thrown together, burst into a blaze.

Richard Whately, The Use and Abuse of Party-Feeling in Matters of Religion (1822, 10).

If we should enquire into the principle in the human mind on which this disposition of trucking is founded, it is clearly the natural inclination every one has to persuade. The offering of a shilling, which to us appears to have so plain and simple a meaning, is in reality offering an argument to persuade one to do so and so as it is for his interest. Men always endeavor to persuade others to be of their opinion even when the matter is of no consequence to them. Lectures on Jurisprudence

Adam Smith, (vi.56: 352).

The rules for social engagement develop informally in every social group, such that there exists a tacit social contract. Those rules are embedded in the language, symbols, images, and practices—the *repertoire*¹⁵—that people use to exchange sympathy, in Adam Smith’s sense of the term: “our fellow feeling with any passion whatever” (TMS I.i.1). *Informal social groups*, networks of sympathetic exchange, not encompassing the entirety of a society, emerge about a repertoire that embodies a set of shared ends and coordinates collective pursuit of those shared ends. Participants within informal social groups can foster market exchange, overcoming transactions costs through side-payments of approbation.¹⁶ Also, the shared interpretation of language by participants of an informal social group renders contracts more complete thus providing better definitions of property rights.¹⁷

Performance of a repertoire is analogous to a currency used to exchange goods and services in a market. “[A]ctions are messages, part of a conversation, to be read as signals, responded to as signals, and in [Adam] Smith such exchanges constitute the foundations of human sociability” (Smith & Wilson 2019, 10). Innovations to the repertoire that go *afoul*, outside of what others in the group can approve, will be met with disapprobation,

¹⁵ I adapt the use of “patois” from Thomas Wolfe, *I Am Charlotte Simmons*, 2004. A repertoire is a set of shared practices, symbols, images, and language that facilitate expressive action and that generate and maintain affection, or shared habitual sympathies, within a social group. A repertoire may be considered similar to a “cultural liturgy” (James K. A. Smith, 2017). My use of the term is in *contrast* to that of Charles Tilly (1977, 493), whose use of “repertoire” would consist of a subset of my use, exclusively pertaining to acts of contention or resistance. To reconcile his definition, contention or resistance to an existing constitution is to contend for a different constitution. The media for each understanding is the same. I emphasize the role of a repertoire in providing cohesion for the informal social group.

¹⁶ I specify “participants” rather than “members” because informal social groups do not maintain membership lists or any official mechanism for identifying individuals.

¹⁷ “A contract will be said to be *completely specified* (or simply *complete*) if the list of conditions on which the actions are based is *explicitly exhaustive*.” Shavell (2004) Kindle location 3171. Where ambiguity of terms exists, no contract can be complete. A shared repertoire, including shared meaning of terms, results in less ambiguity in interpretation of contract.

the foreclosure of sympathetic exchange. Individuals face a cooperate-or-defect decision with respect to the informal social group's repertoire.

An informal social group is like a *firm* in that the participants *share a set of ends*, analogous to rules that might be agreed upon in a constitutional convention. The shared ends of an informal social group are not determined in a deliberation set aside for that purpose. Rather, as individuals engage in repeated interactions a repertoire that generates approbation for all participants emerges. The content of the ends embodied in that repertoire is peculiar to each informal social group.

However, an informal social group is like a *market* in that there is no central directing agent. Suppose the informal social group attempted to make an exchange with a politician. That exchange might require a compromise of the repertoire, and the participants would have to reach a new consensus before being able to consummate that exchange. This makes it very difficult for the group to exchange directly with other authorized decision-makers the way a special interest group might. However, the informal social group can impose *tacit* constraints on the political decision-maker. The participants of an informal social group will tend to move and vote in concert, thus the informal social group presents a latent but imminent potential for forming special interest groups that can discipline a political decision-maker who arouses the antipathy of the informal social group.

Within an informal social group, a subset of individuals that dissents over choice of means for achieving otherwise shared ends can generate a *faction*, a division of the informal social group. A faction performs a unique *dialect*, adding to and adjusting the surrounding group's repertoire in a peculiar way. Faction in its *virtuous* manifestation

maintains a cooperative attitude toward the informal social group, and is not socially harmful. The virtuous faction increases or improves upon the quality of the sympathetic exchanges that obtain. Participants of an informal social group may approve of and benefit from a virtuous faction if shared ends obtain more readily due to specialization of roles among those who maintain shared ends. “Faction” has a negative connotation and Richard Whately (1822) preferred to describe this virtuous manifestation as “party-feeling.”¹⁸ Comparative advantages may develop such that the overall performance of a repertoire is more elegant.

In contrast, faction in its *vicious* manifestation will defect from the informal social group, and is socially harmful. The vicious faction forecloses upon sympathetic exchanges. Participants in a vicious faction will become so attached to its preferred set of means that the shared ends may fall into the background, or may even be forgotten or sacrificed to maintain affection within the vicious faction. *Affection*, according to Adam Smith (TMS VI.ii.7: 220), is a habitual sympathy. The dialect, or *cant*, of a vicious faction will take on the attributes of “party-spirit” as described by Whately (1822, 206).¹⁹ Exchange of

¹⁸ For Whately, faction is the division of some group from a larger group, and is neutral. Party-spirit is: only the abuse and perversion[] of a principle, which, being essential to our nature, exists, in a greater or lesser degree, in all mankind; which is in itself (like all our other propensities) neither virtuous nor vicious, but is calculated, under the control of reason, to lead to important benefits. (1822) p. 4.

¹⁹ Whately (1922) p. 206:

And we should also learn to observe that other caution above mentioned, of avoiding the peculiar and characteristic *language* of a party; *viz.* the constant and unvaried use of certain fixed technical words and phrases, in the statement of each doctrine: to which kind of fixed phraseology the term “cant” is most commonly applied.

Levy and Peart (2003, 734) draw our attention to the use of “cant” by Whately’s contemporaries.

Those who sought to make the case of racial inferiority use the label *cant*, along with images of violence against the “canters,” in a campaign to discredit the coalition of classical economists and evangelicals.

Those who argued for racial hierarchy called the egalitarians “canters.” Whately uses the term more universally to refer to the language of party-spirit. Levy and Peart miss Whately’s use of the term.

sympathy between a member of a vicious faction and someone outside of that faction is blocked.

Informal social groups can foster the emergence of formal associations. The emergence of a formal association introduces hierarchy of decision-making into an otherwise egalitarian setting, analogous to Coase's (1937) description of the firm. He recalls D. H. Robertson saying that we find "islands of conscious power in this ocean of unconscious co-operation like lumps of butter coagulating in a pail of buttermilk." Similarly, formal associations may emerge, nested within an informal social movement. Formal associations maintain some relation to the informal group's repertoire, but are able to engage in direct exchange through an authorized decision-maker. Formal associations may manifest *party-feeling* in a way that cooperates with and facilitates market exchanges or political compromises. Among examples one may think of consider the variety of Protestant denominations that one might identify with American evangelicalism. On the other hand, formal associations may manifest *party-spirit* that defects from the informal social group and frustrates market exchanges, facilitates market collusion, or frustrates political compromise, lowering the opportunity cost of the use of force. Again, consider the development of organizations such as the Moral Majority or Focus on the Family, that came to function as special interest groups.

An informal social group may also face internal deterioration. Whately describes a natural implosion of groups that practice party-spirit, because the practices that lead to party spirit will further divide the group until it atomizes. However, there are increasing benefits for those who avoid party-spirit.

The repertoire of an informal social group shapes the ways its participants will interact with one another and with individuals and groups outside of the informal social group. Interactions within the informal social group will be approved of to the extent that they properly perform the repertoire. Interactions between participants of the informal social group and entities outside of the informal social group may be observed with suspicion by other participants of the informal social group. The repertoire may include special rules for interaction with outsiders, and may require that interaction with an outsider be broken off under certain circumstances.

An outsider who desires interaction with a participant of an informal social group may have rational incentives to adapt his behavior to fit the repertoire. An individual who seeks friendship with a member of an informal social group may adopt elements of the repertoire. A merchant who desires to sell to participants of an informal social group will be careful not to display goods that the group's repertoire considers foul. A politician who seeks the votes of the members of an informal social group will shape her rhetoric to match the patterns of the repertoire. A political party may adapt elements of a repertoire when producing its propaganda. These interactions place *tacit constraints* on outsiders that want to interact with the participants of the informal social group.

The Repertoire of an Informal Social Group Embodies a Tacit Social Contract

The mainline tradition of political economy (Boettke 2012, 278) describes an invisible hand mechanism (Robert Nozick 1974, 18-22) that coordinates the actions of even reclusive individuals (David Levy and Sandra Peart 2017b, 219) with rival ends through markets. Richard Wagner (2008, xii) argues that “the primary object of economic theory is

societal interaction and the social configurations that emerge from that interaction.” In that case, political economy—coined *catallactics* by Richard Whately (1831, 6)—can be extended to include the description of coordination of individuals through sympathetic exchanges, and the process by which a group endogenously agrees upon a set of shared goals through sympathetic exchange.

Informal social groups *emerge*, as “the result of human action, but not the execution of any human design (Ferguson 1767, 183),”²⁰ among a group of voluntary and informally constituted participants, whose coordinated action obtains through a peculiar repertoire. To the extent that sympathies are exchanged, mutual approbation, like the surplus of market exchange, obtains.

In a market a buyer will offer a price that a seller may accept or reject, and a seller will set a price that a buyer is either willing or unwilling to pay; the process of price discovery. We learn from Adam Smith that individuals seek out the approbation of others, and learn what behaviors earn that approbation, and what practices are responded to with disapprobation, the process of repertoire discovery.

Approbation, Smith’s word of choice for approving of sentiments and passions, is stronger and more positive than modern notions of approval. Likewise, disapprobation is stronger and more negative than the modern notion of disapproval. . . . Smith never once uses approval or disapproval, but approbation and disapprobation appear on average about once every other page. (Smith & Wilson 2019, 43).

We learn how to live together in sympathetic harmony by internalizing the responses of others to our behavior. Patterns of responses to particular behaviors come to be recognized

²⁰ Ferguson’s footnote attributes the idea to the *Memoires* of De Retz.

as a set of social rules, “rule-governed systems that function beneath human sensible awareness to organize orbits of people around each other,” enforced through communication of approbation and disapprobation (Smith & Wilson 2019, 41). Shared disapproval of a particular activity in broader society can bring about social change. With sympathetic exchange we can “model social reform as an exchange in which the beliefs of spectators motivate the choice of reform” (Levy & Peart 2008, 1). For an informal social group, the repertoire embodies the beliefs agreed upon by consensus among the participants. The system of social rules functions as a *tacit social contract* (Polanyi 1966).

The repertoire of each informal social group will be unique and may include both prohibitions and mandates. The scope of the repertoire in terms of the requirements and restrictions imposed on individuals will be sensitive to individuals’ expected benefits from participating in terms of sympathy, access to market exchanges, and political influence. Participants in an informal social group may share some but not necessarily all positive ends.

Repertoire

The repertoire of the informal social group functions as a medium of sympathetic exchange. We don’t know what rules will emerge within the informal social group until the individuals who come to participate in the informal social group are already engaged in sympathetic exchange. In relating to others, individuals are not sure what they want from others until actually engaged in conversation, similar to the way that a consumer does not know what she wants until she is offered it. James M. Buchanan (1969 [1999]) explains that we shop because we do not know what we want or what prices alternatives are offered

for. Similarly, we go out and meet other people not knowing what sort of sympathetic relations they might offer. The currency of sympathetic exchange can overcome obstacles that would otherwise foreclose upon market and political exchanges. Through personal exchanges of sympathy we learn what potential elements of a repertoire are judged fair or foul by other participants. Once a repertoire has emerged the marginal individual faces a decision to participate with the informal social group or to defect.

In a market we observe the emergence of *money* as a medium of exchange. In informal contexts *language* emerges as a medium of *sympathetic* exchange (Levy & Peart 2004).²¹ We indicate our sympathies by *the way we talk*. “[I]ndeed our language is rather short of words that cannot be used in such a way as to hint of approval or disapproval” (Stigler 1980, 146). Exchange of sympathy involves shared language; and also shared practices, symbols and images, styles of clothing, taste in music, tattoos, and many other “badges of party” as Whately (1822, VI & VIII) called them. A currency needs to be easily identifiable, and difficult to counterfeit. Hence a repertoire is likely to be peculiar. Weiner (1954, 21) noted that “the more probable the message, the less information it gives.” Together we can bundle the *media* of sentimental exchange into the concept: *repertoire*.

An informal social group is like a market for goods and services involving individual producers and consumers in *arm’s-length* (not otherwise integrated) exchanges. In the informal social group individuals are reconciled to one another through the voluntary and autonomous exchange of sympathy. As I explain in the introduction to this dissertation,

²¹ Levy and Peart (2013, 377) summarize their 2004 article by saying “[L]anguage may carry rewards paid in the coin of approbation.” See also the various work from Bart Wilson and Vernon Smith.

exchange is a mechanism toward *reconciliation*. An informal social group does not have an identifiable decision-maker with the authority to direct and monitor the behavior of participants, nor to engage in direct exchange on behalf of the group. Mutual approbation develops as individuals develop a repertoire with one another. So long as the performances of the repertoire are approved of by one another, and the transaction costs of the exchange of sympathy are low, individuals will continue the relationship.

The repertoire is able to coordinate, without formal institutional direction or monitoring, sympathetic exchanges with individuals beyond those we know directly. “[L]anguage lies at the foundation of Smith’s account of a society in which the scarcity of time prevents us from being friends with more than a small number of people” (Levy & Peart 2013, 374). We can’t really know very many people; but we can share sympathy with someone who is otherwise a stranger to the intensity that her performance of the shared repertoire signals agreement with essential rules.

Is it appropriate to treat sympathetic relations as *exchange*, particularly since Adam Smith only uses the term “exchange” twice in the *Theory of Moral Sentiments*, his treatise on sympathy? Consider the first instance (TMS II.ii.3):

Society may subsist among different men, as among different merchants, from a sense of its utility, without any mutual love or affection; and though no man in it should owe any obligation, or be bound in gratitude to any other, it may still be upheld by a mercenary exchange of good offices according to an agreed valuation.

Exchange apart from sympathy is “mercenary,” *reclusive*, yet sufficient to attract individuals into the market. Smith here qualifies exchange to indicate its misuse. As in instances where the statesman or legislator are treated with dignity apart from qualification

(Winch 1983), we can read Smith here approving of exchange, even in the absence of sympathy, but even more so when sympathy is included. To be worthy of sympathy is valued as an end itself: “Man naturally desires not only to be loved, but to be lovely” (TMS III.ii.1).

Our understanding of what it means to be honorable or lovely is shaped by the responses of those we look to for approbation. This implies that morality is culturally contingent. But it also implies that if we look to the members of a vicious faction for approbation we may receive praise for actions (and language) that fail to stay within virtuous boundaries. I’ll say more about factions below.

In the second case, Smith explains how accidental social distance even among family members impedes affection, and each will tend to relate to the other more impersonally, via exchange. But only “essential good offices,” are exchanged and opportunities for “delicious sympathy” are lost (TMS VI.ii.1).

They may continue to live with one another in the mutual exchange of all essential good offices, and with every other external appearance of decent regard. But that cordial satisfaction, that delicious sympathy, that confidential openness and ease, which naturally take place in the conversation of those who have lived long and familiarly with one another, it seldom happens that they can completely enjoy.

The relation between exchange and sympathy is not directly evident in TMS, but neither is it violated.

For more direct evidence from Smith regarding sympathy and exchange we look to LJ and WN. The capacity to exchange in the marketplace is considered peculiarly human, as compared to animals (WN I.ii.2:26), based upon human capacity to *persuade* others to

do what we want in service of their own self-love (LJA vi.56: 352), through language. And language is how we demonstrate sympathy (Levy & Peart, 2013, en 4).

We exchange in our talk, we give approbation and gain a measure of legitimacy from others by conversing. If Angela (*The Office*, 2005, e. 10) considers Pam's claims to equal standing in respect to authority over making decisions for party planning committee *legitimate*, she will demonstrate her approbation for Pam's participation to Pam and Phyllis in the way she communicates. We learn our approved-of roles and responsibilities by attending to the repertoire. We learn to trust the merchant through repeated transactions, but only if we and the merchant take the time to recognize each other, and acknowledge that recognition. We trust our friends because they understand our inside jokes.

Whole disciplines are little more than talk. Philosophy may be little more than a conversation. Amelie Rorty (1983, 562) says:

‘We’ philosophers are not distinguished from ‘Them’ lunatics solely by the books we write, nor by our ingenuity in defending them, but by our ability to engage in continuous conversation, testing one another, discovering our hidden presuppositions, changing our minds because we have listened to the voices of our fellows.²²

Conversation is an exchange of ideas by which philosophers *and street porters* learn from one another and so can also instruct us, but the exchange of approbation is essential to the sustenance of that conversation.

The ability to exchange sympathy with a stranger through recognition of a shared repertoire can facilitate market and political exchange; “the ability to exchange approbation

²² I was directed to this essay by McCloskey (2018b, 3).

enhances the rationality of co-operation” (Levy 2006, 729).²³ A transaction with high levels of uncertainty, where information might be held asymmetrically, but each party does not know what the other party knows or whether that knowledge gives either party an advantage, might not be consummated. But the exchange of sympathy provides recourse to the tacit social contract that constrains persuasion into use of a repertoire that avoids deception.²⁴ Similarly, channeling agreements through a shared repertoire renders contracts more complete and easier to interpret. Collective action problems, likewise, are mitigated by participants in an informal social group to the extent that performance of a repertoire constrains free-riding and holdout problems.

In typical prisoners’-dilemma game-theoretic situations two parties are more likely to cooperate when they are able to communicate. Bart Wilson and Samuel Harris (2017, 384) have shown the importance of communication for coordination in experimental settings with multiple players. They conclude that the relevant puzzle is not “whether groups cooperate and by how much;” but “how do constituents persuade one another to cooperate—to work together for a common end that yields a common benefit—instead of only pursuing one’s own interest (*italics in original*).” They find:

The difference between groups that are able and unable to express a common end is that the fulcrum of persuasion, originally centered on establishing the common end, shifts to establishing a common identity that presumes similar useful experiences with the end.

²³ Levy operates with the use of language as a transmission mechanism for approbation. My use of repertoire instead does not contradict the idea of language, broadly understood.

²⁴ Knight was concerned about the deceptive use of persuasion. (Levy & Peart 2018, 48).

A group that dedicates sufficient resources to forming a shared identity, a tacit social contract, will more readily cooperate, through a common repertoire, to accomplish shared ends. The repertoire does not coordinate *divergent* ends the way money prices do in a market. Rather, a shared repertoire coordinates the actions of individuals with *shared* ends, as embodied in the repertoire.

The informal social group is not dependent upon market or political exchange except inasmuch as the individuals in it are. It might be possible that market and political exchange cannot emerge apart from the trust and coordination achieved through sympathetic exchange. So long as the meanings of the elements of a repertoire are agreed upon and understood, and the elements of the repertoire correspond to agreed-upon ends, use of the repertoire oils the machinery of exchange. But any disconnect between the use of a repertoire and the shared ends of the social group will generate party-spirit.

A repertoire can also embody rules that prohibit some exchanges. Disapprobation for the purchase of some goods or services will foreclose upon those exchanges. The reclusive agent will despair at the lost surpluses from the foreclosed upon exchange. The sympathetic agent who considers both pecuniary surpluses and approbation in his utility function faces a decision, whether to continue to participate in the informal social group or not. The greater the pecuniary surpluses the greater the opportunity cost for participating in the informal social group.

Emergence of party-spirit also can foreclose upon market exchanges that would otherwise obtain. Party-spirit constrains the set of market exchanges that will receive approbation from others in the group. Market exchanges that benefit individuals outside of

the group will be often met with disapprobation, particularly if the outsider's surpluses could have accrued to an insider instead.

The development of a repertoire can shape the goods and services that individuals seek out in the marketplace. We may observe, with Carlos, Sine, Lee, & Haveman (2018, 2), that “entrepreneurs often pursue economic and moral objectives simultaneously, because such markets become infused with the moral values of the supportive social movements.”²⁵ Fair trade coffee, Tom's shoes, and other examples abound. Purchase of goods that signal conscientiousness generate value for the consumer in terms of the subjective value of the good, but that is *subsidized* by the value of the approbation the consumer will earn from those she is engaged in sympathetic exchange with.

Sharing a repertoire requires performing alone or in concert with others some part of that repertoire for some other person or persons. When a repertoire is performed a member of the audience may indicate her approval or disapproval of the performance. Approval communicates that the spectator was able to “enter into” the sentiments of the performer. Disapproval indicates that the spectator was *not* able to enter into the sentiments of the performer.

To perform some part of a repertoire and to receive approval from an audience member consummates an *exchange* of sympathy. The spectator considered the performance *fair*. In the use of money prices and the use of a shared repertoire coordination obtains apart from the intentional design and direction of a central decision maker.

²⁵ The Sociological literature on social movements overlaps with what I am here describing, though with different terms. In this instance “the moral values of the supportive social movement” is synonymous with

If the audience member indicates disapproval of a performance the exchange of sympathy was not mutually beneficial. The spectator considered the performance *foul*. The disapproving spectator will avoid the performer's future communications, and sympathy is blocked. If all the participants in an informal social group agree that a performance is foul, then future performances of the same will be avoided, and individuals who do attend such performances may also be treated as foul. Disapproval can manifest as revulsion or disgust. As Haidt (2012, 121) investigates, "the emotion of disgust—which clearly originated as an emotion that keeps us away from dirty and contaminating things—can now be triggered by some moral violations." Disgust can lead to the disapproving individual's treatment of the performer as inferior, or even as less than human.

Sympathetic exchange makes each party to a voluntary exchange better off *ex ante* in each individual's own estimation. Performance of a repertoire can also generate externalities, positive and negative, in terms of sympathy. Through mutual approval we develop affections for others close to us in terms of social distance (Paganelli 2010). As I noted above, Smith claims that "[w]hat is called affection, is in reality nothing but habitual sympathy" (TMS VI.ii.7: 220). Affections within the in-group limit the sympathetic resources available for developing sympathy for others. We face *scarcity* in our exchange of sympathy, if only in terms of the amount of *time* we each have available for performing for and attending to one another. "[L]ife is scarce sufficient to gain the friendship of a few persons" (WN I.ii.2:26).

The most basic set of human relations, the family, functions and persists as an affectionate network of sympathetic exchanges (TMS VI.ii.5-7: 220); and larger groups

may also form about similar behavior patterns. We evidence our affections in our repertoires. Every affectionate relationship develops peculiar patterns of language, shared symbols and images, and unique practices. “Sweetheart” and “Darling” have pet names for each other. Fans at a Mighty Mighty BosToneS concert might dance a “skank” together.²⁶ Two strangers may see each other in a public setting, and one may say “War!” and the other may respond “Eagle!” because both are wearing Auburn University paraphernalia.

People belong to multiple and overlapping groups, each with peculiar repertoires. What is considered fair in one setting may be considered foul in another. Dancing a skank at an Auburn football game might meet with Darling’s disapproval.

Approbation may vary in intensity or degree. A closer social distance “renders that sympathy more habitual, and thereby more lively, more distinct, and more determinate” (TMS VI.ii.1.4). The more strict or closed the repertoire, the more affectionate, or strong and habitual the exchange of sympathy among participants of the informal social group, but the more costly the constraints of that repertoire to the autonomy-preferring individual. Or to put that another way, given that the individual’s autonomy will be more tightly constrained, the intensity of the sympathy felt must be greater also in order to attract the individual into the group. Murray Rothbard (1995 [2006], 119) points out that Whately (1832, 253) explains the subjective theory of value and production, “It is not that pearls fetch a high price *because* men have dived for them; but on the contrary, men dive for them because they fetch a high price.”²⁷ Consider Laurence Iannaccone’s (1992, 273) model of

²⁶ <https://www.youtube.com/watch?v=pFkrBPjMfQ0>

²⁷ This passage only enters the text in the second edition. A scholarly edition of *Introductory Lectures on Political Economy* does not yet exist.

sacrifice and stigma: “religious groups demanding sacrifices appear *more* successful than those that do not.” The sympathetic affections of a strict sect will be more intense, otherwise the strict sect will not survive. Often the rules of strict sects are not formally drafted, and remain informal, more dependent upon internal enforcement through disapprobation than formal censure. The more lax or open a group’s repertoire the less affectionate and intense will be any approbation offered to an individual’s proper performance of the repertoire.

Analysis of opportunity costs faced by an individual help to explain participation in a particular informal social group. Any participant or set of participants of an informal social group, as each individual is autonomous, may defect at any point in time. An informal social group will constantly fluctuate in numbers of participants if some members find participation unsatisfactory. The agents within an informal social group will maintain autonomy and not be monitored or disciplined by any authority.

Individuals may choose to *participate* in an informal social group, or to *defect* from the group based upon:

- (i) the individual’s subjective value of approbation from a particular group relative to the autonomy sacrificed by participating in the group,
- (ii) approbation available from other groups,
- (iii) the status or influence one’s voice may achieve within any particular group; a smaller group is easier to achieve status within, but ambition seeks status over a larger group;
- (iv) the influence that a given group may have over broader society, and

- (v) the opportunities to capture value on market or political margins by defecting to a formal group.

- i. Participation in an informal social group requires conformity to that group's repertoire. Demonstration of a credible commitment to the shared ends embodied in the repertoire will be rewarded by increased acceptance and status within the group. The individual will hesitate to participate in an informal social group if the ends of the group, as communicated through its repertoire, and as interpreted by the individual, seem to be in contradiction with her own subjective ends. Recall that a repertoire constitutes a tacit social contract that places constraints on individual behavior, extending approbation for proper performance of a repertoire, and disapprobation that forecloses upon the exchange of sympathy for performances that fall too far outside of an accepted repertoire. A person who places high value on individual expression and autonomy will find it too costly at some margin to conform.

- ii. In an open society multiple, various, and overlapping informal social groups will emerge. Often an individual may participate in multiple informal social groups, so long as the repertoires of those groups do not conflict. An individual may even secretly participate in multiple groups (free-ride) whose repertoires do conflict, but be careful to perform properly in each setting. If a particular informal social group has a closed repertoire, such that approbation is given to those who disapprove of other groups' repertoires, then insincerity of a participant will lead to rejection.

The young man who presents as chaste and holy on Sunday morning after carousing on Saturday night and gets caught may have to choose between groups or even face rejection by both. Individuals may encounter inconsistencies among the repertoires of the various groups they belong to, and may have to choose between fidelity to some set of groups that are not contradictory, and hypocrisy.

- iii. If the informal social group grows so large that an agent perceives her voice as not being heard, or if she is unable to achieve her desired level of status within the group, she may unilaterally defect. If a group is too small, the group may not have enough influence over broader society to compensate her for the limitations participation in the group places on her autonomy. The individual may participate more directly because she perceives participation to improve her social status among those within a close social distance to her.
- iv. An informal social group may tacitly influence broader society. Participation in a group may be attractive to an individual who wants to belong to a group that has greater influence. Belonging to an elite friend-group is attractive, though the group might be small, because the elites will tend to move in concert in relation to political institutions. If politics is vulnerable to graft, wealthy elites can have disproportionate influence over legislation and regulation. Belonging to a religious movement may be attractive, though the group might be large, because the religious will tend to move in concert when voting for political representatives or lobbying for legislation and regulation.

- v. Defection from an informal social group to a formal group (social, market, or political) may occur if an individual finds the expected marginal benefit from defection to be greater than the expected marginal costs of lost sympathy. Participation in a formal group will often, but not always, require compromise over the informal social group's repertoire. The benefit of defection may include the opportunity to participate in more direct political exchange, or to earn more in the market. The pension fund manager may face rejection from environmentalists if he includes oil companies in the pension's portfolio.

If too many participants of an informal social group defect, the repertoire of the informal social group may change, or the informal social group may fall apart. To the extent that an informal social group relies on specialization among its participants for performance of its repertoire, defection by participants will result in the inability to maintain that repertoire. An informal social group that maintains a relatively simple repertoire, such that every participant essentially plays the same roles, will be more robust to defection.

Like a Firm: Shared Ends and Tacit Constraints

An informal social group coheres about a shared repertoire that embodies a set of agreed-upon ends. A firm, likewise, is unified about an identified end: earning profits through production of a given good or service. All the specialized tasks performed by individuals within the firm will be directed toward achieving that shared end. The language, practices, symbols and imagery, and dress of a firm's employees will conform to those

dictated by the firm's management. So it is often said that a particular firm has a peculiar culture. The distinction between a firm and an informal social group is that the development of the repertoire is *egalitarian*, and conformity to the repertoire is disciplined through approbation and disapprobation by each of the participants reflexively with the other participants, and not through a hierarchical order of management.

Informal social groups overlap with formal organizations, so the repertoire of the informal social group may also apply within a formal organization.²⁸ Similarly, an informal social group may develop within a formal organization, such as “water cooler cliques.” The hierarchy of rules, however, will place priority on the formal organization's rules, and then those of informal groups internal and external.

Informal social groups face a collective action free-rider problem when organizing to participate in political exchanges. The participants of an informal social group may all agree that a particular political reform is consistent with the repertoire, but they have no way to persuade political decision makers to adopt the reform. The participants of an informal social group may perform its repertoire, but they are mostly doing so *just for one another!* There is no guarantee that anyone outside the group will pay any attention, and the informal social group cannot collectively persuade the outsider to attend. However, if some element of the movement, a “movement entrepreneur” can create a formal organization among some subset of the movement participants, then that entrepreneur provides a focal point for elites to bargain and compromise with.

²⁸ Throughout this essay it will be helpful to acknowledge that the presence of organization does not necessarily imply the presence of an *organizer*. Order, and organization, may emerge under favorable conditions. I reserve the use of the terms “formal” and “institution” to denote an organization that has been deliberately designed.

The free-rider problem, as with other transactions costs problems, can be overcome, like the funding of lighthouses (Coase 1974), by tying provision of the public good to the provision of some private good that is rivalrous and excludable. Mancur Olson described one way this can happen.

An informal social group fits into Mancur Olson's (1971, 47) description of groups formed for one purpose that then are captured to fulfil another goal.

In certain cases a group will already be organized for some other purpose, and then these costs of organization are already being met. In such a case the group's capacity to provide itself with a collective good will be explained in part by whatever it was that originally enabled it to organize and maintain itself.

Wagner's (1966, 163) review of Olson identifies that "[t]he dilemma [of large group organization] is overcome by realizing that the large pressure groups are actually the **by-product of organizations** that perform some other, non-lobbying function."²⁹ Among the plausible tie-in private goods that groups may produce for individuals are sympathy and approbation. These goods may also demonstrate network externalities (Hirshleifer, Glazer, and Hirshleifer 2005, 248-250), such that overcoming the constraints that Olson identifies for special interest groups may be easier for groups that cohere through affection.³⁰

²⁹ Boldface in original.

³⁰ A search of Olson (1971) for "sympathy" produces zero hits, and "affection" one, in reference to Max Weber, as noted herein. Few scholars were working with sympathy at the time. The role of culture and sympathetic groups is outside the scope of Olson's project. However, Olson does note the importance of language, which I demonstrate as an important factor of emergence for the informal social group. Olson says that among the costs of organization are "the costs of communication among group members, the costs of any bargaining among them, and the costs of creating, staffing, and maintaining any formal group organization" (47). Finally, Olson acknowledges that an individual may be motivated to contribute toward a group interest through social incentives such as "a desire to win prestige, respect, friendship, and other social and psychological objectives" (60). This leaves open the ability of approbation to motivate individual action on behalf of a group.

Olson approves of Wagner's review (Olson 1971, 165), in particular Wagner's argument that, "So long as members of the group vote, political leaders may propose measures in the group's interest in order to win its votes." Thus, an informal social group that correlates to a block of voters will have greater opportunity to exercise *implicit* pressure on political institutions without engaging in *explicit* political exchange often associated with special interest groups. As Olson continues to explain, *The Logic of Collective Action*:

does not go into the way a democratic political system can give some degree of representation to unorganized groups... Wagner is, of course, correct in emphasizing that even totally unorganized groups can have some impact on political decisions.

Olson claims that his theory does not perform well when applied to what Max Weber calls "communal group[s] [] centered on personal affection" (6).³¹ Yet Olson rejects any approach that relies on people having a "joiner instinct," that may neglect the individual's innate need for approbation. But informal social groups *do* exercise influence over political decisions, and informal social groups may spin-off formal institutions to then engage in political exchange.

Olson identifies a selection mechanism for large "*latent*" groups:

Only a separate and "selective" incentive will stimulate a rational individual in a latent group to act in a group-oriented way. In such circumstances group action can be obtained only through an incentive that operates, not indiscriminately, like the collective good, upon the group as a whole, but rather selectively toward the individuals in the group. The incentive must be "selective" so that those who do not join the organization working for the group's interest, or in other ways contribute to the attainment of the group's interest, can be treated differently from those who do. These "selective incentives" can be either negative or positive, in that they can

³¹ Referencing Weber (1947) p. 136-139.

either coerce by punishing those who fail to bear an allocated share of the costs of the group action, or they can be positive inducements offered to those who act in the group interest. A latent group that has been led to act in its group interest, either because of coercion of the individuals in the group or because of positive rewards to those individuals, will here be called a “mobilized” latent group. Large groups are thus called “latent” groups because they have a latent power or capacity for action, but that potential power can be realized or “mobilized” only with the aid of “selective incentives.

An informal social group delivers “selective incentives” in the form of social approbation and disapprobation. Though an informal social group may never fully mobilize to act like a special interest group, the latent capacity for action does hold implicit pressure and potential to generate spin-off special interest groups that *can* apply explicit pressure, analogous to Baumol’s (1982) contestable markets hypothesis regarding anticompetitive behavior of firms.

Olson suggests that the mass media might mobilize a latent large group through the production of *propaganda*, the intentional use of the tools of communication in a biased

manner to promote a particular end.³² Whately provides a check against the abuse of party-feeling such that it generates party-spirit, against the expropriation of a repertoire for the purposes of propaganda. Returning to Olson (1971, 63-64, fn. 18),

If the members of a latent group are somehow continuously bombarded with propaganda about the worthiness of the attempt to satisfy the common interest in question, they may perhaps in time develop social pressures not entirely unlike those that can be generated in a face-to-face group, and these social pressures may help the latent group to obtain the collective good.

Production of propaganda cannot be financed by an informal social group, as a unified entity; there is no central account that can distribute funds, and no individual authorized to make decisions on behalf of the group. Within an informal social group a formalized subset may produce propaganda that will expropriate the large group's repertoire. Pamphlets and tracts published by a formalized subset will employ the repertoire of the informal social group to attract participants into actions that align with the goals of the spin-off. To

³² "Propaganda" does not come into common use in English until the 20th century. Propaganda might be related to the negative sense of "persuasion" as Knight understood it. The problem has to do with imperfect information, and mechanisms for overcoming that deficiency with language. Randal Marlin (2002, 164-165), a philosopher who studies propaganda says:

However, like David Hume, Whately takes the view that reason alone does not provide the galvanizing force to get people to act. . . You need emotions to persuade people to do things. Granted orators do sometimes influence the will with improper appeals, but they can also misuse reason that way. Whately says it seems "commonly taken for granted that whenever the feelings are excited they are of course over-excited." But, he says, the reverse is at least as often the case. That is, people are often dispassionate and disinterested when they should be moved to action: "The more generous the feelings, such as Compassion, Gratitude, Devotion, nay, even rational and rightly-directed Self-Love, Hope, and Fear, are oftener defective than excessive; and that, even in the estimation of the parties themselves, if they are well-principled, judicious, reflective, and candid men." He is surely right in his claim that appeals to emotion are not necessarily wrong, and may well be justified in a majority of cases. Along the way, he provides useful insights into the question of how to influence the emotions.

In particular, Whately calls in Smith's approach to sympathy.

So again, if a man of sense wishes to allay in himself any emotion, that of resentment for instance, though it is not under the direct control of the Will, he deliberately sets himself to reflect on the softening circumstances; such as the provocations the other party may suppose himself to have received. . . he endeavours to imagine himself in the place of the offending party.

understand the consequences to the repertoire, to party-feeling, we discover that Whately (1822, xxvi) has again anticipated the problem:

the cant language *of a party*” in service to party-spirit, “which has a tendency not only to gender “strifes about words,” but also to deaden men’s attention to the *things* signified, and to lead to *erroneous theories* for explaining the doctrines in question.³³

Later, Wagner with David Hebert (2018) describe the role of political parties.

Wagner and Hebert investigate the role of parties as active participants in the political process. They suggest that parties develop symbols and language that are used in the competition over expressive voters. They identify the role of the political party in manipulating political images: “political parties can participate in the generation of images regarding whether or not some activity is a public good” (6). An institution formalizes language and practices out of an organic community such that it can then engage in political and market exchanges. Institutions are analogous to firms, islands of centrally managed and hierarchically ordered action among otherwise free individuals.

The repertoires generated within an informal social group may be appropriated by special interest groups and transformed into propaganda directly used in political exchange. Discussion, if bound by Whately’s rules for talking, will comport with an unbiased treatment of facts and issues. Propaganda, though Hebert and Wagner don’t use the term, referring instead to “images” and “ideology,” is useful to parties. Hebert and Wagner look to Pareto (1935) to suggest that, by introducing bias into the way facts and issues are discussed, by creating images, “ruling elites compete for power by offering ideological

³³ Italics in original.

formulations that comport to the underlying beliefs of at least a subset of voters” (7). The underlying beliefs of an informal social group are embedded in its repertoire. A party “might persuade voters to support measures they might have opposed if they were truly to think about them” (7) by manipulating the repertoire.

However, the development and creation of new symbols and ideas is an *emergent* process. Emergent processes exist within formal organizations, but are tightly constrained by the constitutions of those organizations. I propose that new symbols are more likely to be created within open social environments, as is the repertoire of an informal social group, and once developed, are coopted by parties and special interest groups as propaganda that functions expressively in political exchange.

Faction

The individual at first develops a reflective attitude toward his own actions by considering how other people respond to him. Others may demonstrate approval or disapproval. The individual will learn that some people’s reactions may be more related to peculiarities of their own at the moment and can be discounted, such that he learns to think of an impartial spectator. We “endeavor, as much as is possible, to view ourselves at the distance and with the eyes of other people” (TMSII.i.5). But then faction shortens the distance at which we set the impartial spectator. We learn to seek the approval of people closer to us and to discount the opinions of those who are set at a greater social distance. In society, we attend to habits of speech and action that indicate to us some measure of social distance, and we learn to perform, to seek the praise of, those who are closer in social distance to us. For these we begin to mistake means for ends, and seeking out praise rather

than praiseworthiness, perform for the faction rather than for all of society, for the impartial spectator.

A dialect, something as benign as an inside joke or a reference to a popular movie, economizes on time in communication, and closes social distance. “Because he always goes to starboard in the bottom half of the hour” (The Hunt for Red October 1990) communicates something peculiar to persons belonging to a specific culture. *Cant* holds a vicious faction together as it acts as a *shibboleth* against outsiders.³⁴ Slang and fashion fads allow an in-group to discriminate accepted individuals from outsiders. The same symbol or word means different things in different contexts. A certain hand signal might mean something different on the floor of the New York Stock Exchange than what it means in downtown Baltimore.

As Whately (1822, 27-28) says:

Men are loth to recognize the operation of the same principle in different cases, when its operation is in the one beneficial, and in the other mischievous; but as an observer will be compelled to admit, that the same inclination to combine with those who agree with them on any point, or have any thing in common with them, and to keep apart from, or oppose, all others, all others, together with a strong attachment to the party they belong to, has often led the same men, at one time to perform the most important services to the state, and, at another time, when uncontrolled by virtuous principle and sound discretion, to produce in that very state the most ruinous factions.

³⁴ “Shibboleth” derives from the Old Testament book of Judges, chapter 12. Two tribes in Israel fight and sympathy between them is blocked:

The Gileadites captured the fords of the Jordan leading to Ephraim, and whenever a survivor of Ephraim said, “Let me cross over,” the men of Gilead asked him, “Are you an Ephraimite?” If he replied, “No,” they said, “All right, say ‘Shibboleth.’” If he said, “Sibboleth,” because he could not pronounce the word correctly, they seized him and killed him at the fords of the Jordan.

Party-feeling and party-spirit are the same principle, virtuous and vicious, found in the *same men*, depending on whether appropriate principle and discretion are applied. Institutions and conventions, including the way we talk, are the factors that cause vicious behavior, not anything innate to the individual.

Informal social exchange may develop two structures: open or closed. An open society is often described as cosmopolitan, seeking the welfare of, and the approbation of, all people. A closed society also may be described as a faction, but vicious, closed to outsiders, seeking the social approbation, the welfare of, and the approbation of only a select group of individuals. The in-group treats its cant as secret and exclusive, not to be used by outsiders. As language is a mechanism for transmitting sympathy, a vicious faction then makes a claim to *having a property in its cant*. It is from this property that the vicious faction seeks to draw *rents*.

Relations may be arrayed as party-spirited to cosmopolitan. Cosmopolitan relations are open and considerate towards all members of society. In the limit, cosmopolitan exchanges impose no negative externalities on individuals not a party to the exchange. Sympathy extends equally to everyone, everywhere. The impartial spectator, and the members of the informal social group, offer approbation only for actions that are on net beneficial to some member of society, and at worst neutral toward others, Pareto optimal; and offer disapprobation toward actions that benefit some members of society, at the involuntary expense of others, whether the net be positive, negative, or neutral.

A party-spirited, relation demonstrates preference for, or privilege toward, individuals within the society whom are considered by the parties engaged to be at a closer

social distance to one another than other members of society. Party-spirited action may foreclose upon exchanges of sympathy with outsiders in order to increase the exchange of sympathy among insiders. On net the total exchange of sympathy may decrease or increase, but for at least some, the opportunities for sympathetic exchange will be reduced.

Some foreclosures of exchange may be deemed appropriate by the members of society. Family relations are typically at a closer social distance than, and foreclose upon similarly familiar relations with, outsiders. Strict cosmopolitanism may have been a stoic ideal, but the individuals within society may establish rules that permit free association, or the establishment of affectionate informal groups, those that share party-feeling, but do not fall into party-spirit.

A virtuous faction separates performance of some portion of a repertoire from the arm's-length relations in the broader informal social group, specializes in the performance of that part of a repertoire, and in so doing increases the intensity of sympathy shared generally, without foreclosing on the reception of approbation by anyone. The virtuous faction remains virtuous by maintaining sympathies for those outside of the faction, by remaining fluent in the language of the informal social group, and by introducing others to the repertoire so as to welcome them in. Richard Whately exemplified virtue by consistently advocating for people on the margins of society including Jews, Irish, chattel

slaves, and the poor.³⁵

When a tacit social contract is adopted by a liberal process sympathy is extended to others generously, in contrast to an ethic that prioritizes sympathy within one's group, through party-spirit, and blocks sympathy for those outside of one's group, generating a faction.

When people who specialize in a particular industry talk about work, the language falls into a cant, or shop-talk, that is useful as shorthand for more complex ideas. Specialized language is not in itself deleterious, and can often increase the opportunities for fruitful conversations. The same is true for groups with similar preferences. Peculiar language shifts toward faction when it shuts some conversations off, or shuts some people out. This is most easily evidenced by explicit shunning of individuals and by prohibitions on discussions of some topics. Such conversation moves toward private talk as compared to public, toward the expressive over the instrumental, and toward the secret rather than the transparent.

Specialized language groups need not be factious. And a faction need not be formally organized. And a formally organized group need not be factious.

³⁵ Carol Poster (2006, 40) outlines Whately's engagement in Parliamentary matters:

Of course, for Whately, any issue involving morality had a religious dimension, and thus there were actually a large number of issues upon which he felt it his duty to speak and act, including poor law reform, national education (which he supported), transportation of convicts (which he opposed), slavery (which he opposed), Catholic Emancipation (which he supported), Jewish Emancipation (which he supported), freedom of speech (which he supported), and full rights, in civic and university life, for Dissenters (which he supported), as well as such specifically ecclesiastical issues such as revival of convocation (which he supported), tithe reform (which he supported), the Maynooth grant (which he supported), liturgical reform, prayer meetings (which he opposed), and Sabbatarian legislation.

I benefitted greatly from a phone conversation with Dr. Poster on Feb. 21, 2019, over the life and works of Richard Whately.

Richard Whately warned against the development of vicious faction, generated by unchecked influence of party-spirit. Use of peculiar language is analogous to a price control, typically used as a mechanism to block some people out of the market (Leonard 2016), in this case for approbation.

Use of secret language is analogous to confidential business information. To whom shall a firm make its information transparent? If to just a few other firms, they may collude. If only to a government agency, then that agency may capture rents. If it exercises full transparency it ceases to exist, and the good or service that it produces may cease to exist with it. Coordinated actions require communication. Collusive arrangements require communication that is limited to a certain set of participants. Factional behavior relies on repertoires that are hard to imitate.

“Affection gives motivational power to a system but it also presents a great danger” (Levy & Peart 2012, 3). We may care about receiving approbation from a faction we belong to more than we care about being praiseworthy to an impartial spectator. That is, we may develop affections within a closed group that serve to block sympathy, or to economize on sympathy, toward others. Such affections conflict with Stoic cosmopolitanism,

Whatever concerns himself, ought to affect him no more than whatever concerns any other equally important part of this immense system. We should view ourselves, not in the light in which our own selfish passions are apt to place us, but in the light in which any other citizen of the world would view us. (TMS III.iii.11)

So, a peculiar repertoire can close the social distance within a faction. “Factions indulge the misbehavior of those inside the group. For Smith, the faction presents the greatest danger to civil order because it violates all moral constraints toward those outside the

group” (Levy & Peart 2010, 337). “The animosity of hostile factions, whether civil or ecclesiastical, is often still more furious than that of hostile nations; and their conduct towards one another is often still more atrocious” (TMS III.3.43).

In particular, religious teachers (especially within an enfranchised religion) are prone to faction. Among the consequences of such factious behavior are teachings that:

regard frivolous observances[,] as more immediate duties of religion[,] than acts of justice and beneficence” and “that by sacrifices, ceremonies, and vain supplications, they [members of the faction] can bargain with the Deity for fraud, and perfidy, and violence (TMS III.5.13).

However, such teachings need not be limited to enfranchised sects. Similar frivolous signaling occurs among otherwise rival sects that share a peculiar repertoire. In either case, habitual sympathy—the affection evidenced by a peculiar repertoire—constitutes a faction that has institutional attributes analogous to a self-organizing market.

If a group’s repertoire becomes too exclusive the group turns into a vicious faction that stops benefitting outsiders. Vicious factions intervene into the exchange of approbation, foreclose upon some of those exchanges, and capture rents for the faction. The result is “affection for systems of thought but not for the people described by these systems” (Levy & Peart 2013, 374). We can neglect appropriate behavior toward our neighbor by attending to our affection for a repertoire, and so, even in informal contexts, become as a “man of system,” placing strict adherence to the repertoire (a means) so as to capture the praise of others within a faction, above the opportunities available for sympathetic exchange with others (the proper ends). Whately’s rules of talk as described in chapter one of this dissertation, *On Deliberative Democracy*, help us prevent entering into party-spirit. We then can meet Smith’s requirements as pointed out by Levy and Peart

(2013, 373) to “live according to nature (TMS VII.ii.16: 273) and to bring about happiness for all (TMS VII.ii.1.21: 277).”

Self-preservation of the group becomes more important than shared group ends when the group is threatened. The attention of the group shifts toward the repertoire that holds it together. The means of cohesion, that emerged to cohere the group as it worked to accomplish mutually combatable ends, usurp those ends and the group repertoire becomes expressive rather than instrumental. The group repertoire becomes closed, defensive of its members and unwelcoming to newcomers, rather than open. The group then keeps secrets from outsiders, fearful of how information might be used against it. The exchange of sympathy is closed off, and soon political exchange is foreclosed upon. In the limit the boycott comes into play and market exchanges obtain less often. To exchange fairly with people outside of the faction receives the disapprobation of the rest of the faction, just as the master who pays his workers well is shunned by his fellows.

Masters are always and everywhere in a sort of tacit, but constant and uniform combination, not to raise the wages of labour above their actual rate. To violate this combination is everywhere a most unpopular action, and a sort of reproach to a master among his neighbours and equals. We seldom, indeed, hear of this combination, because it is the usual, and one may say, the natural state of things, which nobody ever hears of. (WN I.vii.13)

However, informal social groups need not develop into factions. If an informal social group guards the way that it talks, if it places proper constraints on its repertoire, the group can function like a profit (not rent)-seeking firm, generating increased opportunities for social exchange. The constraints necessary are outlined by Whately in *On Party-Feeling*, as discussed in chapter one of this dissertation.

Formalization and Legitimacy

An informal social group can spin-off formal institutions analogous to firms in a market. An individual decides whether to participate in a particular informal social group or to defect from an informal social group based on incentives related to her own subjectively determined ends.³⁶ Similarly, the authorized decision-maker for a social firm will decide whether to maintain fidelity to the repertoire, or to defect. A spin-off from an informal social group may formalize into either politics or the market to internalize social externalities.

Political economy describes something analogous to the difference between formal and informal social groups when it contrasts an arm's-length market transaction from coordination within a firm. Decisions for a firm are made by an entrepreneur. A firm may increase opportunities for market exchange, as evidenced by profits (Mises 1951 [2008]). A firm may alternatively seek to capture rents by foreclosing upon market exchanges (Tullock 1967).

A formal association; through an agent, analogous to an entrepreneur, who makes decisions on behalf of the group, is able to engage in direct market and political exchange. A formal group can facilitate greater exchange of sentiment, analogous to a profit-earning firm; or a formal group may foreclose upon sentimental exchanges, analogous to a rent-seeking firm.³⁷ Middlemen, in this case those who develop formal organizations within or

³⁶ I discuss Vining's characterization of the individual's *oikonomic* problem in Chapter 1 of this dissertation, *On Deliberative Democracy*.

³⁷ A profit-seeking firm that realizes losses also reduces exchange opportunities, but cannot persist in doing so in the face of competition. A rent-seeking firm can provide mutual legitimacy to its protector in government, establishing a "transitional gains trap" (Tullock 1975).

at the periphery of an informal social group discover an opportunity to capture profits; or to capture rents by delivering portions of the informal social group to the formal institution.³⁸

In mainline economics (Boettke 2012) the distinction between the market and the firm was not well defined until Coase's (1937) seminal work. From within an informal social group, the development of formal organizations can be described by Coase's framework.³⁹ A social entrepreneur may attempt to steer participants of an informal social association into a formal organization, analogous to the formation of a firm, with residuals accruing to the entrepreneur. A "social firm" may increase the exchange of shared sympathy, party-feeling, within its social sphere, in which case the entrepreneur will receive residuals of approbation from members of the shared social sphere. However, a "social firm" may encourage party-spirit, leading to vicious faction; and may foreclose upon sympathetic exchange with those outside the faction. The repertoire is compromised when it is used to capture rents. A factional social firm captures *social rents*. The decision to formalize to capture rents is made by an entrepreneur who considers the benefit of access to direct political exchange as worth the cost of lost sympathy with the other informal social group participants. "Selling out to the mainstream" generates harsh disapprobation from those who remain true to the broader cause.

³⁸ See Wallis, North, and Weingast (2009) to explain the formalization and rent capture of development.

³⁹ See also Alchian & Demsetz (1972), and Williamson (1975).

To test whether formalization of sentimental exchange is cosmopolitan or factional, the observer can assess the repertoire of the organization against Richard Whately's rules for talking, as described in Chapter 1, *On Deliberative Democracy*.

A social firm may transform into a special interest group, if it engages in direct political exchange. Mancur Olson demonstrates that smaller interest groups experience greater success at organizing to advance shared interests than larger groups (Olson 1965, Congleton 2015). This insight is particularly true when the shared interests require the group to engage in political exchange.

The development of an informal social group is analogous to the emergence of a new market within which entrepreneurs may develop firm-like formal associations. An entrepreneur has an idea about how to introduce a new product, service, or production process into the broader market. That new idea may create an entire new market, a new nexus of production and consumption. The Coasian puzzle as to when an entrepreneur will decide to internalize a productive process finds an analogy in the point at which the repertoire of an informal social group is internalized by a social entrepreneur.

Firms face a constant tension between seeking profits and seeking rents (Munger & Villarreal-Diaz 2019), between actions that benefit all of society, from which they capture a portion of the surplus, and actions that benefit themselves, at the expense of the some other portion of society. Formal associations face similar tensions.

Ronald Coase initiated a research agenda that seeks to identify what factors relate to coordination through egalitarian relations as compared to coordination through hierarchical relations. An entrepreneur may be lead to internalize direct control over some

set of productive resources if he expects to capture personal gains. Whether those gains are categorized as profits or rents has to do with the attitude of the entrepreneur toward the other participants in the market, taken over the long run. In most cases we can connect an increase in the quantity of exchanges that obtain to a profit-seeking entrepreneur, and a decrease in the quantity of exchanges that obtain to a rent-seeking entrepreneur.⁴⁰

Informal social relations exhibit an evolving repertoire; language and practices commonly change. Formal relations exhibit a more static repertoire; language and practices change only slowly and sometimes through a pre-established approval process. There are tradeoffs and opportunities involved in formalizing a repertoire.

Formal social groups face a tension similar to that experienced by individuals who decide whether to remain within an informal social group or to defect from the group.

Formal social groups are able to engage in market and political exchange. When formal associations engage in political exchanges there is a mutual exchange of *legitimacy* between the parties. A formal government agency cannot exchange directly with an informal social group, and cannot anticipate direct mutual gains from acknowledging the informal social group's presence. The informal social group likewise cannot promise any support of or benefit to political agents.

To engage in political exchanges collectively some participants of an informal social group will have to construct a formal organization and choose a process for making group decisions and then select an agent to represent the group in negotiations with outside

⁴⁰ Social welfare economists will identify price discrimination as a net welfare improvement over single-price monopolies.

entities. Once some portion formalizes sufficient to engage in political exchange with the legitimate institution, the formal group ceases to be averse to that institution, and becomes complicit with that institution's claims to legitimacy. At that point the formal portion of the group becomes essentially a special interest group.

Typically formalization will require some compromise with respect to the repertoire. If an informal social group is highly specialized among its participants in performance of the repertoire, any performance that does not involve all the members will be missing some elements. The agreement required to form a social group will typically be different in purpose and process from the tacit agreement that emerges from the ongoing conversation among participants in an informal social group, and consequently the resulting communication of the formal group will be different in kind and content.

The formal organization of a special interest is analogous to the post-feudal relationship among unincorporated village-dwellers and the later development of incorporated towns. "Burghers," in Adam Smith's (1776) terms, contributed to the development of commercial society by providing islands of security from feudal powers. Weingast (2017, 24) outlines Smith's model of economic development through towns as a somewhat neglected pillar of Smith's larger explanation for the causes of the wealth of nations. Towns, in Weingast's reading of Smith's model, engage in political exchange with the monarch to gain independence from Lords. The town provides the crown with leverage against the nobility in this exchange.

Weingast does not dwell upon the genesis of the town. He identifies, in Smith, that the burgers: "were at first slaves or villains who belonged to a certain lord or master to

whom they paid a sum of money for the liberty of trading. They lived in small towns or villages for the convenience of trading, but in but very small numbers” (LJ(A) iv.142-43:255). Before the incorporation of towns a burgher purchased, from his lord or master, permission to engage in arm’s-length exchanges in a market. Not addressed by Weingast is the observation that organization among burghers could be coordinated *informally* through market and social relations. Burghers also might be capable of “entering into a league of mutual defence with their neighbours” (WN III.iii.8:401-02) through *informal* mechanisms.

To achieve economies of scale greater security became necessary. Formal organization among the burgers provided the opportunity to engage in political exchange. The development of a new form of political exchange, involving new participants in that space, altered the constitution and led to a new distribution of political influence, with towns gaining a “non-incremental increase in control of their own destiny” (Weingast 2017, 9). The result helped England to escape “the violence trap” (Wallis, North, Weingast 2009) and led to an increase in commerce and liberty, eventually eroding the influence of lords and ending the feudal order. However, with formalization came the development of guilds, apprenticeships, and other attempts to seek rents through protections from competition. There are no solutions, only tradeoffs (Sowell 1987). Formal organizations introduce hierarchy that permits the decision maker to capture rents.

An informal social group may fail if participants defect into other informal or formal, existing or new, groups; if the repertoire depreciates unexpectedly; or if vicious faction causes it to implode.

When some portion of a repertoire is repurposed by factional or formal spin-offs the repertoire loses some of its distinctiveness, New elements to a repertoire can emerge, but lost participants may not return, and the new groups present as rivals for participants. Similarly, with fewer participants, unclear boundaries to the repertoire, and rivals in the form of formal groups, the constraints on government action weaken.

Whately (1822, 27) describes a world that regresses to a stable equilibrium:

[I]t is the very nature of this feeling, when not duly controlled, to produce not only bitter animosity between opposite parties, but also internal divisions in each;—not only to inflame them one against another, but also to subdivide and multiply them; and thus to destroy its own works, by separating into hostile factions the very persons whom it had originally drawn together.

The repertoire that allows for party-spirit will consume itself, experiencing factions, and factions of those factions, until no surviving part is attractive to participants, or socially influential to justify taking notice of. The vicious factions will die off, and any part of the informal social group that avoided falling into faction will be all that remains.

However, as I show below, if a formal vicious faction can capture rents and protection from government, like a protected monopoly, and establish a transitional gains trap it may be able to survive as long as the status quo remains in place. Approaches to abolishing transitional gains traps require compensation transfers that violate individual incentives, or exogenous shocks that overwhelm the distribution of benefits to interested parties.

Interactions

Some sociologists describe the interaction between informal social groups and formalized subgroups or spin-offs in terms of “social movements.” For example, Diani and

Bison (2004, 284) provide a description of the *origins* of social movements in informal social groups:

Social movement processes are identified as the building and reproducing of dense informal networks between a multiplicity of actors, sharing a collective identity, and engaged in social and/or political conflict. They are contrasted to coalitional processes, where alliances to achieve specific goals are not backed by significant identity links, and organizational processes, where collective action takes place mostly in reference to specific organizations rather than broader, looser networks.

Diani and Bison perceive a social movement to hold together in the social framework of “sustained exchanges of resources in pursuit of common goals” (283). However, I have argued that groups can hold together through sympathetic exchange, not necessarily exchange of “resources.” It is possible to differentiate an informal social group from a formalized social movement organization because a formal entity will include an authorized decision maker who facilitates political exchange.

A formal social movement organization is a formal group that mobilizes for political change. Sociologists have developed a rich literature on social movements.

An individual desires higher status among participants of a group and may compete for that status. An informal social group may demonstrate behavior analogous to electoral cycling as advocates for different elements of a repertoire compete. An entrepreneur may seek to appropriate, internalize, portions of a repertoire, generating a formal group that is able to engage in political exchange with other formal organizations, and transforming elements of the repertoire into propaganda.

Though an informal social group cannot directly produce propaganda, cannot directly exchange with other authorized agents, and cannot directly advocate for shifts in

policy, it may present a much more challenging threat to the legitimacy of incumbent elites. James C. Scott (2012) describes the manifestation of informally coordinated action in *Three Cheers for Anarchism*. Informal social groups lack central formal organization. Inclusion into or exclusion from the participation in activities performed in concert, as observed, must be explained as an outcome of other forces, rather than as a directed dictate. There is also no particular target that government can repress to end the activity.

An informal social group's repertoire presents an alternative to the dominant political conversation, and a challenge to the existing formal political institutions. The informal social group, not encompassing the entirety of a society, is not recognized as legitimate by government because it does not present an authorized decision maker who can credibly engage in political exchange. The informal group symmetrically cannot authorize the legitimacy of an existing government.

Consider "political legitimacy as the common knowledge probability that each member of a society holds that others will obey the authority" (Greif & Rubin 2015, 4). The participants of an informal social group may treat the approbation of their peers as a more imminent and possibly a higher authority than that of a ruler. The repertoire of the informal social group shapes the sort of government that participants consider legitimate.

If a ruler has a weak hold on power, or if he must remain sensitive to democratic processes, he may choose to act in conformity with the repertoire. As I describe in chapter one of this dissertation, *On Deliberative Democracy*, the way we talk shapes the rules we adopt for our society. A liberal conversation increases the probability that a liberal order will emerge.

[T]he type of ideology that legitimates a democratically elected leader would not work to legitimate a tribal leader, while a tribal ideology that legitimates the leader would be useless in a democracy. (Iyigun & Rubin 2017, 29)

What Iyigun & Rubin (2017, 28) call “ideology” can be considered in some sense synonymous with what I treat as repertoire, though I endogenize it. They claim that:

[I]f the role of ideology is to help individuals make generalizations about the complex environment within which they operate, it is easy to imagine the ruler having an optimal ideology [] which lends it political legitimacy and justifies its rule.

An informal social group that develops a repertoire that conflicts with a government’s laws may manifest as anarchic, and not merely rival. A repertoire may require actions prohibited by a government, or prohibit actions required by a government. Each individual will act with subversion toward the government independently, without centralized direction. A sustained uncompromising informal social group challenges the structure and legitimacy of the government to the extent that it refuses to formalize and engage in political exchange. An informal social group may pose a greater threat to incumbents than an organized protest with a formal organization behind it, such as a “Social Movement Organization,” because there is no direct exchange of legitimacy with an informal social group. Instead, the informal social group imposes constraints on government. The tension between the mandates and constraints of the repertoire, and the mandates and constraints of the formally enforced laws, must enter into the calculus of the government’s decision-makers.

For example, if an informal social group can count as participants a large enough number of people, and if the informal social group can be observed to surround the median

voter, then the government may have an incentive to avoid policies that could mobilize the informal social group into activities that generate additional costs for government actions.

An informal social group may not present an agreed-upon set of policies that can be deliberated over. The shared ends may simply be ends of negation. Consider the Occupy Movement in 2009. The group formalized to an extent, but only so much as to say that they would not speak with one voice. Such a group has as its complaint the status quo and the formal rules that uphold incumbent elites. If a movement of this sort succeeds the status quo is upset and a variety of changes that are not Pareto-improving occur, though a great many transitional gains traps (Tullock 1975) may be destroyed.

Conclusion

The informal social group as considered provides a framework for understanding and explaining decentralized movements that influence culture, markets, and politics. One such group is evangelicals. Christian Smith (2000, 7) says of that movement:

A most common error that observers of evangelicals make is to presume that evangelical leaders speak as representatives of ordinary evangelicals. In fact, evangelical leaders do not simply give voice to the thoughts and feelings of the millions of ordinary evangelicals. Nor do ordinary evangelicals simply follow whatever their leaders say—assuming that they even listen to them much. The relationship between evangelical elites and common believers is much more complex than that. Here, of course, is a fallacy nested within a larger fallacy—the presumption of a single evangelical elite who speak in accord. In fact, evangelical leaders can be found spread across the political map and ideological map. Theologically conservative Christians are at odds with each other in the public square...

We know that despite not having an agent authorized to exchange with politicians an informal social group like the American evangelicals such a group can have an influence over politicians. Ronald Reagan, at a speech in Dallas while campaigning in 1984 spoke

to evangelicals and said, “I know you can’t endorse me. . . But I want you to know that I endorse you” (Diamond 1998, 68).

III: RICHARD WHATELY, POLITICAL ECONOMIST EXEMPLAR

Richard Whately correctly defines the scope of study for the political economist; he teaches us how social contracts, explicit and tacit, are a function of the way people talk and exchange sympathies in catallactic relations; and he *exemplifies* the proper involvement of the political economist in public policy discussions. The role of the political economist in advising public policy was *later* clarified by Rutledge Vining (1956) and honed by James Buchanan (1964). The political economist describes to the participants in a deliberative setting what the relevant opportunity costs are to alternative sets of rules.

A deliberative setting is an exploratory process, akin to “shopping” in a market. The item that will be purchased is not necessarily known when one sets foot into the shop. The decision made by the group might not have been among the known set of options at the initiation of the conversation. By talking together new ideas are spawned, expanding the set of options. However, if the conversation turns foul some plausibly fair ideas are unnecessarily foreclosed upon, or some foul ideas are advanced without merit.

The rules of engagement for the political economist then require the same rules as everyone else, to avoid foul talk. The political economist participates in public conversations by specializing in his comparative advantage, revealing the relevant opportunity costs, including what Frederic Bastiat (1850) identified as the “unseen” unintended consequences.

We have seen that Vining and Buchanan operate in the same economic universe as Richard Whately, applying a catallactic approach to describing human behavior in social

settings. Whately, reflexively, is operating in Vining and Buchanan's universe. When Whately gets involved in the constitutional conversation he brings his specialization and presents policy options to the participants for their deliberation, making sure to account for opportunity costs that might not be seen by the participants without specialized training. Whately inserts a proposal into the deliberation over the abolition of slavery.

Richard Whately was involved behind the scenes in all sorts of things. As a well-respected (by some) man of influence, he was able to work toward reconciliation over difficult circumstances. For example, he found a middle way forward for the Church of England in the Gorham controversy of 1850.⁴¹ But earlier, he became a conduit for proposals that might otherwise not have been heard.

Whately's involvement with anti-slavery was not as an activist but it was just as important. Some of Whately's words on anti-slavery have been brought forward by David Levy and Sandra Peart (2008) to explain the development of the compensation principle in British Political Economy. They identify in the proposal an argument for applying a self-assessed tax that greatly anticipates Eric Posner and Glen Weyl's argument (2018). The rest of the story demonstrates how Whately as a political economist followed Vining and Buchanan's rules for engagement in policy discussions.

It is known that Whately sent a letter to the anti-slavery society in 1833, outlining a plan for compensated emancipation, with some unusual technical moves. Levy and Peart

⁴¹ In 1849 Evangelical Anglican vicar George Cornelius Gorham was nominated for advancement to a Vicarage at Bramford Speke but was denied that advancement by Bishop Phillpotts for his opinions on infant baptism. Gorham appealed the Bishop's decision repeatedly until the case advanced to the Privy Council, a secular rather than ecclesiastic court. Whately wrote *Infant Baptism Considered* (1850), not endorsing Gorham's position, nor taking Phillpott's side, but providing an analysis that cleared away biased arguments.

(2008) find in Jane's collection a letter to the Anti-Slavery Society, dated Feb. 28, 1833. (J. Whately 1866, 183-184). The back story to this letter is only partially recalled. Levy and Peart close the section by commenting that: "The obvious question, to which we have no answer, is whether Whately's views on the matter had an impact on the discussion in Wilberforce's circle" (48).

Stepping back we can find that Jane reported elsewhere on this proposal, though that material did not make it to the popular press at the time. Whately, not yet appointed Archbishop of Dublin, and with no expectation of such an appointment, was being discrete. Whately writes to Nassau Senior on October 24, 1830, while the Drummond Professor of Political Economy at Oxford (J. Whately 1866, 84):

Alban Hall: October 24, 1830.

My dear Senior, Do you think it possible for any friend of a friend of a friend, &c., of yours to obtain for the plan on the other side, or anything like it, the notice of the Premier, or any influential member of Administration? You will guess the author. It seems to me and to him, after much thought, the only thing to be done. Mr. Grey approved it.

The author fears it would excite alarm among all parties to publish the proposal in a pamphlet, and that, if possible, it should be suggested privately.

Have you got Sir E. Brydges' pamphlet on Parliamentary Committees? Dr. Chalmers, and in fact every one to whom I have suggested it, approves of my splitting the Houses of Parliament.

Dr. C. has given me some very good hints on political economy; he seems rather inclined to Malthus' notion about excess of capital; in all other points, I think, he thinks quite with you.

I crammed Mr. Grey with all the knowledge of Oxford I could, and sent him away, I think, pretty well satisfied.

Whately, it seems, is hoping to share with the Tories in Parliament a proposal crafted by Samuel Hinds that provides an unbiased proposal to be introduced into the deliberative stalemate on abolition of slavery. We suppose "the other side" means the Toires because

Whately was associated with many Whigs, but he was not ever described as a party-man, as we might expect from his argument in (1822) *The Use and Abuse of Party-Feeling in Matters of Religion*).

Senior is of course Whately's former pupil, predecessor in the Drummond Chair, and close friend. Samuel Hinds "you will guess the author" is revealed elsewhere (J. Whately 1866, 157). Hinds is likewise a former pupil, assistant principal under Whately at St. Albans, Whately's chaplain, and future Bishop of Norwich.⁴²

"Mr. Grey" is maybe Charles Grey, Second Earl Grey.⁴³ Hinds, apparently, thinks it best to share his ideas informally rather than to publish them, which would excite *party-spirit* among those engaged in the debate. Recall that among Whately's proverbs regarding *how to talk* is that when addressing an adversary, never to say anything that might push them further into the security of their party. Brydges' pamphlet remains a mystery, though the subject matter seems of obvious interest to the constitutional political economist. The contention between Thomas Robert Malthus and Senior regarding capital we leave for another time, but note that Whately is working toward reconciliation in that disagreement as well.

The below proposal (J. Whately 1866, 84-86, it is implied, was attached to the above letter to Senior. The proposal was devised by Hinds, and this version may have been amended some by Whately:

Proposal for the gradual Abolition of Slavery. October 24, 1830.

On the difficulties and the importance of the question relating to the slave-colonies it is needless to insist: but it assumes a peculiarly important

⁴² Oxford Dictionary of National Biography, Hinds, Samuel: <https://doi.org/10.1093/ref:odnb/13349>

⁴³ Yes, the tea is named after him.

character at present, from the circumstance that petitions are in course of signature, almost throughout the kingdom, praying for an immediate and complete abolition of slavery. If any measure approaching to this were adopted, it must involve both negroes and whites in the most frightful misery. On the other hand, if no steps, or no effectual steps, are taken to meet the wishes of the petitioners (who, though not in all points well informed, are unquestionably prompted by humane motives), great and general dissatisfaction must be expected *to arise*. A plan, of which the following is a very brief sketch, has been suggested by an *experienced* person, who is ready, should it be deemed worth attention, to develop it in detail:—

1st. To commute a part (say half) the duties now levied *on colonial produce* for an equivalent tax on slaves.

2nd. In order to make the direct taxation just and acceptable, to give these colonies a small number of representatives in Parliament as was proposed by Adam Smith in the case of the American colonies. [Wealth of Nations, book v. ch. 3]

3rd. To levy the tax on slaves *ad valorem*; the *master to fix* the value of each slave; he being bound to sell the slave at the price fixed by himself, either to Government, or to the *slave himself*, if able and willing to purchase his freedom. It would thus become the *interest* of the master to prepare his slaves for freedom, and to emancipate them gradually in proportion as they become trained to the condition of free labourers.

And the measure so often proposed, of allowing a slave the option of redeeming himself, would be cleared of its only (and that a heavy) objection; the owner would have to fix the price himself.

A *loss* of some portion of revenue, after a certain interval, must be calculated on; but it would not be an absolute loss, since it would go to relieve a most distressed and to reconcile a most dissatisfied body of men the planters. And ultimately, when the situation of the colonies allowed it, a land-tax, or some other source of revenue, might be resorted to, without any ground of complaint from the parties represented in Parliament.

The originator of the above proposal is ready to point out many other collateral advantages, to meet any objections that may be raised, and to prove both the pressing necessity for adopting *some* decisive measure, and the impossibility of *devising any other* that would in any degree meet the difficulties of the case.

This plan is devised as a middle path.

On the one hand, immediate emancipation held risks of rebellion and concerns about the ability of former slaves to adapt to liberty overnight. On the other hand, rebellion

at home could never be completely discounted. The general election of 1830 had come upon the heels of the death of King George IV and the ascendance of King William IV, and was a landslide win for anti-slavery allies. Hinds is experienced in that he is originally from a land and slave-owning family in Barbados.

The proposal first attempts to be revenue and tax-burden neutral. If half or so of the duties levied on colonial produce were commuted to a tax on slaves we should expect the net price of colonial goods sold at home to remain relatively constant, and the burden to remain constant. If the price of a pound of sugar is P , and the total duty on this is d , then cutting the duty by $d/2$ and raising the tax by $d/2$ to the slave owner leaves the total price of sugar constant. Also, the total revenue accruing to the slave owner will have increased by $d/2$ due to the lower duty, but decreased by $d/2$ due to the tax. However, the incentive structure will have changed, and that shall make all the difference.

Second, the colonists are to be afforded seats in Parliament. Adam Smith (WN V.3.68: 933) is a worthy authority for support of such a policy.

By extending the British system of taxation to all the different provinces of the empire inhabited by people of either British or European extraction, a much greater augmentation of revenue might be expected. This, however, could scarce, perhaps, be done, consistently with the principles of the British constitution, without admitting into the British Parliament, or if you will into the states general of the British empire, a fair and equal representation of all those different provinces, that of each province bearing the same proportion to the produce of its taxes as the representation of Great Britain might bear to the produce of the taxes levied upon Great Britain.

Recall however that Whately (1833, 66-67) understands taxation through the catallactic lens as well. I repeat the first half of the quote as given in the first chapter of this dissertation, and this time include by Whately's proof.

Many are apt to think Taxes quite a different kind of expense from all others, and either do not know, or else forget, that they receive any thing in exchange for the Taxes. But, in reality, this payment is as much an exchange as any other. You pay money to the baker and butcher for feeding you, and to the tailor for clothing you, and you pay the King and Parliament for protecting you from plundered, murdered, or cheated. Were it not for this, you could be employed scarcely half your time in providing food and clothing, and the other half would be taken up in guarding against being robbed of them; or in working for some other man, whom you would hire to keep watch and to fight for you. This would cost you much more than you pay in taxes; and yet you may see, by the example of savage nations, how very imperfect that protection would be.

This exchange is devised to be a positive sum game for all interested parties, reconciling them to one another.

The third point is well treated by Levy and Peart (2008, 46-47) who report a later, and published version of the same proposal. The emphasis is somewhat different on this third point. In this version the slave learns what price must be paid for his own emancipation. In the published proposal the slave is also offered a *loan* from his previous owner to purchase his own independence, acquiring that liberty sooner, and without the expense to British tax payers. Whately then is in favor of a compensation scheme, and particularly one that includes corrections for bias, such that the slave owner has no incentive to overstate his claim to compensation.

Earl Grey is made Prime Minister on November 22, 1830. It is unknown as to whether Senior was able to get the proposal to anyone directly involved in the discussion. Historian Edith F. Hurwitz (1973, 52) reports on the goings-on in Parliament, and there is no signal that Grey had taken a position on anti-slavery as of June, 1831:

On 27 June 1831, the undersecretary of state for the colonies, Viscount Howick, announced in Parliament that ministers would offer no new proposals for freeing the slaves in the colonies. His father, Prime Minister

Earl Grey, was indifferent personally to the entire matter. Howick had denounced slavery in the House of Commons. When Thomas F. Buxton praised his attitude, Grey remarked that his son was too zealous in his beliefs.

Buxton was the leader of the abolitionist cause in Parliament, succeeding William Wilberforce.

Whately is appointed Archbishop of Dublin by Earl Grey on September 14, 1831. (J. Whately 1866, 97)). Maybe Whately had a hand in shifting the discussion, at least as far as Grey was concerned. Whately enters into the discussion, so to speak, and shares the proposal with Lord Grey, the Prime Minister. It should be noted that Grey was responsible for nominating Whately to the King for the Archbishopric of Dublin.

A long letter of May 19, 1832, in which Whately addresses a number of other issues, including support for the Relief Bill, begins with an appeal for increasing the number of seats in the house of Peers in Parliament (156-159):

[F]or the purpose of restoring the House itself to the confidence of the country, by an infusion into it of some popular elements—by strengthening it in the public favor, through the addition of a considerable number of men who are regarded as sympathizing with the nation. . .

Regarding the anti-slavery issue, he writes:

In case of your lordship's reinstatement in office, which everyone here now fully anticipates, I take the liberty of submitting the enclosed paper, relative to a point of the highest importance, as far as I can judge. The writer, Dr. Hinds, my chaplain, submitted it first to the Chancellor, but I know not whether his lordship's avocations allowed him to pay attention to it. And, at all events, the state of things is now different from what it was when the paper was drawn up, about a year ago; and, as it seems to me, far more favourable to the accomplishment of the object. If matters take such a turn as I fully anticipate, the Ministry would have no need to apprehend defeat or difficulty in bringing in such a Bill as suggested. In fact, they will be able just at this crisis to do almost what they will. And what a glory, and an appropriate glory, would it be for the same party who formerly succeeded

in making the slave-trade illegal, now to adopt a measure which will effect what I am satisfied other could sap the foundation of slavery, and finally extinguish it, not by ruining but by relieving the distressed planters, and not by leaving the negroes in the state of barbarism, as at Hayti, from which they may not recover for ages, but by preparing them to endure and to enjoy liberty! Generations yet unborn would, I am sure, bless the memory of the men who should solve this great problem, which the most mature deliberation has convinced me can be solved in this way, and in no other.

If your lordship thinks fit to communicate on the subject with my friend Senior, he is fully master of the plan, and agrees with me in thinking it dictated by consummate wisdom. He and I are much connected with West Indians, and familiar with their affairs. The writer is a native of Barbadoes, and a man of clearer judgment or more free from every bias of prejudice I never knew.

The additional members which it is proposed to add would, I think, be rather an advantage than not to the House.

They would have, like others, their prejudices and party feelings, but quite distinct from those of the rest. They could not be suspected as adding to the weight of the democatrical or of the aristocratical interest. In many questions which call forth much self-interested prejudice, they, though perhaps equally prejudiced in their own way, would be impartial judges. Contemplating the matter in all its bearings, it does seem to me that an opportunity now offers itself which may never recur, of saving a large portion of the (half) civilized world from sinking, after scenes of unspeakable misery, into a state of perhaps permanent barbarism.

Accept my apologies for thus intruding on your lordship's valuable time, and believe me, &c.

Whately supposes that Grey will be reinstated as Prime Minister in the new Parliament.

Whately seems to think that Grey might have been given the proposal, but that Grey may not have read it, or have thought it best to not address it previously. But perhaps Earl Grey was the Grey who approved it in our first letter, and this is merely a gentle nudge of a reminder to help the Prime Minister through the debate. However, after the election it is clear that abolition will be the primary issue to face Parliament, and Whately is concerned that it be handled well. In particular Whately is concerned for reconciliation, for relief to the planters and those with an interest in slavery, and just as much for the former slaves.

Whately offers the proposal, and makes sure to give credit where it is due. The weight of Hinds' experience is reiterated so as to express that this proposal is unbiased. Finally, the proposal to add more members to the House is praised. More voices are better in the constitutional conversation. Whately is well familiar with Smith's version of the "impartial judge."

It should be of interest that in addition to these quiet activities, 1833 was also the year that Whately first took his turn in Parliament. And there he was usually quiet, except when standing up for others. He advocated for Irish education on March 19, 1833. And on August 1, 1833 he advocated for Jewish emancipation. But he went further, seeking emancipation of the Church of England, separating it from State control, something he anonymously had proposed as early as 1826 in *Letters on the Church by an Episcopalian*. His concern was not that the church should lose its place in government, but he thought that that outsiders such as Jews, Catholics, and Dissenters should not have a say over Church of England matters. Of course, this comes up again in the Gorham matter. Whately then does not speak to the legitimacy of the Privy Council, and primarily provides an unbiased estimate for how the matter can be resolved, given the institutional realities of the situation.

We have come then to the letter treated in Levy and Peart (2008). A letter to the Anti-Slavery Society is sent Feb. 28, 1833 (J. Whately 1866, 183-186). It is not clear whether Whately had assumed his position in the House of Lords yet, though given his speech on March 19, it is quite likely, or imminent.

Gentlemen,—I think myself bound to acknowledge the address which has been forwarded to me, as I have paid much attention to the

question relating to West Indian affairs, and have happened to enjoy greater advantages towards acquiring a knowledge of them than most persons who have never visited the Colonies.

I perfectly concur with you in thinking the existence of Slavery in our empire a national sin, and that justice demands, therefore, that we should all be ready to bear our fair proportion of the evils consequent upon it.

Though this, however, is the case *really*, the persons most closely connected with the sinful act will often *appear* the chief or the sole perpetrators. One who has planned, for instance, and authorised a murder, will often fancy himself innocent, compared with him whose hands were actually imbrued with blood. And it is gratifying at once to our humanity and love of justice on the one hand, and to our selfishness on the other, to shift the blame and the punishment of a crime on to one's neighbour.

Thus the ancient Romans, when they did not like to observe a treaty, salved their conscience by delivering into the enemy's hands, to be dealt with at pleasure, the ambassador who had concluded it.

For this reason I would prefer urging the misery likely to be inflicted on the negroes themselves by a rash emancipation, rather than the loss unjustly inflicted on the planters, who are less likely to meet with sympathy.

Most of those who swell the cry for immediate emancipation are ignorant of the chief evil of slavery—viz., its making and keeping the slave unfit for freedom, by completely separating in his mind the two ideas habitually associated in the minds of free labourers, properly so called (not parish paupers), of labour and maintenance.

The greatest of ancient moralists lays it down, that a man is *naturally* a slave as long, and *only* as long, as he is unfit for freedom—i.e., incapable of taking care of himself, and requiring to be guided like a child. Unhappily for the *application* of this excellent principle, the person who alone is well qualified both to *know* when a slave is fit for freedom, and to train him to that fitness, is the very person who is interested in keeping him a slave.

If any way can be devised which can make it the *master's* interest to free his slaves, that, it appears to me, and that alone, will solve the difficulty. And the only way I can conceive in which this can be effected is, to take off a portion of the duties on colonial produce, to be replaced by an equivalent tax on slaves; the tax to be *ad valorem*, the price of each slave to be fixed by the *master*, and each slave to be redeemable at the price fixed. Thus the slaves best *qualified* to become independent labourers for wages, being the most costly, would be those the master would, for his own interest, be the most anxious to set free; and it is probable he would be ready himself to *lend* such a slave the price of his freedom, allowing him to *work out* the debt at a stipulated rate of wages. Such an intermediate state between slavery and freedom would, I think, prove the best preparatory to an independence advantageous to both parties.

Many inconveniences in detail must be encountered in this mode, or any mode of getting rid of so enormous and inveterate an evil; but I never heard of, nor can imagine any other, which would not both bring much greater inconveniences, and also afford little hope of ultimate success.

Of course, in proportion as this plan succeeded, the revenue from the West India Islands would for the present diminish. This I would reckon as one of its advantages, as relief would thus be afforded to a class peculiarly in need of it. And if the English people grudged a trifling and temporary defalcation of revenue for the accomplishment of such an object as the gradual extinction of slavery, in the only way in which it can be effected without cruelty to the negroes themselves, it is plain their clamour in the cause of humanity must be the grossest hypocrisy. If objections should be raised to direct taxation without representation, I should, in agreement with Adam Smith, strenuously support so equitable a measure as the representation of the Colonies, which might, I am convinced, be so arranged as to produce the greatest benefit to both parties.

If the idea which I have hinted at (which was suggested to me by an experienced and intelligent West Indian) should be thought worthy of further attention, I shall be happy to communicate with any member of the Committee on the subject.

The details of this letter are not much changed from the original proposal passed from Hinds to Senior and then to whom-we-do-not-know. However, it will be helpful to know that among the abolitionists a difference of opinion had emerged, some understanding that a gradual or compensated emancipation would be necessary, and others crying out for immediate and uncompensated emancipation. Therefore, Whately's appeal is directed to buttress the party that is pursuing a compromise, to those who are listening, with a proposal that may help them in the negotiation of a final agreement.

The argument over compensation develops late in the anti-slavery program. Thomas Foxwell Buxton was the final broker for Emancipation. Wilberforce had retired from Parliament years before, and had hand-selected Buxton as his replacement. Wilberforce writes to Buxton, May 24, 1821, wanting to start the efforts toward emancipation, and explains that he had been looking "for some Member of Parliament,

who, if I were to retire or be laid by, would be an eligible leader in this holy enterprise. I have for some time been viewing you in this connection.” (Buxton 1848, 117-119). By then there was appreciation that a compensated solution would be necessary.

In 1823 Wilberforce starts the Anti-Slavery Society, with Buxton as a vice president. This society’s full name was: “the Society for the Mitigation and Gradual Abolition of Slavery throughout the British Dominions” and was involved in looking for a compromise to accomplish abolition. Alex Tyrrell (1988) explains.

The policy of the older London leaders was always of this sort. Even when the Tories fell from power and the new Whig Government, influenced by a massive groundswell of abolitionist fervour in the provinces, offered the prospect of abolishing slavery by legislation, Buxton held resolutely to the ways of compromise by accepting not only the principle of compensation for the slave-owners but the Apprenticeship system which was designed to hold most of the emancipated slaves in a condition of modified servitude until 1840. Throughout the 1830s, Buxton and his friends were always very reluctant to tamper with these arrangements. They thought that an agitation to repeal the Apprenticeship was certain to fail, and, in any case, they preferred to look forward to 1840, when, once freedom had finally and fully come, they might need the help of the British Government and the interventionist mechanisms in the 1833 Emancipation Act to protect the interests of the black population. Simply to set the apprentices free and leave them at the mercy of the planter-dominated colonial legislative assemblies would be to convert the boon of emancipation into a mess of pottage.

This approach was not received with approbation from all. In particular, Elizabeth Heyrick’s (1824) pamphlet *Immediate Not Gradual Abolition* disagreed with any compensation to slave owners. Tyrrell describes the immediatist attitude:

Immediatism had a moral, rather than a strictly temporal meaning, and the abolitionists themselves were concerned even more with making the British truly a Christian people than with improving the lot of the slaves.

Nicholas Draper (2007, 78) describes the broader setting:

The idea of payment of compensation to slave-owners in exchange for the freedom of their slaves had divided the anti-slavery movement in the 1820s and early 1830s. The legitimacy of the notion of ‘property in men’ was challenged as a matter of principle, in a period when other forms of property established in the eighteenth century, such as public office or patronage of rotten boroughs, were also increasingly contested. But there was also acquiescence in the practical consequence of Canning’s Resolutions of 1823, which had set out the demand for Emancipation ‘with a fair and equitable consideration of the interests of private property’. The owners – and many others – took this last phrase to be a commitment to compensation. Substantial disagreement took place within the political nation as to the mode and the amount of compensation, however, and those tensions are visible beneath the fragile consensus between abolitionists and slave-owners around amelioration in the mid 1820s. The emergence of ‘immediatism’ among the abolitionists and the formation of the Whig government in 1830 triggered a more intense though still intermittent and protracted negotiation between the state and the slave-owners over the form of Emancipation and the nature of compensation. It culminated in the Slavery Abolition Act of 28 August 1833 (or, to give its full and revealing title, ‘An Act for the abolition of slavery throughout the British colonies, for promoting the industry of the manumitted slaves, and for compensating the persons hitherto entitled to the services of such slaves’). The Act provided for the award of twenty million pounds (plus interest from 1 August 1834) to the owners of ‘slave property’ in the British colonies other than Ceylon and St Helena, and the imposition of a period of forced labour known as ‘apprenticeship’ which bound the enslaved to unpaid labour for a further four to six years from 1 August 1834.

In 1825 Wilberforce retired from Parliament, and Buxton took the lead. Buxton’s memoirs include a proposal for gradual emancipation as early as 1824. Wilberforce died three days after the Abolition Act passed. Buxton records that some of Wilberforce’s last words were, “Thank God that I should have lived to witness a day in which England is willing to give twenty million sterlings for the abolition of slavery.” (Buxton 1848, 335).

Buxton remained involved in trying to end the slave-trade by foreign entities through the rest of his life, and wrote *The African Slave Trade and Its Remedy* on how to abolish the trade. Buxton sought agricultural development along the Niger river in Africa.

He thought economic development of Africa would “produce a larger source of revenue than that derived from the trade in man.” He sought to reduce supply by increasing a substitute. “Africa can never be delivered, till we have called forth the rich productiveness of her soil.” Buxton (1839 [40]), 338, 279.

Whately may have had an impact on the British debates over compensated emancipation. The United States also faced a debate over slavery and its abolition. As the Civil War drew nigh American immediatism, southern interests, and other factors reduced the probability of a peaceful resolution. Betty Fladeland (1976, 169) explains,

[T]he abolitionists who organized the American Anti-Slavery Society refused to compromise in their demands for immediate emancipation through confiscation of slave property without any compensation to the slaveholders.

Not only the dogmatism of the immediatists was to blame. Though various compensation proposals had been put forth, including one by Mormon leader Joseph Smith during his 1844 campaign for the Presidency. Fladeland (182) suggests:

Federal financing of either colonization or compensated emancipation was effectively killed by the end of 1832; effectively killed, one should note, by proslavery opposition before the advent of the American Anti-Slavery Society with its militant stance against both.

Perhaps any proposal for a compensated emancipation would be dead on arrival.

Nevertheless, Richard Whately offers his proposal again, seeking to explain the relevant opportunity costs among the alternative courses of action. Whately was not completely unfamiliar to American readers. Some had used his textbooks in Rhetoric and Logic. More might have been familiar with his children’s literature, such as *Easy Lessons*

on *Money Matters for the Use of Young People*. Harriet Beecher Stowe knew of Whately, and had met him when she visited England in April of 1853 (Stowe 1911, 171-174).

A review of *Uncle Tom's Cabin* (1852) by Whately had circulated before her visit, in which he praised the book, comparing it with *Robinson Crusoe* as one of few books not revolving around two lovers. The *Liberator* (Garrison 1853) republished bits of the review, including "The power of the book lies in its truth, directed to the consciences of men, and accordingly we find that the consciences of men are dealing with it as truth."

Whately and Stowe corresponded again.

Finally, Stowe published an article in the January 1863 issue of *The Atlantic*, "The affectionate and Christian Address of many thousands of Women of Great Britain and Ireland to their Sisters, the Women of the United States of America," seeking sympathy for the North's cause. Whately's is among the notable responses to this appeal, and is published broadly (Whately 1863, 108). He does his best to lay out what he understands the sentiments of the British to be with respect to American affairs. He fairly presents the arguments he perceives, without commentary.

Some few sympathize with the Northerners, and some with the Southerners; but the far greater portion sympathize with neither completely, but lament that each party should be making so much greater an expenditure of life and property than can be compensated for by any advantage they can dream of obtaining.

Whately describes other arguments either for the North or for the South, and then culminates with the proposal he has been advancing all along.

I have now laid before you the views which I conceive to be most prevalent among us, and for which I am not myself responsible. For the safe and effectual emancipation of slaves I myself consider there is no plan so good as the gradual one, which was long ago suggested by Bishop Hinds. What

he recommended was an *ad valorem* tax upon slaves, the value to be fixed by the owner, with an option to Government to purchase at that price. Thus the slaves would be a burden to the master, and those the most so who should be the most intelligent and steady, and therefore the best qualified for freedom; and it would be his interest to train his slaves to be free laborers, and to emancipate them, one by one, as speedily as he could with safety. I fear, however, that the time is gone for trying this experiment in America.

Perhaps Whately has gotten better at summarizing the proposal that makes the most sense to him, but his position has not changed. In presenting his case, however, Whately has performed as a political economist who would capture the approbation of Vining and Buchanan. The regret is over the lack of reconciliation. The arguments of others are treated on their merits.

The classical economists did their very best work when dealing with practical issues, matters of reform. They sought out changes in the constitution that might generate Pareto improvements and submitted them to the community to discuss and come to a consensus. Whately is the great Buchananite economist. He forwards an idea that generates massive improvements to large portions of the population, but makes sure to compensate appropriately the losing parties, and provides an incentive for those individuals to give fair information about the compensation that is acceptable to them. The self-assessed tax.

Eric Posner and E. Glen Weyl (2018, 30-79) also propose a self-assessed tax in *Radical Markets* citing Demosthenes, Henry George, Harbenger, and Vickery. Alas, not Whately. Demosthenes' system of taxation let individuals choose to either pay a wealth tax or, if challenged, be ready to swap properties. The principle of exchange applied by Posner and Weyl relates to the term *antidosis* (55), a proof of equals, and is an antagonistic action, meant to discipline violations of duty to the group. Whately's preference for exchange,

catallactics, implies a reconciliation, more than equality: mutual gain. Posner and Weyl are wary of holdout problems, or of anticompetitive (monopoly) problems. They see common ownership self-assessed tax as a solution in some cases (61).

A self-assessed tax is most likely to have the greatest impact when the stakes are very high, and where individuals on the losing side of a reform are heavily capitalized into the status quo. That is, the self-assessed tax can help overcome transitional gains traps. In the example of slavery, the slave owner is fully capitalized into ownership of the slave. The self-assessed tax works to the extent that it does because it changes the incentives of the slave owner. The plan at the time of implementation leaves each party, the British consumer of sugar, the slave, the owner, and the government, in precisely the same position.

However, ownership of slaves, as compared to other inputs into production, has become relatively more expensive. We should expect to see the slave owner substitute out of slave ownership and into other inputs, or to shift into another industry. The slave, on the other hand, finds his own worth to have increased simultaneous to his owner's treatment of the slave as bearing a higher opportunity cost. The consumer of sugar will certainly face higher prices in the long run, as the planter substitutes into inputs that had previously been more expensive than slave labor. The government will most likely see revenues decrease in the long run as it has reduced revenue from duties due to less sugar being consumed, and as slaves receive emancipation there will be less revenue from slave owners. However, in the long run the dead weight losses generated by taxation will also be reduced, as will the waste of resources being charged a duty. Finally, the former slave is free to use his time

as he best sees fit, as compared to using that time doing what most satisfies someone else. Almost certainly the former slave will work less, and capture more directly more of the surplus from the work that he does choose to do.

In the long run, the self-assessed tax completely drives out the good or service being taxed. Whately describes each of these outcomes without the machinery of price theory to assist. This analysis, not readily available to someone outside the specialized field, is offered to the community for its deliberation. It should be of little surprise that this specific policy did not obtain. Not everyone affected by the policy change had an equal voice in the conversation the way Whately had imaginatively included them.

Compensation did obtain of course. The Guardian (Manjapra 2018) reported that the £15 million borrowed out of the total £20 million paid out was only paid back as of 2015. Today, researchers with the Legacies of British Slave-ownership project at the University College of London are involved in digitizing records of individuals that received compensation after the passage of the Act of Abolition (1833). Among those who received compensation are multiple MPs and members of the clergy. A search for Whately, as we should be confident by now, produced no results.⁴⁴

⁴⁴ <https://www.ucl.ac.uk/lbs/search/>

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