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ADAM SMITH AND THE GREAT MIND FALLACY*

By James R. Otteson

I. Introduction: Herding Cats and Gathering Knowledge

One of the more famous passages in Adam Smith's writings is his discussion of the "man of system" in *The Theory of Moral Sentiments,* first published in 1759. Smith there criticizes the legislator who believes he can arrange human beings "with as much ease as the hand arranges the different pieces upon a chess-board" (*TMS,* VI.ii.2.17).[1] The "man of system," according to Smith, understands that "the pieces upon the chess-board have no other principle of motion besides that which the hand impresses upon them; but [fails to realize] that, in the great chess-board of human society, every single piece has a principle of motion of its own, altogether different from that which the legislature might chuse to impress upon it" (*TMS,* VI.ii.2.18). We might call this the Herding Cats Problem of state action: because human beings have their own ideas about what to do, a legislator wishing for them to conform to his comprehensive plan, however beautiful and attractive in itself, is bound to be frustrated. Human beings upset patterns, as Robert Nozick said,[2] and they do so in numerous and unpredictable ways. Hence, the legislator is faced with either giving up on his beautiful plan or attempting to impose it by force.

The Herding Cats Problem constitutes an argument about the relative difficulty of certain kinds of state action and centralized organization, but it does not, by itself, demonstrate that we should not make an attempt. Perhaps, despite the difficulty, cats still need to be herded, either for the overall good or for their own good. But what if it is not simply difficult to herd cats, but impossible? The economist Friedrich Hayek argued that

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[1] In referring to Adam Smith's writings, I use the now standard abbreviations to the Glasgow Edition of Smith's works: *TMS* for *The Theory of Moral Sentiments* (1759), ed. D. D. Raphael and A. L. Macfie (Oxford: Oxford University Press, 1977); *WN* for *The Wealth of Nations* (1776), ed. R. H. Campbell and A. S. Skinner (Oxford: Oxford University Press, 1976); *EPS* for *Essays on Philosophical Subjects,* ed. W. P. D. Wightman and J. C. Bryce (Oxford: Oxford University Press, 1960); *LJ* for *Lectures on Jurisprudence,* ed. R. L. Meek, D. D. Raphael, and P. G. Stein (Oxford: Oxford University Press, 1982); and *LRBL* for *Lectures on Rhetoric and Belle Lettres,* ed. J. C. Bryce (Oxford: Oxford University Press, 1983).

[2] Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 160–64.

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information about individuals, about their local situations, and about their personal goals, circumstances, opportunities, and values is dispersed in discrete packages in billions of brains. For the legislator to devise a plan for society encouraging behavior that would lead to beneficial consequences, he would have to possess this information. But because that is impossible, Hayek argued, the legislator's plan, whatever it is, will be unable to exploit individuals' unique reservoirs of information, and thus the plan will be underinformed and overly simplistic.[3] If we combine this, which we may call the Gathering Information Problem (GIP), with the Herding Cats Problem (HCP), we have a formidable obstacle to overcome if we wish to be effective social planners. This is a practical obstacle—quite irrespective of our position on natural rights, on the proper purview or purpose of the state, and so on—so it would confront adherents of a wide array of political positions. But is it really impossible to overcome? And again, regardless of its relative difficulty, is it an obstacle we ought morally to try to overcome?

In this essay, I address these questions by drawing out of Adam Smith's writings what I call the Great Mind Fallacy (GMF), which I believe encompasses both the HCP and the GIP. The (alleged) fallacy is the endorsement of political and economic principles that require, to fulfill their promise, some person with the ability to overcome the HCP and the GIP. If, however, as I shall suggest Smith argues, these obstacles cannot be overcome, then there can be no such Great Mind—and, thus, arguments assuming its existence must be either revised or rejected. I think Smith would discover an assumption of a Great Mind in much historical and contemporary political thought, so the scope of the problem is larger than one might initially suspect. Hence, after laying out Smith's conception of the Great Mind Fallacy, I give several examples of contemporary thinkers whose positions, it would seem, commit it. I then assess two ways to address the problems posed by the GMF, and I close the essay by suggesting how Smith's argument addresses the specific issues of ownership and property.

II. Political Economy in Smith

Friedrich Hayek argued that no third party can possess the relevant information to make good decisions about how you or I should husband or expend our resources, or about which of the opportunities available to us we should avail ourselves of.[4] What is the allegedly missing information? Hayek claims that others cannot know which goals and aspirations we have and what their relative rankings to us are; they cannot know

[3] See Friedrich A. Hayek, "The Use of Knowledge in Society" (1945), reprinted in his *Individualism and Economic Order* (Chicago: University of Chicago Press, 1980), 77–91; and Friedrich A. Hayek, *The Constitution of Liberty* (Chicago: University of Chicago Press, 1960), chaps. 1 and 2.

[4] See Hayek, "The Use of Knowledge in Society."

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exactly what our resources are and what their relative scarcities are; they cannot know what opportunities are available to us in our particular local circumstances; and they cannot know what our schedule of values is, including what the relative rankings of our priorities are. It is not a question of simply asking people or having them fill out questionnaires. Often individuals themselves do not possess, at least consciously, this information about themselves, and it emerges only as they encounter situations eliciting behavior based on their beliefs, values, and so on. Thus, if individuals are not in complete, conscious possession of this information about themselves, third parties must be in possession of even less complete information.

Hayek is now perhaps the standard-bearer for this position, but he builds on arguments Adam Smith made some two hundred years earlier. Smith's position is based on three central arguments. First is his *Local Knowledge Argument:* given that everyone has unique knowledge of his own "local" situation, including his goals, his desires, and the opportunities available to him, each individual is therefore the person best positioned to make decisions about what courses of action he should take to achieve his goals. Here is the argument in Smith's *Wealth of Nations:* "What is the species of domestick industry which his capital can employ, and of which the produce is likely to be of the greatest value, every individual, it is evident, can, in his local situation, judge much better than any statesman or lawgiver can do for him" (*WN,* IV.ii.10).[5] That does not mean that people are infallible in judging their own situations; rather, it means that because of their unique local knowledge, individuals have a better chance of knowing how best to use their resources and what courses of actions to take to achieve their goals than do third parties.

Second is Smith's *Economizer Argument,* which holds that because each of us continuously seeks to better his own condition (however each understands that), each of us seeks out efficient uses of his resources and labor, given his peculiar and unique circumstances, to maximize their productive output and the return on his investment. Here is this second argument in Smith's words:

> The uniform, constant, and uninterrupted effort of every man to better his condition, the principle from which publick and national, as well as private opulence is originally derived, is frequently powerful enough to maintain the natural progress of things toward improvement, in spite both of the extravagance of government, and of the greatest errors of administration. (*WN,* II.iii.31)[6]

[5] Other statements of the Local Knowledge Argument can be found throughout *The Wealth of Nations.* See, for example, *WN,* I.i.8, IV.v.b.16, IV.v.b.25, and IV.ix.51.

[6] Smith also writes: "But though the profusion of government must, undoubtedly, have retarded the natural progress of England towards wealth and improvement, it has not been

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Third is Smith's famous *Invisible Hand Argument,* which holds that as each of us strives to better his own condition, as provided for in the Economizer Argument, each of us thereby simultaneously, though unintentionally, betters the condition of others. This argument is trickier than it seems, and thus some delicacy is required to describe it accurately.[7] Here is Smith's phrasing of this argument:

> As every individual, therefore, endeavours as much as he can . . . to direct [his] industry that its produce may be of the greatest value; every individual necessarily labours to render the annual revenue of the society as great as he can. He generally, indeed, neither intends to promote the public interest, nor knows how much he is promoting it. . . . [H]e intends only his own security; and by directing that industry in such a manner as its produce may be of the greatest value, he intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end which was no part of his intention. (*WN,* IV.ii.9)[8]

Smith's claim is not that people do not act intentionally, but that they typically act with only their own, local purposes in mind, usually unconcerned with, even unaware of, whatever larger effects their behavior has on unknown others. Now their "local" purposes are not necessarily related exclusively to themselves: Smith believes that these purposes include concerns about family and friends as well. Our concern for others fades,

able to stop it. The annual produce of its land and labour is, undoubtedly, much greater at present than it was either at the restoration or at the revolution. The capital, therefore, annually employed in cultivating this land, and in maintaining this labour, must likewise be much greater. In the midst of all the exactions of government, this capital has been silently and gradually accumulated by *the private frugality and good conduct of individuals, by their universal, continual, and uninterrupted effort to better their own condition.* It is this effort, protected by law and allowed by liberty to exert itself in the manner that is most advantageous, which has maintained the progress of England towards opulence and improvement in almost all former times, and which, it is to be hoped, will do so in all future times" (*WN,* II.iii.36; my italics). This argument too can be found throughout *The Wealth of Nations.* See, for example, *WN,* I.viii.44, I.x.c.14, II.i.30, II.iii.28, II.iii.31, II.v.37, III.iii.12, IV.ii.4, IV.ii.8, IV.v.b.43, IV.ix.28, and V.i.b.18. See also *LJ* (A), vi.145.

[7] Many commentators get it wrong. Emma Rothschild, for example, describes the "invisible hand" passage in *The Wealth of Nations* as an "ironic joke," failing to see the Invisible Hand Argument's centrality in Smith's analysis of human social life. See Emma Rothschild, *Economic Sentiments: Adam Smith, Condorcet, and the Enlightenment* (Cambridge, MA: Harvard University Press, 2001), chap. 5. For demonstrations of the centrality of the notion, see James R. Otteson, *Adam Smith's Marketplace of Life* (Cambridge: Cambridge University Press, 2002); James R. Otteson, *Adam Smith* (London: Continuum, 2009); and Craig Smith, *Adam Smith's Political Philosophy* (London: Routledge, 2005).

[8] Smith continues: "Nor is it always the worse for the society that it was no part of it [that is, his intention]. By pursuing his own interest he frequently promotes that of the society much more effectually than when he really intends to promote it. I have never known much good done by those who affected to trade for the publick good" (*WN,* IV.ii.9). Smith repeats variants of this argument throughout *WN* as well. See, for example, *WN,* Introduction.8, II.Introduction.4, II.iii.39, IV.ii.4, IV.v.b.25, and IV.vii.c.88.

Smith thinks, the farther away from us they are, but Smith thinks our concern for others who are closer to ourselves is real and undeniable. So we act in attempts to satisfy our own purposes, whatever they are, but because we are "economizers," we tend to try to expend the least possible amount of our own energy while at the same time trying to get the largest, richest, or most extensive possible achievement of our goals. We seek, as it were, the best possible return on our investment of our energies.[9]

According to the Invisible Hand Argument, this search for efficient use of our energies happily benefits not only ourselves and those close to us (the direct objects of our concern), but also others, even others totally unknown to us. This happens because when we specialize or concentrate our efforts on some small range of tasks or talents, we usually produce more than we can ourselves consume or use, which means we create a surplus that we can trade or sell away; that, in turn, means that the overall stock of goods and services increases, and their prices thus decrease, for everyone. Moreover, as we seek out exchanges, forms of contract and trade, and so on that serve our local interests, others may learn from us and imitate our successes and avoid our failures, thereby saving themselves time and energy, and enabling them to go marginally further than we did in securing their (and thus, indirectly, everyone else's) ends. According to Smith, then, the "invisible hand" effects a "universal opulence which extends itself to the lowest ranks of the people" (*WN*, I.i.10). The wealth does not stay only in the hands of the person generating it or only in the hands of the already wealthy, Smith argues, but spreads to and is enjoyed by all (if not to the same extent).

Pulling Smith's three arguments together now, we see that what Smith describes as "the obvious and simple system of natural liberty" (*WN*, IV.ix.51) is a society-wide practice of allowing the invisible-hand mechanism to operate. Here is how he concludes the argument:

> All systems either of preference or of restraint, therefore, being thus completely taken away, the obvious and simple system of natural liberty establishes itself of its own accord. Every man, as long as he does not violate the laws of justice, is left perfectly free to pursue his own interest his own way, and to bring both his industry and capital into competition with those of any other man, or order of men. The sovereign is completely discharged from a duty, in the attempting to perform which he must always be exposed to innumerable delusions, and for the proper performance of which no human wisdom or knowledge could ever be sufficient; the duty of superintending the

[9] The Economizer Argument does not hold that people always seek to minimize the effort they expend: that would be obviously false, since there are many cases of people deliberately taking harder ways. Think, for example, of athletes in training. The argument's claim, rather, is that given their ends, people tend to seek efficient ways to achieve them.

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> industry of private people, and of directing it towards the employments most suitable to the interest of the society. (*WN*, IV.ix.51).[10]

What I am calling Smith's Great Mind Fallacy is now becoming clear, and is summarized by Smith in two key passages. First is his discussion of the "man of system" in *The Theory of Moral Sentiments:*

> The man of system . . . is apt to be very wise in his own conceit; and is often so enamoured with the supposed beauty of his own ideal plan of government, that he cannot suffer the smallest deviation from any part of it. He goes on to establish it completely and in all its parts, without any regard either to the great interests, or to the strong prejudices which may oppose it. He seems to imagine that he can arrange the different members of a great society with as much ease as the hand arranges the different pieces upon a chess-board. He does not consider that the pieces upon the chess-board have no other principle of motion besides that which the hand impresses upon them; but that, in the great chess-board of human society, every single piece has a principle of motion of its own, altogether different from that which the legislature might chuse to impress upon it. (*TMS*, VI.ii.2.17–18)

The second passage comes in *The Wealth of Nations*, directly after the "invisible hand" passage: "The statesman, who should attempt to direct private people in what manner they ought to employ their capitals, would not only load himself with a most unnecessary attention, but assume an authority which could safely be trusted, not only to no single person, but to no council or senate whatever, and which would nowhere be so dangerous as in the hands of a man who had folly and presumption enough to fancy himself fit to exercise it" (*WN*, IV.ii.10). The statesman's attention is "unnecessary" because, according to the Local Knowledge, Economizer, and Invisible Hand arguments, people's decentralized and uncoordinated strivings to better their conditions are more likely to succeed than centralized and coordinated attempts would be; thus, what the statesman would (or should) wish to achieve—satisfying people's interests—is more likely to happen if he does little beyond establishing a "tolerable administration of justice" (*EPS*, IV.25). The "folly and presumption" of the statesman is manifested in his assumption that he can overcome the

[10] In his 1793 *Account of the Life and Writings of Adam Smith, LL.D.*, Dugald Stewart speaks of a manuscript of Smith's, now unfortunately lost, that Stewart reports as stating, "Little else is requisite to carry a state to the highest degree of opulence from the lowest barbarism, but peace, easy taxes, and a tolerable administration of justice; all the rest being brought about by the natural course of things. All governments which thwart this natural course, which force things into another channel, or which endeavour to arrest the progress of society at a particular point, are unnatural, and to support themselves are obliged to be oppressive and tyrannical" (*EPS*, IV.25).

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HCP and the GIP. And such a mistaken belief is "dangerous" because, Smith suggests, it inevitably leads the statesman to impose, or attempt to impose, his own plan for society—which Smith believes will necessarily be inferior to a decentralized and spontaneously created order.

My claim, then, building on Smith's arguments, is that political philosophers commit the Great Mind Fallacy when they believe that they themselves can overcome the HCP and the GIP, when they make political recommendations that presume that they can overcome them, or when they make recommendations that require someone else—legislators, regulators, the president, etc.—to have the ability to overcome these problems, without having shown how. More formally, their arguments generally take the following form: (1) I believe that good thing *X* should be promoted or bad thing *Y* should be discouraged; (2) since the state is justified in promoting good things and discouraging bad things, it should therefore be empowered to promote *X* or discourage *Y;* (3) because it is understood how to encourage or discourage human behavior, (4) once so empowered the state will take proper actions to increase the incidence of *X* or decrease the incidence of *Y;* therefore, (5) there will be more *X* or less *Y,* and (6) people will therefore be better off. The Gathering Information Problem challenges the reliability of assertions like those in premise (1), and the Herding Cats Problem challenges premise (3). The Smithian argument is that (5) and (6) follow only if one presumes the existence of a Great Mind able to verify the claim in premise (1), discover what premise (3) assumes, and ensure that premise (4) is faithfully executed. Because there is no such Great Mind, however, the argument fails. To believe that there is such a Great Mind, or to believe that the argument can succeed without a Great Mind—that is, that we can be confident that (5) and (6) will come to pass either because the GIP and the HCP are not significant problems or because there exist persons who can overcome them—is to commit the Great Mind Fallacy.

III. What Smith's Arguments Rule Out

Smith's chain of arguments culminating in the GMF suggest, in two principal and connected ways, that we should limit the scope of the state's authority over individuals' decisions about how best to employ their capitals. First, the Local Knowledge Argument implies that third parties will not have the knowledge required to make competent decisions about how other individuals should behave in order to achieve their (the individuals') goals and ends. Second, the Economizer Argument and the Invisible Hand Argument imply that granting individuals wide scope, within the rules of (negative) justice,[11] to pursue their own ends will tend to benefit not only themselves but everyone else as well.

[11] Smith called his conception of justice "negative," writing that one "may often fulfil all the rules of justice by sitting still and doing nothing" (*TMS,* II.ii.1.9). He claimed that justice comprised only three rules: the respect of another's person and life, the respect of another's

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The scope of facts that legislators allegedly cannot know about their citizens is not trivial, for it comprises the values, circumstances, and estimations necessary for selecting courses of action appropriate to individuals' ends. Without knowledge of these facts, one is engaging in speculation that, according to the GMF, presumes a competence that theorists, legislators, and regulators do not possess. Smith's argument thus presents a serious challenge to contemporary political philosophy, much of which contains careful delineations of the decisions that third parties are presumed competent to make and the areas of human life that government is presumed competent to superintend. Let me now contrast the potential legislative activities Smith's arguments rule out with examples of what some contemporary philosophers wish to rule in.

To begin, here is what law professor Cass Sunstein believes that legislators or regulators should investigate, make decisions about, or provide for citizens: "liberal education" and "the inculcation of critical and disparate attitudes toward prevailing conceptions of the good"; "aggressive initiatives with respect to the arts and broadcasting," including "subsidizing public broadcasting, ensuring a range of disparate programming, or calling for high-quality programming"; investigating and educating people about the correct "risks of hazardous activity"; and not only enforcing nondiscrimination policies but also investigating and educating people regarding "the beliefs of both beneficiaries and victims of existing injustice [that] are affected by dissonance-reducing strategies," such as "blaming the victim."[12] Sunstein argues that "democratic controls" over people's preferences are required to "protect people either from unjust background conditions or a sheer lack of options"; these controls will entail the need to provide information, for which "governmentally required disclosure of risks in the workplace is a highly laudable strategy." Sunstein continues:

> In a few cases, however, these milder initiatives are inadequate, and other measures are necessary. A moderately intrusive strategy could involve economic incentives, which might take the form of tax advantages or cash payments. For example, the government might give financial inducements to day-care centers as a way of relieving child-care burdens. Such a system might well be preferable to direct transfers of money to families, a policy that will predictably lead many more women to stay at home. In view of the sources of and consequences of the differential distribution of child-care burdens, it is fully legitimate for the government to take steps in the direction of equalization.[13]

property, and the fulfillment of one's voluntary contracts, promises, and voluntarily assumed obligations (*TMS*, II.ii.2.2).

[12] Cass R. Sunstein, *Free Markets and Social Justice* (New York: Oxford University Press, 1997), 26–29.

[13] Ibid., 28.

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To forestall the likely objection that his paternalism is antiliberal, Sunstein claims that "liberalism does not forbid citizens . . . from enacting their considered judgments into law, or from counteracting, through the provision of opportunities and information, preferences and beliefs that have adjusted to an unjust status quo."[14]

More recently, Sunstein has argued in his book *Nudge,* coauthored with economist Richard H. Thaler, that the government should pursue a course of "libertarian paternalism."[15] Thaler and Sunstein argue that this phrase is not oxymoronic, because it endorses framing the presentation of options, arranging incentives, and deliberately creating psychological impressions that encourage people to make good decisions (the paternalistic part), while still allowing them the freedom to choose otherwise (the libertarian part). The book discusses the various ways that people can be encouraged—"nudged"—to make decisions that planners believe are good ones, or at least relatively better ones, without overtly coercing people, and indeed often without people realizing they were nudged in the first place. Examples the authors cite are the deliberate arrangement of foods in a cafeteria to increase the amount of fruits and vegetables people select, the purposeful design of default settings in investment and retirement plans to increase rates of certain kinds of investment by automatically enrolling one unless one deliberately opts out, and the reframing of discussions of teen drinking and smoking to create the impression that only fringe minorities engage in those unhealthful activities.[16] Thaler and Sunstein emphasize the importance of allowing free choice, and the examples just cited seem fairly pedestrian by today's standards. But their wish to avoid the vices of "hard-line" antipaternalists and "ardent" libertarians[17] leads them to recommend nudging people in further ways that reflect what they believe is the general consensus or expert opinion about what is good for people. These include occasions on which people "need a good nudge for choices that have delayed effects; those that are difficult, infrequent, and offer poor feedback; and those for which the relation between choice and experience is ambiguous."[18] An example the authors claim fits these qualifications is reduction of our energy use, which they argue is one

[14] Ibid., 30. Sunstein also asserts: "The American government should compile and distribute an annual 'quality of life' report, including, among other things, per capita income, poverty, housing, unemployment, average weekly earnings, inflation, child mortality, longevity, subjection to violent crime, literacy, and educational attainment. The report should also specify minimum standards for such things as income, education, health, and housing and allow for comparison across regions, between men and women, and among different racial and ethnic groups" (ibid., 123). What exactly would count as "minimum standards" for such matters is just the kind of thing that Smith would claim a legislator, however wise, cannot know.

[15] Richard H. Thaler and Cass R. Sunstein, *Nudge: Improving Decisions about Health, Wealth, and Happiness* (New Haven, CT: Yale University Press, 2008), 4–6 and passim.

[16] Ibid., 1–6, 103–31, and 67–68, respectively.

[17] Ibid., 236, 242.

[18] Ibid., 76–77.

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"socially desirable behavior" among many that might call for governmental nudges.[19] Their goal, they say, is not to rob people of their freedom to choose, but rather to help individuals make choices that the individuals themselves *would* have made *if* these individuals "had paid full attention and possessed complete information, unlimited cognitive abilities, and complete self-control."[20]

The Sunstein/Thaler argument runs afoul of the Smithian GMF in a handful of related ways. First, although it might be possible to determine what decisions the majority of people would make in many cases, it is far more difficult—even impossible—to determine what would be best, or even relatively better, in any individual case. Second, because Sunstein and Thaler argue that appropriate nudges should inform regulatory policy and even legislation,[21] their argument apparently presumes a relatively fixed and static state of affairs in the world: a fixed set of people and goals and obstacles to overcome, and thus a relatively fixed set of potential solutions to those obstacles and means to achieve people's goals that can be captured in regulatory policy and law. The Smithian conception of the world, however, is one that is dynamic and changing, at least at the margins. Thus, people's goals, and their available means to achieve those goals, are frequently changing, and people will be facing new, and new kinds of, obstacles to achieving them. Third parties cannot anticipate these changes (even first parties have difficulty doing so), and hence many "nudges" that seem appropriate to us now might be obsolete and even counterproductive in a short while—and yet will remain fixed in law or regulation. And third, note that Sunstein and Thaler's suggested areas of nudgings—wherever choices have delayed effects, are difficult and infrequent, and so on—are quite broad, indeed without clear limits ex ante.[22]

The phrase "nudges that seem appropriate to us" is telling: Thaler and Sunstein seem to believe that they know what behaviors others should adopt, or perhaps what others *would* adopt *if* they were perfectly rational, had unlimited cognitive abilities, and had complete self-control.[23] But the counterfactual nature of that hypothetical exemplifies the GMF. In their chapter "A Dozen Nudges," they give a list of goals that "nudges" might be designed to encourage: giving more, and more regularly, to charity by creating "charity debit cards" or programs that enroll one in automatic debits to charity; increasing tax compliance by creating automatic tax returns; creating programs that can help people stick to their resolutions;

[19] For this and other examples, see ibid., 68, 72, 80, 127, 155, and 192.
[20] Ibid., 5.
[21] See ibid., chap. 18 and passim.
[22] This claim is illustrated by the broad scope of other topics that Thaler and Sunstein discuss, including prescription drugs, environmental and energy issues, organ donation, schooling and education, health care and medical lotteries, and marriage unions and partnerships. See *Nudge,* chaps. 10–15.
[23] Ibid., 5.

creating programs to help people quit smoking without a patch; raising the cost of a motorcycle license for people who wish not to wear helmets; creating programs to "self-ban" gambling; encouraging people to join health plans like Destiny Health Plan, which currently operates in many states; paying teenage mothers a "dollar a day" not to have another baby; providing filters for air conditioners and red-light indicators for when they need changing; subsidizing products like No Bite and Disulfiram to help people quit bad habits; and promoting software programs like "Civility Check," which delay the sending of "uncivil" e-mails for twenty-four hours.[24] Perhaps this list is offered somewhat tongue-in-cheek, but its idiosyncratic nature makes clear the objection the Smithian would raise. Although those may be Thaler and Sunstein's goals, they are certainly not the goals of all others, and because Thaler and Sunstein do not know what the goals of everyone in society are, what their relative schedules and rankings of values are, what the opportunities and resources available to them are, and so on, their recommendations cannot overcome the GIP. That they nonetheless proceed to make detailed substantive policy recommendations, despite not having overcome the GIP (not to mention the HCP) thus constitutes a commission of the Great Mind Fallacy.[25]

Other thinkers face similar problems. Consider, next, philosopher Samuel Fleischacker. In order to allow for "the judgment that we need for truly free choices," Fleischacker asserts that the state must do all of the following: (1) provide "good information about the [employment] options among which one is choosing"; (2) provide "a thorough education in the skills of interpretation and the assessment of evidence," including education in "the skills of aesthetic interpretation" and in applying "those skills to the decisions [people] need to make about running their own lives"; (3) provide "access to rich, clear, and clearly organized facts about products and jobs"; and (4) provide "centralized computer services open to everyone" where such information will be available at no cost to the user. Moreover, to alleviate problems to which Fleischacker believes free markets lead, the state must also ensure (5) that all citizens are raised "from childhood on with adequate nutrition, shelter, and health care"; (6) that citizens know "they would receive considerable aid in unemployment"; (7) that they know they "could take any job in the country because funds [are] available to transport them there"; (8) that they are "well trained in evaluating evidence and [have] easy access to a large amount of information about their opportunities"; and (9) that they have "sufficient leisure to reflect on

[24] Ibid., 229–35.

[25] Interestingly, Thaler and Sunstein recognize the problem in their discussion of a particular case, that of "nudging" people to invest their money. They write, "we do not have any way of knowing the preferences of individual participants [in retirement plans], and we also do not know what assets they may be holding outside the social security system, so it is not possible for us to say anything definitive about how good a job they did picking a portfolio [of investments]" (ibid., 149). The GMF holds that a similar lack of information obtains with respect to other areas of others' lives as well.

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their lives and alter them if necessary," on the order of "six weeks a year, or a several-month sabbatical every few years."[26]

Consider also the notion of "basic needs" or "basic goods"[27] in recent political thought. Here is one list of such goods, this one from philosopher David Copp:

> Any credible analysis of the concept of a basic need would imply that all or most of the following are either basic needs or forms of provision for a basic need: the need for nutritious food and water; the need to excrete; the need otherwise to preserve the body intact; the need for periodic rest and relaxation, which I presume to include periodic sleep and some form of recreation; the need for companionship; the need for education; the need for social acceptance and recognition; the need for self-respect and self-esteem; the need to be free from harassment.[28]

Copp adds, however, that his list "is perhaps not complete," and he further claims that although the state cannot directly provide citizens with several of these things (like self-respect and companionship), its duty nevertheless is to enable citizens to meet their basic needs, if not provide them outright, which means that the state is morally required, and therefore should be empowered, to pursue the means necessary to these ends—whatever the experts determine those means are.[29] Philosopher Martha Nussbaum, for her part, offers the following list of "basic capabilities" that political action should create or aim to foster: "comprehensive health care; healthy air and water; arrangements for the security of life and property; [and] protection of the autonomous choices of citizens with respect to crucial aspects of their medical treatment." She continues that state provision of "basic capabilities" requires "sufficient nutrition and adequate housing; and these are to be arranged so as to promote the choices of citizens to regulate their nutrition and their shelter

[26] Samuel Fleischacker, *A Third Concept of Liberty: Judgment and Freedom in Kant and Adam Smith* (Princeton, NJ: Princeton University Press, 1999), 238–39. See also ibid., 18–19.

[27] These two terms, along with "necessary goods" and "basic capabilities," are used relatively interchangeably in the literature; I do not believe that whatever differences there may be among them affect the argument here.

[28] David Copp, "Equality, Justice, and Basic Needs," in Gillian Brock, ed., *Necessary Goods: Our Responsibilities to Meet Others' Needs* (New York: Rowman and Littlefield, 1998), 124. Cf. the Universal Declaration of Human Rights adopted by the United Nations General Assembly in 1948, which, in addition to the standard rights to life, liberty, and property, includes among everyone's "universal rights" such things as "a right to social security" (Article 22), "the right to . . . periodic holidays with pay" (Article 24), and "the right to a standard of living adequate for the health and well-being of himself and his family" (Article 25). It also declares: "Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages" (Article 26). Several other "fundamental human rights" are included; see the entire list at http://www.un.org/rights/50/decla.htm.

[29] Copp, "Equality, Justice, and Basic Needs," 124.

by their own practical reason," "protection to regulate their own sexual activity," "institutions promoting a humanistic form of education," "support for rich social relations with others," and so on.[30]

Working out the range of information required to implement these lists of putative state duties or responsibilities successfully reveals the presumption of an impressive, and surprisingly large, body of knowledge. Let me illustrate with a few examples from the thinkers cited above.

One of the concerns of Thaler and Sunstein in *Nudge* is obesity.[31] Although the "nudges" they recommend, like rearranging the location of fruits and vegetables in the school cafeteria, seem relatively unobtrusive, the implications of their argument reach much further. If state regulators are competent to use taxation or regulation to steer people toward good nutritional choices, why should they stop at the school cafeteria? Why should they not regulate what gets served at home as well? Why not regulate what gets served everywhere—at schools, at home, at restaurants, and so on—allowing or disallowing the production and serving and marketing of all foods based on centralized judgments about what is best for people? Indeed, why stop at "nudges"? Why not simply ban bad nutritional choices and unhealthy activities? Physician Peter A. Ubel argues that we should take these additional steps, explicitly relying on Thaler and Sunstein's argument. In his recent book *Free Market Madness,* Ubel argues that Thaler and Sunstein's recommendations are, if anything, too mild, speculating that Thaler and Sunstein are unduly worried about "stray[ing too] far from the traditions of their economic tribe."[32] Ubel, in contrast, says that as a physician he has no similar compunctions because he has no "strong libertarian traditions to buck." Since he is "skeptical that a problem like the obesity epidemic can be addressed with a simple nudge," he goes on to argue that although restrictions of marketing and advertising of bad choices and unhealthy activities, taxation of those choices and activities, and public subsidizing of their good and healthy counterparts are good first steps, he is "doubtful that these financial interventions, on their own, would have a major impact."[33] He thus calls for government funding of and experimentation in "more aggressive policies," concluding that "when freedom and well-being collide, we should be open minded enough to recognize that carefully calibrated restrictions

[30] Martha Nussbaum, "Aristotelian Social Democracy," in Brock, ed., *Necessary Goods,* 152–53; see also Martha Nussbaum, *Frontiers of Justice: Disability, Nationality, Species Membership* (Cambridge, MA: Belknap Press, 2006). Another area in which the GMF is prevalent is development economics. For a paradigm example, see Jeffrey Sachs, *The End of Poverty: Economic Possibilities for Our Time* (New York: Penguin, 2005); for criticism of Sachs consistent with the Smithian perspective, see William Easterly, *The White Man's Burden: Why the West's Efforts to Aid the Rest Have Done So Much Ill and So Little Good* (New York: Penguin, 2006).

[31] See Thaler and Sunstein, *Nudge,* "Introduction" and passim.

[32] Peter A. Ubel, *Free Market Madness: Why Human Nature Is at Odds with Economics—and Why It Matters* (Cambridge, MA: Harvard Business Press, 2009), 74.

[33] Ibid., 74, 75, 212.

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on our freedom are a small price to pay for a healthier, happier populace."[34] The Smithian argument is that third parties are unlikely to possess the information required to make good choices about such a wide range of variables, especially over a large population of people. The argument does not claim that there is no difference between good choices and bad choices, but that legislators or regulators are unlikely to know what the good choices are in individual cases.

The Smithian would express similar concerns about the recommendations of the other authors cited above. For example, Fleischacker claims that the state should provide all citizens with six weeks of leisure time per year or a several-month sabbatical every few years.[35] Is that the right amount of leisure time? What if, given my life goals and values, I do not want six weeks a year to reflect on my life? What if your moral or religious values dictate that you should work six days every week? Exactly how much time do I need to reflect adequately on my life? How much do you need? Are there experts who know the answers to these questions? Fleischacker claims further that the state must ensure that everyone has "adequate nutrition," "from childhood on."[36] Consider how much information would be required to assure that, even for one child, let alone all the children in a nation. How would this information, which presumably would be based on facts that change daily, be collected and assessed and then competently acted upon?

Copp argues that among the basic needs that the state should ensure are met for all its citizens is "the need for companionship."[37] How will the state know what kind of companionship I need? And will it know how to provide it? Suppose one person's need is for companionship with people who have specific religious, moral, or political views that are in short supply where he lives. Will state regulators know that, and will they have the ability and resources to provide it? Copp claims that another basic need is "for periodic rest and relaxation, which [he] presume[s] to include periodic sleep and some form of recreation."[38] But not all people need the same amount of sleep; the same activities do not count as restful or relaxing for all people; and people's needs for recreation vary widely. Educational needs vary widely as well: what if yours are significantly different from mine? And which experts know what the proper "social recognition" is that you or I need, and how to get it for us? To execute the duties that Copp believes the state has to provide these "basic needs" for people, the state would presumably have to be in possession of this detailed and individualized information. But how would it get it? And

[34] Ibid., 225. For the more aggressive state actions Ubel recommends, see, for example, chaps. 12 and 13.
[35] Fleischacker, *A Third Concept of Liberty*, 238.
[36] Ibid., 239.
[37] Copp, "Equality, Justice, and Basic Needs," 124.
[38] Ibid.

even if the information could be procured, how would the state make sure that people act so as to bring about the desired results?

Finally, Nussbaum claims that the state should, among other things, guarantee "comprehensive health care" for all its citizens.[39] Yet suppose your political and economic views deeply define who you are, and one aspect of those views entails an opposition to comprehensive health care. Suppose I am religiously opposed to a Nussbaumian "humanistic form of education." Suppose one person's conception of "protection to regulate their own sexual activity" includes carefully arranged marriages. People's needs for "rich social relations with others" will also vary widely, and it may be that what would constitute a rich social relation for one person would be neutral or even harmful for another. Again, can the state gather, assess, and competently act on the necessary individualized information?

The issue is not simply that life involves trade-offs and that the state must often make difficult choices—though that is, of course, true. Instead, the Smithian argument is that it is a mistake to presume that third parties can possess the information necessary to make determinations like these. The claim is not that there are no correct answers to these questions or that all answers are equally good. It is, instead, that the large number of individual variations in each of the large number of situations in which people find themselves generate multiple options and variables, and thus the decisions the legislator must make quickly become inordinately complicated. The presumption that these equations can be solved centrally is the "conceit" of Smith's "man of system," and to believe it is to commit the Great Mind Fallacy.

IV. Deliberative Democracy and the Wisdom of Crowds

Yet if the GMF is indeed a fallacy, then why do Sunstein, Thaler, Fleischacker, Copp, Nussbaum, and others seem to commit it? Sunstein himself acknowledges the plurality of individual human goods and is cognizant of the complexities of the variables involved in making decisions about trade-offs in a world of scarcity.[40] Thaler and Sunstein acknowledge the difficulties of gathering requisite information,[41] and Fleischacker emphasizes the crucial importance of individuals' independently exercising their own private judgment.[42] How can these difficulties be overcome? It seems there are two general ways: either one might claim that one's substantive recommendations are what would be the results of proper democratic deliberation, or one might claim that one is relying on expert advice about what actually is good for human beings in various

[39] Nussbaum, "Aristotelian Social Democracy," 152.

[40] Sunstein, *Free Markets and Social Justice*, chaps. 2 and 3. See also Cass R. Sunstein, *Risk and Reason* (Cambridge: Cambridge University Press, 2004).

[41] Thaler and Sunstein, *Nudge*, chap. 9.

[42] Fleischacker, *A Third Concept of Liberty*, chaps. 4 and 5.

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areas of life. In this section, I examine the former approach; in the next, the latter.

In *Free Markets and Social Justice,* Sunstein suggests that democratic deliberation would, if executed properly, arrive at the conclusions he lists about areas where individual choice and free markets must be curtailed. He begins by claiming that everyone's preferences are influenced by his or her political and other institutional circumstances, so the claim that the government should be completely neutral or "laissez faire" toward preferences is a non-starter. Thus, the issue is only how we want the state to influence preferences, not whether it should do so. Sunstein's argument is that "the participants in a liberal government ought to be concerned with whether its citizens are experiencing satisfying lives," on the basis of which he claims that "[c]itizens in a democratic polity might act to embody in law not the preferences that they hold as private consumers, but instead what might be described as collective judgments, including aspirations or considered reflections. Measures of this sort are a product of deliberative processes on the part of citizens and representatives."[43] Sunstein claims that there are three "cases in which considerations of autonomy and welfare justify governmental action": the first is "collective judgments and aspirations"; the second is when "excessive limitations in opportunities or unjust background conditions" obtain; and the third is when "intrapersonal collective action problems exist."[44] Thus, Sunstein argues that "[c]itizens in a democracy might override existing preferences in order to foster and promote diverse experiences, with a view to providing broad opportunities for the formation of preferences and beliefs and for critical scrutiny of current desires," and that "democratic controls on existing choices" are necessary "when they [the choices] are a function of past acts of consumption and when such acts alter desires or beliefs in such a way as to cause long-term harm."[45]

How exactly are we to know when these conditions obtain? How exactly are we to know what to do about them in the particular cases in which they do obtain? And what grounds do we have to think that citizens deliberating democratically will arrive at correct, or even plausible, answers to these questions? It is especially important to answer these questions in Sunstein's case, given that his argument that all preferences are, to varying extents, shaped by exogenous forces implies that the preferences of any group of people, including legislators or regulators, will also be so shaped. Sunstein's claim is that citizens in a liberal democracy, "operating through democratic channels," may "enact their considered judgments

[43] Sunstein, *Free Markets and Social Justice,* 21.

[44] Ibid., 21, 25, 29. Compare ibid., 57–64, where Sunstein elaborates on these main categories, adding a fourth: "caste," by which he means cases in which discrimination leads to undesirable social norms (see esp. ibid., 63).

[45] Ibid., 25–26, 29.

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into law."[46] But one can concede that a liberal democracy does not, or ought not, preclude its citizens from enacting their considered judgments into law without thereby agreeing with Sunstein's, or anyone else's, predictions or suggestions about what those considered judgments would or should be. The crucial question for our purposes, then, is what grounds we have to think that deliberating democratic citizens will get this right.

Fleischacker, for his part, is not confident in the process:

> Arrogant, self-deluded, and otherwise morally incompetent people abound who participate well in communal government. Political activists, kibbutz leaders, school and church board members—anyone who has spent a significant amount of time with such people knows plenty who are shallow, ambitious, and vain, whose service to their cause or community is a means of self-promotion or, at best, a distraction from personal failings.[47]

The difficulty arises in connecting the justifications for a democratic procedure or process with the substantive aims that Sunstein believes the state should foster. It is possible to provide plausible grounds for democratic procedures without reference to any specific ends that those procedures would choose to endorse,[48] although that is not what Sunstein does. He argues instead for a kind of hybrid expert and layperson decision-making process in which regulative agencies are staffed by experts who make decisions on the basis not only of their own expert knowledge but also of citizens' considered judgments as expressed through proper democratic channels that can ensure that "such judgments are reflective."[49] Although Sunstein catalogs several areas of human social life that should properly come under the care of "democratic controls," offering in each case several specific recommendations,[50] he cautions against relying exclusively on expert opinion, especially when it diverges from public opinion. He argues that "a deliberative process among competing perspectives" provides a mechanism "for incorporating reflective public understandings" into state and regulatory decisions about a range of issues, adding

[46] Ibid., 30.

[47] Fleischacker, *A Third Concept of Liberty,* 248–49.

[48] This would be a "pure proceduralist" position. For a good discussion of the various ways one might defend democratic decision-making, along with a defense of his own plausible account, see Thomas Christiano, "The Authority of Democracy," *The Journal of Political Philosophy* 12, no. 3 (September 2004): 266–90.

[49] Sunstein, *Free Markets and Social Justice,* 138; see also chap. 5 passim. Sunstein makes four proposals for instantiating this hybrid process without taking a position on which is best; see ibid., 138–39.

[50] These include recommendations about racial and other kinds of discrimination (ibid., chap. 6), free speech in the digital world (chap. 7), constitutional protections and restraints on property and ownership (chap. 8), equality (chap. 9), the environment (chap. 10), and health care (chap. 12).

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that citizens can bring to deliberations a sensitivity to localized "contextual factors" that experts cannot.[51]

Sunstein's argument is reminiscent of Jean-Jacques Rousseau's argument in *The Social Contract*. Rousseau discusses the "general will" and its connection to "the common interest," as well as the public "assemblies" where citizens gather and—after a process of deliberation—the "general will" emerges.[52] Rousseau writes that though "the general will is always upright and always tends to the public utility," still "it does not follow from it that the people's deliberations are always equally upright."[53] But then how do these deliberations arrive at policies conducive to the public utility? Rousseau's answer: "There is often a considerable difference between the will of all and the general will: the latter looks only to the common interest, the former looks to private interest, and is nothing but a sum of particular wills; but if, from these same wills, one takes away the pluses and minuses which cancel each other out, what is left as the sum of the differences is the general will."[54]

Perhaps what is at work here is an argument based on the so-called wisdom of crowds. An extensive literature has arisen arguing that letting decisions be made by uncoordinated groups of people leads to surprisingly good results. As historian and journalist James Surowiecki and others have argued, it turns out that in many instances groups of independent and heterogeneous people do a better job of getting things right than do smaller groups, even smaller groups composed only of experts.[55] Thus, some researchers have concluded that "democratic judgment" is

[51] Ibid., 145–46.

[52] Jean-Jacques Rousseau, *The Social Contract* (1762), in Victor Gourevitch, ed., *The Social Contract and Other Later Political Writings* (Cambridge: Cambridge University Press, 1997). Again, Fleischacker is skeptical of the process. In discussing an argument of Quentin Skinner's, he writes that Skinner's argument "is metaphysical hocus-pocus. As long as we begin from individual wills, there is no such thing as a 'will of the entire membership,' at least aside from the extremely rare cases in which everyone in a society agrees exactly on what the society should do. There is no 'it' to have 'its own ends' in a society; there are merely coalitions of larger and smaller numbers of individuals who happen to agree, here and there, on things that further their various individual ends" (Fleischacker, *A Third Concept of Liberty*, 247).

[53] Rousseau, *The Social Contract*, 59.

[54] Ibid., 60. Rousseau's further explanation of how deliberative democracy can achieve the general will explicitly endorses a Great Mind that can guide society in the correct direction: the apparently all-seeing and all-knowing "Censor" who "maintains morals by preventing opinions from becoming corrupt, by preserving their uprightness through wise applications, sometimes even by fixing them when they are still indeterminate" (ibid., 141).

[55] James Surowiecki, *The Wisdom of Crowds: Why the Many Are Smarter Than the Few and How Collective Wisdom Shapes Business, Societies, and Nations* (New York: Doubleday, 2004), xi–xiii. A classic illustration of the "wisdom of crowds" phenomenon is Francis Galton's report about an incident at a country fair in 1906. As told by Surowiecki, there was a contest to guess the weight of an ox. Although none of the guesses was correct, it turned out that the average of all the guesses—1,197 pounds—was astonishingly close to the actual weight of 1,198 pounds. Galton concluded, "The result seems more creditable to the trustworthiness of a democratic judgment than might have been expected" (ibid., xiii).

superior even to expert judgment under specific conditions. What are these conditions? According to Surowiecki, there are

> four conditions that characterize wise crowds: diversity of opinion (each person should have some private information, even if it's just an eccentric interpretation of the known facts), independence (people's opinions are not determined by the opinions of those around them), decentralization (people are able to specialize and draw on local knowledge), and aggregation (some mechanism exists for turning private judgments into a collective decision).[56]

Thus, when Rousseau writes "but if, from these same wills, one takes away the pluses and minuses which cancel each other out, what is left as the sum of the differences is the general will," perhaps his argument is that when you have a large enough group of people, their false or irrelevant information will tend to be unsystematic and will thus cancel out, leaving behind an approximation of the truth. In Surowiecki's words, "Each person's guess, you might say, has two components: information and error. Subtract the error, and you're left with the information."[57]

Of Surowiecki's four criteria for "wise crowds"—diversity, independence, decentralization, and aggregation—the first three focus on the difficult problem of gathering relevant information. It turns out that if a given group is sufficiently diverse, independent, and able to use its own local knowledge, the decisions it can reach tend, in fact, to be better than those reached by experts. Economist Will C. Heath has argued that recent studies suggest that "*a heterogeneous group outperformed all homogenous groups, even the homogenous group containing only the most capable problem solvers.*"[58] Randomly selected groups, which will include both experts and nonexperts, routinely, if counterintuitively, outperform groups including only experts. The reasons for experts' relatively subpar performances are fascinating, though still speculative; but the consensus is that genuine diversity of knowledge, experience, and even ability, along with an absence of pressure to conform, is a remarkably powerful tool for solving a range of problems—and substantially better than allowing an expert or group of experts to make decisions.[59]

[56] Ibid., 10.

[57] Ibid.

[58] Will C. Heath, "Hayek Revisited: Planning, Diversity, and the Vox Populi," *The Independent Review* 12, no. 1 (Summer 2007), 60; italics in the original.

[59] See ibid.; Norman L. Johnson, "Importance of Diversity: Reconciling Natural Selection and Non-Competitive Processes," *New York Academy of Sciences, Proceedings of the 7th Annual Evolutionary Systems Conference on Closure: Emergent Organizations and Their Dynamics* (May 1999), available at http://ishi.lanl.gov/Documents1.html; Lu Hong and Scott E. Page, "Groups of Diverse Problem Solvers Can Outperform Groups of High-Ability Problem Solvers," *Proceedings of the National Academy of Sciences* 101, no. 46 (November 16, 2004): 16385–16389; and Scott E. Page, *The Difference: How the Power of Diversity Creates Better Groups, Firms,*

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Relate this now to the problem under discussion here. My suggestion was that some of the political theorists cited earlier who recommend not only procedural but also substantive aims that the government should adopt on behalf of its citizens believe their suggestions to be what the citizens themselves would adopt if allowed to deliberate democratically. Thus, the theorists are not philosopher-kings who uniquely apprehend the truth, but, rather, are making educated predictions about what the rest of us would decide if we deliberated democratically. Yet the "wisdom of crowds" research actually cuts against this argument in at least two different but related ways. First, the research indicates that an expert has a very small chance of predicting ex ante what solution to any given problem or set of problems a large and diverse group of people would reach. Second, and most crucially, the argument would be inconsistent with making recommendations about substantive ends that the state should pursue. The "wisdom of crowds" research suggests that we should instead rely on the outcome of decisions arrived at by decentralized, independent, and diverse groups of people: decisions arrived at, for example, by individuals acting in market-like conditions.[60] Perhaps some advocates of deliberative democracy do envision procedures designed to approximate market-like conditions, along with the open-endedness and unpredictability they imply, but most advocates, including those cited here, do not. As I have shown above, they recommend extensive substantive goals that they believe the state should pursue. The Smithian would thus argue that they face a dilemma: either they must forgo prescriptions for state action, relying instead on the unpredictable outcomes of wisdom-of-crowds-style decision-making; or they must preempt those decisions with their own substantive recommendations, thereby committing the Great Mind Fallacy.

V. Experts and Irrational Voters

The second way theorists might justify a wide scope of legislative or regulatory authority is by reliance on expert knowledge. One example is Sunstein and Thaler's claim that their recommendations are what people

Schools, and Societies (Princeton, NJ: Princeton University Press, 2007). See also Cass Sunstein, *Infotopia: How Many Minds Produce Knowledge* (New York: Oxford University Press, 2008). Sunstein's argument in this book is quite surprising (see, for example, his second chapter, "The Surprising Failures of Deliberative Groups") given his reliance elsewhere on "deliberative groups," especially when such groups are composed of experts. See my discussion of Sunstein earlier in this section.

[60] That this research supports the extension of market-based decision procedures is a conclusion reached by many investigators, including Heath, "Hayek Revisited"; Page, *The Difference;* and Michael Shermer, *The Mind and the Market: Compassionate Apes, Competitive Humans, and Other Tales from Evolutionary Economics* (New York: Times Books, 2008). William Easterly reaches a similar conclusion, though by somewhat different means; see his *White Man's Burden,* in which he distinguishes the inferior, though well-intentioned, "planners" from the superior "searchers."

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would want if they "had paid full attention and possessed complete information, unlimited cognitive abilities, and complete self-control."[61] The claim is that these conditions approximate the expert's vantage point; thus, if Sunstein and Thaler's recommendations instantiate these epistemological qualities, then their recommendations effectively are expert recommendations. A second example is that of Peter Ubel, who relies on his own medical expertise, as well as that of other physicians, psychologists, and behavioral economists, to ground his substantive policy recommendations about healthy living and lifestyle choices.[62]

A third example comes from economist Bryan Caplan, whose recent argument might lend credibility to others' reliance on expertise, thereby potentially undermining confidence in a Smithian spontaneous-order argument. In *The Myth of the Rational Voter,* Caplan argues not just that voters are not rational, but that they are systematically irrational, consistently voting against policies that experts agree would be in their best interest. According to Caplan, democratic voters consistently display at least four "systematic errors":

> People do not understand the "invisible hand" of the market, its ability to harmonize private greed and the public interest. I call this *antimarket* bias. People underestimate the benefits of interaction with foreigners. I call this *antiforeign* bias. People equate prosperity not with work production, but with employment. I call this *make-work* bias. Lastly, people are overly prone to think that economic conditions are bad and getting worse. I call this *pessimistic* bias.[63]

If these biases are in fact common and even systematic among voters, and if they are in fact contrary to citizens' interests, then one might claim that they constitute an argument against letting citizens make their own decisions and thus in favor of expert corrections to citizens' irrationality. Even if legislative experts cannot know everything, one might suggest that perhaps they can know some things with certainty—that markets and private choice should be extended, that interactions with foreigners produce mutual benefits, and so on[64]—and these they might therefore plausibly translate into public policy, coercively if necessary.

But Caplan's argument does not support this conclusion.[65] Caplan argues that voters' systematic mistakes about economic and political policies are

[61] Thaler and Sunstein, *Nudge,* 5.

[62] Ubel, *Free Market Madness,* chap. 6 and passim.

[63] Bryan Caplan, *The Myth of the Rational Voter: Why Democracies Choose Bad Policies* (Princeton, NJ: Princeton University Press, 2007), 10; italics in the original.

[64] These are Caplan's examples; see ibid., chap. 3 and passim. Incidentally, all of Caplan's main areas of voter "bias" are regularly contested. For a recent broadside against Caplan's position on immigration, for example, see Mark Krikorian, *The New Case Against Immigration: Both Legal and Illegal* (New York: Sentinel HC, 2008).

[65] As Caplan understands; see *The Myth of the Rational Voter,* chap. 8.

a function of "rational irrationality," by which he means that it is rational for citizens qua voters to endorse irrational policies, even while it would be irrational for citizens qua consumers or traders to endorse irrational policies in markets. The reason for this is that the "material cost" to the voter of his vote is virtually zero, whereas the material cost to the consumer of his marketplace decisions can be large. Thus, Caplan concludes that voting is largely "expressive": "If your vote does not change the outcome, you can safely vote for 'feel good' policies even if you know they will be disastrous in practice." He recommends addressing this problem by reducing the number of things that are decided by centralized decision-making and extending the range of private choice: "The main upshot of my analysis of democracy is that it is a good idea to rely more on private choice and the free market." Doing so reduces the range of human institutions and behaviors that are susceptible to the biases encouraged in zero-cost expressive voting, and increases the range that are subject to the rigors of individually perceived "material costs."[66]

Although Caplan does not invoke the Great Mind Fallacy, his argument is in fact consistent with Smith's. According to Caplan, centralized decision-making is unlikely to discover and implement policies conducive to the overall good because the low (near zero) cost of "expressive" voting allows people while voting to indulge "irrational" policies that they would not indulge if they themselves had to bear the costs of these policies. The Smithian argument would hold that a similar incentive to indulgence of irrationality would obtain in the case of legislative experts and theorists, because they too will often not bear the real and full costs of their decisions—other citizens will—which means that experts would be similarly prone to "irrational" policies that would "be disastrous in practice." I suggest that this is indeed a plausible interpretation of Smith's claim that a statesman who "should attempt to direct private people in what manner they ought to employ their capitals" would "assume an authority which could safely be trusted, not only to no single person, but to no council or senate whatever, and which would nowhere be so dangerous as in the hands of a man who had folly and presumption enough to fancy himself fit to exercise it" (*WN,* IV.ii.10).

A final objection to the Smithian argument that is connected to the objection based on Caplan's work is that although experts might not know the details of any given individual's values, opportunities, resources, and so on, nevertheless what an intelligent third party can know is not inconsiderable.[67] It would include, for example, the general outlines of sound economic theory, the general outlines of sound human biology, psychology, and nutrition, and the general outlines of sound morality and thus politics. Even Adam Smith evidently believed that general truths of

[66] Ibid., 138, 197, 119–22.
[67] I thank Richard Arneson for formulating this objection for me.

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morality, economics, and jurisprudence can be known—why else would he have written *The Theory of Moral Sentiments* and *The Wealth of Nations*, after all, if not to promulgate the truths he believed he had uncovered? Now, the other great philosopher from the Scottish Enlightenment, David Hume, responded to a similar claim in this way: "To balance a large state or society, whether monarchical or republican, on general laws, is a work of so great difficulty, that no human genius, however comprehensive, is able, by the mere dint of reason and reflection, to effect it."[68] But that is too flippant: surely economists, psychologists, philosophers, and political scientists have genuine expert knowledge that can be exploited to guide sound policy. Thus, perhaps we can reformulate the presumption that led to the GMF in a way that might enable us to avoid the fallacy altogether. This new version would hold that experts have knowledge that enables them to make more informed decisions about policy than people without expert knowledge can, and, hence, that letting experts make some decisions would lead to better, if not perfect, outcomes than if we let all individuals make decisions for themselves. To deny even this claim risks implying, implausibly, that these disciplines have no expert knowledge whatsoever.

The question of whether economics and political science count as proper sciences is indeed contested. Commentators from Thorstein Veblen to Daniel Kahneman and Amos Tversky[69] have questioned the assumptions economics and political science make about the causes of human behavior, arguing that the presumption of "rational self-interested utility maximization" as the motivating factor of human behavior—a fundamental presumption underlying a great deal of economic and political analysis—is at best a misleading oversimplification and at worst outright false. If it turns out that human behavior is unpredictable, then neither economists nor political scientists (nor anyone else) would be able to plan an efficient economy or politically organize a society for the common good.[70]

The question of whether these disciplines count as proper sciences is beyond our scope here, but I believe that a modest Smithian response to the objection raised can be marshaled. I think the Smithian argument allows for knowledge, or potential knowledge, of general economic processes that can allow retrodiction but not precise prediction. The analogy is to evolutionary biology. Given what biologists have been able to learn

[68] David Hume, "Of the Rise and Progress of the Arts and Sciences" (1741), in Eugene F. Miller, ed., *Essays Moral, Political, and Literary* (Indianapolis, IN: Liberty Fund, 1987), 124.

[69] See, for example, Thorstein Veblen, *The Theory of the Leisure Class: An Economic Study of Institutions* (1899; New York: Oxford University Press, 2008); and Daniel Kahneman and Amos Tversky, eds., *Choices, Values, and Frames* (Cambridge: Cambridge University Press, 2000). Peter Ubel makes use of Kahneman and Tversky's work to criticize supporters of free markets; see Ubel, *Free Market Madness*, chaps. 1 and 3.

[70] For an essay that argues for this conclusion, see James M. Buchanan and Viktor J. Vanberg, "The Market as a Creative Process," *Economics and Philosophy* 7, no. 2 (1991): 167–86.

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about the processes involved in evolutionary descent, they can give plausible explanations for how any given species might have arrived, how it got to be where it is today, and why it succeeded where its competitors failed. They can also make general claims about what the future might be like, along the lines of: "Any successful organism or species will need to have favorable biological, climatic, and ecological characteristics. . . ." What they cannot say, however, is exactly which species will survive in the future and which will not, what conditions will turn out to be favorable for any given species and what conditions will not, or, with anything approaching certainty, what the effects will be of making slight changes in ecosystems. The reason is that there is too much complexity and too many variables involved.[71] There are people like E. O. Wilson who argue that one day even the social sciences will be brought into the fold of proper science by basing their work on advances in brain science and evolutionary biology and psychology, and ultimately on chemistry and physics.[72] But even Wilson acknowledges that "[t]he greatest challenge today, not just in cell biology and ecology but in all of science, is the accurate and complete description of complex systems." He continues: "At higher, more specific levels of organization, beyond the traditional realm of physics, the difficulties of synthesis are almost inconceivably more difficult. Entities such as organisms and species, unlike electrons and atoms, are indefinitely variable."[73] A new discipline of economics attempting to bridge some of these gaps of complexity has arisen—"neuroeconomics"[74]—and it hopes to make economics a proper science by studying human brain activity, thereby enabling surer prediction of human behavior. Recent advances in brain science give this project some hope, but it must be acknowledged that it is a long way away from enabling predictions of the behavior of any actual human beings in real-world situations.

I suggest that the Smithian would make an analogous claim about economics and political science: no legislator or philosopher can account for all, or even most, of the variables involved in designing an economy or a society. The variations in individual circumstances and the factors involved in human behavior exceed by orders of magnitude anyone's ability to manage or even know them. Smith did not argue that markets solve all these problems, but his Economizer Argument and Local Knowledge Argument do entail that markets' extreme decentralization, their

[71] The failed Biosphere experiments are cases in point. See "Paradise Lost: Biosphere Retooled as Atmospheric Nightmare," *New York Times,* November 19, 1996 (available online at http://query.nytimes.com/gst/fullpage.html?res=9C0CE2D9133AF93AA25752C1A960958260); and "Columbia University Ends Its Association with Biosphere 2," *New York Times,* September 9, 2003 (available online at http://query.nytimes.com/gst/fullpage.html?res=9C02E7D6173BF93AA3575AC0A9659C8B63).

[72] E. O. Wilson, *Consilience: The Unity of Knowledge* (New York: Vintage, 1999).

[73] Ibid., 93, 94.

[74] For an overview, see Colin F. Camerer, "Using Neuroeconomics to Make Economic Predictions," *Economic Journal* 117 (March 2007): C26–C42.

dependence on uncoordinated individuals' decisions, and their sensitivity to changing local contexts allow the emergence of patterns of order whose conduciveness to people's general welfare will outstrip what any expert could have deliberately designed. The Economizer Argument and the Invisible Hand Argument even suggest a cautious optimism, as long as the "obvious and simple system of natural liberty" (*WN*, IV.ix.51) is allowed to operate. By contrast, not even a group of "the best brains," as economist Joseph Schumpeter suggested,[75] would be adequate to the task of deliberately directing this process: for they would be unable to gather the appropriate information, unable to effect real-time reckonings of whatever incomplete information they had, because constant changes in circumstances require constant reassessment, and unable to properly herd the cats because they do not yet have a competent understanding of the factors involved in human action. Despite the great advances in scientific knowledge, then, and the legitimate claims to expert knowledge, to believe these obstacles could be overcome would still be, for Smith, to commit the Great Mind Fallacy.

VI. Conclusion: The GMF, the Impartial Spectator, and Ownership

Adam Smith's Great Mind Fallacy also bears interestingly on his "Impartial Spectator" standard of morality. In *The Theory of Moral Sentiments*, Smith presents the Impartial Spectator as a regulative ideal that not only captures how we actually pass moral judgments, but also provides a normative measuring stick by which to judge our own and others' actions. According to Smith, if we assume that people make moral judgments by consulting an imagined Impartial Spectator, or, perhaps better, if we assume that people hold that an action is right if it would be approved by an Impartial Spectator, then we can account for a large range of human moral behavior. In fact, Smith believes that the assumption that we consult, or believe we should consult, an Impartial Spectator explains far more than just "moral" behavior. Thus, in his *Lectures on Jurisprudence*, Smith offers an Impartial Spectator theory of property, and his short essay "Considerations Concerning the First Formation of Languages" offers an explanation of language change and development that is consistent with, and even implies, the existence of an Impartial Spectator theory of language usage, although he does not explicitly mention it in the essay.[76] Smith sets out to explain the fact that humans develop a roughly agreed upon set of standards against which they judge their own and others'

[75] Joseph A. Schumpeter, *Capitalism, Socialism, and Democracy* (1942; New York: Harper and Row, 1975), 198.

[76] See *LRBL*, 203–26. For a discussion of Smith's essay on language, see James R. Otteson, "Adam Smith's First Market: The Development of Language," *History of Philosophy Quarterly* 19, no. 1 (January 2002): 65–86.

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actions in a broad range of human behaviors—including what we class as morality or etiquette, law, language, and even economics—and he concludes that their criticisms, judgments, and recommendations can best be explained by assuming that they generate them by consulting an imagined Impartial Spectator.[77] Yet at first blush it might seem that Smith is committing his own version of the GMF: for who is this Impartial Spectator, and why are his determinations authoritative? But Smith does not use his Impartial Spectator in this way, and what I call his "Impartial Spectator theory of property" in fact constitutes an instructive instance of his recognition of the GMF. Let me close this essay by suggesting how.

In his *Lectures on Jurisprudence,* Smith begins his discussion of "private law" by listing five ways by which property is acquired—occupation, accession, prescription, succession, and voluntary transference.[78] Here is Smith on occupation: "Occupation seems to be well founded when the *spectator* can go along with my possession of the object, and approve me when I defend my possession by force" (*LJ,* 459). Regarding prescription, Smith says, "There are four things requisite to form a right by prescription. 1st, bona fides, for if a person be sensible that his right to a thing is bad it is no injury to deprive him of it, and the *indifferent spectator* can easily go along with the depriving him of the possession" (*LJ,* 461). A few lines later, Smith says, "If he claims a right [to property] without any such tittle no *impartial spectator* can enter into his sentiments" (*LJ,* 461). Later in the same lecture, where Smith is discussing the third kind of personal rights, namely "ex delicto," he says, "Injury naturaly excites the resentment of the *spectator,* and the punishment of the offender is reasonable as far as the *indifferent spectator* can go along with it. This is the natural measure of punishment" (*LJ,* 475). And when discussing the "right of accession," Smith says that it "is not so much founded in it's utility as in the *impropriety* of not joining to it that object on which it has a dependence" (*LJ,* 460)—a reference to the Impartial Spectator's role in determining propriety, as laid out in *The Theory of Moral Sentiments.*[79]

Thus, what constitutes ownership, property, and proper punishment for transgression, according to Smith, is determined by what an "impartial" or "indifferent" spectator would adjudge. Crucially, however, Smith believes that there is no set of universal rules that uniquely and correctly determine these matters.[80] Although we can articulate general principles, arrived at inductively on the basis of past experience, when

[77] For discussion, see Otteson, *Adam Smith's Marketplace of Life,* chaps. 1 and 2.

[78] Smith, *Lectures on Jurisprudence,* 459. All italics in the quotations from *LJ* are mine. Note that the *Lectures on Jurisprudence* are students' notes of Smith's lectures, not Smith's own notes.

[79] There are additional references to impartial or indifferent spectators in *LJ.* See, for example, *LJ,* 17, 19, 32, 87, and 104.

[80] By way of contrast, a recent treatment that attempts to establish universal principles on the basis of intuition and *a priori* analysis is Liam Murphy and Thomas Nagel, *The Myth of Ownership: Taxes and Justice* (New York: Oxford University Press, 2002).

we seek to make particular judgments or resolve particular disputes, we must consult an imagined Impartial Spectator, relying on his judgment to render decisions. According to Smith, the Impartial Spectator, or the judge imagining him, should first know the relevant details of the case, including the parties involved, their relevant history, the local customs or practices, and so on; and he should have no personal stake in the outcome of the case. Yet Smith believes that each of these issues requires interpretive judgment—to know which facts are relevant and which are not, how the previous customs apply to this case, and so on. If interpretive judgment is always required, then the judge's routine judgments can best be explained as a (sometimes unconscious) consultation of the perspective of an Impartial Spectator. They can also be, and regularly are, criticized if they do not issue from or conform to such a perspective.

The practical application of any of the five ways by which Smith thinks one can acquire property will require interpretation and judgment. How long must one occupy land to become its rightful owner? Smith's answer: that length of time an Impartial Spectator would judge necessary before approving of its occupant's having title to it. How long is that? Smith's answer: whatever a fully informed but disinterested judge would approve. How in practice does one determine what such a judge would approve? One must approximate, in one's imagination, the perspective of a fully informed but disinterested judge of the case at hand and ask oneself what a person so situated would think. Smith's claim is that there is no set of universal principles that will uniquely determine the proper solution or settlement of every dispute. What the judge has at his disposal is his knowledge of previous case law, his knowledge of the particulars involved in the case before him now, and, if he is a good judge, his sense of what, as Smith says, is "reasonable" in such a situation.

This last element—reasonableness—may seem to introduce something new to the discussion, but in fact it is just Smith's adversion to the Impartial Spectator. Smith relies on the notion of "reasonableness" time and again in his *Lectures on Jurisprudence.* For example:

> From the system I have already explain'd, you will remember that I told you we may conceive an injury was done when an *impartial spectator* would be of opinion he was injured, would join with him in his concern and go along with him when he defend[ed] the subject in his possession against any violent attack, or used force to recover what had been wrongfully wrested out of his hand. . . . The spectator would justify the first possessor in defending and even in avenging himself when injured, in the manner we mentioned. The cause of this sympathy or concurrence betwixt the spectator and the possessor is, that he enters into his thoughts and concurrs in his opinion that he may form a reasonable expectation of using the fruit or whatever it

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> is in the manner he pleases. This expectation justifies in the mind of the spectator, the possessor both when he defends himself [against one who would deprive him of what he has thus acquired and when he endeavors to recover it by force]. . . . The *reasonable expectation* therefore which the first possessor furnishes is the ground on which the right of property is acquired by occupation. (*LJ,* 17)

When in his lectures Smith recurs to the notion of "reasonableness" as a criterion of adjudication, he typically puts it in terms of "reasonable expectations" on behalf of a property owner or a challenger—the "reasonableness" being determined by the Impartial Spectator. For example: "That obligation to performance which arises from contract is founded on the *reasonable expectation* produced by a promise, which considerably differs from a declaration of intention" (*LJ,* 472). What would make an expectation reasonable? Smith's answer is, again, that it is reasonable if an Impartial Spectator would approve of it. If we ask, further, where exactly the perspective of the Impartial Spectator comes from, Smith's answer would be to look at Parts I–III of *The Theory of Moral Sentiments.* There he lays out the "gradual" development of this perspective, beginning with the infant, who has no sense of propriety, proceeding to the "great school of self-command" (*TMS,* III.3.22) that begins the child's process of development, then to the development of a generalized perspective, and finally to the creation of an imaginary and idealized Impartial Spectator that serves as one's conscience.[81] A given individual's imagined Impartial Spectator is based on generalizations the individual has drawn from his past experience of what other actual spectators (including himself) have approved or disapproved in various circumstances. We infer, inductively but often unconsciously, general habits and even rules of judging from the numerous particular instances of judgment we have experienced, correcting them according to their relative success at serving their purposes—usually to attain a "mutual sympathy of sentiments" (*TMS,* I.1.2.1 and passim). We thus develop a generalized sense of what a fully informed but disinterested person would approve or disapprove in a case like the one before us, and this sense is what issues in the judgment of an Impartial Spectator.

Is the perspective of the Impartial Spectator infallible? No. It is based on the observations and generalizations of fallible human beings. Hence, the Smithian Impartial Spectator is not the voice of God or any other Great Mind. It is instead the coalescence of fallible human judgments on the basis of limited human experience filtered through human biases and prejudices. The imagined Impartial Spectator's perspective is idealized, but it is an all-too-human construction whose worth is judged by its

[81] For a description of this process, see Otteson, *Adam Smith's Marketplace of Life,* chaps. 1–3. See also Craig Smith, *Adam Smith's Political Philosophy,* chaps. 3 and 7.

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effectiveness, which itself is measured by human beings against human goals. It is thus more like Protagoras's "Man is the measure of all things" than Plato's Forms, God's transcendent judgment, or the omniscience of a Great Mind. I suggest, then, that Smith's adversion to an Impartial Spectator standard is not a commission of the GMF, but is instead consistent with the claim that the GMF is, in fact, a fallacy. According to the Smithian argument, what constitutes ownership, what constitutes property, and how disputes should be resolved are all matters for localized judgment. They can be aided by rules of thumb derived inductively on the basis of past experience, but in any particular case they will need to be supplemented by assessments of local facts performed by local judges. To believe, by contrast, that one can devise universal rules that establish the nature and scope of ownership and property and that will adjudicate all real-world disputes would, for Smith, be yet another instance of committing the Great Mind Fallacy.

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