



Law and Philosophy Library

# Adam Smith and the Philosophy of Law and Economics

*Edited by*

Robin Paul Malloy and Jerry Evensky



Kluwer Academic Publishers

# ADAM SMITH AND THE PHILOSOPHY OF LAW AND ECONOMICS

Edited by

ROBIN PAUL MALLOY

*College of Law, Syracuse University, New York, U.S.A.*

and

JERRY EVENSKY

*Department of Economics, Syracuse University, New York, U.S.A.*



KLUWER ACADEMIC PUBLISHERS

DORDRECHT / BOSTON / LONDON

Library of Congress Cataloging-in-Publication Data

Adam Smith and the philosophy of law and economics / edited by Robin Paul Malloy and Jerry Evensky.

p. cm. -- (Law and philosophy library ; v. 20)

Includes index.

ISBN 0-7923-2796-9 (hardbound : acid-free paper)

1. Smith, Adam, 1723-1790--Views on law. 2. Law--Economic aspects. 3. Economics--Philosophy. I. Malloy, Robin Paul, 1956-. II. Evensky, Jerry, 1948-. III. Series.

K487.E3Z93 1994

340'.1--dc20

94-9710

ISBN 0-7923-3425-6 (PB)

ISBN 0-7923-2796-9 (HB)

---

Published by Kluwer Academic Publishers,  
P.O. Box 17, 3300 AA Dordrecht, The Netherlands.

Kluwer Academic Publishers incorporates  
the publishing programmes of  
D. Reidel, Martinus Nijhoff, Dr W. Junk and MTP Press.

Sold and distributed in the U.S.A. and Canada  
by Kluwer Academic Publishers,  
101 Philip Drive, Norwell, MA 02061, U.S.A.

In all other countries, sold and distributed  
by Kluwer Academic Publishers Group,  
P.O. Box 322, 3300 AH Dordrecht, The Netherlands.

*Printed on acid-free paper*

All Rights Reserved

© 1995 Kluwer Academic Publishers

No part of the material protected by this copyright notice may be reproduced or  
utilized in any form or by any means, electronic or mechanical,  
including photocopying, recording or by any information storage and  
retrieval system, without written permission from the copyright owner.

Printed in the Netherlands

## PREFACE

More than two hundred years after the publication of the first edition of *The Wealth of Nations*, Adam Smith continues to be a central figure in discussions concerning the philosophy of law and economics. It is the purpose of this book to explore some of the contemporary issues and controversies surrounding these discussions. We have not attempted to produce a definitive work on Adam Smith's entire philosophy of law and economics. Instead we have pursued a series of important issues that we believe are central to understanding the relevance of Smith to contemporary discourse.

In preparing this book we made a conscious effort to obtain contributions from scholars that represented different disciplines and academically different approaches to Adam Smith's work. This is reflected in the styles of each individual contributor. We also set out to present the material in a somewhat unique manner. We wanted to capture both the academic analysis of Smith's work and also show Smith as a 'living' participant in the ongoing public policy debates of law and economics. This objective lead to the division of the book into two parts. The first part of the book presents some important new essays on Adam Smith's work. The second part of the book centers on a debate between two leading advocates of law and economics. In this second part of the book Smith is brought to life by his contextual presence in opposing positions by each of the debate participants. On the surface the debate is directed at contemporary disputes over the direction of law and economics, however, it becomes clear that a major separation between the views of the two antagonists relates to their distinct interpretations of Adam Smith's work. With this debate as the backdrop, further analysis is presented which both critiques the debate and connects the themes of part two with those of part one of the book.

As editors of this volume we have also taken the liberty of being major contributors. In addition to our own contributions we are delighted to be able to include insightful essays by Dr. John W. Cairns of the University of Edinburgh (Scotland), Dr. J. Ralph Lindgren of Lehigh University (U.S.A.), Professor Kenneth A.B. Mackinnon of the University of Waikato

(New Zealand), and the Honorable Richard A. Posner of the United States 7th Circuit Court of Appeals.

In making this project a reality we have many people to thank. Most importantly, we thank Margaret A.P. Malloy for contributing her computer expertise in preparing the final edit and formatting of the book. Thanks also go to Mary Ann McClanahan, Lynn Oatman and Cathie Soccocio for initial word processing assistance and to Dave Longeretta and Anthony Calabrese for aid in proof reading and cite check work. In addition, we thank the people at Kluwer Academic Publishers, in particular Peter de Liefde, Nicola Berridge, and Isabella C. Key for their support and patience in guiding us through the publication process. Finally, we thank the *Valparaiso University Law Review* for releasing their interest in the reprinted debate included in this volume. The debate was originally reported in Vol. 24 Number 2 of their *Law Review* in the winter edition, 1990.

*Robin Paul Malloy, & Jerry Evensky*  
*Syracuse University*  
*Syracuse, New York      U.S.A.*

ROBIN PAUL MALLOY

## INTRODUCTION TO THE VOLUME

Discussions on the philosophy of law have seldom included one of the most important figures of the modern age. A figure made ever more relevant by recent work in critical legal theory and in law and economics. Both critical theorists and legal economists have linked economics, in one way or another, to law, legal institutions, and dominant legal theory. Casting an imposing shadow over all such debates, although seldom adequately addressed, is the work of Adam Smith. Smith was among the grand philosophers of his time and yet today he is seldom studied outside of circles composed of those interested in the history of economic thought. Modern textbooks on economics give short mention to Smith other than to note his place in the developmental history of that science. Philosophers have done little better in the attention they have given to Smith's work. Likewise, lawyers, even those interested in legal theory, spend little time reading or thinking about Smith's contributions to the philosophy of law. All of this lack of attention, however, has never seemed to stop countless such people from cavalierly citing Smith as their patron Saint. There is no shortage of opinion regarding the pros and cons of Smith's legacy as it is embodied in the ideology of western capitalist economies. It seems therefore that while many are willing to speak directly or indirectly regarding Smith on any matter at hand, or to claim or disown his intellectual inheritance depending on the particular situation, it is seldom a scholarly as opposed to popular inquiry that ensues.

The contributors to this book uniformly believe that Smith's work is invaluable if one is seeking to gain a better understanding of the nexus between philosophy, economics and the law. As legal economists and critical theorists expound on the relationship between economic and legal ideology, it becomes ever more important to explore the legal philosophy of the acknowledged leading figure in the development of our economic tradition. Smith's work is more than foundational, however, for it continues to play a role in current debate on legal theory. Smith's work finds its place amidst the intellectual clashes over natural rights, the role of values and morals in law, and the tension between individualist, communitarian, and altruistic frameworks in shaping social organization.

This book addresses Adam Smith's philosophy of law and economics

and seeks to shed important new light on the complexity and relevance of Smith's work. Brought together for this project are scholars on Adam Smith including Jerry Evensky, and J. Ralph Lindgren, from the United States; John W. Cairns from Scotland; and Kenneth A. B. Mackinnon from New Zealand. This volume also includes works from two major contributors to the discourse in law and economics, Robin Paul Malloy and Richard A. Posner. The contributors to this volume represent a variety of disciplines including law, legal history, economics, and philosophy. All of the contributors do cross-disciplinary work and bring fresh intellectual vigor to their topics. We believe that this represents the first attempt to bring such a diverse set of scholars together for the purpose of exploring Adam Smith's contribution to the philosophy of law and economics.

Since the genesis of this project the goal has remained constant and clear. We wanted to explore Adam Smith's contributions to the philosophy of law and economics by looking at three distinct but related subject matters. First, we wanted the book to address Smith's views of law and of the legal system. Second, we wanted to further investigate Adam Smith the philosopher as his philosophy related to both legal and economic considerations. Third, and finally, we wanted to explore Smith's evolving role in the development of a new and specialized subdiscipline referred to as law and economics. While this one book cannot cover all issues related to these three distinct areas of inquiry we have nonetheless raised points which we believe are of central significance for present and future debates.

In Part One of the book we present a series of essays on specific elements of Adam Smith's work. In 'Setting the Scene: Adam Smith's Moral Philosophy', Jerry Evensky presents a framework for understanding the relationship between Smith's views on the functioning of the economy, the role of law, and moral philosophy. Evensky demonstrates the evolutionary nature of Smith's ideas on ethics, economics, and jurisprudence. He shows how Smith's moral philosophy was central to his vision on each of the relationships evident in law and economics. With important historical references he thereby sets the stage for the materials that follow.

John W. Cairns pursues Smith's conception of the proper role and function of the judiciary in his chapter titled 'Adam Smith and the Role of the Courts in Securing Justice and Liberty.' Cairns uses a general discussion of Smith's thought on the relationship between wealth, commerce, and liberty to launch into a new and detailed analysis of Smith's writing on the relationship between the legislative and judicial branches of government. He provides valuable insight into the historical distinction between the incorporation of Roman Civil Law into most of Europe and the development

of the Common Law in England. Smith's work is explored for commentary on the importance of this distinction as well as for the influence of his moral philosophy in shaping his understanding of the consequences of each tradition.

In 'Adam Smith's Treatment of Criminal Law,' J. Ralph Lindgren explores Smith's views on a theory of criminal law and punishment. He uses this chapter to go beyond the work of Knud Haakonssen and to argue for a different conclusion regarding Smith's approach. Lindgren is interested in Smith's detailed treatment of criminal laws and examines them from the perspective of resentment theory and utility theory. He uncovers a complexity to Smith's work in this area that had not been explored and by so doing presents a more complete picture of Smith's jurisprudence. He discusses crimes against both person and property as well as crimes of intent and anticipation. Lindgren concludes that Smith's arguments relied more on considerations of utility than retribution.

Kenneth A.B. Mackinnon contributes 'Adam Smith on Delictual Liability' which is a subject matter known more familiarly to Common Law lawyers as torts. The law of delict is the Roman Civil Law approach to the subject matter of private causes of action for injuries resulting from acts of commission or omission. Mackinnon provides historical information on the relationship between the Common Law and Civil Law traditions in this area and explains how Smith was in contact with both systems as a result of the differences between the Scottish (Civil Law) and English (Common Law) approach. He uses the opportunity presented by Smith's work to explore the standard of the impartial spectator as a legal standard and to illustrate the connection between Smith's moral, economic, and legal theories.

In the concluding essay to Part One Robin Paul Malloy discusses the relevance of Smith's work in the growing discourse of Law and Economics. In his chapter 'Adam Smith and the Modern Discourse of Law and Economics,' Malloy provides a detailed discussion of important moral and economic themes from Smith's work as they have a bearing on the law. He discusses the importance of Smith's rejection of social contract theory and of his views on natural liberty, self interest, and social evolution through individual and collective experience. This discussion is then put into context by exploring the way in which particular modern day legal theorists invoke Adam Smith's memory in their own discourses about the relationship between law and economics.

Part Two of the book presents another aspect of Adam Smith's legacy. In the second part of the book we look at how Adam Smith's work is imported into the actual discourse of contemporary legal, economic, and philosophical dispute. Disagreements involving interpretations of Smith's work turn out to be at the root of many current controversies. Such



controversies go beyond issues of natural rights, morality and ethics, and explore the more concrete problems of family, housing, medical care, affirmative action, and surrogate motherhood. These issues and more are explained in Part Two of the book which begins with a brief introduction by Malloy.

The Malloy/Posner debate which follows the introduction to Part Two, forms an important part of the book because it illustrates the continuing relevance of Adam Smith's work to core understandings regarding law and economics. In Malloy's opening statement and in his response to Posner, the argument is made that Smith's work on law and economics must be understood by way of, and in connection with, Smith's work on moral philosophy. Malloy argues that Smith's dynamic system of evolutionary development would lead to a value based and humanistic conception of law and economics. And, that a market economy, in the Smithian sense, requires a firm grounding in moral discourse and normative consensus building. Richard A. Posner answers Malloy by presenting a different view of Smith in both his opening statement and his reply essay. Posner finds no need to link an understanding of Smith's economics, as expressed in *The Wealth of Nations*, to his earlier work in *The Theory of Moral Sentiments*. Furthermore, Posner states clearly and expressly, for the first time in print, that he does not find appeals to moral argumentation to be useful. Posner thereby rejects Malloy's call for moral discourse and separates Adam Smith's contributions to economic science from Smith's other interesting, but 'less fruitful,' philosophical endeavors.

Underlying both positions in this debate are differences between the participants concerning their philosophy of law and their understanding of Smith's original ideas. In this light, Jerry Evensky's 'Comments on the Debate' helps to highlight the various express and implicit allusions to Smith's work made by both Malloy and Posner. Evensky points out the way in which he believes Smith's work is both used and misused by each participant. Finally, in an effort to advance the debate beyond the confines pursued by Malloy and Posner, Evensky offers his own thoughts on Smith's possible role and importance in understanding current controversies in law and economics.

In the final essay of Part Two, Jerry Evensky brings a sense of closure to the subject matter discussed throughout the entire book. He revisits the essays from Part One and ties them together with the themes of Part Two.

While each contributor to this volume brings a different perspective to his work all share a common recognition of the importance of Smith's views on the philosophy of law and economics. This book does not represent the definitive word or conclusion on this subject but rather a beginning of a

new discourse. It is the hope of the editors that this effort will inspire further inquiry and debate.

*Syracuse University, College of Law*



JERRY EVENSKY

## SETTING THE SCENE: ADAM SMITH'S MORAL PHILOSOPHY

### 1. INTRODUCTION

The subject of our book is Adam Smith and the Philosophy of Law and Economics. As the title of this chapter suggests, its purpose is to set the scene for what is to follow.

Smith's views on the functioning of an economy and the role of law are subsets of his moral philosophical vision. In order to set that topic into its proper context, it is important that we first review Smith's views on philosophy in general and on moral philosophy in particular. Sections two and three of this chapter address each of these topics in turn. In Sections four, five, and six I focus in more detail on the dimensions of Smith's moral philosophical vision: ethics, economics, and jurisprudence. In Section seven I show how Smith's moral philosophy evolved over time, and I conclude in Section eight with thoughts on the importance of filling in gaps in our understanding about Smith's views on jurisprudence.

### 2. ADAM SMITH ON PHILOSOPHY

Philosophy is the science of the connecting principles of nature. (Smith, 1980, p.45)

Adam Smith's conception of philosophy is framed by his conception of the origin of the universe. He is a believer in the view that the universe is the product of the hand of a designer who arranged the mechanism and set the system in motion. The classic statement of this 'design argument'<sup>1</sup> position is that made by the character Cleanthes in David Hume's *Dialogues Concerning Natural Religion*:

Look round the world: contemplate the whole and every part of it: you will find it to be nothing but one great machine, subdivided into an infinite number of lesser machines, which admit of subdivisions, to a degree beyond what senses and faculties can trace and explain. All of these various machines, and even their most minute parts, are adjusted to each other with an accuracy which ravishes into admiration all men, who have ever contemplated them. The curious adapting of means to ends, throughout all nature, resembles exactly, though it much exceeds, the productions of human contrivance; of human design thought, wisdom, and intelligence.

Since therefore the effects resemble each other, we are led to infer, by all rules of analogy, that the causes also resemble; and that the Author of Nature is somewhat similar to the mind of men; though possessed of much larger faculties; proportioned to the grandeur of the work, which has been executed. By this argument *a posteriori*, and by this argument alone, do we prove at once the existence of a Deity, and his similarity to human mind and intelligence. (Hume, 143)

This argument *from design* (or, one based on the notion that it took a Deity *to design* certain purposefulness into what exists (e.g., the ability of the eye to see)), provided a proof according to Cleanthes, and many including Sir Isaac Newton, that there was a Deity.

Hume goes on in the *Dialogues* to destroy the logic that underlies this "proof" and Smith is well aware of Hume's argument.<sup>2</sup> But this has no bearing on Smith's conception of the Deity's role in the design, for Smith did not conceptualize the Deity or the design in terms of proof or capital-T, Truth.

Smith's belief in the Deity derives from the same source as that represented by Demea in Hume's *Dialogues*: faith. Smith's rejection of the notion that the design argument provides proof of the Truth of the existence of the Deity is consistent with his view of the role of Truth in philosophy in general. There is no proof of Truth, either of the Deity or of the shape and structure of the design of the Deity.

All that we know, according to Smith, is effects of the design. The actual pins and wheels of the mechanism that the Deity designed lay out of sight. The machine that moves nature lays behind the face of nature, just as the pins and wheels that move the hands of a watch lie behind the face of the watch. In both cases, the elegance of the design that provides the dependability and elegance of what we actually observe is ascribed to the designer.

The wheels of a watch are all admirably adjusted to the end for which it was made, the pointing of the hour. All their various motions conspire in the nicest manner to produce the effect. ... Yet we never ascribe any such desire or intention to them, but to the watch-maker .... (Smith, 1976B, 87)

And in both cases, the watch and the universe, the internal structure and thus the design are invisible to one who can only see the face of it.

The difference lies in the fact that in the case of the watch we can open it up and analyze its internal structure. We can observe its design and the connecting principles that give rise to the motion we observe on its face. So too, to use another example from Smith, the wonder we feel at the illusion created by the facade of an opera set vanishes when we are allowed to see the mechanisms that create that illusion:

Upon the clear discovery of a connecting chain of intermediate events, it [(our wonder)] vanishes altogether. Who wonders at the machinery of the opera-house who has once been admitted

behind the scenes?

But, Smith continues, it is not so with nature:

In the Wonders of nature, however, it rarely happens that we can discover so clearly this connecting chain. With regard to a few even of them, indeed, we seem to have been really admitted behind the scenes. (Smith, 1980, 42-3)

For Smith, nature's Truth lies in the machinery, the connecting principles, that lie behind the scenes, and the subject of philosophy is those connecting principles of nature.

Individuals are drawn to the study naturally, for it is our nature, according to Smith, to look upon nature with wonder when we see 'extraordinary and uncommon objects, at all the rarer phaenomena of nature, at meteors, comets, eclipses, at singular plants and animals, and at every thing, in short, with which we have before been little or not at all acquainted ....' (Smith, 1980, p.33) The philosopher, having an image of a coherent design in mind, rejects the notion that there are in fact any singularities or leaps in nature. But having no direct access to these connecting principles, the philosopher's work becomes a process of creative imagination.

Philosophy, by representing the invisible chains which bind together all these disjointed objects, endeavours to introduce order into this chaos of jarring and discordant appearances, to allay the tumult of the imagination, and to restore it, when it surveys the great revolutions of the universe, to that tone of tranquility and composure, which is both most agreeable in itself, and most suitable to its nature. Philosophy, therefore, may be regarded as one of those arts which address themselves to the imagination .... (Smith, 1980, p. 45-6)

Philosophy ... *pretends* [emphasis added] to lay open the concealed connections that unite the various appearances of nature." (Smith, 1980, 51)

A great philosopher is one who has the creativity to imagine what the 'concealed connections' might be. And, in Smith's view, the greatest of all philosophers was Sir Isaac Newton.

In his 'History of Astronomy' Smith asserts that Sir Isaac Newton's work 'prevails over all opposition ... with principles [that], it must be acknowledged, have a degree of firmness and solidity that we should look in vain for any other system'. (Smith, 1980, 104-5) Newton's work seems to reflect the Truth about the connecting principles of nature, but lest we be seduced to make that leap from admiration for Newton's imagination to enshrinement of his ideas as Truth, Smith reminds us not to do so:

And even we, while we have been endeavouring to represent all philosophical systems as mere inventions of the imagination ... have insensibly been drawn in, to make use of language expressing the connecting principles of this one, *as if* [emphasis added] they were the real chains which Nature makes use of to bind together her several operations. (Smith, 1980, 105)

Newton's work is so powerful that it is easy to use the language of Truth when one describes it, but even his philosophical triumph is simply a work of a creative imagination. Its power comes from its ability to sooth our imagination and to give us the feeling that it reflects the connecting principles we cannot actually observe.

Smith's objective is to do for moral philosophy what Newton had done for natural philosophy. He has a vision of the invisible chains that form the connecting principles of the human order. He wants to tell his story with the same persuasive power.

### 3. ADAM SMITH'S MORAL PHILOSOPHY: BACKGROUND

Triangulating from his three key frames of reference, Deism, Classical Liberalism, and evolutionary thought, allows us to locate Adam Smith's moral philosophy.

As noted above, Smith believes in the existence of a Deity and that the universe is the product of that Deity's design. The domain of Natural Philosophy covers all of that universe which surrounds the human condition. Newton provided us with a powerful story describing what he imagined the connecting principles of that domain are. Moral philosophy is the study of the connecting principles that underlie the structure and evolution of the human order. Much of Smith's career is devoted to the work of moral philosophy: representing the connecting principles of that human order.

Smith's belief in the Deity has significant implications for his conception of those connecting principles. Not only does that belief anchor his position that there is an order, it justifies Smith's faith in the notion that the order was inherently good: That the order, when functioning in harmony with the Deity's design, is one in which individual humans would find much for which to give thanks. This is so because Smith's Deity is a benevolent Deity:

The happiness of mankind, as well as of all other rational creatures, seems to have been the original purpose intended by the Author of nature, when he brought them into existence. No other end seems worthy of that supreme wisdom and divine benignity which we necessarily ascribe to him .... (Smith, 1976B, 166)

This 'mankind' of which Smith speaks is made up of 'rational creatures' who exist as autonomous Beings and interact with one another within the context of a political state. In the ideal, design case, the political state created by these Beings exists for the sole purpose of insuring that the requisite definitions necessary for commercial intercourse, and the institutions necessary to resolve issues of definition, are in place. Smith's ideal state is

a classical liberal state in which individuals interact within the context of a nonintrusive, instrumental political structure.

But this is not where the human condition begins. This is an ideal, a limit, that human society evolves toward through the course of human history. No state actually reaches the limit, and no one state follows an unbroken path toward the limit. Any given state may move forward and then stagnate (e.g., China, according to Smith (Smith, 1976A, 89)) or even regress (e.g., Bengal, according to Smith (Smith 1976A, 91)). But through the course of time, the overall path of human history brings the maturing of the human condition from the rude state of hunting and gathering, through the successively more advanced states of pasturage and agriculture, to the most advanced state: commercial society. It is in that last stage that the classical liberal political structure must emerge, for an effective commercial society depends on the presence of such a structure.

Smith presents his moral philosophy, his ideal classical liberal vision and the forces that propel the evolving human condition, in his two great works: *The Theory of Moral Sentiments* (hereafter *TMS*) and *The Wealth of Nations* (hereafter *WN*). He had in mind a third work on 'the general principles of law and government, and of the different revolutions which they had undergone in the different ages and periods of society' (Smith, 1976B, 342), but as of 1790 he writes that 'the theory of jurisprudence, which I have long projected, I have hitherto been hindered from executing'. (Smith, 1976B, 3) Unfortunately, he dies in 1790 never having completed the task. In the next two sections (IV. 'Ethics' and V. 'Economics') we will examine the elements Smith does present, his social and economic analysis, in more detail. In section VI., 'Jurisprudence' we will review Smith's general views on the nature of law. In last section VII., 'The Evolution of Smith's Moral Philosophy', we will describe the evolution of Smith's views on these dimensions of his moral philosophy. All this will set the scene for the remainder of the book which is dedicated to filling in the unfinished pages of Smith's story: The place of jurisprudence in his moral philosophy.

#### 4. ADAM SMITH'S MORAL PHILOSOPHY: ETHICS

Adam Smith began his published work on moral philosophy with *The Theory of Moral Sentiments*, because ethics is the foundation of his moral philosophical vision of a constructive classical liberal society. As described above, that vision is a product of Smith's mind's eye, his imagination. What he imagines is the connecting principles that are assembled by a benevolent Deity make up the immense machine of the universe. In his moral philosophy he represents his image of that machine as it functions to define the human condition. For the wheels of human society to turn easily, for



that machine to run smoothly, there must be virtue. Human virtue, ethics, is the *sine qua non* of the Smith's constructive classical liberal society. The source of the divergence between the real and the ideal is very simple: humans are subject to human frailty.

Human society, when we contemplate it in a certain abstract and philosophical light, appears like a great, an immense machine, whose regular and harmonious movements produce a thousand agreeable effects. As in any other beautiful and noble machine that was the production of human art, whatever tended to render its movements more smooth and easy, would derive a beauty from this effect, and, on the contrary, whatever tended to obstruct them would displease upon that account: so virtue, which is, as it were, the fine polish to the wheels of society, necessarily pleases; while vice, like the vile rust, which makes them jar and grate upon one another, in as necessarily offensive. (Smith, 1976B, 316)

The 'abstract and philosophical light' is the light of the moral philosopher describing his mind's eye view of the ideal. The 'noble machine that was the production of human art' is the case of the real. For a moral philosopher such as Smith to present a full and coherent vision of the human condition, he must represent the ideal and the source of the distortion that deflects the real from the ideal. And if that moral philosopher has a sanguine view of the ultimate state of the human condition, as Smith does given his faith in a benevolent Deity, he must explain how it is that the real state of society approaches the limit of the ideal over time. This is what Smith does in the *Theory of Moral Sentiments*.

Smith's ideal of human moral behavior is based on several concepts that he weaves together. First there are sentiments. Foremost among the sentiments are self-love, justice, and benevolence. Each of these sentiments serves a crucial function in the formation of human action. Self-love is the motive force for individual betterment, and as such it is the motive force behind all the activity that gives rise to the creativity and productivity of a commercial society. The classic line from Smith in the *Wealth of Nations* tells us that:

It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity but to their self-love, and never talk to them of our own necessities but of their advantages. (Smith, 1976A, 26-7)

But while self-love is necessary for the existence of a constructive commercial society, it is not sufficient. Indeed, if allowed to run unbridled, it can become the source of destructive behavior that is inimical to the kind of constructive competition through which the ideal classical state enriches itself and all who participate in it. As Smith writes:

In the race for wealth, and honours, and preferments, he may run as hard as he can, and strain every muscle, in order to outstrip all his competitors. But if he should jostle, or throw down