**Editing Hayek[[1]](#endnote-1)**

Over a number of years, I was at work editing Hayek’s *Law, Legislation and Liberty* for his *Collected Works*. This book was eventually published in 2022.[[2]](#endnote-2) In my view, it was not my task, as editor, to tell the reader what Hayek was saying – he was good at that himself. But there are three kinds of tasks that, it seemed to me, an editor could reasonably undertake, and which I tried to discharge.

*1. References and Citations*

The first, is to check the author’s references and citations. In Hayek’s case, this was very much needed. Hayek was creative when he was writing this book. It is full of interesting ideas. But he was an elderly man,[[3]](#endnote-3) and his referencing let him down. There are a lot of quotations and references, many of which aren’t quite right. In some cases, the issues are not serious: there are small slips in quotations or in the details of books cited. In other cases, there are bigger issues. Sometimes, he refers to the wrong book. In other cases, he makes claims about what an author says which are not really borne out by the material that he refers to.[[4]](#endnote-4)

I should stress that Hayek should not be blamed for this in the way in which we might criticize someone today. These days, when it is so easy to check things on-line, one is apt to forget just how difficult referencing was before the internet. Hayek moved around a lot. He seems, typically, to have taken notes of references and quotations onto filing cards. He would, then, have consulted these when he was writing. His own version would then have been typed up by a secretary. Errors could come in at any point. But without the availability of texts or library records on the internet, checking anything could be a difficult and time-consuming business.

Occasionally, however, things went spectacularly wrong. An example of this, is a reference that Hayek makes to a French provincial Ph.D. dissertation, Jean Salvaire’s **Autorité et liberté**, from which he also quoted briefly.[[5]](#endnote-5) When checking on references, I was at one point working at the Library of Congress in Washington D.C. This holds most books published in the United States, and many other books from all over the world. I had taken with me a list of books and of references that Hayek had made to them, which I wanted to check out. Were his page references correct? Were the publication details, if he had given them, OK? If he had quoted, was the quotation right? And if had quoted something that was not in English, was there an English translation? In this particular case, I was disappointed to find that the Library of Congress did not did not hold a copy of the dissertation. A few copies of it did exist in libraries in the United States, and I was wondering where I might have to go to check the quotation (and, indeed, from where Hayek himself had obtained a copy of it).

However, in the meantime, while I was waiting in the Library of Congress for other books to which I needed to refer to be delivered, I Googled the quotation (which illustrated a view to which Hayek was opposed), to see if that would help me.[[6]](#endnote-6) The quotation read: ‘the complete realization of liberty is, in fact, nothing else but the complete abolition of law…. Law and liberty are mutually exclusive’.

My search threw up another reference. (I write ‘another reference’, just because I often found that, when I used Google to check something about which I was doubtful in Hayek, I’d find lots of references, but all to various editions or translations of Hayek’s own work!) Google came up with another source for the quotation to which Hayek did not refer. This was to a book that the Library of Congress held: Dorothy Fosdick’s **What Is Liberty?** I requested the book, and found that it quoted the material on the page which Google indicated.[[7]](#endnote-7) But there was more. The material that Hayek had quoted consisted of passages which, in fact, Fosdick had quoted from yet another source: William Benett’s **Freedom and Liberty**.[[8]](#endnote-8) Fosdick had, in fact, put quotations from different pages in Benett’s book together, separated by ellipses. She gave the source from which she was quoting, but her reference *below* that was to the French dissertation to which Hayek had referred as the source of the material. I think that he had just made a slip: that Hayek had consulted and copied the quotation from Fosdick, but noted as the source not her book or Benett, but to something referred to in the next footnote in Fosdick’s book. I should stress that this was not anything sinister involved. Hayek was not using the material to make a polemical point. It was simply the kind of slip to which we are all prone, and which – as I can myself testify, as I get older – is all too easy to make with the passing of years.

The biggest problem for me as an editor, however, was that Hayek referred to, and cited, a vast range of material, and as I have mentioned, often made small mistakes in his references or citations. Everything needed to be checked. At the time, I was based at the Australian National University, in Canberra, Australia. But not only did its library not hold everything to which Hayek referred, but nor did any library in Australia or, indeed, any single library anywhere in the world. From Australia, one also cannot typically obtain books by linter-library loan from overseas. As a result, I trailed round the world, over a number of years, trying to track down the material that Hayek had cited. Among the libraries in which I worked are: Stanford University and its law library; UCLA Berkeley; The Library of Congress and its law library; the Folger Library in Washington D.C.; the British Library in London; the British Library of Political and Economic Science at the London School of Economics; the Senate House Library of the University of London; the Bodleian Library in Oxford; Duke University Library; and The Lambeth Palace Library (i.e. the library attached to the official residence of the Archbishop of Canterbury in London). I also made a special trip to Amsterdam and also to Munich – to the State Library of Bavaria, and also to the German Army University’s Library there, to track down books which I could not locate anywhere else. In addition, I made extensive use of Amazon and Google’s services which reproduce some out of copyright material, and furnish limited quotes from other material. I also used the Hathi Trust’s collection of scanned books. They have copies of a great deal of electronic material – best accessed from a U.S. academic library affiliated with them; elsewhere, one’s access is restricted. In addition, where a work is still in copyright, you can get from them a list of pages on which particular words occur in a book. This can be really useful if you have access to a big book that Hayek has cited, and, as has often happened to me, Hayek’s own page reference was incorrect! This is particularly tricky if the book is written in a foreign language, although there may be additional problems if, say, German-language material is written in Gothic script, which is not always readily recognised by Hathi’s optical character recognition system.

Hayek had consulted a huge variety of resources in a variety of different languages, and seems to have referred to, and often cited, whatever edition of a book happened to be to hand where he was working. He also moved about while he was working on the book. Accordingly, one has (for no intellectual reason) references to and quotations from specific pages in various different editions of, say, particular German books on law: something which it is not all that easy to locate in English-speaking countries, at the best of times. (While some of the most difficult things to locate were references to material in old Italian law journals.)

Some of this checking was straightforward. Other things were mind-bending – as when he referred to various obscure Medieval Scholastic writers on law. It is often very difficult to locate copies of their work anywhere, and especially to prove that a Latin quotation is not, in fact, somewhere in a book in which Hayek said that it occurred.

I also hit other kinds of problems. One was posed by his citing a piece which appeared a Nazi-era German law journal. While the piece has been widely referred to, none of the university libraries that I visited seemed actually to have a copy of it. The Hoover Institution at Stanford University supposedly had it in their library, but they turned out to have a few other issues of the journal, but not the particular one I needed. I then discovered that a copy was held by a branch of the Bodleian Library in Oxford. When I got there, it was not on the shelf. The librarian said: well, it is indeed listed as being here, and no-one has taken it out. She confirmed that it was not on the shelf. However, she seemed to think that they had never actually held the material: how it got listed as among their holdings was a mystery. In the end, this was one of the items that I had to go to Amsterdam to consult.

There was, then, the problem that Hayek often quoted, in the original language, without translating, material in Greek, Latin, Italian, Spanish, French and German. On some occasions, Hayek had made mistakes in these quotations, too. I had to identify published English translations of these works if they existed, and if they didn’t, to get all of these quotations translated, and also to have my transcriptions of foreign language material checked. (One hazard, here, is the auto-spelling correction feature in Word. I did not realize that I had this switched on when doing some of the transcriptions: there is a risk that what was an accurate transcription of a foreign language may be mangled by that!) There are also questions like: if Hayek quotes Nineteenth-century German material, which uses an old style of spelling, should one modernize the spelling – as Hayek tends to do –or use the original?

All that was the first phase of my editorial task. (There was, though, also the small problem: do I just silently correct errors where Hayek has made a transcription mistake, or give both the original and the correction – which would multiply the size of the book, and make it look as if I am being disrespectful to Hayek. I went for silent corrections of small points. My worry, however, was how many new small errors might I have introduced, myself. I took care to make sure that the publishers did not refer to my work – as they had to other volumes in the **Collected Works** – as ‘the definitive edition’, and to include my e-mail address in the book, and a plea for readers to send me corrections when they spot errors.)

*2. Hayek’s Writing of the Book*

I was able to get some financial support from a U.S. foundation which enabled me both to spend time in the Hayek archive at The Hoover Institution, Stanford University and at the Library of Congress. I was at the Hoover Archive to try to locate material which might be relevant to the story of Hayek’s writing the book, of which I had hoped then to give an account in my editorial introduction. Here, again, there were difficulties.

The immediate problem was that, in general, Hayek, when he had published something, threw away his working materials. (Also, when he moved house, he often threw away much of his correspondence.[[9]](#endnote-9)) Accordingly, other than a few odds and ends, there is no paper trail for *Law, Legislation and Liberty* at the archive. This is a shame, for it was written over a very long period of time. In addition, Hayek had asked a former graduate student, Edwin McClellan – at that time an academic – who had earlier read through and suggested corrections to his *The Constitution of Liberty*, if he’d do the same for *Law, Legislation and Liberty*. Hayek was able to get a grant from a foundation to remunerate McClellan for this work. There was good reason for such work to be done, as Hayek’s own English style was not very good, and his written work in English was often edited by other people.

The editing by McClellan took place in respect of all three of the volumes of *Law, Legislation and Liberty*, which was initially published over the period 1973-1979. Hayek seems to have made use of the editor’s suggestions for volume 1. But when reading through volume 2, he became dissatisfied with the book, and cut and reshaped his material criticizing the ideal of social justice. (He eliminated a much fuller critical discussion of various theories of social justice, which he had planned to include in the book.[[10]](#endnote-10)) However, his work on his revision of volume 2, and on volume 3, was undertaken in a period when Hayek seems to have been unwell. Various friends thought he was suffering from depression; Hayek later said that it was the effect of an undetected heart attack. But his reworking of volume 2 may have had the consequence that he was not able to benefit from McClellan’s work in the same way as he had in volume 1.

Hayek returned to fully active life around the time he was awarded a Nobel Prize in economics in 1974. But he then engaged in a frantic international program of talks and lectures. In addition, he worked on *The Denationalization of Money*, so the last part of *Law, Legislation and Liberty* got sidelined.

The manuscripts of the original version – and of the version edited by McLellan – are not in the archive. I followed up various leads to where copies might be – but was frustrated. A copy of an early version of the text does exist. Hayek had a cyclostyled version made when he taught a course on *Law, Legislation and Liberty* as a Visiting Professor at UCLA. But the only person I know to have one in his possession did not respond to my request that he might share a copy of it with me.

What, however, of the contents of the book itself? If one compares it to Hayek’s *Constitution of Liberty*, two themes are distinctive to *Law, Legislation and Liberty*. The first relates to his ideas about the desirability of having two chambers in parliament. One of these chambers would be concerned with the setting of general rules. Within these rules the second, which would be responsible for government in the more ordinary sense, then would have to operate. The other distinctive idea relates to the fact that, in *Law, Legislation and Liberty*, Hayek reinterprets a liberal idea of the ‘rule of law’, in terms of common law rather than legislative codifications of the law. I will say something briefly about each of these.

The two-chamber idea is striking, even if Hayek’s version of it is unusual. (Hayek suggests that the general-rule- making chamber should be elected by people when they come to the age of 40, on a cohort basis.) The notion of a split between two chambers, with one as setting general rules which should constrain government in an ordinary sense, is, however, a very old one. It is found in the ‘Republican’ or ‘Civic Humanist’ tradition. Perhaps the best-known example is, in fact, to be found in the work of someone of whom Hayek is usually critical: Jean-Jacques Rousseau. (See Rousseau’s *Social Contract*, of which it is a key theme!). Indeed, not only does Rousseau have two chambers, but his legislative body is supposed to work by putting forward only general rules, in terms of which the executive part of government is then to work, just as does Hayek’s.

A re-interpretation of a liberal idea of the rule of law in terms of common law is remarkable. For the liberal Rechtsstaat interpretation of the rule of law, with which Hayek identifies himself, had historically been developed *by contrast with* ‘historical’ interpretations of the law which resemble the ideas that Hayek came to favour.[[11]](#endnote-11) One can in fact identify where the impetus to Hayek’s shift towards a common law approach came from: a book by the Italian scholar Bruno Leoni.

The story is an interesting one. Hayek, Milton Friedman and Leoni all took part in a small conference put on by Arthur Kemp at Claremont College in California 1958. Friedman talked about the ideas that became *Capitalism and Freedom*; Hayek about *The Constitution of Liberty*, and Leoni about what became his *Freedom and the Law*. (A recording of their presentations was made, and is held in the Hoover Institution archive.)

A transcript was then made of Leoni’s lectures, which the organizer, Kemp (who had been a speechwriter for President Herbert Hoover), wrote up, with the aid of the notes from which Leoni had spoken. This was published as Leoni’s **Freedom and the Law**. Hayek had thus had heard the lectures *prior* to the publication of **The Constitution of Liberty**, but they do not seem to have made any impact on the book.[[12]](#endnote-12) However, when he got Leoni’s *book*, he was impressed, and wrote to Leoni that he was going to write a ‘pamphlet’ on *Law, Legislation and Liberty* (see, for discussion of this, my **Hayek and After**). This work exploded into his three-volume **Law, Legislation and Liberty**. In this, he in effect re-worked his earlier ideas about the rule of law, set out for example in **The Constitution of Liberty**, re-interpreting them in terms of common law.

There was quite a step between the ‘pamphlet’ and an at times somewhat turgid three-volume book (volume 2, which deals especially with the legal material, is not an easy read). And, indeed, there was a middle step between the pamphlet and the three volumes. A woman involved with lobbying on behalf of the oil industry had the idea that that the people for whom she worked might support the publication of a series of books on issues to do with a classical liberal understanding of freedom – a project which became the *Principles of Freedom* series. The idea was that the editors would commission distinguished free-market-inclined academics to produce books on topics on which they specialized, which would be aimed at a non-specialist audience. The series started off under the sponsorship of Wabash College, and ended up being looked after by the economist John Van Sickle and the Institute for Humane Studies. Hayek’s *Law, Legislation and Liberty* was promised by Hayek for this series. However, as he did more work on it, Hayek came to the conclusion that his book would not fit the series. He was surely right that it would have been hard-going for non-specialist readers. However, Van Sickle was very reluctant to let a big ‘name’ drop out of his series. In the end a copy of Hayek’s manuscript (I am not sure at quite what stage) was sent to the Wabash College economist Ben Rogge, for him to review. He agreed with Hayek that the book would not be suitable. (Rogge’s papers were one of the places in which I hoped that I might find a copy of an early version of Hayek’s manuscript. In the event, Rogge had reviewed Hayek’s manuscript, and also one by the American economist Murray Rothbard. But Rogge’s papers at the Hoover Archive contain only a copy of the Rothbard.)

The full story of the *Principles of Freedom* series is difficult to piece together. Some of the key discussion seems to have taken place in face-to-face conversations at Mont Pelerin Society meetings, and Van Sickle’s papers have, alas, not been collected.[[13]](#endnote-13) But there are likely to be odds and ends about the story to be found in various archive collections. If, by any chance, a reader comes across anything pertinent to this story, I’d be most grateful if they could let me know!

*3. Intellectual Issues*

As part of my editorial introduction I briefly discuss what seemed to me some problems about Hayek’s approach – not in the sense of saying that I know better than him, but, rather, because there are some significant loose ends.[[14]](#endnote-14) One of these is that Hayek seems, at times, committed to a view that we should simply accept, rather than critically scrutinizing, the products of tradition; at other times he advocates the idea that inherited institutions such as law should be improved upon. This scrutiny would include the making of improvements so that the law will function better in relation to the workings of a market economy.[[15]](#endnote-15) It would also include the correction – where this can be done without creating worse problems – of inequities which have come about in the historical development of the law. What is not clear, is who is to undertake this improvement, and on the basis of what knowledge. Hayek’s ‘republican’ second chamber is on the face of it not suitable for this task, just because it is selected by, and presumably consists of, ordinary people not legal and economic specialists.

My current view about this particular problem, is that what would be needed is something like the U.S. Supreme Court: i.e. a specialist legal body which is open to non-legal argumentation,[[16]](#endnote-16) and which would be prepared to take an activist role on the basis of its fallible overall knowledge of the characteristics of a common-law system and a market-based economy. Such a body would itself need to be open to specialist critical scrutiny in the relevant academic literature. (Here U.S. law journals, which publish articles drawing on a range of different disciplines, would be very much the kind of thing that would be required. But one would also need appropriate input from ordinary citizens, when we spot that the ideas with which decision-takers are working are problematic.) At the same time, for Hayekian ideas to win out, they would – quite properly – need to get the better of the argument in such general intellectual discussions. But it is not clear that this is, currently, what is taking place.

Let me put this issue to one side, here, and turn to three further matters. (a) How was it that Hayek at times seems to make common cause with Karl Popper, when Popper’s ideas in many ways contrast with Hayek’s? (b) How is it that he adopts terminology close to that of the British conservative philosopher Michael Oakeshott, with whom he did not have a close personal or intellectual association? (c) How was it that in **Law, Legislation and Liberty,** Hayek seems to make common cause with John Rawls – from which he then retreats? Each of these could be the topic of an academic paper in itself. But let me conclude by saying a very little about each.

Popper. Popper and Hayek were both from Vienna, but they did not know one another there. They met in London prior to Popper going to New Zealand just before the Second World War. Hayek had read Popper’s **Logic of Scientific Discovery** (in German) and had heard a very early version of **The Poverty of Historicism** (given at a seminar Hayek co-ran on the methodology of the social sciences at the L.S.E.). Popper was, at the time, a radical ex-socialist, but largely concerned with issues in philosophy and science. However, while he was in New Zealand, during the Second World War, he wrote his **Open Society**. He discovered, once the text of this had been written, that, from a very different basis, he had developed some arguments that paralleled those in Hayek’s *Road to Serfdom* (which Popper only received after his own text had been completed).

While he was in New Zealand, Popper also revised his **Poverty of Historicism**. He submitted it to the philosophical journal, **Mind**, which rejected it. In it, he engaged with some of Hayek’s writings on the philosophy of social science, and also re-wrote the final part of it, once he had access to Hayek’s article ‘Scientism and the Study of Society’.[[17]](#endnote-17) Popper corresponded with Hayek from New Zealand, and the discussion touched on his **Open Society**, which he was having difficulty placing with a publisher. (Sir Ernst Gombrich, the art historian, was assisting him with this in Britain, although Popper tried to micro-manage the project of the placement of the book, both in Britain and the U.S., from New Zealand.) In the end, Popper agreed to Hayek’s seeing the MS, and it was swiftly placed by Hayek with his own publishers, Routledge. During the course of their correspondence, Hayek got to know about ‘The Poverty of Historicism’, and Hayek readily accepted it for **Economica**, which he was editing from the L.S.E. in exile from London, in Cambridge.

Hayek did a great deal to assist Popper, and was impressed with his **Logic of Scientific Discovery** after its initial German publication (1934). The good personal relations between them seemed to me to have left – at least in print – their political differences under-explored. In **Law, Legislation and Liberty**, Hayek refers to Popper’s philosophical ideas, and draws certain parallels between them and what he is doing, although Hayek’s ideas about what he calls an ‘open society’ and Popper’s are rather different.[[18]](#endnote-18) Hayek uses the expression ‘the open society’; but by this he means the sort of society that he favours; one depending on the rule of law and a market-based economy. Popper’s notion of an open society emphasises the rather different idea of a society in which all inherited ideas are open to critical scrutiny and improvement. There is cross-fertilization between Hayek and Popper, but no meeting of minds, because each of them was, essentially, working along distinctive intellectual tracks of their own.

Second, Michael Oakeshott. Hayek and Oakeshott both taught at the L.S.E., but Oakeshott did not overlap with Hayek. (Oakeshott came to the L.S.E. in 1951, while Hayek was in the U.S. for part of 1948 and was then in Vienna, and moved to the U.S. in 1950.) Hayek was much later invited back to the L.S.E to give a lecture, and in it made use of terminology which Oakeshott had developed to set out ideas which were similar to his.[[19]](#endnote-19)

Third and finally, there is John Rawls. The situation, here, is I think this. Hayek read an early paper by Rawls, and Hayek and the economist James Buchanan corresponded about whether, in fact, Rawls was working on similar lines to them. They were not sure – nor, it seems was Rawls – and Hayek gave him the benefit of the doubt. As a result, Hayek interpreted what he had heard about Rawls’ *Theory of Justice* in the light of his earlier understanding of Rawls, and only gradually came to the conclusion that Rawls is in fact what Hayek would take to be a mild socialist. (Hayek was, anyway, simply too elderly – and too caught up in the development of his own ideas – to have engaged in detail with Rawls’ very demanding later work.)

*5. Conclusion*

I have, I suspect, said more than enough – but in other ways not enough, just because of how briefly I have referred to so many issues. But I will conclude with this.

Hayek’s *Law, Legislation and Liberty* is a really interesting book. But it is not quite the book it might have been, in two respects.

The first is that, while he was writing it, Hayek was exploring a whole range of related themes – e.g. in the essays which he collected in his *New Studies*.[[20]](#endnote-20) The essays in that book discuss, *inter alia*, matters of methodology, psychology, and ‘evolutionary’ themes. There was, I think, the potentially for Hayek to have tried to work all this material into *Law, Legislation and Liberty*. As it is, one can get a feel for what such a study might have been, by looking at the two books together.

Second, Hayek was elderly when he was working on this material, but also isolated. His work would, I think, have been strengthened immensely if he could have still been working with a community of sympathetic scholars, drawn from all the disciplines in which he had an interest, who could have discussed issues with him, and offered him sympathetic criticism of the substance of his work as it developed.

But the fact that neither of these things happened leaves, I believe, those who find his approach interesting with a real opportunity: to take up the issues with which he was concerned, and, taking inspiration from his truly remarkable work, to try to do better.

1. This is a much-revised version of a talk originally given at a ‘Brown Bag’ Luncheon at the Foundation for Economic Education, Atlanta, GA. [↑](#endnote-ref-1)
2. F.A. Hayek, *Law, Legislation, and Liberty: A New Statement of the Liberal Principles of Justice and Political Economy*, edited by Jeremy Shearmur (Chicago: University of Chicago Press, 2022). [↑](#endnote-ref-2)
3. Although as I write this that I am myself older than he was when he was first at work on *Law, Legislation and Liberty*! [↑](#endnote-ref-3)
4. One example of this, was a claim that Hayek made about a British socialist writer, Anthony Crosland, had written. He initially offered a contentious reading of a passage in Crosland’s *The Future of Socialism*, London: Cape, 1956; but in a later part of his work, Hayek put his own contentious interpretation into quotation marks, as if it is what Crosland had himself written. [↑](#endnote-ref-4)
5. Jean Salvaire, *Autorité et liberté* (Montpellier: Imprimerie de la Charité, 1932. [↑](#endnote-ref-5)
6. Just because one can sometimes discover that books have been scanned and are available on line. [↑](#endnote-ref-6)
7. Dorothy Fosdick, *What Is Liberty?: A Study in Political Theory*, New York & London: Harper, 1939. [↑](#endnote-ref-7)
8. William Benett, *Freedom and Liberty*, London, etc: Oxford University Press, 1920. [↑](#endnote-ref-8)
9. He simply discarded an initial letter from Keynes, giving his initial reactions to Hayek’s *Road to Serfdom*. It is to be found in an archive at the London School of Economics, with a note that it was discovered in a room that Hayek had vacated. [↑](#endnote-ref-9)
10. I had hoped that I might be able to get hold of this material, so that I could at least give a description of it, if I could not, say, have included material from it as an appendix to the volume. But I am sorry to say that I was unsuccessful. [↑](#endnote-ref-10)
11. This is documented and discussed in my *Hayek and After*, London: Routledge, 1996. [↑](#endnote-ref-11)
12. I write in this way, just because Hayek changed his mind on these issues between *The Constitution of Liberty* and *Law, Legislation and Liberty*. [↑](#endnote-ref-12)
13. In fact, things are worse than this. Van Sickle spent a period working as the representative of the Rockefeller Foundation in Austria, which brought him into contact with a number of Austrian economists and other academics. He seems to have kept a diary, and to have edited this, for the benefit of his family. One researcher, Earlene Craver, who has written about these people had access to it. It seems to have been returned to his family but his son – whom I contacted about it – has no knowledge of it. [↑](#endnote-ref-13)
14. In the event, what appears in the ‘Editorial Introduction’ to the published volume is a truncated version of what I had originally hoped to write. [↑](#endnote-ref-14)
15. What is involved here is something like a Hayekian version of ‘law and economics’. Such revision – which Hayek at various points indicates that he favours – would be different in its character from the *internal* revision of the law on the basis of the discovery of incoherences or injustice, about which Hayek wrote in volume 2 of *Law, Legislation and Liberty*. [↑](#endnote-ref-15)
16. In this respect, the U.S. Supreme Court operates rather differently from, say, the Supreme Court in the UK and the High Court in Australia, each of which are more concerned with a ‘black letter’ approach to the understanding of the law, and are less inclined towards its speculative re-interpretation (something which one might argue is forces onto the U.S. Supreme Court because of its role in the interpretation of the U.S. Constitution). [↑](#endnote-ref-16)
17. This was later included in Hayek’s book, **The Counter-Revolution of Science**; see, now Bruce Caldwell (ed.) F. A. Hayek, **Studies on the Abuse & Decline of Reason**, Chicago: University of Chicago Press, 2010. [↑](#endnote-ref-17)
18. There was a tendency on Hayek’s part to make use of ideas and expressions that he found in the work of other writers which in some ways resembled his own views, without exploring just how close their views in fact were to his own. [↑](#endnote-ref-18)
19. The situation is complicated; I discuss it briefly in my editorial introduction to **Law, Legislation and Liberty**. [↑](#endnote-ref-19)
20. F. A. Hayek, **New Studies in Philosophy, Politics, Economics and the History of Ideas**, London: Routledge, 1978. [↑](#endnote-ref-20)