

Book Review

Ernst-Joachim Mestmäcker, *A Legal Theory without Law. Posner v. Hayek on Economic Analysis of Law* (Tübingen, Mohr Siebeck 2007) 66 pp. [Walter Eucken Institut, Beiträge zur Ordnungstheorie und Ordnungspolitik 174], ISBN 978-3-16-149276-1
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1. INTRODUCTION

This slight volume is fascinating to read but difficult to review. Ernst-Joachim Mestmäcker, a *grand homme* of European legal scholarship and one of the first German law professors to argue in economic terms, cautions here against the dangers of taking economics too seriously. He analyses Richard Posner's and Friedrich August von Hayek's legal theories as two competing contributions to the economic analysis of law. As he argues, the two are adversaries in their concepts of law and how legal epistemology and methodology are to be informed by economics. Whilst determined to defend Hayek against what he considers false charges and misunderstandings, he offers a multifaceted (legal, economic and philosophical) critique of both Richard Posner's pragmatic theory of adjudication and mainstream law and economics.

As it seems, the author's main motivation for writing this volume has been to do justice to Hayek against what he understood as Posner's mischaracterisations. In fact, by reading his counter-arguments and objections against Posner, it is hard not to sense emotionality and personal involvement at certain points. Here and there, the tone even comes close to the stereotypical resentments of Continental (law) professors against American and/or economic 'imperialism'.

While the author's preferences are undoubtedly on Hayek's side, he is not completely dismissive of mainstream law and economics. Throughout the eight sections of the volume, the reader is confronted not only with the juxtaposition of Hayek and Posner but also with the author's bold and suggestive personal perspective on such diverse issues as the multiple traditions of the Enlightenment; the opposition of 'utility v. happiness'; the 'visible hand of the law'; efficiency as 'the product of competition'; positivism; the rule of law; the nature of legal scholarship; and 'the limits of rational choice'. In fact, he promises to use the Posner v. Hayek controversy as a starting point 'to analyse, in a historical perspective, the relation of law to economics' (p. 10). The attentive reader even gets hints towards an alternative methodological ground for economically inspired legal scholarship which goes beyond both Hayek's and Posner's position.

At any rate, readers who are not closely familiar with the works of these two authors, the German tradition of ordo-liberal economic thinking and the modern history of legal and social philosophy should be prepared for a hard time following the analysis. Moving through centuries, across discourses and disciplines, it is difficult to appreciate the significance of the specific points within the Posnerian, the Hayekian or the ordo-liberal projects, let alone draw an overall balance of how these theories relate to each other. In other words, to be in a position to agree or disagree with Mestmäcker, the reader should at least be armed with the major works of Hayek and Posner and be familiar with a number of classics in philosophy and social sciences, including Kant, Smith, Bentham, Nietzsche and Weber.

Without attempting to do justice to the intellectual richness of Mestmäcker's oeuvre in such a limited space, in the following I focus on three issues. First, I revisit his critique of Posner and rational choice theory (2); then I discuss some methodological problems in jurisprudence, starting from Mestmäcker's distinction between external and internal legal theories (3); finally, I comment on Mestmäcker's own approach to law and economics (4).

2. MESTMÄCKER AGAINST POSNER AGAINST HAYEK AGAINST...

Richard Posner, a pioneer of law and economics, judge, scholar and public intellectual, is an author who both likes and provokes controversy. Some 15 years ago, he wrote two articles, criticising Nobel Prize winner Ronald Coase's views on the methodology of economics. Posner's claim that Coase has been hostile to theoretical work in economics provoked the economist-cum-philosopher Uskali Mäki to revisit this controversy a few years later. In a clever article under the title 'Against Posner against Coase against Theory', Mäki systematically refuted Posner's arguments and re-interpreted Coase's position.¹ Reading the present volume, one can easily notice certain similarities with this earlier episode. In both cases, a Nobel Prize-winning economist has been criticised by Posner on methodological points and defended by a third party. However, the differences between the two cases are also interesting. In my view, as Posner's objections against Coasean methodology are both more radical and less well-founded than those against Hayek, Mäki's counter-arguments have been more successful than Mestmäcker's.

Mestmäcker claims that Posner does not know Hayek's work (well enough) or if he does, he fundamentally misunderstands it. Even if Posner understands it, he systematically mischaracterises, belittles and underestimates Hayek's views on law and its relation to economics (pp. 10, 19, 26-42). At one point, Mestmäcker claims that '[a]s far as Posner is concerned, Hayek has proffered no contribution to, nor made a call for, the economic analysis of law' (p. 19). A few pages later,

¹ U. Mäki, 'Against Posner against Coase against Theory' 22 *Cambridge Journal of Economics* (1998) pp. 587-595.

however, we learn that this is not the case: despite his objections, Posner clearly acknowledges Hayek's work as a contribution to law and economics. What Mestmäcker rather misses is a 'discussion of where and why Hayek's economic theory diverges from Posner's' (p. 27). Reading a few more lines, however, one comes to what really seems to irritate him: Posner makes Hayek's theory 'appear as a mixture of philosophical speculation, irrational aversion to economic planning, belief in natural law, an outmoded concept of law as custom and the refusal to accept the rationality of modern social sciences' (p. 27).

While it might be argued that Posner does not interpret Hayek's views in the best light (a difficult task on its own, considering the nature of Hayek's work), in my judgment, Mestmäcker is partly overreacting to Posner's views, partly presenting his valid objections against Posner in an unconvincing way.

As to the overreaction, Posner's treatment of Hayek is itself polemical and not an exercise in intellectual history aimed at an uncommitted 'objective' interpretation in the academic sense. Admittedly, this leads to simplifications – but even in this simplified and partial reading, Hayek is not used as a straw man and his views are neither distorted nor fully dismissed. The references underpinning Mestmäcker's diagnosis are mainly taken from chapter 7 of Posner's 2003 book *Law, Pragmatism, and Democracy*,² where he analyses Hayek's (and Kelsen's)³ views. In a previous version of this text, a 2002 paper entitled *Formal versus Substantive Economic Theories of Law*⁴ Posner's evaluation of Hayek comes through even more clearly. In commenting on Hayek's views in a general manner, Posner distinguishes a European (formal) and an American (substantive) tradition in law and economics. These are not rivals but complement each other.⁵ He formulates the main difference as follows: 'Europeans' are concerned with the constitutional foundations of a liberal state, certain formal (content-independent) features of the law (predictability, impartiality in enactment and enforcement), and the system-level relations between law and the economy (the law's function being to guarantee freedom of contract, property rights and formally rational adjudication). 'Americans', while not indifferent to the constitutional framework, are primarily interested in the content of particular laws, doctrines and cases, encountered daily by judges and lawyers and evaluate them in terms of their substance, especially

² R. Posner, *Law, Pragmatism, and Democracy* (Cambridge, Mass., Harvard University Press 2003).

³ Mestmäcker also discusses Kelsen's theory in its relation to Hayek and Posner (pp. 14-15, 52-55) but I will not analyse this issue here. For a comparison of Kelsen's and Hayek's views, see, e.g., F. Horkay-Hörcher, 'The Question of the Limitation of the State by the Law: A Comparison of Kelsen's and Hayek's Approach', 33 *Rechtstheorie* (2002) pp. 369-380.

⁴ R. Posner, *Formal versus Substantive Theories of Law*, Guest Lecture at the Annual Meeting of the EALE, 20 September 2002, Athens, downloadable at: <<http://eale2002.phs.uoa.gr/downloads/Posner-Formal%20versus%20Substantive%20Economic%20Theories%20of%20Law.doc>>.

⁵ Posner, *supra* n. 4, p. 1.

efficiency.⁶ As Posner himself acknowledges, the difference is not geographical but rather one of focus.⁷

When assessing Hayek's theory, according to which the role of rules of conduct and legislation is to be determined by the principles that govern a free and competitive order, Posner's main objection seems to be against Hayek's wholehearted support for formalism in adjudication, based on his overconfidence in tradition and evolutionary processes; an issue where Posner is hardly the first to criticise Hayek. I come back to the differences between their respective legal theories in section 3.

As to the unconvincing presentation of Mestmäcker's arguments, let me only mention one example. Mestmäcker's imprecise use of the term 'rational choice' (pp. 11-15, 46-49) leads to some conceptual difficulties. He seems to indicate with this term a number of disparate issues, such as (1) instrumental (means-end) rationality as a category explaining human behaviour guided by practical reason; (2) the idea that one ought to follow prudential, in contrast to moral, reasons, either in individual or collective decision making; (3) cost-benefit analysis as a technique of evaluating policies; (4) technical efficiency as a normative principle of using the cheapest means to achieve a given end; (5) Pareto efficiency in the allocation of resources as a normative criterion for evaluating public policy and law; (6) the neglect of distributional concerns in policy; (7) commodification and the denial of inalienable rights.

Although each of these issues might raise legitimate concerns (mentioning some of them has indeed become stereotypical in general comments on law and economics), putting all of them under the label of the 'limits of rational choice' makes reasonable discussion burdensome. After disentangling the problems, it becomes clear that Mestmäcker's objections against Posner and mainstream economic theory refer to all these dimensions and rely on conceptual, empirical and normative arguments as well.

Upon reflection, most economists would agree with Mestmäcker on a number of points, such as the need to distinguish positive from normative analysis; the dangers of immunising utility theory against empirical falsification; that economic policy legitimately follows distributive objectives; or that there might be good reasons to make certain rights, related to human dignity, inalienable. On the other hand, it is less clear who could do the job of economists better, imperfect as their methodological toolbox may be. For instance, we are not provided with convincing arguments on why lawyers *qua* lawyers are better equipped than economists in solving complex normative problems when multiple goals should be achieved.⁸

⁶ Ibid.

⁷ For instance, Bentham would be an 'American'; constitutional economists who analyse the constitutional order for its system-level characteristics live on both sides of the Atlantic.

⁸ The arguments in this paragraph closely follow C. Engel, 'Ernst-Joachim Mestmäcker', *Preprints of the Max Planck Institute for Research on Collective Goods Bonn 2008/19*, p. 11, downloadable at: <http://www.coll.mpg.de/2008_19online.pdf>.

A last factor of why Mäki has been more convincing back in 1998 is that at certain points Mestmäcker's criticism goes too far. For instance, he attributes to Richard Posner the 'thesis that all conduct that follows rational choice is moral and is presumably legal' (p. 45.) Now, if 'rational choice' is understood as a theory or guidance of human conduct, the thesis is obviously false. To put it mildly, it is very implausible that Posner would call murder moral or (even presumably) legal *because* the murderer followed his own interests or used the most effective means to achieve his end. Even if we interpret 'rational choice' as referring to Kaldor-Hicks efficiency, it is questionable to attribute the thesis to Posner. As zealous an advocate of wealth maximisation as he is, Posner draws attention to the potentially morally abhorrent implications of single-mindedly following efficiency.⁹

3. 'LEGAL THEORY WITHOUT LAW'? EXTERNAL VERSUS INTERNAL THEORIES OF LAW

Without going through a tedious systematic comparison, the disagreements between Posner and Hayek can be located in various dimensions. The first is related to economic theory, the controversy being between neoclassical and Austrian economics. General equilibrium theory and welfare economics with their static view of the economy, objective theory of value, and ambition to predict and evaluate economic processes in mathematical models are easily contrasted with Hayek's famous idea of the 'competition as a discovery procedure', a subjective theory of value and the focus on the incalculable dynamic nature of economic processes.¹⁰ Interestingly, on the level of economic policy, especially in antitrust law, Posner's basically Chicagoan perspective on competition is much closer to Hayek's (as Mestmäcker himself recognises with respect to merger control, p. 34) than neoclassical to Austrian economic theory in the abstract. Posner would be easy to convince that 'if we knew in advance the most efficient allocation of

⁹ R. Posner, *Economic Analysis of Law*, 5th edn. (New York, Aspen Law & Business 1998) pp. 30-31: '[T]here is more to justice than a concern with efficiency. It is not obviously inefficient to allow suicide pacts; to allow private discrimination on racial, religious, or sexual grounds; to permit killing and eating the weakest passenger in the lifeboat in circumstances of genuine desperation; to force people to give self-incriminating testimony; to flog prisoners; to allow babies to be sold for adoption; to legalize blackmail; or to give convicted felons a choice between imprisonment and participation in dangerous medical experiments. Yet all these things offend the sense of justice of modern Americans, and all are to a greater or lesser (usually greater) extent illegal. An effort will be made in this book to explain some of these prohibitions in economic terms; but most cannot be; there is more to justice than economics.'

¹⁰ For a classical comparison, see J. Buchanan, 'Is Economics the Science of Choice?', in *Economic Inquiry and Its Logic. The Collected Works of James Buchanan*, Vol. 12 (Indianapolis, Liberty Press 2002) pp. 3-21.

resources there would be no need to rely on at times wasteful and erratic markets and competition' (p. 34).

Another dimension of disagreements to which Mestmäcker refers throughout is related to what he calls a legal theory from inside and from outside. He claims that while Hayek construes an internal legal theory (with which he agrees), Posner's 'scientific' legal theory is an external (economic) analysis of law (which he criticises). In my view, here Mestmäcker's characterisations are more confusing than illuminating. First, it is unclear what he means exactly by internal (or 'inside' or 'intra-legal') and external ('outside') theory of law. Second, even under the most plausible interpretation, these labels do not fit well with either Hayek's or Posner's views.

In one sense, Mestmäcker is right. Posner's economic theory of law is external as it is not continuous with the discourse of judges (the language lawyers speak). Hayek's jurisprudence can be called internal as his view that (common law) judges follow pre-existing general rules is in accord with judicial self-description and the representative ideology of these judges. On the other hand, whether 'internality' of this kind is necessary or desirable is a debated question in jurisprudence.

Some argue that legal theory should be transparent in the sense that theory should either support the express legal reasoning judges offer or demonstrate 'how legal officials could sincerely, even if erroneously, believe the law is transparent.'¹¹ Transparency implies a close link between the theoretical perspective and the language judges use in deciding cases. 'Law and economics' falls short of the transparency criterion; for instance, it does not use the moral language of corrective justice which allegedly judges do in deciding contract cases, at least in common law countries. This requirement thus provides a metatheoretical criticism of law and economics, similar to Mestmäcker's.

The challenge for economic analysis is to account for the behaviour of judges and for the moral language of law. Others argue, however, that these two languages are, at least in part, continuous or if they are not, the lack of transparency is not a decisive argument against law and economics.¹² Jody Kraus even goes further, by claiming that 'efficiency theories can account for the divergence between the non-consequentialist, moral nature of judicial opinions and the consequentialist nature of economic analysis by offering an evolutionary theory of how the terms of judicial opinions acquire their meaning.'¹³ Following this

¹¹ S. Smith, *A Theory of Contract* (Oxford, Oxford University Press 2004) p. 25.

¹² N. Oman, 'Unity and Pluralism in Contract Law', 103 *Michigan Law Review* (2005) pp. 1483-1506.

¹³ J. Kraus, 'A Philosophical Approach to the Economic Analysis of Contract Law', 9 *Virginia Journal* (2006) pp. 7-23, at p. 14. For a more detailed argument, see J. Kraus, 'Transparency and Determinacy in Common Law Adjudication: A Philosophical Defense of

argument, one could try to combine Hayekian (evolutionary) and Posnerian (efficiency-oriented) perspectives in legal theory in a fruitful way.

More to the point, the question arises: what is (and ought to be) the role of economic and other non-legal insights in adjudication? As to the 'is' part of the question, this role depends on dimensions of legal decision making like discretion, expertise and legitimacy. Particular legal cultures (Continental, common law and non-Western), national legal systems, even legal areas (private, administrative or criminal law) differ crucially along these dimensions. This reflects the fact that the direct impact of non-legal arguments on adjudication depends on a *canon of legitimate or acceptable arguments*¹⁴ which is context-specific, even within a particular legal system at a given time.

As to the 'ought' question, methodologically self-conscious law and economics scholars tend to agree that one should avoid 'the jurisprudential naïveté about the ultimate connection, if any, between ... economic analysis and the sort of argument that might be acceptable to courts.'¹⁵ As they suggestively put it, 'it is appropriate to regard each economic analysis as being limited by the preface' which makes clear that the particular efficiency arguments of the analysis should be considered by judges *to the extent prudential arguments are relevant*.¹⁶ Although Posner himself does not always make this proviso explicit, he is well aware that the practical impact of his pragmatic theory of adjudication is conditional upon certain characteristics of modern American society, including its political and legal system.

The imprecision of Mestmäcker's external-internal distinction becomes clear when we try to interpret it the other way. With opposite roles, it also seems to make sense: Posner's is a theory of adjudication and Hayek constructs a social scientific theory on the evolution of law. Writing about pragmatic adjudication, Posner is clearly exposing an internal theory of law in the sense that he makes normative claims as to how judges in the United States should decide cases. *Within this* internal perspective, he argues for pragmatism which also implies the use of (mostly social scientific) information external to formal legal sources, in order to arrive at better decisions.

Hayek, on the other hand, analyses common law adjudication from an external perspective, interpreting it as a process of selection of rules. How closely indeed Hayek followed (fell prey to) the discourse in common law judicial ideology and how much he analysed it as an instance of his theory of spontaneous orders, is a

Explanatory Economic Analysis', 93 *Virginia Law Review* (2007), available at: <<http://ssrn.com/abstract=990042>>.

¹⁴ On the 'canon of acceptable arguments', see A. Honoré 'Legal Reasoning in Rome and Today', 4 *Cambrian Law Review* (1973) pp. 58-67, at pp. 64-66.

¹⁵ R. Craswell, 'Default Rules, Efficiency, and Prudence', 3 *Southern California Interdisciplinary Law Journal* (1993) pp. 289-302, at p. 293.

¹⁶ *Ibid.*, pp. 292-293.

matter of interpretation where commentators' views diverge. Ludwig van den Hauwe convincingly argues that both the language and substance of Hayek's analysis are discontinuous with common law judges' ideology and can be reconstructed as an evolutionary theory. As he argues, 'three distinct evolutionary mechanisms are involved in Hayek's account of the modus operandi of the judiciary.'¹⁷ The three mechanisms evolution requires are replication, variation and selection. Replication is provided by *stare decisis*, i.e., the principle prescribing that precedents should be followed. The importance of this first mechanism is especially emphasised (and in Posner's view, over-emphasised) by Hayek. Variation is provided both by the constant emergence of new situations which challenge the judiciary and by judicial error. Finally, selection between different legal responses requires legal innovation, including legislation (the necessity of which Hayek acknowledged only reluctantly and exceptionally). This reconstruction both renders Hayek's theory more coherent and makes clear that Hayek himself 'grounds the political ideal of the Rule of Law "positively", that is, on an empirical-scientific basis and not on arbitrary metaphysics.'¹⁸

Metaphysics, to be sure, is not mentioned by mistake.¹⁹ Related to the external v. internal distinction, the concept of law in the two theories also differs. Hayek makes a fundamental distinction between *nomos* and *thesis* and attaches the concept of law to the political ideal of the rule of law which governs the great society via abstract rules (*nomos*). Hayek's anti-positivist view becomes evident when he claims that piecemeal legislation and regulation (*thesis*) – whether or not called law in a formal sense – cannot be considered law in the sense of *nomos*. Posner ultimately relies on the American realist tradition and endorses a predictive or 'activity' concept of law. Conceptually, he links law to 'what judges do', now standard critiques of such theories notwithstanding.²⁰

In my view, the basic difference between Hayekian and Posnerian jurisprudence derives from the fact that when writing about law, they have been involved in different projects; the theoretical and practical aims of their writings differ. Hayek was primarily interested in law from the perspective of social philosophy, which has both conceptual and normative aspects. He analysed law in theoretical terms, almost completely abstracting it from particular legal systems and doctrinal

¹⁷ L. van den Hauwe, 'Friedrich August von Hayek (1899-1992)', in J. Backhaus, ed., *The Elgar Companion to Law and Economics* (Cheltenham, Edward Elgar 1999) pp. 339-348, at p. 344.

¹⁸ *Ibid.*, p. 346.

¹⁹ The fact that Mestmäcker himself is not hostile to metaphysics, at least in its Kantian version, becomes clear from his references to Kant. Still, in view of his approving references to the Scottish Enlightenment (Smith, Hume), his philosophical position is undoubtedly more nuanced.

²⁰ R. Posner, *The Problems of Jurisprudence* (Cambridge, Mass., Harvard University Press 1990) pp. 220-238.

categories. Conceived as a set of philosophical propositions, his theory implies a claim for universal validity. In contrast, when reading Posner's legal writings, one should always keep in mind that his jurisprudential views commit him to being interested in the problems of a particular political community and legal system, that of the United States. Undoubtedly, the jurisprudential project is not the only one in which Posner is involved. Still, when it comes to law, theoretical insights, including economic analysis, should be subservient to practical ends within a particular community, in evaluating and improving its laws and policies.²¹

4. MESTMÄCKER'S OWN VIEWS ON LAW AND ECONOMICS

Although this might sound unfair as a critique, instead of the scattered refutations and counter-arguments presented in defence of Hayek and against Posner's ideas, readers interested in the different methodological traditions of law and economics could have profited more from a direct and systematic exposition of Mestmäcker's own views on the theoretical, methodological and philosophical foundations of law and economics. To be sure, these views are present in this book, albeit only indirectly and in a fragmentary way.²²

As to his jurisprudential views, Mestmäcker argues for a limited role of efficiency in evaluating and applying law. In his view, law should 'accommodate, in a free order, the dichotomy of economic liberties and equal justice' (p. 15). In Mestmäcker's view, jurisprudence has a valuable stock of knowledge, collected throughout the centuries. The autonomy of law as a system, as well as that of adjudication, should be respected. The knowledge of economics can be useful for law only if imported in accordance with the proper rules of legal decision making. On the other hand, he argues that both law and legal scholarship should be informed by legal history and comparative law (pp. 15, 56-62).

Going beyond jurisprudential problems, even for readers unfamiliar with Mestmäcker's previous works, topics and references in this book make it plausible to link his views to the ordo-liberal tradition of German economic and legal thinking. In this sense, his is yet another attempt to draw the attention of the

²¹ While Mestmäcker refers to Posner's two recent volumes – *Frontiers of Legal Theory* (2001) and *Law, Pragmatism, and Democracy* (2003) – his views on the canonical topics of jurisprudence are more fully exposed in his *The Problems of Jurisprudence* (1990). Although Posner's views have changed at many points in the last two decades, to fairly assess his views on legal theory, one should discuss the older book as well.

²² Readers interested in his ideas at work might be especially interested in his numerous works on competition law. A good starting point could be his co-authored book on European competition law: E.-J. Mestmäcker and H. Schweitzer, *Europäisches Wettbewerbsrecht* (München, C.H. Beck 2004).

English-speaking academic community to this undeservedly forgotten school of thought.²³

As to economic methodology, he believes that evolutionary economics is much better suited to help the law than neoclassical models. He also misses freedom as a normative category distinct from efficiency in economic theory. In fact, in both, Mestmäcker could easily find allies among economists, even among law and economics scholars. Still, insights from evolutionary game theory or the economic analysis of freedom of choice have started to have an impact on legal scholarship only very recently. What is involved, however, is not only the speed of dispersion of new theories. It seems that the more sophisticated the economic models, the less relevant they seem for the kind of analysis most legal scholars practise and prefer. Mestmäcker himself is rather sceptical towards the scientific methodology of modern economics and warns against using the abstract models of economics as standards for the evaluation of real-world situations.²⁴

In sum, Mestmäcker's vision on law and economics differs both from Posner's and from Hayek's and could be characterised as a version of ordo-liberalism, informed by Kantian ideas and a historical sensitivity. Referring to Smith and Hayek, he argues for '[a] different [and preferable] approach to law and economics [which] views the economic system as a system of liberty based on a legal order that provides for and guarantees the constituent economic liberties as individual rights. Abstract legal rules for otherwise unregulated individual planning are an integral part of the economic system, providing information that makes a rational division of labour and allocation of resources possible' (p. 22).

The first encounter with this vision in a polemical context raised some difficulties for this reviewer. But the discomfort caused by the task of writing a critique of a critique of a critique has been amply compensated for by the intellectual pleasures of being confronted with erudite arguments and exciting non-mainstream ideas on a most important topic.

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²³ As from the 1930s and especially during the first two decades of post-war Germany, the ordo-liberals argued for a stable and transparent framework of rules for the efficient functioning of a private market economy. This framework referred to the preconditions for the maintenance of a competitive market order, such as monetary stability, open markets in the domestic and international sense, private property of the means of production, freedom of contract, strict competition law and bankruptcy laws, credibility and consistency of economic policy, a strong state with limited competences. For an overview in English, see M. Streit, 'Economic Order, Private Law and Public Policy: The Freiburg School of Law and Economics in Perspective', 148 *Journal of Institutional and Theoretical Economics* (1992) pp. 675-704.

²⁴ Cf. Engel, *supra* n. 8, pp. 8-10.

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