AGENDA FOR A FREE SOCIETY

Essays on Hayek's
The Constitution of Liberty

Edited by
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Introduction

'As a cautionary voice', said the former Marxist philosopher, Professor Sidney Hook, in his review* of *The Constitution of Liberty,* 'Mr. Hayek is always worth listening to. He is an intellectual tonic. But in our time of troubles, his economic philosophy points the road to disaster.'

A thinker who can earn praise and condemnation in such proximity and from such a committed critic must command attention. What sort of book is *The Constitution of Liberty*‡ Its wide sweep takes in economics, political theory, philosophy, sociology, anthropology and jurisprudence. Its profound scholarship, drawing on or appraising more than a thousand authors, yields an intellectual feast and *tour de force.* Its modesty, humility and humanity inspire respect for a writer whose transparent aim, whatever his judgments, is solely to serve mankind. Its fearless integrity leads him to follow through his analysis to unpopular and seemingly extravagant conclusions. Not least, its aim, 'a comprehensive restatement of the basic principles of a philosophy of freedom' (p. 3) makes it a work that will live as a landmark in the history of political economy. Like Lord Robbins's work on the English classical economists,‡ it takes us back to the masters of the eighteenth and nineteenth centuries, not least to Hayek's mentors, David Hume, Adam Smith, Edmund Burke, Lord Acton, Alexis de Tocqueville, whom we are too apt to judge secondhand from writers who have misinterpreted them. It would be folly to try to assess the influence that *The Constitution of Liberty* may wield on thinkers and men of affairs in the second half of the twentieth century; yet it is safe to compare it in

conception, intellectual insight and execution with Adam Smith's *Wealth of Nations.*

When philosophic terms are losing or changing their meaning, when established political party attitudes are being fused or becoming irrelevant, and when rapid social and economic change is enforcing elemental rethinking of policies, opinions and faiths, it is timely that such a writer should redefine the nature of liberty, analyse the legal and institutional framework in which it can best thrive, and review the public policies designed to preserve and extend it.

When there has been too little love of liberty on the Left and too much embracing of expediency on the Right, when socialists have become conservative and conservatives socialist, when liberals stand for the market economy on the Continent, the directed economy in North America and for versions of both in Britain, it is refreshing and thought-provoking to have it argued that lovers of liberty are none of these things but Whigs. After *The Constitution of Liberty,* no self-respecting or sensitive conservative, liberal or socialist inside or outside party will go on repeating outworn recipes or formulae with impunity.

Perhaps it was too much to expect the early reception of the book to comprise more than instinctive reactions. The newspaper and periodical notices were mostly either the uncritical appraisals of admirers or the prejudiced assaults of opponents. Later reviews have been more reflective, more balanced and more worthy assessments, but there was still need for a detailed and reasoned evaluation of the various sections of the book. Although Professor Hayek says it 'is meant to help understanding, not to fire enthusiasm' (p. 6), it has not unnaturally aroused deep emotions and provoked polemics. The Institute was interested rather in seeing what in the book was useful to thought and society and applying it to present-day Britain. It therefore conceived a symposium by specialists in the several sciences who, while preserving objectivity in judgment and freedom to criticise adversely, would yet approach *The Constitution of Liberty* with

sufficient sympathy and patience to discover the significance of what it was saying, consider where it was valid or enlightening, and discuss how it could be translated into public policy. Hence the title of our book: 'Agenda' was borrowed from Jeremy Bentham who used it to mean the content of governmental action.[*]

Lord Robbins said in his review article in *Economica*,[†] which was more critical than his earlier writings might have led us to expect from one of the leading British liberal economists, that 'it may be said to be a test, not of its quality but of its readers, that even where it arouses most disagreement at least it should command respect'. Readers of this collection of essays will find that most of the authors differ from Hayek, sometimes sharply, on many issues. But they have all tried to extract what is pertinent and useful. In Part I, Graham Hutton, an economist who is also trained in the origins and nature of organised society, sets the stage. Two philosophers, Mr. Watkins and Professor Acton, discuss Hayek's philosophy and social objectives, and Mr. Shenfield, an economist and lawyer, examines the central argument that the constitution of liberty must rest on the rule of the law.

In Part II, four economists, a distinguished jurist and a sociologist examine aspects of public policy that are of outstanding contemporary importance. Professor Morgan appraises Hayek on the monetary framework of a free society and concludes, *inter alia,* in favour of a limit to the note issue. Professor Benham discusses the impact of taxation on incentives with special reference to the role of the progressive principle, and draws some forthright conclusions for British taxes. Sir Henry Slesser, in explaining how the legal powers of the trade unions have grown in the last century, concludes it is arguable that they should be reconsidered; and Mr. Lincoln, who knows the friendly society movement well, discusses the rights and duties that trade unions, their members and non-members should have. Professor Nash reviews agricultural policy and considers how free markets can be restored. Professor Fogarty writes on the welfare services and on how private provision is replacing them. Each of our authors, by

quoting Hayek directly or indirectly, will make readers want to refer to the text of *The Constitution of Liberty*.[‡]

A central criticism of Hayek, made by several reviewers including Lord Robbins and not discussed fully in this symposium, relates to his argument that the suppression of free markets by *dirigisme* leads inevitably to totalitarianism. Professor Henry C. Wallich, the distinguished American economist, for example, has replied that countries with a democratic tradition, such as Britain, Sweden, Norway and Australia, can tolerate centralised economic planning and retain democracy and freedom.[*] Yet several doubts warn against complacency. The first is that in the perspective of history, none of Wallich's countries has had planning for very long. Secondly, it is a hope based on circular reasoning to say that democratic traditions will not permit planning to go so far that it overwhelms democratic traditions. Thirdly, it may be that Hayek is trying to prove too much; his case would seem to be made even if he shows only that the risks for freedom are much larger in the directed economy.[‡] It is for those who urge *dirigisme* to show that it does not sacrifice liberty or that its product – faster economic growth? – is worth the sacrifice. As Mr. Shenfield argues, though the danger may be remote, the warning is salutary: even if the cliff edge is some way off it is sobering to know where the slope begins.

Thus, in Britain, public preference after experience of centralised siege economy during and after the war has changed in favour of free markets. Even so, after ten years of decontrol, one employee in six is in the direct pay of central or local government, nationalised industry or semi-public corporation; more than one pound in three of income is withdrawn from private into public spending; nine out of ten children are educated in state institutions; and everyone receives, or qualifies for, social benefits. The influence of authority is accordingly extensive, and in some sectors pervasive; and the dangers cannot cavalierly be brushed aside. In such conditions of political and public patronage, can objectivity in judgment of public policy, the quality of public life, standards of moral conduct, not least the natural urge to

independence, remain untouched? The bureaucrat may still, on paper, be a public servant; but, at least according to a former inspector of taxes, he is being made a public prosecutor.[‡] When taxation and legal control go beyond what the citizen feels proper, he pits himself against the state and no longer regards evasion of law or tax as reprehensible, anti-social conduct. Britons may never be slaves, but, it is argued, they are being made petty criminals and wards of the state.[*]

But if Hayek's analysis of the dangers for freedom are not easily disposed of there is an element of inconsistency in his analysis. He rejects 'the most fatuous of all fashionable arguments' that clocks cannot be turned back because 'it expresses the fatalistic belief that we cannot learn from our mistakes, the most abject admission that we are incapable of using our intelligence' (p. 284). Yet he concludes his discussion of social welfare:

> 'It must seem doubtful... whether once [the monopolistic institutions of the welfare state apparatus] have been created it will ever be politically possible to get rid of them' (p. 304).

In Britain, good sense and common humanity are at last enforcing a reconsideration of the nature, extent and role of the social services. Some that are only fifty years old have already outlived their day; opinion is beginning to move and it may not be long before it becomes politically possible to reorientate the weight of social expenditure on the dwindling proportion of old people and others in need, and to redirect social activity to newer services that cannot be supplied easily through the market.

Those who urge the claims of the free market as the centrepiece of the free society have too rarely faced the need to ensure that it is understood and accepted if it is to work effectively and without social disturbance. To create and maintain the market institutions that will make industry responsive to changing techniques and demands requires something more than technical and legal expertise. The risks and sanctions of the market process must receive the moral allegiance of the people. The market must be

seen not only as efficient but as good and satisfying whatever canons of justice are regarded as proper. Faith in the free economy was severely strained in the 1930's when cyclical and secular changes in international demand and supply (intensified by governmental restrictionism) threatened ruin for many employers and near-starvation for their employees. In such conditions men must be expected to associate in defence of their immediate interests as producers, even at the expense of their long-run interests as consumers. At best, this will slow down the working of the market; at worst it will disrupt it.

Some have said that the worst enemies of capitalism are the capitalists, and it often seems that the worst enemies of rising living standards for workers in general are trade unions representing sections of the most highly paid. There is still too little understanding of the principles by which Western man has chosen to live and too little readiness to 'play the game' according to the rules. This understanding and this readiness need to be heightened, and the task is largely an essay in the simplification and demonstration of great principles. It must be persuasive if the institutions Western man has nurtured to support his political systems – private property, the free market, competition – are to survive.

Is one of these institutions discretionary intervention in order to avoid or minimise the disruptive effects of social change, such as that for which Lord Robbins argued some years ago?[*] Some form of compensation, although formally contrary to free market principles, may be tactically advisable or unavoidable in circumstances such as those envisaged by Professor W. H. Hutt;[†] Professor Nash considers a special case in this volume.

Certainly, the economic, social and political requirements of market institutions require further study. Hayek does not argue for *laissez faire* but for a framework within which men may spontaneously enter into mutually advantageous relations. He will, no doubt, be thought by some liberals to be taking too many risks with power. Distrust in government is healthy; in Britain the

performance even of governments that in principle have believed in limited government does not inspire confidence that they are sufficiently free from the pressures of interest or expediency to serve the common good. But organised society must run the risk of bad or indifferent government. The question is 'Which kind?' For many years in Britain and elsewhere economists and other social scientists have tried to design institutions for centralised economic direction by the state and its organs. In time they may perhaps evolve arrangements that avoid the defects displayed in their constructions so far. But if we are to make an informed choice between the two systems of society there is also need for economists to keep up to date and refine their study of the institutions of a market economy. This is what some of the authors in this book have done. The Institute thus presents it both as a critique of Hayek's *magnum opus* and more generally of what we can learn from it in understanding and managing our economic affairs in Britain; and in the latter sense it emerges as a body of practical prescriptions for governmental policy on money, taxation, welfare, labour and agriculture.

The essays were written mostly in January or February. In those of Professors Benham and Morgan there are some perceptive anticipations of changes made in the 1961 Budget.

This volume owes much to my colleague, Ralph Harris, the General Director of the Institute, whose suggestions and promptings helped to shape it. I am also grateful to the authors for their punctuality in supplying the essays and dealing with queries, and to Hutchinsons for undertaking to publish five months after delivery of the manuscripts.

April 1961

A. S.

Notes

* *The New York Times* Book Review, 21st February, 1960.

† Routledge & Kegan Paul, 1960.

‡ *The Theory of Economic Policy,* Macmillan, 1952.

* *Manual of Political Economy.* Bentham also used 'non-agenda' to indicate governmental inaction. The classical economists were more alive than we are to the benefits of abstinence by governments.

† Hayek on Liberty', February 1961.

‡ We are indebted to the publishers, Routledge & Kegan Paul, for their agreement to this project and to authorising quotations from the book.

* The Cost of Freedom, Harper & Bros., 1960, p. 54.

† Wallich appears to accept this: 'The centralised economy puts a strain upon democracy and freedom; the free economy does not.' Op. cit., p. 57.

‡ James Coffield, *The Tax Gatherers,* Hutchinson, 1960.

* Russell Braddon, an Australian observer of the English social scene, has formed a disturbing impression of the effect on the British character of state welfare:

' ... today Englishmen have sacrificed much of their past and splendid defiance, and they have sacrificed it to an idol of the Welfare State, and on this idol are engraved the wholly un-English words: "The Government knows best and will tell you what to do; and what it has not time to tell you, the municipal council and the trade unions will tell you." And this, mark you, in exactly the same Britain that King Philip II of Spain could not tell; that Emperor Napoleon could not tell; that Bismarck, that Mother Russia and Kaiser Wilhelm could not tell; that Führer Adolf Hitler himself could not tell. For almost 900 years since 1066 no-one could tell you what to do; now it seems, at last, you can be told ...'(*The Listener,* 16th February, 1961).

* In one of the 1954 Brookings lectures, published in *Economics and Public Policy*, Faber & Faber.

† *Economists and the Public,* 1936, and *Plan for Reconstruction,* 1940. In

the latter, Hutt attempted a detailed blueprint of a systematic scheme of compensation.

Part One
Principles of a Free Society

GRAHAM HUTTON

Born in 1904 in Hertfordshire. Was educated at 'every kind of school' – state, grammar, private and public – and at London, French and German universities. After a first in economics, he was called to the Bar, taught at the London School of Economics, and in 1933 joined *The Economist.* During the war he served in the Foreign Office and the Ministry of Information. In 1948 he started business as an independent economic consultant, but continued writing, broadcasting, and serving on the boards of several companies. The best-known of his books is a study of productivity *We Too Can Prosper* (1953). A Councillor of the Royal Institute of International Affairs, and a Trustee of the Institute of Economic Affairs. He is married, has three daughters, lives in London and pursues 'the irreconcilable hobbies' of astronomy, ecclesiology, music, photography, and collecting books and early English drawings.

I
The Individual and Society

GRAHAM HUTTON

CONFLICTS between the claims of individual human beings and the societies to which they belong are as old as the human race. It is therefore surprising that few modern students of the so-called social sciences go back to first beginnings. Partly it may be that our romantic, irrational, emotional age does not want to seem like that of the great rationalists in the Enlightenment, who insisted on going back to 'the noble savage'. More probably it is because our age – despite its apparent sophistication – feels confused amid so much conflicting scientific evidence about primitive human societies from archaeologists, anthropologists, ethnologists, and others. Whatever the reasons, any contemporary treatise on political 'science', social psychology, sociology and other social disciplines is likely to eschew incursions into primitive human society and citizenship.

Professor Hayek's *magnum opus* is not concerned with our social and individual beginnings; but it is perhaps worth while first to look at what we know of the circumstances of early human society, its governance, governors and governed, before broaching the real subject of this chapter, and then coming to grips with Hayek's contribution to thought.

The beginnings of society

Little has emerged to impugn the Classical economists' hypothesis that in such early human society life was brutish, poor and short, even if it was not (to its members) nasty or solitary. The Golden Rule of charity, mercy to the weak, care for the aged and ailing, social provision for the needy, is modern and almost wholly Christian. 'Nature red in tooth and claw' ruled the earliest human roosts of which we know anything. Nothing left by our earliest ancestors – in Africa, China, Siberia, or the caves that sheltered men of varying breeds during the Ice Age – leads us to any other conclusion than that the rule of the strong (or the erstwhile strong, sanctified in their old age by custom) prevailed over the weaker brethren, the women, and the young. That there was religion, of a magical sort, we know; and we can surmise there were priests, privileged after their wont. That there were wonderful artists we know. That there was private property we can establish at early dates; for clothing and private hoards of tools, components, etc., belonging to craftsmen, appear in hiding-places as far apart as Northern Australia, Northern Asia, Africa and Western Europe. That there were mighty hunters we know; and to believe that some primitive communism dictated 'fair shares' of a slaughtered mammoth strains credulity, in the light of the artifacts, works of art, and other material evidence coming down to us from caves, tombs and other receptacles of remote antiquity, which indicate personal possessions and even hoards.

Indeed, evidences of inequality, hierarchy and functionalism in primitive societies meet us at every turn. We know more about all this, in fact, than about the primitive human family and how it was organised. We do not even know enough yet to declare whether the monogamous gorilla-like family was typical of primitive human society. We are still extraordinarily ignorant about our antecedents. But the more we know of them, the less does it appear that there was much consultation, representation, or

other aspects of modern democracy – save only, perhaps, among the *élite* of leaders. Whether in the family (in the modern, narrow, western sense), the 'extended family', or the tribal or other grouping, primitive society was authoritarian; and the movement of modern history has been away from it. This century it has been reversed.

But movements of history are never even. They are irregular, like those of cultures and civilisations. However we define human progress, what there has been has come in fits and starts: 'Far back through creeks and inlets making', and often in improbable circumtances – for example, the origin and growth of Christianity and its social ethic. Progress in social matters, like organised care of the aged and ailing, has often come during times of decadence or 'overboiling', like Baroque ages, as in ancient Egypt or Greece, the late Roman Empire and Dark Ages of Europe, in late Saxon but not so much in Norman or Renaissance England, and in late and decadent (but not early) pre-Columbian civilisations. Social conscience often comes with – rarely before – prosperity. Before that, individual or family consciences must do the work, or the weak must go to the wall.

Not the least valuable service rendered by Hayek's *Constitution of Liberty* is to remind us how recent, hard-won, and vital to human development is the widest version of personal liberty. It is important today to keep reminding oneself that the so-called welfare state and affluent society are human agglomerations, tightly organised, at the end of a run of western, Christian, or rationalist civilisations, strongly tinged with nationalism, within a unitary culture the development of which lasted at least 1,500 years. In that time, the *individual* became the measure of society. On this showing, its versions in North America belong to Western Europe and the Mediterranean, not to pre-Columbian Peru or Mexico; as, indeed, modern Peruvian and Mexican society, so rapidly becoming urban and industrial, belongs increasingly to Europe (or, as some would say, *Hispanidad)* and decreasingly to ancient Indian roots.

As Vico noted two centuries ago, and J. B. Bury reminded us two generations ago, 'the idea of progress' (the title of Bury's book) may appeal (or not) to human beings at varying times and places; but the *fact* thereof does not come about easily, evenly and equitably. Social progress can be defined as organised, institutional, voluntary or compulsory concern for the material and mental wellbeing of the group's members, and for the fullest development of their individual potentialities. It has always been a chancy affair, coming about in fits and starts, under all religions and none, in comparative austerity as well as affluence, and depending very much on the ruling *mores* of the society as they themselves have come to be as they are.

Ideas of social rights and obligations, ideas of a cohering society (to be fused out of an amorphous amalgam), ideas of the rule of law or of central or local authority – these are late comers on the human scene. They must be appreciated for what they are today: very late comers, often from foreign fields, often ill-founded, often ill-suited to their new habitat. Not all progressive human institutions have 'grown with the people'. Not all of them throw their roots deep. That is what we should have learned by now in our 'time of troubles', and to our cost. It is therefore worth examining from an historical, sociological viewpoint the ideas of social rights and obligations in modern, urban, industrial society. That society is very late, very new, and as yet too ill-formed for downright judgments about its own nature and that of its members.

Hayek's *Constitution of Liberty* was conceived in such a modest, humble attitude towards human individuals and societies. Its treatment of such developed social institutions as the state itself, money, material (and socially-dispensed or state) welfare, town planning, trade unions, the rule of law, etc., are not inspired by some revelation from on high about the inevitability of human progress, or of some materialistic dialectic, or of some 'unfolding' of classes, classlessness, or other social institutions. Its point of departure is the human atom, the individual citizen, born willy-

nilly into an inherited society which, by reason and association, he can help to change. For Hayek, he and his liberties and his degree of personal development are the measure of his state and his society, not the state a measure of him.

Social rights and obligations

The Benthamite social principle of the greatest advantage (material or immaterial) to the greatest number in the particular society has never been 'proved'. It was never susceptible of proof, though it has too often been treated as if it were. It is not necessarily the most practical counsel for statecraft. It is certainly not synonymous with democracy, as Professor Hayek shows. It is not the rule among primitive societies, and it is of very recent development. It does nothing to solve the real problem of government and justice, which is whom and how to empower as a small minority of governors. In our century it has been invoked to justify the most inhuman treatment of minorities, both within societies and as between whole nations.*

The tyranny of the majority evoked the withering contempt of all the clearest minds of the nineteenth century: De Tocqueville, John Stuart Mill, Spencer, Matthew Arnold, the Stephens; as it did nearly two millennia ago of Plato, Aristotle, and the leading Greek and Roman statesmen. It is scarcely surprising that, in our grimmer century, when majorities trample on and even annihilate minorities, the tyranny of majorities should draw down on it Hayek's contempt: a contempt as great as that for the more common tyranny-also prevalent today – that of the minority. Hardly an intellect worth the name throughout western civilisation these two millennia past – despite all their vicissitudes of human governance, culture and belief-has dared propound and defend the social principle that whatever a temporary majority of citizens wants, *(a)* they ought to be given by their governors, and

(b) the governors should always accept as a mandate for governance and justice, to the exclusion or suppression of minorities' wants or interests. The more striking is it, therefore, that in our century alone the term democracy has so widely come to be identified with so anti-social and so perilous a principle. Nascent nations in other continents than Europe have pleaded in aid this dangerous principle as if it had been sanctified – instead of disgraced – by the most delinquent of all European political and social systems: those of Nazi Germany, Stalinist Russia, and Fascist Italy. It is the great merit of Hayek's book that it forces us back to this among other first principles of social life, at a time in our world's affairs when these have so widely been forgot or abjured.

Secondly, the movement of western history and progress – let all 'progressives' note it well – has been *away from* the principle that each individual citizen exists for the greater glory of the society. It has been *towards* the principle that society and its institutions exist, and should be varied and organised, for the greater development of each individual citizen's potentialities. Nor has it only been towards the notion that society and its institutions exist, at any one point in time, mainly or merely for the development of the *majority* of citizens' potentialities, or to gratify only their wants and not those of minorities. As societies become affluent, many collective, compulsory provisions for minimum elements in a standard of life become unnecessary. Social adaptability demands individualism and differentiation.

From this historical viewpoint, our century, as outlined in the preceding paragraph, has been a backward-falling stage in a long social process, simply because it has raised 'government by majority' to an overriding pitch of unreality, crassness and standardising banality. It has confused minority with majority, tyranny with 'people's democracy', oligarchy with (literally) monarchy. What was Stalin's system? What is Mr. Khrushchev's? What, indeed, is the American or British or Ghanaian or South African system today? Individual needs are repressed, individual initiative constricted. (Modern technology is at least helping to

save us all, by imposing in the field of education the imperative social need to find and train new *elites:* witness the political travail currently disturbing American, Russian and British society.) The clamant need for selective education, and more unequal rewards for unequal contributions to society, needs of leadership in so many fields, flat banality in the arts (especially the new mass-consumed arts) – these contemporary features of both western and non-western (but industrialising, urbanising) society evoke heart-searchings in all old, traditional political and social groupings: witness the travail now troubling both communist and socialist movements, trade unions, and other collectivist organisations. One could almost say that western mankind, and a lot more, have been turned liberal or whig or individualistic by the unfolding of terrible collectivist realities, coupled with a peep or two at the mechanistic, materialistic future.

Hayek adumbrates, ahead of his time, many problems of society and individuals which can be said to develop 'beyond the welfare state'. 'The wave of the future' today is emphatically not bearing forward a blind, monolithic, individual-crushing juggernaut of collectivism. On the contrary, in Russia as elsewhere it bears forward new, humble, tentative, worried social experiments for the eliciting and encouragement of outstanding individuals, leaders and experts. Of course one social era does not neatly dovetail into another; there is overlap; and one does not expect to hear (though one has recently heard) dogmas, myths and slogans gainsaid by their erstwhile criers overnight. But in the last five years the leading western industrial societies – including Russia and Japan – seem to have been hewing back to the old lines of historical movement, away from a blanketing collectivism and towards greater selectivity of (and respect for) individual citizens, as compared with their state of mind in 1945 or 1950. Hayek reverts to this encouraging – because individual-respecting – trend again and again. He was one of the first to spot the disillusion with the Left (see pp. 253-7). It is a most hopeful sign. Any grouping or government deliberately trying to counter that movement will be

running the serious risk of missing the great tides of the world: of being swept into a backwater of history.

The needs and nature of community

Thirdly, since human societies – as we have hitherto known them – are now in the melting-pot, and no one knows whether even China will be integral and unitary in governance or defence a decade from now, we may well ask what *any* society is for. There was a time, within memory, when such a question could easily be answered. It is getting harder to answer every year: or, perhaps to put it better, it is getting harder to envisage *the* new and ultimate form of human society. The finest minds among the Americans, British, and Russians already know that their own traditional societies cannot much longer be run as they have been until now: economically, or for defence, or in terms of political systems, or dispensation of justice, or even in terms of the new powers and mobilities of the citizenry. (The Russians cannot – though they could a generation ago – *keep* industrial or agricultural workers employed in given places; the vast needs of manpower for police and military would break the economic system down.) If, therefore, the needs and nature of society itself are changing so fast, mainly for technological reasons, is it not old-fashioned, out-of-date, for politicians or other groupings to invoke, think of, or talk about 'the need to subordinate the claims of the citizen to those of society'? *What* claims of *what* new society? This is old-fashioned, nation-state, pre-technological ideology, with its dogmas, myths and shibboleths.

Can any mind, hoping to keep up with our times, really lay down that old-line socialist or communist – or, for that matter, the old-line private-enterprise individualist – institutions and organisation of society are most likely to provide what the society and citizens of the very near future will need? Already in

education alone the experts of Russia, America and Britain are in a welter of disputation: 'all-round' or specialist, a bit of both, or a new ruling *elite* of narrowed experts? No wonder the (contemporary) governors of Russia are as concerned as those of Britain or the United States. How much more acute does the social problem become when one takes, instead, the organisation of politics and government itself in the new society, or the rule of law, or the reconciliation of the economic (and social) interests of the fast-multiplying groups of technicians and experts by government and by employers (whether state or private)! In the light of our technical advances, the old query 'What is society for?' acquires new sense.

Our interdependence is not diminishing – either inside our nations or between them – it is increasing fast: in economics, in defence, even in government itself (for national units are, with increasing obviousness, becoming too small for efficiency and for defence; hence the burgeoning groupings of nations). Even persons now move, under their own mechanical motive power, from country to country. Mobility has become a prized personal right; and soon now the ordinary citizen-householder will not even be dependent upon local services of heat, light, power, etc., all of which will be as immediately generated by the citizen as he (or she) is mobile. Only the home, it may be assumed, will remain 'on location', with its attendant sanitary, marketing, educational, and other amenities. Thus our techniques make nations too small, but their citizens too big and mobile. The only possible reconciliation of all this with the claims of government, justice, etc., is a dual process: federation or confederation of the big units at the top (the international aspect), and administrative devolution at the lower levels (the national aspect). It hardly needs to be emphasised that all this is far from the pristine early twentieth-century ideas of all-absorbing, centralising collectivism.

By the same token, the individual citizen – if only he is educated enough to know what he needs, and to want it – stands to carve out for himself and his family, or local community, a

wider field for self-realisation and for the development of all his potentialities in a society so altered. At the same time the internationalisation of so many problems, formerly nationally solved, presents the old-fashioned, centralised, monolithic, nationalistic collectivism with formidable and unimagined conundrums. (The *Dogmenstreit* between China and Russia, with Albania, Jugoslavia, Poland and others on the sidelines, is only an adumbration of what we may yet expect to see, as African and Asian sovereignties multiply and nationalistic versions of collectivisms become variegated.) All this is far from the simple, authoritarian, theocratic states of ancient Egypt or Mexico or Peru, where the individual could safely be ignored or sacrificed for the greater glory of the state or the gods, or both. At least in one respect the citizen of a modern, western, industrial state may draw encouragement from contemporary trends: it may not be long before it will be harder for his state to survive than for him and his family. These, too, are aspects of society 'beyond the welfare state', and *The Constitution of Liberty* throws revealing light on them in many places.

The individual in family and community

Fourthly, however, we have also during our century strayed from the basic and elemental social concepts of community: the individual as a member first of his family, and then of the local community in which that family lives. The 'welfare state' has indubitably weakened, not strengthened, family ties. Partly of course the increased personal mobility, coupled with the rapid change in morals and ethics, has broken down these primeval, communal cells. Just as the original inspiration and *raisons d'etre* of socialism and trade unions have disappeared, leaving in their place contemporary power or party and much dogma and doctrine *minus* intellectual content, so village and city, town and suburb,

parents and adolescent children and grandparents have all found themselves 'out of place and infinitely irrelevant' in our new, technically necessary, settings. Our nations and their lay-out, our landscapes, our socially inherited attitudes and implied loyalties, our very highway and rail and canal connections – these come to us from other ages, other sets of values. They are all undergoing change, sometimes rudely. But under all these challenged surfaces lie deep human needs, keen emotions, complex sentiments; and while we change our landscape, communications, habits, attitudes, ways of living, we must remain aware that our deeper human needs and feelings remain and must be assuaged.

The countryman is now mobile and does not apparently need the village to which he 'belongs'; but he needs continuing human companionship and seeks it elsewhere. The adolescent matures earlier and does not apparently need parents; he (or she) seeks group life elsewhere than in the home. The industrial city dweller seeks the green rim of the countryside for his home; he does not apparently need the civic amenities of the great centre, nor does he or his wife go inwards to that centre any more than is necessary. Yet all of these people – individual citizens following their free fancies – could not indulge their fancies, or subsist long, or remain normal adjusted human beings capable of fully developing their potential faculties, without the complex, unobserved, even international, but beautifully dovetailed services of a vast and invisible organism of fellow-men. The countryman dashes to the town; the townsman to the country; the adolescent shuns his parents, but drops the responsibility on to teachers, companions, or employers. There is no way of developing the individual's potentialities to the full, other than in *some* grouping of society.

Where we have so often erred this grim century is in thinking that 'the state' or 'the government' or 'the authorities' should naturally step in to do everything we no longer wanted family, parents, local community, or even ourselves alone to do. There is no reason, there is only a lazy nonchalance, which makes the state so all-powerful in the citizens' private affairs today. It is a

dangerous nonchalance which leaves so much of the private sector for the public sector to control, since 'the public sector' at any one moment is only what a few people temporarily in power say, or leave to underlings to say, to the citizen. There is no civic virtue or principle in such negligence, which empowers authorities to control so much of personal lives. Nor is there any of the former, elementally satisfying, communal life. Hence the universal hatred – it is shared in Russia, where it is caricatured – of bureaucracy, petty Bumbledom, and *paperasserie:* the domain of Parkinson's Law. Indeed, so much has been put upon the shoulders of civil servants and state functionaries, which would better have been performed by private citizens, that one can almost sympathise with these public servants if they think that the public was created for them to administer.

Family and community life have certainly suffered grievously in the last two generations; probably more in Asia and Africa even than in the West. But that is only another way of saying that our societies have developed too fast from the stage at which family and community life *was* satisfactory; that, therefore, to make them satisfactory to their members again means developing, consciously, both family and community life to suit the changed and changing social settings. We can never put our entire societies back. Yet if we do not contrive to reintroduce the deeper emotional satisfactions of what we can call "petty communal life" – i.e. in family and local community – we shall certainly fail to get in our widening societies (still more so in federations of them) that cohering, strong, social cement that withstands all shocks and holds the individual citizens together like bricks in a well-bonded wall.

The urge to individuality

Fifth and lastly, there is another deep human proclivity – it is

often a need – for social differentiation: to be different from the next chap, to be outstanding or eccentric, not to be a cog or cipher, not to have to live and think and eat and work and play exactly as one's fellows. Wise commanders of men in armed forces know this, and make provision for satisfying this urge in constructive ways – despite the proverbial sameness and discipline and anonymity of the armed services. No one likes 'to rust unburnish'd, not to shine in use'. No one likes to be classed always among the herd of anonymous poll-cattle. (Even when A/C Shaw sought anonymity in the R.A.F. from his renown as T. E. Lawrence of Arabia, he bought a very *classé* motor bicycle capable of such high speeds that it took away his life.) Super- and sub-ordination, hierarchies, *elites,* classes and even religious castes, leadership and followership, personality and lack of it, outstanding ability and lack of it, manners and graces and lack of them, education and lack of it, animal courage and lack of it, even oratory, poetry, singing and the lack of them – these things from the dawn of the human race have differentiated individuals and small groupings within the larger group called a society. Privileges have gone with those qualities: with the heroism of warriors or hunters, or with the skills of a ball game (as among the ancient Maya of Yucatan); with crude gladiators or exquisite senators; with priests (as in ancient Egypt or Mexico) and kings and thegns; with witch-doctors, magicians and other clever men; and with artificers of the first metal tools and weapons, or the first precious and fragile family pots.

No such thing as absolute equality of treatment for all adult citizens, male and female, in economic and political matters has ever been established in any known and natural human society. (It has only been artificially enforced in specially insulated, organised, communities like the Thebaid, monasteries, some sects, or cities besieged, and then not always for long.) Against so vast and universal a backcloth for human society, the pretensions of a few intellectuals in the last century or two – monumentally out of touch with the real desires of the overwhelming masses of their

fellows – seem overweening. If it had not been for the limited successes of a few Christian closed communities so organised in earlier ages and poorer times, it is to be doubted whether the intellectuals advocating equality of material circumstances for all adult citizens would ever have gained as much support as they did. Once again, what has happened in our century has been aberration. In any case the trend is now the other way, and the coherence of our societies will be the greater for it (see Hayek, pp. 253-7).

The urgency of liberty

There remains one point – *the* cardinal point of Hayek's work – and the point of all social life which it is impossible, particularly today, to over-emphasise. It is that whatever one's race, colour or creed, one must admit the necessity of 'freedom' as the environment within which the ultimate social atom, the individual, develops to the fullest extent his or her potentialities. One can debate – indeed, one does, violently – in what 'this freedom' consists or ought to consist. But society cannot deny individuals (particularly when young) the dangerous right to come to almost all of their own decisions, often wrongly (as it appears by hindsight), in a setting of the greatest personal freedom possible, without at the same time laming them and society.

This or that society, this or that political or legal system, will circumscribe or enlarge 'this freedom' for the citizens according to age-limits, sex, education, or other qualifications. Societies will accordingly vary in quality, dynamics and durability. But the principle stands like a rock, unshaken by millennia of human development, under bewilderingly variegated social guises: the ultimate unit of society which feels all pleasure and all pain is the individual. The same unit appreciates all 'the glories of our blood and state' or depreciates them. The same unit makes the strength

or the weakness of the body politic, the nation, the civilisation. The same unit builds – and unbuilds – cultures, and arts and crafts; advances techniques; makes all inventions and applications; respects or denigrates all values. And we must confess that, despite our awe-inspiring progress in material techniques, we are still far from knowing much about the processes whereby we can multiply favourable mutations in human germ cells, or even spread a little thicker on our societies the still dangerously thin top layer of intelligence. On the contrary, we seem this century rather to have perfected the material means for multiplying unfavourable mutations and even for thinning-down our top veneer of intelligence.

Such is the historical and contemporary backcloth against which Hayek plays out the ideas and principles of *The Constitution of Liberty*. The theme is worthy of its occasion in a 'time of troubles' and of 'the breaking of nations'. It is as if the author had looked back along the way humanity had struggled, and then had looked across the world as it is, and had managed to convey in one book the amplitude and the sublimity, the weight and the scope, of the challenge to humanity in our era. Whatever critics of the book in our era may say – and it affords grounds for constructive criticism, as does every seminal work – it will remain as much, perhaps even more, a book for the ages. For it could only have been provoked, it could only have been written, in our chaotic, desperately anxious, yet stimulating and responsive era. Such works of great minds bear fruit hereafter.

Note

* On all this see Lord Robbins's review of *The Constitution of Liberty* in *Economica*, February 1961.

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Born 1924. Educated at R.N. College, Dartmouth. Served as destroyer navigator and torpedo officer during the war. Resigned commission after the war. Graduated from the London School of Economics in 1949. Henry Fellow at Yale University 1949-50. Has been on staff of London School of Economics since 1950 and is now Reader in the History of Philosophy in the University of London. Has contributed articles to *Analysis, Australasian Journal of Philosophy, British Journal for the Philosophy of Science, Encounter, Ethics, Journal of Philosophy, Mind, Philosophical Quarterly, Philosophy, Philosophy of Science, Proceedings of the Aristotelian Society, Ratio, Rationalist Annual, Review of Politics,* and to several anthologies. Has delivered a number of broadcasts. Working on a book. At present (1961) Heath Visiting Professor at Grinnell College, U.S.A. Married, with four children.

II
Philosophy

J. W. N. WATKINS

Introduction

IN any circumstances *The Constitution of Liberty* would have been an important book. Given the condition of political philosophy in the English-speaking world today, it is outstandingly important. In recent years contributions to political philosophy have consisted almost exclusively either of historical work, often of a high scholarly excellence[*] but hardly attempting to bring the ideas discussed to bear on modern issues, or of occasional *ballons d'essai* which have not risen very high despite the absence of mooring-lines.[†]

Professor Hayek's book is rich in historical material, but it is not primarily historical. At the end of it, he speaks of 'the principles I have tried to reconstruct by piecing together the broken fragments of a tradition' (p. 411). His massive annotation is not a mere scholarly indulgence. It indicates much better than Hayek's own listings of his heroes (e.g. Milton, Burke, Macaulay, Gladstone, de Tocqueville, Lord Acton) the range and detail of the material he has digested and organised into a coherent and comprehensive, distinctive and uncompromising political philosophy. At the centre of this philosophy is a view of the way in which social processes of adaptation and development work and of the proper role of human

deliberation and planning within them. Whereas in *The Counter-Revolution of Science* and *The Road to Serfdom* this view was pressed home against socialist doctrines, in *The Constitution of Liberty* it is pressed home against the welter of dubious practices and expedients which inflation, progressivist slogans, pressures, ill-conceived projects, administrative convenience, and downright intellectual laziness and dishonesty have brought into existence in the post-war Western world. I have the highest admiration for the controversial chapters on trade unions, taxation, town planning, agriculture and education where the principles worked out earlier are applied with salutary and sometimes startling effect. This presents a leftish reviewer with an easy way of dismissing the book. He has only to hold up for amazed inspection some of its more drastic recommendations without mentioning the arguments behind them, and to shake his head over their shocking and unrealistic character. I think that Hayek does press his proposals with a somewhat doctrinaire insistence, and that a lighter and less insistent style would have been more effective. But what matters is not so much the book's practical conclusions as the views behind them – both of the way a society should work and of the way contemporary policies actually work. Whether or not these views are true – and I suspect that Hayek's understanding of contemporary policies is more detailed and shrewd than that of some of his critics – they certainly constitute a challenging corrective idea; and the only adequate way for a leftish critic to meet Hayek's challenge would have been to come to grips with this corrective idea, and not just to pour scorn on the proposals to which it leads.

These remarks have carried me into territory reserved for other contributors to this symposium. My concern is limited to the more distinctly philosophical aspects of his book. This limitation has its drawbacks. Part of the significance of the book lies precisely in the fact that it organises into a *system* philosophical, sociological, economic, legal, historical, and political views; and it is a pity that symposiast reviewing requires this unusual unity to be broken up.

Moreover, I believe that there are certain weaknesses in his philosophical position which are of no great importance for his view of society and government, but which someone confined to philosophical matters is obliged to be finicky about.

After indicating the unconservative character of his thinking, I shall describe the two theses which run through the book and the connections between them. Then I shall turn finicky. The first point I shall discuss is whether, for Hayek, living under a rule of law *entails* being free or tends to *foster* freedom; the second is Hayek's criterion for excluding discriminatory laws which contravene his idea of a rule of law. Next, I shall examine in a fault-finding way his related definitions of 'coercion' and 'liberty'. Then I shall come down heavily on his notion of responsibility. Finally, I shall ask whether something important has not been left out of his argument for freedom.

I should have written differently had I been free to roam among all the interesting arguments in the book. Let me correct in advance any false impression my subsequent niggling may create by declaring unambiguously that this is the most important book in its field since the war.

Hayek's unconservatism

The reader should not be misled by the warmth of Hayek's admiration for Hume and Burke into supposing that Hayek's criticisms of socialist, collectivist and *dirigiste* tendencies are inspired by distrustfulness of all ideals and general theories of society. Although their targets are sometimes the same, Hayek's standpoint is quite different from, say, that of Oakeshott in his attacks on rationalist politics in the early issues of the *Cambridge Journal.* His book has a high, idealistic tone. In his Preface, Hayek states: 'My aim is to picture an *ideal,* to show how it can be achieved, and to explain what its realization would mean in

practice' (p. vii, my italics); and in a Postscript entitled 'Why I am not a Conservative' he underlines his hostility to the conservative's opportunism and distrust of general principles and of novel ideas and developments, his authoritarianism and nostalgia for old ways. If Hayek defends certain 'long-established institutions' it is not because they are old but because they correspond to his ideals (p. 399). He favours piecemeal change but it should be 'guided by some general conception of the social order desired, some coherent image of the kind of world in which the people want to live' (p. 114). Sometimes his unconservative attitude displays itself in rather surprising suggestions – for instance, that the House of Commons and other assemblies which combine ministerial and legislative functions should be split into two, each with its proper function (p. 207), or that we should not accept the nation-state as the ultimate unit (p. 263) – though such suggestions are not pressed.*

One great merit of Hayek's high-minded – if you like, his doctrinaire – approach is its explicitness. Sometimes his practical conclusions coincide with those of conservative writers. The difference is that he provides coherent and far-reaching justifications for them. Sometimes his conclusions are definitely to the right of anything a cautious conservative would dare to propose. To the objection (as likely to come from a conservative as from a progressivist) that 'we cannot turn the clock back' he makes the scathing retort:

> 'One cannot help wondering whether those who habitually use this cliché are aware that it expresses the fatalistic belief that we cannot learn from our mistakes, the most abject admission that we are incapable of using our intelligence' (p. 284).

Social spontaneity and the rule of law

Two fundamental ideas pervade the book. One is that, within a

framework of law and morality, social processes should be spontaneous, the outcome of people making the best they can of their luck and capacities and resources, and not subject to monopolistic distortion or overall direction. The other is that men should be governed by general laws and not by specific orders and directions. These two ideas are closely connected. And they jointly generate the theme of the book, which is that coercion – in the sense of men being shoved around or bullied or forced to do what they do not want to do by other men – should be minimised, that men should, so far as possible, be constrained only by impersonal factors, by the laws of nature, the laws of the state, and blind social and market forces, and not by particular people and groups.

I shall first sketch his argument for freedom from the need for social spontaneity; then the connection between this and his argument for a rule of law.

Although Hayek's scheme is a sort of blue-print for a good society, it differs from many other such schemes in being so to speak, algebraical – the variables are not filled in by the author but are left to be filled in by chance and circumstance and individual initiative. It is a scheme for maximising the possibility of improving social knowledge and of employing it to better effect; but the whole point is that the actual process of improving and re-deploying social knowledge cannot be controlled. It can be planned for, but it cannot be planned. What specific advantages will accrue from the process cannot be laid down or foretold. At bottom, Hayek's economic argument for liberty is an extension to society at large of the argument for academic freedom: the more tightly research is controlled, the more it is confined within the limitations of existing expectations, the less likely becomes the discovery of unexpected results. Social life, on Hayek's view, mainly consists of individuals each making use, in his transactions, of vast amounts of knowledge of which he is largely unaware (p. 22, p. 25). This knowledge is the resultant of a great many experiments and adaptations. For the most part it is incorporated in practices, skills, institutional arrangements and technological

achievements. In so far as it is articulate knowledge it is dispersed among many people. It would be impossible to centralise more than a small part of it. Just as research must be free if science is not to be frozen up, so personal initiative and resourcefulness must not be hamstrung if our social knowledge is to grow, and to be better used.

This view yields certain appraisals which, although they are mutually compatible, do not usually go together. On the one hand, Hayek has none of the conservative's dislike of rapid innovation. Social innovation is made possible by and in its turn makes possible new ideas. New problems arise, new solutions are attempted, which are instructive even if they fail. At each step, something is added to the dispersed stock of social knowledge. On the other hand, this view leads Hayek to a frank appreciation of the social utility of wealthy men, especially if they are the independent controllers of their fortunes, and to forebodings about the widening of the class of salaried managers and technicians. The latter have little inducement or opportunity for bold experimentation. The former may indulge in inedifying extravagance; but they have the means, and may have the incentive, to try out or patronise, new ideas in commerce, art, industry and social living. Without them, society would be deprived of an important source of innovation. And since innovations which later become popular and cheap usually start as the costly indulgences of rich men, a society which allows its envy of wealth to get the upper hand will deprive itself of future benefits.

I now turn to the connections between his social-spontaneity thesis and his rule-of-law thesis.

The connection is best seen if we consider *infringements* of these two theses. It would be an infringement of the social-spontaneity thesis if government officials were to single out certain private persons and order them to carry out specific actions, not because some general law requires this, but because the officials were trying to steer social processes in particular