

English utilitarianism has taken over much of this Continental tradition and the late-nineteenth-century British liberal party, resulting from a fusion of the liberal Whigs and the utilitarian Radicals, was also a product of this mixture.

3. Liberalism and democracy, although compatible, are not the same. The first is concerned with the extent of governmental power, the second with who holds this power. The difference is best seen if we consider their opposites: the opposite of liberalism is totalitarianism, while the opposite of democracy is authoritarianism. In consequence, it is at least possible in principle that a democratic government may be totalitarian and that an authoritarian government may act on liberal principles. The second kind of 'liberalism' mentioned before has in effect become democratism rather than liberalism and, demanding *unlimited* power of the majority, has become essentially anti-liberal.

4. It should be specially emphasized that the two political philosophies which both describe themselves as 'liberalism' and lead in a few respects to similar conclusions, rest on altogether different philosophical foundations. The first is based on an evolutionary interpretation of all phenomena of culture and mind and on an insight into the limits of the powers of the human reason. The second rests on what I have called 'constructivist' rationalism, a conception which leads to the treatment of all cultural phenomena as the product of deliberate design, and on the belief that it is both possible and desirable to reconstruct all grown institutions in accordance with a preconceived plan. The first kind is consequently reverent of tradition and recognizes that all knowledge and all civilization rests on tradition, while the second type is contemptuous of tradition because it regards an independently existing reason as capable of designing civilization. (Cf. the statement by Voltaire: 'If you want good laws, burn those you have and make new ones.') The first is also an essentially modest creed, relying on abstraction as the only available means to extend the limited powers of reason, while the second refuses to recognize any such limits and believes that reason alone can prove the desirability of particular concrete arrangements.

(It is a result of this difference that the first kind of liberalism is at least not incompatible with religious beliefs and has often been held and even been developed by men holding strong religious beliefs, while the 'Continental' type of liberalism has always been antagonistic to all religion and politically in constant conflict with organized religions.)

5. The first kind of liberalism, which we shall henceforth alone consider, is itself not the result of a theoretical construction but arose from the desire to extend and generalize the beneficial effects which un-

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CHAPTER ELEVEN

The Principles of a Liberal Social Order

1. By 'liberalism' I shall understand here the conception of a desirable political order which in the first instance was developed in England from the time of the Old Whigs in the later part of the seventeenth century to that of Gladstone at the end of the nineteenth. David Hume, Adam Smith, Edmund Burke, T. B. Macaulay and Lord Acton may be regarded as its typical representatives in England. It was this conception of individual liberty under the law which in the first instance inspired the liberal movements on the Continent and which became the basis of the American political tradition. A few of the leading political thinkers in those countries like B. Constant and A. de Tocqueville in France, Immanuel Kant, Friedrich von Schiller and Wilhelm von Humboldt in Germany, and James Madison, John Marshall and Daniel Webster in the United States belong wholly to it.

2. This liberalism must be clearly distinguished from another, originally Continental European tradition, also called 'liberalism' of which what now claims this name in the United States is a direct descendant. This latter view, though beginning with an attempt to imitate the first tradition, interpreted it in the spirit of a constructivist rationalism prevalent in France and thereby made of it something very different, and in the end, instead of advocating limitations on the powers of government, ended up with the ideal of the unlimited powers of the majority. This is the tradition of Voltaire, Rousseau, Condorcet and the French Revolution which became the ancestor of modern socialism.

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expectedly had followed on the limitations placed on the powers of government out of sheer distrust of the rulers. Only after it was found that the unquestioned greater personal liberty which the Englishman enjoyed in the eighteenth century had produced an unprecedented material prosperity were attempts made to develop a systematic theory of liberalism, attempts which in England never were carried very far while the Continental interpretations largely changed the meaning of the English tradition.

6. Liberalism thus derives from the discovery of a self-generating or spontaneous order in social affairs (the same discovery which led to the recognition that there existed an object for theoretical social sciences), an order which made it possible to utilize the knowledge and skill of all members of society to a much greater extent than would be possible in any order created by central direction, and the consequent desire to make as full use of these powerful spontaneous ordering forces as possible.

7. It was thus in their efforts to make explicit the principles of an order already existing but only in an imperfect form that Adam Smith and his followers developed the basic principles of liberalism in order to demonstrate the desirability of their general application. In doing this they were able to presuppose familiarity with the common law conception of justice and with the ideals of the rule of law and of government under the law which were little understood outside the Anglo-Saxon world; with the result that not only were their ideas not fully understood outside the English-speaking countries, but that they ceased to be fully understood even in England when Bentham and his followers replaced the English legal tradition by a constructivist utilitarianism derived more from Continental rationalism than from the evolutionary conception of the English tradition.

8. The central concept of liberalism is that under the enforcement of universal rules of just conduct, protecting a recognizable private domain of individuals, a spontaneous order of human activities of much greater complexity will form itself than could ever be produced by deliberate arrangement, and that in consequence the coercive activities of government should be limited to the enforcement of such rules, whatever other services government may at the same time render by administering those particular resources which have been placed at its disposal for those purposes.

9. The distinction between a *spontaneous order* based on abstract rules which leave individuals free to use their own knowledge for their own purposes, and an *organization or arrangement* based on commands, is of central importance for the understanding of the principles of a free

society and must in the following paragraphs be explained in some detail, especially as the spontaneous order of a free society will contain many organizations (including the biggest organization, government), but the two principles of order cannot be mixed in any manner we may wish.

10. The first peculiarity of a spontaneous order is that by using its ordering forces (the regularity of the conduct of its members) we can achieve an order of a much more complex set of facts than we could ever achieve by deliberate arrangement, but that, while availing ourselves of this possibility of inducing an order of much greater extent than we otherwise could, we at the same time limit our power over the details of that order. We shall say that when using the former principle we shall have power only over the abstract character but not over the concrete detail of that order.

11. No less important is the fact that, in contrast to an organization, neither has a spontaneous order a purpose nor need there be agreement on the concrete results it will produce in order to agree on the desirability of such an order, because, being independent of any particular purpose, it can be used for, and will assist in the pursuit of, a great many different, divergent and even conflicting individual purposes. Thus the order of the market, in particular, rests not on common purposes but on reciprocity, that is on the reconciliation of different purposes for the mutual benefit of the participants.

12. The conception of the common welfare or of the public good of a free society can therefore never be defined as a sum of known particular results to be achieved, but only as an abstract order which as a whole is not oriented on any particular concrete ends but provides merely the best chance for any member selected at random successfully to use his knowledge for his purposes. Adopting a term of Professor Michael Oakeshott (London), we may call such a free society a *nomocratic* (law-governed) as distinguished from an unfree *telocratic* (purpose-governed) social order.

13. The great importance of the spontaneous order or nomocracy rests on the fact that it extends the possibility of peaceful co-existence of men for their mutual benefit beyond the small group whose members have concrete common purposes, or were subject to a common superior, and that it thus made the appearance of the *Great or Open Society* possible. This order which has progressively grown beyond the organizations of the family, the horde, the clan and the tribe, the principalities and even the empire or national state, and has produced at least the beginning of a world society, is based on the adoption—without and often against the

desire of political authority—of rules which came to prevail because the groups who observed them were more successful; and it has existed and grown in extent long before men were aware of its existence or understood its operation.

14. The spontaneous order of the market, based on reciprocity or mutual benefits, is commonly described as an economic order; and in the vulgar sense of the term 'economic' the Great Society is indeed held together entirely by what are commonly called economic forces. But it is exceedingly misleading, and has become one of the chief sources of confusion and misunderstanding, to call this order an economy as we do when we speak of a national, social, or world economy. This is at least one of the chief sources of most socialist endeavour to turn the spontaneous order of the market into a deliberately run organization serving an agreed system of common ends.

15. An economy in the strict sense of the word in which we can call a household, a farm, an enterprise or even the financial administration of government an economy, is indeed an organization or a deliberate arrangement of a given stock of resources in the service of a unitary order of purposes. It rests on a system of coherent decisions in which a single view of the relative importance of the different competing purposes determines the uses to be made of the different resources.

16. The spontaneous order of the market resulting from the interaction of many such economies is something so fundamentally different from an economy proper that it must be regarded as a great misfortune that it has ever been called by the same name. I have become convinced that this practice so constantly misleads people that it is necessary to invent a new technical term for it. I propose that we call this spontaneous order of the market a *catalaxy* in analogy to the term 'catalactics', which has often been proposed as a substitute for the term 'economics'. (Both 'catalaxy' and 'catalactics' derive from the ancient Greek verb *katalattein* which, significantly, means not only 'to barter' and 'to exchange' but also 'to admit into the community' and 'to turn from enemy into friend'.)

17. The chief point about the catalaxy is that, as a spontaneous order, its orderliness does *not* rest on its orientation on a single hierarchy of ends, and that, therefore, it will *not* secure that for it as a whole the more important comes before the less important. This is the chief cause of its condemnation by its opponents, and it could be said that most of the socialist demands amount to nothing less than that the catalaxy should be turned into an economy proper (i.e., the purposeless spontaneous order into a purpose-oriented organization) in order to assure that the more important be never sacrificed to the less important. The defence of

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the free society must therefore show that it is due to the fact that we do not enforce a unitary scale of concrete ends, nor attempt to secure that some particular view about what is more and what is less important governs the whole of society, that the members of such a free society have as good a chance successfully to use their individual knowledge for the achievement of their individual purposes as they in fact have.

18. The extension of an order of peace beyond the small purpose-oriented organization became thus possible by the extension of purpose-independent ('formal') rules of just conduct to the relations with other men who did not pursue the same concrete ends or hold the same values except those abstract rules—rules which did not impose obligations for particular actions (which always presuppose a concrete end) but consisted solely in prohibitions from infringing the protected domain of each which these rules enable us to determine. Liberalism is therefore inseparable from the institution of private property which is the name we usually give to the material part of this protected individual domain.

19. But if liberalism presupposes the enforcement of rules of just conduct and expects a desirable spontaneous order to form itself only if appropriate rules of just conduct are in fact observed, it also wants to restrict the *coercive* powers of government to the enforcement of such rules of just conduct, including at least one prescribing a positive duty, namely, the rule requiring citizens to contribute according to uniform principles not only to the cost of enforcing those rules but also to the costs of the non-coercive service functions of government which we shall presently consider. Liberalism is therefore the same as the demand for the rule of law in the classical sense of the term according to which the coercive functions of government are strictly limited to the enforcement of uniform rules of law, meaning uniform rules of just conduct towards one's fellows. (The 'rule of law' corresponds here to what in German is called *materieller Rechtsstaat* as distinguished from the mere *formelle Rechtsstaat* which requires only that each act of government is authorized by legislation, whether such a law consists of a general rule of just conduct or not.)

20. Liberalism recognizes that there are certain other services which for various reasons the spontaneous forces of the market may not produce or may not produce adequately, and that for this reason it is desirable to put at the disposal of government a clearly circumscribed body of resources with which it can render such services to the citizens in general. This requires a sharp distinction between the coercive powers of government, in which its actions are strictly limited to the enforcement of rules of just conduct and in the exercise of which all discretion is

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excluded, and the provision of services by government, for which it can use only the resources put at its disposal for this purpose, has no coercive power or monopoly, but in the use of which resources it enjoys wide discretion.

21. It is significant that such a conception of a liberal order has arisen only in countries in which, in ancient Greece and Rome no less than in modern Britain, justice was conceived as something to be discovered by the efforts of judges or scholars and not as determined by the arbitrary will of any authority; that it always had difficulty in taking roots in countries in which law was conceived primarily as the product of deliberate legislation, and that it has everywhere declined under the joint influence of legal positivism and of democratic doctrine, both of which know no other criterion of justice than the will of the legislator.

22. Liberalism has indeed inherited from the theories of the common law and from the older (pre-rationalist) theories of the law of nature, and also presupposes, a conception of justice which allows us to distinguish between such rules of just individual conduct as are implied in the conception of the 'rule of law' and are required for the formation of a spontaneous order on the one hand, and all the particular commands issued by authority for the purpose of organization on the other. This essential distinction has been made explicit in the legal theories of two of the greatest philosophers of modern times, David Hume and Immanuel Kant, but has not been adequately restated since and is wholly uncongenial to the governing legal theories of our day.

23. The essential points of this conception of justice are (a) that justice can be meaningfully attributed only to human action and not to any state of affairs as such without reference to the question whether it has been, or could have been, deliberately brought about by somebody; (b) that the rules of justice have essentially the nature of prohibitions, or, in other words, that injustice is really the primary concept and the aim of rules of just conduct is to prevent unjust action; (c) that the injustice to be prevented is the infringement of the protected domain of one's fellow men, a domain which is to be ascertained by means of these rules of justice; and (d) that these rules of just conduct which are in themselves negative can be developed by consistently applying to whatever such rules a society has inherited the equally negative test of universal applicability—a test which, in the last resort, is nothing else than the self-consistency of the actions which these rules allow if applied to the circumstances of the real world. These four crucial points must be developed further in the following paragraphs.

24. *Ad (a)*: Rules of just conduct can require the individual to take into account in his decisions only such consequences of his actions as he himself can foresee. The concrete results of the catallaxy for particular people are, however, essentially unpredictable; and since they are not the effect of anyone's design or intentions, it is meaningless to describe the manner in which the market distributed the good things of this world among particular people as just or unjust. This, however, is what the so-called 'social' or 'distributive' justice aims at in the name of which the liberal order of law is progressively destroyed. We shall later see that no test or criteria have been found or can be found by which such rules of 'social justice' can be assessed, and that, in consequence, and in contrast to the rules of just conduct, they would have to be determined by the arbitrary will of the holders of power.

25. *Ad (b)*: No particular human action is fully determined without a concrete purpose it is meant to achieve. Free men who are to be allowed to use their own means and their own knowledge for their own purposes must therefore not be subject to rules which tell them what they must positively do, but only to rules which tell them what they must not do; except for the discharge of obligations an individual has voluntarily incurred, the rules of just conduct thus merely delimit the range of permissible actions but do not determine the particular actions a man must take at a particular moment. (There are certain rare exceptions to this, like actions to save or protect life, prevent catastrophes, and the like, where either rules of justice actually do require, or would at least generally be accepted as just rules if they required, some positive action. It would lead far to discuss here the position of such rules in the system.) The generally negative character of the rules of just conduct, and the corresponding primacy of the injustice which is prohibited, has often been noticed but scarcely ever been thought through to its logical consequences.

26. *Ad (c)*: The injustice which is prohibited by rules of just conduct is any encroachment on the protected domain of other individuals, and they must therefore enable us to ascertain what is the protected sphere of others. Since the time of John Locke it is customary to describe this protected domain as property (which Locke himself had defined as 'the life, liberty, and possessions of a man'). This term suggests, however, a much too narrow and purely material conception of the protected domain which includes not only material goods but also various claims on others and certain expectations. If the concept of property is, however, (with Locke) interpreted in this wide sense, it is true that law, in the sense of rules of justice, and the institution of property are inseparable.

27. *Ad (d)*: It is impossible to decide about the justice of any one particular rule of just conduct except within the framework of a whole system of such rules, most of which must for this purpose be regarded as unquestioned: values can always be tested only in terms of other values. The test of the justice of a rule is usually (since Kant) described as that of its 'universalizability', i.e., of the possibility of willing that the rules should be applied to all instances that correspond to the conditions stated in it (the 'categorical imperative'). What this amounts to is that in applying it to any concrete circumstances it will not conflict with any other accepted rules. The test is thus in the last resort one of the compatibility or non-contradictoriness of the whole system of rules, not merely in a logical sense but in the sense that the system of actions which the rules permit will not lead to conflict.

28. It will be noticed that only purpose-independent ('formal') rules pass this test because, as rules which have originally been developed in small, purpose-connected groups ('organizations') are progressively extended to larger and larger groups and finally universalized to apply to the relations between any members of an Open Society who have no concrete purposes in common and merely submit to the same abstract rules, they will in this process have to shed all references to particular purposes.

29. The growth from the tribal organization, all of whose members served common purposes, to the spontaneous order of the Open Society in which people are allowed to pursue their own purposes in peace, may thus be said to have commenced when for the first time a savage placed some goods at the boundary of his tribe in the hope that some member of another tribe would find them and leave in turn behind some other goods to secure the repetition of the offer. From the first establishment of such a practice which served reciprocal but not common purposes, a process has been going on for millennia which, by making rules of conduct independent of the particular purposes of those concerned, made it possible to extend these rules to ever wider circles of undetermined persons and eventually might make possible a universal peaceful order of the world.

30. The character of those universal rules of just individual conduct, which liberalism presupposes and wishes to improve as much as possible, has been obscured by confusion with that other part of law which determines the organization of government and guides it in the administration of the resources placed at its disposal. It is a characteristic of liberal society that the private individual can be coerced to obey only the rules of private and criminal law; and the progressive permeation of

private law by public law in the course of the last eighty or hundred years, which means a progressive replacement of rules of conduct by rules of organization, is one of the main ways in which the destruction of the liberal order has been effected. A German scholar (Franz Böhm) has for this reason recently described the liberal order very justly as the *Privatrechtsgesellschaft* (private law society).

31. The difference between the order at which the rules of conduct of private and criminal law aim, and the order at which the rules of organization of public law aim, comes out most clearly if we consider that rules of conduct will determine an order of action only in combination with the particular knowledge and aims of the acting individuals, while the rules of organization of public law determine directly such concrete action in the light of particular purposes, or, rather, give some authority power to do so. The confusion between rules of conduct and rules of organization has been assisted by an erroneous identification of what is often called the 'order of law' with the order of actions, which in a free system is not fully determined by the system of laws but merely presupposes such system of laws as one of the conditions required for its formation. Not every system of rules of conduct which secures uniformity of action (which is how the 'order of law' is frequently interpreted) will, however, secure an order of action in the sense that the actions permitted by the rules will not conflict.

32. The progressive displacement of the rules of conduct of private and criminal law by a conception derived from public law is the process by which existing liberal societies are progressively transformed into totalitarian societies. This tendency has been most explicitly seen and supported by Adolf Hitler's 'crown jurist' Carl Schmitt who consistently advocated the replacement of the 'normative' thinking of liberal law by a conception of law which regards as its purpose the 'concrete order formation' (*konkretes Ordnungsdenken*).

33. Historically this development has become possible as a result of the fact that the same representative assemblies have been charged with the two different tasks of laying down rules of individual conduct and laying down rules and giving orders concerning the organization and conduct of government. The consequence of this has been that the term 'law' itself, which in the older conception of the 'rule of law' had meant only rules of conduct equally applicable to all, came to mean any rule of organization or even any particular command approved by the constitutionally appointed legislature. Such a conception of the rule of law which merely demands that a command be legitimately issued and not that it be a rule of justice equally applicable to all (what the Germans call

the merely *formelle Rechtsstaat*), of course no longer provides any protection of individual freedom.

34. If it was the nature of the constitutional arrangements prevailing in all Western democracies which made this development possible, the driving force which guided it in the particular direction was the growing recognition that the application of uniform or equal rules to the conduct of individuals who were in fact very different in many respects, inevitably produced very different results for the different individuals; and that in order to bring about by government action a reduction in these unintended but inevitable differences in the material position of different people, it would be necessary to treat them not according to the same but according to different rules. This gave rise to a new and altogether different conception of justice, namely that usually described as 'social' or 'distributive' justice, a conception of justice which did not confine itself to rules of conduct for the individual but aimed at particular results for particular people, and which therefore could be achieved only in a purpose-governed organization but not in a purpose-independent spontaneous order.

35. The concepts of a 'just price', a 'just remuneration' or a 'just distribution of incomes' are of course very old; it deserves notice, however, that in the course of the efforts of two thousand years in which philosophers have speculated about the meaning of these concepts, not a single rule has been discovered which would allow us to determine what is in this sense just in a market order. Indeed the one group of scholars which have most persistently pursued the question, the schoolmen of the later middle ages and early modern times, were finally driven to define the just price or wage as that price or wage which would form itself on a market in the absence of fraud, violence or privilege—thus referring back to the rules of just conduct and accepting as a just result whatever was brought about by the just conduct of all individuals concerned. This negative conclusion of all the speculations about 'social' or 'distributive' justice was, as we shall see, inevitable, because a just remuneration or distribution has meaning only within an organization whose members act under command in the service of a common system of ends, but can have no meaning whatever in a catallaxy or spontaneous order which can have no such common system of ends.

36. A state of affairs as such, as we have seen, cannot be just or unjust as a mere fact. Only in so far as it has been brought about designedly or could be so brought about does it make sense to call just or unjust the actions of those who have created it or permitted it to arise. In the catallaxy, the spontaneous order of the market, nobody can foresee,

however, what each participant will get, and the results for particular people are not determined by anyone's intentions; nor is anyone responsible for particular people getting particular things. We might therefore question whether a deliberate choice of the market order as the method for guiding economic activities, with the unpredictable and in a great measure chance incidence of its benefits, is a just decision, but certainly not whether, once we have decided to avail ourselves of the catallaxy for that purpose, the particular results it produces for particular people are just or unjust.

37. That the concept of justice is nevertheless so commonly and readily applied to the distribution of incomes is entirely the effect of an erroneous anthropomorphic interpretation of society as an organization rather than as a spontaneous order. The term 'distribution' is in this sense quite as misleading as the term 'economy', since it also suggests that something is the result of deliberate action which in fact is the result of spontaneous ordering forces. Nobody distributes income in a market order (as would have to be done in an organization) and to speak, with respect to the former, of a just or unjust distribution is therefore simple nonsense. It would be less misleading to speak in this respect of a 'dispersion' rather than a 'distribution' of incomes.

38. All endeavours to secure a 'just' distribution must thus be directed towards turning the spontaneous order of the market into an organization or, in other words, into a totalitarian order. It was this striving after a new conception of justice which produced the various steps by which rules of organization ('public law'), which were designed to make people aim at particular results, came to supersede the purpose-independent rules of just individual conduct, and which thereby gradually destroyed the foundations on which a spontaneous order must rest.

39. The ideal of using the coercive powers of government to achieve 'positive' (i.e., social or distributive) justice leads, however, not only necessarily to the destruction of individual freedom, which some might not think too high a price, but it also proves on examination a mirage or an illusion which cannot be achieved in any circumstances, because it presupposes an agreement on the relative importance of the different concrete ends which cannot exist in a great society whose members do not know each other or the same particular facts. It is sometimes believed that the fact that most people today desire social justice demonstrates that this ideal has a determinable content. But it is unfortunately only too possible to chase a mirage, and the consequence of this is always that the result of one's striving will be utterly different from what one had intended.

40. There can be no rules which determine how much everybody 'ought' to have unless we make some unitary conception of relative 'merits' or 'needs' of the different individuals, for which there exists no objective measure, the basis of a central allocation of all goods and services—which would make it necessary that each individual, instead of using *his* knowledge for *his* purposes, were made to fulfil a duty imposed upon him by somebody else, and were remunerated according to how well he has, in the opinion of others, performed this duty. This is the method of remuneration appropriate to a closed organization, such as an army, but irreconcilable with the forces which maintain a spontaneous order.

41. It ought to be freely admitted that the market order does not bring about any close correspondence between subjective merit or individual needs and rewards. It operates on the principle of a combined game of skill and chance in which the results for each individual may be as much determined by circumstances wholly beyond his control as by his skill or effort. Each is remunerated according to the value his particular services have to the particular people to whom he renders them, and this value of his services stands in no necessary relation to anything which we could appropriately call his merits and still less to his needs.

42. It deserves special emphasis that, strictly speaking, it is meaningless to speak of a value 'to society' when what is in question is the value of some services to certain people, services which may be of no interest to anybody else. A violin virtuoso presumably renders services to entirely different people from those whom a football star entertains, and the maker of pipes altogether different people from the maker of perfumes. The whole conception of a 'value to society' is in a free order as illegitimate an anthropomorphic term as its description as 'one economy' in the strict sense, as an entity which 'treats' people justly or unjustly, or 'distributes' among them. The results of the market process for particular individuals are neither the result of anybody's will that they should have so much, nor even foreseeable by those who have decided upon or support the maintenance of this kind of order.

43. Of all the complaints about the injustice of the results of the market order the one which appears to have had the greatest effect on actual policy, and to have produced a progressive destruction of the equal rules of just conduct and their replacement by a 'social' law aiming at 'social justice', however, was not the extent of the inequality of the rewards, nor their disproportion with recognizable merits, needs, efforts, pains incurred, or whatever else has been chiefly stressed by social philosophers, but the demands for protection against an undeserved descent from an

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already achieved position. More than by anything else the market order has been distorted by efforts to protect groups from a decline from their former position; and when government interference is demanded in the name of 'social justice' this now means, more often than not, the demand for the protection of the existing relative position of some group. 'Social justice' has thus become little more than a demand for the protection of vested interests and the creation of new privilege, such as when in the name of social justice the farmer is assured 'parity' with the industrial worker.

44. The important facts to be stressed here are that the positions thus protected were the result of the same sort of forces as those which now reduce the relative position of the same people, that their position for which they now demand protection was no more deserved or earned than the diminished position now in prospect for them, and that their former position could in the changed position be secured to them only by denying to others the same chances of ascent to which they owed their former position. In a market order the fact that a group of persons has achieved a certain relative position cannot give them a claim in justice to maintain it, because this cannot be defended by a rule which could be equally applied to all.

45. The aim of economic policy of a free society can therefore never be to assure particular results to particular people, and its success cannot be measured by any attempt at adding up the value of such particular results. In this respect the aim of what is called 'welfare economics' is fundamentally mistaken, not only because no meaningful sum can be formed of the satisfactions provided for different people, but because its basic idea of a maximum of need-fulfilment (or a maximum social product) is appropriate only to an economy proper which serves a single hierarchy of ends, but not to the spontaneous order of a catallaxy which has no common concrete ends.

46. Though it is widely believed that the conception of an optimal economic policy (or any judgment whether one economic policy is better than another) presupposes such a conception of maximizing aggregate real social income (which is possible only in value terms and therefore implies an illegitimate comparison of the utility to different persons), this is in fact not so. An optimal policy in a catallaxy may aim, and ought to aim, at increasing the chances of any member of society taken at random of having a high income, or, what amounts to the same thing, the chance that, whatever his share in total income may be, the real equivalent of this share will be as large as we know how to make it.

47. This condition will be approached as closely as we can manage,

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irrespective of the dispersion of incomes, if everything which is produced is being produced by persons or organizations who can produce it more cheaply than (or at least as cheaply as) anybody who does not produce it, and is sold at a price lower than that at which it would be possible to offer it for anybody who does not in fact so offer it. (This allows for persons or organizations to whom the costs of producing one commodity or service are lower than they are for those who actually produce it and who still produce something else instead, because their comparative advantage in that other production is still greater; in this case the total costs of their producing the first commodity would have to include the loss of the one which is not produced.)

48. It will be noticed that this optimum does not presuppose what economic theory calls 'perfect competition' but only that there are no obstacles to the entry into each trade and that the market functions adequately in spreading information about opportunities. It should also be specially observed that this modest and achievable goal has never yet been fully achieved because at all times and everywhere governments have both restricted access to some occupations and tolerated persons and organizations deterring others from entering occupations when this would have been to the advantage of the latter.

49. This optimum position means that as much will be produced of whatever combination of products and services is in fact produced as can be produced by any method that we know, because we can through such a use of the market mechanism bring more of the dispersed knowledge of the members of society into play than by any other. But it will be achieved only if we leave the share in the total, which each member will get, to be determined by the market mechanism and all its accidents, because it is only through the market determination of incomes that each is led to do what this result requires.

50. We owe, in other words, our chances that our unpredictable share in the total product of society represents as large an aggregate of goods and services as it does to the fact that thousands of others constantly submit to the adjustments which the market forces on them; and it is consequently also our duty to accept the same kind of changes in our income and position, even if it means a decline in our accustomed position and is due to circumstances we could not have foreseen and for which we are not responsible. The conception that we have 'earned' (in the sense of morally deserved) the income we had when we were more fortunate, and that we are therefore entitled to it so long as we strive as honestly as before and had no warning to turn elsewhere, is wholly mistaken. Everybody, rich or poor, owes his income to the outcome of a

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mixed game of skill and chance, the aggregate result of which and the shares in which are as high as they are only because we have agreed to play that game. And once we have agreed to play the game and profited from its results, it is a moral obligation on us to abide by the results even if they turn against us.

51. There can be little doubt that in modern society all but the most unfortunate and those who in a different kind of society might have enjoyed a legal privilege, owe to the adoption of that method an income much larger than they could otherwise enjoy. There is of course no reason why a society which, thanks to the market, is as rich as modern society should not provide *outside the market* a minimum security for all who in the market fall below a certain standard. Our point was merely that considerations of justice provide no justification for 'correcting' the results of the market and that justice, in the sense of treatment under the same rules, requires that each takes what a market provides in which every participant behaves fairly. There is only a justice of individual conduct but not a separate 'social justice'.

52. We cannot consider here the legitimate tasks of government in the administration of the resources placed at its disposal for the rendering of services to the citizens. With regard to these functions, for the discharge of which the government is given money, we will here only say that in exercising them government should be under the same rules as every private citizen, that it should possess no monopoly for a particular service of the kind, that it should discharge these functions in such a manner as not to disturb the much more comprehensive spontaneously ordered efforts of society, and that the means should be raised according to a rule which applies uniformly to all. (This, in my opinion, precludes an overall progression of the burden of taxation of the individuals, since such a use of taxation for purposes of redistribution could be justified only by such arguments as we have just excluded.) In the remaining paragraphs we shall be concerned only with some of the functions of government for the discharge of which it is given not merely money but power to enforce rules of private conduct.

53. The only part of these coercive functions of government which we can further consider in this outline are those which are concerned with the preservation of a functioning market order. They concern primarily the conditions which must be provided by law to secure the degree of competition required to steer the market efficiently. We shall briefly consider this question first with regard to enterprise and then with regard to labour.

54. With regard to enterprise the first point which needs underlining

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is that it is more important that government refrain from assisting monopolies than that it combat monopoly. If today the market order is confined only to a part of the economic activities of men, this is largely the result of deliberate government restrictions of competition. It is indeed doubtful whether, if government consistently refrained from creating monopolies and from assisting them through protective tariffs and the character of the law of patents for inventions and of the law of corporations, there would remain an element of monopoly significant enough to require special measures. What must be chiefly remembered in this connection is, firstly, that monopolistic positions are always undesirable but often unavoidable for objective reasons which we cannot or do not wish to alter; and, secondly, that all government-supervised monopolies tend to become government-protected monopolies which will persist when their justification has disappeared.

55. Current conceptions of anti-monopoly policy are largely misguided by the application of certain conceptions developed by the theory of perfect competition which are irrelevant to conditions where the factual presuppositions of the theory of perfect competition are absent. The theory of perfect competition shows that if on a market the number of buyers and sellers is sufficiently large to make it impossible for any one of them deliberately to influence prices, such quantities will be sold at prices which will equal marginal costs. This does not mean, however, that it is either possible or even necessarily desirable everywhere to bring about a state of affairs where large numbers buy and sell the same uniform commodity. The idea that in situations where we cannot, or do not wish to, bring about such a state, the producers should be held to conduct themselves as if perfect competition existed, or to sell at a price which would rule under perfect competition, is meaningless, because we do not know what would be the particular conduct required, or the price which would be formed, if perfect competition existed.

56. Where the conditions for perfect competition do not exist, what competition still can and ought to be made to achieve is nevertheless very remarkable and important, namely the conditions described in paragraphs 46-49 above. It was pointed out then that this state will tend to be approached if nobody can be prevented by government or others to enter any trade or occupation he desired.

57. This condition would, I believe, be approached as closely as it is possible to secure this if, *firstly*, all agreements to restrain trade were without exception (not prohibited, but merely) made void and unenforceable, and, *secondly*, all discriminatory or other aimed actions towards an actual or potential competitor intended to make him observe

certain rules of market conduct were to make liable for multiple damages. It seems to me that such a modest aim would produce a much more effective law than actual prohibitions under penalties, because no exceptions need to be made from such a declaration as invalid or unenforceable of all contracts in restraint of trade, while, as experience has shown, the more ambitious attempts are bound to be qualified by so many exceptions as to make them much less effective.

58. The application of this same principle that all agreements in restraint of trade should be invalid and unenforceable and that every individual should be protected against all attempts to enforce them by violence or aimed discrimination, is even more important with regard to labour. The monopolistic practices which threaten the functioning of the market are today much more serious on the side of labour than on the side of enterprise, and the preservation of the market order will depend more than on anything else, on whether we succeed in curbing the latter.

59. The reason for this is that the developments in this field are bound to force government, and are already forcing many governments, into two kinds of measures which are wholly destructive of the market order: attempts authoritatively to determine the appropriate incomes of the various groups (by what is called an 'incomes policy') and efforts to overcome the wage 'rigidities' by an inflationary monetary policy. But since this evasion of the real issue by only temporarily effective monetary means must have the effect that those 'rigidities' will constantly increase, they are a mere palliative which can only postpone but not solve the central problem.

60. Monetary and financial policy is outside the scope of this paper. Its problems were mentioned only to point out that its fundamental and in the present situation insoluble dilemmas cannot be solved by any monetary means but only by a restoration of the market as an effective instrument for determining wages.

61. In conclusion, the basic principles of a liberal society may be summed up by saying that in such a society all coercive functions of government must be guided by the overruling importance of what I like to call THE THREE GREAT NEGATIVES: PEACE, JUSTICE AND LIBERTY. Their achievement requires that in its coercive functions government shall be confined to the enforcement of such prohibitions (stated as abstract rules) as can be equally applied to all, and to exacting under the same uniform rules from all a share of the costs of the other, non-coercive services it may decide to render to the citizens with the material and personal means thereby placed at its disposal.