



**Economic Freedom
and
Representative Government**

F. A. HAYEK

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***Economic Freedom
and
Representative Government***

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F. A. HAYEK

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Foreword

Graham Hutton

NO ONE, as the 1939-45 World War drew to its close, could possibly have foreseen the degree to which government would have led Britain down *The Road to Serfdom* (1944) by 1973. For that matter, no one also in the ensuing days of so-called peace could have foreseen how far along the road to Orwell's 1984 we in this country would have travelled in the same time. Professor Hayek's contributions to our understanding of the pricing and productive processes are outstanding, and have earned him his reputation as one of the world's leading economists.

Since then he has added further reputations as a social philosopher and a political scientist. It is fitting that his wide experience and learning should be marshalled in honour of Harold Wincott, who always admired him; especially at so crucial a juncture in our British social and economic development.

Two Latin tags are apt for our present time of troubles. The first is apt because there is a widespread belief that one nostrum alone will suffice to solve our problems. Symmachus, pleading for the retention of the altar to Victory in Constantinian Rome in the first victorious flush of Christianity, said '*Uno itinere non potest pervenire ad tam grande secretum*' - 'It is not possible to attain to so great a secret by one way only'. Indeed the virtues of competition, as free markets as possible, and business open to all talents, are precisely that they offer differing ways at varying costs to the same ends.

The other tag is the bitter complaint by Sidonius Apollinaris of Auvergne, Bishop of Clermont Ferrand, who had fought against the Visigoths for enfeebled Rome, which then came to an agreement with them behind Sidonius's back yielding them all his territory: '*Facta est pretium suae pacis nostra servitudo*' - 'The price of their peace has been made our servitude'. Many today must feel that the peace of politicians, or bureaucracies, or huge vested interests, has been bought by thrusting the rank-and-file of ordinary men and women into increasing servitude with ever-diminishing range of choice.

Professor Hayek has not only emphasised the dangers to democracies, currently in trying to suppress inflation by 'incomes policies', but has also indicated roads that might avoid them. And in raising the question, asked by Joseph Schumpeter 30 years ago, whether a free economy was practicable in a system of representative government susceptible to pressures from majorities and liable to acquiesce in the pressure for concessions and subventions to vested interests of capital or labour, he has directed attention to the central and perennial dilemma of parliamentary democracy.

The Author

FRIEDRICH AUGUST HAYEK, Dr Jur, Dr Sc Po1 (Vienna), DSc (Econ) (London), Visiting Professor at the University of Salzburg, Austria, 1970-74. Educated at the University of Vienna, he was Director of the Austrian Institute for Economic Research, 1927-31, and Lecturer in Economics at University of Vienna, 1929-31. 1931-50 Tooke Professor of Economic Science and Statistics University of London. 1950-62 Professor of Social and Moral Science, University of Chicago. Professor of Economics, University of Freiburg i.Brg., West Germany, 1962-68. He was awarded the Alfred Nobel Memorial Prize in Economic Sciences in 1974. Professor Hayek's most important publications include *Monetary Theory and the Trade Cycle* (1933), *The Pure Theory of Capital* (1941), *The Road to Serfdom* (1944), *Individualism and Economic Order* (1948), *The Counter-Revolution of Science* (1952), and *The Constitution of Liberty* (1960). His latest works are collections of his writings under the titles *Studies in Philosophy, Politics and Economics* (1967) and *Law, Legislation and Liberty* (Vol. I, 1973; Vol. II, 1976; Vol. III, 1979). He has also edited several books and he has published articles in the *Economic Journal*, *Economica* and other journals.

Economic Freedom and Representative Government

F. A. HAYEK

I

THE SEEDS OF DESTRUCTION

THIRTY YEARS AGO I wrote a book¹ which, in a manner which many regarded as unduly alarmist, described the dangers that the then visible collectivist tendencies created for personal freedom. I am glad that these fears so far have not materialised, but I do not think this has proved me wrong. In the first instance I did not, as many misunderstood me, contend that if government interfered at all with economic affairs it was bound to go the whole way to a totalitarian system. I was trying to argue rather what in more homely terms is expressed by saying 'if you don't mend your principles you will go to the devil'.

Post-war revival: the 'Great Prosperity'

In the event developments since the war, in Britain as well as in the rest of the Western world, have gone much less in the direction which the prevalent collectivist doctrines seemed to suggest was likely. Indeed, the first 20 years after the war saw a revival of a free market economy much stronger than even its most enthusiastic supporters could have hoped. Although I like to think that those who worked for this consummation in the intellectual sphere, such as Harold Wincott, to whose memory this lecture is dedicated, have contributed to it, I do not overrate what intellectual debate can achieve. At least as important were probably the experiences of Germany, relying on a market economy, rapidly becoming the strongest economic power of Europe - and to some extent the practical efforts for a removal of the obstacles to international trade, such as GATT and perhaps in some measure the intentions if not the practice of the EEC.

¹ *The Road to Serfdom*, Routledge, 1944.

The result was the Great Prosperity of the last 20 to 25 years which, I fear, will in the future appear as an event as unique as the Great Depression of the 1930s now appears to us. To me at least it seems clear that, until six or eight years ago, this prosperity was due entirely to the freeing of the spontaneous forces of the economic system and not, as in the later years, to inflation. Since this is today often forgotten I may perhaps remind you that, in the most remarkable burst of prosperity of this period, that of the German Federal Republic, the average annual rise of prices remained below 2 per cent until 1966.

I believe that even this modest rate of inflation would not have been necessary to secure the prosperity, and indeed that we should all today have better prospects of continuing prosperity if we had been content with what was achieved without inflation and had not attempted to stimulate it further by an expansionist credit policy. Instead such a policy has created a situation in which it is thought necessary to impose controls which will destroy the main foundations of the prosperity, namely the functioning market. Indeed the measures supposedly necessary to combat inflation - as if inflation were something which attacks us and not something which we create - threaten to destroy the free economy in the near future.

Inflation: the threat to freedom

We find ourselves in the paradoxical situation that, after a period during which the market economy has been more successful than ever before in rapidly raising living standards in the Western world, the prospects of its continuance even for the next few years must appear slight. I have indeed never felt so pessimistic about the chances of preserving a functioning market economy as I do at this, moment - and this means also of the prospects of preserving a free political order. Although the threat to free institutions now comes from a source different from that with which I was concerned 30 years ago; it has become even more acute than it was then.

That a systematically pursued incomes policy means the suspension of the price mechanism and, before long the replacement of the market by a centrally-directed economy seems to me beyond doubt. I cannot here discuss the ways in which we may

still avoid this course, or the chances that we may still do so. Although I regard it as at this time the chief duty of every economist to fight inflation - and to explain why a repressed inflation is even worse than an open inflation - I devote this lecture to another task. As I see it, inflation has merely speeded up the process of the destruction of the market economy which has been going on for other reasons, and brought much nearer the moment when, seeing the economic, political and moral consequences of a centrally-directed economy, we shall have to think how we can re-establish a market economy on a firmer and more durable basis.

II

THE DANGER OF UNLIMITED GOVERNMENT

FOR SOME TIME I have been convinced that it is not only the deliberate attempts of the various kinds of collectivists to replace the market economy by a planned system, nor the consequences of the new monetary policies, which threaten to destroy the market economy: the political institutions prevailing in the Western world necessarily produce a drift in this direction which can be halted or prevented only by changing these institutions. I have belatedly come to agree with Joseph Schumpeter who 30 years ago argued² that there was an irreconcilable conflict between democracy and capitalism - except that it is not democracy as such but the particular forms of democratic organisation, now regarded as the only possible forms of democracy, which will produce a progressive expansion of governmental control of economic life even if the majority of the people wish to preserve a market economy.

Majority rule and special interests

The reason is that it is now generally taken for granted that in a democracy the powers of the majority must be unlimited, and that a government with unlimited powers will be forced, to secure the continued support of a majority, to use its unlimited powers in the

² *Capitalism, Socialism and Democracy*, Allen and Unwin, 1943.

service of special interests - such groups as particular traders, 'the inhabitants of particular regions, etc. We shall see this most clearly if we consider the situation in a community in which the mass of the people are in favour of a market order and against government direction, but, as will normally happen, most of the groups wish an exception to be made in their favour. In such conditions a political party hoping to achieve and maintain power will have little choice but to use its powers to buy the support of particular groups. They will do so not because the majority is interventionist, but because the ruling party would not retain a majority if it did not buy the support of particular groups by the promise of special advantages. This means in practice that even a statesman wholly devoted to the common interest of all the citizens will be under the constant necessity of satisfying special interests, because only thus will he be able to retain the support of a majority which he needs to achieve what is really important to him.

The root of the evil is thus the unlimited power of the legislature in modern democracies, a power which the majority will be constantly forced to use in a manner that most of its members may not desire. What we call the will of the majority is thus really an artefact of the existing institutions, and particularly of the omnipotence of the sovereign legislature, which by the mechanics of the political process will be driven to do things that most of its members do not really want, simply because there are no formal limits to its powers.

It is widely believed that this omnipotence of the representative legislature is a necessary attribute of democracy because the will of the representative assembly could be limited only by placing another will above it. Legal positivism, the most influential current theory of jurisprudence, particularly represents this sovereignty of the legislature as logically necessary. This, however, was by no means the view of the classical theorists of representative government. John Locke made it very clear that in a free state even the power of the legislative body should be limited in a definite manner, namely to the passing of laws in the specific sense of general rules of just conduct equally applicable to all citizens. That all coercion would be legitimate only if it meant the application of general rules of law in this sense became the basic

principle of liberalism. For Locke, and for the later theorists of Whiggism and the separation of powers, it was not so much the source from which the laws originated as their character of general rules of just conduct equally applicable to all which justified their coercive application.

What is law?

This older liberal conception of the necessary limitation of all power by requiring the legislature to commit itself to general rules has, in the course of the last century, been replaced gradually and almost imperceptibly by the altogether different though not incompatible conception that it was the approval of the majority which was the only and sufficient restraint on legislation. And the older conception was not only forgotten but no longer even understood. It was thought that any substantive limitation of the legislative power was unnecessary once this power was placed in the hands of the majority, because approval by it was regarded as an adequate test of justice. In practice this majority opinion usually represents no more than the result of bargaining rather than a genuine agreement on principles. Even the concept of the arbitrariness which democratic government was supposed to prevent changed its content: its opposite was no longer the general rules equally applicable to all but the approval of a command by the majority - as if a majority might not treat a minority arbitrarily.

III

THE FUNDAMENTAL PRINCIPLE

TODAY IT IS rarely understood that the limitation of all coercion to the enforcement of general rules of just conduct was the fundamental principle of classical liberalism, or, I would almost say, its definition of liberty. This is largely a consequence of the fact that the substantive (or 'material') conception of law (as distinguished from a purely formal one) which underlies it, and which alone gives a clear meaning to such ideas as that of the sep-

aration of powers, of the rule of law or of a government under the law, had been rarely stated explicitly but merely tacitly presupposed by most of the classical writers. There are few passages in their 17th- and 18th-century writings in which they explicitly say what they mean by 'law'. Many uses of the term, however, make sense only if it is interpreted to mean exclusively general rules of just conduct and not every expression of the will of the duly authorised representative body.

Tyranny of majorities

Though the older conception of law survives in limited connections, it is certainly no longer generally understood, and in consequence has ceased to be an effective limit on legislation. While in the theoretical concept of the separation of powers the legislature derived its authority from the circumstance that it committed itself to general rules and was supposed to impose only general rules, there are now no limits on what a legislature may command and so claim to be 'law'. While its power was thus once supposed to be limited not by a superior will but by a generally recognised principle, there are now no limits whatever. There is therefore also no reason why the coalitions of organised interests on which the governing majorities rest should not discriminate against any widely-disliked group. Differences in wealth, education, tradition, religion, language or race may today become the cause of differential treatment on the pretext of a pretended principle of social justice or of public necessity. Once such discrimination is recognised as legitimate, all the safeguards of individual freedom of the liberal tradition are gone. If it is assumed that whatever the majority decides is just, even if what it lays down is not a general rule, but aims at affecting particular people, it would be expecting too much to believe that a sense of justice will restrain the caprice of the majority: in any group it is soon believed that what is desired by the group is just. And since the theoreticians of democracy have for over a hundred years taught the majorities that whatever they desire is just, we must not be surprised if the majorities no longer even ask whether what they decide is just. Legal positivism has powerfully contributed to this development by its contention that law is not dependent on justice but determines what is just.

Mirage of 'social justice'

Unfortunately, we have not only failed to impose upon legislatures the limitations inherent in the necessity of committing themselves to general rules. We have also charged them with tasks which they can perform only if they are not thus limited but are free to use coercion in the discriminatory manner that is required to assure benefits to particular people or groups. This they are constantly asked to do in the name of what is called social or distributive justice, a conception which has largely taken the place of the justice of individual action. It requires that not the individuals but 'society' be just in determining the share of individuals in the social product; and in order to realise any particular distribution of the social product regarded as just it is necessary that government directs individuals in what they must do.

Indeed, in a market economy in which no single person or group determines who gets what, and the shares of individuals always depend on many circumstances which nobody could have foreseen, the whole conception of social or distributive justice is empty and meaningless; and there will therefore never exist agreement on what is just in this sense. I am not sure that the concept has a definite meaning even in a centrally-directed economy, or that in such a system people would ever agree on what distribution is just. I am certain, however, that nothing has done so much to destroy the juridical safeguards of individual freedom as the striving after this mirage of social justice. An adequate treatment of the topic of this lecture would indeed presuppose a careful dissection of this ideal which almost everybody seems to believe to have a definite meaning but which proves more completely devoid of such meaning the more one thinks about it. But the main subject of this lecture is what we have to do, if we ever again get a chance, to stop those tendencies inherent in the existing political systems which drive us towards a totalitarian order.

Compatibility of collective wants

Before I turn to this main problem, I should correct a widespread misunderstanding. The basic principle of the liberal tradition, that all the coercive action of government must be limited to the

enforcement of general rules of just conduct, does not preclude government from rendering many other services for which, except for raising the necessary finance, it need not rely on coercion. It is true that in the 19th century a deep and not wholly unjustified distrust of government often made liberals wish to restrain government much more narrowly. But even then, of course, certain collective wants were recognised which only an agency possessing the power of taxation could satisfy. I am the last person to deny that increased wealth and the increased density of population have enlarged the number of collective needs which government can and should satisfy. Such government services are entirely compatible with liberal principles so long as,

firstly, government does not claim a monopoly and new methods of rendering services through the market (e.g. in some now covered by social insurance) are not prevented;

secondly, the means are raised by taxation on uniform principles and taxation is not used as an instrument for the redistribution of income; and,

thirdly, the wants satisfied are collective wants of the community as a whole and not merely collective wants of particular groups.

Not every collective want deserves to be satisfied: the desire of the small bootmakers to be protected against the competition of the factories is also a collective need of the bootmakers, but clearly not one which in a liberal economic system could be satisfied. Nineteenth-century liberalism in general attempted to keep the growth of these service activities of government in check by entrusting them to local rather than central government in the hope that competition between the local authorities would control their extent. I cannot consider here how far this principle had to be abandoned and mention it only as another part of the traditional liberal doctrine whose rationale is no longer understood.

I had to consider these points to make it clear that those checks on government activity with which for the rest of this lecture I shall be exclusively concerned refer only to its powers of coercion but not to the necessary services we today expect government to render to the citizens.

I hope that what I have said so far has made it clear that the task we shall have to perform if we are to re-establish and preserve

a free society is in the first instance an intellectual task: it presupposes that we not only recover conceptions which we have largely lost and which must once again become generally understood, but also that we design new institutional safeguards which will prevent a repetition of the process of gradual erosion of the safeguards which the theory of liberal constitutionalism had meant to provide.

IV

THE SEPARATION OF POWERS

THE DEVICE to which the theorists of liberal constitutionalism had looked to guarantee individual liberty and the prevention of all arbitrariness was the separation of powers. If the legislature laid down only general rules equally applicable to all and the executive could use coercion only to enforce obedience to these general rules, personal liberty would indeed be secure. This presupposes, however, that the legislature is confined to laying down such general rules. But, instead of confining parliament to making laws in this sense, we have given it unlimited power simply by calling 'law' everything which it proclaims: a legislature is now not a body that makes laws; a law is whatever is resolved by a legislature. This state of affairs was brought about by the loss of the old meaning of 'law' and by the desire to make government democratic by placing the direction and control of government in the hands of the legislatures, which are in consequence constantly called upon to order all sorts of specific actions - to issue commands which are called laws, although in character they are wholly different from those laws to the production of which the theory of the separation of powers had intended to confine the legislatures.

The concept of 'lawyer's law'

Although the task of designing and establishing new institutions must appear difficult and almost hopeless, the task of reviving and making once more generally understood a lost concept for which we no longer have even an unambiguous name is perhaps even more difficult. It is a task which in this case has to be achieved in the face of the contrary teaching of the dominant school of jurisprudence. I will try briefly to state the essential character-

istics of laws in this specific narrow sense of the term before I turn to the institutional arrangements which would secure that the task of making such laws be really separated from the tasks of governing.

A good way is to consider the peculiar properties which judge-made law possesses of necessity, while they belong to the products of legislatures in general only in so far as these have endeavoured to emulate judge-made law. It is no accident that this concept of law has been preserved much longer in the common law countries whereas it was rarely understood in countries which relied wholly on statute law.

This law consists essentially of what used to be known as 'lawyer's law' - which is and can be applied by courts of justice and to which the agencies of government are as much subject as are private persons. Since this judge-made law arises out of the settlement of disputes, it relates solely to the relations of acting persons towards one another and does not control an individual's actions which do not affect others. It defines the protected domains of each person with which others are prohibited from interfering. The aim is to prevent conflicts between people who do not act under central direction but on their own initiative, pursuing their own ends on the basis of their own knowledge. These rules must thus apply in circumstances which nobody can foresee and must therefore be designed to cover a maximum number of future instances. This determines what is commonly but not very helpfully described as their 'abstract' character, by which is meant that they are intended to apply in the same manner to all situations in which certain generic factors are present and not only to particular designated persons, groups, places, times, etc. They do not prescribe to the individuals specific tasks or ends of their actions, but aim at making it possible for them so mutually to adjust their plans that each will have a good chance of achieving his aims. The delimitation of the personal domains which achieve this purpose is of course determined chiefly by the law of property, contract, and torts, and the penal laws which protect 'life, liberty and property'.

Limits to coercion

An individual who is bound to obey only such rules of just

conduct as I have called these rules of law in this narrow sense is free in the sense that he is not legally subject to anybody's commands, that within known limits he can choose the means and ends of his activities. But where everybody is free in this sense each is thrown into a process which nobody controls and the outcome of which for each is in large measure unpredictable. Freedom and risk are thus inseparable. Nor can it be claimed that the magnitude of each individual's share of the national income, dependent on so many circumstances which nobody knows, will be just. But nor can these shares meaningfully be described as unjust. We must be content if we can prevent them from being affected by unjust actions. We can of course in a free society provide a floor below which nobody need fall, by providing outside the market for all some insurance against misfortune. There is indeed much we can do to improve the framework within which the market will operate beneficially. But we cannot in such a society make the distribution of incomes correspond to some standard of social or distributive justice, and attempts to do so are likely to destroy the market order.

But if, to preserve individual freedom, we must confine coercion to the enforcement of general rules of just conduct, how can we prevent legislatures from authorising coercion to secure particular benefits for particular groups - especially a legislature organised on party lines where the governing majority frequently will be a majority only because it promises such special benefits to some groups? The truth is of course that the so-called legislatures have *never* been confined to making laws in this narrow sense, although the theory of the separation of powers tacitly assumed that they were. And since it has come to be accepted that not only legislation but also the direction of current government activities should be in the hands of the representatives of the majority, the direction of government has become the chief task of the legislatures. This has had the effect not only of entirely obliterating the distinction between laws in the sense of general rules of just conduct and laws in the sense of specific commands, but also of organising the legislatures not in the manner most suitable for making laws in the classical sense but in the manner required for efficient government, that is above all on party lines.

Representative government driven to serve sectional interests

Now, I believe we are right in wanting both legislation in the old sense and current government to be conducted democratically. But it seems to me it was a fatal error, though historically probably inevitable, to entrust these two distinct tasks to the same representative assembly. This makes the distinction between legislation and government, and thereby also the observance of the principles of the rule of law and of a government under the law, practically impossible. Though it may secure that every act of government has the approval of the representative assembly, it does not protect the citizens against discretionary coercion. Indeed, a representative assembly organised in the manner necessary for efficient government, and not restrained by some general laws it cannot alter, is bound to be driven to use its powers to satisfy the demands of sectional interests.

It is no accident that most of the classical theorists of representative government and of the separation of powers disliked the party system and hoped that a division of the legislature on party lines could be avoided. They did so because they conceived of the legislatures as concerned with the making of laws in the narrow sense, and believed that there could exist on the rules of just conduct a prevalent common opinion independent of particular interests. But it cannot be denied that democratic *government* requires the support of an organised body of representatives, which we call parties, committed to a programme of action, and a similarly organised opposition which offers an alternative government.

Separate legislative assembly

It would seem the obvious solution of this difficulty to have two distinct representative assemblies with different tasks, one a true legislative body and the other concerned with government proper, i.e., everything except the making of laws in the narrow sense. And it is at least not inconceivable that such a system might have developed in Britain if at the time when the House of Commons with the exclusive power over money bills achieved in effect sole control of government, the House of Lords, as the supreme court of justice, had obtained the sole right to develop the law in the narrow sense. But such a development was of course not possible.

so long as the House of Lords represented not the people at large but a class.

On reflection, however, one realises that little would be gained by merely having two representative assemblies instead of one if they were elected and organised on the same principles and therefore also had the same composition. They would be driven by the same circumstances which govern the decisions of modern parliaments and acting in collusion would probably produce the same sort of authorisation for whatever the government of the day wished to do. Even if we assume that the legislative chamber (as distinguished from the governmental one) were restricted by the constitution to passing laws in the narrow sense of general rules of just conduct, and this restriction were made effective through the control by a constitutional court, little would probably be achieved so long as the legislative assembly were under the same necessity of satisfying the demands of particular groups which force the hands of the governing majorities in today's parliaments.

Specific interests and permanent principles

'While for the governmental assemblies we should want something more or less of the same kind as the existing parliaments, whose organisation and manner of proceeding have indeed been shaped by the needs of governing rather than the making of laws, something very different would be needed for the legislative assembly. We should want an assembly not concerned with the particular needs of particular groups but rather with the general permanent principles on which the activities of the community were to be ordered. Its members and its resolutions should represent not specific groups and their particular desires but the prevailing opinion on what kind of conduct was just and what kind was not. In laying down rules to be valid for long periods ahead this assembly should be 'representative of', or reproduce a sort of cross-section of, the prevailing opinions on right and wrong; its members should not be the spokesmen of particular interests, or express the 'will' of any particular section of the population on any specific measure of government. They should be men and women trusted and respected for the traits of character they had shown in the ordinary business of life, and not dependent on the

approval by particular groups of electors. And they should be wholly exempt from the party discipline necessary to keep a governing team together, but evidently undesirable in the body which lays down the rules that limit the powers of government.

Membership of legislative assembly

Such a legislative assembly could be achieved if, *first*, its members were elected for long periods, *secondly*, they were not eligible for re-election after the end of the period, and, *thirdly*, to secure a continuous renewal of the body in accord with gradually changing opinions among the electorate, its members were not all elected at the same time but a constant fraction of their number replaced every year as their mandate expired; or, in other words, if they were elected, for instance, for fifteen years and one-fifteenth of their number replaced every year. It would further seem to me expedient to provide that at each election the representatives should be chosen by and from only one age-group so that every citizen would vote only once in his life, say in his fortieth year, for a representative chosen from his age-group.

The result would be an assembly composed of persons between their fortieth and their fifty-fifth year, elected after they had opportunity to prove their ability in ordinary life (and, incidentally, of an average age somewhat below that of contemporary parliaments). It would probably be desirable to disqualify those who had occupied positions in the governmental assembly or other political or party organisations and it would also be necessary to assure to those elected for the period after their retirement some dignified, paid and pensionable position, such as lay-judge or the like.

The advantage of an election by age-groups, and at an age at which the individuals could have proved themselves in ordinary life, would be that in general a person's contemporaries are the best judges of his character and ability; and that among the relatively small numbers participating in each election the candidates would be more likely to be personally known to the voters and chosen according to the personal esteem in which they were held by the voters - especially if, as would seem likely and deserve encouragement, the anticipation of this common task led to the formation of clubs of the age-groups for the discussion of public affairs.

ADVANTAGES OF LEGISLATIVE SEPARATION

THE PURPOSE of all this would of course be to create a legislature which was not subservient to government and did not produce whatever laws government wanted for the achievement of its momentary purposes, but rather which with the law laid down the permanent limits to the coercive powers of government limits within which government had to move and which even the democratically-elected governmental assembly could not overstep. While the latter assembly would be entirely free in determining the organisation of government, the use to be made of the means placed at the disposal of government and the character of the services to be rendered by government, it would itself possess no coercive powers over the individual citizens. Such powers, including the power to raise by taxation the means for financing the services rendered by government, would extend only to the enforcement of the rules of just conduct laid down by the legislative assembly. Against any overstepping of these limits by government (or the governmental assembly) there would be open an appeal to a constitutional court which would be competent in the case of conflict between the legislature proper and the governmental bodies.

A further desirable effect of such an arrangement would be that the legislature would for once have enough time for its proper task. This is important because in modern times legislatures frequently have left the regulation of matters which might have been effected by general rules of law to administrative orders and even administrative discretion simply because they were so busy with their governmental tasks that they had neither time for nor interest in making law proper. It is also a task which requires expert knowledge which a long-serving representative might acquire but is not likely to be possessed by a busy politician anxious for results which he can show his constituents before the next election. It is a curious consequence of giving the representative assembly unlimited power that it has largely ceased to be the chief determining agent in shaping the law proper, but has left this task more and more to the bureaucracy.

I must however not make you impatient by pursuing further the details of this utopia - though I must confess that I have found fascinating and instructive the exploration of the new opportunities offered by contemplating the possibility of separating the truly legislative assembly from the governmental body. You will rightly ask what the purpose of such a utopian construction can be if by calling it thus I admit that I do not believe it can be realised in the foreseeable future. I can answer in the words of David Hume in his essay on 'The Idea of a Perfect Commonwealth', that

'in all cases, it must be advantageous to know what is the most perfect in the kind, that we may be able to bring any real constitution or form of government as near it as possible, by such gentle alterations and innovations as may not give too great a disturbance to society'.

OTHER WORKS BY F. A. HAYEK

The Road to Serfdom with The Intellectuals and Socialism:

<http://www.iea.org.uk/files/upld-book351pdf?.pdf>

Choice in Currency: A Way to Stop Inflation:

<http://www.iea.org.uk/files/upld-book409pdf?.pdf>

Denationalisation of Money:

<http://www.iea.org.uk/files/upld-book431pdf?.pdf>

A Tiger by the Tail: The Keynesian Legacy of Inflation:

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Market Economy Economic Freedom Narrow Sense Legal Positivism Party Line. These keywords were added by machine and not by the authors. This process is experimental and the keywords may be updated as the learning algorithm improves. This is a preview of subscription content, log in to check access.Â Cite this chapter as: Hayek F.A. (1996) Economic Freedom and Representative Government. In: Wood G.E. (eds) Explorations in Economic Liberalism. Palgrave Macmillan, London.