

THE CONSTITUTION OF LIBERTY

BY F. A. HAYEK



A REVIEW BY
HENRY HAZLITT

SIXTEEN YEARS AGO, in a short but very important book, *The Road to Serfdom*, F. A. Hayek sought a modern restatement of the great issue between liberty and authority. Now, pushing his researches further, he has produced a monumental work of 570 pages, *The Constitution of Liberty* (University of Chicago Press, \$7.50), exploring the philosophical foundations of freedom with a thoroughness, scholarship, rigor of reasoning, and precision of statement rarely equaled and never surpassed. It is one of the great political works of our time.

It is difficult, within the limits of this space, to convey an adequate idea of the book's scope and contents. Part I is concerned with the meaning and value of freedom. As Abraham Lincoln pointed out, "The world has never had a good definition of the word 'liberty.' We all declare for liberty; but in using the same word, we do not all mean the same thing." Hayek analyzes the many ambiguities of the word, but uses it to describe "the state in which a man is not subject to coercion by the arbitrary will of another or others." He examines the goals and methods—legal, political, economic, educational—that restrict or threaten this liberty, as well as the ideals and measures most likely to promote and maximize it. In the course of this examination, the goal of Liberty is compared with that of Equality, Majority Rule, and Democracy to determine to what extent they are compatible and, when not, which must have priority. Democracy, he concludes, though "probably the best method of achieving certain ends," is "not an end in itself."

THE RULE OF LAW

In Part II, Hayek considers the relation of freedom to the law, and presents an illuminating historical survey of the slow growth of safeguards to individual liberty. Among these he stresses the importance of a written constitution, of federalism, limited government powers, division of powers, and judicial review.

Most of all he stresses the importance of the Rule of Law. By this he means the absence of arbitrariness, privilege, and discrimination. The law must apply to all, and not merely to particular persons or groups. It must be certain. It must

consist in the enforcement of known rules. These rules must be general and abstract rather than specific and concrete. They must be prospective in their application and not retrospective. They must be so clear that court decisions are predictable. The case for the ideal of the rule of law, for its certainty, generality, and equality, is presented with unanswerable force. But Hayek is compelled to point out in a final chapter of this section how, under the influence of legal positivism, socialism, and the drive toward a Welfare State, the ideal of the rule of law has been declining.

CREEPING BUREAUCRACY

The final section consists of eight chapters in which Hayek shows what the effects have been—on labor and employment, social security, taxation, money, housing and town planning, agriculture, and education—of the decline of the rule of law and personal liberty in the pursuit of the goals of socialism, welfare-statism, redistribution, "full employment," and inflation.

This is a series of masterly discussions which unfortunately cannot be reviewed in detail here. I must confess some disappointment in one or two of them. His chapter on "The Monetary Framework," for example, though it contains a brilliant analysis of inflation, seems to violate his own declared principles when it suggests that a restoration of the gold standard is neither practicable nor desirable, and even expresses doubt about the wisdom of tying down the monetary managers by "rigid rules" instead of depending on their discretion.

Yet these chapters in general are distinguished as much for their courage as for their intellectual penetration. No one has pointed out more clearly the dangers now facing us from inflation, paralyzing "progressive" taxation, coercive labor unions, the ever-increasing dominance of government in education, and a social-service bureaucracy with far-reaching arbitrary powers. Hayek's book is the twentieth-century successor to John Stuart Mill's essay *On Liberty*, and the contemporary legal-political counterpart of Ludwig von Mises' economic treatise, *Human Action*.

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