

Chapter I

The Relation between Economic Freedom and Political Freedom

It is widely believed that politics and economics are separate and largely unconnected; that individual freedom is a political problem and material welfare an economic problem; and that any kind of political arrangements can be combined with any kind of economic arrangements. The chief contemporary manifestation of this idea is the advocacy of "democratic socialism" by many who condemn out of hand the restrictions on individual freedom imposed by "totalitarian socialism" in Russia, and who are persuaded that it is possible for a country to adopt the essential features of Russian economic arrangements and yet to ensure individual freedom through political arrangements. The thesis of this chapter is that such a view is a delusion, that there is an intimate connection between economics and politics, that only certain combinations of political and economic arrangements are possible, and that in particular, a society which is socialist cannot also be democratic, in the sense of guaranteeing individual freedom.

Economic arrangements play a dual role in the promotion of a free society. On the one hand, freedom in economic arrangements is itself a component of freedom broadly understood, so economic freedom is an end in itself. In the second place, economic freedom is also an indispensable means toward the achievement of political freedom.

The first of these roles of economic freedom needs special emphasis because intellectuals in particular have a strong bias against regarding this aspect of freedom as important. They tend to express contempt for what they regard as material aspects of life, and to regard their own pursuit of allegedly higher values as on a different plane of significance and as deserving of special attention. For most citizens of the country, however, if not for the intellectual, the direct importance of economic freedom is at least comparable in significance to the indirect importance of economic freedom as a means to political freedom.

The citizen of Great Britain, who after World War II was not permitted to spend his vacation in the United States because of exchange control, was being deprived of an essential freedom no less than the citizen of the United States, who was denied the opportunity to spend his vacation in Russia because of his political views. The one was ostensibly an economic limitation on freedom and the other a political limitation, yet there is no essential difference between the two.

The citizen of the United States who is compelled by law to devote something like 10 per cent of his income to the purchase of a particular kind of retirement contract, administered by the government, is being deprived of a corresponding part of his personal freedom. How strongly this deprivation may be felt and its closeness to the deprivation of religious freedom, which all would regard as "civil" or "political" rather than "economic", were dramatized by an episode involving a group of farmers of the Amish sect. On grounds of principle, this group regarded compulsory federal old age programs as an infringement of their personal individual freedom and refused to pay taxes or accept benefits. As a result, some of their livestock were sold by auction in order to satisfy claims for social security levies. True, the number of citizens who regard compulsory old age insurance as a deprivation of freedom may be few, but the believer in freedom has never counted noses.

A citizen of the United States who under the laws of various states is not free to follow the occupation of his own choosing unless he can get a license for it, is likewise being deprived of an essential part of his freedom. So is the man who would like to exchange some of his goods with, say, a Swiss for a watch but is prevented from doing so by a quota. So also is the Californian who was thrown into jail for selling Alka Seltzer at a price below that set by the manufacturer under so-called "fair trade" laws. So also is the farmer who cannot grow the amount of wheat he wants. And so on. Clearly, economic freedom, in and of itself, is an extremely important part of total freedom.

Viewed as a means to the end of political freedom, economic arrangements are important because of their effect on the concentration or dispersion of power. The kind of economic organization that provides economic freedom directly, namely, competitive capitalism, also promotes political freedom because it separates economic power from political power and in this way enables the one to offset the other.

Historical evidence speaks with a single voice on the relation between political freedom and a free market. I know of no example in time or place of a society that has been marked by a large measure of political freedom, and that has not also used something comparable to a free market to organize the bulk of economic activity.

Because we live in a largely free society, we tend to forget how limited is the span of time and the part of the globe for which there has ever been anything like political freedom: the typical state of mankind is tyranny, servitude, and misery. The nineteenth century and early twentieth century in the Western world stand out as striking exceptions to the general trend of historical development. Political freedom in this instance clearly came along with the free

market and the development of capitalist institutions. So also did political freedom in the golden age of Greece and in the early days of the Roman era.

History suggests only that capitalism is a necessary condition for political freedom. Clearly it is not a sufficient condition. Fascist Italy and Fascist Spain, Germany at various times in the last seventy years, Japan before World Wars I and II, tzarist Russia in the decades before World War I are all societies that cannot conceivably be described as politically free. Yet, in each, private enterprise was the dominant form of economic organization. It is therefore clearly possible to have economic arrangements that are fundamentally capitalist and political arrangements that are not free.

Even in those societies, the citizenry had a good deal more freedom than citizens of a modern totalitarian state like Russia or Nazi Germany, in which economic totalitarianism is combined with political totalitarianism. Even in Russia under the Tzars, it was possible for some citizens, under some circumstances, to change their jobs without getting permission from political authority because capitalism and the existence of private property provided some check to the centralized power of the state.

The relation between political and economic freedom is complex and by no means unilateral. In the early nineteenth century, Bentham and the Philosophical Radicals were inclined to regard political freedom as a means to economic freedom. They believed that the masses were being hampered by the restrictions that were being imposed upon them, and that if political reform gave the bulk of the people the vote, they would do what was good for them, which was to vote for *laissez faire*. In retrospect, one cannot say that they were wrong. There was a large measure of political reform that was accompanied by economic reform in the direction of a great deal of *laissez faire*. An enormous increase in the well-being of the masses followed this change in economic arrangements.

The triumph of Benthamite liberalism in nineteenth-century England was followed by a reaction toward increasing intervention by government in economic affairs. This tendency to collectivism was greatly accelerated, both in England and elsewhere, by the two World Wars. Welfare rather than freedom became the dominant note in democratic countries. Recognizing the implicit threat to individualism, the intellectual descendants of the Philosophical Radicals Dicey, Mises, Hayek, and Simons, to mention only a few feared that a continued movement toward centralized control of economic activity would prove *The Road to Serfdom*, as Hayek entitled his penetrating analysis of the process. Their emphasis was on economic freedom as a means toward political freedom.

Events since the end of World War II display still a different relation between economic and political freedom. Collectivist economic planning has indeed interfered with individual freedom. At least in some countries, however, the result has not been the suppression of freedom, but the reversal of economic policy. England again provides the most striking example. The turning point was perhaps the "control of engagements" order which, despite great misgivings, the Labour party found it necessary to impose in order to carry out its economic policy. Fully enforced and carried through, the law would have involved centralized allocation of individuals to occupations. This conflicted so sharply with personal liberty that it was enforced in a negligible number of cases, and then repealed after the law had been in effect for only a short period. Its repeal ushered in a decided shift in economic policy, marked by reduced reliance on centralized "plans" and "programs", by the dismantling of many controls, and by increased emphasis on the private market. A similar shift in policy occurred in most other democratic countries.

The proximate explanation of these shifts in policy is the limited success of central planning or its outright failure to achieve stated objectives. However, this failure is itself to be attributed, at least in some measure, to the political implications of central planning and to an unwillingness to follow out its logic when doing so requires trampling rough-shod on treasured private rights. It may well be that the shift is only a temporary interruption in the collectivist trend of this century. Even so, it illustrates the close relation between political freedom and economic arrangements.

Historical evidence by itself can never be convincing. Perhaps it was sheer coincidence that the expansion of freedom occurred at the same time as the development of capitalist and market institutions. Why should there be a connection? What are the logical links between economic and political freedom? In discussing these questions we shall consider first the market as a direct component of freedom, and then the indirect relation between market arrangements and political freedom. A by-product will be an outline of the ideal economic arrangements for a free society.

As liberals, we take freedom of the individual, or perhaps the family, as our ultimate goal in judging social arrangements. Freedom as a value in this sense has to do with the interrelations among people; it has no meaning whatsoever to a Robinson Crusoe on an isolated island (without his Man Friday). Robinson Crusoe on his island is subject to "constraint," he has limited "power," and he has only a limited number of alternatives, but there is no problem of freedom in the sense that is relevant to our discussion. Similarly, in a society freedom has nothing to say about what an individual does with his freedom; it is not an all-embracing ethic. Indeed, a major aim of the liberal is to leave the ethical problem for the individual to wrestle with. The "really" important ethical

problems are those that face an individual in a free society what he should do with his freedom. There are thus two sets of values that a liberal will emphasize the values that are relevant to relations among people, which is the context in which he assigns first priority to freedom; and the values that are relevant to the individual in the exercise of his freedom, which is the realm of individual ethics and philosophy.

The liberal conceives of men as imperfect beings. He regards the problem of social organization to be as much a negative problem of preventing "bad" people from doing harm as of enabling "good" people to do good; and, of course, "bad" and "good" people may be the same people, depending on who is judging them.

The basic problem of social organization is how to co-ordinate the economic activities of large numbers of people. Even in relatively backward societies, extensive division of labor and specialization of function is required to make effective use of available resources. In advanced societies, the scale on which coordination is needed, to take full advantage of the opportunities offered by modern science and technology, is enormously greater. Literally millions of people are involved in providing one another with their daily bread, let alone with their yearly automobiles. The challenge to the believer in liberty is to reconcile this widespread interdependence with individual freedom.

Fundamentally, there are only two ways of co-ordinating the economic activities of millions. One is central direction involving the use of coercion the technique of the army and of the modern totalitarian state. The other is voluntary co-operation of individuals the technique of the market place.

The possibility of co-ordination through voluntary co-operation rests on the elementary yet frequently denied proposition that both parties to an economic transaction benefit from it, provided the transaction is bi-laterally voluntary and informed.

Exchange can therefore bring about co-ordination without coercion. A working model of a society organized through voluntary exchange is a free private enterprise exchange economy what we have been calling competitive capitalism.

In its simplest form, such a society consists of a number of independent households a collection of Robinson Crusoes, as it were. Each household uses the resources it controls to produce goods and services that it exchanges for goods and services produced by other households, on terms mutually acceptable to the two parties to the bargain. It is thereby enabled to satisfy its wants indirectly by producing goods and services for others, rather than directly by

producing goods for its own immediate use. The incentive for adopting this indirect route is, of course, the increased product made possible by division of labor and specialization of function. Since the household always has the alternative of producing directly for itself, it need not enter into any exchange unless it benefits from it. Hence, no exchange will take place unless both parties do benefit from it. Co-operation is thereby achieved without coercion.

Specialization of function and division of labor would not go far if the ultimate productive unit were the household. In a modern society, we have gone much farther. We have introduced enterprises which are intermediaries between individuals in their capacities as suppliers of service and as purchasers of goods. And similarly, specialization of function and division of labor could not go very far if we had to continue to rely on the barter of product for product. In consequence, money has been introduced as a means of facilitating exchange, and of enabling the acts of purchase and of sale to be separated into two parts.

Despite the important role of enterprises and of money in our actual economy, and despite the numerous and complex problems they raise, the central characteristic of the market technique of achieving co-ordination is fully displayed in the simple exchange economy that contains neither enterprises nor money. As in that simple model, so in the complex enterprise and money-exchange economy, co-operation is strictly individual and voluntary provided: (a) that enterprises are private, so that the ultimate contracting parties are individuals and (b) that individuals are effectively free to enter or not to enter into any particular exchange, so that every transaction is strictly voluntary.

It is far easier to state these provisos in general terms than to spell them out in detail, or to specify precisely the institutional arrangements most conducive to their maintenance. Indeed, much of technical economic literature is concerned with precisely these questions. The basic requisite is the maintenance of law and order to prevent physical coercion of one individual by another and to enforce contracts voluntarily entered into, thus giving substance to "private". Aside from this, perhaps the most difficult problems arise from monopoly which inhibits effective freedom by denying individuals alternatives to the particular exchange and from "neighborhood effects" effects on third parties for which it is not feasible to charge or recompense them. These problems will be discussed in more detail in the following chapter.

So long as effective freedom of exchange is maintained, the central feature of the market organization of economic activity is that it prevents one person from interfering with another in respect of most of his activities. The consumer is protected from coercion by the seller because of the presence of other sellers with whom he can deal. The seller is protected from coercion by the consumer because of other consumers to whom he can sell. The employee is

protected from coercion by the employer because of other employers for whom he can work, and so on. And the market does this impersonally and without centralized authority.

Indeed, a major source of objection to a free economy is precisely that it does this task so well. It gives people what they want instead of what a particular group thinks they ought to want. Underlying most arguments against the free market is a lack of belief in freedom itself.

The existence of a free market does not of course eliminate the need for government. On the contrary, government is essential both as a forum for determining the "rules of the game" and as an umpire to interpret and enforce the rules decided on. What the market does is to reduce greatly the range of issues that must be decided through political means, and thereby to minimize the extent to which government need participate directly in the game. The characteristic feature of action through political channels is that it tends to require or enforce substantial conformity. The great advantage of the market, on the other hand, is that it permits wide diversity. It is, in political terms, a system of proportional representation. Each man can vote, as it were, for the color of tie he wants and get it; he does not have to see what color the majority wants and then, if he is in the minority, submit.

It is this feature of the market that we refer to when we say that the market provides economic freedom. But this characteristic also has implications that go far beyond the narrowly economic. Political freedom means the absence of coercion of a man by his fellow men. The fundamental threat to freedom is power to coerce, be it in the hands of a monarch, a dictator, an oligarchy, or a momentary majority. The preservation of freedom requires the elimination of such concentration of power to the fullest possible extent and the dispersal and distribution of whatever power cannot be eliminated a system of checks and balances. By removing the organization of economic activity from the control of political authority, the market eliminates this source of coercive power. It enables economic strength to be a check to political power rather than a reinforcement.

Economic power can be widely dispersed. There is no law of conservation which forces the growth of new centers of economic strength to be at the expense of existing centers. Political power, on the other hand, is more difficult to decentralize. There can be numerous small independent governments. But it is far more difficult to maintain numerous equipotent small centers of political power in a single large government than it is to have numerous centers of economic strength in a single large economy. There can be many millionaires in one large economy. But can there be more than one really outstanding leader, one person on whom the energies and enthusiasms of his countrymen are centered? If the central government gains power, it is likely to be at the expense

of local governments. There seems to be something like a fixed total of political power to be distributed. Consequently, if economic power is joined to political power, concentration seems almost inevitable. On the other hand, if economic power is kept in separate hands from political power, it can serve as a check and a counter to political power.

The force of this abstract argument can perhaps best be demonstrated by example. Let us consider first, a hypothetical example that may help to bring out the principles involved, and then some actual examples from recent experience that illustrate the way in which the market works to preserve political freedom.

One feature of a free society is surely the freedom of individuals to advocate and propagandize openly for a radical change in the structure of the society so long as the advocacy is restricted to persuasion and does not include force or other forms of coercion. It is a mark of the political freedom of a capitalist society that men can openly advocate and work for socialism. Equally, political freedom in a socialist society would require that men be free to advocate the introduction of capitalism. How could the freedom to advocate capitalism be preserved and protected in a socialist society?

In order for men to advocate anything, they must in the first place be able to earn a living. This already raises a problem in a socialist society, since all jobs are under the direct control of political authorities. It would take an act of self-denial whose difficulty is underlined by experience in the United States after World War II with the problem of "security" among Federal employees, for a socialist government to permit its employees to advocate policies directly contrary to official doctrine.

But let us suppose this act of self-denial to be achieved. For advocacy of capitalism to mean anything, the proponents must be able to finance their cause to hold public meetings, publish pamphlets, buy radio time, issue newspapers and magazines, and so on. How could they raise the funds? There might and probably would be men in the socialist society with large incomes, perhaps even large capital sums in the form of government bonds and the like, but these would of necessity be high public officials. It is possible to conceive of a minor socialist official retaining his job although openly advocating capitalism. It strains credulity to imagine the socialist top brass financing such "subversive" activities.

The only recourse for funds would be to raise small amounts from a large number of minor officials. But this is no real answer. To tap these sources, many people would already have to be persuaded, and our whole problem is how to initiate and finance a campaign to do so. Radical movements in capitalist societies have never been financed this way. They have typically been supported by a few wealthy individuals who have become persuaded by a Frederick

Vanderbilt Field, or an Anita McCormick Blaine, or a Corliss Lamont, to mention a few names recently prominent, or by a Friedrich Engels, to go farther back. This is a role of inequality of wealth in preserving political freedom that is seldom noted the role of the patron.

In a capitalist society, it is only necessary to convince a few wealthy people to get funds to launch any idea, however strange, and there are many such persons, many independent foci of support. And, indeed, it is not even necessary to persuade people or financial institutions with available funds of the soundness of the ideas to be propagated. It is only necessary to persuade them that the propagation can be financially successful; that the newspaper or magazine or book or other venture will be profitable. The competitive publisher, for example, cannot afford to publish only writing with which he personally agrees; his touchstone must be the likelihood that the market will be large enough to yield a satisfactory return on his investment.

In this way, the market breaks the vicious circle and makes it possible ultimately to finance such ventures by small amounts from many people without first persuading them. There are no such possibilities in the socialist society; there is only the all-powerful state.

Let us stretch our imagination and suppose that a socialist government is aware of this problem and is composed of people anxious to preserve freedom. Could it provide the funds? Perhaps, but it is difficult to see how. It could establish a bureau for subsidizing subversive propaganda. But how could it choose whom to support? If it gave to all who asked, it would shortly find itself out of funds, for socialism cannot repeal the elementary economic law that a sufficiently high price will call forth a large supply. Make the advocacy of radical causes sufficiently remunerative, and the supply of advocates will be unlimited.

Moreover, freedom to advocate unpopular causes does not require that such advocacy be without cost. On the contrary, no society could be stable if advocacy of radical change were costless, much less subsidized. It is entirely appropriate that men make sacrifices to advocate causes in which they deeply believe. Indeed, it is important to preserve freedom only for people who are willing to practice self-denial, for otherwise freedom degenerates into license and irresponsibility. What is essential is that the cost of advocating unpopular causes be tolerable and not prohibitive.

But we are not yet through. In a free market society, it is enough to have the funds. The suppliers of paper are as willing to sell it to the Daily Worker as to the Wall Street Journal. In a socialist society, it would not be enough to have the funds. The hypothetical supporter of capitalism would have to persuade a government factory making paper to sell to him, the government printing press

to print his pamphlets, a government post office to distribute them among the people, a government agency to rent him a hall in which to talk, and so on.

Perhaps there is some way in which one could overcome these difficulties and preserve freedom in a socialist society. One cannot say it is utterly impossible. What is clear, however, is that there are very real difficulties in establishing institutions that will effectively preserve the possibility of dissent. So far as I know, none of the people who have been in favor of socialism and also in favor of freedom have really faced up to this issue, or made even a respectable start at developing the institutional arrangements that would permit freedom under socialism. By contrast, it is clear how a free market capitalist society fosters freedom.

A striking practical example of these abstract principles is the experience of Winston Churchill. From 1933 to the outbreak of World War II, Churchill was not permitted to talk over the British radio, which was, of course, a government monopoly administered by the British Broadcasting Corporation. Here was a leading citizen of his country, a Member of Parliament, a former cabinet minister, a man who was desperately trying by every device possible to persuade his countrymen to take steps to ward off the menace of Hitler's Germany. He was not permitted to talk over the radio to the British people because the BBC was a government monopoly and his position was too "controversial".

Another striking example, reported in the January 26, 1959 issue of Time, has to do with the "Blacklist Fadeout". Says the Time story,

The Oscar-awarding ritual is Hollywood's biggest pitch for dignity, but two years ago dignity suffered. When one Robert Rich was announced as top writer for *The Brave One*, he never stepped forward. Robert Rich was a pseudonym, masking one of about 150 writers . . . blacklisted by the industry since 1947 as suspected Communists or fellow travelers. The case was particularly embarrassing because the Motion Picture Academy had barred any Communist or Fifth Amendment pleader from Oscar competition. Last week both the Communist rule and the mystery of Rich's identity were suddenly rescripted.

Rich turned out to be Dalton (Johnny Got His Gun) Trumbo, one of the original "Hollywood Ten" writers who refused to testify at the 1947 hearings on Communism in the movie industry. Said producer Frank King, who had stoutly insisted that Robert Rich was "a young guy in Spain with a beard": "We have an obligation to our stockholders to buy the best script we can. Trumbo brought us *The Brave One* and we bought it". . . .

In effect it was the formal end of the Hollywood black list. For barred writers, the informal end came long ago. At least 15% of current Hollywood films

are reportedly written by blacklist members. Said Producer King, "There are more ghosts in Hollywood than in Forest Lawn. Every company in town has used the work of blacklisted people. We're just the first to confirm what everybody knows."

One may believe, as I do, that communism would destroy all of our freedoms, one may be opposed to it as firmly and as strongly as possible, and yet, at the same time, also believe that in a free society it is intolerable for a man to be prevented from making voluntary arrangements with others that are mutually attractive because he believes in or is trying to promote communism. His freedom includes his freedom to promote communism. Freedom also, of course, includes the freedom of others not to deal with him under those circumstances. The Hollywood blacklist was an unfree act that destroys freedom because it was a collusive arrangement that used coercive means to prevent voluntary exchanges. It didn't work precisely because the market made it costly for people to preserve the blacklist. The commercial emphasis, the fact that people who are running enterprises have an incentive to make as much money as they can, protected the freedom of the individuals who were blacklisted by providing them with an alternative form of employment, and by giving people an incentive to employ them.

If Hollywood and the movie industry had been government enterprises or if in England it had been a question of employment by the British Broadcasting Corporation it is difficult to believe that the "Hollywood Ten" or their equivalent would have found employment. Equally, it is difficult to believe that under those circumstances, strong proponents of individualism and private enterprise or indeed strong proponents of any view other than the status quo would be able to get employment.

Another example of the role of the market in preserving political freedom, was revealed in our experience with McCarthyism. Entirely aside from the substantive issues involved, and the merits of the charges made, what protection did individuals, and in particular government employees, have against irresponsible accusations and probings into matters that it went against their conscience to reveal? Their appeal to the Fifth Amendment would have been a hollow mockery without an alternative to government employment.

Their fundamental protection was the existence of a private-market economy in which they could earn a living. Here again, the protection was not absolute. Many potential private employers were, rightly or wrongly, averse to hiring those pilloried. It may well be that there was far less justification for the costs imposed on many of the people involved than for the costs generally imposed on people who advocate unpopular causes. But the important point is

that the costs were limited and not prohibitive, as they would have been if government employment had been the only possibility.

It is of interest to note that a disproportionately large fraction of the people involved apparently went into the most competitive sectors of the economy small business, trade, farming where the market approaches most closely the ideal free market. No one who buys bread knows whether the wheat from which it is made was grown by a Communist or a Republican, by a constitutionalist or a Fascist, or, for that matter, by a Negro or a white. This illustrates how an impersonal market separates economic activities from political views and protects men from being discriminated against in their economic activities for reasons that are irrelevant to their productivity whether these reasons are associated with their views or their color.

As this example suggests, the groups in our society that have the most at stake in the preservation and strengthening of competitive capitalism are those minority groups which can most easily become the object of the distrust and enmity of the majority the Negroes, the Jews, the foreign-born, to mention only the most obvious. Yet, paradoxically enough, the enemies of the free market the Socialists and Communists have been recruited in disproportionate measure from these groups. Instead of recognizing that the existence of the market has protected them from the attitudes of their fellow countrymen, they mistakenly attribute the residual discrimination to the market.

Chapter II

The Role of Government in a Free Society

A common objection to totalitarian societies is that they regard the end as justifying the means. Taken literally, this objection is clearly illogical. If the end does not justify the means, what does? But this easy answer does not dispose of the objection; it simply shows that the objection is not well put. To deny that the end justifies the means is indirectly to assert that the end in question is not the ultimate end, that the ultimate end is itself the use of the proper means. Desirable or not, any end that can be attained only by the use of bad means must give way to the more basic end of the use of acceptable means.

To the liberal, the appropriate means are free discussion and voluntary co-operation, which implies that any form of coercion is inappropriate. The ideal is unanimity among responsible individuals achieved on the basis of free and full discussion. This is another way of expressing the goal of freedom emphasized in the preceding chapter.

From this standpoint, the role of the market, as already noted, is that it permits unanimity without conformity; that it is a system of effectively proportional representation. On the other hand, the characteristic feature of action through explicitly political channels is that it tends to require or to enforce substantial conformity. The typical issue must be decided "yes" or "no"; at most, provision can be made for a fairly limited number of alternatives. Even the use of proportional representation in its explicitly political form does not alter this conclusion. The number of separate groups that can in fact be represented is narrowly limited, enormously so by comparison with the proportional representation of the market. More important, the fact that the final outcome generally must be a law applicable to all groups, rather than separate legislative enactments for each "party" represented, means that proportional representation in its political version, far from permitting unanimity without conformity, tends toward ineffectiveness and fragmentation. It thereby operates to destroy any consensus on which unanimity with conformity can rest.

There are clearly some matters with respect to which effective proportional representation is impossible. I cannot get the amount of national defense I want and you, a different amount. With respect to such indivisible matters we can discuss, and argue, and vote. But having decided, we must conform. It is precisely the existence of such indivisible matters protection of the individual and the nation from coercion are clearly the most basic that prevents exclusive reliance on individual action through the market. If we are to use some

of our resources for such indivisible items, we must employ political channels to reconcile differences.

The use of political channels, while inevitable, tends to strain the social cohesion essential for a stable society. The strain is least if agreement for joint action need be reached only on a limited range of issues on which people in any event have common views. Every extension of the range of issues for which explicit agreement is sought strains further the delicate threads that hold society together. If it goes so far as to touch an issue on which men feel deeply yet differently, it may well disrupt the society. Fundamental differences in basic values can seldom if ever be resolved at the ballot box; ultimately they can only be decided, though not resolved, by conflict. The religious and civil wars of history are a bloody testament to this judgment.

The widespread use of the market reduces the strain on the social fabric by rendering conformity unnecessary with respect to any activities it encompasses. The wider the range of activities covered by the market, the fewer are the issues on which explicitly political decisions are required and hence on which it is necessary to achieve agreement. In turn, the fewer the issues on which agreement is necessary, the greater is the likelihood of getting agreement while maintaining a free society.

Unanimity is, of course, an ideal. In practice, we can afford neither the time nor the effort that would be required to achieve complete unanimity on every issue. We must perforce accept something less. We are thus led to accept majority rule in one form or another as an expedient. That majority rule is an expedient rather than itself a basic principle is clearly shown by the fact that our willingness to resort to majority rule, and the size of the majority we require, themselves depend on the seriousness of the issue involved. If the matter is of little moment and the minority has no strong feelings about being overruled, a bare plurality will suffice. On the other hand, if the minority feels strongly about the issue involved, even a bare majority will not do. Few of us would be willing to have issues of free speech, for example, decided by a bare majority. Our legal structure is full of such distinctions among kinds of issues that require different kinds of majorities. At the extreme are those issues embodied in the Constitution. These are the principles that are so important that we are willing to make minimal concessions to expediency. Something like essential consensus was achieved initially in accepting them, and we require something like essential consensus for a change in them.

The self-denying ordinance to refrain from majority rule on certain kinds of issues that is embodied in our Constitution and in similar written or unwritten constitutions elsewhere, and the specific provisions in these constitutions or their

equivalents prohibiting coercion of individuals, are themselves to be regarded as reached by free discussion and as reflecting essential unanimity about means.

I turn now to consider more specifically, though still in very broad terms, what the areas are that cannot be handled through the market at all, or can be handled only at so great a cost that the use of political channels may be preferable.

Government as Rule-Maker and Umpire

It is important to distinguish the day-to-day activities of people from the general customary and legal framework within which these take place. The day-to-day activities are like the actions of the participants in a game when they are playing it; the framework, like the rules of the game they play. And just as a good game requires acceptance by the players both of the rules and of the umpire to interpret and enforce them, so a good society requires that its members agree on the general conditions that will govern relations among them, on some means of arbitrating different interpretations of these conditions, and on some device for enforcing compliance with the generally accepted rules. As in games, so also in society, most of the general conditions are the unintended outcome of custom, accepted unthinkingly. At most, we consider explicitly only minor modifications in them, though the cumulative effect of a series of minor modifications may be a drastic alteration in the character of the game or of the society. In both games and society also, no set of rules can prevail unless most participants most of the time conform to them without external sanctions; unless that is, there is a broad underlying social consensus. But we cannot rely on custom or on this consensus alone to interpret and to enforce the rules; we need an umpire. These then are the basic roles of government in a free society: to provide a means whereby we can modify the rules, to mediate differences among us on the meaning of the rules, and to enforce compliance with the rules on the part of those few who would otherwise not play the game.

The need for government in these respects arises because absolute freedom is impossible. However attractive anarchy may be as a philosophy, it is not feasible in a world of imperfect men.

Men's freedoms can conflict, and when they do, one man's freedom must be limited to preserve another's as a Supreme Court Justice once put it, "My freedom to move my fist must be limited by the proximity of your chin."

The major problem in deciding the appropriate activities of government is how to resolve such conflicts among the freedoms of different individuals. In some cases, the answer is easy. There is little difficulty in attaining near unanimity to the proposition that one man's freedom to murder his neighbor must be sacrificed to preserve the freedom of the other man to live. In other

cases, the answer is difficult. In the economic area, a major problem arises in respect of the conflict between freedom to combine and freedom to compete. What meaning is to be attributed to "free" as modifying "enterprise"? In the United States, "free" has been understood to mean that anyone is free to set up an enterprise, which means that existing enterprises are not free to keep out competitors except by selling a better product at the same price or the same product at a lower price. In the continental tradition, on the other hand, the meaning has generally been that enterprises are free to do what they want, including the fixing of prices, division of markets, and the adoption of other techniques to keep out potential competitors. Perhaps the most difficult specific problem in this area arises with respect to combinations among laborers, where the problem of freedom to combine and freedom to compete is particularly acute.

A still more basic economic area in which the answer is both difficult and important is the definition of property rights. The notion of property, as it has developed over centuries and as it is embodied in our legal codes, has become so much a part of us that we tend to take it for granted, and fail to recognize the extent to which just what constitutes property and what rights the ownership of property confers are complex social creations rather than self-evident propositions. Does my having title to land, for example, and my freedom to use my property as I wish, permit me to deny to someone else the right to fly over my land in his airplane? Or does his right to use his airplane take precedence? Or does this depend on how high he flies? Or how much noise he makes? Does voluntary exchange require that he pay me for the privilege of flying over my land? Or that I must pay him to refrain from flying over it? The mere mention of royalties, copyrights, patents; shares of stock in corporations; riparian rights, and the like, may perhaps emphasize the role of generally accepted social rules in the very definition of property. It may suggest also that, in many cases, the existence of a well specified and generally accepted definition of property is far more important than just what the definition is.

Another economic area that raises particularly difficult problems is the monetary system. Government responsibility for the monetary system has long been recognized. It is explicitly provided for in the constitutional provision which gives Congress the power "to coin money, regulate the value thereof, and of foreign coin." There is probably no other area of economic activity with respect to which government action has been so uniformly accepted. This habitual and by now almost unthinking acceptance of governmental responsibility makes thorough understanding of the grounds for such responsibility all the more necessary, since it enhances the danger that the scope of government will spread from activities that are, to those that are not, appropriate in a free society, from providing a monetary framework to determining the allocation of

resources among individuals. We shall discuss this problem in detail in chapter iii.

In summary, the organization of economic activity through voluntary exchange presumes that we have provided, through government, for the maintenance of law and order to prevent coercion of one individual by another, the enforcement of contracts voluntarily entered into, the definition of the meaning of property rights, the interpretation and enforcement of such rights, and the provision of a monetary framework.

Action Through Government on Grounds of Technical Monopoly and Neighborhood Effects

The role of government just considered is to do something that the market cannot do for itself, namely, to determine, arbitrate, and enforce the rules of the game. We may also want to do through government some things that might conceivably be done through the market but that technical or similar conditions render it difficult to do in that way. These all reduce to cases in which strictly voluntary exchange is either exceedingly costly or practically impossible. There are two general classes of such cases: monopoly and similar market imperfections, and neighborhood effects.

Exchange is truly voluntary only when nearly equivalent alternatives exist. Monopoly implies the absence of alternatives and thereby inhibits effective freedom of exchange. In practice, monopoly frequently, if not generally, arises from government support or from collusive agreements among individuals. With respect to these, the problem is either to avoid governmental fostering of monopoly or to stimulate the effective enforcement of rules such as those embodied in our anti-trust laws. However, monopoly may also arise because it is technically efficient to have a single producer or enterprise. I venture to suggest that such cases are more limited than is supposed but they unquestionably do arise. A simple example is perhaps the provision of telephone services within a community. I shall refer to such cases as "technical" monopoly.

When technical conditions make a monopoly the natural outcome of competitive market forces, there are only three alternatives that seem available: private monopoly, public monopoly, or public regulation. All three are bad so we must choose among evils. Henry Simons, observing public regulation of monopoly in the United States, found the results so distasteful that he concluded public monopoly would be a lesser evil. Walter Eucken, a noted German liberal, observing public monopoly in German railroads, found the results so distasteful that he concluded public regulation would be a lesser evil. Having learned from both, I reluctantly conclude that, if tolerable, private monopoly may be the least of the evils.

If society were static so that the conditions which give rise to a technical monopoly were sure to remain, I would have little confidence in this solution. In a rapidly changing society, however, the conditions making for technical monopoly frequently change and I suspect that both public regulation and public monopoly are likely to be less responsive to such changes in conditions, to be less readily capable of elimination, than private monopoly.

Railroads in the United States are an excellent example. A large degree of monopoly in railroads was perhaps inevitable on technical grounds in the nineteenth century. This was the justification for the Interstate Commerce Commission. But conditions have changed. The emergence of road and air transport has reduced the monopoly element in railroads to negligible proportions. Yet we have not eliminated the ICC. On the contrary, the ICC, which started out as an agency to protect the public from exploitation by the railroads, has become an agency to protect railroads from competition by trucks and other means of transport, and more recently even to protect existing truck companies from competition by new entrants. Similarly, in England, when the railroads were nationalized, trucking was at first brought into the state monopoly. If railroads had never been subjected to regulation in the United States, it is nearly certain that by now transportation, including railroads, would be a highly competitive industry with little or no remaining monopoly elements.

The choice between the evils of private monopoly, public monopoly, and public regulation cannot, however, be made once and for all, independently of the factual circumstances. If the technical monopoly is of a service or commodity that is regarded as essential and if its monopoly power is sizable, even the short run effects of private unregulated monopoly may not be tolerable, and either public regulation or ownership may be a lesser evil.

Technical monopoly may on occasion justify a de facto public monopoly. It cannot by itself justify a public monopoly achieved by making it illegal for anyone else to compete. For example, there is no way to justify our present public monopoly of the post office. It may be argued that the carrying of mail is a technical monopoly and that a government monopoly is the least of evils. Along these lines, one could perhaps justify a government post office but not the present law, which makes it illegal for anybody else to carry mail. If the delivery of mail is a technical monopoly, no one will be able to succeed in competition with the government. If it is not, there is no reason why the government should be engaged in it. The only way to find out is to leave other people free to enter.

The historical reason why we have a post office monopoly is because the Pony Express did such a good job of carrying the mail across the continent that, when the government introduced transcontinental service, it couldn't compete effectively and lost money. The result was a law making it illegal for anybody

else to carry the mail. That is why the Adams Express Company is an investment trust today instead of an operating company. I conjecture that if entry into the mail-carrying business were open to all, there would be a large number of firms entering it and this archaic industry would become revolutionized in short order.

A second general class of cases in which strictly voluntary exchange is impossible arises when actions of individuals have effects on other individuals for which it is not feasible to charge or recompense them. This is the problem of "neighborhood effects".

An obvious example is the pollution of a stream. The man who pollutes a stream is in effect forcing others to exchange good water for bad. These others might be willing to make the exchange at a price. But it is not feasible for them, acting individually, to avoid the exchange or to enforce appropriate compensation.

A less obvious example is the provision of highways. In this case, it is technically possible to identify and hence charge individuals for their use of the roads and so to have private operation. However, for general access roads, involving many points of entry and exit, the costs of collection would be extremely high if a charge were to be made for the specific services received by each individual, because of the necessity of establishing toll booths or the equivalent at all entrances. The gasoline tax is a much cheaper method of charging individuals roughly in proportion to their use of the roads. This method, however, is one in which the particular payment cannot be identified closely with the particular use. Hence, it is hardly feasible to have private enterprise provide the service and collect the charge without establishing extensive private monopoly.

These considerations do not apply to long-distance turnpikes with high density of traffic and limited access. For these, the costs of collection are small and in many cases are now being paid, and there are often numerous alternatives, so that there is no serious monopoly problem. Hence, there is every reason why these should be privately owned and operated. If so owned and operated, the enterprise running the highway should receive the gasoline taxes paid on account of travel on it.

Parks are an interesting example because they illustrate the difference between cases that can and cases that cannot be justified by neighborhood effects, and because almost everyone at first sight regards the conduct of National Parks as obviously a valid function of government. In fact, however, neighborhood effects may justify a city park; they do not justify a national park, like Yellowstone National Park or the Grand Canyon. What is the fundamental difference between the two? For the city park, it is extremely difficult to identify the people who benefit from it and to charge them for the benefits which they receive. If there is a park in the middle of the city, the houses on all sides get

the benefit of the open space, and people who walk through it or by it also benefit. To maintain toll collectors at the gates or to impose annual charges per window overlooking the park would be very expensive and difficult. The entrances to a national park like Yellowstone, on the other hand, are few; most of the people who come stay for a considerable period of time and it is perfectly feasible to set up toll gates and collect admission charges. This is indeed now done, though the charges do not cover the whole costs. If the public wants this kind of an activity enough to pay for it, private enterprises will have every incentive to provide such parks. And, of course, there are many private enterprises of this nature now in existence. I cannot myself conjure up any neighborhood effects or important monopoly effects that would justify governmental activity in this area.

Considerations like those I have treated under the heading of neighborhood effects have been used to rationalize almost every conceivable intervention. In many instances, however, this rationalization is special pleading rather than a legitimate application of the concept of neighborhood effects. Neighborhood effects cut both ways. They can be a reason for limiting the activities of government as well as for expanding them. Neighborhood effects impede voluntary exchange because it is difficult to identify the effects on third parties and to measure their magnitude; but this difficulty is present in governmental activity as well. It is hard to know when neighborhood effects are sufficiently large to justify particular costs in overcoming them and even harder to distribute the costs in an appropriate fashion. Consequently, when government engages in activities to overcome neighborhood effects, it will in part introduce an additional set of neighborhood effects by failing to charge or to compensate individuals properly. Whether the original or the new neighborhood effects are the more serious can only be judged by the facts of the individual case, and even then, only very approximately. Furthermore, the use of government to overcome neighborhood effects itself has an extremely important neighborhood effect which is unrelated to the particular occasion for government action. Every act of government intervention limits the area of individual freedom directly and threatens the preservation of freedom indirectly for reasons elaborated in the first chapter.

Our principles offer no hard and fast line how far it is appropriate to use government to accomplish jointly what it is difficult or impossible for us to accomplish separately through strictly voluntary exchange. In any particular case of proposed intervention, we must make up a balance sheet, listing separately the advantages and disadvantages. Our principles tell us what items to put on the one side and what items on the other and they give us some basis for attaching importance to the different items. In particular, we shall always want to enter on the liability side of any proposed government intervention, its neighborhood effect in threatening freedom, and give this effect considerable

weight. Just how much weight to give to it, as to other items, depends upon the circumstances. If, for example, existing government intervention is minor, we shall attach a smaller weight to the negative effects of additional government intervention. This is an important reason why many earlier liberals, like Henry Simons, writing at a time when government was small by today's standards, were willing to have government undertake activities that today's liberals would not accept now that government has become so overgrown.

Action Through Government on Paternalistic Grounds

Freedom is a tenable objective only for responsible individuals. We do not believe in freedom for madmen or children. The necessity of drawing a line between responsible individuals and others is inescapable, yet it means that there is an essential ambiguity in our ultimate objective of freedom. Paternalism is inescapable for those whom we designate as not responsible.

The clearest case, perhaps, is that of madmen. We are willing neither to permit them freedom nor to shoot them. It would be nice if we could rely on voluntary activities of individuals to house and care for the madmen. But I think we cannot rule out the possibility that such charitable activities will be inadequate, if only because of the neighborhood effect involved in the fact that I benefit if another man contributes to the care of the insane. For this reason, we may be willing to arrange for their care through government.

Children offer a more difficult case. The ultimate operative unit in our society is the family, not the individual. Yet the acceptance of the family as the unit rests in considerable part on expediency rather than principle. We believe that parents are generally best able to protect their children and to provide for their development into responsible individuals for whom freedom is appropriate. But we do not believe in the freedom of parents to do what they will with other people. The children are responsible individuals in embryo, and a believer in freedom believes in protecting their ultimate rights.

To put this in a different and what may seem a more callous way, children are at one and the same time consumer goods and potentially responsible members of society. The freedom of individuals to use their economic resources as they want includes the freedom to use them to have children to buy, as it were, the services of children as a particular form of consumption. But once this choice is exercised, the children have a value in and of themselves and have a freedom of their own that is not simply an extension of the freedom of the parents.

The paternalistic ground for governmental activity is in many ways the most troublesome to a liberal; for it involves the acceptance of a principle that

some shall decide for others which he finds objectionable in most applications and which he rightly regards as a hallmark of his chief intellectual opponents, the proponents of collectivism in one or another of its guises, whether it be communism, socialism, or a welfare state. Yet there is no use pretending that problems are simpler than in fact they are. There is no avoiding the need for some measure of paternalism. As Dicey wrote in 1914 about an act for the protection of mental defectives, "The Mental Deficiency Act is the first step along a path on which no sane man can decline to enter, but which, if too far pursued, will bring statesmen across difficulties hard to meet without considerable interference with individual liberty."¹ There is no formula that can tell us where to stop. We must rely on our fallible judgment and, having reached a judgment, on our ability to persuade our fellow men that it is a correct judgment, or their ability to persuade us to modify our views. We must put our faith, here as elsewhere, in a consensus reached by imperfect and biased men through free discussion and trial and error.

Conclusion

A government which maintained law and order, defined property rights, served as a means whereby we could modify property rights and other rules of the economic game, adjudicated disputes about the interpretation of the rules, enforced contracts, promoted competition, provided a monetary framework, engaged in activities to counter technical monopolies and to overcome neighborhood effects widely regarded as sufficiently important to justify government intervention, and which supplemented private charity and the private family in protecting the irresponsible, whether madman or child such a government would clearly have important functions to perform. The consistent liberal is not an anarchist.

Yet it is also true that such a government would have clearly limited functions and would refrain from a host of activities that are now undertaken by federal and state governments in the United States, and their counterparts in other Western countries. Succeeding chapters will deal in some detail with some of these activities, and a few have been discussed above, but it may help to give a sense of proportion about the role that a liberal would assign government simply to list, in closing this chapter, some activities currently undertaken by government in the U.S., that cannot, so far as I can see, validly be justified in terms of the principles outlined above:

1. Parity price support programs for agriculture.
2. Tariffs on imports or restrictions on exports, such as current oil import quotas, sugar quotas, etc.

3. Governmental control of output, such as through the farm program, or through prorationing of oil as is done by the Texas Railroad Commission.

4. Rent control, such as is still practiced in New York, or more general price and wage controls such as were imposed during and just after World War II.

5. Legal minimum wage rates, or legal maximum prices, such as the legal maximum of zero on the rate of interest that can be paid on demand deposits by commercial banks, or the legally fixed maximum rates that can be paid on savings and time deposits.

6. Detailed regulation of industries, such as the regulation of transportation by the Interstate Commerce Commission. This had some justification on technical monopoly grounds when initially introduced for railroads; it has none now for any means of transport. Another example is detailed regulation of banking.

7. A similar example, but one which deserves special mention because of its implicit censorship and violation of free speech, is the control of radio and television by the Federal Communications Commission.

8. Present social security programs, especially the old-age and retirement programs compelling people in effect (a) to spend a specified fraction of their income on the purchase of retirement annuity, (b) to buy the annuity from a publicly operated enterprise.

9. Licensure provisions in various cities and states which restrict particular enterprises or occupations or professions to people who have a license, where the license is more than a receipt for a tax which anyone who wishes to enter the activity may pay.

10. So-called "public-housing" and the host of other subsidy programs directed at fostering residential construction such as F.H.A. and V.A. guarantee of mortgage, and the like.

11. Conscription to man the military services in peacetime. The appropriate free market arrangement is volunteer military forces; which is to say, hiring men to serve. There is no justification for not paying whatever price is necessary to attract the required number of men. Present arrangements are inequitable and arbitrary, seriously interfere with the freedom of young men to shape their lives, and probably are even more costly than the market alternative. (Universal military training to provide a reserve for war time is a different problem and may be justified on liberal grounds.)

12. National parks, as noted above.

13. The legal prohibition on the carrying of mail for profit.

14. Publicly owned and operated toll roads, as noted above.

This list is far from comprehensive.

¹ A. V. Dicey, *Lectures on the Relation between Law and Public Opinion in England during the Nineteenth Century* (2d. ed.; London: Macmillan & Co., 1914), p. li.