
LIBERTY AND LIBERTIES

The world has never had a good definition of the word liberty, and the American people, just now, are much in want of one. We all declare for liberty; but in using the same word, we do not mean the same thing. . . . Here are two, not only different, but incompatible things, called by the same name, liberty. —Abraham Lincoln

1. We are concerned in this book with that condition of men in which coercion of some by others is reduced as much as is possible in society. This state we shall describe throughout as a state of liberty or freedom.¹ These two words have been also used to describe many other good things of life. It would therefore not be very profitable to start by asking what they really mean.² It

The quotation at the head of the chapter is taken from Abraham Lincoln, *The Writings of Abraham Lincoln*, Arthur Brooks Lapsley, ed. (Federal ed.; 8 vols.; New York: G. P. Putnam's Sons, 1905), vol. 7, p. 121. Cf. the similar remark by Montesquieu, *Spirit of the Laws*, bk. 11, chap. 2, vol. 1, p. 149: "there is no word that admits of more various significations, and has made more varied impressions on the human mind, than that of *liberty*. Some have taken it as a means of deposing a person on whom they had conferred a tyrannical authority; others for the power of choosing a superior whom they are obliged to obey, others for the right of bearing arms, and of being thereby enabled to use violence; others, in fine, for the privilege of being governed by a native of their own country, or by their own laws." ["Il n'y a point de mot qui ait reçu plus de différentes significations, et qui ait frappé les esprits de tant de manières, que celui de *liberté*. Les uns l'ont pris pour la facilité de déposer celui à qui ils avoient donné un pouvoir tyrannique; les autres, pour la faculté d'élire celui à qui ils dévoient obéir; d'autres, pour le droit d'être armés, et de pouvoir exercer la violence; ceux-ci pour le privilège de n'être gouvernés que par un homme de leur nation, ou par leurs propres lois."(vol. 2, p. 394)—Ed.]

¹There does not seem to exist any accepted distinction in meaning between the words "freedom" and "liberty;" and we shall use them interchangeably. Though I have a personal preference for the former, it seems that "liberty" lends itself less to abuse. It could hardly have been used for that "noble pun" (Joan Robinson, *Private Enterprise or Public Control* [Handbook for Discussion Groups, No. 11; London: Association for Education in Citizenship, 1943], p. 13) of Franklin D. Roosevelt's when he included "freedom from want" in his conception of liberty.

²The limited value of even a very acute semantic analysis of the term "freedom" is well illustrated by Maurice William Cranston, *Freedom: A New Analysis* (New York: Longmans, Green, and Co., 1953), which will be found illuminating by readers who like to see how philosophers have tied themselves in knots by their curious definitions of the concept. For a more ambitious sur-

would seem better to state, first, the condition which we shall mean when we use them and then consider the other meanings of the words only in order to define more sharply that which we have adopted.

The state in which a man is not subject to coercion by the arbitrary will of another or others³ is often also distinguished as “individual” or “personal” freedom, and whenever we want to remind the reader that it is in this sense that we are using the word “freedom,” we shall employ that expression. Sometimes the term “civil liberty” is used in the same sense, but we shall avoid it because it is too liable to be confused with what is called “political liberty”—an inevitable confusion arising from the fact that “civil” and “political” derive, respectively, from Latin and Greek words with the same meaning.⁴

vey of the various meanings of the word see Mortimer Jerome Adler, *The Idea of Freedom: A Dialectical Examination of the Conceptions of Freedom* (Garden City, NY: Doubleday, 1958), which I have been privileged to see in draft, and an even more comprehensive work by Harald Ofstad, *An Inquiry into the Freedom of Decision* (Oslo: Norwegian University Press; Stockholm: Svenska bokförlaget, 1961).

³ See Aristotle, *Metaphysics*, 1.2.8 [982b]: “As man is free we say he exists for his own sake and not for another’s.” Gottfried Wilhelm Leibniz, “Über die Freiheit,” in *Philosophische Werke: Hauptschriften zur Grundlegung der Philosophie*, Artur Buchenau and Ernst Cassirer, eds. (Leipzig: Verlag der Dürr’schen Buchhandlung, 1906), vol. 2, p. 497: “Daher kam ich der Meinung derer nahe, es sei für die Freiheit genug, daß das Geschehen dem Zwange nicht unterworfen ist, wenngleich es der Notwendigkeit untersteht.” [“Thus, I approached the opinion of those it would suffice for liberty that events are not subordinate to coercion, albeit, they are subject to necessity.”—Ed.]; Cf. Jeremy Bentham, *The Limits of Jurisprudence Defined: Being Part Two of an Introduction to the Principles of Morals and Legislation*, Charles Warren Everett, ed. (New York: Columbia University Press, 1945), p. 59: “Liberty then is of two or even more sorts, according to the number of quarters from whence coercion, which it is the absence of, may come.” See also Georg Jellinek, *System der subjektiven öffentlichen Rechte* (2nd ed.; Tübingen: Verlag von J. C. B. Mohr, 1905), chap. 8, pp. 94–114: “Der negative Status (status liberatatis)”; Moritz Schlick, *Fragen der Ethik* (Vienna: J. Springer, 1930), p. 110: “Freiheit bedeutet ja den Gegensatz zum Zwang, der Mensch ist frei, wenn er nicht gezwungen handelt” [“Freedom means the opposite of compulsion; a man is free if he does not act under compulsion.” *Problems of Ethics*, David Rynin, trans. (New York: Prentice Hall, 1939), p. 150—Ed.]; Frank Hyneman Knight, “The Meaning of Freedom,” in *The Philosophy of American Democracy*, Charner Marquis Perry, ed. (Chicago: University of Chicago Press, 1943), p. 75: “The primary meaning of freedom in society . . . is always a negative concept . . . and coercion is the term which must really be defined”; and the fuller discussion by the same author in his review article “The Meaning of Freedom,” a review of *Freedom: Its Meaning*, Ruth Nanda Anshen, ed. *Ethics*, 52 (1941): 86–109, and “Conflict of Values: Freedom and Justice,” in *Goals of Economic Life*, Alfred Dudley Ward, ed. (New York: Harper, 1953); also Franz Leopold Neumann, *The Democratic and the Authoritarian State: Essays in Political and Legal Theory* (Glencoe, IL: The Free Press, 1957), p. 202: “The formula, freedom equals absence of coercion, is still correct. . . . [F]rom this formula there follows fundamentally the whole rational legal system of the civilized world. . . . It is the element of the concept of freedom that we can never give up”; and Christian Bay, *The Structure of Freedom* (Stanford, CA: Stanford University Press, 1958), p. 94: “Among all the freedom goals, the goal of maximizing everyone’s freedom from coercion should take first priority.”

⁴ Currently the expression “civil liberty” seems to be used chiefly with respect to those exercises of individual liberty which are particularly significant for the functioning of democracy,

Even our tentative indication of what we shall mean by “freedom” will have shown that it describes a state which man living among his fellows may hope to approach closely but can hardly expect to realize perfectly. The task of a policy of freedom must therefore be to minimize coercion or its harmful effects, even if it cannot eliminate it completely.

It so happens that the meaning of freedom that we have adopted seems to be the original meaning of the word.⁵ Man, or at least European man, enters history divided into free and unfree; and this distinction had a very definite meaning.⁶ The freedom of the free may have differed widely, but only in the degree of an independence which the slave did not possess at all. It meant always the possibility of a person’s acting according to his own decisions and plans, in contrast to the position of one who was irrevocably subject to the will of another, who by arbitrary decision could coerce him to act or not to act in specific ways. The time-honored phrase by which this freedom has often been described is therefore “independence of the arbitrary will of another.”

This oldest meaning of “freedom” has sometimes been described as its vulgar meaning; but when we consider all the confusion that philosophers have

such as freedom of speech, of assembly, and of the press—and in the United States particularly with reference to the opportunities guaranteed by the Bill of Rights. Even the term “political liberty” is occasionally used to describe, especially in contrast to “inner liberty,” not the collective liberty for which we shall employ it, but personal liberty. But though this usage has the sanction of Montesquieu, it can today only cause confusion.

⁵Cf. Sir Ernest Barker, *Reflections on Government* (London: Oxford University Press, 1942), pp. 1–2: “Originally liberty signified the quality or status of the free man, or free producer, in contradistinction to the slave.” It seems that, etymologically, the Teutonic root of “free” described the position of a protected member of the community (cf. Gustav Neckel, “Adel und Gefolgschaft: Ein Beitrag zur germanischen Altertumskunde,” *Beiträge zur Geschichte der deutschen Sprache und Literatur* 41 [1916], esp. 403: “‘Frei’ hiess ursprünglich derjenige, der nicht schutz- und rechtlos war” [“Originally the term ‘free’ referred to those who had neither legal protection nor rights.”—Ed.]. See also Otto Schrader, *Sprachvergleichung und Urgeschichte. Linguistisch-historische Beiträge zur Erforschung des indogermanischen Altertums*. Vol. 2, part 2: *Die Urzeit*. (3rd ed.; Jena: H. Costenoble, 1907), p. 294, and Adolf Waas, *Die alte deutsche Freiheit. Ihr wesen und ihre geschichte* (Munich and Berlin: R. Oldenburg, 1939), pp. 10–15. Similarly, Latin *liber* and Greek *eleutheros* seem to derive from words denoting membership in the tribe. The significance of this will appear later when we examine the relation between law and liberty. See also Ruth Fulton Benedict, “Primitive Freedom,” *Atlantic Monthly*, 169 (1942): 760: “So too in primitive societies there are civil liberties, the crux of which is that they are guaranteed to all men without discrimination. Wherever these privileges and protections to which all members have an inalienable right are important privileges in the eyes of that tribe, people regard themselves, whatever their form of government, as free men enjoying the blessings of liberty.”

⁶Max Pohlenz, *Griechische Freiheit: Wesen und Werden eines Lebensideals* (Heidelberg: Quelle und Meyer, 1955), p. 7: “Historisch ist die Begriffsentwicklung aber so verlaufen, daß erst das Vorhandensein von Unfreien, von Sklaven, bei den anderen das Gefühl der Freiheit weckte.” [“Historically, it was the existence of the unfree, the slaves, that first gave the others the feeling that they themselves were free.”—Ed.]

caused by their attempts to refine or improve it, we may do well to accept this description. More important, however, than that it is the original meaning is that it is a distinct meaning and that it describes one thing and one thing only, a state which is desirable for reasons different from those which make us desire other things also called "freedom." We shall see that, strictly speaking, these various "freedoms" are not different species of the same genus but entirely different conditions, often in conflict with one another, which therefore should be kept clearly distinct. Though in some of the other senses it may be legitimate to speak of different kinds of freedom, "freedoms from" and "freedoms to," in our sense "freedom" is one, varying in degree but not in kind.

In this sense "freedom" refers solely to a relation of men to other men,⁷ and the only infringement on it is coercion by men. This means, in particular, that the range of physical possibilities from which a person can choose at a given moment has no direct relevance to freedom. The rock climber on a difficult pitch who sees only one way out to save his life is unquestionably free, though we would hardly say he has any choice. Also, most people will still have enough feeling for the original meaning of the word "free" to see that if that same climber were to fall into a crevasse and were unable to get out of it, he could only figuratively be called "unfree," and that to speak of him as being "deprived of liberty" or of being "held captive" is to use these terms in a sense different from that in which they apply to social relations.⁸

The question of how many courses of action are open to a person is, of course, very important. But it is a different question from that of how far in acting he can follow his own plans and intentions, to what extent the pattern of his conduct is of his own design, directed toward ends for which he has been persistently striving rather than toward necessities created by others

⁷ Cf. Thomas Hill Green, *Lectures on the Principles of Political Obligation* [1895] (new imprint; London: Longmans, Green, and Co., 1911), p. 3: "As to the sense given to 'freedom,' it must of course be admitted that every usage of the term to express anything but a social and political relation of one man to others involves a metaphor. Even in the original application its sense is by no means fixed. It always implies indeed some exemption from compulsion by others, but the extent and conditions of this exemption, as enjoyed by the 'freeman' in different states of society, are very various. As soon as the term 'freedom' comes to be applied to anything else than an established relation between a man and other men, its sense fluctuates much more." Also, Ludwig von Mises, *Socialism* (new ed.; New Haven: Yale University Press, 1951), p. 191: "Freedom is a sociological concept. It is meaningless to apply it to conditions outside society" [pt. 2, chap. 9, sec. 3]; and p. 194: "This, then, is freedom in the external life of man—that he is independent of the arbitrary power of his fellows" [pt. 2, chap. 9, sec. 3] [Liberty Fund edition, pp. 169 and 171].

⁸ Cf. Knight, "Review: The Meaning of Freedom," p. 93: "If Crusoe fell into a pit or became entangled in jungle growth, it would certainly be correct usage to speak of his freeing himself or regaining his liberty—and this would apply to an animal as well." This may well be established usage by now, but it nevertheless refers to a conception of liberty other than that of absence of coercion which Professor Knight defends.

in order to make him do what they want. Whether he is free or not does not depend on the range of choice but on whether he can expect to shape his course of action in accordance with his present intentions, or whether somebody else has power so to manipulate the conditions as to make him act according to that person's will rather than his own. Freedom thus presupposes that the individual has some assured private sphere, that there is some set of circumstances in his environment with which others cannot interfere.

This conception of liberty can be made more precise only after we have examined the related concept of coercion. This we shall do systematically after we have considered why this liberty is so important. But even before we attempt this, we shall endeavor to delineate the character of our concept somewhat more precisely by contrasting it with the other meanings which the word liberty has acquired. They have the one thing in common with the original meaning in that they also describe states which most men regard as desirable; and there are some other connections between the different meanings which account for the same word being used for them.⁹ Our immediate task, however, must be to bring out the differences as sharply as possible.

2. The first meaning of "freedom" with which we must contrast our own use of the term is one generally recognized as distinct.¹⁰ It is what is commonly called "political freedom," the participation of men in the choice of their government, in the process of legislation, and in the control of administration. It derives from an application of our concept to groups of men as a whole which gives them a sort of collective liberty. But a free people in this sense is not necessarily a people of free men; nor need one share in this col-

⁹The linguistic cause of the transfer of "free" and of the corresponding nouns to various uses seems to have been the lack in English (and apparently in all Germanic and Romance languages) of an adjective which can be used generally to indicate that something is absent. "Devoid" or "lacking" are generally used only to express the absence of something desirable or normally present. There is no corresponding adjective (other than "free" of) to describe the absence of something undesirable or alien to an object. We will generally say that something is free of vermin, of impurities, or of vice, and thus freedom has come to mean the absence of anything undesirable. Similarly, whenever we want to say that something acts by itself, undetermined, or uninfluenced by external factors, we speak of its being free of influences not normally connected with it. In science we speak even of "degrees of freedom" when there are several possibilities unaffected by the known or assumed determinants (cf. Cranston, *Freedom: A New Analysis*, p. 5). And see also the excellent essays by Stanley Isaac Benn and Richard Stanley Peters, *Social Principles and the Democratic State* (London: Allen and Unwin, 1959), p. 212: "any condition can be described as the absence of its opposite. If health is 'freedom from disease,' education 'freedom from ignorance,' there is no conceivable object of social organization and action that cannot be called 'freedom.' But the price of making 'freedom' all-embracing as a social end is to drain it of all prescriptive meaning, and to leave only the prescriptive overtones, to make it synonymous with terms of approval like 'good' and 'desirable.'"

¹⁰This sharp differentiation between "freedom," in the sense of alternately ruling and obeying, and "liberty," in the sense that we may live as we choose, occurs as early as Aristotle, *Politics*, 6.3 [1317b]. ["One factor of liberty is to govern and be governed in turn."—Ed.]

lective freedom to be free as an individual. It can scarcely be contended that the inhabitants of the District of Columbia, or resident aliens in the United States, or persons too young to be entitled to vote do not enjoy full personal liberty because they do not share in political liberty.¹¹

It would also be absurd to argue that young people who are just entering into active life are free because they have given their consent to the social order into which they were born: a social order to which they probably know no alternative and which even a whole generation who thought differently from their parents could alter only after they had reached mature age. But this does not, or need not, make them unfree. The connection which is often sought between such consent to the political order and individual liberty is one of the sources of the current confusion about its meaning. Anyone is, of course, entitled to “identify liberty . . . with the process of active participation in public power and public law making.”¹² Only it should be made clear that, if he does so, he is talking about a state other than that with which we are here concerned, and that the common use of the same word to describe these different conditions does not mean that the one is in any sense an equivalent or substitute for the other.¹³

¹¹ All these would have to be described as unfree by Harold Joseph Laski, who contended (*Liberty in the Modern State* [new ed.; London: Allen and Unwin, 1948], p. 48.) that “the right . . . to the franchise is essential to liberty; and a citizen excluded from it is unfree.” By similarly defining freedom, Hans Kelsen (“The Foundations of Democracy,” *Ethics*, 66, no. 1, pt. 2, [1955]: 94) triumphantly reaches the conclusion that “the attempts at showing an essential connection between freedom and property . . . have failed, though all those who have asserted such a connection have been speaking of individual and not political freedom.”

¹² Edwin Mims, Jr., *The Majority of the People* (New York: Modern Age Books, 1941), p. 170.

¹³ Cf. Montesquieu, *Spirit of the Laws*, bk. ix., sec. 2 (vol. 1, p. 150) [French edition, vol. 2, p. 394]: “In fine, as in democracies the people seem to act almost as they please, this sort of government has been deemed the most free, and the power of the people has been confounded with their liberty.” [“Enfin, comme dans les démocraties le peuple paroît à peu près faire ce qu’il veut, on a mis la liberté dans ces sortes de gouvernements; et on a confondu le pouvoir du peuple avec la liberté du peuple.”—Ed.]

See also Jean Louis de Lolme, *The Constitution of England, or, An Account of the English Government: In Which It Is Compared Both with the Republican Form of Government, and the Other Monarchies in Europe* [1784] (new ed.; London, G. G. and J. Robinson, 1800), bk. 2, chap. 5, p. 240 [Liberty Fund edition, p. 170]: “To concur by one’s suffrage in enacting laws, is to enjoy a share, whatever it may be, of power: to live in a state where the laws are equal for all, and sure to be executed . . . is to be free.” [“Contribuer, par son suffrage, à la sanction des lois, c’est avoir une portion quelconque de puissance, mais donc l’exercice de laquelle, encore une fois, on est très éloigné de voir toujours sa volonté réussir. Vivre dans un état où les lois sont égales pour tous, et sûrement exécutées . . . c’est être libre.” Jean Louis de Lolme, *Constitution de l’Angleterre, ou état du gouvernement anglois, comparé avec la forme républicaine & avec les autres monarchies de l’Europe* (2 vols.; London: G. Robinson, J. Murray, 1785), vol. 1, p. 218.—Ed.]

Cf. also the passages quoted in nn. 2 and 5 to chap. 7. [The two passages to which Hayek refers appear in two footnotes to chapter 7 of book 2 of de Lolme’s work. The footnotes are

The danger of confusion here is that this use tends to obscure the fact that a person may vote or contract himself into slavery and thus consent to give up freedom in the original sense. It would be difficult to maintain that a man who voluntarily but irrevocably had sold his services for a long period of years to a military organization such as the Foreign Legion remained free thereafter in our sense; or that a Jesuit who lives up to the ideals of the founder of his order and regards himself “as a corpse which has neither intelligence nor will” could be so described.¹⁴ Perhaps the fact that we have seen millions voting themselves into complete dependence on a tyrant has made our generation understand that to choose one’s government is not necessarily to secure freedom. Moreover, it would seem that discussing the value of freedom would be pointless if any regime of which people approved was, by definition, a regime of freedom.

The application of the concept of freedom to a collective rather than to individuals is clear when we speak of a people’s desire to be free from a foreign yoke and to determine its own fate. In this case we use “freedom” in the sense of absence of coercion of a people as a whole. The advocates of individual freedom have generally sympathized with such aspirations for national freedom, and this led to the constant but uneasy alliance between the liberal and the national movements during the nineteenth century.¹⁵ But though the

not numbered but Hayek is apparently referring to the following two quotations. The first is from Valerius Maximus, *Memorable Doings and Sayings* (bk. 3, sec. 7) and reads: “Valerius Maximus relates that the tribunes of the people having offered to propose some regulations in regard to the price of corn, in a time of great scarcity, Scipio Nasica over-ruled the assembly merely by saying: ‘Silence, Romans! I know better than you what is expedient for the republic’—which words were no sooner heard by the people, than they showed by a silence full of veneration, that they were more affected by his authority, than by the necessity of providing for their own subsistence.” (de Lolme, vol. 1, p. 256; Liberty Fund edition, p. 179). The second, from Livy, (6.16.3–4), reads: “The tribunes of the people,” says Livy, who as a great admirer of the aristocratical power, “and the people themselves, durst neither lift up their eyes, nor even mutter, in the presence of the dictator.” (de Lolme, vol. 1, pp. 257–58; Liberty Fund edition, p. 180)—Ed.]

¹⁴The full description of the proper state of mind of a Jesuit, quoted by William James from one of the letters of Ignatius Loyola (*Varieties of Religious Experience: A Study in Human Nature* [New York: Longmans, Green, and Co., 1902], p. 314) runs as follows: “In the hands of my Superior, I must be a soft wax, a thing, from which he is to require whatever pleases him, be it to write or receive letters, to speak or not to speak to such a person, or the like; and I must put all my fervor in executing zealously and exactly what I am ordered. I must consider myself as a corpse which has neither intelligence nor will; be like a mass of matter which without resistance lets itself be placed wherever it may please anyone; like a stick in the hand of an old man, who uses it according to his needs and places it where it suits him. So must I be under the hands of the Order, to serve it in the way it judges most useful.” [James gives the source of Loyola’s letter as Danielo Baroli, *Histoire de Saint Ignace de Loyola et de la Compagnie de Jésus, d’après les documents originaux*, translated from the Italian by P. L. Michel (2 vols.; Paris: Vaton, 1844), vol. 2, p. 13.—Ed.]

¹⁵This is the view that prevailed in Germany at the beginning of the century, despite being historically incorrect. Consider the comments of Friedrich Naumann, *Das Ideal der Freiheit* (Berlin-Schöneberg: Hilfe,

concept of national freedom is analogous to that of individual freedom, it is not the same; and the striving for the first has not always enhanced the second. It has sometimes led people to prefer a despot of their own race to the liberal government of an alien majority; and it has often provided the pretext for ruthless restrictions of the individual liberty of the members of minorities. Even though the desire for liberty as an individual and the desire for liberty of the group to which the individual belongs may often rest on similar feelings and sentiments, it is still necessary to keep the two conceptions clearly apart.

3. Another different meaning of "freedom" is that of "inner" or "metaphysical" (sometimes also "subjective") freedom.¹⁶ It is perhaps more closely related to individual freedom and therefore more easily confounded with it. It refers to the extent to which a person is guided in his actions by his own considered will, by his reason or lasting conviction, rather than by momentary impulse or circumstance. But the opposite of "inner freedom" is not coercion by others but the influence of temporary emotions, or moral or intellectual weakness. If a person does not succeed in doing what, after sober reflection, he decides to do, if his intentions or strength desert him at the decisive moment and he fails to do what he somehow still wishes to do, we may say that he is "unfree," the "slave of his passions." We occasionally also use these terms when we say that ignorance or superstition prevents people from doing what they would do if they were better informed, and we claim that "knowledge makes free."

Whether or not a person is able to choose intelligently between alternatives, or to adhere to a resolution he has made, is a problem distinct from whether or not other people will impose their will upon him. They are clearly not without some connection: the same conditions which to some constitute coercion will be to others merely ordinary difficulties which have to be overcome, depending on the strength of will of the people involved. To that

1908), p. 5. He writes: "Freiheit ist in erster Linie ein nationaler Begriff. Das soll heißen: Lange ehe man über die Freiheit des einzelnen Volksgenossen stritt und nachdachte, unterschied man freie und unfreie Völker und Stämme." ["Liberty is primarily a term associated with the nation. That is to say that long before it was conceived and discussed in terms of the individual liberty of one's countrymen, it was employed to distinguish free and unfree peoples and tribes."—Ed.] It is significant, however, that this entailed that "Die Geschichte lehrt, daß der Gesamtfortschritt der Kultur gar nicht anders möglich ist als durch Zerbrechung der nationalen Freiheit kleinerer Völker," ["History instructs us that cultural progress is possible solely by crushing the national liberty of lesser peoples."—Ed.] and "Es ist kein ewiges Recht der Menschen, von Stammesgenossen geleitet zu werden. Die Geschichte hat entschieden, daß es führende Nationen gibt und solche, die geführt werden, und es ist schwer, liberaler sein zu wollen, als die Geschichte selber ist" ["It is not an eternal human right to be led by fellow tribesmen. History has decided that there are leading nations as well as such that are led, and it is difficult to wish to be more liberal than history itself." p. 13.—Ed.]

¹⁶ The difference between this concept of "inner liberty" and liberty in the sense of absence of coercion was clearly perceived by the medieval Scholastics, which distinguished between *libertas a necessitate* [liberty to choose] and *libertas a coactione* [liberty from external compulsion].

extent, “inner freedom” and “freedom” in the sense of absence of coercion will together determine how much use a person can make of his knowledge of opportunities. The reason why it is still very important to keep the two apart is the relation which the concept of “inner freedom” has to the philosophical confusion about what is called the “freedom of the will.” Few beliefs have done more to discredit the ideal of freedom than the erroneous one that scientific determinism has destroyed the basis for individual responsibility. We shall later (in chap. 5) consider these issues further. Here we merely want to put the reader on guard against this particular confusion and against the related sophism that we are free only if we do what in some sense we ought to do.

4. Neither of these confusions of individual liberty with different concepts denoted by the same word is as dangerous as its confusion with a third use of the word to which we have already briefly referred: the use of “liberty” to describe the physical “ability to do what I want,”¹⁷ the power to satisfy our wishes, or the extent of the choice of alternatives open to us. This kind of “freedom” appears in the dreams of many people in the form of the illusion that they can fly; that they are released from gravity and can move “free like a bird” to wherever they wish, or that they have the power to alter their environment to their liking.

This metaphorical use of the word has long been common, but until comparatively recent times few people seriously confused this “freedom from” obstacles, this freedom that means omnipotence, with the individual freedom that any kind of social order can secure. Only since this confusion was deliberately fostered as part of the socialist argument has it become dangerous. Once this identification of freedom with power is admitted, there is no limit to the sophisms by which the attractions of the word “liberty” can be used to support measures which destroy individual liberty,¹⁸ no end to the tricks by which

¹⁷ Barbara Wootton, *Freedom under Planning* (London: Allen and Unwin, 1945), p. 10. The earliest explicit use of freedom in the sense of power which is known to me occurs in Voltaire, *Le Philosophe ignorant*, quoted by Bertrand de Jouvenel, *De la souveraineté, à la recherche du bien politique* (Paris: M. T. Génin, 1955), p. 315: “Être véritablement libre, c’est pouvoir. Quand je peux faire ce que je veux, voilà ma liberté.” [“To be really free, is (to possess) power. When I can do what I wish to do, therein my liberty lies.” Voltaire’s essay appears in *Mélanges*, J. van den Heuvel, ed. (Paris: Gallimard, 1961), p. 887. There is a Liberty Fund edition of Jouvenel’s work: *Sovereignty: An Inquiry into the Political Good*, J. F. Huntington, trans. (Indianapolis, IN: Liberty Fund, 1997). The reference is on p. 248.—Ed.] It seems ever since to have remained closely associated with what we shall later (chap. 4) have to distinguish as the “rationalist,” or French, tradition of liberty. [The 1971 German edition reads: “The term’s meaning has since then been linked with the tradition which we shall later describe (chap. 4) as the French or the “rational” tradition. It seems, however, that the notion that freedom is power can be traced back, as can so many modern anti-liberal views, to Francis Bacon.”—Ed.]

¹⁸ Cf. Peter Ferdinand Drucker, *The End of Economic Man: A Study of the New Totalitarianism* (London: William Heinemann, 1939), pp. 74–75: “The less freedom there is, the more there is talk of the ‘new freedom.’ Yet this new freedom is a mere word which covers the exact contradiction of all that Europe ever understood by freedom. . . . The new freedom which is preached in Europe

people can be exhorted in the name of liberty to give up their liberty. It has been with the help of this equivocation that the notion of collective power over circumstances has been substituted for that of individual liberty and that in totalitarian states liberty has been suppressed in the name of liberty.

The transition from the concept of individual liberty to that of liberty as power has been facilitated by the philosophical tradition that uses the word “restraint” where we have used “coercion” in defining liberty. Perhaps “restraint” would in some respects be a more suitable word if it was always remembered that in its strict sense it presupposes the action of a restraining human agent.¹⁹ In this sense, it usefully reminds us that the infringements on liberty consist largely in people’s being prevented from doing things, while “coercion” emphasizes their being made to do particular things. Both aspects are equally important: to be precise, we should probably define liberty as the absence of restraint and constraint.²⁰ Unfortunately, both these words have come also to be used for influences on human action that do not come from other men; and it is only too easy to pass from defining liberty as the absence of restraint to defining it as the “absence of obstacles to the realization of [our] desires”²¹ or even more generally as “the absence of external impediments.”²² This is equivalent to interpreting it as effective power to do whatever we want.

This reinterpretation of liberty is particularly ominous because it has penetrated deeply into the usage of some of the countries where, in fact, individ-

is, however, the right of the majority against the individual.” That this “new freedom” has been preached equally in the United States is shown by Woodrow Wilson, *The New Freedom: A Call for the Emancipation of the Generous Energies of a People* (New York: Doubleday, Page, and Co., 1913), esp. p. 26. A more recent illustration of this is an article by Allen Garfield Gruchy, “The Economics of the Natural Resources Committee,” *American Economic Review*, 29 (1939): 70, where the author observes approvingly that “for the economists of the National Resources Committee economic freedom is not a question of the absence of restraint upon individual activities, but instead it is a problem of collective restraint and direction imposed upon individuals and groups to the end that individual security may be achieved.”

¹⁹A definition in terms of absence of restraint in which this meaning is stressed, such as that of Edward Samuel Corwin, *Liberty Against Government: The Rise, Flowering, and Decline of a Famous Juridical Concept* (Baton Rouge: Louisiana State University Press, 1948), p. 7: “Liberty signifies the absence of restraints imposed by other persons upon our own freedom of choice and action.”

²⁰*The Shorter Oxford English Dictionary on Historical Principles* (2 vols.; Oxford: Clarendon Press, 1933), s.v. “coerce,” gives as the word’s first definition: “To constrain, or restrain by force, or by authority resting on force.” [This definition is essentially the same as the one published in the complete *Oxford English Dictionary* (2nd ed.; 20 vols.; Oxford: Oxford University Press, 1989). It reads: “To constrain or restrain (a voluntary or moral agent) by the application of superior force, or by authority resting on force.”—Ed.]

²¹Bertrand Russell, “Freedom and Government,” in *Freedom: Its Meaning*, Ruth Nanda Anshen, ed. (New York: Harcourt, Brace, 1940), p. 251.

²²Thomas Hobbes, *Leviathan; or, The Matter, Forme, and Power of a Commonwealth, Ecclesiasticall and Civil*, Michael Joseph Oakeshott, ed. (Oxford: B. Blackwell, 1946), p. 84.

ual freedom is still largely preserved. In the United States it has come to be widely accepted as the foundation for the political philosophy dominant in “liberal” circles. Such recognized intellectual leaders of the “progressives” as J. R. Commons²³ and John Dewey have spread an ideology in which “liberty is power, effective power to do specific things” and the “demand for liberty is the demand for power,”²⁴ while the absence of coercion is merely “the negative side of freedom” and “is to be prized only as a means to a freedom which is power.”²⁵

5. This confusion of liberty as power with liberty in its original meaning inevitably leads to the identification of liberty with wealth;²⁶ and this makes it

²³John Rogers Commons, *Legal Foundations of Capitalism* (New York: Macmillan, 1924), esp. chaps. 2–4 [chap. 2, “Property, Liberty, and Value,” pp. 11–46; chap. 3, “Physical, Economic, and Moral Power,” pp. 47–64; chap. 4, “Transactions,” pp. 65–142].

²⁴John Dewey, “Liberty and Social Control,” *The Social Frontier*, 2 (November 1935): 41–42. [The full quotation reads: “Liberty is not just an idea, an abstract principle. It is power, effective power to do specific things. There is no such thing as liberty in general; liberty, so to speak, at large. If one wants to know what the condition of liberty is at a given time, one has to examine what persons *can* do and what they *cannot* do. The moment one examines the question from the standpoint of effective action, it becomes evident that the demand for liberty is a demand for power.”—Ed.] Cf. also his article “Force and Coercion,” *International Journal of Ethics*, 23 (1916): 359–67: “Whether the use of force is justified or not . . . is, in substance, a question of efficiency (including economy) of means in the accomplishing of ends” (p. 362). “The criterion of value lies in the relative efficiency and economy of the expenditure of force as a means to an end” (p. 364). Dewey’s jugglery with the concept of liberty is indeed so appalling that the judgment of Dorothy Fosdick, *What Is Liberty? A Study in Political Theory* (New York: Harper and Brothers, 1939), p. 91, is hardly unjust: “The stage, however, is fully set for this [identification of liberty with some principle, such as equality] only when the definitions of liberty and of equality have been so juggled that both refer to approximately the same condition of activity. An extreme example of such sleight-of-hand is provided by John Dewey when he says ‘If freedom is combined with a reasonable amount of equality and security is taken to mean cultural and moral security and also material safety, I do not think that security is compatible with anything but freedom.’ After redefining two concepts so that they mean approximately the same condition of activity he assures us that the two are compatible. There is no end to such legerdemain.”

²⁵John Dewey, *Experience and Education* (New York: Macmillan, 1938), p. 74. [The full quotation reads: “There can be no greater mistake . . . than to treat such freedom as an end in itself. It then tends to be destructive of the shared cooperative activities which are the normal source of order. But, on the other hand, it turns freedom which should be positive into something negative. For freedom from restriction, the negative side, is to be prized only as a means to a freedom which is power: power to frame purposes, to judge wisely, to evaluate desires by the consequences which will result from acting upon them; power to select and order means to carry chosen ends into operation (pp. 73–74).—Ed.] Cf. also Werner Sombart, *Der moderne Kapitalismus* (2 vols.; Leipzig: Duncker und Humblot, 1902), vol. 2 *Die Theorie der kapitalistischen Entwicklung*, p. 43, where it is explained that “Technik” is “die Entwicklung zur Freiheit” [the development towards freedom]. This idea is developed at length in Eberhard Zschimmer, *Philosophie der Technik. Vom Sinn der Technik und Kritik des Unsinn über die Technik* (Jena: Eugen Diederichs, 1914), pp. 86–91.

²⁶Cf. Ralph Barton Perry, “Liberty in a Democratic State,” in *Freedom: Its Meaning*, Ruth Nanda Anshen, ed. (New York: Harcourt, Brace, 1940), p. 269: “The distinction between ‘welfare’ and

possible to exploit all the appeal which the word “liberty” carries in the support for a demand for the redistribution of wealth. Yet, though freedom and wealth are both good things which most of us desire and though we often need both to obtain what we wish, they still remain different. Whether or not I am my own master and can follow my own choice and whether the possibilities from which I must choose are many or few are two entirely different questions. The courtier living in the lap of luxury but at the beck and call of his prince may be much less free than a poor peasant or artisan, less able to live his own life and to choose his own opportunities for usefulness. Similarly, the general in charge of an army or the director of a large construction project may wield enormous powers which in some respects may be quite uncontrollable, and yet may well be less free, more liable to have to change all his intentions and plans at a word from a superior, less able to change his own life or to decide what to him is most important, than the poorest farmer or shepherd.

If there is to be any clarity in the discussion of liberty, its definition must not depend upon whether or not everybody regards this kind of liberty as a good thing. It is very probable that there are people who do not value the liberty with which we are concerned, who cannot see that they derive great benefits from it, and who will be ready to give it up to gain other advantages; it may even be true that the necessity to act according to one’s own plans and decisions may be felt by them to be more of a burden than an advantage. But liberty may be desirable, even though not all persons may take advantage of it. We shall have to consider whether the benefit derived from liberty by the majority is dependent upon their using the opportunities it offers them and whether the case for liberty really rests on most people wanting it for themselves. It may well be that the benefits we receive from the liberty of all do not derive from what most people recognize as its effects; it may even be that liberty exercises its beneficial effects as much through the discipline it imposes on us as through the more visible opportunities it offers.

Above all, however, we must recognize that we may be free and yet miserable. Liberty does not mean all good things²⁷ or the absence of all evils. It is

liberty breaks down altogether, since a man’s effective liberty is proportional to his resources.” This has led others to the contention that “if more people are buying automobiles and taking vacations, there is more liberty” (for reference, see chap. 16, n. 72 [Dwight Waldo, *The Administrative State: A Study of the Political Theory of American Public Administration* (New York: Ronald Press Co., 1948), p. 73]); and Robert Lee Hale, *Freedom through Law: Public Control of Private Governing Power* (New York: Columbia University Press, 1952), p. 385: “Inequalities of fortune . . . are inequalities in individual liberty.”

²⁷ An amusing illustration of this is provided by Denis Gabor and André Gabor, “An Essay on the Mathematical Theory of Freedom,” *Journal of the Royal Statistical Society*, Series A (General), 117 (1954): 32. The authors begin by stating that freedom “means the absence of undesirable restraints, hence the concept is almost coextensive with everything which is desirable” and then, instead of discarding this evidently useless concept, not only adopt it but proceed to “measure” freedom in this sense.

true that to be free may mean freedom to starve, to make costly mistakes, or to run mortal risks. In the sense in which we use the term, the penniless vagabond who lives precariously by constant improvisation is indeed freer than the conscripted soldier with all his security and relative comfort. But if liberty may therefore not always seem preferable to other goods, it is a distinctive good that needs a distinctive name. And though “political liberty” and “inner liberty” are long-established alternative uses of the term which, with a little care, may be employed without causing confusion, it is questionable whether the use of the word “liberty” in the sense of “power” should be tolerated.

In any case, however, the suggestion must be avoided that, because we employ the same word, these “liberties” are different species of the same genus. This is the source of dangerous nonsense, a verbal trap that leads to the most absurd conclusions.²⁸ Liberty in the sense of power, political liberty, and inner liberty are not states of the same kind as individual liberty: we cannot, by sacrificing a little of the one in order to get more of the other, on balance gain some common element of freedom. We may well get one good thing in the place of another by such an exchange. But to suggest that there is a common element in them which allows us to speak of the effect that such an exchange has on liberty is sheer obscurantism, the crudest kind of philosophical realism, which assumes that, because we describe these conditions with the same word, there must also be a common element in them. But we want them largely for different reasons, and their presence or absence has different effects. If we have to choose between them, we cannot do so by asking whether liberty will be increased as a whole, but only by deciding which of these different states we value more highly.

6. It is often objected that our concept of liberty is merely negative.²⁹ This is

²⁸ Cf. Lord Acton, *Lectures on Modern History*, John Neville Figgis and Reginald Vere Laurence, eds. (London: Macmillan, 1906), p.10 [The essay is from Acton’s inaugural lecture on the study of history, delivered at Cambridge in June 1895 (Liberty Fund edition, *Essays in the Study and Writing of History*, p. 516)—Ed.]: “There is no more proportion between liberty and power than between eternity and time.” Also Bronislaw Malinowski, *Freedom and Civilization* (New York: Roy Publishers, 1944), p. 47: “If we were carelessly to identify freedom with power, we obviously would nurse tyranny, exactly as we land into anarchy when we equate liberty with lack of any restraint.” See also Frank Hyneman Knight, “Freedom as Fact and Criterion,” in *Freedom and Reform: Essays in Economics and Social Philosophy*, Frank Hyneman Knight, ed. (New York: Harper and Brothers, 1947), p. 4ff.; Joseph Cropsey, *Polity and Economy: An Interpretation of the Principles of Adam Smith* (The Hague: M. Nijhoff, 1957), p. xi; and Martin Bronfenbrenner, “Two Concepts of Economic Freedom,” *Ethics*, 65 (1955): 157–70.

²⁹ The distinction between “positive” and “negative” liberty has been popularized by Thomas Hill Green, “Lecture on ‘Liberal Legislation and Freedom of Contract,’” [1880] in *The Works of T. H. Green*, Richard Lewis Nettleship, ed. (3 vols.; London: Longmans, Green, and Co., 1888), vol. 3, *Miscellanies and Memoir*, pp. 365–86. The idea which is there connected mainly with “inner freedom” has since been put to many uses. Cf. Sir Isaiah Berlin, *Two Concepts of Liberty: An Inaugural Lecture Delivered Before the University of Oxford on 31 October 1958* (Oxford: Clarendon Press, 1958), and, for a characteristic taking-over of the socialist arguments by the conservatives, Clin-

true in the sense that peace is also a negative concept or that security or quiet or the absence of any particular impediment or evil is negative. It is to this class of concepts that liberty belongs: it describes the absence of a particular obstacle—coercion by other men. It becomes positive only through what we make of it. It does not assure us of any particular opportunities, but leaves it to us to decide what use we shall make of the circumstances in which we find ourselves.

But while the uses of liberty are many, liberty is one. Liberties appear only when liberty is lacking: they are the special privileges and exemptions that groups and individuals may acquire while the rest are more or less unfree. Historically, the path to liberty has led through the achievement of particular liberties. But that one should be allowed to do specific things is not liberty, though it may be called “a liberty”; and while liberty is compatible with not being allowed to do specific things, it does not exist if one needs permission for most of what one can do. The difference between liberty and liberties is that which exists between a condition in which all is permitted that is not prohibited by general rules and one in which all is prohibited that is not explicitly permitted.

If we look once more at the elementary contrast between freedom and slavery, we see clearly that the negative character of freedom in no way diminishes its value. We have already mentioned that the sense in which we use the word is its oldest meaning. It will help to fix this meaning if we glance at the actual difference that distinguished the position of a free man from that of a slave. We know much about this so far as the conditions in the oldest of free communities—the cities of ancient Greece—are concerned. The numerous decrees for the freeing of slaves that have been found give us a clear picture of the essentials. There were four rights which the attainment of freedom regularly conferred. The manumission decrees normally gave the former slave, first, “legal status as a protected member of the community”; second, “immunity from arbitrary arrest”; third, the right to “work at whatever he desires to do”; and, fourth, the right to “movement according to his own choice.”³⁰

This list contains most of what in the eighteenth and nineteenth centuries were regarded as the essential conditions of freedom. It omits the right to own property only because even the slave could do so.³¹ With the addition of

ton Rossiter, “Toward an American Conservatism,” *Yale Review*, 44 (1955): 361, who argues that “the conservative should give us a definition of liberty that is positive and all-embracing . . . In the new conservative dictionary, *liberty* will be defined with the help of words like *opportunity*, *creativity*, *productivity*, and *security*.”

³⁰William Linn Westermann, “Between Slavery and Freedom,” *American Historical Review*, 50 (1945): 216.

³¹This was at least the case in practice, if perhaps not in strict law (cf. John Walter Jones, *The Law and Legal Theory of the Greeks: An Introduction* [Oxford: Clarendon Press, 1956], p. 282).

this right, it contains all the elements required to protect an individual against coercion. But it says nothing about the other freedoms we have considered, not to speak of all the “new freedoms” that have lately been offered as substitutes for freedom. Clearly, a slave will not become free if he obtains merely the right to vote, nor will any degree of “inner freedom” make him anything but a slave—however much idealist philosophers have tried to convince us to the contrary. Nor will any degree of luxury or comfort or any power that he may wield over other men or the resources of nature alter his dependence upon the arbitrary will of his master. But if he is subject only to the same laws as all his fellow citizens, if he is immune from arbitrary confinement and free to choose his work, and if he is able to own and acquire property, no other men or group of men can coerce him to do their bidding.

7. Our definition of liberty depends upon the meaning of the concept of coercion, and it will not be precise until we have similarly defined that term. In fact, we shall also have to give a more exact meaning to certain closely related ideas, especially arbitrariness and general rules or laws. Logically, we should therefore now proceed to a similar analysis of these concepts. We cannot altogether avoid this. But before asking the reader to follow us further in what may appear to be the barren task of giving precise meaning to terms, we shall endeavor to explain why the liberty we have defined is so important. We shall therefore resume our effort at precise definition only at the beginning of the second part of this book, where we shall examine the legal aspects of a regime of freedom. At this point a few observations anticipating the results of the more systematic discussion of coercion should be sufficient. In this brief form they will necessarily seem somewhat dogmatic and will have to be justified later.

By “coercion” we mean such control of the environment or circumstances of a person by another that, in order to avoid greater evil, he is forced to act not according to a coherent plan of his own but to serve the ends of another. Except in the sense of choosing the lesser evil in a situation forced on him by another, he is unable either to use his own intelligence or knowledge or to follow his own aims and beliefs. Coercion is evil precisely because it thus eliminates an individual as a thinking and valuing person and makes him a bare tool in the achievement of the ends of another. Free action, in which a person pursues his own aims by the means indicated by his own knowledge, must be based on data which cannot be shaped at will by another. It presupposes the existence of a known sphere in which the circumstances cannot be so shaped by another person as to leave one only that choice prescribed by the other.

Coercion, however, cannot be altogether avoided because the only way to prevent it is by the threat of coercion.³² Free society has met this problem by

³² Cf. Frank Hyneman Knight, *Freedom and Reform: Essays in Economics and Social Philosophy* (New York: Harper and Brothers, 1947), pp. 193–94: “The *primary* function of government is to *pre-*

conferring the monopoly of coercion on the state³³ and by attempting to limit this power of the state to instances where it is required to prevent coercion by private persons. This is possible only by the state's protecting known private spheres of the individuals against interference by others and delimiting these private spheres, not by specific assignation, but by creating conditions under which the individual can determine his own sphere by relying on rules which tell him what the government will do in different types of situations.

The coercion which a government must still use for this end is reduced to a minimum and made as innocuous as possible by restraining it through known general rules, so that in most instances the individual need never be coerced unless he has placed himself in a position where he knows he will be coerced. Even where coercion is not avoidable, it is deprived of its most harmful effects by being confined to limited and foreseeable duties, or at least made independent of the arbitrary will of another person. Being made impersonal and dependent upon general, abstract rules, whose effect on particular individuals cannot be foreseen at the time they are laid down, even the coercive acts of government become data on which the individual can base his own plans. Coercion according to known rules, which is generally the result of circumstances in which the person to be coerced has placed himself, then becomes an instrument assisting the individuals in the pursuit of their own ends and not a means to be used for the ends of others.

vent coercion and so guarantee to every man the right to live his own life on terms of *free* association with his fellows." See also his discussion of the topic in the article quoted in n. 3 above ["The Meaning of Freedom," a review of *Freedom: Its Meaning*, Ruth Nanda Anshen, ed., *Ethics*, 52 (1941): 86–109].

³³ Cf. Rudolph Von Ihering, *Law as a Means to an End*, Isaac Husik, trans. (Boston: Boston Book Co., 1913), pp. 241–42; Max Weber, *From Max Weber: Essays in Sociology*, C. Wright Mills, ed. and trans. (New York: Oxford University Press, 1946), p. 78: "A State is a human community that (successfully) claims the *monopoly of the legitimate use of physical force*"; Bronislaw Malinowski, *Freedom and Civilization* (New York: Roy Publishers, 1944), p. 265: the state "is the only historic institution which has the monopoly of force"; also John Maurice Clark, *Social Control of Business* (2nd ed.; New York: Whittlesey House, McGraw-Hill, 1939), p. 115: "Forcible coercion is supposed to be the monopoly of the state"; and Edward Adamson Hoebel, *The Law of Primitive Man: A Study in Comparative Legal Dynamics* (Cambridge, MA: Harvard University Press, 1954), chap. 2 ["What Is Law?" (pp. 18–28)].

COERCION AND THE STATE

For that is an absolute villeinage from which an uncertain and indeterminate service is rendered, where it cannot be known in the evening what service is to be rendered in the morning, that is where a person is bound to whatever is enjoined to him. —Henry Bracton

1. Earlier in our discussion we provisionally defined freedom as the absence of coercion. But coercion is nearly as troublesome a concept as liberty itself, and for much the same reason: we do not clearly distinguish between what other men do to us and the effects on us of physical circumstances. As a matter of fact, English provides us with two different words to make the necessary distinction: while we can legitimately say that we have been compelled by circumstances to do this or that, we presuppose a human agent if we say that we have been coerced.

Coercion occurs when one man's actions are made to serve another man's will, not for his own but for the other's purpose. It is not that the coerced does not choose at all; if that were the case, we should not speak of his "acting." If my hand is guided by physical force to trace my signature or my finger pressed against the trigger of a gun, I have not acted. Such violence, which makes my

The quotation from Henry Bracton at the head of the chapter is borrowed from Michael Polanyi, *The Logic of Liberty: Reflections and Rejoinders* (London: Routledge and Kegan Paul, 1951), p. 158 [Liberty Fund edition (1998), p. 194]. [The quotation is from Henry Bracton's *De Legibus et Consuetudinibus Angliae* (*On the Laws and Customs of England*), George Edward Woodbine, ed. (4 vols.; Cambridge, MA: Published in association with the Selden Society by the Belknap Press of Harvard University Press, 1968–77), vol. 2, p. 89. The translation of Bracton's Latin original is that of Samuel Edmund Throne.—Ed.] The chief idea of the chapter has also been well expressed by Frederic William Maitland in his "Historical Sketch of Liberty and Equality as Ideals" (1875), in *Collected Papers of Frederic William Maitland, Downing Professor of the Laws of England* (3 vols.; Cambridge: Cambridge University Press, 1911), vol. 1, p. 80: "The exercise of power in ways which cannot be anticipated causes some of the greatest restraints, for restraint is most felt and therefore is greatest when it is least anticipated. We feel ourselves least free when we know that restraints may at any moment be placed on any of our actions, and yet we cannot anticipate these restraints. . . . Known general laws, however bad, interfere less with freedom than decisions based on no previously known rule." [Liberty Fund edition of the *Historical Sketch*, pp. 109–10.]

body someone else's physical tool, is, of course, as bad as coercion proper and must be prevented for the same reason. Coercion implies, however, that I still choose but that my mind is made someone else's tool, because the alternatives before me have been so manipulated that the conduct that the coercer wants me to choose becomes for me the least painful one.¹ Although coerced, it is still I who decide which is the least evil under the circumstances.²

Coercion clearly does not include all influences that men can exercise on the action of others. It does not even include all instances in which a person acts or threatens to act in a manner he knows will harm another person and will lead him to change his intentions. A person who blocks my path in the street and causes me to step aside, a person who has borrowed from the library the book I want, or even a person who drives me away by the unpleasant noises he produces cannot properly be said to coerce me. Coercion implies both the threat of inflicting harm and the intention thereby to bring about certain conduct.

Though the coerced still chooses, the alternatives are determined for him by the coercer so that he will choose what the coercer wants. He is not altogether deprived of the use of his capacities; but he is deprived of the possibility of using his knowledge for his own aims. The effective use of a person's intelligence and knowledge in the pursuit of his aims requires that he be able to foresee some of the conditions of his environment and adhere to a plan of action. Most human aims can be achieved only by a chain of connected actions, decided upon as a coherent whole and based on the assumption that the facts will be what they are expected to be. It is because, and insofar as, we can predict events, or at least know probabilities, that we can achieve anything. And though physical circumstances will often be unpredictable, they will not maliciously frustrate our aims. But if the facts which determine our plans are under the sole control of another, our actions will be similarly controlled.

Coercion thus is bad because it prevents a person from using his mental

¹ Cf. Frank Hyneman Knight, "Conflict of Values: Freedom and Justice," in *Goals of Economic Life*, Alfred Dudley Ward, ed. (New York: Harper and Bros., 1953), p. 208: "Coercion is 'arbitrary' manipulation by one of another's terms or alternatives of choice—and usually we should say an 'unjustified' interference." See also Robert Morrison MacIver, *Society: A Textbook of Sociology* (New York: Farrar and Rinehart, 1937), p. 342.

² Cf. the legal maxim "etsi coactus tamen voluit," deriving from *Corpus juris civilis, Digesta*, 50. 4. 21 [Samuel Parsons Scott, *The Civil Law, Including the Twelve Tables, the Institutes of Gaius, the Rules of Ulpian, the Opinions of Paulus, the Enactments of Justinian, and the Constitutions of Leo* (17 vols. in 7; Cincinnati: Central Trust Co., 1932), vol. 3/4, p. 65]. [The phrase translates as: "Although compelled, he nevertheless wished it." The original source is noted as Paulus, *On the Edict*, bk. 11.—Ed.] For a discussion of its significance see Ulrich von Lübtow, *Der Ediktstitel "Quod metus causa gestum erit"* (Greifswald: Bamberg, 1932), pp. 61–71. [The Latin phrase in the title of the book carries the meaning "When an act was performed because of fear."—Ed.]

powers to the full and consequently from making the greatest contribution that he is capable of to the community. Though the coerced will still do the best he can do for himself at any given moment, the only comprehensive design that his actions fit into is that of another mind.

2. Political philosophers have discussed power more often than they have coercion because political power usually means power to coerce.³ But though the great men, from John Milton and Edmund Burke to Lord Acton and Jacob Burckhardt, who have represented power as the archevil,⁴ were right

³Cf. Friedrich von Wieser, *Das Gesetz der Macht* (Vienna: Julius Springer, 1926); Bertrand Russell, *Power: A New Social Analysis* (London: Allen and Unwin, 1930); Guglielmo Ferrero, *The Principles of Power* (New York: G. P. Putnam's Sons, 1942) [This is the third volume of a trilogy. The first two volumes were originally published in Paris (Vol. 1: *The Gamble*, Vol. 2: *The Reconstruction of Europe*). The third appeared in New York because it could not be published on the Continent due to increased censorship.—Ed.]; Bertrand de Jouvenel, *Power: The Natural History of Its Growth* (London: Hutchinson, 1948) [The Liberty Fund reissued Jouvenel's book with a foreword by Denis William Brogan in 1993.—Ed.]; Gerhard Ritter, *Vom sittlichen Problem der Macht: Fünf Essays* (Bern: Francke, 1948); and the same author's *Machtstaat und Utopie: vom Streit um die Dämonie der Macht seit Machiavelli und Morus* (Munich: Oldenburg, 1940); Cyril John Radcliffe, Viscount Radcliffe of Werneth, *The Problem of Power* [Reith Lectures] (London: Secker and Warburg, 1952); and John Clark MacDermott, Baron MacDermott, *Protection from Power under English Law*, The Hamlyn Lectures (London: Stevens, 1957).

⁴The complaints about power as the archevil are as old as political thinking. Herodotus had already made Otanes say in his famous speech on democracy that "even the best of men raised to such a position [of irresponsible power] would be bound to change for the worst" (*Histories*, iii, 80); John Milton considers the possibility that "long continuance of Power may corrupt sincerest Men" ("The Ready and Easy Way to Establish a Free Commonwealth, and the Excellence thereof, Compared with the Inconveniences and Dangers of Readmitting Kingship in this Nation" [1660], in *Milton's Prose*, Malcolm William Wallace, ed. [World's Classics; London: Oxford University Press, 1925], p. 459 [Liberty Fund edition, p. 428]); Montesquieu asserts that "constant experience shows us that every man invested with power is apt to abuse it, and to carry his authority as far as it will go" ["Mais c'est une expérience éternelle que tout homme qui a du pouvoir est porté à en abuser; il va jusqu'à ce qu'il trouve des limites."—Ed.] (*Spirit of the Laws*, bk. 11, chap. 4, vol. 1, p. 150; French edition: vol. 2, p. 395); Immanuel Kant maintains that "the possession of power invariably debases the free judgment of reason" ["Der Besitz der Gewalt das freie Urteil der Vernunft unvermeidlich verdirbt." (*Zum ewigen Frieden: Ein philosophischer Entwurf* [1795], Karl Kehrbach, ed. [Leipzig: Philipp Reclam jun., 1881], p. 36.) The essay appears in English under the title *Perpetual Peace: A Philosophical Essay*.—Ed.]; Edmund Burke writes that "many of the greatest tyrants on [sic] the records of history have begun their reigns in the fairest manner. But the truth is, this unnatural power corrupts both the heart and the understanding" (*Thoughts on the Cause of Our Present Discontents*, in *Works*, II, p. 307 [Hayek is in error in locating the quotation in Burke's *Thoughts on the Cause of Our Present Discontents*. The quotation in fact appears in *A Vindication of Natural Society; or, A View of the Miseries and Evils Arising to Mankind from Every Species of Artificial Society* (3rd ed., with a new preface; Dublin: Printed by and for Sarah Cotter, 1766), p. 38; Liberty Fund edition, p. 46.—Ed.]); John Adams observes that "power is always abused when unlimited and unbalanced" (*Works: With a Life of the Author*, Charles Francis Adams, ed. [10 vols.; Boston: Charles C. Little and James Brown, 1851], vol. 6, p. 73), and that "absolute power intoxicates alike despots, monarchs, aristocrats, and democrats,

in what they meant, it is misleading to speak simply of power in this connection. It is not power as such—the capacity to achieve what one wants—that is bad, but only the power to coerce, to force other men to serve one's will by the threat of inflicting harm. There is no evil in the power wielded by the director of some great enterprise in which men have willingly united of their own will and for their own purposes. It is part of the strength of civilized society that, by such voluntary combination of effort under a unified direction, men can enormously increase their collective power.

It is not power in the sense of an extension of our capacities which corrupts, but the subjection of other human wills to ours, the use of other men against their will for our purposes. It is true that in human relations power and coercion dwell closely together, that great powers possessed by a few may enable them to coerce others, unless those powers are contained by a still greater power; but coercion is neither so necessary nor so common a consequence of power as is generally assumed. Neither the powers of a Henry Ford nor those of the Atomic Energy Commission, neither those of the General of the Salvation Army nor (at least until recently) those of the President of the United States, are powers to coerce particular people for the purposes they choose.

It would be less misleading if occasionally the terms “force” and “violence” were used instead of coercion, since the threat of force or violence is the most important form of coercion. But they are not synonymous with coercion, for the threat of physical force is not the only way in which coercion can be exercised. Similarly, “oppression,” which is perhaps as much a true opposite of liberty as coercion, should refer only to a state of continuous acts of coercion.

3. Coercion should be carefully distinguished from the conditions or terms on which our fellow men are willing to render us specific services or bene-

and jacobins and *sans culottes*” (vol. 6, p. 477) [The first quotation appears in chap. 1 of Adams’s “A Defence of the Constitutions of Government of the United States of America.” The second is taken from Adams’s Letters to John Taylor.—Ed.]; James Madison asserts [in his letter to Thomas Ritchie dated 18 December 1825] that “all power in human hands is liable to be abused” and [in an unsent letter to Thomas Lehre dated 2 August 1828] that “power, wherever lodged, is liable, more or less, to abuse” (*The Complete Madison: His Basic Writings*, Saul Kussiel Padover, ed. [New York: Harper, 1953], p. 46); Jacob Burckhardt never ceases to reiterate that power in itself is evil (*Force and Freedom: Reflections on History*, James Hastings Nichols, trans. [New York: Pantheon Books, 1943], e.g., p. 115 [Liberty Fund edition, p. 102]); and there is, of course, Lord Acton’s maxim “power tends to corrupt, and absolute power corrupts absolutely” (*Historical Essays*, p. 504 [Liberty Fund edition, *Essays in the Study and Writing of History*, p. 383]). [Letter from Acton to Bishop Mandell Creighton (April 3, 1887) regarding Acton’s review of vols. 3 and 4 of Creighton’s *History of the Papacy, The Italian Princes, 1464–1518*, contributed to the *English Historical Review* in 1887.—Ed.] See also Carl von Rotteck, “Absolutismus,” in *Staatslexikon oder Encyclopädie der Staatswissenschaften*, Carl von Rotteck and Carl T. Welcker, eds. (Altona: Hammrich, 1834), vol. 1, p. 155: “Es liegt in der unumschränkten Gewalt eine so schauerliche Macht der bösen Versuchung, daß nur die alleredelsten Menschen ihr widerstehen können.” [“Absolute power contains within itself the awful temptation toward evil that only the most noble can resist.”—Ed.]

fits. It is only in very exceptional circumstances that the sole control of a service or resource which is essential to us would confer upon another the power of true coercion. Life in society necessarily means that we are dependent for the satisfaction of most of our needs on the services of some of our fellows; in a free society these mutual services are voluntary, and each can determine to whom he wants to render services and on what terms. The benefits and opportunities which our fellows offer to us will be available only if we satisfy their conditions.

This is as true of social as of economic relations. If a hostess will invite me to her parties only if I conform to certain standards of conduct and dress, or my neighbor converse with me only if I observe conventional manners, this is certainly not coercion. Nor can it be legitimately called "coercion" if a producer or dealer refuses to supply me with what I want except at his price. This is certainly true in a competitive market, where I can turn to somebody else if the terms of the first offer do not suit me; and it is normally no less true when I face a monopolist. If, for instance, I would very much like to be painted by a famous artist and if he refuses to paint me for less than a very high fee, it would clearly be absurd to say that I am coerced. The same is true of any other commodity or service that I can do without. So long as the services of a particular person are not crucial to my existence or the preservation of what I most value, the conditions he exacts for rendering these services cannot properly be called "coercion."

A monopolist could exercise true coercion, however, if he were, say, the owner of a spring in an oasis. Let us say that other persons settled there on the assumption that water would always be available at a reasonable price and then found, perhaps because a second spring dried up, that they had no choice but to do whatever the owner of the spring demanded of them if they were to survive: here would be a clear case of coercion. One could conceive of a few other instances where a monopolist might control an essential commodity on which people were completely dependent. But unless a monopolist is in a position to withhold an indispensable supply, he cannot exercise coercion, however unpleasant his demands may be for those who rely on his services.

It is worth pointing out, in view of what we shall later have to say about the appropriate methods of curbing the coercive power of the state, that whenever there is a danger of a monopolist's acquiring coercive power, the most expedient and effective method of preventing this is probably to require him to treat all customers alike, i.e., to insist that his prices be the same for all and to prohibit all discrimination on his part. This is the same principle by which we have learned to curb the coercive power of the state.

The individual provider of employment cannot normally exercise coercion, any more than can the supplier of a particular commodity or service. So long as he can remove only one opportunity among many to earn a liv-

ing, so long as he can do no more than cease to pay certain people who cannot hope to earn as much elsewhere as they had done under him, he cannot coerce, though he may cause pain. There are, undeniably, occasions when the condition of employment creates opportunity for true coercion. In periods of acute unemployment the threat of dismissal may be used to enforce actions other than those originally contracted for. And in conditions such as those in a mining town the manager may well exercise an entirely arbitrary and capricious tyranny over a man to whom he has taken a dislike. But such conditions, though not impossible, would, at the worst, be rare exceptions in a prosperous competitive society.

A complete monopoly of employment, such as would exist in a fully socialist state in which the government was the only employer and the owner of all the instruments of production, would possess unlimited powers of coercion. As Leon Trotsky discovered: "In a country where the sole employer is the State, opposition means death by slow starvation. The old principle, who does not work shall not eat, has been replaced by a new one: who does not obey shall not eat."⁵

Except in such instances of monopoly of an essential service, the mere power of withholding a benefit will not produce coercion. The use of such power by another may indeed alter the social landscape to which I have adapted my plans and make it necessary for me to reconsider all my decisions, perhaps to change my whole scheme of life and to worry about many things I had taken for granted. But, though the alternatives before me may be distressingly few and uncertain, and my new plans of a makeshift character, yet it is not some other will that guides my action. I may have to act under great pressure, but I cannot be said to act under coercion. Even if the threat of starvation to me and perhaps to my family impels me to accept a distasteful job at a very low wage, even if I am "at the mercy" of the only man willing to employ me, I am not coerced by him or anybody else. So long as the act that has placed me in my predicament is not aimed at making me do or not do specific things, so long as the intent of the act that harms me is not to make me serve another person's ends, its effect on my freedom is not different from that of any natural calamity—a fire or a flood that destroys my house or an accident that harms my health.

4. True coercion occurs when armed bands of conquerors make the subject people toil for them, when organized gangsters extort a levy for "protection," when the knower of an evil secret blackmails his victim, and, of course, when the state threatens to inflict punishment and to employ physical force to make us obey its commands. There are many degrees of coercion, from the extreme

⁵Leon Trotsky, *The Revolution Betrayed: What Is the Soviet Union and Where is it Going?* (Garden City, NY: Doubleday, Doran and Co., 1937), p. 283.

case of the dominance of the master over the slave or the tyrant over the subject, where the unlimited power of punishment exacts complete submission to the will of the master, to the instance of the single threat of inflicting an evil to which the threatened would prefer almost anything else.

Whether or not attempts to coerce a particular person will be successful depends in a large measure on that person's inner strength: the threat of assassination may have less power to turn one man from his aim than the threat of some minor inconvenience in the case of another. But while we may pity the weak or the very sensitive person whom a mere frown may "compel" to do what he would not do otherwise, we are concerned with coercion that is likely to affect the normal, average person. Though this will usually be some threat of bodily harm to his person or his dear ones, or of damage to a valuable or cherished possession, it need not consist of any use of force or violence. One may frustrate another's every attempt at spontaneous action by placing in his path an infinite variety of minor obstacles: guile and malice may well find the means of coercing the physically stronger. It is not impossible for a horde of cunning boys to drive an unpopular person out of town.

In some degree all close relationships between men, whether they are tied to one another by affection, economic necessity, or physical circumstances (such as on a ship or an expedition), provide opportunities for coercion. The conditions of personal domestic service, like all more intimate relations, undoubtedly offer opportunities for coercion of a peculiarly oppressive kind and are, in consequence, felt as restrictions on personal liberty. And a morose husband, a nagging wife, or a hysterical mother may make life intolerable unless their every mood is obeyed. But here society can do little to protect the individual beyond making such associations with others truly voluntary. Any attempt to regulate these intimate associations further would clearly involve such far-reaching restrictions on choice and conduct as to produce even greater coercion: if people are to be free to choose their associates and intimates, the coercion that arises from voluntary association cannot be the concern of government.

The reader may feel that we have devoted more space than is necessary to the distinction between what can be legitimately called "coercion" and what cannot and between the more severe forms of coercion, which we should prevent, and the lesser forms, which ought not to be the concern of authority. But, as in the case of liberty, a gradual extension of the concept has almost deprived it of value. Liberty can be so defined as to make it impossible of attainment. Similarly, coercion can be so defined as to make it an all-pervasive and unavoidable phenomenon.⁶ We cannot prevent all harm that a person

⁶A characteristic instance of this which happened to come to my notice as I was writing occurs in a review by Bertram Francis Willcox, "*The Labor Policy of a Free Society* by Sylvester

may inflict upon another, or even all the milder forms of coercion to which life in close contact with other men exposes us; but this does not mean that we ought not to try to prevent all the more severe forms of coercion, or that we ought not to define liberty as the absence of such coercion.

5. Since coercion is the control of the essential data of an individual's action by another, it can be prevented only by enabling the individual to secure for himself some private sphere where he is protected against such interference. The assurance that he can count on certain facts not being deliberately shaped by another can be given to him only by some authority that has the necessary power. It is here that coercion of one individual by another can be prevented only by the threat of coercion.

The existence of such an assured free sphere seems to us so much a normal condition of life that we are tempted to define "coercion" by the use of such terms as "the interference with legitimate expectations," or "infringement of rights," or "arbitrary interference."⁷ But in defining coercion we cannot take for granted the arrangements intended to prevent it. The "legitimacy" of one's expectations or the "rights" of the individual are the result of the recognition of such a private sphere. Coercion not only would exist but would be much more common if no such protected sphere existed. Only in a society that has already attempted to prevent coercion by some demarcation of a protected sphere can a concept like "arbitrary interference" have a definite meaning.

If the recognition of such individual spheres, however, is not itself to become an instrument of coercion, their range and content must not be determined by the deliberate assignment of particular things to particular men. If what was to be included in a man's private sphere were to be determined by the will of any man or group of men, this would simply transfer the power of coercion to that will. Nor would it be desirable to have the particular contents of a man's private sphere fixed once and for all. If people are to make the best use of their knowledge and capacities and foresight, it is desirable that they them-

Petro," *Industrial and Labor Relations Review*, 9 (1957-58): 273: In order to justify "peaceful economic coercion" by unions, the author argues that "peaceable competition, based on free choice, fairly reeks of coercion. A free seller of goods or services, by setting his price, coerces one who wants to buy—coerces him into paying, doing without, or going elsewhere. A free seller of goods or services, by setting a condition that no one may buy from him who buys from X, coerces one who wants to buy—coerces him into doing without, going elsewhere, or refraining from buying from X—and in the last case he coerces X as well." This abuse of the term "coercion" derives largely from John Rogers Commons (cf. his *Institutional Economics* [New York: Macmillan, 1934]), esp. pp. 336-37; see also Robert Lee Hale, "Coercion and Distribution in a Supposedly Non-coercive State," *Political Science Quarterly*, 38 (1923): 470-94, and his *Freedom through Law: Public Control of Private Governing Power* (New York: Columbia University Press, 1952).

⁷ Cf. the passage by Frank Hyneman Knight, "Conflict of Values: Freedom and Justice," p. 208.

selves have some voice in the determination of what will be included in their personal protected sphere.

The solution that men have found for this problem rests on the recognition of general rules governing the conditions under which objects or circumstances become part of the protected sphere of a person or persons. The acceptance of such rules enables each member of a society to shape the content of his protected sphere and all members to recognize what belongs to their sphere and what does not.⁸

We must not think of this sphere as consisting exclusively, or even chiefly, of material things. Although to divide the material objects of our environment into what is mine and what is another's is the principal aim of the rules which delimit the spheres, they also secure for us many other "rights," such as security in certain uses of things or merely protection against interference with our actions.

6. The recognition of private or several⁹ property is thus an essential condition for the prevention of coercion, though by no means the only one. We are rarely in a position to carry out a coherent plan of action unless we are certain of our exclusive control of some material objects; and where we do not control them, it is necessary that we know who does if we are to collaborate with others. The recognition of property is clearly the first step in the delimitation of the private sphere which protects us against coercion; and it has long been recognized that "a people averse to the institution of private property is without the first element of freedom"¹⁰ and that "nobody is at liberty to attack several property and to say at the same time that he values civilization. The history of the two cannot be disentangled."¹¹ Modern anthropology confirms the fact that "private property appears very definitely on primitive levels" and that "the roots of property as a legal principle which determines the physical relationship between man and his environmental setting, natural or artificial, are the very prerequisite of any ordered action in the cultural sense."¹²

In modern society, however, the essential requisite for the protection of the

⁸On the role of property in the American tradition of liberty, see Paul Abraham Freund, *On Understanding the Supreme Court: A Series of Lectures Delivered under the Auspices of the Julius Rosenthal Foundation at Northwestern University School of Law, in April 1949* (3rd ed.; Boston: Little, Brown and Co., 1951), pp. 14ff.

⁹The expression "several property" used by Sir Henry Maine (*Village Communities in the East and West: Six Lectures Delivered at Oxford to which are added Other Lectures, Addresses, and Essays* [New York: H. Holt and Co., 1880], p. 230), is in many respects more appropriate than the more familiar one "private property;" and we shall occasionally employ it in place of the latter.

¹⁰Acton, "Nationality," *History of Freedom*, p. 297 [Liberty Fund edition, *Essays in the History of Liberty*, p. 431].

¹¹Sir Henry Maine, *Village Communities*, p. 230.

¹²Bronislaw Malinowski, *Freedom and Civilization* (New York: Roy Publishers, 1944), pp. 132-33.

individual against coercion is not that he possess property but that the material means which enable him to pursue any plan of action should not be all in the exclusive control of one other agent. It is one of the accomplishments of modern society that freedom may be enjoyed by a person with practically no property of his own (beyond personal belongings like clothing—and even these can be rented)¹³ and that we can leave the care of the property that serves our needs largely to others. The important point is that the property should be sufficiently dispersed so that the individual is not dependent on particular persons who alone can provide him with what he needs or who alone can employ him.

That other people's property can be serviceable in the achievement of our aims is due mainly to the enforceability of contracts. The whole network of rights created by contracts is as important a part of our own protected sphere, as much the basis of our plans, as any property of our own. The decisive condition for mutually advantageous collaboration between people, based on voluntary consent rather than coercion, is that there be many people who can serve one's needs so that nobody has to be dependent on specific persons for the essential conditions of life or the possibility of development in some direction. It is competition made possible by the dispersion of property that deprives the individual owners of particular things of all coercive powers.

In view of a common misunderstanding of a famous maxim,¹⁴ it should be mentioned that we are independent of the will of those whose services

¹³I do not mean to suggest that this is a desirable form of existence. It is of some importance, however, that today a not inconsiderable portion of the men who largely influence public opinion, such as journalists and writers, often live for long periods with a minimum of personal possessions and that this undoubtedly affects their outlook. It seems that some people even have come to regard material possessions as an impediment rather than a help, so long as they have the income to buy what they need.

¹⁴Immanuel Kant, "Foundations of the Metaphysics of Morals," *Critique of Practical Reason and Other Writings in Moral Philosophy*, Lewis White Beck, ed. (Chicago: University of Chicago Press, 1949), p. 87: "Act so that you treat humanity, whether in your own person or in that of another, always as an end and never as a means only." ["Handle so, daß du die Menschheit sowohl in deiner Person als in der Person eines jeden andern jederzeit zugleich als Zweck, niemals bloß als Mittel brauchst." *Grundlegung zur Metaphysik der Sitten*, in *Kants Werke*, (Akademie Textausgabe; 9 vols.; Berlin: Walter de Gruyter, 1968), vol. 4, p. 429.—Ed.] So far as this means that no man should be made to do anything that serves only other people's purposes, it is just another way of saying that coercion should be avoided. But if the maxim is interpreted to mean that when we collaborate with other men, we should be guided not only by our own but also by their purposes, it soon comes into conflict with their freedom when we disagree with their ends. For an example of such an interpretation see John Maurice Clark, *The Ethical Basis of Economic Freedom* (Kazanjian Foundation Lecture; Westport, CT: C. K. Kazanjian Economics Foundation, 1955), p. 26, and the German literature discussed in the work quoted in the next note. [The two works cited in Mises's *Socialism* on the pages to which Hayek refers are: Friedrich Engels, *Ludwig Feuerbach und der Ausgang der klassischen deutschen Philosophie* (5th ed.; Stuttgart: J. H. W. Dietz, 1910), and Hermann Cohen, *Ethik des reinen Willens* (Berlin: B. Cassirer, 1904), pp. 303 et seq.—Ed.]

we need because they serve us for their own purposes and are normally little interested in the uses we make of their services. We should be very dependent on the beliefs of our fellows if they were prepared to sell their products to us only when they approved of our ends and not for their own advantage. It is largely because in the economic transactions of everyday life we are only impersonal means to our fellows, who help us for their own purposes, that we can count on such help from complete strangers and use it for whatever end we wish.¹⁵

The rules of property and contract are required to delimit the individual's private sphere wherever the resources or services needed for the pursuit of his aims are scarce and must, in consequence, be under the control of some man or another. But if this is true of most of the benefits we derive from men's efforts, it is not true of all. There are some kinds of services, such as sanitation or roads, which, once they are provided, are normally sufficient for all who want to use them. The provision of such services has long been a recognized field of public effort, and the right to share in them is an important part of the protected sphere of the individual. We need only remember the role that the assured "access to the King's highway" has played in history to see how important such rights may be for individual liberty.

We cannot enumerate here all the rights or protected interests which serve to secure to the legal person a known sphere of unimpeded action. But, since modern man has become a little insensitive on this point, it ought perhaps to be mentioned that the recognition of a protected individual sphere has in times of freedom normally included a right to privacy and secrecy, the conception that a man's house is his castle¹⁶ and that nobody has a right even to take cognizance of his activities within it.

7. The character of those abstract and general rules that have been evolved to limit coercion both by other individuals and by the state will be the subject of the next chapter. Here we shall consider in a general way how that threat of coercion which is the only means whereby the state can prevent the coercion of one individual by another can be deprived of most of its harmful and objectionable character.

This threat of coercion has a very different effect from that of actual and unavoidable coercion, if it refers only to known circumstances which can be avoided by the potential object of coercion. The great majority of the threats

¹⁵ Cf. Ludwig von Mises, *Socialism*, pp. 194 and 430–41 [Liberty Fund edition, pp. 171 and 388–389].

¹⁶ In view of the often alleged lack of individual liberty in classical Greece, it deserves mention that in the Athens of the fifth century B.C. the sanctity of the private home was so fully recognized that even under the rule of the Thirty Tyrants a man "could save his life by staying at home" (see John Walter Jones, *The Law and Legal Theory of the Greeks: An Introduction* [Oxford: Clarendon Press, 1956], p. 91, with reference to Demosthenes xxiv, 52).

of coercion that a free society must employ are of this avoidable kind. Most of the rules that it enforces, particularly its private law, do not constrain private persons (as distinguished from the servants of the state) to perform specific actions. The sanctions of the law are designed only to prevent a person from doing certain things or to make him perform obligations that he has voluntarily incurred.

Provided that I know beforehand that if I place myself in a particular position, I shall be coerced and provided that I can avoid putting myself in such a position, I need never be coerced. At least insofar as the rules providing for coercion are not aimed at me personally but are so framed as to apply equally to all people in similar circumstances, they are no different from any of the natural obstacles that affect my plans. In that they tell me what will happen *if* I do this or that, the laws of the state have the same significance for me as the laws of nature; and I can use my knowledge of the laws of the state to achieve my own aims as I use my knowledge of the laws of nature.

8. Of course, in some respects the state uses coercion to make us perform particular actions. The most important of these are taxation and the various compulsory services, especially in the armed forces. Though these are not supposed to be avoidable, they are at least predictable and are enforced irrespective of how the individual would otherwise employ his energies; this deprives them largely of the evil nature of coercion. If the known necessity of paying a certain amount in taxes becomes the basis of all my plans, if a period of military service is a foreseeable part of my career, then I can follow a general plan of life of my own making and am as independent of the will of another person as men have learned to be in society. Though compulsory military service, while it lasts, undoubtedly involves severe coercion, and though a life-long conscript could not be said ever to be free, a predictable limited period of military service certainly restricts the possibility of shaping one's own life less than would, for instance, a constant threat of arrest resorted to by an arbitrary power to ensure what it regards as good behavior.

The interference of the coercive power of government with our lives is most disturbing when it is neither avoidable nor predictable. Where such coercion is necessary even in a free society, as when we are called to serve on a jury or to act as special constables, we mitigate the effects by not allowing any person to possess arbitrary power of coercion. Instead, the decision as to who must serve is made to rest on fortuitous processes, such as the drawing of lots. These unpredictable acts of coercion, which follow from unpredictable events but conform to known rules, affect our lives as do other "acts of God," but do not subject us to the arbitrary will of another person.

9. Is the prevention of coercion the only justification for the use of the threat of coercion by the state? We can probably include all forms of violence under coercion or at least maintain that a successful prevention of coer-

cion will mean the prevention of all kinds of violence. There remains, however, one other kind of harmful action which it is generally thought desirable to prevent and which at first may seem distinct. This is fraud and deception. Yet, though it would be straining the meaning of words to call them "coercion," on examination it appears that the reasons why we want to prevent them are the same as those applying to coercion. Deception, like coercion, is a form of manipulating the data on which a person counts, in order to make him do what the deceiver wants him to do. Where it is successful, the deceived becomes in the same manner the unwilling tool, serving another man's ends without advancing his own. Though we have no single word to cover both, all we have said of coercion applies equally to fraud and deception.

With this correction, it seems that freedom demands no more than that coercion and violence, fraud and deception, be prevented, except for the use of coercion by government for the sole purpose of enforcing known rules intended to secure the best conditions under which the individual may give his activities a coherent, rational pattern.

The problem of the limit of coercion is not the same as that concerning the proper function of government. The coercive activities of government are by no means its only tasks. It is true that the non-coercive or purely service activities that government undertakes are usually financed by coercive means. The medieval state, which financed its activities mainly with the income from its property, might have provided services without resorting to coercion. Under modern conditions, however, it seems hardly practicable that government should provide such services as the care for the disabled or the infirm and the provision of roads or of information without relying on its coercive powers to finance them.

It is not to be expected that there will ever be complete unanimity on the desirability of the extent of such services, and it is at least not obvious that coercing people to contribute to the achievement of ends in which they are not interested can be morally justified. Up to a point, most of us find it expedient, however, to make such contributions on the understanding that we will in turn profit from similar contributions of others toward the realization of our own ends.

Outside the field of taxation, it is probably desirable that we should accept only the prevention of more severe coercion as the justification for the use of coercion by government. This criterion, perhaps, cannot be applied to each single legal rule, but only to the legal system as a whole. The protection of private property as a safeguard against coercion, for instance, may require special provisions that do not individually serve to reduce coercion but serve merely to insure that private property does not unnecessarily impede action that does not harm the owner. But the whole conception of interference or non-interference by the state rests on the assumption of a private

sphere delimited by general rules enforced by the state; and the real issue is whether the state ought to confine its coercive action to enforcing these rules or go beyond this.

Attempts have often been made, notably by John Stuart Mill,¹⁷ to define the private sphere that should be immune from coercion in terms of a distinction between actions that affect only the acting person and those which also affect others. But, as there is hardly any action that may not conceivably affect others, this distinction has not proved very useful. It is only by delimiting the protected sphere of each individual that the distinction becomes significant. Its aim cannot be to protect people against all actions by others that may be harmful to them¹⁸ but only to keep certain of the data of their actions from the control of others. In determining where the boundaries of the protected sphere ought to be drawn, the important question is whether the actions of other people that we wish to see prevented would actually interfere with the reasonable expectations of the protected person.

In particular, the pleasure or pain that may be caused by the knowledge of other people's actions should never be regarded as a legitimate cause for coercion. The enforcement of religious conformity, for instance, was a legitimate object of government when people believed in the collective responsibility of the community toward some deity and it was thought that the sins of any member would be visited upon all. But where private practices cannot affect anybody but the voluntary adult actors, the mere dislike of what is being done by others, or even the knowledge that others harm themselves by what they do, provides no legitimate ground for coercion.¹⁹

We have seen that the opportunities of learning about new possibilities that the growth of civilization constantly offers provide one of the main arguments

¹⁷ John Stuart Mill, "On Liberty," in *On Liberty and Considerations on Representative Government*, Ronald Buchanan McCallum, ed. (Oxford: Blackwell, 1946), chap. 4, pp. 66–83.

¹⁸ Cf. Mill, *On Liberty*, p. 84: "In many cases, an individual, in pursuing a legitimate object, necessarily and therefore legitimately causes pain or loss to others, or intercepts a good which they had a reasonable hope of obtaining." Also the significant change from the misleading formulation of art. 4 in the French Declaration of the Rights of Man and of the Citizen of 1789, "La liberté consiste a pouvoir faire tout ce qui ne nuit pas à autrui," ["Liberty consists in the freedom to do everything not injurious to others."—Ed.] to the correct formulation of art. 6 of the Declaration of 1793: "La liberté est le pouvoir qui appartient à l'homme de faire tout ce que ne nuit pas aux droits d'autrui" ["Liberty is the power that man possesses to do whatever is not injurious to the rights of others."—Ed.].

¹⁹ The most conspicuous instance of this in our society is that of the treatment of homosexuality. As Bertrand Russell has observed ("John Stuart Mill," *Proceedings of the British Academy*, 41 [1955]: 55): "If it were still believed, as it once was, that the toleration of such behaviour would expose the community to the fate of Sodom and Gomorrah, the community would have every right to intervene." But where such factual beliefs do not prevail, private practice among adults, however abhorrent it may be to the majority, is not a proper subject for coercive action for a state whose object is to minimize coercion.

for freedom; it would therefore make nonsense of the whole case for freedom if, because of the envy of others²⁰ or because of their dislike of anything that disturbs their ingrained habits of thought, we should be restrained from pursuing certain activities. While there is clearly a case for enforcing rules of conduct in public places, the bare fact that an action is disliked by some of those who learn about it cannot be a sufficient ground for prohibiting it.

Generally speaking, this means that the morality of action within the private sphere is not a proper object for coercive control by the state. Perhaps one of the most important characteristics that distinguish a free from an unfree society is indeed that, in matters of conduct that do not directly affect the protected sphere of others, the rules which are in fact observed by most are of a voluntary character and not enforced by coercion. Recent experience with totalitarian regimes has emphasized the importance of the principle "never [to] identify the cause of moral values with that of the State."²¹ It is indeed probable that more harm and misery have been caused by men determined to use coercion to stamp out a moral evil than by men intent on doing evil.

10. Yet the fact that conduct within the private sphere is not a proper object for coercive action by the state does not necessarily mean that in a free society such conduct should also be exempt from the pressure of opinion or disapproval. A hundred years ago, in the stricter moral atmosphere of the Victorian era, when at the same time coercion by the state was at a minimum, John

²⁰ Charles Anthony Raven Crosland, *The Future of Socialism* (London: Jonathan Cape, 1956), p. 206.

²¹ The statement quoted has been ascribed to Ignazio Silone. [The quotation comes from a speech made in Italian by Silone before the International PEN Club Conference held at Basle in 1947. It is reprinted, in a translation made by Eric Mossbacher, in "On the Place of the Intellect and the Pretensions of the Intellectual," *Horizon: A Review of Literature and Art*, 16 (December 1947): 323, reprinted in George Barnard de Huszar, ed, *The Intellectuals: A Controversial Portrait* (Glencoe, IL: The Free Press, 1960), p. 264.—Ed.] Cf. also Jacob Burckhardt, *Reflections on History*, p. 118 [Liberty Fund edition, p. 70]: "It is a degeneration, it is philosophical and bureaucratic arrogance, for the State to attempt to fulfil moral purposes directly, for only society can and may do that." See also Harold Stearns, *Liberalism in America: Its Origins, Its Temporary Collapse, Its Future* (New York: Boni and Liveright, 1919), p. 69: "Coercion for the sake of virtue is as repugnant as coercion for the sake of vice. If American liberals are unwilling to fight the principle of coercion in the case of the Prohibition Amendment simply because they personally are not much interested in whether the country is dry or not, then they are discredited the moment they fight coercion in those cases where they *are* interested." The typical socialist attitude on these problems is most explicitly stated in Robert Lowe Hall, *The Economic System in a Socialist State* (London: Macmillan, 1937), pp. 202–3, where it is argued (with regard to the duty of increasing the capital of the country) that "the fact that it is necessary to use such words as 'moral obligation' and 'duty' shows that there is no question of accurate calculation and that we are dealing with decisions which not only may be, but ought to be, taken by the community as a whole, that is to say with political decisions." For a conservative defense of the use of political power to enforce moral principles see Walter Berns, *Freedom, Virtue, and the First Amendment* (Baton Rouge: Louisiana State University Press, 1957).

Stuart Mill directed his heaviest attack against such “moral coercion.”²² In this he probably overstated the case for liberty. At any rate, it probably makes for greater clarity not to represent as coercion the pressure that public approval or disapproval exerts to secure obedience to moral rules and conventions.

We have already seen that coercion is, in the last resort, a matter of degree and that the coercion which the state must both prevent and threaten for the sake of liberty is only coercion in its more severe forms—the kind which, when threatened, may prevent a person of normal strength from pursuing an object important to him. Whether or not we wish to call coercion those milder forms of pressure that society applies to nonconformists, there can be little question that these moral rules and conventions that possess less binding power than the law have an important and even indispensable role to perform and probably do as much to facilitate life in society as do the strict rules of law. We know that they will be observed only generally and not universally, but this knowledge still provides useful guidance and reduces uncertainty. While the respect for such rules does not prevent people from occasionally behaving in a manner that is disapproved, it limits such behavior to instances in which it is fairly important to the person to disregard the rules. Sometimes these non-coercive rules may represent an experimental stage of what later in a modified form may grow into law. More often they will provide a flexible background of more or less unconscious habits which serve as a guide to most people’s actions. On the whole, those conventions and norms of social intercourse and individual conduct do not constitute a serious infringement of individual liberty but secure a certain minimum of uniformity of conduct that assists individual efforts more than it impedes them.

²² Mill, *On Liberty*, chap. 3, pp. 49–66.