The Constitution of Liberty

Introduction (by editor)

15 - "social justice implies"
re. this bit sets a little rant-like against perceived fallacies of social justice

+ 17 - "Until the early twentieth"

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48 - ☆ "In the struggle for the moral"
re dialectics

50 - "But, since the matter of the"

52 - "Some readers will perhaps"

59 - "Even our tentative indication"

+ 60 - "The question of how many" ☆
re. Foucault's notion of power, Marxist relations of production

63 - "The application of the concept"
re: individual / collective liberty

67 - "This confusion of liberty as power"
re; redistribution of wealth ☆

68 - "It may well be that"
re: good quote

69 - "In the sense in which we use"
re good quote

+ 69 - "It is often objected"
- re: use of the term "liberty"

70 - "The difference between liberty"

70 - "There were four rights which" ☆

71 - "Coercion however, cannot be" ☆☆

76 - "In other words, it is largely"

77 - "Man prides himself on the" ☆
re: scientism

79 - "The successful combination"

81 - "Humiliating ~~as it~~ to human pride"

81 - "All we can do is to increase"

82 - "It is because freedom means"

83 - "It also follows that the"
re: liberty and equitability

★, ☆☆ = important + = relevant to thesis

84 - "The benefits I derive from" ☆☆

87 - "It is, of course, a mistake"
re: evolution, morality

88 - "The competition on which" ☆☆

88 "The argument for liberty" → ☆☆
re good quote

Reflection: in the first two sections of this work, Hayek lays the semantic foundations of the concept of liberty with which he is dealing. He defines it in terms of the absence of arbitrary coercion over one's will, and argues that the rule of law, within the context of a liberal republican government, serves best the function of limiting the degree to which the government exercises its monopoly on coercion, in the interest of mitigating arbitrary coercion throughout society, by enshrining certain civil rights to protect individual liberty

95 - "But it often makes us sadder"
re: Rousseau, natural man

96 - "There can therefore be little doubt"
re: dopamine vs serotonin?

96 - "It is one of the most characteristic"
re: uneven distribution of the future
↳ ☆

96 - "The rapid economic advance"
re: progress and poverty, Georgism

97 - "The growth of knowledge" ☆
re: open source, public goods
98 - "In a progressive society as we"
re: distribution of the future
99 - "The contention that in any"
re. inequality in marked-based societies vs planned societies
99 - "The objections spring from the" ☆
re: distribution of wealth
100 - "Although the fact that the"
X: perhaps does not sufficiently recognize extractivism
101 - "Therefore, there must be two"
re: long-term and short-term inequality
105 - "The aspirations of the great"
X - alarmism
111 - "Though these two groups"
re: spontaneous vs planned democracy
115 - "This demonstration that something" ☆
re: emergence
117 - "It is unfortunate that"
re: scientism
119 - "Not Locke, nor Hume, nor Smith"
re: classical liberalism vs laissez-faire
122 - "Those who believe that all
X polemic, hyperbolic
122 - "far from ~~asserting~~ assuming that"
123 - "It is indeed a truth"
re: conventions and protocols
123 - "There is an advantage in" ☆ ☆
126 - "While this applies to all"
re: emergence of morality, language
127 - "The rationalist argument"
129 - "where all are made"
129 - "The argument for liberty"
132 - "None of these conclusions"

134 - "The concurrent decline in"
re: ~~real~~ determinism and individual liberty
140 - "The assigning of responsibility"
140 - "Though in the intimate relations"
141 - "The recognition that each person"
re: morality, pluralism, individual liberty
142 - "Liberty is an opportunity"
143 - re:
173 - "As society and its complexity"
143 - "That is a free society"
144 - "And the chief aim of freedom"
144 - "Yet there can be no doubt"
re: entrepreneurialism
144 - "In a free society we are"
145 - "How little this basic fact" ☆
145 - "Though a man's conviction"

148 - "Equality of the general rules" ☆ ☆
re: liberty and equality
↳ through next ☆ too
"It is neither because"
150 - "From the fact that people are" ☆
151 - "However great the differences"
re: good state
151 - "The second basic proposition"
re: public goods
155 - "This conception that all should"
157 - "The proper answer is that"
158 - "If we know that a man
↳ "... decide for themselves" ☆
160 - "Though most people regard"
166 - "Equality before the law leads" ☆ ☆
re: liberalism, democracy
168 - "While liberalism is one of"
170 - "The democratic and the liberal"
re: liberalism, democracy
174 - "Democracy is, above all, a process"

175 - "The conception that government"
175 - "Majority decisions tell us"
re: myopia of the masses, similar to how the federalist papers argue that the representative body, representing the reason of the people needs to temper the passion of the people; passion vs reason
176 - "Advance consists in the few"
re: vanguardism ↳ ⁋ ⁋
176 - "If by 'social process' we mean"
re: spontaneous order
177 - "The successful politician"
179 - "Changes in political and social"
re: influence of ideas
180 - "If politics is the art"
re: good private
181 - "The principles that plead"
re: democracy, liberalism
182 - "It is not the least part" ☆☆
185 - "The political significance of"
re: employment
185 - "The problem is that many"
re: employment, entrepreneurialism
↳ ⁋
187 - "A man who works under"
X
189 - "where this class predominates"
?
189 - "Also, it is even more true"
re: value of merit vs. result.
190 - "The importance of the private" ☆
↳ ⁋ → ⁋
"... to satisfy such needs"
191 - "The leadership of individuals"
re: political speech, PACs

193 - "I have nothing but admiration"
re: philanthropy, vanguardism
193 - "It is doubtful whether" ☆
re: constructive use of leisure
195 - "It is undeniable that such"
re: conspicuous consumption
200 - "It is not power as such"
re: power, coercion
203 - "It is worth pointing out"
re: antitrust, coercion
204 - "Except in such cases"
205 - "The conditions of personal domestic" ☆
re: coercion, family
205 - "We cannot prevent all harm" ☆
206 - "Since coercion is the control" ☆
↳ ⁋ → ⁋
207 - "The recognition of private"
re: private property
207 - "In modern society, however" ☆
re: liberty, coercion, property

209 - "The rules of property and contract"
re: public goods

210 - "at least insofar as the rules"
X - sanguine attitude toward rule of law?

210 - "The interference of the coercive power"
re: rule of law, predictable and avoidable coercion

211 - "With this correction, it seems"

☆ 211 - "But the whole conception of interference"

213 - "It is indeed probable that more known and"
re: good quote

213 - "Yet the fact that conduct within the private"
re: social convention, private sector censorship

214 - "On the whole, those conventions and norms
re: social conventions

☆ 216 - "Life of man in society, or even of the social"
re: Rousseau, natural man, emergent order

☆ 217 - "Laws and commands differ in the same way"
re: rule of law

220 - "The transition from specific custom"
re: rule of law

☆ 221 - "There is little difference between the knowledge"
re: rule of law, laws of nature

☆ 223 - "But if it is the law that makes us free" → A
re: rule of law

224 - "The fact is that, if "to rule" means"
re: judgement by precedent

224 - "The rationale of securing to each individual"

225 - "If we do not know the rationale of a particular rule"

☆ 229 - "The orderliness of social activity shows" → A
re: economic liberty, individualism, spontaneous order

230 - "Though people more familiar" re: natural order, autopoiesis

☆ 230 - "Similarly, we can produce the conditions"

Reflection. So far, Hayek has defined liberty, in the sense of individual liberty, as the absence of coercion, in broad strokes. He has also defined coercion as the subjugation of one ~~person~~ persons will to another, via threat of violence or harm. ~~Given~~ Given the absence of such coercion, a person is at greater liberty to pursue their own ends, within the confines of the law, which delimits the bounds of individual agency, and ought to do so indiscriminately. That is, law ought to treat each person equally, as some abstract subject, and ought only to prescribe rules in the most generalized fashion, so as to apply to everyone as equally and predictably as possible. He also stressed these points in The Road to Serfdom. Here, the rule of law functions as an impersonal, qua ~~minimally~~ minimally arbitrary, framework of rules designed to best enable people to pursue their own interests while ~~as~~ also by prohibiting the criminal and anti-social behaviors which will, foreseeably, be met with punishment at the hands of the state, with the state having a monopoly on coercion. Here, the states use of coercion is ~~intended~~ systematic and predictable, and is intended to minimize the occurance of arbitrary coercion in society, in the interest of safeguarding individual liberty.

☆ 235 - "For centuries it was recognized doctrine"
re: origins of law and legislation

☆ 241 - "To Herodotus it is still isonomy"
re: democracy vs isonomy, rule of law

253 - "It is a long way from the acceptance"
re: societal institutionalization of the rule of law

256 - good quote from David Hume

☆ 258 - good quote from William Paley → A → A
re: separation of powers

259 - "The new liberalism that gradually"
re: overturning of the classically liberal episteme

263 - "Until the final break, the claims"
re: American constitutionalism, limited constitution

266 - "A constitution which in such manner"
re: constitutionalism

266 - "The conception of a higher law"
re: constitutionalism, novelty of american constitutionalism

☆ 266 - "The fundamental distinction between"
re: constitutionalism, rule of law

266 - "Because of the restricted capacity"
re: myopia of the masses
↳ 3rd point from Federalist about how the "reason" of the people, as embodied by a representative congress can serve to temper the "passion" of the people and help secure longer-term welfare.

☆ 267 - "The stating of those conditions"
re: checks and balances, legislative supremacy

266 - "The expression on "appeal from the people..."
re: myopia of the masses, limitations of individual cognition

☆ 268 - "It need hardly be pointed out"
re: constitutionalism, myopia of the people

☆☆ 268 - "The division of authority implies more than may"
re: constitutionalism, checks and balances, rule of law, emergent order

269 - "From this it follows that we person or body" → ☆☆9
re: anti-positivism, emergent order, power

☆ 269 - "Only a demagogue can represent as"
re: myopia of the masses, reason vs passion, good grote

272 - "The main lesson of the period of confederation"
re: formation of US federal constitution

☆ 275 - "The reason why a division of powers"
re: separation of powers

276 - "The basic objection thus was that the Constitution"
re: initial argument against the Bill of Rights

281 - "When in the middle of the century the Supreme Court"
re: Bill of Rights, letter vs. spirit of law

283 - "When the most severe economic depression"
re: FDR, social democracy

285 - "The practice of restraining government's pursuit"
re: liberalism and constitutionalism

☆ 291 - "The decisive factor which made the efforts" → 9
re: rule of law, democracy, French vs English traditions of liberty

297 - "Of the legal developments in the Prussia of the"
re: origins of rule of law

298 - "The extent to which under an established system"
re: common law, rule of law

✡ 298 - "The most distinctive contributions of eighteenth-century"
re: separation of powers, judicial review of executive

✡✡ 299 - "It was on this basis that in the early part"
re: evolution of liberalism, constitutionalism

302 - "For some time the ideal remained, at least in"
re: rule of law, liberalism in Germany, justicialism

303 - "This very situation existed in Germany" → ¶
re: justicialism, administrative oversight/adjudication

✡ 304 - "Thus, though organizationally, the establishment" → ¶
re: transition in late 1800s Germany from classical liberalism (in English sense?) to welfare state / socialism (more informed by French revolution values of democracy than ~~English~~ values of rule of rule of law protecting individual rights?)

304 - "Thus the German achievement proved to be most"
re: ~~rule~~ rechtsstaat, emergence of welfare state

✡ 309 - "The first point that must be stressed is that"
re: rule of law, constitutionalism

✡ 310 - "From the fact that the rule of law is a"
re: rule of law

311 - "It is equally important to ~~rem~~ remember"
re: rule of law, governmental coercion

312 - "We have seen earlier that the ideal of the rule" → ¶
re laws ~~and~~ and legislative authority, statecraft

315 - "The second chief attribute which must be
re: predictability of laws

✡ 315 - Three principles of rule of law

315 - prospective

315 - certain / predictable

316 - equally applied to all

319 - "It would be humanly impossible to separate"

re: creation and enforcement of laws,

319 - "There are, of course, areas where the administration

re: coercive and non-coercive governmental activities

✡ 319 - "Whether the rules by which the administration"

re: rule of law, judicial review of administration

321 - "At every level, from the relation between"

re: non-coercive discretionary powers of government

✡ 321 - "The problem of discretionary powers as it directly"

re: "

326 - "We have up to this point represented those"

re: state of emergency

326 - "The principle of "no expropriation without""

re: exceptions to generality of rule of law

Reflections: Over the previous few sections, Hayek has covered some of the key contributions of the American constitutional republic and the German notion of the Rechtsstaat, to the larger movement of liberalism. Both of these historical examples involved novel implementations as well as novel ideas, ultimately having to do with framing a government which is 1) constrained by the

(reflection contd)
rule of law, and 2) ultimately ruled by the people, via republican legislature. He frames this German rechtsstaat movement as an incorporation of Kant's moral philosophy into the more English tradition of rule of law, and the American tradition of constitutionalism, and the French tradition of democracy. Above Earlier he noted how the French tradition entails the potential of conflict with the English tradition of rule of law. Hence Hayek seems to assert that when democracy conflicts with liberalism, namely when it expands the coercive powers of the government in manners which undermine individual liberty, that democracy should yield to liberalism. There exists, perhaps always and necessarily, possibility for pro-social and democratic governmental activity in the more non-coercive manners.

P 329 ~~328~~ - "The classical argument for freedom in economic"
re: rule of law, economic policy, arguments ~~against~~ of classical liberalism

+ P 330 - "True, there are good reasons why all"
re: ~~gover~~ economic regulation; note: here, Hayek is pointing out ~~how~~ how a categorical opposition to economic regulation actually misses the point of classical liberalism, →

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... and that the considerations around such things ought to regard the particular regulations in question, namely whether or not it adheres to the principles of the rule of law (applies equally to all, proactive not retroactive in nature, predictable and certain in their applicability)

331 - "A functioning market economy ~~pre~~ presupposes"
re: liberalism, economic regulation

331 - "We shall see that the observation of the rule of law"
re: rule of law, liberalism

332 - "Let us consider, first, the distinction between"
re: liberal governmental activities
note: this is where he begins to detail and enumerate the sorts of governmental activities necessary for, or at least permissible within, a market-based society

334 - "Furthermore, a free system does not exclude"
re: tech innovation

note: the quote on pg 335 by Ernest Freund about "private rights" and "public interest" makes me think these are two good poles with which the synthetic dialectic may be framed, along the lines of individual liberty and collective welfare.

337 - "There are several reasons why all direct control of"
re: market-based pricing

338 - "Though the principle of private property raises"
re: private ownership of land, Georgism,

** 340- "The range and variety of governmental action"
re: difference between laissez-faire and rechtsstaat, liberal government.

342- "The interval between the"
re: rechtsstaat, transition from liberalism to socialism in Germany

346- "what all the schools of"
re: anti-positivism, emergent order

346- "For this reason, legal positivism"
re: rechtsstaat, German transition

note, pg 356, footnote 62. read "The planned state and the rule of law

359- "The United States is, in fact, unique in that"
re; polemic against progressivism, administrative state

* 360- "The reaction against the tradition of stringent"
re: progressivism, conflict between progressivism and classical liberalism

362- "Fortunately, there are clear signs of"
re: reaction to transitions from liberalism to socialism

note pg 363, ~~edator~~ footnote 83, where Gustav Radbruch asserts that democracy is uniquely suited to support the Rechtsstaat, but implies that democracy should nonetheless yield to the Rechtsstaat, at least generally if not absolutely

364 - "There has been no lack of warning voices"
re: conflict between executive and judiciary

371 - "The chief factors contributing to"
re: arguments against socialism

373 - "Furthermore, many of the old socialists"
re: distribution of wealth

373 - "It is sometimes regarded as unfair"
re: transition from socialism to welfare state

⊗ 374 - "But, though a few theorists have demanded"
re: laissez-faire vs liberalism

⊗⊗ 374 "Indeed, no government in modern times"
re: collective welfare and individual liberty

375 "Those who attempt to delimit the functions"
re: critique of expanded state powers, means vs ends,

378 - "The same reasons that generally make the"
re: perceived fallacies of socialism

380 - "Hardly less important than the problems of"
re: centralization/decentralization, federated localism

381 - "subsidies are a legitimate tool of policy
re: subsidies, state intervention in economy

381 - "For liberals anti-monopoly policy has usually been"
re: antitrust and liberalism

393 - "The present coercive powers of unions thus rest"
re: coercion, unions monopoly of labor

395 - "~~Unions~~ Unions without coercive powers would"
re: ~~Labor~~ unions and liberalism

397 - "The essential requirement is that true freedom"

X re: banning labor strikes

⊗ 404 - "There is only one such principle that can preserve"
re: rule of law, good quote

406 - "Up to this point the justification for the whole"
re: social security,

407 - "It is an error to believe that the best or cheapest"
re: emergent order, markets, good brute

☆ 407 - "to the impatient reformer, who will be satisfied"
re: good brute

409 - "Though a redistribution of income was never"
re: social security, redistribution

✱ 410 - "It is essential that we become clearly aware"
re: reconciling progressivism with liberalism

9 X 411 - "The extreme complexity and consequent"
re: social security, wisdom of the crowd

Reflection: here may be the point where I have, so far, most lucidly felt the need to challenge Hayek's logic. He is saying that it is a paradox that, because the social security system presupposes to some degree that certain individuals aren't able to prudently budget their own efforts and income, this same set of individuals is then trusted to prudently budget the collective pool of their contributions. This, to me, is a comparison of two orders of intelligence: individual and collective. It is certainly plausible that the collective intelligence is, under certain circumstances, more able to prudently budget on behalf of individuals, or average, than those individuals would be able to budget on behalf of themselves. →

Reflections (contd)

The questions, here, become: 1) under what circumstances and to what extent can the collective intelligence more prudently budget on behalf of the individual than the individual would for themselves? 2) what redistributive spread should the collective budgeting entail? and 3) to what extent ~~are~~ or is what capacities are ~~&~~ ~~forces~~ social institutions necessary to activate this collective intelligence versus an alternative means such as a protocol?

☆ 412-~~422~~ - "The new kind of expert, whom we also:
re: bureaucracy, admin state.

424 - "There are so many serious problems raised"
re: consolidation of expertise under the state

425 - "The chief significance of the comprehensive
re labor unions, unemployment

☆ 426 - "The reasonable solution of these problems in a free"
re: hybrid solution between welfare state and market

430 - quote at start re: economy, rule of law, history

434 - quote from Marx/Engels about absolute proletarian state

? 434 - "But after this first onslaught had been repelled"
re: theories justifying progressive taxation, decreasing marginal utility

436 - "Those who advocated progressive taxation during"
re: history of progressive taxation, redistribution

441 - "It is no slur on democracy, no ignoble distrust"
re: democracy, limitations of democracy

442 - "It is sometimes ~~argued~~ contended that."
re progressive vs proportional ~~tax~~ taxation

448 - "It is also true that the less possible it becomes
re competition

450 - "What is needed is a principle that will limit"
re proposed solution to the problem of appropriate taxation

451 - "Why, it is sometimes asked, should we not"
re: a market-based monetary system

452 - "The three fundamental reasons for this state"
re: reasons why monetary systems currently depend on governments

☆ 452 - "The first of these facts makes money a kind"
re: effects of monetary ~~system~~ supply on markets

☆ ? 454 - "There are strong and ~~still~~ ~~still~~ probably still"
re: monetary policy and personal policy

455 - "We have seen how every one of the chief features" → A → A
re welfare state, inflation

457 - "It is, however, ~~doubtful~~ rather doubtful whether"
re: inflation vs deflation

458 - "Inflation and deflation both produce their"
re: inflation vs. deflation

459 - "From what we know, it still seems ~~plausible~~ probable"
re: preventing depressions

460 - "These considerations would seem to suggest"
re: prescriptions for monetary policy

343 - "The internal between the"
re: rechtsstaat, transition from liberalism to socialism in Germany

346 - "What all the schools of"
re: anti-positivism, emergent order

346 - "For this reason, legal positivism"
re: rechtsstaat, German transition

485 - "Two things should be ~~noted~~ especially noted"
re: market vs planning, agriculture

488 - "It would certainly be the lesser"

489 - "We all have an interest in"

490 - "The essentially unpredictable"

491 - "That the changes involved"
re: metabolic rift

493 - "Industrial development would"

493 - "The chief argument that"
re: straw man

494 - "There is probably no instance"
re: use of knowledge

495 - "A tract of land is often"
re: metabolic rift

496 - "such resources share with"
re: capital

497 - "There is nothing in the preservation"

498 - "with regard to children"
re: education

500 - "It is important to recognize"

501 - "It is a curious fact"
re: education ~~and~~ welfare state

506 - "There ~~is also~~ are few greater dangers to"
re: machiavelli, vanguardism

506 - "The special problem we are"

507 - "However commendable may be"
re: social justice

508 - "Not all the qualities which"
re: opportunity

510 - "let us by all means endeavor"

512 - "Academic freedom cannot" → A → A

515 - "There is perhaps no more"
re: knowledge

523 - "When I say that the conservative" ↳ A
re: pluralism

524 - "It is for this reason" ↳ A → A
re: liberalism

524 - "Closely connected with this" ↳ A
re: democracy

528 - "There is no reason why"