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Review of *Law, Legislation and Liberty*, vol. 3: *The Political Order of a Free People*, by F. A. Hayek

Stephen G. Salkever

Bryn Mawr College, ssalkeve@brynmawr.edu

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tions in the field. It is complemented with a lucid appendix on voting paradoxes. Unfortunately, it is not well fitted into the main model. Only very rare students will see any connection between the "system" discussion in Chapter 1 and the decision theory in Chapter 2. Frohock does contrast "rational" and "sociological" approaches to policy analysis. But the integration that is now possible, on the basis of a rather rich literature from comparative policy analysis, is not provided. Hypothetical examples of dubious fit are employed instead.

In his choice of real examples, Frohock presumes excessively upon the detailed information brought to the classroom by most undergraduates. Alas, without additional background information, few will recognize the names of Caryl Chessman, Gary Gillmore, or — sadly — Raskolnikov.

Despite its deficiencies as a textbook, scholars in the field should not overlook this volume. There are moments of brilliance in the explication of examples. Frohock's summary of crime research, the arguments about affirmative action, and his survey of blacks' and women's movements are profound. The erudition is further enhanced by the fact that Frohock writes the English language with grace and agility.

The treatment of ethics, justice, and democratic theory in the last two chapters should be read by our students. John Rawls and his respondents are well-summarized. Democratic theory is brought, with dignity, back into the most rapidly growing subfield of our discipline. Policy analysis and political philosophy have too long been estranged. Frohock has shined a light on the back-alley affair of recent years and brought it much nearer to a properly consummated remarriage.

RICHARD I. HOFFERBERT

State University of New York — Binghamton

Law, Legislation and Liberty: [Volume 3] The Political Order of a Free People. By F. A. HAYEK. (Chicago: The University of Chicago Press, 1979. Pp. xv, 244. \$14.00.)

The Political Order of a Free People is the third and final volume of *Law, Legislation and Liberty*. Along with the two earlier in-

stallments, *Rules and Order* (1973) and *The Mirage of Social Justice* (1976), it is intended as a supplement to Hayek's statement and defense of the principles of liberal constitutionalism, *The Constitution of Liberty* (1960). As a whole, *Law, Legislation and Liberty* sets out to expose the conceptual and practical incoherence of the most powerful contemporary challenges to limited government, primarily those posed by the friends of the planned welfare state and of unchecked majority rule. This final volume culminates in Hayek's proposals for fundamental institutional reform; these proposals, which take the form of a model constitution, are not intended as immediate practical recommendations but rather as "intellectual emergency equipment" (152) to be held in reserve against the possibility of a future in which the flawed constitutional edifice of the 18th century architects of liberalism can no longer withstand the corrosive pressures of unchecked majoritarianism.

Hayek's liberalism is not uncommon in its conception of the proper role of government. The only proper use of public coercion is the protection of individual property, understood in the broad Lockean sense of life, liberty and estate—Hayek typically refers to individual "domains." (111) But his theoretical defense of liberalism is not so easily categorized, being at the same time unremittingly secular and utterly distinct from any Lockean or Nozickian commitment to a theory of natural rights of individuals. Instead, Hayek's central premise seems to be the claim that the liberal market order is the result of an unplanned yet directional process of human cultural evolution from the rules of primitive tribal communalism to a social order governed by a shared commitment to something very like David Hume's principles of procedural justice: abstinence from the property of others, the sanctity of contract, and the transmission of property by consent. Hayek's evolutionary theory bears important and acknowledged resemblances to those of Burke, Adam Smith, and Hume, and is perhaps most like Hume's in its apparently unqualified affirmation of the superiority of the abstract and open society of liberal modernity to the face-to-face familial order of antiquity. Seen from Hayek's perspective, socialism and nationalism are not only self-defeating, but are in fact powerful atavisms (165) which draw their strength from the biological inheritance which cultural evolution seeks, as it were, to overcome in the interests of civilization and progress.

According to *The Political Order Of A Free People*, the mistake made by 18th century constitutionalists was their assumption that

majority rule could provide a sufficient institutional defense of the principles of Humean justice. But we now see, Hayek tells us, that the coercive power of government has been captured, not by the majority as such, but by organized interest groups which demand services in exchange for votes without any regard for the procedural rules of advanced liberal society. Interestingly, his analysis here looks very much like that often made by leftist critics of liberal democracy; Hayek's response to the dilemma, however, is not to seek means of political education to develop what for him would be a regressive civic virtue, but rather to imagine institutional devices for removing from government the power to satisfy the demands of organized groups. This inquiry, like Hayek's political theory as a whole, lacks neither loose ends nor considerable interest.

STEPHEN G. SALKEVER, *Bryn Mawr College*

Federalism: Failure and Success: A Comparative Study. By URSULA K. HICKS. (New York: Oxford University Press, 1979. Pp. ix, 205. \$19.50.)

A recent book by Rufus Davis (*The Federal Principle*, 1978) asserts, "The subject (of federalism) has indeed fallen on hard times." Davis noted further "the minimal returns of comparative studies and the growing disinclination of many scholars to work with the concept." Against this formidable judgment Lady Hicks offers an analysis of case studies in which federalism "never materialized," was "short-lived," was a "total failure," followed a "long road," resulted from "decolonisation," is represented by "two successful federal systems."

Hicks sees two types of federal organization, coordinate and cooperative. She observes, "In the modern world federal systems have largely abandoned the coordinate model in favour of cooperative federalism in which the relations of Centre and State are much closer." Regardless of form and shifts, however, Hicks contends, "In all forms the central problem is intergovernmental relations: economic, political, and social." She subdivides these relations into "economic-financial" and "political-administrative." These two categories, or themes, are faithfully reflected in the case studies, but they become sub-themes to a larger motif, socio-historical. In Hicks's words, "Only by studying the past history of