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Volume 1 Rules and Order

Volume 2 The Mirage of Social Justice

Volume 3 The Political Order of a Free Society (*forthcoming*)

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## LAW, LEGISLATION AND LIBERTY

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*A new statement of the liberal principles  
of justice and political economy*

Volume 2

### THE MIRAGE OF SOCIAL JUSTICE

Friedrich A. Hayek



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In a free society the state does not administer the affairs of men. It administers justice among men who conduct their own affairs.

(Walter Lippmann, *An Inquiry into the Principles of a Good Society* (Boston, 1937), p. 267)

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Nations solemnly proclaiming that *every* individual (!), 'keeping this Declaration constantly in mind' (!), should strive to insure the universal observation of those human rights, would be merely comic if the illusions which this creates were not so profoundly tragic. To see the most comprehensive authority which man has yet created undermining the respect it ought to command by giving countenance to the naive prejudice that we can create any state of affairs which we think to be desirable by simply decreeing that it ought to exist, and indulging in the self-deception that we can benefit from the spontaneous order of society and at the same time mould it to our own will, is more than merely tragic.<sup>5</sup>

The fundamental fact which these illusions disregard is that the availability of all those benefits which we wish as many people as possible to have depends on these same people using for their production their own best knowledge. To establish enforceable rights to the benefits is not likely to produce them. If we wish everybody to be well off, we shall get closest to our goal, not by commanding by law that this should be achieved, or giving everybody a legal claim to what we think he ought to have, but by providing inducements for all to do as much as they can that will benefit others. To speak of rights where what are in question are merely aspirations which only a voluntary system can fulfil, not only misdirects attention from what are the effective determinants of the wealth which we wish for all, but also debases the word 'right', the strict meaning of which it is very important to preserve if we are to maintain a free society.

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## THE MARKET ORDER OR CATALLAXY

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The judgement of mankind about what is equitable is liable to change, and . . . one of the forces which cause it to change is mankind's discovery from time to time that what was supposed to be quite just and equitable in some particular matter has become, or perhaps always was, uneconomical.

Edwin Cannan\*

### *The nature of the market order*

In chapter 2 we have discussed the general character of all spontaneous orders. It is necessary now to examine more fully the special attributes possessed by the order of the market and the nature of the benefits we owe to it. This order serves our ends not merely, as all order does, by guiding us in our actions and by bringing about a certain correspondence between the expectations of the different persons, but also, in a sense which we must now make more precise, by increasing the prospects or chances of every one of a greater command over the various goods (i.e. commodities and services) than we are able to secure in any other way. We shall see, however, that this manner of co-ordinating individual actions will secure a high degree of coincidence of expectations and an effective utilization of the knowledge and skills of the several members only at the price of a constant disappointment of some expectations.

For a proper understanding of the character of this order it is essential that we free ourselves of the misleading associations suggested by its usual description as an 'economy'. An economy, in the strict sense of the word in which a household, a farm, or an enterprise can be called economies, consists of a complex of activities by which a given set of means is allocated in accordance with a unitary plan among the competing ends according to their relative importance. The market order serves no such single order of ends.

#### THE MARKET ORDER OR CATAULLAXY

What is commonly called a social or national economy is in this sense not a single economy but a network of many interlaced economies.<sup>1</sup> Its order shares, as we shall see, with the order of an economy proper some formal characteristics but not the most important one: its activities are not governed by a single scale or hierarchy of ends. The belief that the economic activities of the individual members of society are or ought to be part of one economy in the strict sense of this term, and that what is commonly described as the economy of a country or a society ought to be ordered and judged by the same criteria as an economy proper, is a chief source of error in this field. But, whenever we speak of the economy of a country, or of the world, we are employing a term which suggests that these systems ought to be run on socialist lines and directed according to a single plan so as to serve a unitary system of ends.

While an economy proper is an organization in the technical sense in which we have defined that term, that is, a deliberate arrangement of the use of the means which are known to some single agency, the cosmos of the market neither is nor could be governed by such a single scale of ends; it serves the multiplicity of separate and incommensurable ends of all its separate members.

The confusion which has been created by the ambiguity of the word economy is so serious that for our present purposes it seems necessary to confine its use strictly to the original meaning in which it describes a complex of deliberately co-ordinated actions serving a single scale of ends, and to adopt another term to describe the system of numerous interrelated economies which constitute the market-order. Since the name 'cataullactics' has long ago been suggested for the science which deals with the market order<sup>2</sup> and has more recently been revived,<sup>3</sup> it would seem appropriate to adopt a corresponding term for the market order itself. The term 'cataullactics' was derived from the Greek verb *katallattein* (or *katallassein*) which meant, significantly, not only 'to exchange' but also 'to admit into the community' and 'to change from enemy into friend'.<sup>4</sup> From it the adjective 'cataullactic' has been derived to serve in the place of 'economic' to describe the kind of phenomena with which the science of cataullactics deals. The ancient Greeks knew neither this term nor had a corresponding noun; if they had formed one it would probably have been *katallaxia*. From this we can form an English term *cataullaxy* which we shall use to describe the order

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brought about by the mutual adjustment of many individual economies in a market. A cataullaxy is thus the special kind of spontaneous order produced by the market through people acting within the rules of the law of property, tort and contract.

*A free society is a pluralistic society without a common hierarchy of particular ends*

It is often made a reproach to the Great Society and its market order that it lacks an agreed ranking of ends. This, however, is in fact its great merit which makes individual freedom and all it values possible. The Great Society arose through the discovery that men can live together in peace and mutually benefiting each other without agreeing on the particular aims which they severally pursue. The discovery that by substituting abstract rules of conduct for obligatory concrete ends made it possible to extend the order of peace beyond the small groups pursuing the same ends, because it enabled each individual to gain from the skill and knowledge of others whom he need not even know and whose aims could be wholly different from his own.<sup>5</sup>

The decisive step which made such peaceful collaboration possible in the absence of concrete common purposes was the adoption of barter or exchange. It was the simple recognition that different persons had different uses for the same things, and that often each of two individuals would benefit if he obtained something the other had, in return for his giving the other what he needed. All that was required to bring this about was that rules be recognized which determined what belonged to each, and how such property could be transferred by consent.<sup>6</sup> There was no need for the parties to agree on the purposes which this transaction served. It is indeed characteristic of such acts of exchange that they serve different and independent purposes of each partner in the transaction, and that they thus assist the parties as means for different ends. The parties are in fact the more likely to benefit from exchange the more their needs differ. While within an organization the several members will assist each other to the extent that they are made to aim at the same purposes, in a cataullaxy they are induced to contribute to the needs of others without caring or even knowing about them.

In the Great Society we all in fact contribute not only to the satisfaction of needs of which we do not know, but sometimes even to the achievement of ends of which we would disapprove if we

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knew about them. We cannot help this because we do not know for what purposes the goods or services which we supply to others will be used by them. That we assist in the realization of other people's aims without sharing them or even knowing them, and solely in order to achieve our own aims, is the source of strength of the Great Society. So long as collaboration presupposes common purposes, people with different aims are necessarily enemies who may fight each other for the same means; only the introduction of barter made it possible for the different individuals to be of use to each other without agreeing on the ultimate ends.

When this effect of exchange of making people mutually benefit each other without intending to do so was first clearly recognized,<sup>7</sup> too much stress was laid on the resulting division of labour and on the fact that it was their 'selfish' aims which led the different persons to render services to each other. This is much too narrow a view of the matter. Division of labour is extensively practised also within organizations; and the advantages of the spontaneous order do not depend on people being selfish in the ordinary sense of this word. The important point about the catallaxy is that it reconciles different knowledge and different purposes which, whether the individuals be selfish or not, will greatly differ from one person to another. It is because in the catallaxy men, while following their own interests, whether wholly egotistical or highly altruistic, will further the aims of many others, most of whom they will never know, that it is as an overall order so superior to any deliberate organization: in the Great Society the different members benefit from each other's efforts not only in spite of but often even because of their several aims being different.<sup>8</sup>

Many people regard it as revolting that the Great Society has no common concrete purposes or, as we may say, that it is merely means-connected and not ends-connected. It is indeed true that the chief common purpose of all its members is the purely instrumental one of securing the formation of an abstract order which has no specific purposes but will enhance for all the prospects of achieving their respective purposes. The prevailing moral tradition, much of which still derives from the end-connected tribal society, makes people often regard this circumstance as a moral defect of the Great Society which ought to be remedied. Yet it was the very restriction of coercion to the observance of the negative rules of just conduct that made possible the integration into a peaceful order of individuals and groups which pursued different ends; and

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it is the absence of prescribed common ends which makes a society of free men all that it has come to mean to us.

Though the conception that a common scale of particular values is a good thing which ought, if necessary, to be enforced, is deeply founded in the history of the human race, its intellectual defence today is based mainly on the erroneous belief that such a common scale of ends is necessary for the integration of the individual activities into an order, and a necessary condition of peace. This error is, however, the greatest obstacle to the achievement of those very ends. A Great Society has nothing to do with, and is in fact irreconcilable with 'solidarity' in the true sense of unitedness in the pursuit of known common goals.<sup>9</sup> If we all occasionally feel that it is a good thing to have a common purpose with our fellows, and enjoy a sense of elation when we can act as members of a group aiming at common ends, this is an instinct which we have inherited from tribal society and which no doubt often still stands us in good stead whenever it is important that in a small group we should act in concert to meet a sudden emergency. It shows itself conspicuously when sometimes even the outbreak of war is felt as satisfying a craving for such a common purpose; and it manifests itself most clearly in modern times in the two greatest threats to a free civilization: nationalism and socialism.<sup>10</sup>

Most of the knowledge on which we rely in the pursuit of our ends is the unintended by-product of others exploring the world in different directions from those we pursue ourselves because they are impelled by different aims; it would never have become available to us if only those ends were pursued which we regarded as desirable. To make it a condition for the membership of a society that one approved of, and deliberately supported, the concrete ends which one's fellow members serve, would eliminate the chief factor which makes for the advancement of such a society. Where agreement on concrete objects is a necessary condition of order and peace, and dissent a danger to the order of the society, where approval and censure depend on the concrete ends which particular actions serve, the forces for intellectual progress would be much confined. However much the existence of agreement on ends may in many respects smooth the course of life, the possibility of disagreement, or at least the lack of compulsion to agree on particular ends, is the basis of the kind of civilization which has grown up since the Greeks developed independent thought of the individual as the most effective method of advancement of the human mind.<sup>11</sup>

*Though not a single economy, the Great Society is still held together mainly by what vulgarly are called economic relations*

The misconception that the market order is an economy in the strict sense of the term is usually found combined with the denial that the Great Society is held together by what are loosely called economic relations. These two views are frequently held by the same persons because it is certainly true that those deliberate organizations which are properly called economies are based on an agreement on common ends which in turn mostly are non-economic; while it is the great advantage of the spontaneous order of the market that it is merely means-connected and that, therefore, it makes agreement on ends unnecessary and a reconciliation of divergent purposes possible. What are commonly called economic relations are indeed relations determined by the fact that the use of all means is affected by the striving for those many different purposes. It is in this wide sense of the term 'economic' that the interdependence or coherence of the parts of the Great Society is purely economic.<sup>12</sup>

The suggestion that in this wide sense the only ties which hold the whole of a Great Society together are purely 'economic' (more precisely 'catastrophic') arouse great emotional resistance. Yet the fact can hardly be denied; nor the fact that, in a society of the dimensions and complexity of a modern country or of the world, it can hardly be otherwise. Most people are still reluctant to accept the fact that it should be the disdained 'cash-nexus' which holds the Great Society together, that the great ideal of the unity of mankind should in the last resort depend on the relations between the parts being governed by the striving for the better satisfaction of their material needs.

It is of course true that within the overall framework of the Great Society there exist numerous networks of other relations that are in no sense economic. But this does not alter the fact that it is the market order which makes peaceful reconciliation of the divergent purposes possible—and possible by a process which redounds to the benefit of all. That interdependence of all men, which is now in everybody's mouth and which tends to make all mankind One World, not only is the effect of the market order but could not have been brought about by any other means. What today connects the life of any European or American with what happens in Australia, Japan or Zaire are repercussions transmitted by the network of

market relations. This is clearly seen when we reflect how little, for instance, all the technological possibilities of transportation and communication would matter if the conditions of production were the same in all the different parts of the world.

The benefits from the knowledge which others possess, including all the advances of science, reach us through channels provided and directed by the market mechanism. Even the degree to which we can participate in the aesthetic or moral strivings of men in other parts of the world we owe to the economic nexus. It is true that on the whole this dependence of every man on the actions of so many others is not a physical but what we call an economic fact. It is therefore a misunderstanding, caused by the misleading terms used, if the economists are sometimes accused of 'pan-economism', a tendency to see everything from the economic angle, or, worse, wanting to make 'economic purposes' prevail over all others.<sup>13</sup> The truth is that catastrophics is the science which describes the only overall order that comprehends nearly all mankind, and that the economist is therefore entitled to insist that conductiveness to that order be accepted as a standard by which all particular institutions are judged.

It is, however, a misunderstanding to represent this as an effort to make 'economic ends' prevail over others. There are, in the last resort, no economic ends. The economic efforts of the individuals as well as the services which the market order renders to them, consist in an allocation of means for the competing ultimate purposes which are always non-economic. The task of all economic activity is to reconcile the competing ends by deciding for which of them the limited means are to be used. The market order reconciles the claims of the different non-economic ends by the only known process that benefits all—without, however, assuring that the more important comes before the less important, for the simple reason that there can exist in such a system no single ordering of needs. What it tends to bring about is merely a state of affairs in which no need is served at the cost of withdrawing a greater amount of means from the use for other needs than is necessary to satisfy it. The market is the only known method by which this can be achieved without an agreement on the relative importance of the different ultimate ends, and solely on the basis of a principle of reciprocity through which the opportunities of any person are likely to be greater than they would otherwise be.

*The aim of policy in a society of free men cannot be a maximum of foreknown results but only an abstract order*

The erroneous interpretation of the catallaxy as an economy in the strict sense of this word frequently leads to attempts to evaluate the benefits which we derive from it in terms of the degree of satisfaction of a given order of ends. But, if the importance of the various demands is judged by the price offered, this approach, as has been pointed out innumerable times, by the critics of the market order even more frequently than by its defenders, involves us in a vicious circle: because the relative strength of the demand for the different goods and services to which the market will adjust their production is itself determined by the distribution of incomes which in turn is determined by the market mechanism. Many writers have concluded from this that if this scale of relative demands cannot without circular reasoning be accepted as the common scale of values, another scale of ends must be postulated if we are to judge the effectiveness of this market order.

The belief that there can be no rational policy without a common scale of concrete ends implies, however, an interpretation of the catallaxy as an economy proper and for this reason is misleading. Policy need not be guided by the striving for the achievement of particular results, but may be directed towards securing an abstract overall order of such character that it will secure for the members the best chance of achieving their different and largely unknown particular ends. The aim of policy in such a society would have to be to increase equally the chances for any unknown member of society of pursuing with success his equally unknown purposes, and to restrict the use of coercion (apart from the raising of taxes) to the enforcement of such rules as will, if universally applied, tend in this sense to improve everyone's opportunities.

A policy making use of the spontaneously ordering forces therefore cannot aim at a known maximum of particular results, but must aim at increasing, for any person picked out at random, the prospects that the overall effect of all changes required by that order will be to increase his chances of attaining his ends. We have seen<sup>14</sup> that the common good in this sense is not a particular state of things but consists in an abstract order which in a free society must leave undetermined the degree to which the several particular needs will be met. The aim will have to be an order which will increase everybody's chances as much as possible—

not at every moment, but only 'on the whole' and in the long run.

Because the results of any economic policy must depend on the use made of the operation of the market by unknown persons guided by their own knowledge and their own aims, the goal of such a policy must be to provide a multi-purpose instrument which at no particular moment may be the one best adapted to the particular circumstances, but which will be the best for the great variety of circumstances likely to occur. If we had known those particular circumstances in advance, we could probably have better equipped ourselves to deal with them; but since we do not know them beforehand, we must be content with a less specialized instrument which will allow us to cope even with very unlikely events.

#### *The game of catallaxy*

The best way to understand how the operation of the market system leads not only to the creation of an order, but also to a great increase of the return which men receive from their efforts, is to think of it, as suggested in the last chapter, as a game which we may now call the game of catallaxy. It is a wealth-creating game (and not what game theory calls a zero-sum game), that is, one that leads to an increase of the stream of goods and of the prospects of all participants to satisfy their needs, but which retains the character of a game in the sense in which the term is defined by the *Oxford English Dictionary*: 'a contest played according to rules and decided by superior skill, strength or good fortune'. That the outcome of this game for each will, because of its very character, necessarily be determined by a mixture of skill and chance will be one of the main points we must now try to make clear.

The chief cause of the wealth-creating character of the game is that the returns of the efforts of each player act as the signs which enable him to contribute to the satisfaction of needs of which he does not know, and to do so by taking advantage of conditions of which he also learns only indirectly through their being reflected in the prices of the factors of production which they use. It is thus a wealth-producing game because it supplies to each player information which enables him to provide for needs of which he has no direct knowledge and by the use of means of the existence of which without it he would have no cognizance, thus bringing about the satisfaction of a greater range of needs than would otherwise be possible. The manufacturer does not produce shoes because he

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knows that Jones needs them. He produces because he knows that dozens of traders will buy certain numbers at various prices because they (or rather the retailer they serve) know that thousands of Joneses, whom the manufacturer does not know, want to buy them. Similarly, a manufacturer will release resources for additional production by others by substituting, say, aluminium for magnesium in the production of his output, not because he knows of all the changes in demand and supply which on balance have made aluminium less scarce and magnesium more scarce, but because he learns the one simple fact that the price at which aluminium is offered to him has fallen relatively to the price of magnesium. Indeed, probably the most important instance of the price system bringing about the taking into account of conflicts of desires which otherwise would have been overlooked is the accounting of costs—in the interests of the community at large the most important aspect, i.e. the one most likely to benefit many other persons, and the one at which private enterprise excels but government enterprise notoriously fails.

Thus in the market order each is made by the visible gain to himself to serve needs which to him are invisible, and in order to do so to avail himself of to him unknown particular circumstances which put him in the position to satisfy these needs at as small a cost as possible in terms of other things which it is possible to produce instead. And where only a few know yet of an important new fact, the much maligned speculators will see to it that the relevant information will rapidly be spread by an appropriate change of prices. The important effect of this will of course be that all changes are currently taken account of as they become known to somebody connected with the trade, not that the adaptation to the new facts will ever be perfect.

The current prices, it must be specially noted, serve in this process as indicators of what ought to be done in the present circumstances and have no necessary relation to what has been done in the past in order to bring the current supply of any particular good on the market. For the same reason that the prices which guide the direction of the different efforts reflect events which the producer does not know, the return from his efforts will frequently be different from what he expected, and must be so if they are to guide production appropriately. The remunerations which the market determines are, as it were, not functionally related with what people *have* done, but only with what they *ought* to do. They

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are incentives which as a rule guide people to success, but will produce a viable order only because they often disappoint the expectations they have caused when relevant circumstances have unexpectedly changed. It is one of the chief tasks of competition to show which plans are false. The facts that full utilization of the limited information which the prices convey is usually rewarded, and that this makes it worth-while to pay the greatest attention to them, are as important as that in the case of unforeseen changes the expectations are disappointed. The element of luck is as inseparable from the operation of the market as the element of skill.

There is no need morally to justify specific distributions (of income or wealth) which have not been brought about deliberately but are the outcome of a game that is played because it improves the chances of all. In such a game nobody 'treats' people differently and it is entirely consistent with respecting all people equally that the outcome of the game for different people is very different. It would also be as much a gamble what the effects of any one man's efforts would be worth if they were directed by a planning authority, only that not his knowledge but that of the authority would be used in determining the success or failure of his efforts.

The sum of information reflected or precipitated in the prices is wholly the product of competition, or at least of the openness of the market to anyone who has relevant information about some source of demand or supply for the good in question. Competition operates as a discovery procedure not only by giving anyone who has the opportunity to exploit special circumstances the possibility to do so profitably, but also by conveying to the other parties the information that there is some such opportunity. It is by this conveying of information in coded form that the competitive efforts of the market game secure the utilization of widely dispersed knowledge.

Even more important, perhaps, than the information about wants that may be satisfied and for whose satisfaction an attractive price is offered, is the information about the possibility of doing so by a smaller outlay than is currently incurred of resources which are needed also elsewhere. And it is not merely, or perhaps even chiefly, the fact that prices will spread the knowledge that some technical possibilities exist to produce a commodity more efficiently, but above all the indication which of the available technical methods is the most economical in the given circumstances, and the changes in the relative scarcities of the different materials and other factors, which alter the relative advantages of the different

methods, which is of decisive importance. Almost any product can be produced by a great many different quantitative combinations of the various factors of production, and which of them will be the least costly, i.e. will involve the least sacrifice of other goods that might be produced with them, is indicated by the relative prices of these factors.<sup>15</sup>

By thus endeavouring to produce their outputs as cheaply as possible the producers in a sense will indeed make the total product of the catallaxy as great as possible. The prices at which they can buy the different factors on the market will tell each which quantities of any two of them cost the same because they bring elsewhere the same marginal return; and he will thereby be induced so to adjust the relative amounts of any pair of factors he requires that such quantities of them will make the same marginal contributions to his output (be 'marginal substitutes' for each other) as will cost him the same amount of money. If this is generally done, and the marginal rates of substitution between any two factors have become the same in all their uses, the market has reached the horizon of cataullactic possibilities at which the greatest possible quantity of the particular combination of goods is being produced which in the circumstances can be produced.

For the case of only two goods this horizon of cataullactic possibilities can be illustrated by a simple diagram known in economic theory as a transformation curve: if the quantities of the two goods are measured along two rectangular co-ordinates, any straight line through the origin will represent the locus of all possible total quantities of two products in a given quantitative proportion, say  $a+2b$ ,  $2a+4b$ ,  $3a+6b$ , etc., etc., and there will be, for any given supply of factors, an absolute maximum that can be obtained if these two factors are distributed economically between the two uses. The convex curve connecting the points standing for the maxima of the different combinations of the two goods is the 'transformation curve' representing the horizon of cataullactic possibilities for these two goods in the existing situation. The important point about this range of potential maxima is that it is not simply a technical fact but is determined by the momentary scarcity or plenty of the different factors, and that the horizon of cataullactic possibilities will be reached only if the marginal rates of substitution between the different factors are made the same in all their uses—which, of course, in a catallaxy producing many goods, can be achieved only by all producers adjusting the relative quantities of

the different factors which they use according to their uniform market prices.

The horizon of cataullactic possibilities (which for a system producing  $n$  goods would be represented by an  $n$ -dimensional surface) would indicate the range of what are now usually described as Pareto-optima, i.e. all the combinations of different goods which can be produced for which it is impossible so to rearrange production that some consumer gets more of something without in consequence anybody else getting less of anything (which is always possible if the product corresponds to any point inside the horizon).

If there is no accepted order of rank of the different needs, there is no way of deciding which among the different combinations of goods corresponding to this horizon is larger than any other. Yet every one of these combinations is a 'maximum' in a peculiar limited sense which, however, is the only sense in which, for a society which has no agreed hierarchy of ends, we can speak of a maximum at all: it corresponds to the largest amount of the particular combination of goods which can be produced by the known techniques (a sense in which the largest quantity of one good only that could be produced if nothing else were produced would be one of the maxima included in the horizon of possibilities!). The combination in fact produced will be determined by the relative strength of the demand for the different goods—which in turn depends on the distribution of incomes, that is the prices paid for the contributions of the different factors of production, and these again serve merely (or are necessary in order) to secure that the horizon of cataullactic possibilities be approached.

The effect of all this is thus that, while the share of each factor of production in the total output is determined by the instrumental necessities of the only known process by which we can secure a steady approach to that horizon, the material equivalent of any given individual share will be as large as it can possibly be made. In other words, while the share of each player in the game of catallaxy will be determined partly by skill and partly by chance, the content of the share which is allocated to him by that mixed game of chance and skill will be a true maximum.

It would, of course, be unreasonable to demand more from the operation of a system in which the several actors do not serve a common hierarchy of ends but co-operate with each other only because they can thereby mutually assist each other in their respective pursuit of their individual ends. Nothing else is indeed

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possible in an order in which the participants are free in the sense of being allowed to use their own knowledge for their own purposes. So long as the game is played by which alone all this knowledge can be utilized and all these ends taken into account, it would be inconsistent and unjust to divert some part of the stream of goods to some group of players whom some authority thinks deserves it. On the other hand, in a centrally directed system, it would be impossible to reward people in accordance with the value which their voluntary contributions have to their fellows, because, without an effective market, the individuals could neither know, nor be allowed to decide, where to apply their efforts. The responsibility for the use of his gifts and the usefulness of the results would rest entirely with the directing authority.

*Men can be allowed to act on their own knowledge and for their own purposes only if the reward they obtain is dependent in part on circumstances which they can neither control nor foresee. And if they are to be allowed to be guided in their actions by their own moral beliefs, it cannot also be morally required that the aggregate effects of their respective actions on the different people should correspond to some ideal of distributive justice. In this sense freedom is inseparable from rewards which often have no connection with merit and are therefore felt to be unjust.*

*In judging the adaptations to changed circumstances comparisons of the new with the former position are irrelevant*

While in the case of bilateral barter the reciprocal advantages to both parties are easy to see, the position may at first seem to be different in the conditions of multilateral or multiangular exchange which are the rule in modern society. Here a person will normally render services to one group of persons, but himself receive services from another group. And as every decision will usually be a question of from whom to buy and to whom to sell, though it is still true that in this case both parties of the new transaction will gain, we must consider also the effects on those with whom the participants in the new transactions have decided not to deal again because their new partners have offered them more favourable terms. The effects of such decisions on third persons will be felt particularly severely when these have come to count on the opportunity to deal with the persons with whom they have done so in the past, and now find their expectations disappointed and their

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incomes diminished. Must we not in this case count the loss of those from whom demand or supply has turned as an offset against the gain of those who have availed themselves of the new opportunities?

As we have seen in the last chapter, such undeserved diminutions of the material positions of whole groups are the source of a main complaint against the market order. Yet such diminutions of the relative, and often even of the absolute position of some will be a necessary and constantly recurring effect so long as in the several transactions the parties consider only their own advantage and not the effects of their decisions on others. Does this mean that something is disregarded that ought to be taken into account in the formation of a desirable order?

The conditions which prevailed earlier, however, are wholly irrelevant for what is appropriate after the external circumstances have changed. The past position of those who are now forced to descend from it was determined by the operation of the same process as that which now favours others. The action of the market takes account only of the conditions known to exist at present (or expected to prevail in the future); it adapts relative values to them without regard to the past. Those whose services were more valuable in the past were then accordingly paid for them. The new position is not an improvement over the past condition in the sense that it constitutes a better adaptation to the same circumstances; it represents the same kind of adaptation to new circumstances as the former position did with respect to the circumstances which existed then.

In the context of an order the advantage of which is that it continually adapts the use of resources to conditions unforeseen and unknown to most people, bygones are forever bygones<sup>16</sup>—the past conditions tell us nothing about what is appropriate now. Though to some extent past prices will serve as the chief basis for forming expectations about future prices, they will do so only where a large part of the conditions have remained unchanged, but not where extensive changes have occurred.

Any discovery of more favourable opportunities for satisfying their needs by some will thus be a disadvantage to those on whose services they would otherwise have relied. Yet in this respect the effects of new and more favourable opportunities for exchanging which appear for particular individuals are for society as a whole as beneficial as the discovery of new or hitherto unknown material

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resources. The parties to the new exchange transaction will now be able to satisfy their needs by the expenditure of a smaller part of their resources, and what they thereby save can be used to provide additional services to others. Of course, those who as a result will be deprived of their former customers will incur a loss which it would be in their interest to prevent. But like all others, they will have been profiting all the time from the repercussions of thousands of similar changes elsewhere which release resources for a better supply of the market. And though in the short run the unfavourable effect on them may out-balance the sum of the indirect beneficial effects, in the long run the sum of all those particular effects, although they always will harm some, are likely to improve the chances for all. This result, however, will occur only if the immediate and generally more visible effects are systematically disregarded and policy is governed by the probability that in the long run all will profit by the utilization of every opportunity of the kind.

The known and concentrated harm to those who lose part or all of the customary source of income must, in other words, not be allowed to count against the diffused (and, from the point of view of policy, usually unknown and therefore indiscriminate) benefits to many. We shall see that the universal tendency of politics is to give preferential consideration to few strong and therefore conspicuous effects over the numerous small and therefore neglected ones, and therefore to grant special privileges to groups threatened with the loss of positions they have achieved. But when we reflect that most of the benefits we currently owe to the market are the results of continuous adaptations which are unknown to us, and because of which only some but not all of the consequences of our deliberate decisions can be foreseen, it should be obvious that we will achieve the best results if we abide by a rule which, if consistently applied, is likely to increase everybody's chances. Though the share of each will be unpredictable, because it will depend only in part on his skill and opportunities to learn facts, and in part on accident, this is the condition which alone will make it the interest of all so to conduct themselves as to make as large as possible the aggregate product of which they will get an unpredictable share. Of the resulting distribution it cannot be claimed that it is materially just, but only that it is the result of a process which is known to improve the chances of all and not the consequence of specific directed measures which favour some on principles that could not be generally acted upon.

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*Rules of just conduct protect only material domains and not market values*

The value which any person's products or services will have in the market, and therefore his share in the aggregate product, will always depend also on decisions which other persons make in the light of the changing possibilities known to them. A particular price or a particular share in the total output can therefore be assured to any person only by requiring particular other persons to buy from him at a certain price. This is clearly incompatible with the principle that coercion is to be limited to the enforcement of uniform rules of just conduct equally applicable to all. Rules of just conduct which are end-independent cannot determine what anyone must do (apart from the discharge of obligations voluntarily entered into), but only what he must not do. They merely lay down the principles determining the protected domain of each on which nobody must encroach.

In other words, rules of just conduct can enable us merely to determine which particular things belong to particular persons, but not what these things will be worth, or what benefit they will confer on those to whom they belong. The rules serve to provide information for the decision of individuals, and thus help to reduce uncertainty, but they cannot determine what use the individual can make of this information and therefore also not eliminate *all* uncertainty. They tell each individual only what are the particular things he can count on being able to use, but not what the results of his use will be so far as these depend on the exchange of the product of their efforts with others.

It is clearly misleading to express this by saying that the rules of just conduct allocate particular things to particular people. They state the conditions under which any person can acquire or give up particular things, but do not by themselves definitely determine the particular conditions in which he will find himself. His domain will at any moment depend on how successfully he has used these conditions, and on the particular opportunities he happens to have encountered. In a sense it is even true that such a system gives to those who already have. But this is its merit rather than its defect, because it is this feature which makes it worth-while for everybody to direct his efforts not only towards immediate results but also towards the future increase of his capacity of rendering services to others. It is the possibility of acquisition for the purpose of

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improving the capacity for future acquisition which engenders a continuous overall process in which we do not at every moment have to start from scratch, but can begin with equipment which is the result of past efforts in order to make as large as possible the earnings from the means which we control.

*The correspondence of expectations is brought about by a disappointment of some expectations*

The abstract rule of conduct can (and, in order to secure the formation of a spontaneous order, should) thus protect only the expectation of command over particular physical things and services, and not the expectations concerning their market value, i.e. the terms on which they can be exchanged for other things. This is a point of central importance which is frequently misunderstood. From it follow several significant corollaries. First, though it is the aim of law to increase certainty, it can eliminate only certain sources of uncertainty and it would be harmful if it attempted to eliminate all uncertainty: it can protect expectations only by prohibiting interference with a man's property (including claims on such future services of others as these others have voluntarily promised) and not by requiring others to take particular actions. It can, therefore, not assure any one that the goods and services which he has to offer will have a particular value, but only that he will be allowed to obtain for them what price he can.

The reason why the law can protect only some but not all expectations, or remove only some but not all sources of uncertainty, is that rules of just conduct can only limit the range of permitted actions in such a manner that the intentions of different persons will not clash, but cannot positively determine what actions those individuals must perform. By restraining the range of actions which any individual may take, the law opens for all the possibility of effective collaboration with others, but does not assure it. Rules of conduct that equally limit the freedom of each so as to assure the same freedom to all can merely make possible agreements for obtaining what is now possessed by others, and thereby channel the efforts for all towards seeking agreement with others. But they cannot secure the success of these efforts, or determine the terms on which such agreements can be concluded.

The correspondence of expectations that makes it possible for all parties to achieve what they are striving for is in fact brought

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about by a process of learning by trial and error which must involve a constant disappointment of some expectations. The process of adaptation operates, as do the adjustments of any self-organizing system, by what cybernetics has taught us to call negative feedback: responses to the differences between the expected and the actual results of actions so that these differences will be reduced. This will produce an increased correspondence of expectations of the different persons so long as current prices provide some indications of what future prices will be, that is, so long as, in a fairly constant framework of known facts, always only a few of them change; and so long as the price mechanism operates as a medium of communicating knowledge which brings it about that the facts which become known to some, through the effects of their actions on prices, are made to influence the decision of others.

It may at first appear paradoxical that in order to achieve the greatest attainable certainty it should be necessary to leave uncertain so important an object of expectations as the terms at which things can be bought and sold. The paradox disappears, however, when we remember that we can aim only at providing the best basis for judging what of necessity is uncertain and for securing continual adaptation to what has not been known before: we can strive only for the best utilization of partial knowledge that constantly changes, and that is communicated mainly through changes in prices, and not for the best utilization of a given and constant stock of knowledge. The best we can attain in such a situation is not certainty but the elimination of avoidable uncertainty—which cannot be attained by preventing unforeseen changes from spreading their effects, but only by facilitating the adaptation to such changes.

It is often contended that it is unjust to let the burden of such unforeseeable changes fall on people who could not foresee them, and that, if such risks are unavoidable, they ought to be pooled and the losses equally born by all. It can, however, hardly be known whether any particular change was unforeseeable for all. The whole system rests on providing inducements for all to use their skill to find out particular circumstances in order to anticipate impending changes as accurately as possible. This incentive would be removed if each decision did not carry the risk of loss, or if an authority had to decide whether a particular error in anticipation was excusable or not.<sup>17</sup>

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*Abstract rules of just conduct can determine only chances and not particular results*

Rules of just conduct that apply equally to all members of society can refer only to some but not to all of the conditions under which their actions take place. It is a consequence of this that they can secure for all individuals only chances and not the certainty of a particular outcome. Even in a game with equal chances for all players there will be some winners and some losers. By assuring the individual of some of the elements of the situation in which he will have to act, his prospects will be improved, but necessarily many factors left undetermined on which his success depends. The aim of legislation, in laying down rules for an unknown number of future instances, can therefore be only to increase the chances of unknown persons whose opportunities will chiefly depend on their individual knowledge and skill as well as on the particular conditions in which accident will place them. The efforts of the legislator can thus be directed only towards increasing the chances for all, not in the sense that the incidence of the diffused effects of his decision on the various individuals will be known, but only in the sense that he can aim at increasing the opportunities that will become available to some unknown persons.

It is a corollary of this that each individual will have a claim in justice, not to an equal chance in general, but only that the principles guiding all coercive measures of government should be equally likely to benefit anybody's chances; and that these rules be applied in all particular instances irrespective of whether the effect on particular individuals seems desirable or not. So long as the positions of the different individuals are to be left at all dependent on their skill and on the particular circumstances they encounter, nobody can assure that they will all have the same chances.

In such a game in which the results for the individuals depend partly on chance and partly on their skill, there is evidently no sense in calling the outcome either just or unjust. The position is somewhat like that in a competition for a prize in which we shall attempt to make conditions such that we can say who performs best, but will not be able to decide whether the best actual performance is proof of higher merit. We shall not be able to prevent accidents from interfering, and in consequence cannot be sure that the results will be proportionate to the capacity of the competitors or their particular qualities that we desire to encourage. Though we want

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nobody to cheat, we cannot prevent anyone from stumbling. Although we employ competition to find out who performs best, the result will only show who did best on the particular occasion, but not that the victor will generally do best. Too often we shall find that 'the race is not to the swift, nor the battle to the strong, neither yet bread to the wise, nor yet riches to men of understanding, nor yet favour to men of skill; but time and chance happeneth to them all.'<sup>18</sup> It is our ignorance of the effects of the application of the rules on particular people which makes justice possible in a spontaneous order of free men.<sup>19</sup>

Consistent justice will even often demand that we act as if we were ignorant of circumstances which in fact we do know. Both freedom and justice are values that can prevail only among men with limited knowledge and would have no meaning in a society of omniscient men. Consistent use of the power which we do possess over the structure of the market order will require systematic disregard of the concrete foreseeable effects a judicial decision will have. As the judge can be just only if he follows the principles of the law and disregards all the circumstances not referred to by its abstract rules (but which may be highly relevant for the moral evaluation of the action), so the rules of justice must limit the circumstances which may be taken into account in all instances. If *tout comprendre est tout pardonner*, this is precisely what the judge must not attempt because he never knows all. The need to rely on abstract rules in maintaining a spontaneous order is a consequence of that ignorance and uncertainty; and the enforcement of rules of conduct will achieve its purpose only if we adhere to them consistently and do not treat them merely as a substitute for knowledge which in the particular case we do not possess. It is therefore not the effect of their application in the particular cases but only the effects of their universal application that will lead to the improvement of everybody's chances and will therefore be accepted as just.<sup>20</sup> In particular, all concern with short run effects is bound to increase the preponderance of the visible and predictable effects over the invisible and distant ones, while rules intended to benefit all alike must not allow effects which accident has brought to the knowledge of the judge to outweigh those which he cannot know.

In a spontaneous order undeserved disappointments cannot be avoided. They are bound to cause grievances and a sense of having been treated unjustly, although nobody has acted unjustly. Those affected will usually, in perfectly good faith and as a matter of

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justice, put forward claims for remedial measures. But if coercion is to be restricted to the enforcement of uniform rules of just conduct, it is essential that government should not possess the power to accede to such demands. The reduction of the relative position of some about which they complain is the consequence of their having submitted to the same chances to which not only some others now owe the rise in their position, but to which they themselves owed their past position. It is only because countless others constantly submit to disappointments of their reasonable expectations that every one has as high an income as he has; and it is therefore only fair that he accept the unfavourable turn of events when they go against him. This is no less true when not a single individual but members of a large group share—and mutually support—that sense of grievance, and the change in consequence comes to be regarded as constituting a 'social problem'.

*Specific commands ('interference') in a catalaxy create disorder and can never be just*

A rule of just conduct serves the reconciliation of the different purposes of many individuals. A command serves the achievement of particular results. Unlike a rule of just conduct, it does not merely limit the range of choice of the individuals (or require them to satisfy expectations they have deliberately created) but commands them to act in a particular manner not required of other persons.

The term 'interference' (or 'intervention') is properly applied only to such specific orders which, unlike the rules of just conduct, do not serve merely the formation of a spontaneous order but aim at particular results. It was in this sense only that the classical economists used the term. They would not have applied it to the establishment or improvement of those generic rules which are required for the functioning of the market order and which they explicitly presupposed in their analysis.

Even in ordinary language 'interference' implies the operation of a process that proceeds by itself on certain principles because its parts obey certain rules. We would not call it interference if we oiled a clockwork, or in any other way secured the conditions that a going mechanism required for its proper functioning. Only if we changed the position of any particular part in a manner which is not in accord with the general principle of its operation, such as

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shifting the hands of a clock, can it properly be said that we have interfered. The aim of interference thus is always to bring about a particular result which is different from that which would have been produced if the mechanism had been allowed unaided to follow its inherent principles.<sup>21</sup> If the rules on which such a process proceeds are determined beforehand, the particular results it will produce at any one time will be independent of the momentary wishes of men.

The particular results that will be determined by altering a particular action of the system will always be inconsistent with its overall order: if they were not, they could have been achieved by changing the rules on which the system was henceforth to operate. Interference, if the term is properly used, is therefore by definition an isolated act of coercion,<sup>22</sup> undertaken for the purpose of achieving a particular result, and without committing oneself to do the same in all instances where some circumstances defined by a rule are the same. It is, therefore, always an unjust act in which somebody is coerced (usually in the interest of a third) in circumstances where another would not be coerced, and for purposes which are not his own.

It is, moreover, an act which will always disrupt the overall order and will prevent that mutual adjustment of all its parts on which the spontaneous order rests. It will do this by preventing the persons to whom the specific commands are directed from adapting their actions to circumstances known to them, and by making them serve some particular ends which others are not required to serve, and which will be satisfied at the expense of some other unpredictable effects. Every act of interference thus creates a privilege in the sense that it will secure benefits to some at the expense of others, in a manner which cannot be justified by principles capable of general application. What in this respect the formation of a spontaneous order requires is what is also required by the confinement of all coercion to the enforcement of rules of just conduct: that coercion be used only where it is required by uniform rules equally applicable to all.

*The aim of law should be to improve equally the chances of all*

Since rules of just conduct can affect only the chances of success of the efforts of men, the aim in altering or developing them should be to improve as much as possible the chances of anyone selected at

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random. Since in the long run it cannot be predicted when and where the particular conjunction of circumstances will occur to which any rule refers, it must also be unknown who will benefit by such an abstract rule and how much different persons will benefit. Such universal rules intended to apply for an indefinite period can thus aim solely at increasing the *chances* of unknown persons.

We prefer to speak in this context of chances rather than of probabilities because the latter term suggests numerical magnitudes which will not be known. All the law can do is to add to the number of favourable possibilities likely to arise for some unknown person and thus to build up an increasing likelihood that favourable opportunities will come anyone's way. But though the aim ought to be to add to everyone's prospects, it will normally not be known whose prospects will be improved by a particular legislative measure, and how much.

It should be noted that the concept of the chance enters here in two ways. In the first instance the relative position of any given persons can be described only as a range of opportunities which, if precisely known, could be represented as a probability distribution. Second, there is the question of the probability that any one member of the society will occupy any of the positions thus described. The resulting concept of the chances of any member of the society to have a certain range of opportunities is thus a complex one to which it is difficult to give mathematical precision. This would be useful, however, only if the numerical magnitudes were known, which, of course, they are not.<sup>23</sup>

It is obvious that the endeavour to add indiscriminately to anyone's chances will not result in making everybody's chances the same. The chances will always depend not only on future events which the law does not control, but also on the initial position of any individual at the moment the rules in question are adopted. In a continuous process this initial position of any person will always be a result of preceding phases, and therefore be as much an undesigned fact and dependent on chance as the future development. And since a part of most people's efforts will normally be directed to the improvement of their chances for the future, rather than to the satisfaction of their current needs, and more so as they have already succeeded in making provisions for the latter, the initial position of anyone will always be as much the result of a series of past accidents as of his efforts and foresight. It appears, therefore, that it is because the individual is free to decide whether

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to use the results of his current efforts for current consumption or for increasing his future opportunities that the position he has already achieved will improve his chances of reaching a still better position, or that 'to those who have will be given'. The possibility of distributing the use of one's resources over time will therefore always also tend to increase the discrepancy between the merits of a person's current efforts and the benefits which he currently receives.

To the extent that we rely on the institution of the family for the launching of the individual in life, the chain of events affecting the prospects of anyone will necessarily extend even beyond the period of his individual life. It is therefore inevitable that in the ongoing process of the catalaxy the starting point, and therefore also the prospects, of the different individuals will be different.

This is not to say that there may not be a case in justice for correcting positions which have been determined by earlier unjust acts or institutions. But unless such injustice is clear and recent, it will generally be impracticable to correct it. It will on the whole seem preferable to accept the given position as due to accident and simply from the present onwards to refrain from any measures aiming at benefiting particular individuals or groups. Though it might seem reasonable so to frame laws that they will tend more strongly to improve the opportunities of those whose chances are relatively small, this can rarely be achieved by generic rules. There are, no doubt, instances where the past development of law has introduced a bias in favour or to the disadvantage of particular groups; and such provisions ought clearly to be corrected. But on the whole it would seem that the fact which, contrary to a widely held belief, has contributed most during the last two hundred years to increase not only the absolute but also the relative position of those in the lowest income groups has been the general growth of wealth which has tended to raise the income of the lowest groups more than the relatively higher ones. This, of course, is a consequence of the circumstance that, once the Malthusian devil has been exorcized, the growth of aggregate wealth tends to make labour more scarce than capital. But nothing we can do, short of establishing absolute equality of all incomes, can alter the fact that a certain percentage of the population must find itself in the bottom of the scale; and as a matter of logic the chance of any person picked out at random being among the lowest 10 per cent must be one tenth!<sup>24</sup>

*The Good Society is one in which the chances of anyone selected at random are likely to be as great as possible*

The conclusion to which our considerations lead is thus that we should regard as the most desirable order of society one which we would choose if we knew that our initial position in it would be decided purely by chance (such as the fact of our being born into a particular family). Since the attraction such chance would possess for any particular adult individual would probably be dependent on the particular skills, capacities and tastes he has already acquired, a better way of putting this would be to say that the best society would be that in which we would prefer to place our children if we knew that their position in it would be determined by lot. Very few people would probably in this case prefer a strictly egalitarian order. Yet, while one might, for instance, regard the kind of life lived in the past by the landed aristocracy as the most attractive kind of life, and would choose a society in which such a class existed if he were assured that he or his children would be a member of that class, he would probably decide differently if he knew that that position would be determined by drawing lots and that in consequence it would be much more probable that he would become an agricultural labourer. He would then very likely choose that very type of industrial society which did not offer such delectable plums to a few but offered better prospects to the great majority.<sup>25</sup>

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## THE DISCIPLINE OF ABSTRACT RULES AND THE EMOTIONS OF THE TRIBAL SOCIETY

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Liberalism—it is well to recall this today—is the supreme form of generosity; it is the right which the majority concedes to minorities and hence it is the noblest cry that has ever resounded on this planet. It announces the determination to share existence with the enemy; more than that, with an enemy which is weak. It was incredible that the human species should have arrived at so noble an attitude, so paradoxical, so refined, so anti-natural. Hence it is not to be wondered at that this same humanity should soon appear anxious to get rid of it. It is a discipline too difficult and complex to take firm root on earth.

José Ortega y Gasset \*

*The pursuit of unattainable goals may prevent the achievement of the possible*

It is not enough to recognize that 'social justice' is an empty phrase without determinable content. It has become a powerful incantation which serves to support deep-seated emotions that are threatening to destroy the Great Society. Unfortunately it is not true that if something cannot be achieved, it can do no harm to strive for it.<sup>1</sup> Like chasing any mirage it is likely to produce results which one would have done much to avoid if one had foreseen them. Many desirable aims will be sacrificed in the vain hope of making possible what must forever elude our grasp.

We live at present under the governance of two different and irreconcilable conceptions of what is right; and after a period of ascendancy of conceptions which have made the vision of an Open Society possible, we are relapsing rapidly into the conceptions of the tribal society from which we had been slowly emerging. We had hoped that with the defeat of the European dictators we had banished the threat of the totalitarian state; but all we have achieved was to put down the first flare-up of a reaction which is slowly spreading everywhere. Socialism is simply a re-assertion of