Foreword

One of the aims of the Wincott Foundation is to contribute to a better understanding of how markets work and to highlight the damage that can be caused to social welfare when market forces are suppressed to serve the narrow aims of special interest groups. These themes figured prominently in the writings of Harold Wincott, the financial journalist in whose honor the foundation was set up in 1960, and they have been articulated in several of the Wincott lectures, which have been held annually since that date.

The 2003 Wincott lecture, delivered by Professor Richard Epstein from the University of Chicago and published in extended form in this paper, provided an illuminating analysis of some of the ways in which interest groups, aided and abetted by sympathetic politicians, have been able to rig the market in their favor. Professor Epstein focused in particular on two areas where such intervention has been extensive and persistent in the United States and western Europe—agriculture and the labor market.

On the first, Professor Epstein showed how the "right to farm," proclaimed by President Franklin Roosevelt in his 1944 State of the Union address, was transformed into the right of an individual to remain indefinitely in a particular occupation, whatever changes in supply and demand might take place. This arrangement was bolstered by an elaborate array of subsidies and restrictions designed to preserve the status quo, at considerable cost to taxpayers and consumers. Although the damage has been offset, at least in the advanced industrial countries, by spectacular improvements in agricultural productivity, Professor Epstein pointed out that the gains from technology are not spread evenly around the world and that agricultural protection imposes great damage on developing countries, which are prevented from making full use of their advantages of climate and cheap labor.

As for the labor market, the lecture contained a fascinating account of how procompetitive rulings by the U.S. Supreme Court in 1908 and 1917 were subsequently undermined by political decisions to exempt trade unions from the scope of the antitrust laws and then to regulate collective bargaining through the National Labor Relations Act. The consequence was the statutory codification of monopoly over competition. Fortunately, the effect of these measures was somewhat blunted by the Taft-Hartley Act of 1947, which restricted the ability of unions to bring pressure on employers through secondary boycotts and in other ways. Even more important was the impact of foreign competition: the postwar change in public attitudes toward free trade has had a strong market-positive influence on the degree of trade union power.

Professor Epstein related these cases to the larger issue of how best to regulate the interface between market choice and government behavior. Drawing on his deep knowledge of history, law, and economics, he discussed the need to find a middle way between socialism and libertarianism. The libertarians, he suggested, have gotten many things right, not least in their stress on the social gains that arise from voluntary exchange, but they sometimes underplay the importance of the social infrastructure—including a system of public taxation and finance—which no market can supply.

The great challenge for liberal democracies is to work out how to use systems of coercion to benefit the individuals and institutions subjected to it. In Epstein's view, it is possible to devise rules that permit the provision of public goods without allowing the state to succumb to the political favoritism that leads to massive transfers of wealth from one faction to another.

Professor Epstein presented his arguments with clarity, force, and wit—qualities that were very much in evidence during the lively discussion following his lecture. The trustees of the Wincott Foundation are grateful to Professor Epstein for agreeing to deliver the lecture, and warmly commend this paper.

Sir Geoffrey Owen
Chairman of the Trustees
The Wincott Foundation