

Rights of Man: Part Two

The second part of Paine's *Rights of Man* is, in my view, the most impressive of all his writings. The timing of its dedication to Lafayette was fortunate, since Lafayette, fearing to return to France after the defeat of the expedition against Prussia which he commanded in the spring of 1792, took refuge with the Austrians, who at once imprisoned him, possibly because he would not then disavow his republican principles. Since he was also opposed to the fanaticism of such men as Robespierre, it was unfortunate for him that he remained beyond the reach of their jurisdiction. He eventually came back to France in 1799.

So far was Paine from foreseeing Lafayette's defeat that he implied, in his dedication, that the Germans, following the example of France, might well embark on a revolution of their own. In the improbable event that a campaign were needed, he offered, but in fact made no practical attempt, to join Lafayette, in the hope that the campaign would 'terminate in the extinction of German despotism, and in establishing the freedom of all Germany'.¹ If there was a serious fault in Paine's political judgement, it lay in his consistently underestimating both the determination of monarchs and aristocrats to retain their privileges and the strength of the habit of obedience which secured them the loyalty even of those whom they oppressed. I think that he had been misled by the comparative ease² with which America had gained its independence, overlooking the fact that the loss of these colonies had not turned out to be a major disaster for England, and I think also that in the case of the French Revolution he mistook for a pure triumph of reason what was at least partly a stage in the transference of power to

¹ *Rights of Man*, pp. 151-2.

² Though he himself described the conflict as 'severe'. See below p. 110.

middle-class interests from a degenerate aristocracy. This is not to deny that the average Frenchman was better off after the final departure of the Bourbons than he had been under the old regime, but only to reiterate the point that even in representative governments, both liberty and rationality remain at risk.

In the preface to the second part of *Rights of Man*, Paine briefly rebukes Burke for failing even to try to answer the charges which Paine had brought against him in the first part. Burke had gone so far as to assert in his *Appeal from the New to the Old Whigs* (1791) that Paine's writings might be thought to deserve no other refutation than that of *criminal* justice, and Paine's reply was that in that case the jury should be 'a convention of the whole nation fairly elected'.¹ He had no doubt that the verdict of such a jury would be in his favour.

After an introduction which ends with the optimistic remark that 'Government founded on a moral theory, on a system of universal peace, on the indefeasible hereditary Rights of Man, is now revolving from west to east, by a stronger impulse than the government of the sword revolved from east to west',² Paine further emphasizes the distinction which we already found him drawing in *Common Sense*, between government and society, and while he agrees with the apostles of the social contract in so far as he locates the need for society in the fact that nature has made man's natural wants exceed his individual powers, with the result that 'no one man is capable, without the aid of society, of supplying his own wants',³ he refuses to follow such theorists as Hobbes and Locke in representing society as the creature of government. Rather, he takes the view of Shaftesbury and Hume that nature 'has implanted in [man] a system of social affections, which, though not necessary to his existence, are essential to his happiness'.⁴ He also agrees with them, at least implicitly, in discovering in these social affections the source of morality. This has the curious consequence that while he does not at all conceive of men as the out-and-out egoists that Hobbes takes them to be in the state of nature, he employs the term 'laws of nature' in the same moral sense that we have shown that Hobbes gave it in its application to society. He is thus enabled to say that 'All the great laws of society are laws of nature.'⁵ Ideally, then, in his view, 'government is nothing more than a national association acting on the principles of society'.⁶

¹ *Rights of Man*, p. 157.

² *ibid.*, pp. 161-2.

³ *ibid.*, p. 163.

⁴ *ibid.*

⁵ *ibid.*, p. 165.

⁶ *ibid.*, p. 167.

This is not to imply that the ideal origin of government was its actual origin. Indeed, Paine almost immediately implies that it was not. 'Can we possibly suppose,' he asks,

that if governments had originated in a right principle, and had not an interest in pursuing a wrong one, that the world could have been in the wretched and quarrelsome condition we have seen it? What inducement has the farmer, while following the plough, to lay aside his peaceful pursuit, and go to war with the farmer of another country? or what inducement has the manufacturer? What is dominion to them, or to any class of men in a nation? Does it add an acre to any man's estate, or raise its value? Are not conquest and defeat each of the same price, and taxes the never-failing consequence? – Though this reasoning may be good to a nation, it is not so to a government. War is the Faro table of governments, and nations the dupes of the games.¹

It is strange that it did not occur to Paine, writing even at that date, that it might be in the interest of manufacturers to promote wars, in order to obtain raw materials more cheaply, or acquire, even to the point of monopolizing, new markets for their goods. After all, the granting of a monopoly to the East India Company which was at least a pretext for the Boston Tea Party may have been a source of wealth to some aristocratic shareholders but the Company was not the personal property of George III. We have already remarked that Paine's conception of monarchy tended to be feudal, and he persisted in locating the cause of wars exclusively in the pride and avarice of monarchs and of the aristocrats who mingled with them.

This leads him to renew his attack on hereditary systems of government. The pages that follow contain some of his most pungent writing, but in effect they do no more than reiterate points which he has already made: that hereditary government has no basis in natural right, and is consequently tyrannical by nature; that even if a king should turn out to be good and wise, there is no guarantee that the same will be true of his successor; that it may put power, at least nominally, into the hands of an idiot or a dotard, that it often gives rise to civil as well as foreign wars, and in short that it is in every way inferior to the representative system which 'takes society and civilization for its basis; nature, reason, and experience, for its guide'.²

¹ *ibid.*, p. 169

² *ibid.*, p. 175.

Very often Paine writes as if there were only two systems of government, the hereditary and the representative. In one passage, as we have seen, he mentions three, the governments of priestcraft, conquerors, and reason; apparently placing them in historical order and identifying reason with representation and conquerors with monarchs. Sometimes he remembers that some monarchies have been elective, and in the second part of *Rights of Man*, he sharply dissents from the opinion of his friend, the Abbé Sieyès, that while both forms of monarchy are bad, the elective is worse.¹ Shortly afterwards, continuing to ignore the government of priestcraft, he nevertheless increases the total number of forms of government to four, 'the democratical, the aristocratical, the monarchical, and what is now called the representative'.² He explains that he does not include republicanism among them, for what is indeed the good reason, that republicanism is not a particular form of government but being 'wholly characteristic of the purport, matter, or object for which government ought to be instituted, and on which it is to be employed',³ that is, the public good, it signifies the rejection of monarchy. He goes on to question the right of Poland, 'an hereditary aristocracy, with what is called an elective monarchy', and of Holland, 'which is chiefly aristocratical, with an hereditary stadtholdership', to style themselves republics, thereby leaving himself free to conclude that 'the government of America, which is wholly on the system of representation, is the only real republic in character and in practice, that now exists'.⁴ One must bear in mind that both parts of *Rights of Man* were written before the deposition of Louis XVI.

It could be argued that Paine's four types of government strictly amounted once again to three, since the representative type is depicted by him as an extension of the democratical. He does not invariably claim that the democratic type was historically prior to all the others, and would indeed have been mistaken if he did. Historical priority must surely be granted to associations, the government of which, while one may not choose to call it monarchic, was at least patriarchal or possibly matriarchal. There is, however, one passage in which he allows himself to assert that departures from democracy, other than its development into representative government, were not only a moral and political but also an historical decline.

¹ *Rights of Man*, p. 173.

² *ibid.*, p. 178.

³ *ibid.*

⁴ *ibid.*

The passage occurs after Paine has said of the ancient Athenians that 'We see more to admire, and less to condemn, in that great, extraordinary people, than in any thing which history affords.'¹ As all too often happens, when the civilization of fifth- and fourth-century Athens is singled out for special praise, Paine overlooks the very large part played by slavery in its economy.

After commending the Athenians, Paine continues:

Representation was a thing unknown in the ancient democracies. In those the mass of people met and enacted laws (grammatically speaking) in the first person. Simple democracy was no other than the common-hall of the ancients. It signifies the *form*, as well as the public principle of the government. As these democracies increased in population, and the territory extended, the simple democratical form became unwieldy and impracticable; and as the system of representation was not known, the consequence was, they either degenerated convulsively into monarchies, or became absorbed into such as then existed. Had the system of representation been then understood, as it now is, there is no reason to believe that those forms of government, now called monarchical or aristocratical, would ever have taken place.²

I believe that I am right here in detecting a note of regret. If only it were feasible, democracy, a state of affairs in which every citizen, or at least every male citizen, had the right to a voice in every political decision, would be the best of all forms of government. This was, more obviously, the opinion of Rousseau, who wished all political societies to be small enough to allow for democratic government in this sense. But then Rousseau deplored the growth of population and the luxury which resulted from the ensuing increase of trade, agreeing on this point only with the far from democratic Plato, but no longer carrying Paine with him. My understanding of Paine is that he welcomed material prosperity so long as it did not lead to excessive disparities of wealth or power. The superiority of representative government consisted in its preserving as much of primitive democracy as was consistent with the provision of what he regarded as a 'genteel sufficiency' for every member of the nation under review.

When we consider the actual record of parliamentary government in this country during the twentieth century, when owing to the grant of

¹ *ibid.*, p. 177.

² *ibid.*

votes to women the proportion of adult electors has been higher than Paine himself foresaw, we can hardly fail to be thankful, if we have any sympathy for him, that he was denied the power of precognition: witness the following paragraph:

In the representative system, the reason for everything must publicly appear. Every man is a proprietor in government, and considers it a necessary part of his business to understand. It concerns his interest, because it affects his property. He examines the cost, and compares it with the advantages; and above all, he does not adopt the slavish custom of following what in other governments are called LEADERS.¹

Was it naïve of Paine not to have foreseen the development of party politics? I do not think so, seeing that he wrote at a time when it had not yet come to birth in the United States, and when it existed in England only in an unstable condition, before the main body of the people's representatives came to be paid for doing little more than play the game of 'follow my leader'. If Paine is to be convicted of naïveté, the fault lay rather in his assuming that every elector would have sufficient property to be concerned with the way that it was being affected by the government's actions. One might object that this assumption has been vindicated by the resurgence of Conservatism in the form in which Mrs Thatcher has cast it, but against this it should again be remarked that her party has been maintained in power at the best by little more than two fifths of the votes cast in the elections which it has won. It is also possible to argue that, however much Paine may have wanted to abolish any form of property qualification for those entitled to vote, he could not have been expected to foresee that this would actually come about.

Having restated his defence of representative government, Paine returned to the topic of constitutions. He was one who did not mind reiterating points which he considered important, and he did attach great importance to the matter of constitutions, if only because he believed that 'government without a constitution, is power without a right'.² Believing the Constitution of the United States to be the only existing model that deserved the name, he proceeds to take his readers step by step through the process of its formation, relating how Pennsylvania constructed its Assembly with its own Constitution,

¹ *Rights of Man*, p. 184.

² *ibid.*, p. 185.

followed in their respective fashions by the other States, how the States agreed to allow Congress, which had previously had only the authority to issue recommendations, to draw up an Act of confederation, how this Act was deemed to confer too much power on the several States and too little on the federal government, how this defect was remedied at a continental convention held at Philadelphia in May 1787, and how the convention promulgated a Constitution, which needed to be ratified by each State, a process which took two years, with the final result that George Washington, who had been elected to preside over the convention, was again elected in 1789 to become the first President of the United States.

Paine then turned his attention to England, which in his view lacked a Constitution. He reproached Dr Johnson for failing to understand the difference between constitutions and governments and therefore being content with a government which controlled, instead of being controlled by, the nation. He then deplored the history of England from William the Conqueror to William III, saying of Magna Carta that it 'was no more than compelling the government to renounce a part of its assumptions'¹ and of William III's Bill of Rights that it was 'but a bargain, which the parts of the government made with each other to divide powers, profits, and privileges'.² According to Paine, the consequence of this bargain and 'the corruption introduced at the Hanover succession, by the agency of Walpole'³ had been the putting into operation of 'the most productive machine of taxation that was ever invented'.⁴

With an eye on Burke, whom he had finally but this time very briefly denounced for rejecting the view that governments are founded on the Rights of Man, and after making the feeble joke that since Burke could hardly have supposed that government was founded on no rights at all, he must have held it to be founded on the rights of beasts, Paine characterizes the government of England as government by precedent, with the animadversion that 'Government by precedent, without any regard to the principle of the precedent, is one of the vilest systems that can be set up'.⁵ Paine was too honest not to allude to the improvements 'in agriculture, useful arts, manufactures, and commerce'⁶ that were currently being made in England, but he argued that so far from being

¹ *ibid.*, p. 192.

² *ibid.*, p. 193.

³ *ibid.*

⁴ *ibid.*, p. 194.

⁵ *ibid.*, p. 196.

⁶ *ibid.*, p. 197.

due to the policies of the English government, they took place in opposition to them.

Concluding that no further proof is needed to show that if governments are to serve the interest of a nation, they need the backing of a Constitution, Paine proceeds to consider what that Constitution should be. As one would expect, his proposals are mainly in accordance with the American Constitution, but not entirely so. There are at least two important points of difference.

The first of them concerns the division of government. Under the influence of Montesquieu and Locke, the Americans had provided for a threefold separation of power, the legislature, the executive and the judiciary. Paine finds himself able to perceive no more than two divisions of power, 'namely, that of legislating or enacting laws, and that of executing or administering them'.¹ This limitation of his vision results from his identifying the executive power with the judicial. He argues that it is the judicial power which causes laws to be executed and that to which every individual appeals when he considers that he has been unjustly treated.

Here it seems clear to me that Paine is wrong, and that not merely on a point of terminology. For one thing, he overlooks the need for a civil service, perhaps not to advise the legislators, since his assumption that the interests of the legislators could not fail to coincide with those of the persons whom they represented would have led him to the dubious conclusion that they had no need of any such advice, but at least to undertake the practical task of administering the measures which the legislators have enacted. More importantly, Paine also fails to perceive the need for an independent judiciary to keep watch on the legislature itself. He takes it for granted both that the elements of a well ordered Constitution will be so clearly defined that there can never be any honest doubt about their interpretation and that the representatives of the nation will never assent to laws that contravene the Constitution. Unfortunately, both these assumptions are false.

The fact that these assumptions are false supplies the justification for the institution of the Supreme Court in the United States. Its members having originally consisted of a Chief Justice and five Associate Justices at its inauguration in 1789, the number of Associate Justices was increased, after several variations, to eight in 1869, at which point it has remained. Since all of them, including the Chief Justice, are appointed by the President, provided that his choice is

¹ *Rights of Man*, p. 198.

endorsed by the Senate, their independence is threatened by the executive, especially when the political temper of the majority of the Senators agrees with that of the President, which is, perhaps fortunately, by no means always the case. In theory the President appoints the judges whom he believes to be the best-qualified in terms of their ability, irrespective of their political opinions, but in practice he has not always avoided the attempt to make appointments which appear to be primarily political. As late as the 1930s this was considered shocking and an electoral issue was made of what was described as Franklin Roosevelt's endeavour to 'pack' the Supreme Court.

The difficulty which Roosevelt faced was that the judges appointed to the Supreme Court by his conservative predecessors were preventing the enactment of portions of his 'New Deal', on constitutional grounds. He proposed to overcome this nuisance by increasing the number of the Associate Justices, and appointing persons of a more liberal outlook to these new posts. The revulsion against such an opportunistic constitutional change was so strong that Roosevelt allowed his proposal to drop.¹ Since he remained in the Presidency for over twelve years, the operation of natural causes enabled him, by making suitable substitutions, to alter the balance of the Supreme Court in his favour. Even so, his appointments were less blatantly political than those of President Reagan, whose behaviour in this respect has aroused some resentment, little surprise, and, recently, opposition.

It should, however, be added that such appointments do not always have what looked like being their intended effect. I believe that Chief Justice Earl Warren, appointed by President Eisenhower, proved unexpectedly liberal, whereas Associate Justice Felix Frankfurter, a friend and adviser of Franklin Roosevelt with a distinguished liberal record, delivered opinions which allied him with his more conservative colleagues. The reason for this, however, in his case was not so much, if at all, that he had changed his political opinions, as that he believed that the Judiciary should not encroach upon the Legislature except when the reform was plainly in accordance with public opinion. Others have maintained that it was the duty of the Justices to interpret the original Constitution and the Articles which have since been added to it, in accordance with what might most reasonably be presumed to have been the intentions of those who framed them, rather than venture on 'constructive' interpretations which, being in accordance with the moral sentiments of at least a majority of the members of the Court,

¹ I owe thanks to Professor Ronald Dworkin for this information.

would have the effect of redressing injustices which were not explicitly at variance with the Constitution. If these injustices were so flagrant as to offend the consciences of the members of Congress, it was their duty to enact the legislation that would bring them to an end. In certain cases this might mean making a further amendment to the Constitution. So far, twenty-six Articles have been added to the original seven, ten of them as early as 1791.

How far the Supreme Court should indulge in what amounts to legislation is a much debated question into which I cannot enter here. The practice of Judicial Review, as it is called, has been in operation ever since Chief Justice John Marshall in 1803 emphasised the judicial supremacy of the court over James Madison, at that time Secretary of State. The problem is how far it should extend. On the one hand, we have the opinion of President Woodrow Wilson that the Supreme Court resembles a constitutional convention in continuous session; on the other, the view which, on one ground or another, reduces the subservience of the Legislature to the Supreme Court. For the most part, it is the liberal members of the Court who take what I have called the constructive view of its powers, the conservatives who are more narrowly legalistic. On political grounds, my sympathies lie with the liberals. On either view, I think that the Supreme Court compares favourably with the English courts of appeal, whose power to redress miscarriages of justice appears to me excessively restricted.

The second main point on which Paine's proposals differed from the actual Constitution of the United States lay in his advocacy of a single legislative 'house'. He has three arguments against the addition of a second house, none of them at all powerful. The first is that there is an inconsistency in one house's coming to a final vote on any matter, while the fact that the other house has still to come to its decision entails that the matter is not settled. The simple answer to this is that if the measure requires the assent of both houses, then the vote of the first house is not final, in the sense that it decides the issue. It may be given the opportunity to vote again or it may not. In neither case is there any inconsistency.

Paine's second argument is even more feeble. It is that if each house votes as a separate body it may happen that the minority governs the majority, which is again inconsistent. The first answer to this is that whatever other objections there be to this outcome, inconsistency is not among them. Secondly there is no reason *a priori* why the members of the second chamber should not outnumber those of the first. For all I know, if you count all the backwoodsmen there are more members of

the British House of Lords than there are of the House of Commons. What does it matter? But let us take the example which Paine presumably had in mind, that of the United States Senate whose members have always been outnumbered by those of the House of Representatives. From the mere fact of there being the two houses it does not follow that, in cases of disagreement, the Senate is bound to prevail. And even if there were cases in which it did prevail, why should it not be right? After all, the members of the Supreme Court, whose decisions have been overridden by constitutional amendments on only four occasions between 1793 and 1970, are fewer still.

Paine's third argument is that it is inconsistent that two houses should arbitrarily check or control each other 'because it cannot be proved, on the principles of just representation, that either should be wiser or better than the other'.¹ Here the first remark to be made is that the use of the word 'arbitrarily' is merely forensic. There is no reason why the checking should not be carefully carried out or that there should not be a system of control. I think that the system at which we have arrived in England, where the House of Lords can delay measures and propose amendments but the final decision is taken by a majority in the House of Commons, is reasonably satisfactory, or rather, that it would be if the members of the House of Commons were more fairly chosen. This is not to say that it could not be improved. For instance, with regard to the House of Lords, even if hereditary peerages were abolished, and in spite of the general superiority of its debates to those that take place in the House of Commons, I should not wish to claim that every life peer who is currently appointed is either good or wise.

The only objection that Paine considers to there being a single house is that it may arrive at its decisions too hastily. To obviate this, he proposes that it be divided by lot into two or three parts, presumably equal in number, that each section debate every proposed Bill successively, so that they are informed of one another's opinions, and that they then reassemble for a final debate and this time take a vote. Except for the equality in number, which Paine does not actually specify, this seems to me not to differ in any essential way from there being separate houses. The drawing of lots is of no consequence, especially if the United States is setting the standard of comparison, as only those who have already been elected as representatives will be eligible to draw them.

Paine's final suggestion is that one third of the representation of each

¹ Paine, *Rights of Man*, p. 200.

'county' should retire every year, and 'the number be replaced by new elections'.¹ It seems to be implied, though not explicitly stated, that a retiring member is not eligible for re-election. There is also to be a general election every three years. This is not fundamentally different from the system of rotation that still prevails in the United States, though, as I said earlier, the shortness of tenure which Paine advocates implies what I at least should regard as a surfeit of electioneering.

I come now to what, apart from an appendix in which he virtually accuses Pitt of delaying the publication of the book in order to purloin one or two of its proposals for reducing taxation, is the final and most remarkable chapter of the second volume of Paine's *Rights of Man*. Its full title is 'Ways and Means of improving the condition of Europe, interspersed with Miscellaneous Observations'. Much of it is difficult reading, since it is crammed with financial statistics, in appraising which we have to bear in mind that the purchasing power of £1 in 1791 was equivalent to that of £40 today. It is worth mentioning that this vast discrepancy has developed only in the last fifty years. As late as 1939, according to the same method of calculation, the equivalent figure was no larger than £1.39.² What makes Paine's chapter remarkable is its advocacy of what we know as the Welfare State, not in every way anticipating but in some ways outdoing the reforms which were carried out in Britain by the Liberal government of 1906 and the Labour government of 1945.

Almost at the start of the chapter Paine makes a strong commitment to utilitarianism: 'Whatever the form or constitution of government may be, it ought to have no other object than the *general* happiness.'³ It does not appear to have occurred to him, here or elsewhere, that there could be conflict between utilitarianism and a theory of natural rights. In this chapter, as we shall see, the notion of right is employed rather to direct the utilitarianism, since it is the unfairness with which the English government of the time treated the poorest members of the nation that Paine was mainly concerned to remedy.

The first way in which the general happiness not only of the people of England, but of those of other nations, could and should, in Paine's view, be increased is by the promotion of commerce. In spite of the record of the East India Company, he does not take the Leninist view that, by fostering imperialism, capitalism leads to war. On the contrary he argues that 'the expense of maintaining dominion more than

¹ *Rights of Man*, p. 201.

² I owe this information to Professor Amartya Sen, to whom I express my thanks.

³ *Rights of Man*, p. 210.

absorbs the profits of any trade'.¹ I am not at all sure that Paine is wrong upon this point, especially as he admits that the profits arising out of foreign dominion may benefit some individuals, while the enterprise is a loss to the nation as a whole. Unfortunately, politicians are not always rational and the motives for imperialism, let alone war, are seldom purely economic. Where Paine was surely right is in his assertion that 'the uncivilised state of European governments is injurious to commerce'² for the simple reason that 'when the ability in any nation to buy is destroyed, it equally involves the seller'.³ This was essentially the point on which Keynes based his denunciation of the Treaty of Versailles. And in fact, after both the Great Wars of this century, the losers had to be assisted to recover their prosperity; in the present condition of England it may now seem to us, who lack a larger vision, all too effectively.

After his eulogy of commerce Paine turns to the question of English taxation. He remarks that before the arrival of the Hanoverians taxes on land slightly exceeded taxes on consumption, but that the balance has since been greatly altered, to the disadvantage of the poor industrial and agricultural workers. He gives the telling example of the tax on beer, which was not paid by the aristocracy who brewed their own. He claims that with its proportion of the taxes on malt and hops it alone exceeds the whole of the land-tax.

Paine seldom misses an opportunity to denounce the landed aristocracy, especially if it also enables him to ridicule Burke. 'Why then,' he asks,

does Mr Burke talk of his house of peers, as the pillar of the landed interest? Were that pillar to sink into the earth, the same landed property would continue, and the same ploughing, sowing, and reaping would go on. The aristocracy are not the farmers who work the land, and raise the produce, but are the mere consumers of the rent; and when compared with the active world are the drones, a seraglio of males, who neither collect the honey nor form the hive, but exist only for lazy enjoyment.⁴

While I have nothing against lazy enjoyment as such, I find this a powerful argument. It becomes ever stronger when one considers the

¹ *ibid.*, p. 216.

² *ibid.*, p. 213.

³ *ibid.*

⁴ *ibid.*, p. 227.

incomes that landed proprietors have drawn from their ownership of mineral rights and every form of urban development upon their territory. They have, indeed, lost their political power, though it is debatable whether they used it worse than the Conservatives who have replaced them. Death duties have diminished much of their wealth but the richest remain very rich indeed. The argument that we need an aristocracy, or at any rate men of outstanding wealth, for the patronage of arts and letters was valid in the Renaissance and continued to be plausible as late as the eighteenth century, but with the proliferation of public libraries and museums on the one hand, and on the other the growing taste of the wealthy for conspicuous consumption and the slaughtering of animals, its force is much diminished, in spite of the philistinism of our present government. In fairness, I think I ought to add that this is not to deny that there are cultural grounds for the survival and indeed the further development of a meritocratic system of education.

Paine, as we know, was not an aristocrat either by birth or by adoption. It might, therefore, be suspected that in seeking to deprive them of their privileges, he was not disinterested. He makes a point of denying this in one of his most frequently quoted phrases:

Independence is my happiness, and I view things as they are, without regard to place or person; my country is the world, and my religion is to do good.¹

Having proclaimed his own genuine lack of pecuniary interest, Paine plunges into the details of English taxation. He asserts that whereas the amounts of taxes steadily declined from the £400,000 levied annually by William the Conqueror to £100,000 in 1466, it had subsequently risen to £500,000 in 1566, £1,800,000 in 1666 and £17,000,000 in 1791. The only explanation that he gives for this startling increase, especially in the preceding century and a quarter, is 'extravagance, corruption, and intrigue', besides the engagement in foreign wars.

Of the £17,000,000 currently raised in taxes, Paine estimates that nine millions go to pay the interest on the national debt, leaving eight millions to defray the current expenses of each year. It is by raiding these eight millions, or rather the seven millions that remain after he has rather surprisingly allowed for the annual expenditure of a million on the army and navy, that he achieves his economies.

¹ *Rights of Man*, p. 228.

Paine's first argument is that no more than five hundred thousand pounds will be needed to defray the expenses of government. His House of Representatives will consist of three hundred members who for attending six months in a year, on average, will be paid a total of £75,000. The remainder of the money will go to 1,773 officials, with a salary range of £10,000 to £75 a year, the £10,000 going to just three of them and seven hundred of them getting the £75. The remaining salaries are strung out in between, but only seventy-three persons in all are allocated £1,000 a year or more. The comparative modesty of most of the salaries is justified by the expectation that there will not be very much work for either the representatives or the officials to do. Paine rather inconsistently remarks that, as things are, the Chiefs in several offices do little more than occasionally sign their names, the work being done by under-clerks. Presumably in his new order rates of pay will exhibit a fairer correspondence to labour and responsibility. Revenue officers do not figure in his estimates because they are to be paid out of the revenues which they collect. This would appear to be a dangerous proposal, even with Paine's proviso that their pay should be considerably increased, but no doubt he envisaged that some watch would be kept upon them.

It would be tedious to enumerate all the statistics which Paine provides in great detail. It should be sufficient to say that he budgets for a population of seven million, of whom one fifth will be so poor as to be in need of support, that he assumes that out of these poor persons one hundred and forty thousand will have attained the age of fifty or sixty, at which age they are to receive pensions, the sixty-year-olds at a higher rate, and that there will be 630,000 children under fourteen years of age, they being not the only ones who will need financial assistance for their education. The principal means by which he would raise the money for the proposals which follow would be, in his own words:

to abolish the poor rates entirely, and in lieu thereof, to make a remission of taxes to the poor of double the amount of the present poor-rates, viz. four millions annually out of the surplus taxes. By this measure, the poor will be benefited two millions, and the housekeepers two millions. This alone would be equal to a reduction of one hundred and twenty millions of the national debt, and consequently equal to the whole expense of the American war.¹

¹ *ibid.*, p. 240.

In addition to doing away with the poor-rates, Paine also proposes only to abolish the tax on houses and windows, which 'falls heavy on the middling class of people',¹ and the commutation tax. Even, therefore, allowing for the economies that he thinks that he can effect, he is aware that he will need much more money to carry out all his intended reforms. His solution is to introduce what we now call a graduated income tax, proceeding from 3d per pound on incomes up to £500 a year, 6d per pound on incomes from £500 to £1,000, rising by increments of 3d up to the second and third thousand, sixpence to the fourth and fifth, and thereafter by a shilling per pound on each additional thousand up to the limit of £23,000, on the last £1,000 of which the plutocrat will be paying 100 per cent. Thus, according to Paine's calculations, the most that anyone will be able to keep out of his annual income, however great it may be, will be £12,370, that is, nearly half a million pounds in today's purchasing power. It may be remarked that this is more than would be allotted to the best-paid civil servants. At the other end of the scale a man earning £50 a year would pay only twelve shillings and sixpence in tax and a man with an income of £1,000 a year would retain £979 of it. If one keeps bearing in mind that these figures have to be multiplied by forty to reach today's equivalents, Paine's tax can hardly be considered punitive, even for the possessors of great wealth.

We come at last to his proposals for reform. I list them in his own words.

Provision for two hundred and fifty-two thousand poor families.

Education for one million and thirty thousand children.

Comfortable provision for one hundred and forty thousand aged persons.

Donation of twenty shillings each for fifty thousand births.

Donation of twenty shillings each for twenty thousand marriages.

Allowance of twenty thousand pounds for the funeral expenses of persons travelling for work, and dying at a distance from their friends.

Employment, at all times, for the casual poor in the cities of London and Westminster.²

¹ *Rights of Man*, p. 250.

² *ibid.*, pp. 247-8.

The last measure was to be effected by appropriating, or erecting, two large buildings in each of which there would be 'as many kinds of employment as could be contrived' for six thousand persons. Any person who presented himself would be allowed into them, without any questions being asked. On condition that he worked, he would receive 'wholesome food, and a warm lodging, at least as good as a barrack'. He could come as often and stay as long as he chose and would receive, on going away, some portion of what his work had been worth. There is no suggestion that persons who do not care to work should be forced to enter these places, but no other provision is made for them, beyond what accrues to the members of all poor families. No provision appears to be made, either, for poor bachelors and spinsters who have ceased to be children and not yet attained the age of fifty, but this is most probably a textual oversight.

Paine's notion of a comfortable provision appears a little austere since he reckons to pay old age pensions of only £6 a year to persons in their fifties and £10 to those who have reached or passed the age of sixty. Presumably an assumption that many of those in their fifties will still be working accounts for the difference, which we have seen that he was later to abolish in *Agrarian Justice* where he proposed that everyone, on attaining the age of fifty, should receive an annual pension of £10. Perhaps, rather than question the adequacy of these sums, we should admire Paine for his thinking at that date that it was a matter of right and not just charity that elderly persons should receive any pension at all.

At this point, we should recall that in *Agrarian Justice*, published in 1797, Paine proposed that a single payment of £15 be made to every person on his or her reaching the age of twenty-one.

Foreseeing an alliance between England and France, Paine believed that fleets and armies would 'in great measure, become useless'.¹ Nevertheless, as we have seen, he makes financial provision for a military establishment. Since this will be rather smaller than the existing establishment, and since Paine also typically considers that soldiers are underpaid, he adds the following proposals to his programme:

Allowance of three shillings a week for life to fifteen thousand disbanded soldiers and a proportionable allowance to the officers of the disbanded corps.

Increase of pay to the remaining soldiers of £19,500 annually.

The same allowance to the disbanded navy, and the same increase of pay, as to the army.²

¹ *ibid.*, p. 249.

² *ibid.*, p. 258.

A surprising omission from this programme, especially in view of Paine's consistent hostility to the landed aristocracy, is that of death duties. The explanation lay in his belief that his schemes of progressive taxation on income would have the effect of destroying primogeniture, without the pressure of death duties. He argued that a man with an estate yielding £23,000 a year, faced with the alternative of bequeathing the estate to a single person, who would be paying an annual tax of £10,360 on the income from it, and dividing the estate into five parts of £4,000 each and one of £3,000, in which case the small amount of tax paid by each inheritor would entail that the tax on the whole income of the estate amounted to no more than 5 per cent, would be bound to opt for the second alternative, especially as it would also give him the satisfaction of providing for his younger offspring. In terms of finance and even of benevolence, this is a good argument, but Paine again underestimates the complexity of people's motives. A wealthy landowner may take pride in his splendid estate, apart from the wealth and influence which he derives from it, and may think it his duty to hand it on intact, whatever his personal feelings about his heir. Not all parents care for all their children equally, some do not care for them at all. There is also the difference in the children's abilities and characters to be considered. Some may stand in greater need than others of parental help. It may have been considerations of this sort that later induced Paine in his *Agrarian Justice* to advocate the imposition of death duties amounting, in general, to 10 per cent of every estate.

Two obvious reforms to which Paine refers in passing, without introducing them into his calculations, are the abolition of the laws governing workmen's wages, leaving them free to make their own bargains, and at least a reduction of the vast disparity in the incomes paid to the superior and the inferior clergy. At this point, Paine shows no hostility even to the Christian religion in any of its diverse forms. 'Every religion,' he writes, 'is good that teaches man to be good; and I know of none that instructs him to be bad.'¹

In spite of its large contribution to the nation's annual expenditure, Paine has very little to say about the national debt. He does not propose that the interest on it be reduced, but only that it should be subjected to a mild progressive tax. His suggestion is that the stockholders pay a halfpenny in the pound in the first year, a penny in the second and so increasingly, according to a ratio and up to a limit which he does not mention, stipulating only that it always be less than any other tax upon property.

¹ *Rights of Man*, p. 260.

This brings me to the end of Paine's blueprint for what I have felt justified in calling his Welfare State. Its main difference from the package introduced in 1945 is the absence of a scheme of National Health Service. I suggest that the reason for this is that Paine's principal aim was to abolish poverty. He may, therefore, have assumed that once this was achieved, there would be no need to make special provision for health. His measures would ensure that those who needed medical attention would be able to pay for it.

It is widely assumed that the concept of the Welfare State has been discredited. I do not share this view. Without entering into the variegated reasons for the decline of the British Labour Party, and their intertwining with the shift in the character of our economy, I believe that a second Industrial Revolution can be brought about without the callousness and the consequent degree of human suffering that marked the first. This is a point on which we can take a lesson from Japan, though I hope that we can achieve approximately the same result, without assuming the intense collective spirit which is not the most attractive feature of the Japanese way of life. The fundamental issue is whether in pursuit of wealth and power we are ready to let the weakest go to the wall. My contention is that this is not a defensible option, whether we are utilitarians, or take our stand on a moral conception of human rights or, as in my own case, oscillate between the two. It is not consistent with any political theory that associates politics with morality, unless it be the morality of Thrasymachus. If you take the view, attributed to him by Plato, that what passes for morality is nothing but the interests of the stronger, then so long as the rich grow richer, you will not trouble yourself about the poor. We hear much, at the present time, of the failure of Britain to keep pace with other Western countries in economic growth. It is supposed to justify the retention of a government which fosters and relies on an appeal to greed. But the standard of living of the average Englishman is higher than it has ever been in the past, and far higher than that of the vast majority of the world's population. Why should it matter to us that the citizens of a few other countries live, on an average, even more luxuriously? The question that we should be asking is whether we are not purchasing the standard of living that perhaps a majority of us do actually enjoy at too high a cost to the large numbers, even of our own countrymen, who are less fortunate than ourselves.

We started with Paine as a champion of what I continue to regard as the dubious concept of natural rights. Later he proclaimed himself a utilitarian. In the chapter that we have been examining he gives

priority to the succouring of the poorest members of society. Though Paine himself does not draw this conclusion, it can be seen that such a policy might go counter to utilitarianism in cases where a highly unequal distribution of benefits caused an amount of satisfaction to those who profited by it which exceeded the misery caused to those who suffered from it. In such circumstances, at least so long as the contest was at all close, I should opt for Paine's latest policy on moral grounds. In itself it is not sufficient to sustain a comprehensive theory of justice but I think that it supplies a condition which any acceptable theory of justice should be required to satisfy.

To defend the conception of the Welfare State, as I have tried to do, is not quite to vindicate Thomas Paine, since he believed that its existence was imminent. Moreover his vision of it was more utopian than anything that ever has, or, I am afraid, is ever likely to, come into effect. I quote two paragraphs which illustrate these points.

When it shall be said in any country in the world, my poor are happy; neither ignorance nor distress is to be found among them; my jails are empty of prisoners, my streets of beggars; the aged are not in want, the taxes are not oppressive; the rational world is my friend, because I am the friend of its happiness: when these things can be said, then may that country boast its constitution and its government.

Within the space of a few years we have seen two Revolutions, those of America and France. In the former, the contest was long, and the conflict severe; in the latter, the nation acted with such a consolidated impulse, that having no foreign enemy to contend with, the revolution was complete in power the moment it appeared. From both those instances it is evident, that the greatest forces that can be brought into the field of revolutions, are reason and common interests. Where these can have the opportunity of acting, opposition dies with fear, or crumbles away by conviction. It is a great standing which they have now universally obtained; and we may hereafter hope to see revolutions, or changes in governments, produced with the same quiet operation by which any measure, determinable by reason and discussion, is accomplished.¹

How did Paine come to be so far astray? I think that the most serious charge which can be brought against him on this count is that although he was writing at a time when the Industrial Revolution had already

¹ *Rights of Man*, pp. 264-5.

started, he did not understand the nature of capitalism. Above all, he seems not to have seen that it was essentially competitive, in such a way that the need to outstrip one's rivals in the acquisition of profits would become a motive for paying as little as possible to those whom one employed. If he was aware of this danger, he overrated both the power and the readiness of the exploited to defend themselves. He overrated their power because he did not allow for the possibility that a government, composed of their nominal representatives who were supposed to protect their rights, would be dominated by their oppressors. It would be unfair to criticize him for failing to foresee the extraordinary increase in the British population throughout the nineteenth century, but his theory of representative government, like Rousseau's, is better adapted to a Swiss canton than to a country of the size that Britain was soon to become. He overrated their readiness to militate for their rights because he underrated the strength of their habit of subordination. The monarchy and the aristocracy seemed to him such absurdities that he simply overlooked the fact that they enjoyed a very considerable ungrudging respect. He found it easy enough to prove that they did not deserve it, but that was largely beside the point. Only a small minority of those for whom he was writing judged the matter in those terms. The others were divided, not exclusively, into those, like the members of the police and the armed forces, to whom, with very few exceptions, it did not occur to question the authority of their masters, those who truly admired the persons whom God or fate had placed in a superior position, and took a vicarious pleasure in their pursuits, those who did not care much one way or the other, so long as they had the means to enjoy what they regarded as a tolerable, or even, as in the case of artists of one sort or another, a valuable way of life, those who took to crime, and finally those who regarded themselves as doomed to wretchedness. We should not forget that the alleviation of the hardships of this last group was due not only to Socialists but to nineteenth-century Conservatives. It has been left to the Conservatives of our own day to restore their *status quo*.

I conclude this review of Paine's *Rights of Man* with what we may regard as his deepest illusion: his belief that in consequence of the American and French Revolutions the world was poised to enter upon a course of lasting peace. In the last eight pages of his book, he sketches a scenario which begins with an alliance between England, France and Holland, the principal naval powers, the terms of which will be that no new ships shall be built by any power in Europe, including themselves, and that their own fleets shall be reduced to one tenth of their current

strength. These allies will then join the United States of America in proposing to Spain that she grant independence to all her South American colonies, thereby 'opening those countries of immense extent and wealth to the general commerce of the world'.¹ It is taken for granted that Spain would calmly accept this proposal, or at least would not be in a position to resist it. Paine remarks in passing that South America would furnish 'a ready money market for manufactures, which the eastern world does not'.² I suppose that for him 'the eastern world' consisted primarily of India. I doubt if he had much knowledge of China or Japan.

The scenario is not developed in further detail. It is simply assumed that once 'the insulted German and the enslaved Spaniard, the Russ and the Pole'³ perceive the benefits that have accrued to America, France and England, from the institution of representative government, they will almost automatically follow suit, if only from the motive of enlightened self-interest. Paine has nothing to say about Africa except that when despotism and corrupt government have been expelled from Europe and America, Algerine piracy, which thrives on 'the malicious policy of old governments', 'may be commanded to cease'.⁴

Is this not a ludicrous tale? Was it not already refuted in Paine's lifetime by the outbreak of the Napoleonic Wars? Paine himself did not think so. He regarded Napoleon's early campaigns as instruments of liberation, as putting the common people of Austria, Prussia and the Italian States in a position to form their own representative governments. Dying as he did in 1809, he did not have to face the disaster of Napoleon's Russian campaign, Napoleon's defeat at Waterloo, and the temporary restoration of the old order in France. All along, Britain was the chief stumbling block, but this was something that Paine was always reluctant to accept. We shall see that as late as 1804, admittedly before the battle of Trafalgar had removed the threat of a French invasion, Paine believed that a revolution in Britain could be organized. In addition to his other political oversights, we are bound to notice his failure to appreciate the force of nationalism to which, especially in Germany, the brotherhood proclaimed, if not always practised, by Napoleon's armies acted not as a deterrent but as a stimulus. When it limits itself to patriotism, the spirit of nationalism should probably be seen as a virtue. Aggressive nationalism is a great political evil and it is constantly on the increase.

¹ *Rights of Man*, p. 267.

² *ibid.*

³ *ibid.*, p. 268.

⁴ *ibid.*, p. 270.

The admirers of Thomas Paine, of whom I continue to be one, may take some comfort from the fact that his hopes would not seem so foolish if this book were being written in the year in which its author was born. In spite of the scandalous episode of the Boer War, it did seem to many intelligent persons, to such men as Gilbert Murray and Norman Angell and Bertrand Russell and Bernard Shaw, in the early part of this century, that something approaching a genuine age of reason was at last in prospect. Their hopes were destroyed by the First World War, a war for which there seems in retrospect to have been no plausible reason, and they have never since been renewed. The politicians who led their far from reluctant peoples into that war were not, in the main, malevolent or even stupid. They subscribed to a set of abstractions, national honour, the glory of empire, the sanctity of secret pacts, without troubling to consider what would result from their concrete application. No more was required of them than that they be rational. We should no longer be surprised that this was an achievement beyond their reach.