

# Unfreedom and the Republican Tradition in the French Revolution

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During the French Revolution, a consensus emerged about the need for a republican form of government, even though there was little agreement as to how such a form of government should or could be established, and even less convergence on whether or not it would be necessary to introduce some forms of unfreedom to secure a free republic (Nicolet, 1982). Disagreement as to what exactly republican government involved – in both theoretical and practical terms – drew on a long established tradition of political thought, within which Montesquieu and Rousseau were especially important. But as the intense politics of the Revolution unfurled, attention shifted towards describing forms of unfreedom – constraints or sacrifices that might be involved in successfully instituting a stable republic.

This article considers three approaches to the absence of freedom, or the presence of unfreedom, in the early republican debates of the 1790s: political, social and economic. In each of these spheres the question of republican exclusivism (i.e. the claim that the republic is the only legitimate form of government) was central. Participants in the debates of the 1790s asked themselves whether it is possible to be free – politically, socially or economically – inside the republic in ways that are simply not accessible through any other form of government. Unsurprisingly, given the definitive collapse of the French monarchy in 1792, there was a proliferation of positive answers to this question. These answers went beyond a pragmatic acceptance of the republic as the *de facto* and necessary form of government in the revolutionary circumstances after 1789. Moderates and radicals alike drew on a rich inheritance of republican ideas to make sense of the practical predicament of stabilizing France and establishing a new constitution and government compatible with the Declaration of the Rights of Man and Citizen.

In the struggle to achieve a viable form of government after 1789, fraught questions arose regarding the political, social and economic limits within which a republic might be secured. The Revolution began with the abbé Sieyès's assertion of the inclusive nature of the Third Estate's sovereign and constituting power, but before long it resolved into a series of intense disagreements about how to delineate restrictions to political, social and economic freedom in circumstances where tensions between public and individual interest were difficult to describe in theory and even harder to resolve in practice.

## **CONSTITUTIONAL UNFREEDOM: THE CONTRAST BETWEEN REPUBLICAN AND MONARCHICAL GOVERNMENT**

In 1789, no one in the National Assembly thought France could become a Republic. Instead, the representatives to the Third Estate, who had redescribed themselves as representatives of the nation, with the right to exercise constituting power, were aiming to establish a constitutional monarchy, in the place of the absolute monarchy that had existed under the *ancien régime*. However, between 1789, and the execution of Louis XVI in January 1793, there was a steady rise in republican exclusivism. One turning point in this debate was the Flight to Varennes, which occurred on the night of 20<sup>th</sup> June 1791, when the National Assembly was still trying to finalize a new constitutional monarchy for France. The King and royal family who had been more or less forced to remain in Paris since the autumn of 1789, finally decided to try and escape to the western border, where a growing number of émigrés had congregated. The attempt failed, the King was recognized, and brought back to Paris in shameful silence. The mayor of Paris (Jean Sylvain Bailly), still hoping he could save the constitutional monarchy, initially tried to claim that the king had been kidnapped, but no one could believe it. There was uproar in the Assembly, and no one could make himself heard. According to Madame Roland's contemporary account, her husband Roland, Robespierre, Pétion and Brissot – all by this time well established in their revolutionary political careers – discussed together how to react to the King's attempted flight. Was this the end of the monarchy? Was a republic now possible – or even necessary – in France? Robespierre, with his habitual grimace, and bi-ting his nails, asked: "What is a Republic?" (Roland, 1821, p. 299; Furet and Halévi, 1996) In the circumstances, this was very far from being a simple-minded question – it went right to the heart of the new dilemma facing France: if the constitutional monarchy that the National Assembly had been arguing over for so many months wasn't going to work, what exactly was the alternative?

Thomas Paine was one of the people who tried seriously to address this question. He did so by starting a new journal with his friend the Marquis de Condorcet, a journal named for, and devoted to, the Republic. In their journal, Condorcet published a satirical letter from a fictitious young engineer, offering to build a royal automaton – a mechanical king – to place at the head of government (Condorcet, 1847, pp. 239-241). This mechanical King, accompanied by a mechanical court, would go to Mass and celebrate Easter at the appropriate time, would converse with foreign Kings at the appropriate level, and would cost the state considerably less than its actual flesh and blood monarch, Louis XVI. The mechanical King could sanction laws, and appoint ministers, following the advice of the legislative assembly. He could even be declared inviolable and infallible. Behind Condorcet's mischief was his sincere belief that what was really important in politics could be rationally ordered through the principles of social science, and a well-designed constitution would have no place whatsoever for the independent or arbitrary will of a monarch (Baker, 1975; Badinter, E. and Badinter, R., 1988). Condorcet envisaged that the monarch would be replaced by an elected executive council, responsible to the National Assembly. Interestingly, the famous constitutional theorist, the abbé Sieyès, saw difficulties with this way of reorganising executive power through an executive council. He elaborated them in 1791 in a public exchange not with Condorcet, but with Condorcet's co-editor, Paine.

The first issue of the journal Condorcet started with Paine considered whether republican government is necessarily limited to small states. Paine thought not: on the contrary, the true republican system of election and representation was the only known, and in his view the only possible, way of establishing a proportion between wise government and the extent of a country (Paine, 1894, pp. 4-8; Claeys, 1989). He argued that the word "republic" expressed the definitive idea of all legitimate government concerning a nation's public affairs, or *respublica*. Historical examples of republics such as Holland and Venice were misleading and more accurately described as aristocracies: the only legitimate form of government was republican.

Paine contrasted the old hereditary form of government with a new representative form. The former was illegitimate and tyrannous in its very nature, whilst the latter delegated power for the common benefit of society. On this account, self-interested hereditary kings caused wars through their passions and vanity, whilst public-interested representative governments were more likely to transcend national prejudice, encouraging universal society as the means of universal commerce. No one could rightfully impose future rulers on later generations:

there was something pernicious in the very notion of personally inherited political power.

In the protracted discussion of a new constitution that occupied the National Assembly from 1789-1792, it was Sieyès who best highlighted the relation between accountability and unfreedom: i.e. the need for constraint on individual ministerial wills within a carefully formed executive branch of government. Sieyès replied to Paine in the newspaper *Le Moniteur* on 6 July, addressing the problem of monarchical government in which the king's role is both a public function and an inherited position. He agreed that when the term "republican" was used in its widest possible sense and understood to indicate a government that was a *respublica*, (as opposed to something privately owned by a privileged elite), it was certainly accurate to say that all legitimate government must be republican (Sieyès, 1989, vol.2, ss. 29-30)

Yet it was equally true, Sieyès insisted, that the term "republican" could also be attributed a far narrower meaning than the term "representative". In this sense, deciding the form of government was a matter of determining the structure of executive power. It was possible to support a monarchical rather than a polyarchical organisation of executive power and still be a republican in the broad sense of the term. Sieyès argued that the choice between a monarchical and a republican form of government was the choice between accountable government on the part of individual ministers, chosen and constrained by the will of an unaccountable elector (the monarch), and decisions formulated by a majority who had no clear legal accountability to anyone else. There is a direct connection between accountability and unfreedom in regard to individual ministerial wills. But beyond this there was still a question as to whether or not the role of the unaccountable elector could be inherited. Sieyès, like Paine, explicitly stated that the notion of inherited public power was irreconcilably at odds with the laws of true representation. It would be far preferable to find a way of electing the king that could combine all the advantages of inheritance (especially the avoidance of civil war), with all the advantages of election. Contemporary circumstances, however, were too precarious to risk this type of constitutional upheaval. The point of Sieyès's argument was to show the importance of homogeneity within the executive power. He supposed that the unaccountable elector could maintain unity within a plural ministerial body that was strictly accountable.

For Sieyès, the choice between a monarchical and republican form of government was a choice about the nation's use of its constituting power, and not a choice about the nature of that power. Sieyès thought that there was a sense in which Paine's conflation of representative and republican government had obscured these issues (Sieyès, 1989, vol.2, ss. 29-30). Paine had been right to

emphasise that the choice between a representative government and any other sort of government was the choice between liberty and despotism, between the nation's exercise of its own constituting power, and an unacceptable appropriation of that constituting power. However, the choice between monarchy and polyarchy was the choice between two distinct ways of structuring executive power. In this context, Sieyès clearly indicated his own preference for monarchical government. In his famous exchange with Thomas Paine in 1791, he ostensibly defended a monarchical form of government claiming that,

“Ce n'est ni pour caresser d'anciennes habitudes, ni par aucun sentiment superstitieux de royalisme, que je préférè la monarchie. Je la préfère, parce qu'il m'est démontre qu'il y a plus de liberté pour le citoyen dans la monarchie que dans la république. Tout autre motif de détermination me paraît pueril. Le meilleur régime social est à mon avis celui où, non pas un, non pas quelques-uns seulement, mais où tous jouissent tranquillement de la plus grande latitude de liberté possible.”

“It is not out of fondness for ancient customs, or any superstitious royalism, that I prefer monarchy. I prefer it because it seems to me that there is more freedom for the citizen in a monarchy than in a republic. Any other means of deciding seems puerile. The best social regime in my view is the one under which all enjoy the greatest possible extension of freedom.” (Forsyth, 1987, p. 177)<sup>1</sup>

And yet, Sieyès at this time had pronounced reservations about the legitimacy of inherited power. He recognised that Louis XVI, following the Flight to Varennes, was no longer a viable component of the new constitution. And he was certainly aware of Condorcet's recent, highly publicised, conversion to the republican cause (Forsyth, 1987, p. 177).

Properly understood, Sieyès's preference for a monarchical, as opposed to a polyarchical form of government, links his early revolutionary thought to his constitutional arguments in 1795 and 1799 when he experimented with a variety of different models for obtaining a unified chief executive inside a republican form of government. A remark Sieyès made in a manuscript of 1795 can be applied to the constitutional struggle in France at any point between 1789 and 1799:

“Résoudre ce grand problème: comment se procurer dans un État tous les avantages de l'élection d'un chef sans avoir à en redouter les inconvénients, et tous les avantages de

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1 All translations are my own unless specified otherwise.

l'hérédité sans aucun de ses innombrables dangers? Alors seulement votre constitution portera en elle-même le principe de sa propre conservation.”

“Resolve this great problem: How to procure within a state all the advantages of the election of a head without becoming a prey to all its inconveniences, and all the advantages of heredity without its immeasurable dangers? Only then will your constitution carry within itself the principle of its own conservation.” (Forsyth, 1987, p. 182; Sieyès, 1999, vol.1, p. 514)

Arguably, this was a question that Paine’s avid promotion of republican government, in the wake of Louis XVI’s flight to Varennes, simply failed to register or address.

## **SOCIAL UNFREEDOM: THE DISPUTE OVER THE ROLE OF VIRTUE UNDER REPUBLICAN GOVERNMENT**

Montesquieu’s reflections on virtue were the starting point for the debates on virtue during the French Revolution. He had defined virtue within a republic as the love of the republic, a product of feeling rather than of knowledge. In *The Spirit of the Laws*, he described the virtues that sustain republics but are redundant inside monarchies, in heroic terms:

“[...] l’amour pour la patrie, du désir de la vraie gloire, du renoncement à soi-même, du sacrifice de ses plus chers intérêts, et de toutes ces vertus héroïques que nous trouvons dans les anciens, et dont nous avons seulement entendu parler.”

“[...] love of the homeland, desire for true glory, self-renunciation, sacrifice of one’s dearest interests, and all those heroic virtues we find in the ancients and know only by hearsay.” (Montesquieu, 1950-1961, Part 1, Book 3, Chapter 5, p. 69)

In these terms, the problem the French Revolution posed was the problem of finding a new definition of virtue suitable to large, modern commercial states; or else the problem of finding an alternative to virtue to act as the principle (or spring of action) in modern regimes. What constraints on individual freedom would be required to secure virtue inside a modern republic? Once France officially became a republic in 1792, the question of publicly orientated virtue and its role inside republican regimes moved to the centre of political and constitutional discussion. What were the causal antecedents of public virtue? What was its political significance? How was virtue possible inside the modern as opposed

to ancient republican form of government? Did virtue have a part to play in providing a social framework within which individuals could be given both the opportunity to become autonomous and the opportunity to exercise their autonomy? How should the relation between the presence (or absence) of virtue and the existence of freedom (or unfreedom) be understood?

In what has become the most famous of all his speeches, delivered at the height of the Terror on 7<sup>th</sup> May 1794 (or 18 Floréal, in the Revolutionary Calendar), Robespierre set out the foundations for the worship of The Supreme Being in France (Robespierre, 1910, vol.10, p. 442-465). In this speech – at the climax of his revolutionary career – Robespierre attempted to show how the religion of patriotism that had been implicit in the Revolution ever since the great Festival of Federation on the first anniversary of the Fall of the Bastille, might now be developed, institutionalised and used to secure the social foundations of the still very precarious new Republic.

As he spoke, Robespierre raised a question that pinpointed precisely a fundamental contrast between himself and those who had hoped earlier in the Revolution that recent advances in moral, social and political understanding, might be systematically applied in designing a new form of government for France:

“Le fondement unique de la société civile, c’est la morale! Toutes les associations qui nous font la guerre reposent sur le crime: ce ne sont aux yeux de la vérité que des hordes de sauvages policés et de brigands disciplinés. A quoi se réduit donc cette science mystérieuse de la politique et de la législation? A mettre dans les lois et dans l’administration les vérités morales reléguées dans les livres des philosophes, et à appliquer à la conduite des peuples les notions triviales de probité que chacun est forcé d’adopter pour sa conduite privée, c’est-à-dire à employer autant d’habileté à faire régner la justice que les gouvernements en ont mis jusqu’ici à être injustes impunément ou avec bienséance.”

“Morality is the unique foundation of civil society. All associations that make war rely on crime: before the eyes of truth they are nothing but policed savage hordes and disciplined brigands. What does this mysterious science of politics and legislation come down to, if not the application to the behaviour of peoples of the trivial notions of probity that everyone is forced to adopt for his private conduct?” (Rapport du Comité de Salut public du 18 floréal an II [7 May 1794]).

These unassuming, ordinary, intuitive notions of probity first encountered and recognised in private life, but afterwards collectively applied, were Robespierre’s direct substitute for more systematic or scientific approaches to the general predicament of governing France at the end of the eighteenth century – and

the specific predicament of rescuing the Revolution. The contrast was stark. On the one hand, experts like the abbé Sieyès, the Marquis de Condorcet, Pierre-Louis Røederer, and so on, pioneers of the social sciences who entered the Revolution with high hopes for what might be achieved politically through specialist knowledge. And on the other hand, Robespierre arguing that goodness in human beings is easy, not difficult, to recognise – and that such simple goodness is all there ever is to hope for or rely upon in collective life.

After the fall of the Constitutional Monarchy in 1792, Robespierre became closely associated with Saint-Just whose conception of society vacillated between virtual anarchy and a schoolmaster state (Hampson, 1988, 1991). Saint Just affirmed the emergence of individual rights inside the modern republic, in contrast to their marked absence in the ancient republics of Athens and Sparta. But he also lamented the decline in patriotism and the rise of self-love, egoism or private interest, concomitant with individual rights. Saint-Just was fascinated by the role of political institutions in reconciling individual with public interest. Before the nature and implications of Saint-Just's plethora of republican institutions for the moral education of the people became apparent in practice, his enthusiasm was greeted with excited approval by more moderate, liberal-minded theorists. Pierre-Louis Røederer, for example, friend and intellectual associate of the abbé Sieyès, commented that Saint-Just was someone who had outlined at last to the National Convention (in April 1793), the need to insert something between precepts and powers in the forthcoming republican constitution (JP, 25 April 1793; Forsyth, 1989). Between the Declaration of Rights and the constitution, between principles and laws, there was a widely acknowledged need for institutions that would shape the wills and habits of citizens in accordance with the general interest.

However it very soon became clear that behind Saint-Just's proposals for republican institutions, there lay a model of what society ought to be that departed radically from the expectations of Røederer, Condorcet, Sieyès, Brissot and others. Saint Just, echoing Montesquieu, argued that government should rely on a principle or spring of social harmony. But he also invoked Rousseau's argument in the *Social Contract* that the Legislator should mould Man as he needed him to be (Rousseau, 1962, vol.1, p. 478). And during the summer of 1793 he claimed that if the people who had been given a *patrie* were not happy with it, there must be something wrong with them (Hampson, 1988). There was a surprising and shockingly short step between the view that social harmony could not exist independently of political institutions, and the view that individuals should be altered to fit with the institutions they had acquired. By February 1794 Saint-Just was claiming: "Il s'est fait une révolution dans le gouvernement; elle n'a point pé-

nétre l'état civil" ("There has been a revolution in the government, but it has not penetrated into civil society". Saint Just, 1834, p. 215). But the penetration of government into civil society in any directly authoritarian sense was the precise inverse of the schemes for enhancing co-operation and spontaneous social harmony that Sieyès Condorcet, Brissot, Røederer, and many others had tried to develop before the outbreak of the Terror.

Another way of seeing Robespierre's decisive dismissal of social science during the Terror recognises the strength of his claim that the sole resources for securing the new republic were virtue and terror: "virtue without which terror is destructive; terror without which virtue is impotent" (Robespierre, 1910, vol. 10, p. 357). Early practitioners of social science were convinced that there were more reliable institutional alternatives to Robespierre's alarmingly narrow account of society and politics. Sieyès and others thought that carefully designed representative institutions would minimize the importance of good men in politics and make even a government of fallible and potentially corrupt human beings wholly compatible with the pursuit the of the common good. Robespierre's fierce rejection of any such grounds for reassurance might have made good political sense in far more peaceful times, but in revolutionary circumstances its power was overwhelming. What it lacked was an answer to the urgent questions: when (and how) could the Terror ever hope to end and the reign of virtue begin? How, in short, could virtue be reliably generated or constructed inside the new republic if it did not already exist as a demonstrable capacity among citizens? It is in the struggle to answer this question that the problem or reconciling Robespierre the "man of virtue" with Robespierre "defender of the Terror" arises. On Furet's analysis it is the language of moral politics that effects the reconciliation, linking the aspirations of 1789 to the later bloodshed (Furet, 1978). Older Marxist interpretations looked to the embattled circumstances of the Revolution to explain Robespierre's acceptance of the Terror as political necessity. These judgments each have some force. But Robespierre's rejection of the standing and self-sufficiency of early social science, and its aspiration to minimize the role of virtue in politics, also played a significant part in his defense of the Terror.

## **ECONOMIC UNFREEDOM: THE DISPUTE OVER FOOD AND REPUBLICAN RIGHTS TO SUBSISTENCE**

On 21 September 1792, prompted by Danton, the Convention decreed that property rights would be "eternally maintained" (AP(51), p. 71). On 18 March 1793, the death sentence was imposed on anyone who dared to propose a law subver-

sive of territorial, commercial or industrial property (AP(60), p. 292). And once again, on 21 September 1793 as the Terror swept over France, the threat of arbitrary land redistribution was repudiated. These were unequivocal rejections of social levelling and radical redistribution of wealth. However, the status of property rights was persistently questioned, and like the Constituent Assembly and the *ancien régime* governments before it, the Convention was beset by demands to regulate the grain trade and prevent hunger. Those who opposed government intervention in the supply and demand of subsistence goods, premised their arguments on the view that fear of famine was both unnecessarily alarmist and the major cause of shortages in the grain supply. In doing so they drew on the long history of demands to liberalise the grain trade in France, and echoed the established economic concept of *une disette factice* (AP(53) p. 130; Kaplan, 2013).

In November 1792, the Convention heard Fabre d'Eglantine read a report on behalf of the committees for agriculture and commerce, which recommended significant government intervention in the trading of subsistence goods (AP(53), pp. 130-132).<sup>2</sup> Acknowledging the importance of property rights, the report argued that subsistence goods were a special case with a unique relation to public order (AP(53), p. 131). All those in possession of grain should declare the amount currently at their disposal to specially appointed district commissioners. Working from these lists, municipal authorities could demand the immediate sale of grain in specified markets whenever this was judged necessary. Exportation of grain from France should be prohibited under all circumstances, but circulation of grain inside France should be unhindered. The government should take steps to purchase a substantial quantity of grain from abroad. This report prompted a protracted debate that called into question the relation between government and society in the new republic.

In keeping with the history of the grain trade debate, opinion was split over the question of free trade. On 3 November, the Convention formalised this division by decreeing that all those concerned about subsistence should be divided into two groups: those in favour of unlimited freedom of trade, and those who proposed restrictions on the grain trade. One side appealed directly to the arguments of the *économistes* (or Physiocrats), Turgot and Adam Smith, whilst the other highlighted concerns over public order in the tradition of the abbé Terray

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2 Fabre d'Eglantine, (Philippe-Nazaire-François) 1750-1794; poet and Jacobin member of the Paris Commune; elected to the Convention; a key figure in the creation of the Revolutionary Calendar (adopted by the Convention on 5 October 1793 and abolished on 1 January 1806); associated with Danton and turned over to the Revolutionary Tribunal on 17 January 1794.

and his predecessors. The revolutionary context affected both sides of the debate without altering its central point of contention: the theory and practice of free trade. Féraud, for example, quoted Turgot's seventh letter to the abbé Terray opposing the revocation of the 1764 edict on liberalising the grain trade, and argued that attempts since 1790 to regulate the domestic grain market and supplement it by importation, must be abandoned before the revolution could be brought to a satisfactory conclusion. He embellished his argument with the rhetoric of violence: "Je maintiens donc qu'en décrétant des entraves, vous décrêtez la famine, vous assassinez le peuple" ("I maintain that in decreeing barriers, you decree famine, you kill the people," (AP(53) p. 435).

On the other side, Beffroy countered the claim that the subsistence problem was produced by the Revolution itself. In real terms, genuine and imagined food shortages had identical effects, he argued, and the good of society must be upheld over the interests of liberty and property (AP(53), p. 438).<sup>3</sup> In rejecting the freedom to export grain he quoted Montesquieu's distinction between the fruits of the earth and manufactured commodities: "Les richesses de la terre appartiennent à chaque État; toutes les autres sont au monde entier" ("The riches of the earth belong to each state, and all others to the whole world," AP(54), p. 669).

Beffroy challenged the credibility of appeals to the *économistes*, since their theories were tailored to benefit the treasuries of antiquated despotic governments. Indignantly, he claimed that the *économistes* offered a system for increasing the wealth of a minority when what was needed was the means of providing subsistence for all. If the price of grain could be kept as low as possible, farmers and landowners would not become rich, but this was a small price to pay for natural justice: "Les mœurs y gagneront: le riche aura quelques plats de moins sur sa table, mais le pauvre mangera du pain. Tout le monde vivra." ("Mores will gain: the rich will have fewer dishes on the table, but the poor shall eat bread. Everyone will live," AP(54), p. 670)

Fayau went further in claiming that speculators on the value of subsistence goods must be eradicated from the republic.<sup>4</sup> For him, the rich and poor were two separate nations at war in France:

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3 Beffroy (Louis-Etienne, de Beauvoir) 1755-1825; elected to the Convention from the Aisne; voted for the King's death.

4 Fayau (Joseph-Pierre-Marie) 1766-1799; elected to the Convention from the Vendée; a Montagnard who voted for the death of the King; later sent on mission back to the Vendée.

“Je vous demande, législateurs, si vos armées campaient dans un pays où des hommes riches auraient des grains sous les verrous, si vos soldats, après la victoire, avaient encore faim, respecteriez-vous cette prétendue liberté des propriétés?”

“I ask you, legislators, if your armies camped in a country where rich men have grain under lock, if your soldiers after the victory were still hungry, you would respect this alleged freedom of properties?” (AP(53), p. 660)

Saint-Just’s intervention was a generalised indictment of the entire economy, and a demand for better laws (Soboul, 1908, vol. 124). Arguing for free trade in domestic grain and a ban on exportation, he insisted that inflation must cease and the public debt must be repaid, before the market in grain could be properly stabilised. It was Robespierre, however, who offered the most emphatic characterisation of the government’s role in guaranteeing subsistence for all. On 3 December 1792, he argued that the food shortages afflicting France were the result of administrative mismanagement (AP(54) p. 45; Mathiez, 1958, p. 118). He aimed to turn the arguments of those in favour of liberalising the grain trade against free trade itself:

“Dans tout pays où la nature fournit avec prodigalité aux besoins des hommes, la disette ne peut être imputée qu’aux vices de l’administration ou des lois elles-mêmes; et les mauvaises lois et la mauvaise administration ont leur source dans les faux principes et dans les mauvaises mœurs.”

“In any country where nature provides lavishly for human needs, scarcity can only be attributed to defects in the administration or the laws themselves, and bad laws and maladministration have their source in false principles and immorality.” (AP(54) p. 45)

Robespierre associated the Constituent Assembly with the reviled policies of the *ancien régime*:

“J’ai vu naître la législation de l’Assemblée constituante sur le commerce des grains; elle n’était que celle du temps qui l’avait précédée; elle n’a pas changé jusqu’à ce moment parce que les intérêts et les préjugés qui en étaient la base n’ont point changés.”

“I saw the birth of the legislation of the Constituent Assembly on the grain trade, it was only that of the time which had preceded it, and it has not changed until now because the interests and prejudices upon which it was based have not changed.” (AP(54) p. 45)

In Robespierre's view, liberty of commerce had been defended to the absurd and disgraceful extreme of using violence against the people. He raised two major objections against the advocates of free trade. The first of these objections was that trade in subsistence goods must be treated differently from trade in non-subsistence goods, since the former was essential for the survival of the people. The second objection was that even if the arguments for free trade in subsistence goods made some sort of sense in times of public order, they did not do so under revolutionary circumstances. Robespierre formulated his argument in terms of the rights of man living in society:

“La première loi sociale est donc celle qui garantit à tous les membres de la société les moyens d'exister: toutes les autres sont subordonnées à celle-là; [...] Il n'est pas vrai que la propriété puisse jamais être en opposition avec la subsistance des hommes.”

“The first social law is that which guarantees all members of society the means of existence: all others are subordinate to that; [...] It is not true that the property can never be in opposition human subsistence.” (AP(54) p. 45)

The conclusion of this argument was that subsistence goods must be the common property of society; private property must be composed only of what was surplus to fundamental human requirement. Robespierre proposed that legislation regarding trade in subsistence goods should guarantee all members of society enough food to sustain their existence; should guarantee proprietors and cultivators of the land their returns; and should allow any surplus to be freely traded. He appropriated the term “circulation” for the economic system that he proposed, arguing that proprietors have no right to hoard their grain since this was disruptive of the desiderated circulation of subsistence goods inside the nation. His proposals for avoiding secrecy, unlimited liberty and impunity in the conduct of those involved with the grain trade were recommendations for the type of poli-cing which existed under the *ancien régime*. Robespierre's appeal to the patriotism of the people, his request for calm and sacrifice in the face of subsistence shortages, was a clear echo of the eighteenth-century grain trade debates.

On 8 December 1792, the Convention finally adopted a decree in favour of unlimited freedom of trade, with an important codicil banning exportation of grain until the domestic price was comparatively low. This project was a conscious imitation of the English system to which the *économistes* had referred so often. Before passing its decree, the Convention heard a long summary of the history of the grain trade from Creuzé-Latouche, who presented the case for

unlimited freedom.<sup>5</sup> He pointed out that the attempt to dismiss the doctrines of the *économistes* on the grounds that these were invented to serve the *ancien régime*, could also be turned against those who proposed policing the grain trade. There was not a single new policing strategy that the Convention had been invited to consider which had not already been tried and abandoned before the Revolution. In making his case, Creuzé-Latouche tried to overcome the Convention's tendency to discuss the grain trade in terms of property rights. There was no doubt that if all the grain in France was owned by a minority who refused to sell it, *le salut public* would require an overthrow of property rights (AP(54) p. 685). But this was far from being the current situation.

Røederer adopted the Convention's division between those favouring unlimited freedom of trade in subsistence goods, and those who proposed restrictions. He extrapolated from these polarised positions two distinct approaches to social organisation and the problem of inequality. The *économistes* represented theories constructed in terms of production; and the *niveleurs* represented theories constructed in terms of distribution:

“On peut réduire tous les systèmes connus à deux: celui des économistes, qui n'ont vu que les dangers provenant de la nature; celui des niveleurs, qui n'ont vu que les dangers provenant de l'état social.”

“One can reduce all known systems to two: that of the economists, who see nothing but the dangers arising from the nature, and that of the Levellers, who see nothing but the dangers from the social state.” (Røederer, p. 144, vol.8, 1853-59)

Physiocracy was a system that focused on production and left distribution undisturbed. It argued that questions of distribution and inequality could be resolved by restructuring the production side of the economy in line with the natural order of things. The *niveleurs*, in contrast, proffered no elaborate theory of production but focused on agitating for changes in distribution. In his lectures Røederer hoped to provide an alternative interpretation of the principle of equality that would be less disruptive of property. There was no doubt in his mind that the principle of equality had decisively buried Physiocracy's outmoded political agenda:

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5 Creuzé-Latouche (Jacques-Antoine) 1749-1800; Poitevin magistrate with strong interest in political economy and legal ethics. See his publication of 1793, *Sur les Subsistances*.

“Le système des économistes ne doit pas nous occuper un moment; encore qu’il ait été décoré du titre imposant de *physiocratie*, de gouvernement de la nature, de principes de l’ordre naturel et essentiel des sociétés politiques, les niveleurs en feront justice. Ce système tombera sous leurs coups, car leurs principes sur l’égalité sont excellents; ce sont les conséquences qu’ils en infèrent qui sont mauvais [...]”

“The system of the economists should not occupy us for a moment, even though it was awarded the imposing title of Physiocracy, government of nature, the principles of natural order and essential political societies, the levelers will do it justice. This system will fall under their blows, because their principles of equality are excellent, it is the consequences they infer which are bad [...]” (Rœderer, vol.8, p.145, 1853-59)

Before 1789, the Physiocratic notion of linking political rights to the ownership of land seemed a viable project. Rœderer, however, had already rejected it in his revolutionary pamphlet of 1788, *De la Députation aux Etats Généraux* (Rœderer, vol.7, pp.558-574, 1853-59). Here he argued that since investment of capital is necessary for the production of wealth from the land, and since capital is often possessed by non-landowners, investors could not justly have fewer political rights than landowners. He repudiated the Physiocratic tendency to define nationhood in terms of land. Whereas the Physiocrats had once claimed that small trading countries, such as Holland and Geneva, were not true nations, but part of the amorphous *république commerçante universelle*, Rœderer argued that the stability of these countries suggested that land was not in fact essential to the creation of a strong political system. Engaging the terms employed by the Physiocrats, he defined *propriété foncière* as land and *propriété mobilière* as the land’s produce, arguing that the latter rather than the former provided the essential foundation of society. Criticising Turgot’s belief that a man without land is a mere traveller in the state, not a real citizen, Rœderer insisted that in such a system, virtue, honesty and knowledge count for nothing except in combination with one particular form of wealth. In his *Mémoire sur les Municipalités*, Turgot had limited his discussion of the rights of non-landowners to their eligibility for membership of the provincial assemblies, from which it seemed reasonable to exclude all but the landowners since these assemblies were exclusively designed to administer the direct taxes imposed on land. Rœderer argued that it was inappropriate to extrapolate from the provincial assemblies to a national representative body. He also dismissed the example of America, where vast expanses of unappropriated land offered opportunities for capital and labour investment that could not be matched in an old country like France. In contrast, France needed investment in manufacture. For these reasons, Rœderer’s *De la Députation aux Etats Généraux* differed significantly from the vast majority of other revolu-

tionary pamphlets which typically argued for doubling the delegates of the Third Estate and voting by head. By contesting the long established connection between political rights and landownership, Røederer hoped to find a way to represent all the interests of the Third Estate. His experience with tariff reform had proved that the Third Estate, far from being a homogeneous class, was potentially (and actually) divided against itself. He warned that if the delegates to the Third Estate were exclusively chosen from landowners, the *États Généraux* would not be genuinely representative of the nation.

By 1793 Røederer was confident that the connection between political rights and landownership had been broken. But the design of legitimate representative republican government was still undecided. In this context, he was concerned to protect property rights against political encroachments justified in terms of equality. He characterised the *niveleurs*, or levellers, as having a conception of social organisation in sharp contrast to that of the Physiocrats. They understood the machinations of human vice, but knew nothing of the economics of farming. They noticed only the social danger of inequality between persons, and because property threatened the equality of individuals they were hostile to it. Faced with the objection that the retraction of property rights would diminish production, the *niveleurs*, as Røederer characterised them, claimed: ‘Fewer riches, and more *mœurs*’. When pressed further by the argument that a lower level of production is an undesirable outcome because it will support only a reduced population, he imagined the *niveleurs* arguing that a smaller population will be a more contented one. But he noted that even they were embarrassed by the practical reality of reducing an existing population, and instead resorted to claiming that, whatever the circumstances, the land could not be made more productive. And this, Røederer pointed out, merely begs the question.

There were two components to Røederer’s critique of the arguments he attributed to the *niveleurs*. The first focused on the influence of the political thought of Mably, and the second on the influence of Rousseau. The second was explicitly connected to Røederer’s criticisms of Robespierre during the Convention’s constitutional debates. Whilst he in no way confused Robespierre with the more radical and anarchic opponents of property, Røederer’s lectures were intended to show how menacing any kind of encroachment on individual property would be for the economic foundations of modern government.

In attacking property, he claimed, the *niveleurs* were contravening the fundamental, natural rights of man. Inspired by Mably, they were gravely mistaken in arguing that property is solely a social institution, subordinate to the interests and needs of society. He characterised this system of social organisation in terms of four principles: firstly, the dissolution of all wealth possessed by individuals at

the time of their death; secondly, the limitation of wealth to a fixed level beyond which all earnings should become state property; thirdly, the redivision of existing wealth between all citizens; fourthly, the transformation of privately owned land into public property, and the division between citizens of the produce of the earth by a centralised public authority.

Røederer's criticism of these premises was founded on his view that to attack property was in fact to attack capital. It was also to attack commerce and all forms of work not directly focused on the common interest, (since the demand for equality would require the levelling of both landed and moveable property). The abolition of property in land, however, would be sufficient to ensure the destruction of all forms of capital, since it would reduce every individual to the possession of nothing other than his or her subsistence: there would be no surplus, no capital and no exchange.

Røederer presented Rousseau as a defender of private property. He claimed that, contrary to appearances, complex societies combining agriculture, manufacture and commerce conformed to the principle set down by Rousseau, which states that the land belongs substantially to no-one in particular, because its products are available for the whole world:

“[...] dans la réalité, la terre n'appartient qu'au travail de l'homme, elle n'est qu'en dépôt entre les mains de celui qui en est appelé propriétaire [...]”

“[...] in reality, the earth belongs only to human labor, it is merely deposited in the hands of he who is called owner [...]” (Røederer, 1853-1859, vol. 8, p. 155)

Røederer argued that in the state of nature a person's labour was free; so any product resulting from it was the property of the labourer. To contest this was to contest a person's right to live. However, whilst this argument supported the right to own the fruits of one's labour (*propriété mobilière ou propriété des fruits*) it was less clear how it could support the right to own land. Røederer insisted that the need to own the product of the land generates the need to own the land itself, and in cases of first occupancy those who labour on the land rightfully lay claim to it. On this account, society is not established in order to feed individuals, but to guarantee their opportunity for labour to secure their subsistence. According to Røederer, Rousseau's *Discours sur l'inégalité des conditions*, had been misinterpreted and turned into an attack on property rights (Roussseau, 1962, vol.1, pp. 125-220). Recent interpretations of this text had gone so far as to suggest that Rousseau believed property in land to be damaging to a well-ordered society. In contrast, Røederer insisted that Rousseau understood

the ownership of land to be the key principle of civil society: the very feature that distinguishes civilisation from the life of the savage. In support of his interpretation, Røederer quoted directly from Rousseau's *Discours sur l'économie politique*:

“Le fondement du pacte social est la propriété; sa première condition, que chacun soit maintenu dans la paisible jouissance de ce qui lui appartient.”

“The basis of the social pact is property, the first condition is that everyone is maintained in the peaceful enjoyment of what belongs to him.” (Røederer, 1853-59, vol. 8, p. 239; Rousseau, 1962, vol.1, p. 259)

Finally, Røederer argued that the way to recapture for civil society the best aspect of the state of nature, (the fact that the fruits of the earth belong to all and the land itself to no one), was to rely on the principle of labour. When there was a division of labour, there would be an abundance of produce to share out amongst everyone. Private ownership of land was the pre-condition for the division of labour, and it would result in more produce for all:

“[...] ainsi, dans le régime actuel, non-seulement le travail est assuré d’obtenir, comme dans l’état de nature, une part des fruits de la terre, mais encore d’obtenir une part infiniment plus considérable, parce que ses produits sont plus abondants [...]”

“[...] and so, under the current system, not only is work guaranteed to get, as in the state of nature, a part of the fruits of the earth, but also to obtain a much more considerable part, because its products are more abundant [...]” (Røederer, 1853-59, vol. 8, p. 240)

Røederer claimed that land is acquired before the social contract is formed; rights to it pre-date society and cannot be over-ridden. He argued that the purpose of society is to protect man's ability to fulfil his needs through work, not to satisfy those needs directly. It was inconceivable that any society could have the power to fulfil individual needs in the absence of private interest to cultivate the land. Falling back on utilitarian justifications for private ownership, he pointed out that systems of common cultivation were notoriously inefficient because each individual tried to work as little as possible and consume as much as possible. Improvements in talent, power and methods of working were impossible, he argued, when land is commonly owned and innovations in the division of labour are prohibited.

On 24 April 1793, Robespierre proposed several amendments to the new declaration of rights under discussion in the Convention, hoping to correct what

he took to be an inadequate theory of property. Like Harmand earlier in the debate, Robespierre decisively rejected the notion of absolute equality of wealth as illusory, even less beneficial to individuals than to the public good (AP(63), p. 197; Cobban, 1971, p. 166). It was more important to render poverty honorable than to proscribe wealth. According to him, the *comité de constitution* had operated with an erroneous theory of property. When it defined liberty it correctly limited this by the rights of others, so why did it not do the same for property? Property, Robespierre insisted, was a social institution. Whilst the committee had drafted many articles to ensure the exercise of the right to property, there was not one word about the legitimacy of this right. To redress this oversight, Robespierre suggested the following articles:

“Art.1. La propriété est le droit qu’a chaque Citoyen de jouir & de disposer de la portion de biens qui lui est garantie par la Loi.

Art.2. Le droit de propriété est borné, comme tous les autres, par l’obligation de respecter les droits d’autrui.”

“Art.1. Property is the right of every citizen to enjoy & to have the portion of property that is guaranteed to him by law.

Art.2. The right to property is limited, like all others, by the obligation to respect the rights of others.” (AP(63) p. 198)

In both his public lectures and the *Journal de Paris*, Røederer discussed Robespierre’s suggestion that the Convention should apply limits to property rights. Against Robespierre he argued that true limits to individual freedom must be defined by both the liberty and the property of others. Røederer pointed out that the argument that a right to property cannot include the right to steal or usurp was extremely superficial and virtually self-evident. If property was the right to steal, how could it also be the right to possess? Røederer concluded that Robespierre, perhaps without realising it, simply did not recognise the nature of the natural right to property. Instead, Robespierre was defending an insecure right, precarious, variable and subject to the civil law and the magistrates. According to Røederer the cause of Robespierre’s mistake was his view that property is a social institution, and therefore an arbitrary phenomenon, grounded in social contingency and not in inalienable natural right. Røederer quoted directly from Robespierre’s recent speech in the Convention, arguing that it was premised on the principle that landowners did not have the right to starve non-landowners by withdrawing consumable produce from the market. The conclusion that Robespierre drew from this premise was that property rights must be limited. In con-

trast, Røederer argued that landowners lacked both the inclination and the power to starve their fellow citizens. Instead they were actually and rationally inclined to put as much produce as possible into the market, in order to increase their profits.

Røederer's conclusion was sharply at odds with Robespierre's: an unlimited right to *la propriété foncière*, he insisted, was the key to securing for the propertyless their rights to subsistence. Was it common to see stretches of uncultivated land that belonged to powerful landowners? Or to see these landowners hurling their grain into the rivers? Or to find them hoarding their harvests for ten, five or even three years? On the contrary, each year these landowners cultivated a hundred times the amount of grain that they, or their families and dependants, could manage to consume. Why then did the landowners produce a surplus? Røederer's answer centred on man's need for enjoyment (*jouissances*), that increases in direct relation to the development of his intelligence, and on his need to have something to exchange in return for the manufactured goods that could provide new and different sources of enjoyment. This, he claimed, was the true source of the security of poor labouring men who live alongside the rich. Since property was the means of guaranteeing the rights of those who own nothing at all, it should not be limited, but protected by the full and combined forces of the law, *mœurs* and public opinion.

## CONCLUSION

By the 1790s, political, or constitutional, unfreedom arising from historical precedents derived from the *ancien régime* had been comprehensively dismissed through the assertion of the Third Estate's sovereign power. Under the impetus of the abbé Sieyès's argument, first the National Assembly (in 1789), then the National Convention (in 1792), had entered fully into the exercise of constituting power on behalf of the sovereign people. The legitimate exercise of this power did not, in and of itself, resolve the problem of designing a stable republican government for France; and there was a recurring tendency to focus on the design of the legislative to the neglect of the executive branch of government. The spectre of inherited political power – the constraint placed on the current generation's freedom by its predecessor – that haunted Thomas Paine was no more welcomed by his French republican counterparts. Sieyès, however, considered that there were more urgent technical questions to be addressed in the difficult task of rendering modern government both efficacious and accountable. Most

importantly, the question as to how the executive power might be rendered accountable through the imposition of constraints on ministerial wills.

Social unfreedom was discussed in connection with the presence (or absence) of sociability and the need for institutions to shape the manners or mores of a republican people. On the one hand, there were attempts to use early social science to delineate the extent to which society might be left to cohere freely by itself without intervention from repressive political institutions. On the other, there was widespread interest in designing institutions to encourage or nurture individual sentiments and habits suited to a republic. Virtue and probity were central to these debates. The traditional republican notion of citizens schooled in prioritizing the public over personal interest, needed to be reconciled with the reality of a large scale commercial state. Saint-Just meanwhile, with his emphasis on regeneration, gave new and alarming meaning to Rousseau's maxim that it might be necessary for the people to be "forced to be free" under a republican government.

Economic unfreedom – at its most extreme equating with hunger in the absence of basic subsistence – was discussed in the shadow of well-worn 18<sup>th</sup> century debates about state responsibility and freedom of trade. Moderate republicans, defending the feasibility of large-scale representative government compatible with the division of labour, vigorously defended property rights as the basis for all forms of freedom and prosperity. More radical republicans evoked the safety of the people as a justification for government intervention and redistribution in circumstances where people were starving. In the 1790s, as in earlier and later epochs, hunger was the most compelling definition of unfreedom: no freedom without food.

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