

The Democratic Pursuit of Happiness

In some of the most familiar and inspiring sentences in the English language, the American Declaration of Independence expresses the spirit of a new political age:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, that whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.

However vital the first two elements in this trilogy of “unalienable Rights,” it is the last that strikes the most evocative chord in the human imagination. The idea that individuals have a natural right to “the pursuit of Happiness” has proven inspirational across centuries and cultures for an obvious reason: it suggests that the happiness of the ordinary person can be the foundation of a political order. Indeed, as Jefferson explicitly proclaims, the very reason that “Governments are instituted” is precisely to “secure” this right. Thus, the state exists not to serve the interests of a divinely appointed sovereign or a privileged commercial class, but to guarantee the right of all people to lead free and satisfying lives.

The new political order the Declaration proclaimed was thus to be, at least in aspiration, not merely a context in which people would be safe in their lives and liberty from an arbitrary government. The state was to be not merely something that citizens need not fear, but rather a positive resource that they might collectively use in furtherance of their right to pursue rewarding lives. It is in this spirit that Jefferson suggests that the people may choose the “principles” by which the state makes policy “in such form, as to them shall seem

most likely” to provide for their “Safety and Happiness.” What makes the Declaration so radically democratic, as opposed to merely republican or liberal, is that by explicitly recognizing a right to the pursuit of happiness (that governments are in turn argued to be created specifically to guarantee), it consciously recognizes the further right of citizens to use *their* government as an instrument for creating the conditions they collectively believe most conducive to the betterment of human life. The Declaration thus offers nothing less than the promise that “popular government” would offer citizens the opportunity, as citizens, to participate in politics so as to determine what path toward human betterment the state, constituted for just this purpose, would pursue.

In its stress on the idea of happiness, the Declaration is offering a break with the past that is historically rather more revolutionary than the assertion of popular sovereignty that is its immediate purpose. In arguing that we have a natural right to search for happiness, Jefferson is proposing what was at the time a far more radical proposition than the familiar social contract arguments about the origins of legitimate government that date back to before Locke that inform the rest of the Declaration. To suggest that ordinary people might realistically hope for a life they found satisfying, whole, and meaningful – and that this hope might form part of the foundation for the political order of society – is what makes Jefferson’s words ring down the centuries with such force. The world he was envisioning was thus not merely one free of the petty tyrannies of despotic governments, but also one that enshrined happiness as a legitimate and valued end for both individual citizens and the governments they instituted.

This may seem unremarkable to the twenty-first-century reader, but it is, as Darrin McMahon (2006) has meticulously documented in his history of happiness, a monumental break with the past: “It is really only in the eighteenth century that considerable numbers of people began to think of happiness as a this-worldly possibility.” In the past, happiness had always been conceived of as either something that only a tiny handful of exceptional people might obtain through long application or something to be found only in the next world. The former tradition is of course associated with Aristotle, who, as McMahon notes, conceived of happiness as a “prize” to be won only “by the virtuous – the happy few – those whose excellence of conduct and character allowed them to rise above normal human conditions, to live what Aristotle describes . . . as a ‘god-like’ life. To be happy might be within human power, but it was a power that would only be realized by a very small percentage of the human population.” In the other traditional interpretation, happiness might be accessible to the ordinary person, but it was not to be found in life-as-lived, but only in some promised and distant future (e.g., the arrival or return of a prophet) or in the after-life (our “heavenly reward”). As McMahon summarizes, “happiness in the here and now – in the normal conditions of life – wasn’t considered an earthly prospect.”

It was in exactly this sense that Tom Paine would say, “we have it in our power to begin the world over again,” in that he saw in the American Revolution the prospect for a reorientation of society around a more humane set of organizing principles that might in turn offer the ordinary person – the laborer, the small farmer, the shopkeeper – a chance for happiness. In much the same way, the French Revolutionary Louis de Saint-Just would report with pleasure that “happiness is a new idea in Europe,” to which he believed the new republican order should devote itself. This same impulse led the French to adopt their new calendar in which 1792, the year the French First Republic was proclaimed, became the Year One. We have to understand the Declaration, which preceded and to some degree precipitated these later visionary gestures, as representing precisely this kind of dramatic break with the past.

It would, of course, be wrong to attribute the values expressed in the Declaration solely to its principal author. Such ideas were already common, if disapproved of by the state, on both sides of the Atlantic. Jefferson emerged as their leading publicist in much the same way Voltaire came to be the public face of the less explicitly political side of the Enlightenment, but both men were synthesizing ideas already enjoying wide intellectual currency. Thus, we find that the entry on happiness in the *Encyclopédie*, the quintessential expression of Enlightenment ideas, proclaims “Does not every man have a right to happiness?” From there, it is a small step toward suggesting that government be looked to as an agent to defend that right, as it is presumed to defend others. Thus, the English scientist and political theorist Joseph Priestley (1768) proposed in *The First Principles of Government and Liberty*: “The good and happiness of the members, that is the majority of the members of the state, is the great standard by which every thing relating to that state must finally be determined.” There are similar incarnations of the same ideas, most famously in Tom Paine’s *Common Sense* (1776) and in John Adams’s *Thoughts on Government* (1776). The latter, published a few months before the Declaration, anticipates that document’s emphasis on happiness:

Upon this point all speculative politicians will agree, that the happiness of society is the end of government . . . [just as] all agree that the happiness of the individual is the end of Man. From this principle it will follow, that the form of government which communicates ease, comfort, security, or, in a word, happiness to the greatest number of people, and in the greatest degree, is the best.

The lasting influence of such ideas is everywhere to be seen in politics and philosophy. The connection between politics and happiness that we see in Adams and Jefferson anticipates the hugely significant project of Utilitarianism, founded as it is on Bentham’s and Mill’s contention that politics and economy should be based on the principle that “the greatest happiness of the greatest number is the foundation of morals and legislation.” Jefferson himself was the obvious inspiration for much of the language of the landmark French Declaration of the Rights of Man and of the Citizen of 1789, wherein in the National Assembly offered its “solemn declaration” of “the natural, inalienable,

and sacred rights of man” because the establishment of such rights would “redound [i.e., contribute to] to the happiness of all.” Through these vessels, and many others beyond the need to review here, the happiness of the ordinary person, living in the here and now, became the nominal basis for politics in the modern world.

THE BIRTH OF MODERN IDEOLOGIES

To fully appreciate both the full significance of the ideas of the Declaration in its own time as well as their continued relevance to the contemporary world, we must look more closely at the immediate political context in which they emerged. The reason, as we shall see, is that this context helped define the fundamental question facing a democratic government: how to best use the power of the state to protect and nurture natural rights, including that to seek happiness. In formulating the question, of course, the context also contributed to defining the possible answers.

We can conceive of that context as having two aspects. The first is the ideational legacy of the Enlightenment, in its presumption that human beings are rational and moral actors, who can aspire to lead lives of their own choosing with the hope and expectation of happiness. The second is the hardly coincidental advent of the market economy as society’s central organizing principle, and with it, the system of representative government that emerged as its natural and necessary complement. What we today call democracy – and the accompanying regime of civil rights and liberties we associate with it – had its origin in the triumph of the same market principles that have also come to permeate popular conceptions of the nature and the centrality of the individual, the purpose and origin of political power, and the methods by which we attempt to study, understand, and manipulate the world.

All of these elements come to synergistic fruition in the second half of the eighteenth century, nowhere more famously and transparently, as we have seen, than in the founding of the American republic. This process is best conceived as a single event that takes place in two phases. The first was the War of Independence, which was fought to establish the abstract principles so vividly expressed in the Declaration of Independence. The other was the subsequent, and arguably still extant, struggle over the nature of the resulting constitutional regime. The latter, then as now, pits a conservative element, as suspicious as Socrates of the political instincts of the ordinary citizens that form the *demos*, and even more devoted to maintaining the privileges of the propertied against their leveling tendencies, against a more progressive movement that puts greater faith in the capacity of people to govern themselves, and is thus sympathetic to the idea that the reduction of poverty, inequality, and privilege is a legitimate and necessary task for government.

These conflicting ideologies find compelling expression in two of the greatest works of political argument in the revolutionary period: James Madison’s contributions to *The Federalist Papers* and Tom Paine’s *The Rights of Man*. Thus,

we find Jefferson in the Declaration providing the landmark intellectual argument for the now-universal notion that the purpose of government is to help citizens in their collective pursuit of happiness, while the subsequent debate over means to that end, between what today we would call the Right and the Left, are to be found in Madison and Paine. As these competing ideological perspectives arise naturally as the two possible solutions to the inherent tension between the principles of market and democracy, they form convenient historical guideposts for the options that remain available in the modern world, to borrow Einstein's phrase, in choosing how best "to structure society so as to make human life as satisfying as possible."

As already noted, any ideas capable of contributing to or actively inhibiting social change do not emerge out of political and economic vacuums, but rather express changing political and economic conditions. The values and logics we associate with the Enlightenment were thus not merely a set of abstract principles that gained currency through their intellectual superiority in the "marketplace of ideas." The emergence to prominence of such ideals cannot be attributed to the admitted eloquence of their intellectual champions. Could we transport Hume, Locke, or Voltaire backward in time – to, say, the coronation of Charlemagne in the year 800, much less to the court of Constantine in 330 or to Alexander's of 330 BCE – and somehow grant them the ability to express and publicize their ideas to a wide audience, it is inconceivable that they could make any material impact on the structure of dynastic feudalism, the Roman Imperium, or the Greek city-states. In the same way, Voltaire and the Encyclopédistes did not invent the Enlightenment the way Edison invented the light bulb, any more than Hobbes and Locke invented the notion of a social contract. In each instance, the contribution of the philosopher was principally to give voice to new trends in society and economy that were in need of being rationalized and systematized.¹

By far the most profound of these trends was the emergent market economy, which, as we discuss in more detail in Chapter 2, required for its success an approach to understanding the world predicated upon the primacy of the individual and the centrality of individual choice – liberty – in a "free" market, coupled with a government that could be held accountable, as the arbitrary rule of divinely sanctioned kings could not, for protecting and maintaining market relations. Thus, as market forces gained prominence, market ideas about human nature and the structure of human society followed. This formed what proponents of the new thinking, such as Adam Smith, viewed as a virtuous

¹ Of course, the very metaphor of a "marketplace of ideas" is intelligible to us only because we live in the age of the market economy. Such a notion would have been unimaginable not merely to men of action like Charlemagne or Constantine but also to such passionate devotees of reason as Plato or an Aristotle, all of whom had, in their own fashions, entirely different conceptions about the truth or validity of ideas, united only by the conviction that such things were not governed by the same motives or decided by the same evidence as the ones that determine at what price we buy wine or grain.

circle, wherein material change produced ideational change, which made further material change easier, and so on.

To focus specifically on the American case, it was questions of taxation and the regulation of commerce that were the most proximate causes of the Revolution, as summarized by Jefferson in his list of grievances against the king: “For imposing Taxes on us without our Consent,” and “For cutting off our Trade with all parts of the world.” Among the former, the Stamp Act was only the most onerous of the means by which the British imposed “taxation without representation” on the Colonies. This burden fell most grievously, of course, on the commercial, industrial, professional, and mercantile segments of society – i.e., on precisely those associated with the emerging market economy. Taxation without representation is of course a convenient, popularized slogan for the more profound notion that the productive (i.e., profit-making or non-subsistence portion of the economy) should not be subject to a political authority over which it has no influence. Further, the absence of representation had greater economic implications than those associated with taxes. The commercial classes in the colonies wanted more than just to be left unmolested by the British: then, as today, they wanted to harness the power of the state for their own purposes. They desired, for instance, that the state organize and fund public works that would facilitate commerce, such as the building of roads, bridges, harbors, and other infrastructure beyond their means, as well as the development and enforcement of a legal system consistent with their interests (e.g., one recognizing corporations and protecting creditors or slave owners against their natural adversaries).

Equally offensive to the colonists were the Townshend Acts, which imposed tariffs and otherwise severely limited trade, so as to reduce the colonies to captive markets for English goods. They did so by awarding trading monopolies to English companies for many imported commodities, of which tea became the most famous. The effect was to inhibit the development of both American trade and industry (as people such as Alexander Hamilton rightly argued), and with it not only the national interest but, of more immediate political import, the financial prospects of the class that hoped to profit by trade and industry as well.

We see, then, that intellectually the Revolutionaries, whatever their subsequent disagreements on the shape of the post-colonial regime that we shall presently examine, are united on a set of core principles. The first is that the purpose of government is the social good, defined in terms of the happiness of the population, which can be obtained only through a representative government answerable to the population. The second is their implicit commitment to a market economy as another necessary condition for the maintenance of “liberty” as much as the successful “pursuit of happiness.” It was thus agreed that liberty required what today we call a “free market,” meaning one free of the exploitative inhibitions of an arbitrary monarchical government (such as those of George III discussed earlier) or even, especially in Continental Europe, the remnants of feudalism that still grossly restricted trade and production (e.g., tithes, guilds, and forced labor).

Where the different revolutionary factions fell out was in dealing with the contradiction that inevitably emerges between the inequalities of wealth and privilege that a market economy implies and the principle of equality that democracy demands. If we grant that individuals have a right to pursue happiness, and that such happiness is the correct end of government, then it is certain that rational agents who do less well vis-à-vis market outcomes will attempt to utilize the ballot box to affect redistribution, given that the distribution of wealth will largely determine the distribution of happiness. Political equality, then, creates natural pressures for economic equality in the form of redistribution, which is certainly contrary to the interests of the dominant class that benefits from the “natural” outcomes of the market. It must be added that such redistribution might, abstractly or theoretically, produce a situation in which everyone is made worse off, if redistribution were to have the negative economic consequences frequently argued to accompany it, but this is another issue entirely. The immediate conflict is not over philosophy or who benefits in the fictional “long run,” but over who benefits tangibly, in the here and now. In any event, if the market is, as we have seen, thought to be essential to liberty, there must be a tension between the legitimate desire of one class for a more equal (and in their eyes, more just) distribution and the equally legitimate demand by the other to maintain their wealth (and, in their view, therefore, their liberty).

Another way of conceiving of the same clash of interests can be found in the theory of democracy itself. At the time of the Founding, “democracy” was not the term of universal approbation that it is today. Many of the Founders, and the Federalists most of all, viewed democracy with hostility and so conceived of themselves as “republicans” rather than as democrats. They would champion the Constitution of 1787 on the grounds that it created a republic, not a democracy. Their animosity to democratic principles is easier for the modern reader to understand if we recall that at this time, democracy was not thought of as merely a *method* for choosing a government but rather also as a specific political *outcome*: that of a more egalitarian society in which distinctions based on wealth or status were to be absent or muted. Thus, as C.B. Macpherson (1977) prudently reminds us, democracy has always been “very much a class thing,” wherein the democratic project generally has been – and was certainly in the eighteenth and nineteenth centuries understood to be – the movement for building either a classless society or, equivalently, a society comprised of only one class of citizens.

It is in the equation of egalitarianism with democracy that one sees most plainly the logic of the historical opposition to democracy by the propertied classes as well as the inherent contradiction between democracy and the market as abstract principles. This tension is clearly evident at the Founding, where it finds expression in the period of consolidation after the War of Independence in the conflict between what we would now label as conservative and progressive factions. Should market outcomes, reflecting as they do the “natural right” to be secure in one’s “property” (i.e., wealth or “capital”), be equated with the

natural order, such that attempts to redistribute wealth or otherwise interfere with the market to protect those who prosper less from its “free” operation are to be seen, in James Madison’s words “as wicked and improper?” Or, while admitting the moral claims of property, should we also consider other moral claims on the products of wealth, particularly if, as Paine would presciently argue, we grant that society, being integral to the creation of property or wealth, also has a legitimate claim to a portion of the wealth it is instrumental in creating?

As this debate continues to be the principle axis of ideological conflict in industrial societies, it is worth considering its original form. As we shall see, such a discussion not only illuminates the nature, and the long historical pedigree, of the Left and Right as ideological poles but also illustrates the hugely influential role, then as now, of class conflict to politics.

JAMES MADISON AND THE CONSERVATIVE IMPULSE

The *Federalist Papers* are, of course, the name commonly given to the set of essays that articulated the ideology of what would emerge as the victorious side in the struggle to define the American constitutional order. The most famous and studied is Madison’s *Federalist 10*, one of the most influential and extraordinary documents in the history of democratic thought. In it, Madison boldly lays out the set of assumptions about the nature of society and the purpose of politics typical of the educated elites of the time, and then goes on to deduce the appropriate form of government implied by such assumptions. In a few hundred words, he effectively lays the foundation for what has become the modern understanding of, and argument for, what he called “popular government.” It is worth examining in detail.

Madison’s view of “democracy” reflected the conventional understanding of the times in two respects: democracy was equated, first, with the Athenian assembly of all citizens, and thus with the disorder and injustice of the “mob rule” believed to be inherent in the Athenian model. According to Madison, “democracies have ever been spectacles of turbulence and contention [and] have ever been found incompatible with personal security or the rights of property.” The danger posed by a democratic system was that it would empower the majority of ordinary, relatively poor citizens who would naturally form a dangerous “faction” – meaning a group “united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens or to the permanent and aggregate interests of the community.” Given that the basic divide in society was universally agreed to be one of social class, the majority faction (composed of what today we could call the working and middle classes) would naturally be at odds with the privileged orders, whose wealth (and privileges) they would seek to expropriate. Says Madison, “the most common and durable source of factions has been the various and unequal distribution of property. Those who hold, and those who are without property, have ever formed distinct interests in society.”

Madison, thus, clearly conceives of society as naturally and inevitably divided into two classes, based on ownership of property – meaning, again, what we today would conceive of as wealth. By extension, this division is predicated on the relative positions of each class in the economic system of production and exchange, so that their interests diverge based upon whether the system of privileges favors or disfavors them. Thus, Madison believes that their interests are naturally opposed, rather than being complementary. These conflicting interests become the basis of political conflict whenever there is liberty – they arise spontaneously when not artificially suppressed by authoritarian structures. In sum, society is divided into two classes, one relatively rich and small in number, one comparatively poor and large in number, and it is the political conflict between them – class struggle – that animates the politics of free peoples. The class, or faction, comprising those “who are without property” have always been the majority, as Madison recognizes, and it is precisely this “majority faction” that so troubles him.

The majority faction was, of course, what the Greeks called the *demos*, meaning the most populous, and thus less economically privileged, class. Rule by this faction (democracy) was anathema to Madison and the Federalists because the *demos* would be naturally inclined (given Madison’s Hobbesian assumptions about human nature) to use the governing power to expropriate the property of the privileged. Such expropriation was surely “adverse to the rights” of the propertied, and doubtless, because of its injustice, to the “interests of the community.” This problem is inherent in the form of “popular government” because it “enables” the majority faction “to sacrifice to its ruling passion or interest both the public good and the rights of other citizens.” Consider, for instance, the question of (progressive) taxation:

The apportionment of taxes . . . is an act which seems to require the most exact impartiality; yet there is, perhaps, no legislative act, in which greater opportunity and temptation are given to a predominant party to trample on the rules of justice. Every shilling with which they over burden the inferior number is a shilling saved to their own pockets.

The example is telling. Taxes and other economic issues (e.g., laws “concerning private debts” or the prospect that the government might succumb to the popular “rage for paper money”) dominate Madison’s discussion, as they should, given his emphasis on the importance of class interests in politics. The presumption is that the *demos* (“the predominant party”) will use the legislative process to invoke ruinous taxes on the rich (or manipulate the supply of money to benefit creditors at the expense of debtors to similar effect), which is, self-evidently, to “trample on the rules of justice.” Madison’s goal in *Federalist 10* is thus to provide a mechanism for having the popular sovereignty that he and other conservatives sincerely believed in (rather than monarchy or dictatorship) while protecting society against the unjust “leveling tendencies” of the *demos*:

The friend of popular governments never finds himself so much alarmed for their character and fate, as when he contemplates their propensity to this dangerous vice.

This vice takes shape in the “wicked and improper” projects of the majority for the redistribution of wealth through taxation (or outright seizure), monetary policy (such as favoring growth and thus employment and wages at the expense of inflation), or other interference with the market. Madison’s prescriptions for leaving the demos “unable to concert and carry into effect their schemes of oppression” are less interesting, and certainly less relevant to present purposes, than his analysis of the problem. The economy – the market – divides citizens into opposing classes, based upon their position in the market. The wealthy minority, whose fortunes are not only a product of the market but, of course, a resource that generates yet more wealth, benefit from the system, and thus look to the state to protect and nurture it. The less-affluent majority, who have little or no property and who instead rely upon their ability to sell their labor in the unstable and frequently unrewarding market for that commodity, are likely to believe (rightly or wrongly) that they are the victims of the system, and thus naturally to look to the state to redistribute the wealth that the market creates, or even to alter market principles themselves.

Madison argues that “the principle of government” is to ensure that the property-owning class is protected against redistributive policies, which he, of course, conceives of as a “schemes for oppression.”² The Constitution of 1787 is recommended both because its structural features should inhibit the emergence of the demos as a coherent “faction” (principally via the hope that a large republic and a system of representation will “refine and enlarge public views”), and because of specific clauses (such as prohibitions against progressive taxation, to say nothing of the recognition of slavery) that also limit the power of the demos. As many scholars of the Founding, such as Jennifer

² It must be admitted, as some interpretations of Madison stress, that his arguments about the “tyranny of the majority” are meant to apply to minority rights abstractly, rather than being limited narrowly and exclusively to class interests. Some point in particular toward passages in his collected papers (particularly *Papers* 14: 266–8) that extend the idea of “property” to include “everything to which a man may attach a value and have a right,” the most important of which are his “opinions and the free communication of them,” especially his “religious opinions.” Although it is doubtlessly the case that Madison did put great value on freedom of expression and religious liberty (as evidenced, for instance, by his opposition to the Alien and Sedition Acts, and his successful efforts with Jefferson at de-establishing religion in Virginia), it equally cannot be denied that Madison’s principal, even obsessive, concern in *Federalist* 10 is with property in the conventional sense of property as wealth. It is impossible to make sense of *Federalist* 10 (much less Madison’s own notes on the Constitutional Convention of 1787, wherein he portrays himself as perpetually anxious about protecting “the minority of the opulent against the majority”) if we stretch property in this way. If we wish to think of Madison’s legacy as being that of institutionalizing the idea of limited government – a noble enough legacy – we must also grant that his limits include protecting the privileged from the demos (for incisive discussions for this perspective, see Nedelsky, 1990; Matthews, 1995; for general reviews, including criticism of this perspective and alternative accounts, see Gibson, 2006, 2010; Zuckert, 2003).

Nedelsky (1990) and Richard Matthews (1995), have argued, Madison thus stands as a convenient and historically compelling symbol of one method of accommodating “popular government” with the market by favoring the latter at the expense of the former. Thus, a central goal of Madison’s project was indeed precisely “to withdraw the rules of the market from political debate” (Nedelsky, 1990: 180), thus ensuring that politics would be subordinated to and limited by the market. The modern incarnation of Madison’s attitude toward the state and the economy is readily apparent in Friedrich von Hayek, Milton Friedman, and Margaret Thatcher, the chief intellectual reference points for the ideological right, who argue for a state whose function is limited to maintaining a minimalist legal order appropriate for free individuals in a free market, in that redistribution would be contrary to the *morally* superior “spontaneous order” established by the market.³

JEFFERSON, PAINE, AND THE DAWN OF THE LEFT

As we have seen, Madison clearly believed that society was divided into social classes vis-à-vis their relationship to wealth. He thought that the axis of political conflict in a class society would inevitably be over not merely the unequal distribution of wealth, but the *system* that produced such inequality by privileging one class over another. The relatively poor – the *demos* – comprising as they did the vast majority of the population would naturally resent both the wealth of the minority, and the socio-economic practices that appeared, in their eyes, to arbitrarily supply wealth to some and poverty to others. The *demos*, if allowed to, would therefore use the vote to express their class interest, that is, to change the system that appeared to favor people other than themselves.⁴ An essential purpose of government, then, was to protect the natural right of the privileged against such redistribution. In a word, Madison and the Federalists viewed society as inevitably being divided into classes with conflicting material interests, and placed themselves squarely upon the side of the privileged.

This should not surprise us. That society was, and is, divided by class is obvious. Once we grant that society is composed of different classes, it follows

³ It is perhaps worth observing that Adam Smith, as we shall have occasion to see in subsequent chapters, does not fit comfortably with such company. His views of capitalism and the role of the state within that system are hardly as simplistic as sometimes portrayed by those who find it convenient to cite him as an authority. One can scarcely find a more straightforward condemnation of Madison’s view of the state as a protector of property than Smith’s in *The Wealth of Nations* (2007: 556): “government, so far as it is instituted for the security of property, is in reality instituted for the defense of the rich against the poor.”

⁴ As Matthews (1995: 198) observes, for Madison “the *demos* were to be feared; their participation in politics had to be limited as far as politically feasible [through, among other methods, the institution of representation, which helped to remove them from access to power, and property qualifications on the right to vote itself]; and they were to be granted full membership in the political system [only] when there appeared to be no other option available.” The essential goal, as Nedelsky neatly summarizes it, was to limit the influence of the *demos* enough to ensure that “the propertied would do the ruling” (1990: 181).

by definition that these classes often have opposing interests, for if the two were not in adversarial positions, they would not form different classes. Further, given that the basis of class conflict is over distribution, in which one class wishes to keep what another would prefer to appropriate, conflict is unavoidable. To be sure, classes may often have a commonality of interest, either when the immediate issue at hand is not one of distribution, or when questions of distribution may be avoided by increasing the overall level of consumption. As Madison argued, the natural “faction” of the demos can also be dissolved by the increasing relevance of other interests beyond class, such as that of one region or sector of the economy against another, a function served in the contemporary era more by religious and cultural issues. Partisans on either side of the class divide may also develop perfectly sincere theoretical prescriptions which similarly endeavor to avoid the basic divide by maintaining that policies favoring the immediate interests of their class will in the long run improve conditions for all.

In the end, though, the existence of class forces political actors to choose sides, in two respects. The first is, of course, that of which class to favor over the other when interests do diverge. The second is whether to favor the maintenance of the class system or to work for its diminution. Madison (to say nothing of people like Hamilton or Washington) naturally genuflected both toward the propertied, commercial class and to the acceptance of an enduring class division as a natural aspect of society. As we have already seen, Madison’s primary goal, like that of most of the Framers, was to protect liberty, in the classical liberal sense that equated liberty with the unequal distribution of wealth, and the consequent unequal distribution of political power, as a market economy implied. Madison’s vision of the world the market would foster was thus that of “a permanent division between *dependent* laborers and *independent* employers” (Appleby, 1986: 33, emphasis added). This situation was not something to be overcome, but precisely what was to be protected by the constitutional order he advocated. As Nedelsky aptly puts it, “The Constitution was designed to make republican government work and the market secure *given* that division” between classes (1990: 181, emphasis in original). In this sense, we see an essential element in Madisonian thought that still animates contemporary conservative politics: that the political system must be resistant to attempts to alter the class inequality that flows from, and is essential for the maintenance of, the market society.

In Thomas Jefferson, we find the door opening to a different course: a politics devoted to the material interests of the demos, and, more generally, to reducing or leveling class distinctions. Of course, we must be careful not to exaggerate the differences between Madison and Jefferson⁵. Despite Madison’s legacy as the “father” of the Constitution, and his consequent deep intellectual

⁵ For an analysis of Jefferson’s political thought at the time of the American Revolution and its evolution in the decades that followed, see Zuckert (1996: 13–89, 202–43) and (forthcoming), respectively.

association with the Federalists who were its political champion during the battle for ratification, he was a life-long political ally of Jefferson. Madison joined Jefferson in forming the Democratic-Republican Party (in opposition to Federalist policies in the Washington and Adams administrations), served as Jefferson's secretary of state when Jefferson became president in 1801 and succeeded him to the presidency with Jefferson's support in 1809. While the closeness of their political alliance thus suggests no small degree of shared values on matters both political and, more abstractly intellectual (both, for instance, were especially proud of their role in drafting the Virginia Statute for Religious Freedom, nearly as radical in its own way as the Declaration of Independence), they differed profoundly over issues of inequality, property, and redistribution.

In a now-famous letter written to Madison in 1785 (Hutchinson and Rachal, 1973: 385–7), Jefferson argued for a far different interpretation of property rights than Madison held. While Jefferson certainly believed in the right to property, he held that such a right was contingent upon, or derived from its contribution to, the public good. Jefferson similarly maintained the right to property must be made consistent with man's natural right to work, i.e., with a right to an independent livelihood, rather than being merely a "dependent laborer." As he told Madison,

Whenever there is in any country uncultivated lands and unemployed poor, it is clear that the laws of property have been so far extended as to violate natural right. The earth is given as a common stock for man to labour and live on. If, for encouragement of industry we allow it to be appropriated, we must take care that other employment be furnished to those excluded from the appropriation. If we do not the fundamental right to labor the earth returns to the unemployed.

In language that is clearly reminiscent of Locke, and thus expressed squarely within the liberal tradition that all the Founders shared, Jefferson was actually proposing an idea that remains an axis of intense political conflict even today: that one has a natural right to employment – or, equivalently, a moral claim, as a member of society, for society's help when work is not available. He was thus proposing that people possessed the "social rights" that animate so much contemporary progressive and social democratic political thought. Not merely that, but Jefferson also goes on in the same letter to suggest precisely the kind of redistribution that so alarmed Madison by noting that "the consequences of this enormous inequality producing so much misery to the bulk of mankind [is that] legislators cannot invent too many devices for subdividing [i.e., redistributing] property." Redistribution, he concludes, "is a political measure, and a practicable one."

Jefferson, limited as he was by his essentially agrarian vision of America, naturally thought of redistribution primarily as an issue of land reform. While he favored progressive taxation and state-provided primary education to all as means toward alleviating inequality, he looked above all to

extending the independence that came with land ownership as the real solution. The cure for inequality would thus be to give everyone who wished it access to an independent livelihood by having the state guarantee them land, as he proposed as early as 1776 in his draft of Virginia's state constitution. This grant would not only ensure a living, but in so doing would politically empower the recipients, consistent with his strong belief that only the economically independent could possibly "enjoy the personal independence required to exercise the rights of citizenship" (Rakove, 2010: 305). In this fashion, the basic class division in society – between those who do and do not own property – would evaporate, leaving an egalitarian, and even democratic, society.

We may leave Jefferson with two closely related observations stressed most famously by Gary Wills (1978). First, Jefferson consciously and purposely neglected to include the right to property in his list of inalienable rights. The substitution of "the pursuit of happiness" for "estates" in Locke's enumeration of our fundamental rights reflected the fact that Jefferson understood the right to property, as I have suggested previously, as contingent, given that it was predicated upon the social good and was thus only a form of social convention. Property for Jefferson was thus not a foundational or "inalienable" right worthy of the special protections accorded it by Madison and the Federalists. Further, Wills vigorously maintains – as had Arthur Schlesinger (1964) – that the emphasis sometimes placed on the word *pursuit* in the language of the Declaration is a modern ideological construction which obscures Jefferson's meaning. Gibson (2006: 125–6) nicely summarizes the argument: "Jefferson was arguing not merely that Americans have the natural right to strive for happiness. Instead he was emphatically maintaining that Americans had a natural right to the practice of happiness and that it was the government's duty to provide it." Although happiness is not, of course, literally a commodity that the state can provide by the post, government can see to the material and social conditions that promote happiness, such that it remains possible for Jefferson to conceive of happiness, as Wills notes (1978: 148), as something "susceptible of numbered measurement and distribution."

Turning from Jefferson to Paine, we find not only a more dramatic break with conventional thought about property rights within the Lockean social contract theory tradition (for an insightful discussion, see Zuckert, forthcoming), but also a more informed and prescient understanding of economics. Indeed, Paine provides what is the first major, realistic vision for how the state could provide and distribute happiness in the way Jefferson imagined. His basic proposal is both simple and sublime: that we accept a mercantile and industrial market economy – the free market and free trade – as the basis of economic life, but we view it to be the responsibility of the state, as an agent of the citizens it purports to represent, to use its power to tax, spend, and regulate so as to supplement, manage, and otherwise improve market outcomes in ways that provide citizens with greater health, happiness, and human dignity. We thus see in Paine the first systematically articulated and widely read defense of the

perspective that would culminate in the idea of the welfare state, and thus by extension, social democracy.

It is difficult to overstate either the importance or the popularity of Paine's work. His *Common Sense*, *The Rights of Man*, and *The Age of Reason* are the three best-selling books of the eighteenth century. As the title of *Common Sense* suggests, it was an effort at persuasion aimed at the ordinary person through the appeal of what Paine maintained was nothing more than mere common sense. It did indeed reflect the shared, or common, view of the Founders regardless of faction. Even Adams would commend it, though in his typical curmudgeonly fashion, he felt obliged to complain that Paine was not only too "democratical" in tone, but was also in the end merely repeating the same arguments he, Adams, had long been making, to far less acclaim. It is the former shortcoming, though, that eventually would cause Adams and other Federalists (including Washington) to denounce Paine as too radical. The reason is easy to see: in all his work, and in *The Rights of Man* in particular, Paine provides a truly revolutionary vision of politics in which securing the interests of the demos emerges as the signature purpose of the state.

The contrasts to Madison are obvious. While Madison and the Federalists were adamantly opposed to the idea of democracy, understood as an egalitarian society in which the demos ruled, Paine was its ardent proponent. He agreed with Madison that the Athenian model was infeasible because of questions of scale, but he viewed this as only a practical problem, an "inconvenience." As Paine put it, we should look to the "original simple democracy" of Athens as our source for "the true data" about how government should be constituted, and thus be able to "ingraft" representation upon democratic principles, so as to produce a feasible, modern incarnation of the spirit of Athens. Madison, by contrast, viewed this kind of democracy as a positive evil to be avoided, and looked to representation (to say nothing of limiting the franchise as much as possible to property owners) as a means toward its subversion. More fundamentally, Madison has as a first principle the notion that the state must respect the right of the wealthy to be secure in their property, whereas Paine believes that this right must be interpreted in light of its effects on those who lack property. Thus, says Paine, government "ought to have no other object than to protect the *general happiness*" (emphasis in original). This is the heart of their disagreement, and the ultimate basis for the differences between the Right and the Left that exist today: Do we view the state as having an obligation more to protect private wealth (or, in the lexicon of the Right, "liberty") or to provide for the "general happiness"? As there are principled reasons for honorable and sincere men and women to disagree on that question, they do today as much as they did in 1787.

As an ideological partisan, Paine provided the structure of what would evolve over time into the modern program of social democracy. Thus, in the *Rights of Man* and later in *Agrarian Justice*, he argues for what subsequent scholars would call a "social wage," meaning a basic level of income (or similar benefits, such as housing or health care) provided by society (through the

apparatus of the state) for those who are incapable of providing for themselves through no fault of their own. Thus, those either unable to work, because of illness, injury, or age, or unable to find employment simply because of the absence of jobs in hard times, are to have their welfare ensured by the government that they have themselves “instituted” to protect them via policies that look to their “Safety and Happiness.”

In making this argument, Paine was merely extending the logic of the social contract tradition, as Foner (1976: 250) makes clear: having surrendered a portion of their natural rights for the sake of a social compact that allows the accumulation of wealth through social relationships rather than labor, the ordinary citizen may morally demand that the economy so formed be regulated in the public good, with a portion of the wealth it generates redistributed according to human needs.

With this foundation, Paine explicitly calls for the establishment of what we today label the welfare state:

There should be “annuities” (i.e., pensions) “for all poor persons over fifty years of age,” anticipating the idea of social security benefits for retirees. Similarly, “widows” faced with the prospect of caring for themselves and their children alone would also receive such payments, pursuant with what would become survivor benefits.

The state should provide “donations” of money at the birth of every child, the equivalent of the contemporary “family allowances” common in Western Europe that are devoted to preventing childhood poverty and otherwise strengthening families from economic stress.

The government should provide free education to all.

The state should pursue a policy of full employment (being required to ensure “employment at all times”) through macroeconomic management and, when necessary, the direct provision of jobs through public works. In this way, Paine was calling for the recognition of a *de facto* right to employment – and, thus, presumably compensation in the form of unemployment benefits should employment not be available. We have thus the proposition that one has a right to a livelihood, i.e., a job, and when jobs are not available, a guaranteed minimum income. This is equivalent to what contemporary scholars of the welfare state conceive of as “decommodification,” an idea that will receive much attention in the chapters that follow.

All the aforementioned governmental activities should be funded through “a progressive tax.”

In sum, Paine argues for charging the state with providing for the aged, the sick, and the unemployed; for subsidizing the cost of raising children through both cash payments to parents and the provision of free education; for managing and regulating the economy so as to maximize employment (and thus, in theory, driving up average wages and living standards to the maximum the economy can support); and for providing the funding for all these exceedingly costly endeavors by taxing the affluent. As is apparent, these proposals are all violations of market principles, attempting as they do to substitute human need,

fairness, and the collective good for the “natural” outcomes that the market is argued to produce. Put in the terms of the debate as articulated in *Federalist 10*, we have nothing less than exactly the attack on the sanctity of wealth that Madison feared – the very epitome of the “wicked and improper” scheming of the demos to redistribute the wealth of others that so animated his prose.

Before concluding our discussion of Paine, it is worth observing that he was hardly indifferent to the rights of property, agreeing with Madison and Locke that one did have a right to security in one’s property. Indeed, Paine’s general view of the market economy was much like that of Adam Smith, whom Paine admired. Like Smith, he was a strong advocate of the market, precisely because he believed in its potential to improve the human condition. In the *Rights of Man*, Paine observes, amid long passages extolling the virtues of free trade, that “In all my publications . . . I have been an advocate of commerce, because I am a friend to its effects.” His program is thus not one of destroying either the market or the wealth that it creates. He does not dispute the necessity and even the justice of a certain level of inequality, and he certainly does not begrudge the wealthy for being so, in the way some of his more radical contemporaries (such as the French proto-communist Babeuf) did. Paine wishes instead only to recognize that there are other rights in addition to property, ones that a representative government must also recognize and support. His agenda then is not to destroy the market system, or to ruthlessly appropriate the wealth of others, but only to intervene in it at the margins, to reduce the poverty and human suffering that make a rewarding or satisfying life impossible.

Thus, Paine, unlike Madison or contemporary conservatives, would anticipate modern progressives like Franklin Delano Roosevelt in believing that government has an inherent responsibility for providing “freedom from want.” As Paine puts it, the mere existence of poverty suggests that “something must be wrong in the system of government.” This perspective, readily apparent in the *Rights of Man*, is elaborated in his *Agrarian Justice*. He argues that holding private property, even the ownership of land, is both natural and just. At the same time, he maintains it is equally natural and just that those possessing property must assist in providing for those without it. He thus suggests a basic social compact in which society recognizes and protects the right to own and accumulate, and expects in return that those profiting from this arrangement share some portion of their gains with those who might be argued to lose by it. In simple class terms, the wealthy offer compensation to those their possession of wealth disadvantages. Owners, whether of land or of more portable forms of capital, thus pay a de facto tax to those they are denying ownership rights to by the very fact of owning themselves.

Paine thus can be interpreted as favoring the position, associated with Rawls (1970), that inequality is ethically acceptable and often commendable, but only when its existence contributes to the greater good. The mechanism by which the social agreement to inequality is to be accomplished is, of course, redistribution of some of the gains of inequality, so to speak, to those who otherwise suffer. This could be accomplished through what today we would call transfer payments, paid for via progressive taxation. In this way, the wealthy

would subsidize the less affluent in return for the latter's acquiescence in a system – capitalism – that *otherwise* would be contrary to their interests. Put differently, a capital owning class would (happily) pay for the maintenance of the system of capitalism, and with it their individual fortunes, by providing a modest portion of the income they realize on their fortunes to the less privileged. Property and thus inequality are to be secured by guaranteeing a minimum income to those who inequality may harm.

Paine also makes the argument, which Madison did not feel obliged to entertain, that this approach would prove advantageous to the rich as well as the poor. This is, again, in part because he proposes only to limit the privileges of the wealthy, not to confiscate their fortunes or to inhibit the institutions of business that allow them to use that wealth to create more wealth, but even more so because he believes that curing poverty will allow for greater commonality of interests between classes. The “discontent” of the poor, he believed, “will be taken away” through these means, with two profound results. First, the social pathologies that result from mass poverty and privation, such as crime, will be dramatically lessened, which not only benefits everyone directly (all have an interest in public safety), but also because social resources used to combat crime and to imprison (or execute) its perpetrators can be shifted to more productive uses or returned to the population through lower taxes. Second, reminiscent of the view more cynically associated with Bismarck, is the contention, noted earlier, that some redistribution will in fact make the wealthy more rather than less secure in their wealth, given that the welfare state Paine proposes will reduce hostility and anger toward the affluent – “all riots and tumults will cease” – as will demands for a fundamental change in capitalism itself.

Paine, then, is proposing for virtually the first time in history a hypothesis that will occupy us throughout the rest of this study, just as it has occupied political thought and action over centuries: the proposition that the welfare state, and by implication the entire left-liberal approach to government that hopes to improve the human lot through government intervention in the market, is, contra Madison, neither “wicked” nor “improper,” but instead is the only way to build a just and equitable society that best allows individuals to pursue happiness. Critically, this is not merely the belief that redistribution will benefit the have-nots with only marginal cost to the better-off but the hope that political interventions in defense of individuals against the market will improve the lives of everyone, rich and poor alike. In the end, it is this question more than any other that animates political conflict in the modern world: whether to protect the market against politics or to make the market subject to politics – which is to say, subject to democracy.

A REVOLUTION DEFERRED

The year 1776 saw not only *Common Sense* and the Declaration of Independence, each devoted to establishing the principle of popular sovereignty as the basis of political life, but also the publication of Smith's watershed

The Wealth of Nations, which strove to institutionalize the practices and ideals of the market as the foundation of economic life and thought. Each would become a sacred text, appealed to and mythologized to the present day. Paine's *The Rights of Man* represents another and still bitterly contested intellectual revolution in its suggestion that the new democratic principles be extended to the emergent market system itself. It so alarmed the establishment in Britain that the book was banned and its author indicted (and convicted in absentia) for sedition merely for expressing such ideas. Political parties of the Left and the Right carry on the debate over democratic intrusion into the market to this day.

It is all the more remarkable that although Paine and his contemporaries lived and wrote during the early adolescence of capitalism, their political differences set the stage for the contemporary politics of Left and Right – terms which themselves famously derive from the seating of the different factions on the floor of the French National Assembly of 1789. We see thus that the basic fault line in the system of capitalist democracy was present from its birth in the form of an inescapable contradiction between the idea of a free market, composed of free individuals making free decisions about their own private lives without oppressive governmental intrusion, and the idea of “popular government” in which one of the explicit purposes of the state is to protect the right to “pursue happiness” and thus to further “the greatest good for the greatest number.” It is to a closer examination of this inherent tension in market democracy that we now turn.