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PHILIPPE RAYNAUD, *TROIS RÉVOLUTIONS DE LA LIBERTÉ.*  
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In this volume of collected essays, which brings together a series of prominent texts by Philippe Raynaud spanning a period of nearly three decades, the political, philosophical and historical origins of the English, American and French revolutions come to light with great clarity. What is more, the relevance of the debates that marked the Enlightenment and revolutionary periods to contemporary political questions is demonstrated throughout, as the author is attentive to the ways in which current societal evolutions reflect and renew the original debates. The work is thus of double interest. It contributes to our understanding of the links between the historical events of the period and the major political doctrines to which they gave expression (liberalism, conservatism, utilitarianism, physiocracy, theories of natural right...), while implicitly arguing that one cannot give an adequate account of our contemporary situation unless one considers the construction of its foundation. It also brings to life the triangular relationship between Britain, America and France, showing the intensity and ambiguity of the debates surrounding the Enlightenment heritage and its political implications. In this regard, Raynaud's illuminating discussion of Burke in the opening chapter is noteworthy, for it underscores the specificity of Burke's position, which is not to be assimilated with the counterrevolutionary positions of a Bonald or a Maistre, for whom the political order is ultimately to be subordinated to the religious order. At once « liberal » and « conservative », a proponent of reconciliation with the American colonies and hostile towards the French revolution, Burke appears in Raynaud's treatment not as a reactionary but as a precursor of a certain sort of political romanticism, critical of modern natural right and of the abstract reasoning underlying the defense of the « rights of man ».

## I. History and spontaneous order

Burke's rejection of abstract reasoning is tied to his understanding of the limits inherent in the attempt to remake society through the application of theoretical principles that fly in the face of community-preserving custom. If in his opposition to modern natural right Burke affirms the priority of practical reason or prudence, he cannot, however, be interpreted as continuing the Aristotelian tradition. For in setting practice against theory and warning against the political and social dangers of putting excessive faith in theoretical reason, Burke upholds a conception of history that is, at root, antithetical to reason. As Raynaud explains :

« Chez Aristote, la prudence et l'art ne font qu'imiter la nature; ils pallient ses défaillances, en l'aidant à atteindre ses propres fins, dont la découverte – qui implique une hiérarchisation – est l'objet propre de la Raison. Chez Burke, l'imitation de la nature apparaît parfois comme le résultat d'un renoncement à la réflexion, qui conduit à s'en remettre à l'histoire, considérée comme une approximation spontanée de l'ordre naturel » (p. 39).

This spontaneous, unreflective imitation of nature is what Burke sees as the wisdom of the British constitution, which, far from being the result of rational design or the expression of universal truths, is a particular manifestation of « accidental causation modified by the prudential handling » of contingent situations<sup>1</sup>.

In this sense Burke's conception of political wisdom is a departure both from the ancient understanding, in which reason strives to imitate nature, and the dominant modern conception. According to the latter conception, defended notably by Price and Paine, the wisdom of constitutional principles can only be verified by their *universal* character. In the same way, patriotism is to be founded upon an attachment to the particular institutions and liberties guaranteed by the British constitution not insofar as they are particular but, rather, insofar as they reflect or approximate the universal principles embodied in the « rights of man » (Price). The French revolution was seen as the universally valid affirmation of these rights and, as such, constituted a measure by which any constitution, including the British, could be evaluated. One's judgment on the French revolution thus had direct consequences on one's interpretation of the legitimacy of the British regime. The author shows how the French revolution gave rise, in this way, to sharp divisions within British liberal circles and ultimately led to the break-up of the Whig party: Burke would break with Price,

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1. Cf. L. Strauss, *Natural Right and History*, The University of Chicago Press, 1953, p. 314.

Paine and Fox, rejecting the revolutionary principle of national sovereignty in his defense of the monarchy.

Raynaud also shows the connection between Burke's understanding of history and his adherence to the central theses of the Scottish Enlightenment and, in particular, to those of Smithian political economy. In the same way that Burke conceived of the spontaneous wisdom of the British political order, Smith's defense of the market rested upon the notion of spontaneous economic and social order: the common good is better served by spontaneous interactions, which tend to be directed to individual interest, than by a system whose conscious design is intended to counter individualistic economic motivations. At the same time, Burke does not consider economic interactions to be a sufficient basis for the spontaneous emergence of social order; instead, the benefits of unfettered market relations can only be realized within a preexisting « system of manners ». Burke's adherence to the notion of a spontaneous or « providential » order, that is to say an order that transcends both the rationality and the will of individuals, is thus continuous with his defense of chivalry and « prejudice » as well as his emphasis on the superiority of « collective reason » as it expresses itself in tradition. In contrast, Paine's affirmation of the priority of will over and against tradition leads him to reject the traditional institutions (hereditary monarchy, aristocracy, Church) as inhibiting the development of a collective social reason. Raynaud convincingly argues that the opposition between Burke and Paine demonstrates the sociological character of Burke's position: concerned to preserve the « cultural conditions of liberal society », he believed that the absolutization of the claims of individual autonomy would undermine the system of manners, mores and beliefs that gave rise, over time, to a society in which the violence of despotism was pacified by « the empire of good manners ».

## **II. The civilizing effect of manners**

It is with respect to the question of manners that Burke can perhaps be most clearly distinguished from Rousseau, with whom he shares a critical stance toward certain aspects of modernity and, in particular, the cosmopolitical tendencies of the Enlightenment. While Rousseau rejected bourgeois society on the grounds that it cultivates amour-propre and denatures both man's relationship to himself and to others, Burke sought to preserve the « veil of conventions », considering the system of manners to be « le fruit fragile d'une histoire qui a libéré les hommes de la sauvagerie naturelle » (p. 51). This contrast can be extended to Hume, who, like Burke, recognized the civilizing and pacifying role of manners, and of court manners in particular (« gallantry »). In his

discussion of « Les femmes et la civilité<sup>2</sup> », the author situates this debate in the larger context of what one might term the spiritual and social heritage of the revolution. In nineteenth century literature and political and social thought, the question of the aristocratic order is examined in light of the new democratic order (Mme de Staël, Stendhal, Flaubert, Tocqueville); following Raynaud, one might argue that the efforts to give an account of the transformations brought about by the overturning of the aristocratic order cannot be reduced to mere nostalgia but constitute, in fact,

« un effort continu pour éviter que le monde postrévolutionnaire (bourgeois ou démocratique) verse dans l'ennui et dans l'immobilité en se posant comme la fin de l'histoire ou comme la réalisation de la nature » (p. 309).

The nineteenth century certainly produced a rich dialogue concerning the social changes accompanying the advent of democracy, and this dialogue continues on in the twentieth century (Simone de Beauvoir<sup>3</sup>); but as the author reminds us, the eighteenth century reflections of Burke and Hume had, to a certain extent, established the terms of the dialogue to come by questioning the mutual influences between the political, social and economic orders through the prism of manners. Hume's essay « On the rise and progress of the arts and sciences<sup>4</sup> » (discussed by Raynaud, pp. 305-306) not only provides a comparative analysis of the origins of manners in republics and monarchies, but it also raises interesting points of comparison between Burke and Hume. At the beginning of the essay, Hume seeks to determine the way in which one might identify « certain and stable causes » in human history as opposed to mere « chance ». He advances the criterion of number, suggesting that « those principles or causes, which are fitted to operate on a multitude, are always of a grosser and more stubborn nature, less subject to accidents, and less influenced by whim and private fancy, than those which operate on a few only ». It is thus through the lens of general causes, as opposed to causes that rely on a few individuals, that Hume wishes to develop a comparison between nations. It appears then that Hume's view of history as expressed in this essay tends to minimize the role of agency in favor of general historical tendencies, in the same way that Burke's conception of collective reason tends to undermine the role of individual will in favor of a more or less unreflective tradition. In light of Hume's subsequent analyses, one might nuance this argument by showing that Hume's approach accounts for individual agency even as he ascribes the

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2. Part III, chapter 7.

3. Cf. Part IV, chapter 5, « Un Stendhal féminin ? »

4. Cf. *Essays Moral, political and literary* [1742], Liberty Fund, 1985, pp. 111-137.

rise of the arts and sciences to « general principles ». For he acknowledges the central role played by the « few » who cultivate the sciences while at the same time arguing that « it is impossible but a share of the same spirit and genius must be antecedently diffused throughout the people among whom they arise ». Hume seems thus to consider man as a socially embedded creature, subject to the general movements of progress.

In his reflection on the conditions that give rise to the development of the sciences and the « polite arts », Hume distinguishes between republics and « civilized monarchies », suggesting that the sciences arise naturally in republics while monarchies cultivate the polite arts. According to Hume's description, it is in « civilized monarchies » that the « arts of government, first invented in free states, are preserved to the mutual advantage and security of sovereign and subject ». As Raynaud points out, what Hume admires in the British constitution is not only its « quasi-republican elements » but also, and more importantly, « l'équilibre conflictuel qu'elle parvient à maintenir entre la liberté, l'aristocratie et la monarchie » (p. 305). Hume's discussion also has the effect of rehabilitating even those monarchies « receiving their chief stability from a superstitious reverence to priests and princes », such as the absolutist French monarchy, as politeness of manners and the arts of conversation are said to arise « most naturally » in monarchies and courts. This line of argument continues the reflection of Castiglione (*The Book of the Courtier*) and extends to Norbert Elias's sociological theses (*The Civilizing Process; The Court Society*). Indeed, Hume's analysis seems to anticipate contemporary developments in the sociology of political elites, to the extent that politics is considered in light of the differential strategies developed in order to capture political office and the advantages thereby procured. Hume writes: « But though in a civilized monarchy, as well as in a republic, the people have security for the enjoyment of their property; yet in both these forms of government, those who possess the supreme authority have the disposal of many honours and advantages, which excite the ambition and avarice of mankind. The only difference is, that, in a republic, the candidates for office must look downwards, to gain the suffrages of the people; in a monarchy, they must turn their attention upwards, to court the good graces and favour of the great. To be successful in the former way, it is necessary for a man to make himself *useful*, by his industry, capacity, or knowledge. To be prosperous in the latter way, it is requisite for him to render himself *agreeable*, by his wit, complaisance, or civility ».

### III. Social progress and progressivism

In the course of his analysis of Burke's political thought and its relation to that of his contemporaries, Raynaud observes that « Avec Burke et Paine, nous assistons à la cristallisation d'une divergence durable entre les deux tendances fondamentales, conservatrice et progressive, du libéralisme moderne: c'est par là que leur controverse constitue un événement central dans l'histoire de la pensée politique anglo-saxonne » (p. 55). This suggestion can be read as an introduction to a series of reflections throughout the work that elucidate the evolution of the notion of progress and the practical impact of this notion. In his treatment of Voltaire<sup>5</sup>, the author sets up the central problematic of progress: the corollary of the philosophy of progress is a defense of human industry as a means of mitigating the irrational forms of human existence. If Voltaire's understanding of progress does not yet radically break with the classical opposition between nature and convention or custom (for Voltaire still interprets social progress with reference to an inherently superior natural state), it nonetheless leads to the legitimization of « Enlightenment activism » (pp. 114-115) and thus anticipates, one might argue, the conception of progress that was to flourish in the nineteenth and twentieth centuries. The practical implications of the notion that belief in progress leads to a commitment to activism are particularly salient in the context of American constitutional interpretation and the debate surrounding judicial activism. As the author reminds us<sup>6</sup>, this debate centers on the interpretation of the American constitution and the definition of the Supreme Court's role in its exercise of judicial review (established by the 1803 SC decision in *Marbury v. Madison*). The constitution as interpreted by judicial activists is a « living document » ; as such, it is to be a reflection of the times and an instrument capable of responding to the constantly evolving conception of society as a whole and of individual rights, needs and claims. The defenders of « original intent », by contrast, interpret the constitution as a framework of enduring political principles and argue that judicial review decisions must be made in light of the framers' intentions.

At the root of the opposition between advocates of original intent and judicial activism is a disagreement concerning the role of the judge in interpreting the law. In the United States, the evolution in theories of jurisprudence was largely influenced by the development of the social sciences in the early part of the twentieth century. In particular, Weberian social science, with its emphasis

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5. Part I, chapter 3.

6. Cf. Part II, chapter 4 (« De la tyrannie de la majorité à la tyrannie des minorités »).

on the objective, positive description of human activity, had a strong influence on Progressive thought (J. Dewey, A. Bentley), which in turn influenced Progressive legal theory (R. Pound). One might characterize the Progressive movement as an optimistic form of Weberian positivism. While Weber was aware of the ambiguity of progress from the point of view of science, insofar as the necessary effect of progress is to reduce scientific achievements to irrelevancy once new discoveries have been made, the Progressive view of progress was unambiguously optimistic. Consequently, the Progressives affirmed the value of science for human life and embraced the social sciences as the means by which social reform could be achieved. Understood in opposition to the formal expression of rights (the Declaration of Independence), social reform signified the promise of *effective* progress.

Applied to legal theory, Progressivism transforms the role of the judge, such that he becomes responsible for « shaping law to the needs of the day » and adapting legal principles to « the human conditions they are to govern rather than to assumed first principles » (R. Pound). In short, the objective of sociological jurisprudence was to « free the law » (O. W. Holmes) from the stricture of past intentions and purportedly natural (and therefore eternal) laws, thus allowing it to evolve to serve social needs and to promote equality. From this point of view, it is pertinent to recall that Progressive legal theory developed concurrently with economic interpretations of the American founding (A. Simons, J. A. Smith, Ch. Beard). These interpretations called into question the legitimacy of the Constitution, presenting the founders as anti-democratic and representative of an elitist worldview.

Raynaud's work shows to what extent the divergent interpretations of the American constitution and the sharp disagreements concerning the role of the Supreme Court reflect a deeper tension inherent in the principles of classical liberalism. For while the affirmation of the universally valid « rights of man » constitutes a defining moment of the French and American revolutions, this affirmation immediately poses the problem of the *realization* of those rights. As the distance between the universal and the particular, the formal and the real, becomes apparent, the same principles of human rationality and autonomy that were invoked in the articulation of the rights of man are invoked in favor of the effective transformation of society: the political revolution calls for a social revolution.

In his chapter on « Les critiques socialistes des droits de l'homme<sup>7</sup> », Raynaud clearly establishes the paradoxical continuity between Enlightenment principles and socialism. Arguing that the utilitarian doctrine (Bentham, Owen) can be understood both as a project of emancipation and as a project

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7. Part IV, chapter 3.

of the extension of social control (pp. 345-346), Raynaud aptly evokes the « apparently mysterious » connection between the ideal of autonomy and the idea that, through « social technology », one can transform the human being by means of innovative forms of solidarity (pp. 347-350). Indeed, it appears that the tension between the principles of natural right and their realization, between « abstract reasoning » and the rationalization of the political and social order, runs throughout the history of liberalism. *Trois révolutions de la liberté* makes a significant contribution to our understanding of the revolutionary period and its heritage and is a testimony to the value of combining the political, philosophical and historical approaches within the framework of a comparative study.

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