

Three Liberty Trees

Susan Marks

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In the 1790s there was a shop in London called the ‘Tree of Liberty’.¹ You could buy there radical pamphlets, handbills, broadsides and songs, printed and often written by the shop’s owner Richard Lee. The shop only lasted for about year, and even then Lee – who styled himself ‘Citizen’ Lee – had to move it to different premises three times, under pressure for disseminating ‘seditious’ material. In the end, he gave up and emigrated to America, dying at an unknown date.

Citizen Lee has left few traces for posterity.² But the name he chose for his shop is the subject of a large historical literature, and remains to this day highly resonant. So what was it that Lee alluded to? How did liberty come to be associated with a tree? Where did it take on the association, for whom, and in what circumstances? This article revisits these questions for the primary purpose of shedding light on the related theme of the ‘rights of man’. It will appear that the rights of man have revealing connections with the tree of liberty, and indeed, with trees more generally.

The Tree of Liberty

The history of the tree of liberty is commonly traced to the American Revolution. As is well known, a key event of the years leading up to the Revolution was the enactment by the British Parliament of the Stamp Act of 1765. Specifically addressed to the colonies of British America, the Act imposed a tax on printed materials (newspapers, pamphlets, books, legal documents, court records, even playing cards). All such materials had to be embossed with a revenue stamp paid for in British currency (as distinct from the colonial currency which, by then, was in use among

¹ See J. Douglas, ‘Citizen Lee and the tree of liberty’, 7 *Factotum* (Dec. 1979) 8. The shop could be found in 1795 at 2 St Ann’s Court, Dean Street, then later at 47 Haymarket, 98 Berwick Street and 444 Strand.

² In addition to the foregoing reference, see J. Mee, ‘The strange career of Richard “Citizen” Lee: poetry, popular radicalism and enthusiasm in the 1790s’, in T. Morton & N. Smith (eds), *Radicalism in British Literary Culture 1650-1830* (Cambridge University Press, 2009) 151. See also E. P. Thompson, *The Making of the English Working Class* (Vintage, 1966), 141.

the colonists). For those burdened with the tax, this was taxation without representation, all the more tyrannical insofar as it was also a form of censorship.

On 14 August 1765 a crowd gathered in Boston to protest against the Stamp Tax.³ The focus of their protest was the man who was supposed to implement the tax in Massachusetts, Andrew Oliver. The colonists' message to Oliver was not subtle. Gathering under a large elm tree at the corner of the present Essex and Washington Streets, they hanged him in effigy from one branch of the tree, hanging also from another branch a British cavalry jackboot, out of which emerged the Devil with a scroll marked 'Stamp Act' in his hand. Oliver resigned a few days later, and was forced to go beneath the tree and swear there never to act as a distributor of revenue stamps. The next month a copper plate was nailed to the tree's trunk bearing the inscription 'The Tree of Liberty'.

And so it was that, in the words of one British observer of the time, this 'once harmless elm' became, in the months and years that followed, a symbol of the revolutionary cause and the site of many significant events associated with it. Or rather, what he actually said was that it became 'consecrated as an idol for the Mob to worship' and a place where they could inflict the 'Tree Ordeal' – he seems to have been referring to incidents of tarring and feathering in front of the tree – on those whom they regarded as 'State delinquents'.⁴ Though felled by loyalists some ten years later and ostentatiously cut up for firewood, Boston's 'sacred elm' encouraged the designation of liberty trees as rallying-points in other cities and towns. Sometimes an elm was again used, sometimes another tree such as a buttonwood or an oak.

From America, the tree of liberty spread to revolutionary France, where a custom developed of planting liberty trees as living symbols of the new order.⁵ The first

³ See A. Schlesinger, 'Liberty tree: a genealogy', *The New England Quarterly* (Dec. 1952) 435.

⁴ *Ibid*, 438. (Tarring and feathering in front of the tree was an ordeal inflicted on rebel colonists by state agents too.) For the most famous image of tarring and feathering, see: [http://commons.wikimedia.org/wiki/File:Philip_Dawe_\(attributed\),_The_Bostonians_Paying_the_Excise-man,_or_Tarring_and_Feathering_\(1774\)_-_02.jpg](http://commons.wikimedia.org/wiki/File:Philip_Dawe_(attributed),_The_Bostonians_Paying_the_Excise-man,_or_Tarring_and_Feathering_(1774)_-_02.jpg).

⁵ See A. Corvol, 'The transformation of a political symbol: tree festivals in France from the eighteenth to the twentieth centuries', *4 French History* (1990) 455.

liberty tree is said to have been planted in May 1790 by Norbert Pressac, parish priest of the village of Saint-Gaudet in Vienne. Identifying the tree with the rights and ideals that had been proclaimed in the previous year, Pressac called on his parishioners to see to its flourishing. According to the revolutionary leader Abbé Grégoire, tree-planting ceremonies were held during the early 1790s in villages, towns and cities all around the country, so that by 1794 there were more than 6,000 liberty trees in France.⁶ While Grégoire himself advised the planting of sapling oaks, the claim is heard that poplars were especially favoured on account of their Latin name – *populus* – being a homonym for ‘the people’. Decorated with flowers, ribbons, Phrygian caps, tricoloured flags and message-bearing cards, liberty trees were the scene of dancing and a centrepiece of Jacobin spectacles.⁷

How are we to understand the symbolic power of the tree of liberty in this period? Historians tell us that it was an appropriation of the tree-related rituals that had long been associated with the coming of spring, and especially those involving the maypole.⁸ Contemporaries appear likewise to have made this connection. With reference to England, the poet and critic Samuel Taylor Coleridge tells the following story about the spring rituals of medieval times:

Each village, in the absence of the Baron at the assembly of the nation, enjoyed a kind of Saturnalia. The vassals met upon the common green around the May-pole, where they elected a village lord, or king, as he was called, who chose his queen. He wore an oaken, and she a hawthorn wreath, and together they gave laws to the rustic sports during these sweet days of freedom. The May-pole, then, is the *English Tree of Liberty!* Are there many still standing?⁹

As one commentator observes, Coleridge is not so much writing history here as attempting a ‘political appropriation of the symbolism of the maypole’.¹⁰ His account of the peasants turning the world upside down and enjoying ‘sweet days of freedom’ around the maypole culminates in a pointed question about liberty trees – and through them, of course, about liberty – in his own time.

⁶ H. Grégoire, *Essai historique et patriotique sur les arbres de la liberté* (1793-4), available at ftp.bnf.fr/004/N0048493_PDF_1_1DM.pdf.

⁷ R. Tannahill (ed.), *Paris in the Revolution* (Folio Society, 1966), 96, quoted in W. Ruddick, ‘Liberty trees and loyal oaks: emblematic presences in some English poems of the French Revolutionary period’, in A. Yarrington & K. Everest (eds), *Reflections of Revolution: Images of Romanticism* (Routledge, 1993) 59, 60.

⁸ A link is also suggested with the ancient Roman practice of displaying poles topped by Phrygian caps (these being a type of cap worn by emancipated slaves) as symbols of liberation from tyrannical rule. Certainly, poles and trees appear to have been used more or less interchangeably by the American colonists, and in France the Phrygian cap was a frequent decoration for liberty trees.

⁹ S. T. Coleridge (S. Coleridge ed.), *Essays of his Own Times, Vol. 1* (Pickering, 1850), 137.

¹⁰ E. Joshua, *The Romantics and the May Day Tradition* (Ashgate, 2007), 64.

It seems that, inspired by events in America and France, some liberty trees were planted in Britain, but that by the year when Coleridge wrote that passage – 1796 – their planting had been outlawed as part of the repressive regime instituted by Prime Minister William Pitt the Younger to put a stop to British Jacobinism.¹¹ With multiplying anti-sedition laws, high-profile treason trials and repeated suspensions of *habeas corpus*, liberty was certainly in retreat in England. In an earlier text, Coleridge had himself expressed this reality in language evocative of the tree of liberty. The ‘august and lofty Tree’ that once ‘rose above the palace of the Monarch’ and ‘sheltered the distant dwelling of the Cottager’ now stands, he had written, ‘stripped of its boughs’, a ‘melancholy memorial of conquered Freedom ...’¹²

Coleridge writes confidently of the ‘conquered Freedom’ of his time and place. But what precisely was this? For many of those targeted by them, the repressive measures were *symptoms* of a political malfunction, rather than causes. The issue was not the failure of the rule of law *per se*. It was not that the tree that once ‘rose above the palace of the Monarch’ now stood stripped and diminished. It was that the ‘palace of the Monarch’ *still stood*. The issue was the outdated British constitution, preserving as it did the hereditary power and privilege of the monarchy and aristocracy. Thanks, perhaps most of all, to Thomas Paine, whose two-volume *Rights of Man* was published to immense popular acclaim in London in 1791-2, the language in which this argument was conducted was the ‘rights of man’. I want now to take up that story. In doing so, I should signal that for the remainder of this article my focus will be on England, a country in which, as I shall recall in later discussion, the paucity of liberty trees had as its wider context great and fateful changes affecting society, humanity and nature.

Under the British Oak

¹¹ See W. Ruddick, ‘Liberty trees and loyal oaks: emblematic presences in some English poems of the French Revolutionary period’, in A. Yarrington & K. Everest (eds), *Reflections of Revolution: Images of Romanticism* (Routledge, 1993) 59, 60.

¹² S.T. Coleridge, *Conciones ad Populum, or Address to the People* (1795), 51, available at archive.org/details/concionesadpopul00cole.

To reach Paine's *Rights of Man*, we need to start with the dissenting preacher Richard Price, who on 4 November 1789 preached a sermon at an annual event held to mark the anniversary of the 'Glorious Revolution' of 1688, in which James II of England was deposed and William and Mary of Orange were installed on the English throne.¹³ Price used the occasion to praise the revolutionaries across the Channel. 'What an eventful period this is!', he declared. The light that set America free has been kindled in France into a 'blaze that lays despotism in ashes, and warms and illuminates Europe!' 'I have lived to see the rights of man better understood than ever', he continued (an old man by this time), 'and nations panting for liberty which seemed to have lost the idea of it ... And now, methinks, I see the ardour for liberty catching and spreading; a general amendment beginning in human affairs'.

Price made clear that this amendment had implications for his own country. For whilst, in his view, the Glorious Revolution was a 'great work, it was no means a perfect work', in that 'all was not then gained which was necessary to put the kingdom in the secure and complete possession of the blessings of liberty'. Most importantly, constitutional reform was needed to realise the right of the people – which he took to have been accepted, but inadequately implemented in the 1688 settlement – 'to chuse our own governors; to cashier them [bring them to account] for misconduct; and to frame a government for ourselves'. Price's sermon secured a more prominent place in history than it might otherwise have had because it was picked up by Edmund Burke and made the point of departure for Burke's *Reflections on the Revolution in France*,¹⁴ a text widely considered one of the defining works of modern conservatism and itself the point of departure for the ensuing pamphlet war which scholars of this period of British history call the 'Revolution Controversy'.¹⁵

In an etching made by the caricaturist James Gillray very shortly after Burke's tract appeared, Price is shown sitting at his desk with Burke looming up to startle him from behind.¹⁶ Captioned 'Smelling out a Rat, or The Atheistical-Revolutionist

¹³ R. Price, 'A Discourse on the Love of our Country' (1789), available at: <https://archive.org/details/adiscourseonlov00pricgoog>.

¹⁴ E. Burke (C. Cruise O'Brien, ed.), *Reflections on the Revolution in France* (Penguin, 1986).

¹⁵ See, e.g., M. Butler (ed.), *Burke, Paine, Godwin, and the Revolution Controversy* (Cambridge University Press, 1984).

¹⁶ An image of the engraving is available at:

disturbed in his Midnight “Calculations”, the etching has Price working on an essay ‘On the Benefits of Anarchy Regicide Atheism’. Burke, meanwhile, is imagined as a monstrous apparition, all suspicious nose, eyes peering through huge spectacles, and a crown in one hand and a cross in the other. That last detail directs us to the core of Burke’s argument, which concerned the indispensability of the monarchy and the Church as foundations of the British constitution. To his mind, far from accepting the principle that the people had the right to choose their own governors, bring them to account for misconduct and frame a government for themselves, the ‘Glorious Revolution was made to preserve ... that ancient constitution of government which is our only security for law and liberty’.¹⁷

As for the recent Revolution in France, with its Declaration of the Rights of Man and the Citizen, Burke saw absolutely no grounds for praise: ‘Am I to congratulate an highwayman and murderer, who broke prison, upon the recovery of his natural rights?’¹⁸ Likening the revolutionaries to highwaymen and murderers, Burke makes clear here that he considers natural rights comparable to the ‘freedom’ of a convicted criminal to escape from prison. For him, the whole concept of natural rights lacks reality inasmuch as rights exist only as part of an historical legacy. In his words, rights are necessarily ‘an inheritance from our forefathers’.¹⁹ ‘Abstract’, ‘primitive’ or ‘metaphysic’ rights, once they enter ‘common life, like rays of light which pierce into a dense medium, are, by the laws of nature refracted from their straight line’. Indeed, he continues, ‘in the gross and complicated mass of human passions and concerns, the primitive rights of man undergo such a variety of refractions and reflections, that it becomes absurd to talk of them as if they continued in the simplicity of their original direction’.²⁰

In this light, the ‘*real* rights of men’ in England are necessarily at once clear and vague.²¹ As Burke puts it, the liberties of Englishmen are ‘incapable of definition, but

http://commons.wikimedia.org/wiki/File:Smelling_out_a_rat.jpg. See further I. Haywood, *Romanticism and Caricature* (Cambridge University Press, 2013), 68.

¹⁷ E. Burke (C. Cruise O’Brien, ed.), *Reflections on the Revolution in France* (Penguin, 1986), 117.

¹⁸ *Ibid*, 90.

¹⁹ *Ibid*, 117.

²⁰ *Ibid*, 152.

²¹ *Ibid*, 149.

not impossible to be discerned'.²² They are: the right to live according to the law; the right to justice; the right to have the fruits of one's industry and to make one's industry fruitful; the right to do whatever 'each man can separately do, without trespassing upon others'; and the right to 'a fair portion of all which society, with all its combinations of skill and force can do in his favour'. To be sure, he writes, 'all men have equal rights'. But the refraction that occurs when abstract rights enter common life means that there can be no strict level. Thus, all men do not have the right to an equal 'share of power, authority and direction ... in the management of the state'. And nor do they have the right 'to equal things'.²³ Indeed, the 'power of perpetuating our property in our families is one of the most valuable and interesting circumstances belonging to it, and that which tends the most to the perpetuation of society itself.'²⁴

It follows that the taking of property was, for Burke, a particular scandal of the Revolution in France. Addressing directly the 'gentleman in Paris' to whom Burke's text is framed as a letter, he writes: 'The tenant-right of a cabbage-garden [and] a year's interest in a hovel ... are more ceremoniously treated in our parliament than with you [the French] the oldest and most valuable landed possessions, in the hands of the most respected personages, or than the whole body of monied and commercial interests in your country [France]'.²⁵ And again: 'We entertain an high opinion of the legislative authority, but we have never dreamt that parliaments had any right whatever to violate property, to overrule prescription'.²⁶ Burke offers that, from the vantage-point of France, it might appear that supporters of the Revolution like Price reflect widely held opinions. But nothing could be further from the truth. In what has become one of the most quoted passages of *Reflections*, he writes:

Because half a dozen grasshoppers under a fern make the field ring with their importunate chink, whilst thousands of great cattle, reposed beneath the shadow of the British oak, chew the cud and are silent, pray do not imagine that those who make the noise are the only inhabitants of the field; that, of course, they are many in number; or that, after all, they are other than the little shrivelled, meagre, hopping, though loud and troublesome insects of the hour.²⁷

²² *Ibid*, 153.

²³ *Ibid*, 149-50.

²⁴ *Ibid*, 140.

²⁵ *Ibid*, 261.

²⁶ *Ibid*.

²⁷ *Ibid*, 181.

What is notable about this passage, at least for our purposes, is less the withering condescension than the imagery through which it is expressed. Burke analogises the state to one of the large landed estates that were a familiar feature of the British rural landscape.²⁸ In this estate, he invites us to think of the mass of the British people as sturdy cattle, chewing the cud contentedly beneath the protective shade of an old oak, and of Price and his ilk as so many tiny grasshoppers, hopping about and disturbing the peace, but ultimately insignificant. The symbolism of the oak would have been lost on none of Burke's readers. It went back at least a century earlier, to the time of the English Civil War when, in 1651, Charles II hid to escape the Roundheads in an oak tree at Boscobel Wood in Worcestershire. After the Restoration of the monarchy, Parliament declared 'Royal Oak Day' (also known as 'Oak Apple Day') a public holiday to commemorate the event, and it remained a public holiday until the mid-nineteenth century.²⁹

At the same time, the oak was also, and more generally, a symbol of British strength, character and constitutional stability. When a great man died, it was common for the funeral eulogy to describe him as a 'spreading oak'.³⁰ Oak was used in ship-building, and though by the late eighteenth century certain kinds of timber for ship-building were imported, British oak remained the favoured material for the frames of naval vessels.³¹ The song 'Hearts of Oak' ('Hearts of oak are our ships, jolly tars [sailors] are our men ...') was an anthem of the Royal Navy.³² The oak is a slow-growing deciduous tree, and Burke is evoking too the idea of the ancient, time-honoured, organic constitution. As he puts it in another passage in *Reflections*, '[o]ur political system is never old, or middle-aged, or young, but in a condition of unchangeable constancy, moved on through the varied tenour of perpetual decay, fall, renovation and progression ... [I]n what we improve we are never wholly new; in what we retain

²⁸ See S. Daniels, 'The political iconography of woodland in later Georgian England' in D. Cosgrove & S. Daniels (eds.), *The Iconography of Landscape* (Cambridge University Press, 1988) 43, 45.

²⁹ See 'St Neot Oak Apple Day', *Calendar Customs*, available at <http://calendarcustoms.com/articles/oak-apple-day/>.

³⁰ K. Thomas, *Man and the Natural World* (Penguin, 1983), 218.

³¹ M. Hadfield, *Landscape with Trees* (Country Life, 1967), 110.

³² See 'Hearts of Oak', available at <http://ballads.bodleian.ox.ac.uk/static/images/sheets/20000/18025.gif>.

we are never wholly obsolete'.³³ When it comes to reform, Burke writes, 'time is among its assistants'.³⁴

But what is most important in Burke's image is, perhaps, the 'shadow' of the oak. The French may have proclaimed themselves citizens, but Burke's grazing cattle enjoy a shade which puts us firmly in mind of subjects under the benevolent care and protection of the state. (In an earlier text, Burke had addressed a member of the aristocracy with the words: 'You if you are what you ought to be are in my eye the great Oaks that shade a Country.'³⁵) And just as, in his discussion of the rights of man, he explained that the abstract or primitive rights of man were, like rays of light, refracted from any levelling 'straight line', so here the soft '*chiaroscuro* of maturely wooded English parkland' calls to mind a place far removed from the enlightening glare and 'geometric' equality of the new political landscape in France.³⁶

These various points of contrast are well captured in a pair of painted engravings of the period.³⁷ Each depicts an oak tree against the backdrop of a larger scene, but that commonality only serves to set in relief some very sharp disparities. One tree, captioned 'A Foreign Tree', is assigned the mock Latin genus 'Subitarius' (suggesting the Latin *subitus*, meaning 'sudden' or 'rash').³⁸ This oak looks sick; its branches are sparse, and at the top is a skull in a cloud of black smoke. Labels appear at the foot of the tree and along each branch: 'Confusion', 'Infidelity', 'Misery'. A snake marked 'Imaginary Rights of Man' curls around the trunk, and in the background are scenes of fighting and a guillotine. The other tree, captioned 'British Tree of True Liberty', is assigned the mock Latin genus 'Stabilissimus' (suggesting the superlative of the Latin *stabilis*, meaning 'most stable').³⁹ This tree is clearly flourishing; its leaves are abundant, and rays of sunshine radiate from the top. Again there are labels, but this

³³ E. Burke (C. C. O'Brien, ed.), *Reflections on the Revolution in France* (Penguin, 1986), 120.

³⁴ *Ibid*, 281.

³⁵ See H. C. Mansfield (ed.), *Selected Letters of Edmund Burke* (University of Chicago Press, 1984), 184 (letter to the Duke of Richmond, 15 November 1772).

³⁶ See S. Daniels, 'The political iconography of woodland in later Georgian England', in D. Cosgrove & S. Daniels (eds), *The Iconography of Landscape* (Cambridge University Press, 1988) 43, 46.

³⁷ I have been unable to discover the artist. Images of the engravings are available at: <https://chnm.gmu.edu/revolution/d/68/> and <https://chnm.gmu.edu/revolution/d/69/>. For a variation on the same theme, see Gillray's 'The Tree of Liberty – with the Devil Tempting John Bull', available at: http://commons.wikimedia.org/wiki/File:Tree_of_liberty.jpg.

³⁸ See <https://chnm.gmu.edu/revolution/d/69/>.

³⁹ See <https://chnm.gmu.edu/revolution/d/68/>.

time they read: 'Happiness', 'Religion', 'Prosperity'. In the background is a delightful scene with ships at sea, a village around a church, and people walking in well tended countryside. If we are looking for the tree of liberty, then for Burke this British oak – which bears no decorations, features in no spectacles, and is the site of no rallies – is it.

A Fair Budding Branch

The publication of Burke's *Reflections* sparked a great flurry of responses and counter-responses. Of the hundreds of pamphlets, the first to appear was Mary Wollstonecraft's *Vindication of the Rights of Men*.⁴⁰ Wollstonecraft may have been especially keen to defend Price against Burke's attack as (though not herself a dissenter) she attended Price's church, and seems to have been influenced by his sermons. Price also introduced her to the radical publisher Joseph Johnson, who went on to publish her work. 'It is necessary emphatically to repeat', Wollstonecraft writes, 'that there are rights which men inherit at their birth, as rational creatures', and that inasmuch as they receive these 'not from their forefathers but from God, prescription can never undermine natural rights'.⁴¹ For her, Burke not only erred in holding that rights were necessarily an historical legacy, so that prescription – time and circumstance – could indeed undermine natural rights. He was also uncritically admiring of the inherited constitution. 'The ivy is beautiful, but when it insidiously destroys the trunk from which it receives support, who would not grub it up?'⁴² Perhaps the British oak was less healthy and stable than Burke thought.

The way Wollstonecraft approached the issue of what was wrong with the inherited constitution was through the contention that the 'civilisation which has taken place in Europe has been very partial'.⁴³ 'And what has stopped its progress?' Her answer was 'hereditary property [and] hereditary honours'.⁴⁴ Natural rights had not been fulfilled because 'the demon of property has ever been at hand to encroach on the

⁴⁰ M. Wollstonecraft (S. Tomaselli, ed.), *A Vindication of the Rights of Men and A Vindication of the Rights of Woman* (Cambridge University Press, 1995).

⁴¹ *Ibid*, 12-13.

⁴² *Ibid*, 8.

⁴³ *Ibid*, 8.

⁴⁴ *Ibid*, 9.

sacred rights of men, and to fence round with awful pomp laws that war with justice'.⁴⁵ Certainly, this had been the case in England. Wollstonecraft tells Burke: 'You should have hinted [to the French] that property in England is much more secure than liberty'.⁴⁶ Or rather, he should have hinted that security of property *is* what passes for liberty in England. For, as she exclaims, '[s]ecurity of property! Behold in a few words the definition of English liberty'. To which she immediately adds: 'But softly – it is only the property of the rich that is secure; the man who lives by the sweat of his brow has no asylum from oppression'.⁴⁷ Moreover, that working man's oppression comes from the rich themselves, with the support of the state.

Wollstonecraft gives as an example the English game laws. A longstanding phenomenon, these laws protected the monarchical and aristocratic right to hunt game for sport. In the early eighteenth century, they took on further significance in connection with the legal protection of private landed property. In particular, the Black Act of 1723 imposed extremely severe penalties, including death, for poaching and related offences. 'In this land of liberty', Wollstonecraft writes, 'what is to secure the property of the poor farmer when his noble landlord chooses to plant a decoy field [to lure game birds] near his little property? Game devour the fruit of his labour; but fines and imprisonment await him if he dare kill any – or lift up his hand to interrupt the pleasure of his lord'.⁴⁸ Wollstonecraft called attention to the link between this oppression in the system of property relations and oppression in the system of political representation. In her later text *Vindication of the Rights of Woman*, she argued that the 'whole system of representation ... in this country' – excluding as it did unpropertied men, along with all women – was only a 'convenient handle for despotism'.⁴⁹

If Wollstonecraft's *Vindication of the Rights of Men* was the earliest riposte to Burke in print, Thomas Paine's *Rights of Man* (published in two parts in 1791 and 1792)

⁴⁵ Ibid, 7.

⁴⁶ Ibid, 14.

⁴⁷ Ibid, 13.

⁴⁸ Ibid, 16.

⁴⁹ Ibid, 237.

was by a very large margin the most influential.⁵⁰ There is ongoing debate about the sales figures for *Rights of Man*,⁵¹ but whatever their exact size, it seems that an impressive number of copies were sold, and that the work achieved exceptionally wide dissemination around the country.⁵² Like Wollstonecraft, Paine was acquainted with Price and happy to come to his defence. More than that, however, Paine had lived for many years in America, and was already the author of one of the key texts of the American Revolution, *Common Sense* (published in 1776).⁵³ When *Reflections* appeared, he was living in Paris, in the midst of the French Revolution. Burke's attack on Price was an opportunity for Paine to bring to the country of his birth the experience he had gained and the ideas he had developed whilst outside it. In *Rights of Man*, he lays out an argument for popular sovereignty and republican government as the only kinds of rule consistent with the political rights which, in his view, Price had correctly identified.

In making this argument, Paine takes issue with Burke's notion, also challenged by Wollstonecraft, that all rights are historically conditioned. The specific claim elaborated by Burke was that any natural rights of the kind identified by Price got renounced in the process of constitutional settlement, but Paine is clear that this is simply not possible. No constitutional settlement of the past can deprive those in the present of their natural rights; '[i]t is the living and not the dead that are to be accommodated',⁵⁴ and anyway, the point of a social contract is 'not to have less rights than ... before, but to have ... rights better secured'.⁵⁵ At the same time, Paine also takes issue with the way Burke treats hereditary succession as though, for its part, it belonged to the order of nature. In reality, it is just a 'thing of the imagination',⁵⁶ an idea that was once accepted, but, Paine believes, is no longer. Indeed, he writes at the end of the first part of *Rights of Man*, '[a]s it is not difficult to perceive that hereditary governments are verging to their decline and that

⁵⁰ T. Paine (B. Kuklick, ed.), *Political Writings* (Cambridge University Press, 2009), 57 and 155.

⁵¹ On this, see Peter de Bolla, *The Architecture of Concepts: the Historical Formation of Human Rights* (Fordham University Press, 2013), 206 et seq.

⁵² See, e.g., E. P. Thompson, *The Making of the English Working Class* (Vintage, 1966), 108, fn 1.

⁵³ T. Paine (B. Kuklick, ed.), *Political Writings* (Cambridge University Press, 2009), 1.

⁵⁴ *Ibid*, 63.

⁵⁵ *Ibid*, 86.

⁵⁶ *Ibid*, 133.

revolutions on the broad basis of national sovereignty and government by representation are making their way in Europe, it would be an act of wisdom to anticipate their approach ..., rather than commit them to the issue of convulsions'.⁵⁷

What then of Burke's celebrated aristocracy? For Paine, they are, rather, to be deplored as a class of idle parasites. In his words, '[t]he aristocracy are not the farmers who work the land, and raise the produce, but are the mere consumers of the rent; and when compared to the active world, are the drones ... who neither collect the honey, nor form the hive, but exist only for lazy enjoyment'.⁵⁸ In the second part of *Rights of Man*, Paine puts forward a series of proposals for correcting some of the hardships and inequalities that he considers to flow from this situation, and from the 'unnatural law of primogeniture'.⁵⁹ The proposals link popular sovereignty and republican government with the introduction of progressive taxation and the reform of poor relief. Regarding the latter, Paine outlines a scheme of public welfare and social insurance that includes old-age pensions, grants for the education of children, and subventions to newly married couples. In his conception, this would enhance social justice, while also promoting social peace by giving the 'poor, as well as the rich [an interest] in the support of government'. 'Ye who sit in ease', he writes, 'and solace yourselves in plenty ... have ye thought of these things?'⁶⁰

Commentators on *Rights of Man* often emphasise the plain, accessible style of Paine's prose. He emphasises this himself, claiming to eschew Burke's 'gay and flowery' language for straightforward writing that tells things as they are and can be understood by all.⁶¹ At the very end of *Rights of Man*, however, Paine allows himself a rare extended metaphor, albeit one that remains consistent with his communicative style in appealing to ordinary experience. He asks his readers to imagine him at his desk in the middle of February:

⁵⁷ Ibid, 153.

⁵⁸ Ibid, 220.

⁵⁹ Ibid 242.

⁶⁰ Ibid, 240.

⁶¹ Ibid, 70.

Were I to take a turn into the country, the trees would present a leafless, wintery appearance. As people are apt to pluck twigs as they go along, I perhaps might do the same, and by chance might observe that a *single bud* on that twig has begun to swell. I should reason very unnaturally, or rather not reason at all, to suppose *this* was the *only bud* in England which had this appearance.⁶²

If one bud appears on a twig, this is a sign that spring is on the way, and that buds are, or will soon be, starting to appear on trees everywhere. He goes on:

[T]hough the vegetable sleep will continue longer on some trees and plants than on others, and though some of them may not *blossom* for two or three years, all will be in leaf in the summer, except those which are *rotten*.⁶³

And finally, in case there is still doubt, Paine makes known that he speaks of seasonal change for the sake of delivering a message about political change:

What pace the political summer may keep with the natural, no human foresight can determine. It is, however, not difficult to perceive that the spring is begun.⁶⁴

As one analyst observes, Paine's 'turn' in the country is also the trope or linguistic 'turn' that he hopes will help to turn a country, make a revolution.⁶⁵ It is also, of course, a trope that returns us to Burke's oak-shaded field and turns it around. What has happened to that serene scene? The contented 'silence' and 'repose' of Burke's 'thousands of great cattle' now appears as a 'vegetable sleep' from which they are beginning to awake. As for his British oak, we might well suspect, based on the argument of *Rights of Man*, that it is among the trees that will *not* be in leaf in the summer, for it is 'rotten'. In fact, Paine indicates what he thinks of Burke's tree in an earlier passage of *Rights of Man*. The context is a discussion of the storming of the Bastille. Paine notes that Burke is greatly preoccupied by certain outrages committed by the revolutionaries: a number of people were murdered, and their heads carried around Paris on spikes. Paine then writes: 'Let us therefore examine how men came by the idea of punishing in this manner. They learn it from the governments they live under ... [Sanguinary punishment] instructs [men] how to punish when power falls into their hands'. Adapting the well-known verse from the gospel of St Matthew about the 'tree which bringeth not forth good fruit', he concludes: 'Lay then the axe to the root, and teach governments humanity.'⁶⁶

⁶² Ibid, 262.

⁶³ Ibid, 262-3.

⁶⁴ Ibid, 263.

⁶⁵ T. Furniss, 'Rhetoric in Revolution: the Role of Language in Paine's Critique of Burke', in K. Hanley & R. Selden (eds.), *Revolution and English Romanticism: Politics and Rhetoric* (Palgrave Macmillan, 1991) 23, 42.

⁶⁶ T. Paine (B. Kuklick, ed.), *Political Writings* (Cambridge University Press, 2009), 78. Matthew, 3:10: 'And now also the axe is laid unto the root of the trees: therefore every tree which bringeth not forth good fruit is hewn down, and cast into the fire.'

Paine had first-hand knowledge of sanguinary punishment from his earliest youth. Born and raised in the town of Thetford in Norfolk, his family's house stood next to, and within sight of, what was then called Gallows Hill, a place to which every year in the spring convicted criminals would be brought for execution. Especially since the passage of the Black Act, mentioned earlier, which made minor offences against private property subject to capital punishment, the English criminal law had become a ferociously brutal instrument of property-owning interests and 'one of the bloodiest criminal codes in Europe'.⁶⁷ As John Keane explains, 'homicides by the well-to-do were often acquitted or given nominal sentences [while] servants who pilfered from their masters or rural labourers who stole sheep found themselves sentenced to death by hanging'.⁶⁸ Paine thus gained an early lesson in the pathologies of life in a class-divided society – exemplified in Wollstonecraft's reference to the English game laws – that had 'laws for the rich and laws for the poor'.⁶⁹

That said, we should note E.P. Thompson's assessment that, although accused by his conservative detractors of economic 'levelling', Paine 'did not challenge the property-rights of the rich nor the doctrines of *laissez faire*'. His main quarrel, as also that of Wollstonecraft, was not with the system of property relations *per se*, and nor was it with the new breed of affluent tenant farmers and urban manufacturers. It was with the 'great landed aristocracy ... where the hereditary principle involved in primogeniture gave him offence'.⁷⁰ When Paine writes of the political spring, then, he writes of new growth made possible by the uprooting of the old regime of privilege and property, 'Old England'.⁷¹ This is already clear in one of his earliest texts, the lyrics of a song entitled 'Liberty Tree', written for a magazine which Paine edited when he first arrived in Philadelphia. The song describes a mock myth-of-

⁶⁷ D. Hay, 'Property, Authority and the Criminal Law', in D. Hay et al., *Albion's Fatal Tree*, 2nd ed. (Verso, 2011) 17, 19. See further E.P. Thompson, *Whigs and Hunters* (Allen Lane, 1975).

⁶⁸ J. Keane, *Tom Paine: A Political Life* (Bloomsbury, 1995), 9.

⁶⁹ *Ibid.*

⁷⁰ E.P. Thompson, *The Making of the English Working Class* (Vintage, 1966), 96.

⁷¹ See T. Paine, 'Liberty Tree', available at: <http://www.bartleby.com/338/2.html>.

origin that has the Goddess of Liberty descending from the heavens to bring the future tree of liberty to America. Its opening verse goes like this:

In a chariot of light from the regions of day,
The Goddess of Liberty came:
Ten thousand celestials directed the way,
And hither conducted the dame.
A fair budding branch from the gardens above,
Where millions with millions agree,
She brought in her hand, as a pledge of her love,
And the plant she named LIBERTY TREE.⁷²

Almost two decades later, *Rights of Man* bids us follow the course of that 'fair budding branch' (or, as it would then appear, 'twig'), via France, to England.

A False Tree of Liberty

Paine and Wollstonecraft may not have been disposed to challenge the system of property relations *per se*, but I want now to turn, in a final section of my discussion, to someone who was. Rather like Richard 'Citizen' Lee whom we encountered at the beginning of this article, Thomas Spence was a radical bookseller and publisher who also wrote prolifically himself. Like Lee too, Spence is not well known today, though he was a significant thinker and activist in his own lifetime (of a kind that Lee never was) and for some years afterwards as well. I have recalled the immense influence of Paine's *Rights of Man*. Spence was among the book's many appreciative readers. He associated himself with it, and helped to disseminate its arguments by selling copies at his bookshop in London, including after the book was proscribed as seditious.

However, from the outset, Spence was also critical of Paine for not going, as Spence saw it, far enough. In one of his texts, a mock-dialogue between an Old Man and a Young Man, Spence writes:

Young Man: It is amazing that Paine and other democrats should level all their artillery at kings, without striking like Spence at [the] root of every abuse and of every grievance.⁷³

For Spence, Paine's focus on political revolution, even with the introduction of a scheme of public welfare and social insurance, was inadequate. What was needed was a *social* revolution that could challenge the basis on which political power arose

⁷² Ibid.

⁷³ T. Spence, 'The End of Oppression', reprinted in H. T. Dickinson (ed.), *The Political Works of Thomas Spence* (Avero, 1982), 34, 35.

and was maintained. The axe should, indeed, be laid to the root, just as Paine urged, but in Spence's view, the root went very much deeper than Paine was willing to acknowledge.

In explaining the context in which he reached this view, Spence later highlighted an event which took place in 1771, when he was in his early twenties. He still lived at the time, where he was born, in the city of Newcastle upon Tyne. What happened was that the city authorities attempted to enclose the city's Town Moor, a large area of common land over which Newcastle's 'freemen' (merchants, tradesmen, artisans) had common rights to graze animals and collect wood.⁷⁴ This was challenged by the freemen as a violation of those common rights, and after a protracted dispute, a compromise was reached under which the land could be fenced and leased, but the freemen would retain control of the area, and any rent received from eventual lessees would be paid over to them.

In celebration of what was understood as a popular victory, it is reported that signet rings were issued with the inscription '*vox populi vox dei*' – the voice of the people is the voice of God.⁷⁵ If this was a formative experience for Spence, one reason seems to have been that many other communities were not so successful. Especially in non-urban areas, enclosure – the process of turning common land into one or more parcels under private ownership – was proceeding apace in England.⁷⁶ In some parts of the country, the conversion of open fields into hedged closes had been underway for many centuries, so that, by the eighteenth century, much rural land was already enclosed.

⁷⁴ The freemen of Newcastle were descended from those who, in feudal times, had been neither serfs nor aristocracy. In the 18th century, they were mostly artisans and merchants. See further <http://www.freemenofnewcastle.org/the-origins-of-the-freemen/>.

⁷⁵ See A. Bonnett, 'The Other Rights of Man: the Revolutionary Plan of Thomas Spence', *History Today* (Sep. 2007) 42, 44. '*Vox Populi, Vox Dei: Being True Maxims of Government*' was the title of a Whig pamphlet published in 1709, which has been attributed to Daniel Defoe and Lord Somers. See H. T. Dickinson, *Liberty and Property: Political Ideology in Eighteenth-Century Britain* (Methuen, 1977) 73, 326.

⁷⁶ This brief account of enclosure draws principally on J Neeson, *Commoners: Common Right, Enclosure and Social Change in England, 1700-1820* (Cambridge University Press, 1993), T. Williamson & L. Bellamy, *Property and Landscape: A Social History of Land Ownership in the English Countryside* (George Philip, 1987), and R. Kain, J. Chapman & R. Oliver, *The Enclosure Maps of England and Wales 1595-1918* (Cambridge University Press, 2004).

However, during Spence's lifetime, things began to take a new turn. Whereas previously enclosure had mostly been used to convert arable land into sheep pasture, now it was being used to convert *all* common land, including common pastures and marginal 'wastes' such as moors, marshes, bogs, fens and downs, into arable and mixed farm land. And whereas previously it had been undertaken either gradually, through piecemeal transactions, or by decision of the community (or at any rate, those within the community deemed to have the greatest interest in the land), now the norm was Parliamentary enclosure. Landlords would petition Parliament for an Act, surveyors would arrive, and before too long, the fences and 'no trespass' signs would go up.

Parliamentary enclosure met with widespread resistance, because, as with all enclosure, it meant the extinguishment of common rights. Compensatory allocations were in some cases made when open-field land was enclosed, but the new land allocated was often, for a variety of reasons, unworkable and quickly sold. When common pastures and waste lands were enclosed, land that had formerly provided artisans and other landless people with valuable grazing, fuel, household materials, and sometimes also food supplies, became inaccessible to them. In the name of agricultural 'improvement', England's rural poor, along with those town- and city-dwellers who still had access to common land, lost their means of survival on terms that did not involve subjection to the market.

I touched earlier on Burke's comment that the 'tenant-right of a cabbage-garden and a year's interest in a hovel ... are more ceremoniously treated than with [the French] the oldest and most valuable landed possessions', and that 'we entertain an high opinion of the legislative authority, but we have never dreamt that parliaments had any right whatever to violate property, to overrule prescription'. In fact, as Burke was very well aware, the British Parliament was overruling prescription – extinguishing common rights – almost daily, with dire consequences for cabbage-gardeners and hovel-dwellers. Wollstonecraft's 'demon of property' had become extremely active in securing private property, but common property was another matter altogether.

It was against this backdrop that, in 1775, Spence delivered a lecture to the Newcastle Philosophical Society.⁷⁷ The subject of his lecture was the ‘important question [of] whether mankind, in society, reap all the advantages from their natural and equal rights in land and liberty, which in that state they possibly may and ought to expect’.⁷⁸ In answering that question, Spence began with the idea that the world had been given to mankind in common.⁷⁹ If this common gift had been ‘individuated’ through the institution of property,⁸⁰ Spence’s next step was to argue that that could not justify exclusionary claims to land, and nor could it justify the alienability of land.

‘Well’, he observes, ‘methinks some are now ready to say, but is it not lawful, reasonable and just for [a] people to sell, or make a present, even of the whole of their country, or common, to whom they will, to be held by them and their heirs, for ever and ever?’ ‘To this’, he says, ‘the answer is that if their posterity require no grosser materials to live and move upon than air’, then there can be no objection. But if, like us, their posterity require more than air, then ‘the same gross materials must be left to live upon. For a right to deprive any thing of the means of living, supposes a right to deprive it of life; and this right, ancestors are not supposed to have over posterity’.⁸¹

Spence’s conclusion is that mankind, in society, is very far from reaping all the advantages from their natural and equal rights in land and liberty, which in that state they possibly may and ought to expect. Since ‘there is no living but on land and its productions’, the land, together with all its appurtenances, belongs to everyone equally.⁸² The institution of landed property contravenes, indeed nullifies, this. Through it, ‘no man ... [can] claim a right to so much as a blade of grass, or a nut, or

⁷⁷ After giving the lecture, Spence was expelled from the Society. See A. Bonnett, ‘The Other Rights of Man: The Revolutionary Plan of Thomas Spence’, *History Today* (Sep. 2007) 44.

⁷⁸ T. Spence, ‘The Real Rights of Man’, reprinted in H. T. Dickinson (ed.), *The Political Works of Thomas Spence* (Avero, 1982), 1.

⁷⁹ Spence’s principal reference-point seems to be Locke. See Locke’s *Second Treatise of Government*, Chap. V (‘Of Property’), in Locke (P. Laslett, ed.), *Two Treatises of Government* (Cambridge University Press, 1988), 285 et seq.

⁸⁰ *Ibid.*

⁸¹ T. Spence, ‘The Real Rights of Man’, reprinted in H. T. Dickinson (ed.), *The Political Works of Thomas Spence* (Avero, 1982), 1.

⁸² *Ibid.*

an acorn, ... though to save his life, without the permission of the pretended proprietor' – which permission 'is for the most part extravagantly paid for'.⁸³

But, lest it be supposed that this situation is inevitable and irremediable, Spence went on to sketch the outlines of a plan – which he spent the rest of his life advocating – by which the people might 'take their long-lost rights into possession'.⁸⁴ In meetings organised at local or 'parish' level, they would form themselves into parish councils or 'corporations' and would vest all the land and its appurtenances in each parish in those councils, which would then exercise the powers over the land formerly exercised by landlords, except that there would no power of alienation. The rents collected by the councils would be used for public expenditures, and money left over would be paid back to the members of the parish in equal shares.

Twenty years later, in evident response to Paine's *Rights of Man* which had in the meantime appeared, Spence republished this lecture under the title 'The Real Rights of Man'. In the dialogue from which I quoted earlier, he sums up his analysis:

Young Man: I hear there is another RIGHTS OF MAN by Spence, that goes farther than Paine's.

Old Man: Yet it goes no farther than it ought.

Young Man: I understand it suffers *no* private property in land, but gives it all to the parishes.

Old Man: In doing so it does right, the earth was not made for individuals.⁸⁵

And later:

Young Man: But most people believe it would be unjust to deprive landed men of their property as many of them have purchased their estates.

Old Man: Landed property always was originally acquired either by conquest or encroachment on the common property of mankind ... [B]uying stolen goods is as bad as stealing.⁸⁶

Spence thought that to 'allow the justice of private property in land' was to 'justify everything the landed interest do, both in their own estates and in the Government, for the country is theirs'. What Paine and others called 'oppression is only [landed

⁸³ Ibid, 2.

⁸⁴ Ibid.

⁸⁵ T. Spence, 'The End of Oppression', reprinted in H. T. Dickinson (ed.), *The Political Works of Thomas Spence* (Avero, 1982), 34.

⁸⁶ Ibid, 34-35.

proprietors] acting consistently with their interest'.⁸⁷ Until action was taken to 'destroy not only personal and hereditary Lordship, but [also its efficient] cause'⁸⁸ in land-owning, farm enlargement and enclosure, Spence believed that the rights of man would remain illusory.⁸⁹ '[L]ike a rainbow, [they will] recede from us as we advance', he maintained.⁹⁰

Spence expressed and disseminated his ideas in a huge variety of forms that were designed to reach ordinary people. He organised meet-ups in taverns, chalked graffiti on pavements and walls,⁹¹ struck slogan-bearing tokens and countermarked coins,⁹² and published a periodical that was affordable even to the poorest. One text that appeared in his periodical takes the form of a 'fragment of an ancient prophecy'. The prophecy foretells a future in which 'certain philosophers of great abilities' will arise to set up the tree of liberty and proclaim the rights of man:

And during the propagation of the true system certain philosophers shall arise of great abilities who shall erect a false Tree of Liberty composed of heterogeneous materials ... part liberty, and part tyranny, capable of shedding the influence of liberty and independence only on the wealthy, the shadow scarcely falling on the poor ... Nevertheless, they [those philosophers] shall so far animate the people with the display of their specious, but partial Rights of Man, that the multitude shall arise and great convulsions shall be in many countries, and kingdoms and principalities, and hierarchies and governments shall be overthrown, but oppression shall still remain.⁹³

For Paine, as we saw earlier, liberation becomes possible once the old regime of privilege and property – 'Old England' – has been uprooted. For Spence, in contrast, what needs to be uprooted is the *new* regime of privilege and property as well. Anything less is, as his Old Man puts it, a 'barren revolution of mere unproductive rights'. Anything less will be 'capable of shedding the influence of liberty and

⁸⁷ T. Spence, 'The Meridian Sun of Liberty', reprinted in G. I. Gallop (ed.), *Pig's Meat: Selected Writings* (Spokesman, 1982), 109.

⁸⁸ T. Spence, 'A Further Account of Spensonia', reprinted in G. I. Gallop (ed.), *Pig's Meat: Selected Writings* (Spokesman, 1982), 88.

⁸⁹ T. Spence, 'The Restorer of Society to its Natural State in a Series of Letters to a Fellow Citizen: Letter 1', reprinted in H. T. Dickinson (ed.), *The Political Works of Thomas Spence* (Avero, 1982), 74

⁹⁰ T. Spence, 'The Meridian Sun of Liberty', reprinted in G. I. Gallop (ed.), *Pig's Meat: Selected Writings* (Spokesman, 1982), 108-9.

⁹¹ It has been claimed that Thomas Malthus's *Essay on Rent* was written partly to answer one of Spence's graffiti, 'No Landlords', which at the time 'stood rubric on the walls' (in Alexander Pope's phrase). See M. Chase, *The People's Farm*, 2nd ed. (Breviary Stuff, 2010), xiii, quoting M. Wood, *Radical Satire and Print Culture 1790-1822* (Oxford University Press, 1994) 76-79, 85.

⁹² E.g. 'War or Land'. See M. Chase, *The People's Farm: English Radical Agrarianism 1775-1840*, 2nd ed. (Breviary Stuff, 2010), 52. On Spence's tokens and coins, see more generally R. H. Thompson, 'The Dies of Thomas Spence (1750-1840)' 38 *British Numismatic Journal* (1969) 126.

⁹³ T. Spence, 'A Fragment of An Ancient Prophecy', reprinted in H. T. Dickinson (ed.), *The Political Works of Thomas Spence* (Avero, 1982), 45.

independence only on the wealthy, the shadow scarcely falling on the poor'. Anything less conduces to a future in which 'great convulsions shall be in many countries, and kingdoms and principalities, and hierarchies and governments shall be overthrown, but oppression shall still remain'. Anything less deceives the people by erecting a 'false Tree of Liberty'.

Conclusion: Three Trees

I began this article by writing of the tree of liberty in the singular, but it is evident that my story has revealed not one, but three trees of liberty. The first is Burke's British oak, the 'British Tree of True Liberty'. This belongs with a vision of constitutional stability, and with an understanding of the people as subjects under the beneficent care and protection of the monarchy, aristocracy and Church. The poet William Wordsworth depicted Burke as himself an oak:

I see him, – old, but vigorous in age, –
Stand like an oak whose stag-horn branches start
Out of its leafy brow ...
Exploding upstart Theory ...⁹⁴

The second tree of liberty is that of one of the upstart theorists, Thomas Paine. Paine's 'fair budding branch' belongs with a determination to put an end to hereditary succession, and to establish government on the basis of popular sovereignty and republican citizenship. The third and final tree of liberty is Spence's 'false Tree of Liberty'. This belongs with an awareness of the very many ways in which (to return to Coleridge's phrase) human freedom may be conquered, going beyond political tyranny to include also tyranny in social and economic life.

Spence's tree differs from the other two in the obvious sense that it expresses a critical judgement, rather than an affirmative claim. His concern is not the true tree of liberty, but the false one. The 'true trees' that feature in the work of Burke and Paine serve to naturalise contested ideas about society and politics by connecting them symbolically with nature.⁹⁵ Tree and other nature imagery trades on the distinction between nature, on the one hand, and culture, history and thought, on

⁹⁴ W. Wordsworth (J. Wordsworth, ed.), *The Prelude* (Penguin, 1995), Book VII, 281.

⁹⁵ See S. Daniels, 'The political iconography of woodland in later Georgian England', in D. Cosgrove & S. Daniels (eds), *The Iconography of Landscape* (Cambridge University Press, 1988) 43. See also T. Fulford, 'Cowper, Wordsworth, Clare: The Politics of Trees', 3, available at: <http://www.johnclare.info/fulford.html>.

the other. It confers self-evidence, unassailability, primordially, and with all that, legitimacy. Thus, Burke uses the imagery of the oak to naturalise hereditary succession and denaturalise the rights of man ('an inheritance from our forefathers'). In countering Burke, Paine does the reverse; he uses the imagery of the budding branch to denaturalise hereditary succession ('a thing of the imagination') and naturalise the rights of man, understood accordingly as rights to republican government. Spence uses the imagery of the *false* tree to challenge the naturalised republican form of the rights of man as 'specious' and 'partial'.

Central to Spence's challenge is a history that is in part about actual trees – the clearing of woodland 'wastes', the development of large-scale commercial forestry, the creation of artful arboreal arrangements in private 'landscape parks', and the criminalisation of wood collection by local commoners (possessors of common rights) under conditions of comprehensive enclosure realised and backed up by law. His critique reminds us of how reality and symbolism intertwined at this time to engage processes that were not to everyone's advantage. The elm at the corner of the present Essex and Washington Streets in Boston was, after all, in symbolic terms a tree of liberty, but also, like London's famous 'triple tree' at Tyburn, a gallows. Paine would point out, as he did in a passage I cited earlier, that men learn how to punish when power falls into their hands from the governments they live under; inhumane governments instruct men in inhumane punishments, so what is needed is to lay the axe to the root and teach such governments humanity. True enough. But if it was the *ancien régime* in France that taught the revolutionaries to carry severed heads on spikes, the American colonists took their lesson from the criminal law of eighteenth-century England, itself marked by and adapted to the new regime of capitalist property and profit-taking that was then and there taking shape.