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THE EVOLUTION OF CONDORCET'S IDEAS DURING THE REVOLUTION

by

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Thesis submitted for the Degree of M.A.
in the University of Durham
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ABSTRACT OF THE THESIS

Introduction

Aim of the thesis:

- (a) to show to what extent Condorcet's ideas were influenced by those of the eighteenth century "philosophes";
- (b) to show how the inconsistencies in his behaviour were not as important as has been said; and were due to the need to adapt the reform project he had drawn up before 1789 to the events of 1789-93;
- (c) to show to what extent the Girondin constitutional project grew out of Condorcet's original reform plan;
- (d) to illustrate the difficulties experienced generally by political theorists when seeking to put their ideas into practice.

Chapter I

An examination of Condorcet's reform plans between 1775 and 1789.

1. The doctrine of the Rights of Man: its ideological basis.
2. The reform plans:
 - (a) Constitutional reform: how Condorcet wished to establish a "democratic" constitution which would reconcile the ideal of "popular sovereignty" with the necessity for a representative system of government.
 - (b) The reforms of the major abuses in the judicature, the penal system and the tax system.

Chapter II

An examination of Condorcet's ideas between August 1788 and June 1791.

1. The summoning and opening of Etats-Generaux. Condorcet's disappointment and his attempts to ensure that they were transformed into a National Assembly.
2. The Constituent Assembly:
 - (a) Condorcet's work as a member of the Commune's general assembly in the field of local government and electoral reform.
 - (b) His attempt to establish a centre party between May 1790 and May 1791.
 - (c) His reactions to the Constituent Assembly's reforms of the judicature, the penal system, the tax system and the organisation of the Church.

Chapter III

An examination of the evolution of Condorcet's ideas between the King's flight and the 10th August revolution.

1. From the King's flight to the meeting of the Legislative Assembly. The evolution of Condorcet's ideas in the field of executive reform.
2. The Legislative Assembly:
 - (a) The "loyalty" policy, October 1791.
 - (b) The slide into war, November 1791 to April 1792.
 - (c) The 10th August revolution and Condorcet's reaction to it.

Chapter IV

An examination of Condorcet's activities and writings between 10th August 1792 and his death.

1. From 10th August to the meeting of the Convention.
2. The Convention:
 - (a) His relations with the Girondins and the Montagnards.
 - (b) His attitude towards the King's trial.
 - (c) His election to the constitutional committee.
3. An examination of the Girondin constitutional project.
4. The rejection of the project and Condorcet's end.

Conclusion

Condorcet's behaviour during the Revolution was dictated by one important need - that of adapting a long-term project for political reform to the period of swift change which took place in the years following 1789.

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THE EVOLUTION OF CONDORCET'S
IDEAS DURING THE REVOLUTION.

INTRODUCTION

The aim of the thesis

Though he did not belong to the same generation as the French "philosophes" of the 18th century, Condorcet is generally regarded as the man who, more than any other, attempted to make a synthesis of what they had written concerning the problems facing the France of their day. In the words of Littré:

"Le 18ème siècle se résume en un type idéal qui depuis longtemps excite en moi une suprême vénération, je veux parler de Condorcet. Tout ce qui fait la vie et la pensée du 18ème siècle était en lui". 1

By 1789, however, nearly all the great thinkers who had contributed so much to the ideas of the century had died - Voltaire and Rousseau in 1778, Turgot in 1781, d'Alembert in 1783, Diderot in 1784, etc. To what extent were their ideas - in so far as they are absorbed into Condorcet's reform plans prior to 1789 - reflected in, or distorted by, the changes made by the men who actually participated in the French Revolution?

One of the aims of the thesis is to answer this question. But it is impossible to do so without broaching another question of more general interest. What are the difficulties experienced by political theorists who attempt to adapt reform plans based on abstract philosophical principles to concrete political situations? From this angle, an examination of Condorcet's activities and ideas between 1775 and 1789 and between 1789 and 1793 is extremely valuable.

1. "Du suicide politique en France depuis 1784 jusqu'à nos jours." (Journal des débats. 3rd August, 1860.)

By 1789, Condorcet had drawn up a vast plan for the complete overhaul of the political system on which the Ancien Regime was based. The Revolution presented this sole surviving exponent of the doctrines expressed by the "philosophes" with an ideal opportunity for putting his reforms into effect. However, the coherence of the reform plan drawn up cautiously and methodically between 1775 and 1789 contrasts strikingly with the apparent inconsistency of Condorcet's behaviour and ideas once the Revolution had got underway.

Rene Doumic, although excessively hostile towards Condorcet, has nevertheless clearly brought out the extent of this contrast.

"(Condorcet) a commencé par être d'avis que la France doit rester une monarchie ... et il sera l'un des premiers à manifester des sentiments républicains. Il déteste la guerre, et vote la déclaration de guerre à l'Europe ... Philosophe, il n'attend de bien que de la diffusion des lumières, non du recours à la force brutale ... (Or), il s'inclinera devant toutes les violences (et) trouvera pour les crimes eux-mêmes de la foule des trésors d'indulgence ... Après le 10 aout, qu'il appelle "un grand acte de justice autant que de prudence", il pousse au ministre Danton qu'il méprise. Après les massacres de septembre, et dans l'impossibilité où il est de les approuver, il a soin du moins d'y découvrir des excuses ... Dans le procès de Louis XVI, s'il ne vote pas la mort, c'est uniquement parce que cette peine "est contre mes principes". Quand la question du sursis est mise en délibération, il monte à la tribune pour se récuser par ces mots: "Je n'ai pas de voix". 1

1. "Condorcet et la Révolution" in Etudes sur la littérature française, Volume V 1906 p. 171 - 190.

In our view, however, these inconsistencies should not be exaggerated. While it is clear that Condorcet's ideas went through a definite evolution between 1789 and 1793, it is equally certain that his conduct throughout the Revolution was dictated by a fixed purpose from which he never wavered, namely the need to salvage the essential part of his reform plan by adapting his ideas to the very uneven progress made by the various political movements which succeeded each other during these four years. For, as the study of the Girondin constitutional project which makes up Chapter IV of the thesis indicates, the nucleus of the 1793 plan was contained in ideas which Condorcet had discussed before 1789. The origin and development of these ideas are described in Chapter I.

Those sections of the 1793 project which go beyond ideas put forward before 1789 have their origin in the reforms and events which took place between the summoning of the *Etats-Généraux* and the opening months of the Convention and it is with Condorcet's activities during these important years that Chapters II and III of the thesis are concerned.

One of the purposes of these three parts is to prepare the way for a final aim of the thesis, which is to show to what extent the constitutional project of 1793 may be said to represent the last complete statement of ideas which had been germinating in Condorcet's mind throughout the eighteen years which he devoted to the problems of constitutional reform.

CHAPTER ONE

CONDORCET'S PLANS FOR REFORM BETWEEN 1775 AND 1789.

1. The doctrine of the Rights of Man

The doctrine of the Rights of Man lies at the heart of Condorcet's vast plan for overhauling the political system of the Ancien Régime. His first complete description of the doctrine in 1788 came at the end of a series of attempts lasting several years to establish the new constitution of which he dreamed on firm philosophical principles. As these principles are fundamental to an understanding of Condorcet's views on all aspects of political and constitutional reform, it is important to examine the ideas out of which they grew.

The ideological basis of the doctrine.

Condorcet's dissatisfaction with the political system of the Ancien Régime originated partly in his belief that it was founded on a theological basis whose validity was dependent on faith and not on reason, on a blind adherence to tradition and not on experience and observation.

His own experiences at the Jesuit school in Reims and later, at the Jesuit Collège de Navarre in Paris, are recalled in the pamphlet which he wrote in answer to the Abbé Sabatier de Castres in 1774:

"Après six ans d'études, à huit heures par jour, un enfant sait par coeur son rudiment, son catéchisme et sa mythologie et parvient à l'âge de douze ou quinze ans sans jamais avoir rien compris de ce qu'on lui a dit. Ce pli une fois pris, il répètera toute sa vie des choses qu'il n'entendra point". 2

-
1. All quotations from Condorcet's works are taken from the 1847 Arago édition: Oeuvres complètes. 12 Volumes.
 2. O.C. V.293 "Lettres à un théologien".

This does not mean to say that Condorcet denied the existence of God. In the "Avertissements" which he added to the Kehl edition of Voltaire's works he stated: "Des métaphysiciens hardis ont conclu qu'on ne pouvait se former une idée de Dieu; cette assertion est trop absolue."¹ ; but he went on to add straight afterwards: "On ne peut se former de Dieu ... que des idées incomplètes, et seulement d'après les faits observés."² God may exist, but his existence is a question of probability and should not be the basis of positive laws.

The problem presented by Catholicism, however, was quite different. God, as an abstract principle, was not a threat to the idea of reform and progress. But Catholic dogma, with its insistence on the essential corruption of man and its psychology of fear, presented an insuperable obstacle to any improvement in the laws of the nation.

The theme of superstition and fear recurs in nearly all Condorcet's pre-revolutionary writings. In the "Lettres d'un Laboureur de Picardie" (1775), for example, he relates certain anecdotes about the prejudices which abounded in the rural areas concerning the free sale of grain:

"... un fermier a dit, en reniant Dieu, qu'il aimait mieux être mangé des rats que de vendre son blé à une pauvre femme; et voilà soudainement que les rats viennent le manger jusqu'aux os ... un pauvre a proposé à un fermier de lui vendre du blé à bon marché, quoiqu'il soit cher; le charitable fermier va remplir le sac, et en revenant il trouve son pauvre, transformé en un grand crucifix, qui fait force miracles." 3

1. O.C. IV. 221

2. O.C. IV. 221-222

3. O.C. XI. 13

Fourteen years later (1789), in the "Notes" which he appended to the edition of Voltaire's works, he contrasted the eighteenth century favourably with the sixteenth when "les biens des citoyens dépendaient de magistrats qui croyaient que le diable avait du sperme et que ce sperme était froid." ¹

In short, Condorcet was terrified by the manner in which superstition could be manipulated by sectarian groups within society to further their interests; hence his attack in the "Lettres d'un théologien" on the "morale barbare ... qui faisant des prêtres juges de la morale générale et des actions de chaque particulier, n'admet réellement d'autre vertu que ce qui est utile aux prêtres, et d'autres crimes que ce qui leur nuit." ²

The ideas of Pascal and Leibniz were among those which he attacked most severely. Leibniz's optimism and Pascal's view that man was essentially corrupt constituted beliefs which were clearly incompatible with the axiom which became the basis of all his plans for constitutional and social reforms: the axiom which stated that man was essentially good and was indefinitely perfectible. The idea was expressed as early as 1785 in the "Eloge de Michel de l'Hôpital":

"C'est parce que je crois l'homme naturellement bon que je m'indigne contre ceux qui le rendent l'instrument du malheur de ses semblables ... Le philosophe qui croit l'homme méchant doit voir tranquillement des crimes qui ne sont à ses yeux que la suite nécessaire de l'ordre du monde." ³

It is again found in the "Eloge de Pascal" of the same year:

"Il fut aisé à Pascal de prouver combien l'homme est faible et corrompu; peut-être il eût été plus philosophique de chercher comment il l'est devenu, puisque c'est le seul moyen d'apprendre ce qui pourrait le corriger. ⁴ ... Si Pascal a toujours raison lorsqu'il peint la corruption des hommes, il cesse de l'avoir lorsqu'il regarde cette corruption comme générale, et surtout comme naturelle et incurable." ⁵

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1. O.C. IV. 347
 2. O.C. V. 334
 3. O.C. III. 460
 4. O.C. III. 615
 5. O.C. III. 624

Speaking of Voltaire's poem on the Lisbon earthquake disaster, he stated: "La doctrine que tout est bien est aussi décourageante que celle de la fatalité", an obvious allusion to the theories of Leibniz.

The idea of indefinite perfectibility, or the doctrine of progress, was taken to its extreme in the speech which he made to the Académie Française on the occasion of his reception there on 2nd February 1782. Having stated that morals would improve in relation to the progress of scientific knowledge - "Peut-être le progrès nécessaire des sciences physiques aurait-il suffi pour assurer le progrès des sciences morales"¹ - he proceeded to speak in glowing terms of an age when "dirigé par (des) institutions salutaires, l'homme n'aurait besoin que d'écouter la voix de son coeur et celle de sa raison pour remplir par un penchant naturel les mêmes devoirs qui lui coûtent aujourd'hui des efforts et des sacrifices".² He saw evidence of progress in the improvements which had taken place in the eighteenth century, contrasting it with the barbarity of previous ages in which one could see "une corruption plus grossière s'unir dans les moeurs avec plus de férocité ..., des vices, presque inconnus aujourd'hui, former le caractère et les moeurs de nations entières."³

It is clear from the somewhat rhetorical emphasis which Condorcet gave to his ideas in the speech that he was assuming the role of a propagandist who was obliged to impress his view on others by exaggerating them. In fact, his attitude was not at all dogmatic. He was prepared to acknowledge what was good in all systems of government and was driven to search desperately for a solid foundation for the existence of man in society by the disgust which he felt at the injustices of the age.

1. I.393
2. I.395
3. I.396

This open-minded attitude is revealed, for example, by the manner in which he praised the reforms made by Michel de l'Hopital who was nevertheless a product of that sixteenth century whose numerous weaknesses he described at length in the "Eloge". Similarly, while attacking the evils of the seventeenth century in the "Notes sur Voltaire", he nevertheless admitted that it was an age when "le cultivateur, l'artisan, le manufacturier, le marchand étaient sûrs de recueillir le fruit de leur travail, sans craindre ni les brigands ni les petits oppresseurs." ¹

The major problem which he faced was to discover the way in which such benefits could be permanently guaranteed. As he said in the same passage: "De ce qu'un état tranquille a prospéré, il ne faut point en conclure qu'il ait eu ni de bonnes lois, ni une bonne constitution, ni un bon gouvernement." Something more profound, which transcended all these, had to be found and it was with this end in mind that Condorcet examined in turn the philosophical systems of his time, not as the anti-religious iconoclast depicted so inaccurately by Sainte-Beuve in the Causeries du Lundi.²

It was thus with respect that he spoke of speculative philosophy in the preface to the "Eloge de Pascal": "Il n'y a point, dans la philosophie spéculative, de dogmes importants qui n'aient été soutenus et combattus par des hommes également célèbres."³ He disagreed with Pascal but admired his attempt to ground moral standards on belief in God, describing this as the work of a man "qui ne voyait dans la morale humaine aucune base fixe sur laquelle on pût appuyer la distinction du juste ou de l'injuste."⁴

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1. IV. 469
 2. 3rd edition (Garnier) Volume III p.337, 3rd February 1851.
 3. O.C. III. 575
 4. III. 623

Condorcet could sympathise with a man who, like himself, was seeking firm principles on which to build society and it is significant that he defended Pascal against the Jesuits whose casuistry consisted precisely in blurring the distinctions between such basic notions as good and evil: "... ils voulurent tracer, entre le juste et l'injuste, une ligne imperceptible, sans songer que celui qui ne veut s'interdire que ce qui est injuste à la rigueur est bientôt emporté par ses passions bien loin des limites de la morale."¹

In Condorcet's view, pragmatism could never serve as a basis for organising society. However he felt that Pascal's ideas were such that they defeated his purpose. For, by reminding man of his weakness and essential corruption, he encouraged him to fall back on purely arbitrary standards of morality: "... cette méthode est-elle surtout propre à raffermir en général les hommes dans leur religion, fausse ou vraie."²

Condorcet rejected the idea that religion could serve as the basis of morality. But he was equally convinced that atheism did not provide the solution either. Apart from anything else it was too much out of keeping with the beliefs of the mass of the population to have any validity as a scale of values: "... on accusera toujours les athées de détruire toute morale, et il leur sera toujours impossible de faire à cette objection une réponse satisfaisante, surtout de mettre cette réponse à la portée du commun des hommes."³ He also suspected that atheism, in France, often took the form of a somewhat negative scepticism which led those who professed it to believe in the value only of material goods and hence to support the status quo rather than wish for a change: "... il y a eu beaucoup

1. III. 596

2. III. 622

3. "Eloge de Pascal" O.C. III. 574

d'athées qui ont prétendu qu'une religion, même fausse, pouvait être bonne politiquement, et qui, en conséquence, se sont conduits avec un zèle plus ardent que celui des croyants les plus convaincus."¹

On every side, therefore, he could discover no adequate basis for guaranteeing the permanence of those benefits which certain sections of the French population had enjoyed for a time in past ages. Christianity had played a useful role in the past by cementing society around a uniformly accepted set of beliefs. He did not question the people's right to share these beliefs still but he noticed that many of the leading figures of the age openly denied them. A society whose laws and institutions were so directly linked to principles based on beliefs which were now openly disputed was naturally in a state of potential decadence and it was thus Condorcet's wish, together with that of the other "philosophes", to recast moral principles in a non-religious mould.

His fears were most clearly expressed in his Vie de Turgot of 1786: "On ébranle la certitude des principes de la morale, en la liant avec des opinions qui, partout, sont ouvertement combattues, ou rejetées en secret par un grand nombre d'hommes, et surtout par ceux qui ont le plus d'influence sur le sort des autres."²

This negative scepticism, which was eating away at the fibres of the Ancien Régime, threatened not only to destroy it - which was what the "philosophes" desired - but to put in its place a society based on no principles at all. It is this form of negative doubt which Condorcet attacked in the last great work he wrote, the Esquisse d'un tableau historique des progrès de l'esprit humain.:

1. III. 575
2. O.C. V.145

"(Le) doute ... quand il conduit à ne point raisonner sur les mots auxquels nous ne pouvons attacher des idées nettes et précises, à proportionner notre adhésion au degré de la probabilité de chaque proposition, à déterminer pour chaque classe de connaissances les limites de la certitude que nous pouvons obtenir ... s'il s'étend aux vérités démontrées, s'il attaque les principes de la morale, devient ou stupidité ou démence, il favorise l'ignorance et la corruption." 1

In place of unthinking belief and destructive scepticism, he wished to establish a moral code founded on an optimistic form of scepticism which did not lose itself in abstract metaphysical speculations but concerned itself with the immediate practical problem of discovering means whereby men could best live together in society.

He proposed to discover these means empirically, by looking closely into the motives which governed men's actions, by delving into their psychological processes. He came to the conclusion that the driving force behind men's desires was self-interest:

"L'intérêt est le mobile général des actions des hommes, non seulement dans ce sens, que celui même qui agit d'après les motifs les plus purs est déterminé par le plaisir qu'il trouve à remplir ses devoirs, mais dans ce sens moins métaphysique, que si on excepte certains moments d'enthousiasme, l'intérêt de notre conservation, de notre fortune, de nos plaisirs, de nos affections, de notre repos, de notre réputation, de la paix de notre conscience, de notre salut, nous détermine toujours." 2

With the optimistic school of Shaftesbury, Hutcheson and Adam Smith (whose "Theory of the Moral Sentiments" Mme Condorcet translated into French), he believed also in the value of altruism as a moral force:

"Lorsque je suis sorti du collège, je me suis mis à réfléchir sur les idées morales de la justice et de la vertu. J'ai cru observer que l'intérêt que nous avons à être justes et vertueux était fondé sur la peine que fait nécessairement éprouver à un être sensible l'idée du mal que souffre un autre être sensible". 3 and he even went so far as to describe love of humanity, rather than pure self-interest, as "la plus inébranlable de toutes les bases". 4

1. VI. 87

2. "Notes sur Voltaire" O.C. IV. 321-322.

3. Lettre à Turgot, 13 décembre 1773 O.C. I.220.

4. Lettre à Voltaire, mars 1774 O.C. I.32.

However, he was too much a realist not to appreciate the more pessimistic views of Helvétius whose ideas he defended against Turgot in a letter of 1773:

"Il y a beaucoup de gens que la nature ou l'éducation ont destinés à être fripons, et qui ne deviendront honnêtes gens qu'à la manière et par les principes d'Helvétius" 1

and it was in this spirit that he considered utilitarianism as one of the surest methods for reconciling the contradictory different classes:

"S'il peut y avoir équilibre entre ceux qui ont tout et ceux qui n'ont rien, c'est seulement entre le besoin qu'on a de l'argent du riche et celui qu'a le riche du travail du pauvre que cet équilibre peut s'établir." 2

Altruism and self-interest were thus both considered by him to be important forces working in favour of establishing laws which would enable men to live together in society. His view of human nature was not original in so far as it was taken very largely from Locke, but because of the importance attached to it by Condorcet for discovering the basis of the new laws, it is worth quoting in detail that part of the "Esquisse" in which it is expressed:

"L'homme naît avec la faculté de recevoir des sensations, d'apercevoir et de distinguer les sensations simples dont elles sont composées, de les retenir, de les reconnaître, de les combiner, de comparer entre elles ces combinaisons, de saisir ce qu'elles ont de commun et ce qui les distingue, d'attacher des signes à tous ces objets, pour les reconnaître mieux, et faciliter les combinaisons nouvelles ... Les sensations sont accompagnées de plaisir et de douleur, et l'homme a de même la faculté de transformer ces impressions momentanées en sentiments durables doux ou pénibles, d'éprouver ces sentiments à la vue ou au souvenir des plaisirs et des douleurs des autres êtres sensibles. Enfin, de cette faculté unie à celle de former et de combiner des idées naissent entre lui et ses semblables des relations d'intérêt et de devoir, auxquelles la nature même a voulu attacher la portion la plus précieuse de notre bonheur et les plus douloureux de nos maux." 3

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1. Correspondance inédite de Condorcet et de Turgot, ed. C. Henry, Paris, 1883, p.141, lettre du 4 decembre 1773.
 2. "Réflexions sur le commerce des blés" O.C. XI.166 (1776).
 3. O.C. VI. 11-12.

Altruism and self-interest are seen as products of the reason acting under the sensations of pain and pleasure, fear and sympathy, and all men, by virtue of the very fact that they exist, possess the faculty to feel and to reason. A man's capacity to do so may be greater or less than that of his fellows, but the bond which unites all men - a common human nature - is fundamental. The qualities which separate them are incidental.

This is the basis on which Condorcet finally established his doctrine of the Rights of Man. The doctrine stated that all men, because of their common human nature, possessed equal rights and that the sole aim of society was to ensure that these rights were guaranteed: "... il n'existe aucun autre motif de se mettre en société que la conservation des droits dont on jouit dans l'état de nature." ¹

As for the definition of the actual rights themselves, it would seem that Condorcet was guided by two things. In the first place there was the undeniable influence of the American Revolution. As early as 1771 ² and in various other works of the time ³, he had referred to the "droits des gens", but it was not till 1781, in the essay "Sur l'état des Protestants" that he first provided a list of these fundamental rights:

"Les principes sur lesquels les sociétés sont établies doivent être les mêmes pour tous les Etats. Les sociétés ont donc été établies pour protéger la liberté, la propriété, la sûreté des citoyens." ⁴

This list bears a striking resemblance to the one contained in the Declaration of Rights adopted by the State of Virginia on 12th June 1776, the first article of which went as follows:

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1. "Sur l'état des Protestants", O.C. V.463.
 2. Lettre à Turgot, 17 décembre 1771, Corr. avec Turgot, p.77.
 3. "Réflexions sur les corvées" (1775) O.C. XI. 59-87; "Monopole et monopoleur" (1775) O.C. XI. 37-58; "Réflexions sur le commerce des blés" (1776) "Réflexions sur la jurisprudence criminelle" (1775) VII. 3-34; "Sur la liberté de la presse (1778) XI. 255-314.
 4. V.440.

"That all men are by nature equally free and independent and have certain inherent rights, of which when they enter into the state of society, they cannot by any compact, deprive or divest their posterity, namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety."

It is significant also that the next summary of these rights was provided by Condorcet in his essay of 1786 "De l'influence de la révolution d'Amérique sur l'Europe", written at a time when the American Federation was drawing up its Declaration, and that the most detailed and explicit presentation was given in the "Lettres d'un citoyen des Etats-Unis sur les affaires présentes" ¹, published in 1788, the year after Condorcet had translated the American Declaration into French.

It is clear therefore that the various American declarations helped Condorcet to systematise his ideas on the question of natural rights. A more obvious source, however, lay in the very situation of France during the 1770's and 1780's. The doctrine of natural rights represented for the "philosophes" in general the ideal to be attained by society; in other words, it was the exact opposite of all that they saw about them in the France of the Ancien Régime. "Ne trouvant pas leur justification dans la réalité, les partisans d'un ordre nouveau la cherchèrent dans les principes de droit naturel, c'est-à-dire dans les aspirations de leur coeur élevées au rang de principes éternels."²

The doctrine was thus a programme of action aimed at overhauling the Ancien Régime. Consequently, the most detailed description of these rights provided by Condorcet before 1789 ³ was accompanied by an elaborate summary of all the abuses of the time and, naturally, of all the reforms which he desired. For this reason it is worth quoting in full:

"Quel but se sont proposé les hommes en se réunissant en société régulière, en se soumettant à des lois? C'est sans doute de s'assurer, par ces mêmes lois, la jouissance de leurs droits naturels.

1. O.C. IX. 101-102.

2. M. & F. Hincker, Introduction to "Esquisse d'un tableau historique, etc.", Ed. Sociales, p.20.

3. In the "Lettres d'un citoyen des Etats-Unis. etc." (1788), O.C. IX. 101-102.

Mais la sûreté est un de ces droits, et les hommes en jouissent-ils, s'il reste quelque chose d'arbitraire dans les jugements criminels, si des actions indifférentes sont érigées en crimes, si le droit de se défendre est enlevé aux accusés, si les preuves alléguées contre eux sont pour eux un secret, si les tribunaux formant des corps perpétuels ont des passions ou des préjugés, des intérêts ou des prétentions? La réforme de notre jurisprudence criminelle, et celle de nos tribunaux, est donc nécessaire au maintien du premier de nos droits, la sûreté.

"La liberté en est un autre, or, jouit-on de la liberté partout où la loi interdit aux citoyens, sous peine d'amende, des actions indifférentes et un usage de leurs facultés, une disposition de leur propriété, qui n'est pas contraire au droit d'autrui? Jugez d'après cela nos lois de commerce, nos jurandes défendues avec tant d'opiniâtreté par nos parlements, nos lois de police établies par eux, notre jurisprudence fiscale, etc.

"La propriété est encore un droit naturel des hommes; or, ce droit existe-t-il partout où il est attaqué par des impôts indirects, nécessairement répartis avec injustice? ... Ce droit exist-t-il, lorsqu'en vertu de cette distribution des tribunaux, toute propriété, au-dessous de ce que coûte un procès, n'est garantie qu'autant qu'elle ne vaut pas la peine d'être usurpée? ... La réforme de nos impôts et de nos tribunaux est donc nécessaire au maintien de nos droits de propriété.

"L'égalité n'est pas moins un des droits naturels de l'humanité. Les hommes naissent égaux, et la société est faite pour empêcher que l'inégalité de force, la seule qui vienne de la nature, ne produise impunément des violences injustes. Toute inégalité qui, dans l'ordre social, est établie par une loi, et n'est pas la suite nécessaire du mérite réel, du droit de propriété, de l'opinion, de l'importance des fonctions sociales, est une violation de ce droit. Comparez maintenant cette maxime de la raison et de la nature avec les prétentions de nos premiers ordres, de nos magistrats.

"Enfin, le droit de concourir à la formation des lois est un des droits de l'homme dans l'état de société ... Ce droit, presque nul pour le plus grand nombre, n'est important pour la prospérité publique qu'autant qu'il assure la jouissance des autres ... Si ce droit n'est pas égal pour tous les citoyens, si un noble ou un prêtre y a plus de part qu'un propriétaire du nombre de ceux que vous nommez roturiers, alors ce droit cesse absolument d'exister."

These five basis rights represented the aim for which Condorcet was to struggle during the four years of the Revolution.

2. The reforms 1775 - 1789.

In Condorcet's opinion, the greatest weakness of the political system of the Ancien Régime lay in the absence of any method whereby the people could participate in the government of the nation.

However, it was not until 1788 that he wrote a full-length work on the organisation of a system of public participation. The fact that this work was published some eighteen years after his earliest written comments on political affairs (his correspondence with Turgot in 1770) does not indicate that he attached little importance to the question. On the contrary, as we shall see later, this problem appeared to him to be of fundamental importance; indeed, public participation ultimately became, in his eyes, the vital reform which had to be made and the basis of all the others.

The fact that he took so long to devise a method whereby the people could participate in the making of laws may be put down, in the first instance, to the very important practical difficulties created by the theory of the sovereignty of the people.

The foremost political thinkers of the eighteenth century shared the belief that the sole purpose of society was to ensure the protection of the interests of all its members. On the question of how this protection could best be ensured there was, however, little agreement. In order to put Condorcet's views in perspective, it is useful to take a glance at the ideas which were circulating at the time he approached the subject.

Two currents of thought may be detected, both with a common origin, but each one emphasising a different aspect of the problem. On the one hand there was Montesquieu who, while recognising the axiom that all power lay with the people, believed nevertheless that society could not function without a powerful government.

This view is stated in that part of the Esprit des Lois which deals with the theory of representative government:

"Le peuple qui a la souveraine puissance doit faire par lui-même tout ce qu'il peut faire, et ce qu'il ne peut pas bien faire, il faut qu'il le fasse par ses ministres ..." 1.

"Comme dans un Etat libre, tout homme qui est censé avoir une âme libre doit être gouverné par lui-même, il faudrait que le peuple en corps eût la puissance législative. Mais comme cela est impossible dans les grands Etats, et est sujet à beaucoup d'inconvénients dans les petits, il faut que le peuple fasse par ses représentants tout ce qu'il ne peut faire par lui-même ... Il n'est pas nécessaire que les représentants, qui ont reçu de ceux qui les ont choisis une instruction générale, en reçoivent une particulière sur chaque affaire." 2.

Against this, there were the ideas of those thinkers who preferred to emphasise the predominance of the people over the government and who distrusted any delegation of power on the part of the masses. The principal exponent of this view was Jean-Jacques Rousseau:

"La Souveraineté ne peut être représentée par la même raison qu'elle ne peut être aliénée; elle consiste essentiellement dans la volonté générale, et la volonté générale ne se représente point: elle est la même, ou elle est autre; il n'y a point de milieu. Les députés du peuple ne sont donc ni ne peuvent être ses représentants, ils ne sont que ses commissaires; ils ne peuvent rien conclure définitivement. Toute loi que le Peuple en personne n'a pas ratifiée est nulle; ce n'est point une loi." 3.

Rousseau's opinion was echoed fourteen years later by Thomas Paine in his essay on "Common Sense" (1776). Paine contrasted society, which he saw as a unity, with government, which he saw as something artificial and fragmentary:

"Some writers have so confounded society with government as to leave little or no distinction between them, whereas they are not only different but have different origins. Society is produced by our wants and governments by our wickedness; the former promotes our happiness positively by uniting our affections, the latter negatively by restraining our vices. The one encourages intercourse, the other creates distinctions Government, even in its best state, is but a necessary evil For were the impulses of conscience clear, uniform and irresistibly obeyed, man would need no other law-giver; but that not being the case, he finds it necessary to surrender up a part of his property to furnish means for the protection of the rest; and this he is reduced to do by the same prudence which in every other case advises him, out of two evils, to choose the least." 4.

1. Esprit des Lois (1748) Livre II Ch. 2 Paris, Les Belles Lettres 1950. 4 volumes, Volume 1 p.36.
2. Ibid. Livre XI Ch. 6 Volume II p.66 - 67.
3. Du Contrat Social (1762) Livre III Ch. 15 Paris. Gallimard 1964 Collection Périade; 3 volumes Volume III pp. 428-429.
4. Selected work of Tom Paine ed. H. Fast; Dull, Sloan & Pearce New York 1945 p.6.

So, here again, the emphasis is placed clearly on the importance of the power of the people as a whole and on the notion that the role of government should be reduced to a minimum.

For several years, Condorcet was to struggle with the problem of reconciling these two attitudes, of seeking a compromise between the respect of the people's right to have a full say in the running of their nation and the difficulties placed in the way of this, not only by the sheer complexity of finding a method whereby the people could make their wishes known, but also by the total lack of political experience and training of even the wealthier elements of the population.

To see how his views on this question developed up till 1788, it will be necessary to examine his thoughts on the subject as they occur in his earlier writings.

These reflected his desire to end the arbitrary nature of the laws and institutions of the Ancien Régime. In his letters to Turgot and Voltaire, the earliest of which date from 1770, he unceasingly attacked the claims of the Parlements to exercise legislative and executive powers.

His first published work on political affairs, the "Réflexions sur les corvées" of 1775, although very moderate with regard to the nobility and the king, nevertheless suggested that the ultimate sanction for legislative power was respect for the rights of the people. In this work, he mentioned two interpretations of legislative power:

"Les uns disent que la puissance royale n'a d'autres limites que celles qu'elle veut s'imposer à elle-même. D'autres croient que la puissance ne peut légitimement violer le droit naturel; que, par exemple, elle ne peut empêcher les hommes de disposer librement de leurs personnes et de leurs biens dans tout ce qui n'est pas contraire au droit d'un autre". 1.

1. O.C. XI. 74.

It is clear that Condorcet favoured the second of these interpretations. This view is substantiated by another passage in which he pointed out the dangers inherent in a system in which the people had no say in the settlement of disputes which directly concerned their welfare:

"Les paysans se sont soulevés contre leurs seigneurs lorsque, poussés au désespoir, ils ne voyaient aucune puissance sur la terre qui pût écouter leurs réclamations." 1.

Their only hope, as Condorcet went on to indicate in the following sentence, lay in the goodwill of the king to whom they were allowed to appeal. The implication seems to be that this was not sufficient, but it was two years later only, in the "Eloge de Michel de l'Hôpital",² that he mentioned for the first time the desirability and possibility of electing representatives to defend the rights of the people. Speaking of the use made by Michel de l'Hôpital of administrative bodies consisting of the leaders of the different Orders, he said:

"Ces députés ne pouvaient sans doute représenter la nation, puisqu'elle ne les avait pas choisis: nommés par la cour, appelés pour l'aider de leurs conseils et raffermir sa puissance chancelante, ils n'avaient pas la force ni le droit d'opposer des barrières au pouvoir arbitraire." 3.

He was even more emphatic when, in the same work, he insisted on the importance of the participation of the people in matters of taxation.

"Le produit des impôts appartient à l'Etat, et ne peut être, légitimement employé que pour l'avantage du peuple qui les a payés. Fidèle à cette maxime, l'Hôpital refusa constamment de ratifier des dons que le suffrage de la nation n'aurait pas confirmés." 4.

Admittedly, the reference is to a remote period of French history, but it seems impossible to ignore the inference of a passage written only a year after the beginning of the American revolution, especially when we bear in mind that this was precipitated by arbitrarily imposed taxation. Moreover, to attack the tax system of the Ancien Régime was

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1. Ibid. 81.
 2. O.C. III. 463-566.
 3. O.C. III. 526-527.
 4. Ibid III. 474

to challenge the system of Orders on which it was based and hence the entire political machinery of the nation. Condorcet quite understood the gravity of the changes which had to be made, but, at this stage, he could think of no method of effecting these changes beyond the summoning of the *Etats-Généraux*, an assembly whose weakness and cumbersomeness he was among the first to recognise. ¹

Throughout the following years he was to give a great deal of thought to the problem of public participation in government. An interesting example of this is to be found in the essay "Sur l'état des Protestants" of 1781 where we find him struggling with the practical necessity for a representative system of government and the need to emphasise the important fact that the representatives could, in no way, go against the wishes of the people with whom the authority ultimately lay:

"Quelques publicistes ont prétendu, à la vérité, que la puissance législative, lorsqu'elle réside dans le corps de tous les citoyens sans exception, avait le droit de faire toutes les lois qu'elle jugeait utiles au plus grand nombre; mais aucun n'a jamais prétendu que ce droit pût appartenir dans la même étendue à un homme ou à un corps devenu dépositaires du pouvoir législatif, ni même à une assemblée de représentants, choisis par la nation. L'opinion de ces publicistes nous paraît même outrée. Parce que, ainsi que l'a remarqué M. de Beccaria, les enfants non majeurs et les femmes ne faisant point partie de l'assemblée générale de la nation, elle n'est jamais dans la réalité qu'un corps de représentants plus nombreux. Puisqu'il n'existe aucun autre motif de se mettre en société que la conservation des droits dont on jouit dans l'état de nature, le premier acte de la société ne peut être l'abandon de ses droits." ²

Or again: "... jamais un homme n'a pu dire à d'autres hommes: je mets entre vos mains ma personne, ma vie et mes biens, à cette seule condition, que ma voix sera comptée dans vos assemblées; vous aurez le droit de m'ordonner, sous peine de la vie, de dire et même de croire que la neige est noire, et que deux et deux font cinq, etc." ³

The passage is interesting, not because it indicates that Condorcet firmly accepted the axiom that power lay solely with the people taken as a whole, but because it shows also that he was still unable to discover a method whereby this power could manifest itself. Of the two forms of legislative power mentioned, it would seem that he preferred

1. Ibid III. 527-528.
2. O.C. V. 463-465.
3. Ibid 464.

"une assemblée de représentants, choisis par la nation", but the passage is not so much concerned with this problem as with the purely theoretical one of what constituted a "democracy". It is worth mentioning, on this point, that, in 1781, Condorcet had not yet included the "droit de concourir a la formation des lois" among his list of natural rights.

That he was to do so only a few years later, however, signifies that his initial reluctance was not due to doctrinal objections but to the awareness of the huge difficulties involved in setting up the machinery whereby this participation could take place.

An insight into these difficulties is given in the important work which he published in 1786, the Vie de Turgot . This work is a landmark among the early writings in so far as it transcends his previous abstract expositions of general principles concerning the reform of the legal and fiscal system and attacks on particular abuses and attempts to establish a method whereby the administrative system of the Ancien Régime could be overhauled.

This method takes as its basis the reforms which Turgot unsuccessfully attempted to introduce in 1775. Turgot's plan, which is described in detail in Condorcet's biography, was to abolish the "généralités" which had till then comprised the administrative divisions of the nation and replace them by a network of assemblies elected in each area by the property owners.

Condorcet, who occupied an official post in Turgot's administration¹ and was thus very close to the events of the time, had had no illusions concerning the dangers of the enterprise and, in his biography, he listed some of the difficulties which Turgot had had to overcome.

1. He was "Inspecteur des Finances".

"Une assemblée de représentants ne peut être utile, si sa forme n'est pas telle, que le voeu de l'assemblée soit en général conforme à la volonté et à l'opinion de ceux qu'elle représente; si les membres qui la composent ne connaissent pas le véritable intérêt de la nation: si, enfin, ils peuvent être égarés par d'autres intérêts, et surtout par des intérêts de corps." 1

Turgot's plan was as follows. The nation would be divided into thousands of what he called "communautés de campagne". Each "communauté" (from now on referred to as "country community") was to consist of an amalgamation of small villages and hamlets and was to have the same status as a single small town. The property owners in each community and town would elect from among themselves a general assembly. The members of this assembly would then elect people to administer the affairs of the community or town concerned.

Turgot then proposed to link several country communities and small towns into what he referred to as a "canton". Each "canton" would also have an assembly of representatives who would be elected by the combined general assemblies of the country communities and small towns which were situated within the limits of the "canton".²

Condorcet felt that, in this way, Turgot had done all that was necessary to meet the demands which he considered vital for the workings of an elected administration. In his view, the system had four main advantages over the existing one:

First, even by limiting representation to the lowest level of small towns and country communities, it granted the people a greater measure of representation than anywhere else in the world.

Secondly, it enabled the peasants to defend their interests on a par with the local "seigneurs" and priests and it protected the country dwellers against the ambitions of the powerful town municipalities.

1. O.C. V. 114.

2. O.C. V. 114 - 116.

Thirdly, by ending the division by Orders, it discouraged the priests and the nobles from thinking only in terms of "castes"; by obliging them to share their interests with people from a different Order, it stimulated the spirit of co-operation. This spirit was further stimulated by allowing men from any of the Orders to be elected.

Finally, by establishing these assemblies throughout the nation, it helped to create a national spirit which would protect the masses from the divisions which could so easily be exploited by the numerous ambitious castes of the time.¹

In the context of the Ancien Régime, Turgot's reforms would appear to be very sweeping. However a closer examination indicates that they fell far short of what was to be achieved only fourteen years later. It is clear, for example, that the political role of the citizens was extremely limited, consisting as it did in the sole act of voting for representatives. The representatives themselves had no political power and were merely to administer the areas which came under their control:

"C'était uniquement à des fonctions d'administration que M. Turgot croyait devoir appeler ces assemblées: et il ne pensait pas que que ces fonctions dussent s'étendre au-delà de l'exécution des règlements généraux, des lois émanées de la puissance souveraine." 2.
i.e. from the government acting under the orders of the King.

Condorcet was well placed to understand Turgot's reluctance to go any further, for he realised that it would have been impossible to implement a scheme consisting of elected administrative assemblies lacking a division by Orders unless the entire tax system of the Ancien Régime was overhauled, a point which was underlined in 1781 by the failure of Necker's attempt to establish elected municipal administrators while maintaining the distinction of Orders and inequality of taxation within the parishes.

1. Ibid 114 - 119.

2. O.C. V. 119.

The complexity of the problem is illustrated most clearly by Tocqueville in his book L'Ancien Régime:

"Lorsque Turgot, en 1775, proposa au roi de réformer l'administration des campagnes, le plus grand embarras qu'il rencontra vint de l'inégale répartition des impôts; car comment faire agir en commun et délibérer ensemble sur les affaires de la paroisse, dont les principales sont l'assiette, la levée et l'emploi des taxes, des gens qui ne sont pas tous assujettis à les payer de la même manière, et dont quelques uns sont entièrement soustraits à leurs charges? Chaque paroisse contenait des gentilshommes et des ecclésiastiques qui ne payaient point la taille, des paysans qui en étaient en partie ou en totalité exempts, et d'autres qui l'acquittaient toute entière. C'était comme trois paroisses distinctes, dont chacune eut demandé une administration à part. La difficulté était insoluble. 1

Turgot realised that the reforms could be made only if there was a fundamental evolution in the political outlook of the people. He wished, therefore, to establish the new assemblies at grass-roots level only so that they could act as the instruments for changing the tax system without which no political reform was possible. At the same time, he felt that these assemblies, by allowing the people a small share in the administration of the nation, would lead to the creation of a new political consciousness which could ultimately act as the basis of an entirely new system of government.

Condorcet approved of Turgot's wish not to press ahead too fast as he was quite aware of the magnitude of the task facing all political reformers at the time. This is clear from the passage in which he explained why Turgot would not have gone further:

"Là, il se fut arrêté, d'abord parce que cet établissement eût suffi à l'exécution de la plupart de ses vues, ensuite pour laisser le temps à l'esprit public de se former, aux citoyens de s'instruire et à ceux que leurs lumières, leurs talents, leurs intentions, rendaient dignes de fonctions plus étendues, de s'y préparer et de se faire connaître. Il est facile d'établir des assemblées; mais leur utilité dépend uniquement de l'instruction de leurs membres, de l'esprit qui les anime; et il s'agissait en France de donner une éducation nouvelle à tout un peuple, de lui créer de nouvelles idées en même temps qu'on l'appelait à des fonctions nouvelles ... Il fallait affermir les fondements de l'édifice avant de penser à en poser le comble. Avant de songer à donner des chefs aux citoyens, il fallait qu'il y eût des citoyens en état de les choisir." 2

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1. Ancien Régime Ed. Headham. Oxford Univ. Press 1925. Ch. 7 p.203.
 2. Vie de Turgot O.C. V. 121-122.

Unlike Turgot, however, Condorcet did give precise indications as to the political potential of the local assemblies. He showed how the "canton" assemblies of a "province" could meet so as to elect an assembly at the "provincial" level and, finally, how this provincial assembly could elect someone to represent the province in a national assembly possessing legislative powers.¹

In 1775 Turgot had considered that the reforms were too vast and complicated to be made by an assembly of elected members and he had wished the task to be accomplished by one man acting on his own initiative.

"(M. Turgot) croyait que la destruction d'abus compliqués et multiples, la réforme d'un système d'administration, la refonte d'une législation, ne pouvaient être bien faites que d'après un plan régulier, un système combiné et lié, que tout devait y être l'ouvrage d'un seul homme." ²

It is obvious from the comments which he made about Turgot's views on this question that Condorcet himself fully sympathised with the idea that the reforms should be undertaken on the monarch's orders and not by a hypothetical assembly elected by the people.

"Dans une monarchie où un établissement de cette espèce serait nouveau, qu'attendre d'une assemblée d'hommes, presque tous étrangers aux affaires publiques, indociles à la voix de la vérité, prompts à se laisser séduire à celle du premier charlatan qui tenterait de les séduire? La générosité qui porterait à leur laisser le soin de se prononcer sur leurs intérêts, ne serait qu'une cruauté hypocrite. Ce serait abandonner en pure perte le plus grand avantage des monarchies, celui de pouvoir détruire l'édifice des préjuges avant qu'il se soit écroulé de lui-même, et de faire des réformes utiles, même lorsque la foule des hommes riches et puissants protègent les abus; celui, enfin, de suivre un système régulier, sans être obligé d'en sacrifier une partie à la nécessité de gagner les suffrages." ³

It may of course be argued that Condorcet was here referring to the situation which existed in 1775 but that this is not the case may be shown by a quotation from the essay "Sur l'influence de la révolution d'Amérique en Europe" which appeared in the same year as the biography of Turgot:

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1. Ibid V. 116.
 2. Ibid 119 - 120.
 3. O.C. V. 121.

"Des républicains zélés ont regardé (le droit de concourir à la formation des lois) comme le premier de tous; et il est vrai sans doute que, dans une nation éclairée, dégagée de toute superstition, où il appartiendrait en réalité à tout citoyen qui pourrait ou voudrait l'exercer, la jouissance de ce droit assurerait celle de tous les autres. Mais il perd ses avantages les plus précieux si l'ignorance, si les préjugés écartent ceux qui doivent l'exercer du sentier étroit que la règle immuable de la justice leur a tracé, et, relativement au bonheur public, une république qui aurait des lois tyranniques peut être fort au-dessous d'une monarchie." 1

Both passages indicate to how great an extent Condorcet was terrified of the powerful influence of the Parlement nobility and the clergy and of the very real danger that they could exploit the Tiers Etat's dissatisfaction with the existing regime and use it as a weapon against the institution which symbolised the greatest obstacle in their striving for power - the monarchy.

In short, he was determined to show the Tiers Etat how they could tackle the existing abuses without being misled by utopian demands for rights such as the right to elect a legislative assembly, which could not possibly be guaranteed. It was for this reason that he spoke little about elections in the Vie de Turgot but concentrated more on the reform of concrete abuses and on general principles which had to be assimilated by the people before they could elect an assembly which truly represented their interests.

1786 nevertheless marks a watershed in the evolution of Condorcet's ideas. The fact that the Vie de Turgot did give some mention of a method whereby the people could elect a national legislative assembly indicates that he was aware, despite all the difficulties, that the time had come to give serious attention to the question once again.

Perhaps the single greatest influence behind this evolution was the American revolution where, for the first time, constitutions were being drawn up according to the wishes of ordinary citizens and practical steps were being taken to ensure that the people could elect their rep-

1. O.C. VIII. 7

representatives. It is significant that Condorcet's first inclusion among the natural rights of man of the right to participate in the making of laws occurred in his essay on the "Influence de la révolution d'Amérique sur l'Europe". It is worth noting also that this essay was inserted by Philip Mazzei in his Recherches historiques et politiques sur les Etats-Unis of 1788, a work written to defend Jefferson and the Pennsylvania constitution with its emphasis on elections against Abbé Mably and other French partisans of the more restricted Massachusetts constitution.¹

But another important event occurred in 1787 which was to inspire Condorcet to write his first full length treatise on a method whereby the people could exercise a direct influence on the drawing up of a new constitution and on the making of laws. This was Calonne's attempt to extend the elected provincial assemblies established by Necker in 1781 to several other parts of France and to abolish the division into Orders which Necker had maintained. The members of these provincial assemblies were to have been elected by the members of the "Districts" into which each province was divided and the members of the "District" assemblies by those of the "assemblées municipales", themselves elected by the property owners of the area.

Although Calonne's assemblies were only to have consultative force, the final decisions remaining with the Intendants, and although he himself was dismissed on 8th April 1787 after the "Assemblée des Notables" had rejected his plan in February, there is no doubt that this further attempt to give the people a greater say in the running of their affairs must have fired Condorcet's imagination, for, the same year, he published the four very important "Lettres d'un bourgeois de Newhaven"² which provide a detailed examination of a method whereby the existing political system could be overhauled.

1. Cf. The Age of the Democratic Revolution, Vol. I, Ch. 9, R.R. Palmer
Princeton University Press 1959 2 Volumes, Volume I p.277.

2. O.C. IX. 3-93.

Only the second letter¹ concerns us here as it describes the way in which a national assembly could be elected, the extent of its powers and the method by which it would arrive at its decisions.

Condorcet proposed, first of all, that the nation be divided at its base into thousands of regions which he referred to as "districts". These "districts" were to be equal in size and population and their main function was to be to allow the people living in them to assemble so as to establish the main laws (or categories of laws) on which the new constitution was to be based.

The first of these laws concerns the formation of a single legislative assembly. In discussing it, Condorcet gave his views on two important questions, the first being: to whom should the right to elect be given?

Condorcet, at this stage in his career, was against universal suffrage for two reasons. First, he considered that the masses were too ignorant of political affairs to be able to vote in a meaningful manner; secondly, he considered that the poor were so dependent on the rich and powerful elements of the population that their votes would most likely serve only the interests of those who were most hostile to true reforms of the existing regime. He put his faith in the masses of small property owners who he felt were most able to resist the influence of the nobility and who had a direct interest in ensuring that the administration of the nation be both peaceful and orderly.²

1. O.C. IX. 10 - 56. The first one, dealing with the different divisions of laws, will be considered later.

2. O.C. IX. 10 - 14.

He also considered that women should be allowed to vote as they were just as capable as men of acquiring moral ideas and of being able to reason. To the argument that women were entirely dependent on their husbands, he replied by showing that this state of affairs was due precisely to the fact that they had never been able to make their opinions felt. Fearing that people would only laugh at his views, he was keen to point out that the question was one of great importance as it concerned the natural rights of half of humanity.¹

The second question concerned the actual method of election. Condorcet felt that the "districts" could serve as the basic electoral areas, each "district" assembly electing two representatives to sit in the national assembly. However, he was unable to decide on what the actual size of these areas should be. On the one hand, he felt that if they were too big they would not allow the members to discuss a new system of government in an orderly and effective manner. On the other hand, the only alternative was the establishment of another series of assemblies at a higher level, that of the provinces for example², but Condorcet felt that this would only complicate the elections and make it even less easy to ensure that the people's choice was respected³. That he remained rather vague and undecided on this question is indicative of the theoretical nature of the work and of the long-term nature of the project described in it.

Nevertheless the problems of elections were taken very seriously by Condorcet. Perhaps more than any of his contemporaries he devoted a great deal of his time to the task of discovering an electoral method which would ensure that the successful candidates corresponded fully to the wishes of the electors. To this end he had written two works in

1. Ibid 15 - 20.

2. An idea no doubt derived from the Vie de Turgot, O.C. V.116, cf. above p. 24.

3. "Lettres d'un bourgeois de Newhaven", O.C. IX. 24.

1785 which are not included among his complete works, but to which he alludes in his second letter, the "Essai sur le calcul des probabilités" and the "Essai sur l'application de l'analyse à la probabilité des décisions". It would be superfluous to describe the method which he recommended; suffice it to say that it went well beyond the system whereby the man with the greatest number of votes was automatically elected and attempted, by a complicated system of lists and repeated rounds of voting, to ensure that the second choices of the voters could be shown clearly and taken into consideration when deciding who was the man who they most wanted to represent them.¹

Condorcet's fear of the danger that unsuitable men might be elected to power was such that it conditioned numerous aspects of his plans for electoral arrangements. Thus he called for the electoral periods to be as short as possible, not only because of the obvious weakness of a system which would keep men away from their work for too long, but because this would limit the danger of intriguing and the formation of "cabales"². He backed this up with a very complicated system of preliminary lists, aimed at reducing the number of candidates³. Furthermore, an elected representative would only be able in the first instance to keep his seat for two years. Should he stand again after this period he would require a greater majority of the votes in order to be elected, and still more if he stood a third time.⁴ Condorcet hoped thereby to reconcile the necessity for truly able men to remain in office with the risks that a too lengthy period would induce the representatives to acquire a "caste" spirit such as the one which dominated the Parlements.

1. Condorcet's work on electoral systems represents one of his most original contributions to knowledge and its relevance today is illustrated by an article on it which appeared in *Le Monde* during the French legislative elections of 1973. For a detailed examination of this system, cf. Cahen *Condorcet et la Revolution française* Paris, Alcan, 1904, 592 pages, p.36. Alengry: *Condorcet, guide de la Revolution française, theoricien du droit constitutionnelle, et precurseur de la science sociale*. Paris, Criard et Briere, 1904, 891 pages, pp.425-426. and, above all, Gilles-Gaston Granger: *La mathématique Sociale de Marquis de Condorcet*, Ch.III pp. 94-136, P.U.F. (1956); K.M. Baker: *Condorcet: from natural history to social mathematics* University of Chicago Press 1975, 538 pages.

2. O.C. IX. 24

3. Ibid 24-25.

4. Ibid 22.

Condorcet was confident that his scheme offered all the necessary guarantees; this is shown by the fact that he placed no limits, either of age or sex, on the right of all people to stand for election¹.

Having thus established the first law, namely the method to be followed in order to elect a national legislative assembly, the "district" assemblies would now pass on to the second law concerning the limits to be imposed on the power of the elected representatives. This is where the notion of a declaration of the rights of man takes on all its importance.

"On sent que cette loi n'est proprement qu'une déclaration des droits de l'homme, qu'on peut appeler naturels, qui sont supposés antérieurs à l'état de société, pour le maintien desquels elle est établie, et qu'elle doit conserver dans leur entier." 2

As the sole purpose of the legislative assembly was to represent the people it was obvious that the people alone could draw up the code according to which this representation would take place. Condorcet thus suggested that this be done, once again, in the "district" assemblies. An article would be proposed to the citizens in each assembly and if a quarter or one-third of those present accepted it, it would go before the other assemblies. If one-third or a quarter of all the "districts" accepted it, it would become part of the Declaration of Rights.³

The third and fourth laws would establish the legislative assembly's functions and the manner in which they would be carried out.

The first point on which Condorcet insisted was that the national assembly, in no case, should be able to alter a single article of the Declaration of Rights. This was the prerogative of the people. However, in order to avoid too many alterations, he suggested that the majority required before any article of the Declaration could be abolished or amended should be raised considerably.⁴

1. Ibid O.C. IX. 17.
2. Ibid 28.
3. Ibid 28 - 29.
4. Ibid 30.

Passing on to the actual making of laws, he insisted again on the very important role of the "district" assemblies. The legislative assembly would be responsible for the drawing up of a law, but the law could not come into effect without the sanction of the people. The law would come before them in each "district" assembly and they would have to decide, first, if any article in it went against any of the articles in the Declaration of Rights and, secondly, if the law should be accepted in its entirety or should be amended. For less urgent laws Condorcet suggested that this procedure should be employed even before the law had been fully drawn up, i.e. when it was still a bill¹. As a final guarantee that the representatives would not betray the will of the people, he even suggested that the "district" assemblies be allowed to re-examine any law at the beginning of each session, in other words every two years².

In the case of fiscal laws the say of the "districts" would be even greater. The legislature would only be allowed to propose these laws. The responsibility for sanctioning them was to lie entirely with the "district" assemblies.

The fifth part of legislation concerns the process whereby the constitution itself could be altered, in other words all laws concerning the Declaration of Rights, the role of the legislative assembly and of the "district" assemblies. These laws were described by Condorcet as "constitutional laws" in contrast to the other branches of legislation dealing with the organisation of the administrative bodies, the judicature etc.

In the case of the latter, as we have seen, the legislative assembly would be quite free to choose the form of a given law once the "districts" had indicated that it did not transgress any of the rights of man. In the case of a "constitutional law", however, such as one directly concerned with an article of the Declaration of Rights, not only would the

1. Ibid 30 - 31.

2. Ibid 32.

"districts" first have to pronounce on the utility and validity of a change, but the law, once it had been drawn up by the legislative assembly, would still have to return to the "districts" for a further examination: "... on exige (une nouvelle sanction) pour les lois qui règlent la forme de la constitution parce qu'alors le corps législatif ne doit pas rester juge, même de l'utilité des avantages d'une forme proposée".¹

Having established the basic laws which were to act as the infrastructure of the new constitution, Condorcet passed on to a more detailed study of the actual procedure which was to be followed within the legislative assembly itself each time it was considered necessary to make a new law. He firmly believed that the quality of a law depended on two things, the enlightenment and goodwill of the representatives themselves, a condition which he considered would be guaranteed by his electoral system, and the manner in which the law was discussed.

This would be as follows. Each time a law had to be made, the legislative assembly would elect some of its members to a committee which would have the task of drawing up a bill which would then be published and distributed to all the members of the assembly. After a first reading, the legislative assembly would appoint a second committee whose role would be to ensure that the bill contained no articles which contradicted any of the existing laws. If it did not, the bill would pass on to a second reading. Otherwise the assembly would meet to decide if the committee's views were justified. If this was found to be the case, a day would be selected for debating which articles should be altered, those of the bill or those of the existing law. The modified bill would then pass on to the second reading. The proposers would have the responsibility of dividing the bill into individual sections which could be discussed in turn and a vote would be taken for each section.²

1. Ibid 40 - 41.
2. Ibid 64 - 65.

Condorcet was naturally worried about the length of the whole process, but he considered that this would be limited by the fact that the legislative assembly could devote all its energies to this one act of law-making. Nor would the consultation of the "district" assemblies take long, in his view, as their role consisted simply in deciding, by a "yes" or a "no" vote, if any of the proposed articles in the bill violated any of the articles of the Declaration.¹

This section of the "Lettres" is interesting in so far as it represents Condorcet's first attempt to approach the question of parliamentary procedure which was to absorb him to such a great extent during the Revolution. More important than this, however, it reflects his desire to establish the new constitution on lines which could not be exploited by the pseudo-reformist Parlements. This is made explicit at the beginning of the fourth letter when he attacked the political institutions of England so favoured by such people as Montesquieu and Mably: "... on a parlé de forces opposées, de contre-poids, d'équilibre, et ces mots ont eu sur certaines gens une influence d'autant plus forte, qu'ils les entendent moins."² and when he backed this up with an attack on the English system of two Chambers.

He attempted to show how a system of graded pluralities within a single Chamber would be just as effective in limiting the possibility of a bad law being passed as the presence of a second Chamber counterbalancing the influence of the first³. The careful preparation of a bill was ensured if the task was left to committees appointed by the assembly and this system was much safer than leaving the task to a second Chamber which would only seek to rival the first.⁴

In Condorcet's view, it was absurd to argue that a second chamber could play an important negative role and thus prevent the danger of laws

1. Ibid 66 - 67.
2. Ibid 75.
3. Ibid 76.
4. Ibid 76 - 77.

being rushed through, as one could just as easily say that a second chamber would be ideally placed for blocking all legislation and thus bringing the country to a standstill. The system of successive readings within a single chamber had all the advantages of the bicameral system with none of its dangers.¹

Parliamentary procedure, therefore, was much more than a mere technicality as far as Condorcet was concerned, for it lay at the heart of the problem of proving that it was possible to establish a representative system of democracy based on a single legislative assembly while avoiding the weaknesses which the system of two chambers was supposed to prevent.

Having shown that no matter how one combined the organisation of two chambers, the result was always ineffective or dangerous², he attacked the very reasons for desiring a system based on a balance of powers, claiming that these systems did not exist for any positive reasons but had merely come into being in Europe because of the arbitrary creation of governments by conquest during the breakdown of the Roman Empire:

"Un roi, des chefs, une armée, ont nécessairement introduit trois pouvoirs différents dans tous les pays où la constitution a dû sa première origine à la conquête." ³

In his view, it was absurd to say that Greece and Rome had collapsed because they were incapable of balancing the three powers: "... on pourrait en conclure également qu'elles ont péri parce qu'elles ne connaissaient pas les moyens de combiner une démocratie représentative où il y eût à la fois de la paix et de l'égalité."⁴

The aim of legislators should therefore not consist in seeking to preserve the status quo while limiting its dangers but in looking to the future so as to construct laws which would put an end to the need for factions.

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1. Ibid 78.
 2. Ibid 81 - 82.
 3. Ibid 83.
 4. Ibid 84.

"Les défenseurs de la division du pouvoir législatif ... prouvent ... que les hommes sont ambitieux, qu'ils aiment le pouvoir ..., mais ils n'examinent pas si le danger qui naît de ses vices ... n'est pas encore plus l'ouvrage des mauvaises lois qui, en formant des constitutions compliquées, divisent les hommes au lieu de les réunir." 1

That Condorcet was nevertheless aware of the strongest argument in favour of a system based on a balance of powers, namely that this would prevent the usurpation of power by a single body or individual, is indicated by the pains he took to show, still in the fourth letter, how the legislative assembly described in his system would be incapable of such an act. The extremely laborious electoral system described in the second letter, together with the influence exerted by the "district" assemblies, were sufficient in his eyes to prevent the national assembly from seeking to obtain power in this way. The negative role was assumed by the people who were superior to the national assembly and not by another body which would only clash with it in a power struggle.²

Despite this, Condorcet was so afraid that a single assembly might attempt to seize power that he sought to do all he could to limit as much as possible the autonomy of the legislative assembly and its initiative. This is obvious when we see the importance of the role played by the "district" assemblies in the making of laws, but it is perhaps even clearer when we examine the sixth and last part of legislation described by Condorcet in the second letter, namely the relations with other nations, the organisation and use of the armed forces and the organisation of a "public force" aimed at ensuring that the laws were enforced.

Condorcet allowed the legislative assembly to deal directly with other nations and to draw up treaties with them, but the "districts" had full liberty to meet and decide whether the treaties transgressed any of their rights.

1. Ibid 86.

2. Ibid 79 - 80.

"Il n'y a jamais de bonne raison pour faire juger par des hommes ce qu'ils ne peuvent entendre, mais tous peuvent connaître leurs droits, et par conséquent ils ne doivent renoncer à celui de juger si ces droits ont été violés ou non dans les conventions qui les obligent." 1

Condorcet was aware of the necessity for exceptional powers to be given to the legislative assembly in an emergency, particularly in time of war; despite this he was prepared to extend the power of the "district" assemblies to the point where they could demand the dissolution of the national assembly and elections for a new one, as soon as a declaration of war was made.² The context of the passage indicates that his motives were here very much inspired by his hatred of war. He argued, for example, that the elections would show the people that they had entered into a new and unnatural state of affairs.³ He stated also that the legislative assembly would only be able to declare war when another nation had not only violated a peace treaty but had actually backed up its violation by the use of armed force⁴. Thus, in 1787, Condorcet was able, for the first time, to incorporate into a coherent programme of reform the strongly pacifistic views which he had held throughout his life.

Already, in 1782, he had strongly denounced war in the speech he delivered to the ~~Assemblée~~ ^{Académie} française after his reception there on 21st February, claiming that it was contrary to the very laws of human nature and could be avoided if nations sought to co-operate with each other rather than engage in economic conflict⁵. To this end he called in 1786 for the creation of a tribunal which would draw up a code of laws to which all nations were to adhere in peacetime, as well as a list of rules to which they were to agree to conform in time of war.⁶

1. Ibid 41 - 42.

2. Ibid 46.

3. Ibid 46.

4. Ibid 45.

5. "Discours de réception à l'Académie française" O.C. I. 399.

6. cf "De l'influence de la Révolution d'Amérique sur l'Europe" O.C. VIII. 22.

This tribunal would also be used for settling disputes between nations, before they degenerated into armed conflict¹, an idea no doubt inspired by l'Abbé de Saint-Pierre². However, an equally strong motive for calling for elections immediately after a declaration of war lay in his fear that war would favour the ambitions of a legislative assembly. "Cette institution serait un obstacle aux guerres entreprises ... dans la vue d'augmenter le pouvoir du corps législatif."³

The other parts of Condorcet's plans are remarkable for the power they give to the "districts". These were to be administered by people elected in each area by the local assembly and acting on its own initiative⁴. In place of a standing army in time of peace, Condorcet, following the Virginia declaration of rights (Art. 13), suggested that the country's security be placed in the hands of local militias administered directly by the "districts". The officers would be elected by their own men - perhaps an attack on the strengthening of hereditary distinctions in the army by the Comte de Ségur in 1781 - but the chief of each militia would be elected by the "district" assembly itself⁵.

Although the legislative assembly could choose where to build systems of defence etc., the "district" assemblies would provide the money for them and they would also be responsible for guarding all military installations via the local militias. Local initiative plays so great a part in Condorcet's scheme that it was even possible for a "district" to refuse to provide any money for the upkeep or construction of a military installation if it had the slightest suspicion that another "district" might be abusing its power⁶.

Finally, the organisation of the "force publique" was to be left entirely in the hands of the "districts".⁷

1. Ibid 21.

2. cf. also his defence of Voltaire's pacifism in "Notes sur Voltaire". O.C. IV. 507-509. cf. also "Réflexions sur l'esclavage des nègres" O.C. VII. 70; "Notes sur Voltaire": "Plus la civilisation s'étendra sur la terre, plus on verra disparaître la guerre et les conquêtes." O.C. IV. 147.

3. Ibid 46.

4. Ibid 50.

5. Ibid 48 - 49.

6. Ibid 49.

7. Ibid 50.

In addition to the numerous powers he accorded to the "districts", Condorcet placed several other limitations on the autonomy of the legislative assembly. The most important consisted in the complete lack of control exercised by it over the executive. As we shall see in greater detail later, it controlled neither the treasury nor the judiciary¹ and its members were debarred from exercising any other functions in the state². Even in time of war, although it would have the right to appoint a council to direct operations, none of the members of this council could be chosen from among its ranks.³

It could be argued that Condorcet, in his eagerness to destroy the arguments of the partisans of a system of checks and balances, had gone too far in his attempt to curb the power of the central assembly. However, before we look at the negative aspects of the scheme, it will be useful to summarise its main points by repeating its advantages as they are given by Condorcet himself in the third letter.

These may be reduced to seven:

1) The system was very flexible as it prevented any body within the state from assuming permanent power and gave every opportunity for changing bad laws while preserving the stability provided by the only laws which could not easily be changed, namely the "constitutional" ones.

2) The electoral system prevented the formation of "castes" and "cabales" and ensured that the representatives truly reflected the choice of the electorate and identified themselves completely with its interests.

3) The uniformity of the laws, especially with regard to taxation and commerce, made all the "districts" interdependent and ensured that none of them would seek to combine against the others.

1. Ibid 32.
2. Ibid 22.
3. Ibid 49 - 50.

4) The power of the legislative assembly was limited by its inability to control taxation and the treasury and by the law which forbade its members to exercise other functions in the state.

5) The relatively long period which separated a proposition that an important law be changed from the actual moment when this proposition would be examined, prevented the too frequent disruption of the system of laws, while the right of the legislative assembly to arrange the actual form of a law, once the "districts" had decided that the law's principles did not violate the rights of man, enabled the new law to fit smoothly into the system of laws whose form had already been established by this same body.

6) In peace time the legislative assembly's power was checked by the "districts" and although the scheme took a great risk in allowing the assembly to levy taxes in wartime, this was less dangerous than the English system where one part of the population could deprive the nation of vital financial support in wartime by refusing to provide the government with the necessary financial means for waging the war:

"Le principe d'empêcher les abus, en opposant les pouvoirs, a le désavantage de faire dépendre le sort de l'Etat du plus ou moins d'opiniâtreté, du plus ou moins de corruption de chacun." 1

7) The principle that war should be declared only after another nation had actually commenced hostilities was justified by the sheer evil of war and by the danger which it represented particularly to a new regime based on popular sovereignty. The elections which would follow a declaration of war gave the people a great opportunity for expressing their confidence or lack of confidence in the assembly at a time of national crisis.²

1. Ibid 69.

2. Ibid 71.

Judging by the third letter, therefore, Condorcet was very pleased with his scheme and considered it would provide a solid basis for a France in which all the responsible citizens would participate in the running of the nation's affairs in collaboration with a single, united assembly of elected representatives.

However, it is impossible to speak of "weaknesses" when examining this project as it is obvious that Condorcet did not see it as a practical series of reforms which could be imposed overnight on the nation. For example, he said practically nothing about the organisation of the executive and not much more about the nevertheless overwhelming problems posed by the organisation of the numerous meetings of the "district" assemblies which his plan entailed. He said nothing about who would be responsible for summoning these assemblies in the first place. He spoke of women's votes at a time when to speak of votes at all was unusual.

All this indicates that Condorcet was more interested in this work in laying down general ideas which could be used later as the basis for the setting up of an entirely new system of government. That the work was experimental and theoretical in nature is confirmed by the fact that Condorcet considered three other systems in addition to the one already mentioned:

"... ou former différents ordres de divisions, comme la réunion de districts en provinces, celle de provinces en Etats, en s'arrêtant toujours à un seul corps législatif; ou donner à chaque réunion des districts un corps législatif indépendant, et former de ces Etats séparés une république fédérative dont les affaires communes seraient dirigées par un congrès; ou enfin combiner ensemble ces deux premiers moyens." 1

These different systems are not worth describing in detail. The important thing to emphasise is that they reflect Condorcet's determination to overcome the problem facing all the contemporary theorists of popular sovereignty, namely the task of granting the people as great

1. Ibid 51.

a say as possible in the running of a large nation with a big population. His scheme is a bold one which aims at accepting the dramatic challenge made by Rousseau in Livre III, Chapitre 4 of the Contrat Social:

"A prendre le terme dans la rigueur de l'acceptation, il n'a jamais existé de véritable Démocratie, et il n'en existera jamais. Il est contre l'ordre naturel que le grand nombre gouverne et que le petit soit gouverné. On ne peut imaginer que le peuple reste incessamment assemblé pour vaquer aux affaires publiques ... D'ailleurs, que de choses difficiles à réunir ne suppose pas ce Gouvernement! Premièrement un Etat très petit où le peuple soit facile à rassembler et où chaque citoyen puisse aisément connaître tous les autres." 1

The division of the nation into thousands of "districts", and the limits applied to the power of the central representative assembly, though they do not constitute a "democracy" in the sense which Rousseau gave to this word, reflect Condorcet's great efforts to reconcile popular participation in the government of a big nation with the necessity for some form of representation.

It would be quite wrong to assume, because of the somewhat abstract nature of the scheme described in the "Lettres d'un bourgeois de Newhaven", that Condorcet was a political idealist working in a vacuum. When he wrote this work in 1787, he could look to at least two great precedents. First, there was Hume who attempted in his essay on the "Idea of a Perfect Commonwealth" to describe a vast scheme of representation for Great Britain based on the parishes and counties and ended with a bold statement of confidence in his work:

"We shall conclude this subject with observing the falsehood of the common opinion that no large state, such as France or Britain, could ever be modelled into a commonwealth ... The contrary seems evident."²

Secondly, and even more important as it had just come into being, there was the federal system of the United States of America.

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1. Ibid p. 404.
 2. Essays moral, political and literary. Part II, Essay XVI (1752). Grant Richards, London 1903 pp. 513 - 514.

In 1787, therefore, Condorcet was fully aware of the potential of a scheme such as the one he described in the "Lettres". He realised, however, that no form of democracy was possible unless there had been instilled into the people a unity of purpose which transcended regional and class differences and he realised that this could not be done unless the existing laws had been changed. It was thus on a slightly pessimistic note that he concluded the fourth letter:

"Il s'établit nécessairement deux classes de citoyens, partout où il y a des gens très-pauvres et des gens très-riches: et l'égalité républicaine ne peut exister dans un pays où les lois civiles, les lois de finance, les lois de commerce rendent possible la longue durée des grandes fortunes." 1

Despite this, he continued to give his full attention to the question of discovering a way of setting up a representative system of government. Naturally the subject of most of his research was the constitution of the United States, as is witnessed by the detailed study of the workings of the House of Representatives and the Senate which he published in 1788.²

But it was an event which took place in France which was to inspire him to write his most coherent and detailed work on the subject on the eve of the Revolution, the "Essai sur la constitution et les fonctions des assemblées provinciales".³

This event consisted in the important reforms introduced by Lomenie de Brienne in May 1788 against the powers of the Parlements. They were to lose their judicial authority to appeal tribunals set up in forty-five areas known as the "grands bailliages", and the Paris Parliament's privilege of registering the Royal edicts was to pass to a "cour plénière". The "Etats provinciaux" were abolished and Necker's

1. "Lettres d'un bourgeois de Newhaven", O.C. IX. 93.

2. Supplement to the essay "Sur l'influence de la révolution d'Amérique sur l'Europe" O.C. VIII. 9.

3. O.C. VIII. 115 -659.

"assemblées provinciales" were to be extended to several other parts of France. They were, in addition, to have more than a purely consultative role to play and were gradually to replace the Intendants. Although the distinction of Orders was to be maintained, the Tiers Etat were to be allowed a double representation and voting was to be carried out by head and not Orders.

Condorcet was at first more anxious than pleased when he heard of these reforms. As we have seen, the bulk of his attacks on the Ancien Régime had been directed against the privileged bodies within the nation, namely the Parlement nobility and the clergy, in favour of the propertied classes who constituted the majority of the Tiers Etat. Unfortunately for him, the Tiers Etat, as a recent piece of statistical analysis has confirmed ¹, were inclined to side with the parlements against what they considered as the "despotism" of the government.

Condorcet's first reaction, therefore, was to embark on a propaganda campaign aimed at winning the approval of the Tiers Etat for the edicts. Shortly after they were issued on 8th May 1788 he wrote a pamphlet in the form of two "Lettres d'un citoyen des Etats-Unis a un Français sur les affaires présentes"², concluding the first with a dramatic appeal to the Tiers not to be deluded by the falsely progressive claims of the "parlementaires":

"... dans l'année où le roi a formé dans toutes ses provinces des corps de représentants, ... lorsqu'il a ainsi posé le fondement d'une constitution dans laquelle ces pouvoirs opposés, toujours si dangereux pour la tranquillité publique, le progrès de la législation, la réforme des abus, deviendraient inutiles au maintien des droits des hommes; lorsqu'il a donné par là aux peuples les plus libres un exemple que peut-être ils auront un jour la sagesse de suivre; lorsque ces assemblées générales dans toutes les provinces offrent à la nation la faculté

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1. Greenlaw; "Pamphlet literature in France during the period of the aristocratic revolt 1787 -88" in Journal of Modern History (1957), pp. 349 - 354.
 2. O.C. IX. 95 - 123.

d'avoir, toutes les fois qu'elle le voudra, une assemblée régulière et légitime de véritables représentants du peuple; lorsqu'on sait que l'inégalité qui reste dans ces assemblées est moins l'ouvrage du gouvernement que l'effet de sa condescendance pour des préjuges malheureusement encore puissants parmi vous ... quand tout annonce que les droits des citoyens sont enfin reconnus et respectés, de bonne foi, est-ce le moment qu'il fallait choisir pour crier contre le despotisme? Est-ce lorsqu'on vient d'obtenir des moyens réguliers de réclamer, qu'on doit recourir aux actes de violence, de sédition, etc.?" 1

That Condorcet's optimism here is more than a rhetorical device is indicated by the fact that the right of the citizens to participate in the making of laws is included without any reservations in the list of rights given in the first letter² and, above all, by the fact that, despite the rejection of the project in September 1788, he continued to write the long "Essai sur les assemblées provinciales" which presents his last attempt before 1789 to consolidate and elaborate on the theoretical systems of government sketched in the Vie de Turgot and the "Lettres d'un bourgeois de Newhaven".

The "Essai", therefore, is a work which grew out of the ideas already expressed in the "Lettres d'un bourgeois de Newhaven". However, though it goes over much of the ground covered in the previous work, it will be seen to be much more precise and elaborate and less inclined to leave too many loose ends.

An indication of the way the "Essai" pays greater attention to practical requirements than the more theoretical "Lettres" may be found in the very first article, dealing with the right to vote. As in the "Lettres" this is granted only to people who were considered to be independent, namely property owners, but we find no lengthy dissertations about the rights of women, as if Condorcet feared that such digressions would only cloud the real issues.³

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1. Ibid 104 - 105.
 2. Ibid 102.
 3. Ibid O.C. VIII. 130.

Article II, dealing with the territorial divisions, also contains this combination of repetition of old ideas together with an awareness of practical necessities. Realising that the "district" assemblies described in the "Lettres" could never act as the basic electoral units for a national assembly on account of their excessive numbers, he reverts to the three-tier system of the Vie de Turgot¹, namely "communautés de campagne" - "canton" (though here called "districts") - "province".

However, Condorcet introduces two new ideas not mentioned in the "Lettres" or the Vie de Turgot. First, not only would the "country communities" still consist of country villages grouped together to balance the smaller towns, but the equilibrium would be consolidated by allowing the larger towns to place themselves on a par with the "districts", their own "municipal" assemblies thus acquiring the status of the smaller towns and the "country communities". As in the Vie de Turgot, the "district" assemblies would then elect the "provincial" assemblies and it was the latter who would elect the national assembly.

Secondly, Condorcet replaces the old scheme whereby, at each level, one assembly elected from among its own members both the administrative body of the area and the people who were to represent the assembly at the level above it² and introduces instead a new scheme based on three assemblies for each area, an electoral assembly whose sole function was to elect and an administrative body elected by the latter but which met only on occasions to review the work done by a small, permanent administrative body, also elected by the electoral assemblies.³

Condorcet's aim in separating the functions of electing and administering was to limit the dangers of each assembly's acquiring an inward looking "esprit de corps"⁴, but the project is far-sighted in so far as it anticipated the creation by the Constituent Assembly of the "assemblées primaires" in 1789.

1. Cf. above p.24

2. Cf. above p.p. 21 - 22.

3. Ibid O.C. VIII. 146.

4. Ibid O.C. VIII. 184 - 185.

Another element which illustrates the contrast between the *Essai* and the *Lettres* is that, in the former, Condorcet is not content just to mention the different areas into which the nation should be divided but provides practical advice about how this is to be done. The most important criterion, in his view, was the necessity for preserving the unity of areas which had natural geographical and cultural affinities. Thus the reformers were to unite only "les parties dont la communication est faite, et aux-quelles une ressemblance dans le climat et dans le sol donne une culture, des habitudes, des usages communs."¹

For this purpose he suggests that the existing divisions be used as the basis for the new ones. The dioceses, for example, could be used to form the "districts", and the "généralités" could be used as a basis for the provinces.²

Another important practical consideration to be borne in mind was the size of the divisions. The "chef-lieu" of each country community was to be easily accessible so that all the citizens of the area could go there, discuss their business for a few hours and return home within a single day. Condorcet estimates three leagues to be the most reasonable distance which should separate the "chef-lieu" from the furthest limit of the area. A "district" "chef-lieu" was not to be more than half a day's walk from the furthest limits; the "chef-lieu" of the province was not to exceed a day's walk from the "chef-lieu" of the furthest "district" within the province.³

Article II deals once again with the question of what mandates the electors should give to their representatives, a question which, despite its importance, is not mentioned in the *Lettres*. Once again this section provides an indication of the more practical nature of the *Essai*.

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1. Ibid 273.
 2. Ibid 273 - 274.
 3. Ibid 273.

In the "Lettres" we are given an image of a rather passive legislative assembly acting to a large extent on the orders of a vast network of "districts", but, apart from assuming that the uniformity of the law system would be such as to ensure that all the "districts" would work in harmony, little is done to approach the question of how deadlock in the assembly could be avoided if each representative merely stated the views of his electors. It is to resolve this very real problem that Condorcet calls for the representatives to be allowed a certain amount of initiative in the way they voted:

"Ne faudrait-il pas plutôt chercher à détruire qu'à favoriser l'idée que les communautés, les districts, ont des intérêts séparés ou contraires, et l'idée, non moins dangereuse que les députés ou représentants doivent voter, non d'après la raison ou la justice, mais suivant l'intérêt de leurs commettants?" 1

He has here put his finger on a question which was to assume great importance during the meeting of the Etats-Généraux a few months later.

Article III² deals with the question of eligibility, another subject which the "Lettres" had only very briefly considered. Condorcet's general views on the matter echo more or less what he had said in the "Lettres", namely that limitations on eligibility were to be avoided³, but he does suggest that they be the same as those imposed on the right to vote, thus excluding people who did not own property.⁴

This realistic attitude is maintained in the second section when he condemns the idea that a man should not be allowed to stand as a candidate outside his own Order. Condorcet's argument is here not based solely on the fact that he felt the system of Orders to be an anachronism⁵ which threatened all hopes of creating a united representative assembly⁶, but also on his awareness that the experience of the nobility would be absolutely vital should such an assembly come into being.

1. Ibid 148.

2. Ibid 150 - 177.

3. Ibid 177.

4. Ibid 151.

5. Ibid 157.

6. Ibid 151-154.

An example of Condorcet's acute anticipation of events to come may be found in the fourth section when he attacks the ruling that the man who wished to be elected to a provincial assembly should possess greater wealth than if he wished merely to be eligible for a "district" assembly. Condorcet's argument is that wealth was not a guarantee against corruption¹. He argues also that the electors alone should decide who were the right men for each post and thus anticipates the attacks he was to make on the financial criteria for eligibility which the Constituent Assembly was to establish shortly afterwards.²

Finally, in section three, Condorcet again shows an eye for practical details which is lacking in the "Lettres d'un bourgeois de New-haven". This is when he objects to the reforms to prevent men who exercised important functions from being allowed to stand as candidates. It was dangerous for judges, for example, to be away too long from their posts.³

This eye for detail and precision is nowhere better illustrated than in Article IV⁴ dealing with the composition of the different assemblies. We are here very far from the purely schematic outline given in the "Vie de Turgot"⁵ and the "Lettres"⁶. The article goes as follows:

The assembly of each country community and small town would elect their respective administrative assemblies and a president, one "député" to represent them at the district electoral assembly and one "député" for the administrative assembly of the "district".

The electoral assembly of the district would elect the officers and president of the district's administrative assembly, the members and the president of the district's intermediary administrative body, one "député" (from now on "deputy") to the province's administrative body.

1. Ibid O.C. VIII. 174 - 176.

3. Ibid O.C. VIII. 171

5. Cf. above p. 21 - 22.

2. Cf. below p.

4. Ibid 178 - 193.

6. Cf. above p. 28.

Finally, the electoral assembly of the province would elect the officers and president of the province's administrative body, the members and president of the intermediary administrative body and three deputies to the national legislative assembly.¹

At every level a deputy would stay in office for three years, at the end of which time he could stand for re-election. However he would need a greater majority of the votes to be successful on the second occasion and still more if he presented himself a third time. As in the "Lettres", Condorcet hoped that this method would act as a guarantee that a certain amount of continuity would be preserved without the danger that men would stay in office for several years.²

He was naturally very pleased with his plan and he contrasts its coherence and smoothness with the complicated theories of Montesquieu who he accuses of having been "plus souvent occupé de trouver des raisons à ce qui est, que de chercher ce qui devrait être, et de voir comment des abus contrebalançaient d'autres abus, que d'examiner les moyens de les envelopper tous dans la même destruction."³

His only fear concerned the "district" assemblies which because of their large size, notably in the big towns, could exercise a potentially divisive influence. However he felt that the electors would be intelligent enough to choose men who shared their own interests.⁴ It is nevertheless typical of his slightly ambiguous attitude at this time that he proposes that the presidents of the various assemblies be chosen exclusively from the first two Orders.⁵

The same thoroughness with which Condorcet describes the different assemblies which were to function at each level is to be found again in Article IX⁶ when he briefly summarises the role which the administrative bodies of the provincial assemblies were to play. These include some of the functions he had prescribed in the "Lettres" for the "districts".

1. Ibid O.C. VIII. 180 - 182.

2. Ibid 178 - 180.

3. Ibid 190.

4. Ibid 185 - 186.

5. Ibid 190.

6. Ibid 268 - 271.

Here, however, he has broadened his scope and has systematised his ideas. In the "Lettres" the district's functions were mentioned only incidentally¹ and were not summed up in a separate article, as here. The functions of the provincial assemblies under the scheme were to be as follows:

- 1) the levying of all direct taxes;
- 2) the administration of public works within the province;
- 3) the administration of all State property - the royal domains, the revenue from hospitals, colleges, factories, corporations and church properties;
- 4) the inspection of all public institutions such as poor relief and the distribution of money to promote enterprise in the factories, villages and shops;
- 5) the administration and organisation of the militia;
- 6) the administration of the judiciary and police;
- 7) the discovery of ways to redeem the national debt.

Another illustration of the consolidation of Condorcet's ideas is provided by Article VII of the "Essai"² where he approaches the important question of what prerogatives should be granted to the members of the provincial and "district" assemblies.

First, they were not to be liable to arrest in civil actions while the assembly was in session. This was not only to allow them to carry out their public duties in peace, but to protect them from the activities of opponents who might be tempted to invent a charge with the aim of ensuring the removal of a deputy who was opposed to their interests.³

Secondly, they were not to be prosecuted or arrested for crimes unless the assembly, after having examined the evidence, voted by a two-thirds majority that they should be.⁴

Thirdly, no member was to be arrested as the result of a speech delivered in an assembly. This was a very important point as free speech

1. Cf. above p.31.

2. Ibid O.C. VIII. 258 - 268.

3. Ibid 260 - 261

4. Ibid 261.

alone could ensure that the assemblies would carry out their role of defending the people's interest and wiping out the abuses of the existing system.

"Si un tel privilège n'est point accordé aux assemblées provinciales et de districts, il n'est guère possible d'espérer qu'elles deviennent réellement utiles." 1

Members would of course be allowed to attack each other, but only in so far as they limited their remarks to matters concerning their official functions. Libellous personal attacks, which undermined a deputy's reputation by questioning his integrity, would not be covered by the privilege of immunity.²

Finally, deputies would be guaranteed immunity for all works which they wrote on matters of legislation and administration. These works represented the only way whereby the public could examine proposals which had been rejected by the assemblies. They would thus act as a useful check on the workings of the representatives and would contribute towards the political education of the masses.³

The fifth article⁴ dealing with the form of elections does not concern us here as it repeats more or less what was said in the "Lettres"⁵. It is interesting only in so far as it reflects Condorcet's continuing struggle to arrive at a method which was both simple and accurate. Once again, however, there are innovations in this work which illustrate a greater awareness of practical necessities than is seen in the earlier "Lettres". The provision that the electors vote in writing, for example⁶ - their choice being delivered in a sealed box on the day fixed by the assembly - represents an attempt to overcome the very real problem of

1. Ibid O.C. VIII. 264.

2. Ibid 265 - 266.

3. Ibid 266 - 267.

4. Ibid 193 - 211.

5. Cf. above p. 29.

6. Essai, etc. O.C. VIII. 200 - 201.

keeping people away from their homes and work for too long, as well as the need to protect people from coercion and the eloquence of demagogues.

Article VI¹ concerns the method of debating within the different assemblies. In effect this method is merely an adaptation of the one described in the "Lettres" for the passing of a law by the legislative assembly². In the same way as a bill was to be divided into several clauses which could be debated individually by the assembly, so would the motions which came before the regional assemblies³. In both cases this task was to be allocated to working committees elected for this purpose⁴.

Returning to the question of mandates, Condorcet adopts a compromise solution; on complicated matters of general policy, the deputies were to vote according to their personal judgement; on basic matters directly concerning their electors they were to vote at the latter's bidding.⁵

On the question of the majority which would be required before a motion or bill would be accepted, Condorcet gives in detail a project which he had already touched on in the "Lettres d'un bourgeois de Newhaven", namely the idea of "graded pluralities". He believed firmly that there was no better way of ensuring both that necessary laws could be made smoothly and that no laws were rushed through carelessly. He suggests, for example, that a law dealing with an important constitutional question such as the equality of the citizens could not be passed unless it was favoured by three-quarters of the provincial assemblies and three-quarters of the "districts". Non-constitutional laws, on the other hand, could be passed by a straightforward majority vote.⁶

1. Ibid 211 -221.

3. Ibid VII. 211-213.

5. Ibid 215.

2. Cf. above p.30 "Lettres" O.C. IX. 64-65.

4. Ibid 214.

6. "Essai, etc." VIII. 215 - 216.

Article VII¹, dealing with the formation of a national assembly, underlines more than any of the others the different approach which Condorcet adopts to the problems of the day in the "Essai" as opposed to the "Lettres".

In the latter work, imagining a nation in which all hereditary distinctions had been abolished, Condorcet had discussed the theoretical possibility of establishing a constitution in which a national assembly, elected by the property owners of the state, would govern the country in direct collaboration with the "district" assemblies. But he had passed over such important short-term questions as who would be responsible for organising the election of the national assembly in the first place.

The reason why he now deals with this question is that the "Essai" was written in a totally different climate from that which existed in 1787. The May edicts had precipitated events and Condorcet felt that the formation of a national assembly was the only way in which the ambition of the Parlements could be forestalled. For this reason he was prepared to accept a method which had nothing to do with the one described so painstakingly in the "Lettres".

In the first place he emphasises the necessity for the King to take the initiative for arranging that such an assembly come into being². If Condorcet had not mentioned this method in the "Lettres" it was no doubt because of his awareness of the impossibility of reconciling it with the new system of government which he had in mind. Not only was it absurd to expect the King to take steps to call a national assembly which would exercise legislative power in his place, but he did not even have the authority to do so as his power had not been given to him by the people. By 1788, Condorcet had come to realise that this contradiction had to be accepted as there was no other solution.³

1. Ibid 221 - 258.
2. Ibid O.C. VIII. 222.
3. Ibid 222.

Secondly, Condorcet, while admitting that the system he had described earlier was the only one which guaranteed that the national assembly would be established on principles which transcended the pragmatic considerations which had governed the establishment of all French institutions until then¹, goes on to describe a method whereby the existing institutions could be used to form a national assembly.

The provincial assemblies which already existed in the Pays d'Etats would elect a certain number of deputies to represent them in the national assembly and the new provincial assemblies in the rest of France would do the same². Condorcet preferred this to using the "bailliages" as the electoral areas. The provinces were fewer in number and this would make for a relatively small national assembly which would be able to function with greater efficiency than a huge body.³

The scheme is really nothing more than a brave attempt to make the best out of a bad state of affairs and Condorcet was quite aware of its inadequacy. No sooner had he finished describing it than he embarked on the description of another method whereby one man from each parish would be appointed with the specific task of choosing a body of electors in each province who would then proceed to elect the representatives for the national assembly.⁴

There is no need to go further into the details of the various schemes which Condorcet described at this time for setting up a national assembly. The important question to investigate is the influence which all this had on the development of his ideas.

Perhaps the most important point to make here is that this period was largely responsible for an idea which was to become a matter of great importance for him as the Revolution progressed, namely that of adapting to the French situation the American system of elected bodies known as

1. Ibid 226 - 227.

2. Ibid 228.

3. Ibid 234 - 235.

4. Ibid O.C. VIII. 240 - 242.

"conventions" whose role was to examine and revise the constitution.

In the "Lettres d'un bourgeois de Newhaven" the initiative for revising the constitution was left to the citizens in the "district" assemblies who, every two years, would have the right to bring to the national assembly's notice any alterations which they felt needed to be made in the existing laws.¹

Not only had these assemblies not yet come into being but the national assembly which was to be formed according to the methods described above would naturally not correspond to the ideals expressed by Condorcet in the earlier work. In his view it should nevertheless be allowed to function for a certain number of years during which time it could set about reforming the abuses of the existing system and allow the masses to develop a political consciousness. The time would then be ripe for the election of a national assembly which would have the specific function of examining and revising the existing constitution.

However, as the first national assembly had been summoned by the King and had been formed without any consultation of the people's wishes, it would not have the authority to fix the form of the assembly which would later examine its work: "... ou bien il faudrait prétendre que les assemblées formées par une première constitution ont seules le droit de la changer et de se réformer elles-mêmes."² In the absence of any precedent for this, one would have to fall back on reason: "... c'est à la raison seule à juger si la représentation est réelle, si elle est assez égale pour que les droits d'aucun citoyen n'aient été blessés."³ What Condorcet has in mind is a system of election based on the method described in the "Lettres d'un bourgeois de Newhaven" and completed in the early part of the "Essai sur les assemblées provinciales".

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1. "Lettres d'un bourgeois, etc." O.C. IX. 39 - 40.
 2. Ibid O.C. VIII. 224.
 3. Ibid 223.

From here he proceeds to express the need for such an assembly to be called regularly, about every twenty years, to revise the constitution. Otherwise the consequences, in his view, would be extremely serious:

"... il faudrait admettre que toute constitution, une fois établie, ne peut jamais changer légitimement, ce qui serait ... condamner la suite entière des générations à être les victimes des fautes dans lesquelles l'ignorance a pu entraîner leurs prédécesseurs." 1

The need to make arrangements for the speedy creation of a national assembly also had two other important consequences for the development of Condorcet's ideas.

First, it obliged him to narrow down the various alternatives which he had described for the setting up of a new constitution. Thus there is no mention at all in the "Essai" of the federal constitution described in the "Lettres".

Secondly, it led him to examine more closely important details concerning the status which was to be given to the members of a national assembly. For example, he mentions for the first time the possibility of the deputies' receiving salaries², an idea borrowed most probably from the American constitution³. He deals also with the question of the election of the assembly officers - the "syndics", "greffiers" and "président",⁴ details which are absent ^{from} ~~in~~ the "Lettres d'un bourgeois de Newhaven".

The "Essai sur les assemblées provinciales" is the last major work which Condorcet wrote before the meeting of the Etats-Généraux. It therefore marks the last stage in the development of his ideas concerning the right of the people to participate in the making of laws and the administration of the nation.

1. Ibid O.C. VIII. 224.

2. Ibid O.C. VIII. 275 - 276.

3. Cf. "Réflexions sur l'influence de la Révolution d'Amérique sur l'Europe," O.C. VIII. 97.

4. Ibid O.C. VIII. 246 - 248.

We may summarise the development of these ideas by dividing them into four stages. The first corresponds to the period in which Condorcet accepted the principle of popular sovereignty but was too aware of the difficulties involved to attempt to describe a method whereby it could be put into practice. The second stage is represented by that part of the Vie de Turgot in which Condorcet describes the potential of Turgot's reform plans for the eventual election of a national assembly, an idea which he develops, in the third stage, into the detailed and coherent plan for setting up a new constitution which is described as the ideal to be attained in the "Lettres d'un bourgeois de Newhaven" and the "Essai sur les assemblées provinciales". The fourth and last stage is represented by that part of the "Essai" in which Condorcet, turning away from his long-term project, describes a more immediate method whereby a national assembly could be created out of the existing territorial divisions.

These stages must be borne in mind if we are to understand Condorcet's reactions to events once the Revolution had started.

Having looked at the plans put forward by Condorcet for setting up the assemblies which would remedy the abuses of the existing regime, it will now be necessary to examine the different kinds of law corresponding to the reforms which he felt should be made.

He described them for the first time in the first of the "Lettres d'un bourgeois de Newhaven":

"Nous trouvons, 1^o) les lois qui ont pour but le maintien de la sûreté, de la liberté, de la propriété des citoyens, contre la violence et contre la fraude, ou les lois criminelles; 2^o) ensuite les lois qui ont pour objet de prescrire suivant quelles règles la propriété s'acquiert, se transmet et se prouve, et de déterminer la forme des conventions, les limites que le droit naturel et la raison peuvent mettre à la liberté de les former; enfin la manière dont seront jugées les contestations élevées sur l'exécution de ces conventions, ou les lois civiles; 3^o) celles qui, dans les cas où l'usage de la liberté et de la propriété nuirait à la sûreté, à la liberté, à la propriété d'autrui, soumettent l'exercice de

ces droits à des règles communes, et doivent les diriger plutôt que les restreindre; et ce sont les lois de police." 1

The fourth and last part of legislation was made up of the laws concerning fiscal matters: "... elle règle: 1^o) la forme sous laquelle l'impôt doit être levé; 2^o) la forme sous laquelle la somme de l'impôt doit être déterminée; 3^o) la forme sous laquelle cette somme doit être employée." 2

Like the laws dealing with the sovereignty of the people and the establishment of means whereby this sovereignty could express itself, these laws were to be based on the natural rights of man and on the general principles which were derived from them.

This idea was of great importance to Condorcet and it recurs in nearly all his writings of the period. His first target was, once again, Montesquieu and his theory that the difference in the laws which existed in various countries was justified by the different circumstances (wealth, religion, climate) which prevailed in these countries. This idea is attacked in the "Observations sur le 29^{ème} Livre de 'L'Esprit des Lois'" of 1780:

"Comme ... les droits des hommes ... sont les mêmes partout, on ne voit pas pourquoi toutes les provinces d'un Etat, ou même tous les Etats, n'auraient pas les mêmes lois ... Une bonne loi doit être bonne pour tous les hommes, comme une proposition vraie est vraie pour tous." 3

The point is made again in the "Notes sur Voltaire" when Condorcet attacks Voltaire's statement - "il importe assez peu par quelles lois un Etat se gouverne, pourvu que les lois ... soient exécutées" - with the following remark: "Il ne suffit pas que les individus se conforment aux lois établies, il faut que ces lois elles-mêmes se conforment à ce qu'exige le maintien du droit de chacun ... L'arbitraire naît de notre ignorance, et non de la nature des choses." 4

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1. Ibid O.C. IX. 6.
 2. Ibid O.C. IX. 6.
 3. O.C. I. 378.
 4. O.C. IV. 620. Cf. also: "L'intérêt de puissance et de richesse d'une nation doit disparaître devant le droit d'un seul homme" ("Réflexions sur l'esclavage des nègres," O.C. VII. 81 (1781).

The arbitrary nature of the legal system of the Ancien Régime, which had its origin in "les coutumes de différentes peuplades que le seul hasard a réunies"¹, represents one of the main targets of Condorcet's reform programme. This is seen clearly in the essay "Sur la liberté de la presse" (1776) dealing with the reform of the criminal laws.

In this essay, Condorcet sets the legislator two principal tasks: the first was to define with precision which acts could be considered crimes. His own definition of a crime went as follows:

Un crime est une action de laquelle il résulte nécessairement, pour un ou plusieurs autres hommes, un tort grave que celui qui a commis l'action a eu l'intention de faire." 2

Gravity and premeditation were thus necessary prerequisites before an act could be considered a crime³. Condorcet elaborates on this in the essay, showing the considerations to be borne in mind by the authorities when deciding what attitude to adopt towards a specific act. For example, a writer who attacked the principles on which a given society was based could not be considered guilty of having committed a crime. He could be considered guilty, however, if he advocated violent resistance against the regime. Here again, however, the gravity of the crime would depend on its consequences; if the people did actually revolt, it would be considered more serious than if they did not.⁴ Similarly, acts which were quite innocuous in peace time could become extremely dangerous in time of war. It was thus very important for the legislators to fix the conditions whereby an act could be considered a crime and to establish the criteria for

1. Eloge de Michel de l'Hôpital O.C. III. 535.

2. O.C. XI. 255.

3. Cf. also: "Notes sur le code de Toscane" (cited by Cahen op.cit. p.48) "il n'y a de véritables crimes, que ceux qui blessent le droit naturel, ... qui l'attaquent immédiatement, nécessairement, et avec intention. Si l'on s'écarte de ce principe, toute loi pénale devient une violence, plus ou moins tyrannique."

4. "Sur la liberté de la presse," O.C. XI. 263 - 264.

evaluating the crime's gravity. These should be stated clearly to avoid misunderstandings which could lead to tyranny or bloodshed.¹

The second principal task of the legislators was to fix the legal procedure. Condorcet had taken great interest in the legal cases of the period, notably the controversy concerning the rehabilitation of the Chevalier de la Barre in 1774 and the famous trial of the three inhabitants of Chaumont who, in 1786, were condemned to the wheel on suspicion of armed robbery², and many of his reform plans stem from his disgust at the procedure which was followed in both of these cases.

In his view, the fundamental basis for all criminal procedure lay in the protection of the accused. This point is made in the "Notes sur le Code de Toscane"³:

"Tout homme non convaincu d'un crime doit être présumé innocent ... Les bonnes dispositions sont celles qui font la sûreté de l'innocent sans contribuer à la sûreté du coupable."

In the Vie de Turgot also, Condorcet says that the accused should be treated "avec la même humanité, les mêmes égards qu'on lui devrait si son innocence était prouvée."⁴

The first step was to grant the accused the assistance of a legal adviser or counsel:

"...la loi (doit accorder) à l'accusé ... le secours d'un défenseur public, sans lui ôter cependant le droit de se choisir d'autres conseils".⁵

The accused and his counsel were to be allowed to discuss the case together in secrecy. They were to be entitled to a full and clear explanation of the accusations made against the defendant and, to ensure

1. Ibid 268 - 269.

2. "Réponse au plaidoyer de M. d'Esprémenil," O.C. VII. 27 - 59;
"Réflexions d'un citoyen non gradué sur un procès très connu,"
O.C. VII. 143 - 166.

3. Not in O.C., cited by Cahen op.cit. p.50.

4. O.C. V. 191.

5. Ibid 191.

that the testimony was authentic, the witnesses were to give their evidence in public.¹

Borrowing from the English system, Condorcet states that the power of the judges, whose impartiality was so easily impaired by an unhealthy "esprit de corps" and the boredom of a routine job, should be limited by the creation of juries consisting of laymen against whom the accused had no objection.

It was not until 1786, however, that Condorcet dared to suggest so fundamental a reform as the election of juries² and not until 1788 that he described in detail how the entire judicial system of the Ancien Régime could be transformed.

This is done in the "Essai sur les assemblées provinciales" where he underlines the valuable role which the provincial assemblies could play not only in providing information about their areas on such matters as the regions which the law-courts should cover, the number of their members, etc.³, but above all in electing the judges and juries of the provinces⁴. Condorcet was an admirer of the English and American system, whereby the judges concerned themselves only with the legal difficulties and forms of a case and left the verdicts to properly constituted juries.

His main target here was the "vénalité des charges", a practice which he had bitterly attacked as early as 1777 when, speaking of the posts of judge, he declared:

"La vénalité des charges les rend bientôt héréditaires; les tribunaux se remplissent d'hommes ignorants et vains, qui dédaignent l'étude et l'abandonnent à ceux qui ont leur fortune à faire; la vénalité ferme l'entrée de la magistrature et à la noblesse pauvre, et aux juriconsultes, elle détruit toute émulation; il ne suffit plus de mériter les premières places, il faut être assez riche pour les acheter." 5

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1. Notes sur le Code de Toscane, Cahen op.cit. p.50.
 2. This idea is only mentioned in passing in the "Lettres d'un bourgeois, etc." O.C. IX. 60.
 3. Ibid 498 - 500.
 4. Ibid O.C. VIII. 499.
 5. "Eloge de Michel de l'Hôpital", O.C. III. 539.

Turning to the organisation of the elections, he states that the function of electing the judges and juries should be left, not to the administrative bodies of each province, whose task was already considerable, but to the assembly of electors.¹

The remainder of this part of the "Essai" mentions a number of important innovations.

In the first place, Condorcet states that civil and criminal cases should be dealt with in separate courts², a clear attack on the monopoly of the parlements³.

Secondly, he recommends the creation of a supreme court whose task would be to supervise the work of the judges. Should this court quash a sentence, the case would pass to another court. A special court would immediately be set up to examine the conduct of the judges during the original trial⁴. However, Condorcet rejects the idea of allowing appeals to be made to a higher body, considering that this would call in question the whole basis of the legal system and would reflect the custom of an age when justice was conducted along arbitrary lines⁵.

Similarly he rejects the idea of a two - tier system whereby each case was judged by two courts placed one above the other. He considered that a single jury provided all the necessary guarantees against an arbitrary verdict, while a two-tier system would only undermine the authority of the juries and create chaos.⁶

A third important innovation consists in the idea of creating a post of "juge de police". Such a post would be established in each "communaute"

1. Ibid 500.

2. Many of Condorcet's earlier writings deal with this question, cf. "Réflexions sur le commerce des blés" (1776) O.C. XI. 192 - 193; "Lettre d'un laboureur de Picardie" (1775) O.C. XI. 15 - 16; "Réflexions sur la jurisprudence criminelle" (1775) O.C. VII. 6 et sq; cf. also the "Lettres d'un citoyen des Etats-Unis", etc. O.C. IX.III dealing with the abolition of all jurisdictions concerned solely with the affairs of the Church and the nobility.

3. Ibid O.C. VIII. 502.

4. Ibid 503.

5. Ibid 503.

6. Ibid 503 - 504.

and the men who occupied it would have the duty of writing a preliminary on-the-spot report each time a crime was committed, as well as ensuring that the accused was conveyed to the "chef-lieu" of the area. In certain areas they should even be granted the permission of the judges to conduct preliminary enquiries into cases.

Condorcet's view of the judiciary, therefore, was that of an organisation, made up of about 150 courts¹ spread out throughout the country and dealing either with criminal or civil cases. Each court would have allocated to it two or three judges, elected by the provincial electoral assemblies for a period of eight to ten years; it would have in addition sixty-four jurymen, elected for a period of four years, sixteen of whom would take part in any given trial.²

The remainder of Condorcet's works on the question are given over to the creation of a code of civil and criminal laws, a matter which he considered to be of the greatest importance³, and also to the important question of punishment. His views on this question are expressed succinctly in the "Vie de Turgot".

"... (les peines) doivent être proportionnées aux crimes, c'est-à-dire diminuer et croître en même temps que l'importance du tort fait à l'individu qui en a été la victime, ou l'intérêt qu'à la société de les réprimer." ⁴

The guilty person should be punished, but if the punishment exceeded what was necessary to protect society, it became unjust.⁵ It is here that the origin of Condorcet's dislike for the death penalty lies. This is clear from a letter which he wrote to the King of Prussia on 2nd May 1785, arguing that the absolute nature of the death penalty could not be reconciled with

1. Ibid 506.

2. Ibid O.C. VIII. 502 - 503; 506.

3. Cf. "Vie de Turgot" O.C. V. 189; Lettres d'un citoyen, etc. O.C. IX.115.

4. "Vie de Turgot" O.C. V.190.

5. Cf. "Fragements sur la liberté de la presse" O.C.XI. 256 - 257.

the notion that the extent of a man's guilt at any time was purely relative.¹

Condorcet's works dealing with what he described as the "lois civiles" are of importance in so far as they are concerned with two of the major problems facing the reformers of the day, the great inequality of wealth which characterised the Ancien Régime and the role played by the Church in the day to day administration of the country.

Condorcet approaches the problem of wealth when he deals with the question of inheritance. He considered inheritances to be perfectly natural and legitimate:

"La propriété de l'homme devient ... le propriété de ses enfants et de sa femme." 2

However, this view, which was based on the axiom that a man's property was automatically that of his wife and offspring, came into conflict with one of the important "rights" recognised by the Ancien Régime, the right to dispose freely of one's property by will.

Condorcet attacked this right in his biography of Turgot:

"Le droit de propriété n'est, pour chaque individu, que celui d'user librement de ce qui lui appartient. On ne peut regarder le droit de tester, c'est-à-dire d'avoir une volonté toujours révocable, de disposer de ce qu'on possède au moment où on cesse de le posséder, comme une suite de la propriété. Ainsi, point de testament." 3

He was particularly critical of the way in which inheritances were effected. The "droit d'aînesse", whereby the lion's share of the property went to the eldest son, he found unacceptable⁴ as it enabled some people to accumulate property at the expense of others and thus to create serious rifts within society.

1. O.C. I. 305 - 306.

2. "Sur l'état des Protestants", O.C. V. 495.

3. "Vie de Turgot", O.C. V. 188.

4. "Dans l'état de nature, la propriété du père, fruit de son industrie et de son travail, doit être également partagée entre ses enfants" ("Vie de Turgot", O.C. V. 187).

It is clear from the notes which he made on Voltaire's Le Mondain¹ that Condorcet was not against inequality of wealth as such, believing that this acted as an incentive for people to strive to increase their standard of living and thus stimulate productivity; however he felt that too great an inequality had the opposite effect of discouraging enterprise, hence his remark:

"... moins cette inégalité est grande, plus la société est heureuse."²

One of the solutions to the problem, in his view, lay in the equal sharing of inheritances and in the limiting of the freedom to dispose of one's property as one wished.³

Condorcet does not object to the cession of property by one individual to another provided that this was done according to laws laid down by the State. However, he objects to all clauses which concerned the use made of the property of an individual after his death when it could no longer legally be considered his own. He thus supported the remarks made by Turgot in his Encyclopédie article on the "Fondations", repeating the argument that it was quite absurd for a man who could not foresee the future to settle any matter on a permanent basis.⁴

However, Condorcet's dislike of any form of perpetuity led him naturally into a confrontation with the Church. This confrontation had, as its starting point, the question of marriage. True to his distaste for institutions which prevented people from going back on an agreement once it had been made, Condorcet was a fervent supporter of divorce and expressed his support for it in several of his works⁵. To attack marriage in the Ancien Régime was, however, to attack by implication the right of

1. "Notes sur Voltaire", O.C. IV. 233 - 234.

2. Ibid O.C. IV. 234.

3. Ibid 234, 464, 479.

4. "Vie de Turgot", O.C. V. 23. Cf. Turgot: "Fondation" Oeuvres ed. F. Daire Osnabruck Otto Zeller 1966, 2 Volumes. Volume 1 pp. 299-309.

5. Cf. "Notes sur Voltaire", O.C. IV. 326; "Notes sur le Code de Toscane", Note 5; "Eloge de Michel de l'Hôpital", O.C. III.508, where he calls for the right of the Protestants to have their marriages registered outside the Church.

the Church to monopolise the official registration of marriages and births and to question the very right of the Church to intervene in such matters.

That this was Condorcet's intention is clear from his defence of the cause of the Protestants, a cause to which he devoted a complete work in 1781, showing the contradictions of a system which obliged members of a religious sect to submit themselves on very personal matters to the intervention of a body whose faith they did not share.¹

Condorcet's concern for the status of persecuted minorities such as the Protestants led him to defend also other categories of people who were the victims of abuses. He thus attacked all forms of feudal dues, such as "mainmorte, cuissage", etc. which were unproductive and vicious and called for their abolition without compensation in the "Essai sur les assemblées provinciales".²

He campaigned notably on behalf of the abolition of slavery and described in detail in his "Réflexions sur l'esclavage des nègres"³ how the slaves could be released from their bondage.

Condorcet distinguished what he called "les lois de police", which were concerned with those rights "qui n'existeraient pas sans les circonstances particulières que l'état de société a fait naître"⁴, from laws of justice which concerned the natural rights of man which were anterior to society.

These laws were to govern such matters as the definition of public, as opposed to private, property. For example, they would ensure that roads and parks were accessible to all, that the products used by an industrialist in his factory did not contaminate the people in the area, etc.

1. "Sur l'état des Protestants", O.C. V. 391 - 573.

2. O.C. VIII. 509 - 510.

3. O.C. VII. 63 - 140.

4. "Essai sur les assemblées provinciales", O.C. VIII. 512.

Condorcet was afraid that these laws could easily lead to the destruction of freedom - "La police veille pour la sûreté et la tranquillité publique, mais c'est en menaçant la liberté."¹ - and he was extremely anxious that they be defined clearly and without ambiguity².

However, he was aware also how essential they were to the ending of violations carried out by certain people at the expense of others. For example, in a country where freedom of conscience was in constant jeopardy, such laws could prevent people who gathered together peacefully from being set upon by the police.

Before the State could intervene, he says, "il faudrait ... qu'il y eût de fortes présomptions que ces assemblées sont criminelles"³.

These laws would also be instrumental in curbing such abuses as those represented by the notorious "droit de chasse". Condorcet had attacked these rights in several of his works⁴, pointing out the damage which they caused to crops and the crippling restrictions which they imposed on the work of the peasants, and in the "Essai sur les assemblées provinciales" he called for their abolition without compensation.⁵

By the time he came to write the "Essai sur les assemblées provinciales", Condorcet, as we have seen, had been able to systematise many of his ideas concerning the overhaul of the Ancien Régime. The essay thus includes the most coherent account of this category of laws and is particularly interesting for three reasons.

First, this work contains some very far-reaching reforms, notably the creation of a police force whose task would be to protect the public against criminals.⁶

1. "Notes sur le Code de Toscane" Cited by Cahen op.cit. p.53.

2. "Essai sur les assemblées provinciales", VIII. 516.

3. Sur l'état des Protestants, O.C. V. 475.

4. Cf. in particular "Remarques sur 'Les Pensées' de Pascal", O.C. III.651.

5. O.C. VIII. 519 - 522.

6. Ibid 514. It was not until 1793, however, that he gave details as to what this force was to consist of (cf. below IV. 23).

Secondly, it represents a desire to replace the numerous vague and arbitrary ordinances of the past by a series of coherent regulations.

Thirdly, and most interesting of all, it places great emphasis on the importance of local initiative for the elaboration of these regulations. Condorcet insists that these laws could be made only with the approval of the people in each "communaute" expressed via their representative¹. Furthermore, they could only be enforced under the supervision of judges elected by each "communaute". The judges were to be supervised themselves by the administrative assembly of the "district" in which they functioned². In the emphasis given to local decisions and in the distinction made between such laws, which were essentially local and functional in nature, and the major laws of the land, we have the basis of the organisation of the "communes" about which Condorcet was to write so much in 1789.

However, it was in the field of fiscal laws that Condorcet exerted most of his energy before 1789. A mathematician by training and Inspecteur des Monnaies under Turgot, he was in his element when dealing with financial affairs. His main preoccupation throughout this period was the elaboration of a logical theory of taxation that would sweep away the mass of indirect and direct taxes that crippled the economy of the nation and created serious inequalities among the citizens. As we have seen, this reform, by destroying the system of Orders, was vital to the success of his constitutional plans.

Condorcet's onslaught on the financial system of the Ancien Régime follows three different, but parallel lines.

In the first place he wished to show how the privileges of the clergy and nobility were no longer justified now that the feudal system had come to an end.

1. Ibid 514 - 518.
2. Ibid 516.

As early as 1777, he had questioned the right of the Church to own her own lands independently of the State¹, and, nine years later, had contested her right to exact payment from people who did not require her services². Both matters are taken up again in the "Essai sur les assemblées provinciales" when Condorcet, in an important passage which summarises most of the arguments directed against the remains of the feudal system in pre-revolutionary France, maintains that the privileges and property of the Church had been acquired several centuries before in order to fulfil needs which no longer existed:

"L'existence (des biens ecclésiastiques) est absolument indifférente à une religion qui a subsisté avec splendeur, pendant plusieurs siècles, sans que ses ministres possédassent aucune propriété. On a dans la suite attaché aux églises des dîmes ou des biens particuliers, destinés à entretenir les prêtres qui les desservaient, à payer les dépenses du culte; mais c'était dans un temps où cette manière de donner des appointements ... était la seule qui pût permettre une véritable solidité: aussi la plupart des autres fonctions publiques étaient également payées par des droits de place, par des terres. A mesure que les gouvernements ont acquis une forme moins variable, moins incertaine, on a substitué l'usage des appointements en argent à une coutume dont les inconvénients multipliés frappaient tous les esprits." 3

The role of the nobility also had changed considerably since feudal times and Condorcet questions the justification of the preservation of the prerogatives which derived from that role:

"Il est impossible de trouver quelques rapports entre le corps de l'ancienne noblesse et celui des possesseurs de fiefs ou des privilèges." 4

Condorcet's second approach is to show how the privileged orders not only benefited from advantages which were no longer justified, but used their position to obtain greater privileges still. Hence the reference in his writings to one of Voltaire's works published in 1750 when Mac-hault was attempting to impose a new tax, the Vingtième, on the whole nation:

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1. "Eloge de Michel de l'Hôpital", O.C. III. 530.
 2. "Vie de Turgot", O.C. V. 145.
 3. O.C. VIII. 442 - 443.
 4. "Réflexions sur les corvées", O.C. XI. 64.

"... propriétaire d'un cinquième des biens du royaume, (le clergé) refusait de porter une partie du fardeau des taxes sous lequel le reste de la nation paraissait prêt à succomber." 1

In addition to this, the clergy had means of obtaining wealth through such shameful devices as the sale of relics and the organisation of lotteries² and, above all, through the imposition of the notorious "dîme".

"Ainsi, en France, non-seulement le clergé ne paye point les impôts, mais il en lève à son profit de très-considérables" 3

The third, and most important approach by Condorcet to the problem of taxation consists in showing how the fiscal privileges of the clergy and nobility together with all the indirect taxes and regulations inherited from the past were not only unjustified but were responsible for the economic distress of the nation. "... les privilèges en argent, comme ceux de la noblesse française, sont une des principales causes de la mauvaise administration des finances et de la misère du peuple." 4

Among the most odious of these privileges was the "corvée", whereby the peasants were obliged to abandon part of their valuable time to work without profit and in the interests of other people. This contributed, in addition to the numerous other checks on incentives, towards lowering the rate of production and hence putting up prices. Such was Condorcet's concern for this question that he devoted an entire work to it in 1775, the "Réflexions sur les corvées"⁵, in which he also called for the abolition of such rights as the "banalité", "minage", "banvin" etc. He was naturally delighted when Turgot attempted to abolish the "corvée" in 1776.⁶

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1. "Avertissements", etc. O.C. IV. 248.
 2. Ibid 374.
 3. "Avertissements", etc. O.C. IV. 249.
 4. "Notes sur Voltaire", O.C. IV. 533.
 5. O.C. XI. 61 - 97. For a detailed account of Condorcet's economic views of Shapiro: "Condorcet & the rise of Liberalism" New York, Octagon books 1963. passim.
 6. Cf. Ibid 89 - 97; "Vie de Turgot", O.C. V.33 - 34.

Indirect taxes generally, quite apart from being vague and impossible to assess accurately, were excessively harsh, falling as they did on people and not on property. They affected vital foodstuffs, particularly in the case of customs duties either at the frontiers of the nation or those of the provinces. Condorcet argued that their full weight could only be relieved if they were spread over a great variety of items, but this would increase their number and consequently the cost of levying them.¹

He saw that the great number of internal customs barriers disrupted the free exchange of goods and created areas where prices were greatly inflated. Essential goods were thus hard to obtain and, as this hurt the poor more than the rich, the true result of indirect taxation was to permit the levying of taxes to take place in inverse proportion to what was fair and reasonable.²

Rising prices eroded the number of people who were able to sell and thus added to the already crippling state monopolies on the sale of tobacco and salt a series of "monopoles de fait" and hence created yet another form of privilege.³

Having looked at Condorcet's criticisms of the financial system of the Ancien Régime, we must now examine what he proposed to put in its place.

His axiom that all men are equal implies that all should pay the same amount of tax. However, as such a proposition was absurd, the only manner in which equality could be maintained was through the imposition of a proportional tax:

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1. Cf. "Essai sur les assemblées provinciales", O.C. VIII. 300 - 302.
 2. "Essai sur les assemblées provinciales", O.C. VIII 361 - 385.
 3. Cf. "Monopole et monopoleur", O.C. XI. 37 et sq; "Vie de Turgot", O.C. V. 33.

"L'impôt, pour être juste, (doit) être réparti avec égalité; et par conséquent il faut qu'il soit proportionnel au produit net, puisque les avantages qui résultent des établissements payés avec l'impôt sont la jouissance plus assurée et l'amélioration de ce même produit." 1

As people's riches, their capital, represented an advantage independent of the work they actually did², they should be taxed on this capital alone. It followed that the man who lived entirely off the money given to him directly in exchange for his labour should be exempted from tax:

"Dans toute administration bien réglée, le nécessaire physique de chaque homme doit être exempt de tout impôt." 3

In addition to this, a tax could only be considered valid if it was used by the government in the interest of the people:

"Le produit des impôts appartient à l'Etat, et ne peut être légitimement employé que pour l'avantage du peuple qui les a payés." 4

This implies that all expenses wasted in the collection of taxes were unacceptable and in consequence the highly complicated system of indirect taxes should be replaced by a single direct tax which was easy to fix and to collect.

This idea of a single, direct tax on land, borrowed from Turgot and the Physiocrats, lies at the heart of Condorcet's reform plans and is most clearly expressed in the "Vie de Turgot":

"Il est démontré que sous quelque forme qu'un impôt soit établi, il se lève en entier sur la partie de la production annuelle de la terre qui reste après qu'on a retranché tout ce qui a été dépensé pour l'obtenir ... Le produit net du territoire étant la seule richesse qui se reproduise annuellement, c'est sur elle seule que peut être assis un impôt annuel." 5

Condorcet then attempts to show that all the existing taxes were levied, in the last resort, on the net produce of land and the net interest of capital. If all taxes were to be levied only on land, money-owners

1. "Essai sur les assemblées provinciales", O.C. VIII. 292.

2. Ibid 292.

3. "Remarques sur les 'Pensées' de Pascal," O.C. III. 652; Cf. "Eloge de Trudaine", O.C. II. 474.

4. "Eloge de Michel de l'Hôpital," O.C. III. 474.

5. O.C. V. 124 - 125.

would be able to lend at a low rate of interest, hence encouraging the landowner to buy more land and increase his net produce. If all taxes were then reorientated towards the net interest of capital, the same money-owners could no longer do this without making a loss. The rate of interest would thus revert to what it was before. The net interest of money, in his view, was meaningless unless seen in relation to the capital spent on the purchase of new lands¹. In other words, landowners were ultimately the only people to pay tax².

Having said this, the big question facing Condorcet on the eve of the Revolution was how to convert the existing fiscal system, based on its masses of indirect taxes and regulations, into a system based on a single, direct land tax.

His major aim was to abolish the residue of feudal dues which existed throughout the nation. These he divided into three categories.

The first consisted of payments, whether in money or kind, which had originated in concessions of lands but which had since become taxes. Condorcet includes in this category such payments as the "cens" and "champart" and recommends that those who paid them be allowed to free themselves from the obligation forever by paying compensation to the owner³.

The second category consisted of rights which had originated in agreements between the peasants and the owners of the dues at a time when such agreements fulfilled a genuine need. Among these were to be found the various "banalités", the tolls on bridges etc., the dues known as "lods et ventes", the "corvée", etc. These would all have to be abolished, but their owners would be entitled to compensation.

1. Ibid 125 - 126.

2. Condorcet provides a much more detailed analysis of this question in the "Essai sur les assemblées provinciales", c.f. O.C. VIII. 181 et sq.

3. "Essai sur les assemblées provinciales", O.C. VIII. 507 - 508.

In his third category he includes dues which emanated from what he calls "la souveraineté"¹, presumably referring to rights which had been granted to the owners of fiefs by the King in return for military duties², e.g. payments on rivers, taxes on market sales, etc. These dues were to be abolished with compensation.³

The big problem now, however, was to find a method whereby the operation of buying up a right with compensation could be effected. The difficulties were great and of several kinds.

In the first place, there was the danger of creating chaos by disrupting the customs which several generations of people had come to accept. The abolition of the "dîme", for example, although much desired by Condorcet⁴, implied the reorganisation of the entire financial basis of the Church⁵ and could only be achieved over a long period of time by properly constituted bodies.

"... si le peuple est accoutumé à voir prendre sur les fonds publics les frais du culte ... il y a du danger, et même une sorte d'injustice, à choquer ses habitudes par une réforme trop prompte." 6

In the case of laymen, the problem was even more acute. In so far as the Church lands belonged to the State, all dues on them could be abolished without compensation. This, however, was not possible in the case of laymen whose rights were inextricably linked with their property.

How then was compensation to be organised? If too high, it would be unjust to the State: if too low, unjust to the "seigneur". But there were other difficulties. For example it was impossible to deal with the "banalités" without taking into consideration the different kinds of "banalités" which existed. In the case of ovens and wine presses, the compensation

1. Ibid 507.

2. Cf. "Réflexions sur les corvées", O.C. XI. 76.

3. "Essai sur les assemblées provinciales", O.C. VIII. 509.

4. Cf. "Vie de Turgot", O.C. V. 146.

5. Cf. "Essai sur les assemblées provinciales", O.C. VIII. 442 - 445.

6. "Vie de Turgot", O.C. V. 145.

would be able to lend at a low rate of interest, hence encouraging the landowner to buy more land and increase his net produce. If all taxes were then reorientated towards the net interest of capital, the same money-owners could no longer do this without making a loss. The rate of interest would thus revert to what it was before. The net interest of money, in his view, was meaningless unless seen in relation to the capital spent on the purchase of new lands¹. In other words, landowners were ultimately the only people to pay tax².

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The second category consisted of rights which had originated in agreements between the peasants and the owners of the dues at a time when such agreements fulfilled a genuine need. Among these were to be found the various "banalités", the tolls on bridges etc., the dues known as "lods et ventes", the "corvée", etc. These would all have to be abolished, but their owners would be entitled to compensation.

1. Ibid 125 - 126.

2. Condorcet provides a much more detailed analysis of this question in the "Essai sur les assemblées provinciales", c.f. O.C. VIII. 181 et sq.

3. "Essai sur les assemblées provinciales", O.C. VIII. 507 - 508.

could be based on the value of the net produce of the oven and wine press excluding the value of the oven and wine press themselves and the building in which they were situated. In the case of a mill, however, the problem was not so simple. The mill was dependant for its very functioning on the place where it was located, namely by the stretch of water from which it drew its power. This belonged to the mill's owner and, without it, he could not exercise his right. In this case, therefore, the only way in which the people who were subjected to this right could deliver themselves of it was to buy the mill itself and then sell it to other people.¹

The evolution of Condorcet's ideas on this question is of some interest. When he first approached the problem in writing in 1775, he was so overwhelmed by the difficulties of the task that his reaction was one of resignation:

"Tous les projets ne sont, sans doute, que des rêves; mais il est doux de jouir du bonheur public, ne fût-ce qu'en songe".²

He took the line that it was wrong for the legislative power to oblige the "seigneurs" to put an end to feudal rights, even with compensation, save in the case when these rights were mere abuses and had no historical validity.

"Lorsque les droits représentent la propriété il serait injuste de forcer les seigneurs à vendre ces droits, ou les vassaux à les racheter."³

By 1786, however, his opposition to this solution had become much less pronounced:

"...tout acte qui donne à la propriété une forme éternelle, renferme la condition implicite que le souverain pourra rétablir le droit commun aussitôt qu'il le jugera utile, parce qu'aucun propriétaire ne peut étendre à l'éternité le droit qu'il a sur son bien."⁴

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1. "Réflexions sur les corvées", O.C. XI. 69 - 70.
 2. Ibid 69.
 3. Ibid O.C. XI. 75.
 4. "Vie de Turgot", O.C. V. 142.

It was not until 1788, however, that Condorcet, delighted with the idea of the setting up of elected assemblies throughout the nation, actually went ahead to suggest a method whereby the abolition of rights with compensation could be effected.

The parishes would first evaluate the total cost of the compensation which their members would have to pay to the "seigneurs". The provincial assembly would advance all the money required for this and the parishes would then repay this loan in instalments drawn out over several years. The operation would not start until all restrictions on sales had been lifted and two-thirds of the population of each parish had given their approval. While it was in progress, any individual or parish would be allowed to negotiate with a "seigneur" on his or its own initiative, provided that the district assembly approved.

"Par ce moyen, tous les droits féodaux payés par le peuple s'éteindraient à la longue, et sans même que cet achat lui coûtât des sacrifices onéreux." 1

The conversion of the old tax system was also to take place very gradually. Since the new taxes were to be fixed in proportion to the revenue of lands, they could not be evaluated until the net product of all the lands in the nation had been assessed.²

Once this had been done, the income of each individual would have to be assessed. This was impossible, however, until the actual cost of collecting the indirect taxes had been deducted from the total³. Meanwhile, however, the nation would not be able to survive unless the indirect taxes were maintained.

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1. "Essai sur les assemblées provinciales", O.C. VIII. 511 - 512.
 2. "Vie de Turgot", O.C. V. 128.
 3. "Essai sur les assemblées provinciales", O.C. VIII. 341.

Here again, a slight evolution in Condorcet's thinking may be detected. When he approached the problem in the "Vie de Turgot", he hesitated over two methods of effecting the transformation.

First, one could calculate the cost of all the indirect taxes and assess what the net produce of all the lands would be after they had been removed. The new tax would then be imposed so as to restore the equilibrium.

Otherwise, one could retain all the indirect taxes and gradually impose the new tax in proportion to the old, removing the cost of collecting the latter.

In 1786, Condorcet seemed to prefer the second of these methods.¹ In 1788, however, he gave his preferences to a modified form of the first. In the "Essai sur les assemblées provinciales" he calls for the drawing up of a cadastral survey which would serve as the basis for the conversion of all the direct and indirect taxes into a single, direct territorial tax:

His plan may be divided into four parts:

- the transformation of those taxes which did the most harm to the nation and to the rights of the people, e.g. the "gabelle", the various "corvées" and all internal customs duties and tariffs;
- the elimination of all immoral methods of making money, e.g. lotteries, and of all unjust taxes such as those which struck at consumer goods;
- the abolition of the major direct taxes such as the "taille" and "capitation";
- and, finally, the elimination of all external customs duties.²

1. "Vie de Turgot", O.C. V. 129.

2. "Essai sur les assemblées provinciales", O.C. VIII. 396 - 406.

It is important to mention that Condorcet believed the operation would take at least twenty or thirty years to carry out. This is significant for two reasons. First, as we shall see, it was to have considerable repercussions on his attitude towards the events of 1789; secondly, it led him to call for other fundamental reforms which struck at the very heart of the Ancien Régime.

These reforms grew directly out of the need to discover short-term methods of obtaining money for the State. Condorcet called first of all for the sale of the old Crown lands which, in his view, really belonged to the nation. Realising, however, that these lands were relatively poor, he pressed in addition for the sale of the much more extensive lands which belonged to the Church.¹

He believed that this was a perfectly logical and legitimate step, for, even if given to the State, the Church's wealth would still be in keeping with the conditions of its origins. This was to give relief to the poor, a purpose which could now best be fulfilled by relieving them of their taxes.

But Condorcet's plan had far-reaching consequences. Education, for example, could now be placed in the hands of the State; the latter's new-found wealth could contribute to the setting up of a central education fund which would be distributed proportionately among the different schools.

The priests were now to be considered as civil servants and were thus to receive salaries from the State. One of the consequences of this was that monks and canons, those members of the clergy who lived off revenue which they did not receive in exchange for work done in the service of the State, were to be removed.²

1. "Essai sur les Assemblées provinciales", O.C. VIII. 442 - 450, 649 - 655.

2. Ibid 443.

Once again, however, Condorcet wanted the sale of these lands to take place gradually. He feared that a swift sale would lead to a drop in their value and would thus deprive the State of one of the strongest weapons it possessed to redeem the national debt, the money of the capitalists. The latter would only lend their money to the State if they were convinced of the potential wealth which the lands would bring it.

By the beginning of 1789, therefore, Condorcet had described his plans for the complete overhaul of the Ancien Régime. Its basis lay in the doctrine of the Rights of Man; its aim was embodied in the reforms mentioned as part of the five major groups of laws described by him in the *Lettres d'un bourgeois de Newhaven*"; its weapon lay in the elected provincial assemblies set up throughout the nation who, under the King's guidance, would set about the gradual transformation of the existing regime and would pave the way for the election of a national legislative assembly.

This was Condorcet's long-term project. We must now examine the effect which the summoning of the *Etats Généraux* and the events which followed was to have on his ideas and how he attempted to adapt his plans in the light of these events which he had not foreseen.

CHAPTER TWO

August 1788 - June 1791

THE EVOLUTION OF CONDORCET'S IDEAS FROM THE SUMMONING OF THE
ETATS-GENERAUX TO THEIR OPENING. (8 AUGUST 1788 - 5 MAY 1789)
AND FROM THE FORMATION OF THE CONSTITUENT ASSEMBLY TO THE FLIGHT
OF THE KING (MAY 1789 TO JUNE 1791)

1. The summoning and opening of the Etats Généraux

Even in the process of writing the "Essai sur les Assemblées provinciales", Condorcet was aware that the financial plight of the nation and the political squabbles which divided it presented a serious threat to the implementation of his long-term plan for transforming the fiscal system of the Ancien Régime. As we have seen, his essay already mentioned a method whereby a National Assembly could be formed immediately. Towards the end of 1788, he actually went so far as to publish a pamphlet requesting that the King take the necessary steps for this to be done¹.

His dismay when Brienne announced that no steps would be taken to form a national assembly until 1792 and that the Etats-Généraux would be summoned instead, is to be seen in his essay on the "Sentiments d'un républicain sur les Assemblées provinciales et les Etats-Généraux"² and in the postface which he added to his essay on the provincial assemblies³ shortly after he had heard the news.

Quite apart from the fact that the Etats-Généraux were associated in his mind with some of the least glorious periods of French history⁴,

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1. "Requête au roi pour demander la transformation des assemblées provinciales en assemblées élues et la convocation d'une Assemblée Nationale." (Cited by Cahen op.cit. p.86).
 2. O.C. IX. 127 - 143.
 3. O.C. VIII. 655 - 659.
 4. Cf. "Eloge de Michel de l'Hôpital," O.C. III. 497, 527; Notes sur Voltaire, O.C. IV, 364 - 365.

he considered that they were quite incapable of solving the nation's real problems. These were not merely economic, but political, and could only be approached by the nation as a whole via their representatives in the provincial assemblies. The Etats-Généraux, in their organisation and purpose, were the very antithesis of this ideal of unity and representation.

"Vous voyez comment tous les intérêts aristocratiques ont dû se réunir contre les assemblées provinciales, et prendre, pour y réussir, deux moyens; l'un la demande des Etats-Généraux; l'autre la réclamation des privilèges particuliers aux différentes provinces." 1.

It is true to say, however, that the Etats-Généraux of 1789 were to be different from their predecessors, and this for two reasons. An Arrêt du Conseil of 5th July 1788 requesting that all Frenchmen give their advice freely on a method by which the Etats-Généraux could be transformed into "une assemblée vraiment nationale par sa composition comme par ses effets"² had resulted in the publication of numerous pamphlets defending the Tiers Etat. The consequence of this was the ordinance of 27th December 1788 which doubled the representation of the Tiers and prevented the clergy and nobility from being eligible for a place in its ranks.³

Condorcet was unsure how to react to these developments. He could only be pleased with the fact that, for the first time, the nation was to have a say in the formation of a national assembly:

1. Sentiments d'un républicain, O.C. IX. 133.

2. Egret: Pré-Révolution française 1787 - 89, P.U.F. 1962, p. 325.

3. Ibid 365.

"...la nation est consultée sur la forme de cette assemblée d'un manière aussi régulière que sa constitution actuelle peut le permettre." 1.

On the other hand, the limited time available for the elections, the political immaturity of the masses, the complexity of the task at hand and the lack of any unity of purpose among the citizens threatened to lead to the formation of an assembly which would prove quite unable to cope with the problems of the day. In Condorcet's view, it was chimerical to imitate the American system whereby a preliminary assembly or "convention" would first be formed to lay down the basis for the election of a national assembly which would then proceed to make the desired reforms in an orderly manner:

"Cette institution... ne pourrait être employée dans un pays où les prétentions des ordres différents, comme celles de plusieurs provinces, ne permettent pas d'espérer qu'une telle assemblée formée d'après les principes d'égalité qui en sont la base nécessaire, obtînt une approbation nécessaire." 2.

Confronted with the "fait accompli", he was obliged to adapt himself as well as he could to the new situation. He did so by ignoring both the long-term and short-term methods described in the essay on the provincial assemblies for the election of a national assembly and the drawing up of a new constitution, replacing these with a simpler system whereby the Declaration of Rights and the constitution were to be established entirely by the elected representatives of the people acting under the obligatory mandates given to them by their electors.

From the beginning of the Revolution, therefore, Condorcet found himself under the obligation to modify the grandiose project which he

1. Lettres d'un citoyen des Etats-Unis, O.C. IX. 122.

2. Lettres d'un citoyen des Etats-Unis, O.C. IX. 122.

had devised in the last years of the Ancien Régime to concentrate instead on the question of mandates to which he had paid relatively little attention earlier on.

This adaptation to circumstances is further revealed by the way in which he was forced to reduce his ambitious projects for a complete reform of the abuses of the time to a few fundamental demands. From this point of view, a study of the two works which he wrote during the election campaign, the "Réflexions sur les pouvoirs et instructions à donner par les provinces à leurs députés aux Etats-Généraux"¹ and the "Lettres à Messieurs du Tiers-Etat"² is of some interest.

The fundamental demands listed by Condorcet in these works corresponded to each of the major groups of reforms and were to be presented in the form of obligatory mandates given by the electors to their representatives.

The first task of the Etats-Généraux, once they had been formed, was to draw up a Declaration of Rights. The representatives were to receive an imperative mandate forbidding them to consider any measures for relieving the debt or to vote on any other matter until this had been done. However, unlike the scheme described in the "Vie de Turgot", the actual wording of the Declaration would be left to the representatives and would not require the sanction of the citizens.

1. O.C. IX 281 - 284.

2. O.C. IX. 215 - 259.

Condorcet considered that the reforms required in the judicial system were too complex to be undertaken immediately by the representatives. Their primary task here was to insist on such fundamental reforms as the abolition of "Lettres de cachet"¹ and the setting up of machinery whereby only elected judges appointed by the nation and responsible to it for their decisions could pass sentence on a man².

These principles having been established with the force of the imperative mandate, the task of effecting the actual reforms would be left to a specially constituted committee whose findings would be presented to the Etats-Généraux on a later session³.

Because of their complexity and great importance, no fiscal reforms were to be undertaken by the Etats-Généraux. Hence, Condorcet's advice to the electors:

"Il faut...borner vos pouvoirs à ce qu'il est clair que vos députés pourront bien faire." 4

He proposes that these reforms be undertaken slowly and thoroughly by administrators elected for the purpose in each provincial assembly presumably according to the methods he had described in detail in the essay on the functions of these bodies. Once again, the role of the representatives was only to proclaim the basic principles on which these reforms were to be based.

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1. Réflexions, etc. O.C. IX. 273.
 2. Ibid 275.
 3. Lettres, etc. O.C. IX 228 - 245.
 4. Ibid 241.

Condorcet's belief in evolution and his desire to reconcile powerful, but isolated, demands for reform with the need for the uniform overhaul of an entire system of government comes through particularly clearly in the question of the reform of local government. Before these were effected, every village was to be given the opportunity to express its desire as to which other villages it would wish to be joined in order to form a "communauté de campagne", as to which other "communautés" it wished the one to which it belonged to be attached to form a "district", and so on. The wishes of the various villages would be made known to a committee appointed by the Etats-Généraux with the task of reconciling local requests and desires with the national interest.

For example, it would ensure that areas divided by forests or mountains would not be grouped together as this would make travel impossible and hinder communications between the "chef-lieu" and the outlying areas; similarly, areas subjected to different kinds of taxation were not to be combined. The role of the representatives here was to insist that the villages be consulted before any reforms were undertaken ¹.

Condorcet's desire for progressive reform rather than revolution is also apparent in his attitude towards the monarchy and the executive. Numerous passages in his earlier writings indicate that he was at heart a republican; this is illustrated in the following quotation

1. Cf. Lettres, etc. O.C. IX. 236, 249 - 252.

from the "Notes sur Voltaire": "Il n'est qu'un esclave qui puisse dire qu'il préfère la royauté à une république bien constituée."¹, or in another one from the "Vie de Turgot": "Une constitution républicaine est la meilleure de toutes."²

These statements do not occur in the "Réflexions sur les pouvoirs", however, where, on the contrary, Condorcet expresses his attachment "aux formes de la monarchie" as well as his respect "pour la personne et pour la prérogative royale"³.

In effect, Condorcet was perfectly aware of the dangers of too profound a change in the political system of the nation and he was prepared to admit the value of retaining the monarchy:

"La France restera une monarchie, parce que cette forme de gouvernement est la seule peut-être qui convienne à sa richesse, à sa population, à son étendue et au système politique de l'Europe".⁴

I It is clear however, that the monarchy he had in mind was not the monarchy of the Ancien Régime. Thus, while acknowledging the wisdom of vesting the King with executive power - "lui seul... distingue l'intérêt général mieux que la nation elle-même"⁵ - and granting him the right to sanction the laws - "la sanction du roi... rend les lois obligatoires par son approbation et par son sceau"⁶, he underlines the fact that the King's authority was not given to

1. O.C. IV. 393.

2. O.C. V.209; cf. also, a very early work cited by Cahen, op.cit. p. 30, entitled "Mémoires sur les conseils qu'un zélé républicain, devenu par hasard favori d'un monarque, doit donner au prince pour favoriser sa chute."

3. O.C. IX. 267.

4. O.C. IX. 266

5. Ibid 271.

6. Ibid. 372.

him by Divine Right, but by the will of the people, the nation.

"La volonté générale étant la loi, le pouvoir législatif, en entier...appartient à la nation...Elle a le droit de rejeter tout pouvoir qui ne viendrait pas d'elle: elle crée, modifie les lois qu'il lui importe d'observer, et elle en confie l'exécution à un ou plusieurs de ses membres." 1

This places Condorcet's defence of the monarchy in its true perspective. To him it was not only a stabilising factor at a time of political upheaval, but also a powerful weapon in the struggle with the Parlements whose prerogative it had been under the Ancien Régime to sanction the edicts of the government.

He thus calls on the electors to give their representatives imperative mandates to insist that the Etats-Généraux be granted full legislative power and that the King be allowed to sanction the laws and maintain control over the executive.

Condorcet's final reason for supporting the monarchy was purely utilitarian: in the absence of an organised administration it was more convenient to make one man responsible for ensuring that the directives of the legislative body were carried out. The big problem here was that the monarch, because he was not elected by the people, could not be judged according to the criteria which would be applied to members of the legislature who were accused of betraying the nation. How could a King who did not occupy his position as the direct result of the national will be accused of betraying it?

Condorcet's solution, and one which he was to have recourse

1. Ibid. 271.

to on a much greater scale later in the Revolution, was to assume the axiom that the monarchy, as an institution, could not be held responsible for any mistakes made by the executive, but that the responsibility for these mistakes could be placed on the shoulders of the ministers. The electors were consequently to give their representatives an imperative mandate insisting that any minister suspected of neglecting to carry out the legislature's orders in an efficient manner could be brought to trial.¹

It is worth noting that Condorcet says nothing here about the organisation of the executive. A reason for this may be that at this stage, he was more concerned with the establishment of principles rather than with details which could be left to later assemblies. An even more plausible explanation, however, is quite simply that he had given little thought to the question. It is hardly mentioned in his writings prior to 1789 and seems to have been completely clouded over by his belief, echoing that of Turgot, that important reforms could be carried out in a coherent manner only if undertaken by the provincial assemblies acting under the direction of a single "enlightened" individual.²

It is at the level of basic principles that Condorcet concludes his words to the electors on the question of executive reform. Repeating arguments he had put forward before 1789, he calls for the separation of the executive from control over

1. O.C. IX. 278.

2. Cf. Lettres, etc. O.C. IX. 237.

taxation. The electors were to make it clear to their representatives by imperative mandate that they wished to have their taxes collected by administrative bodies in the provinces acting directly under orders from the legislature.¹

The last two principles laid down by Condorcet follow logically from what has come before. According to his scheme, the opening sessions of the *Etats-Généraux* were to establish only the principles behind the reforms; the reforms themselves were to be made by the *Etats-Généraux* at later sittings in collaboration with the committees which had been set up to examine the practical aspects of each reform. It was obvious, therefore, that the representatives were to insist on the fact that the *Etats-Généraux* should become a permanent body, meeting at fixed periods and responsible for its organisation and duration.²

Finally, the electors were to insist that their representatives call for a popular ratification of the constitution once it had been drawn up. It was obvious that the plan which Condorcet had described before 1789 (viz. the examination by the citizens of each article of the Declaration of Rights and of every bill) was impracticable and that all the details of these articles were to be left to the representatives. In Condorcet's view this was inevitable, but he believed that the essence of his former plan would be preserved if it was announced that the ratification of

1. *Réflexions*, etc. IX. 276.

2. *Réflexions*, etc. IX. 280.

the constitution would be undertaken, not by all the citizens, but by "une assemblée convoquée exprès pour corriger la constitution"¹. An imperative mandate was thus to be given to the representatives calling on them to insist on the summoning of this body which Condorcet does not yet call a "convention".

The phase of Condorcet's development which has just been described lends itself to a few general remarks.

First, it is clear that his adaptation to events which had clearly caught him off guard reflects a change more in the form of his ideas than in their content. The somewhat laborious machinery described in the "Essai sur les Assemblées provinciales" is replaced by a system whereby the national assembly, limited at one end by the imperative mandates and, at the other, by a solemn ratification of the constitution by the people, was free to establish the contents of the new laws; however, the principles which are described in Condorcet's mandates add nothing to the views mentioned in the "Essai".

Secondly, there is no doubt that Condorcet's idea of using imperative mandates was to have consequences which he would have preferred to avoid. It is true to say that he considered them a purely temporary measure, justified only by the absence of any precedent for ensuring that the *Etats-Généraux* truly reflected the nation's wishes². It is doubtful whether he considered them to be compatible with parliamentary democracy. Nevertheless, his

1. Lettres, etc. O.C. IX. 236

2. Cf. Lettres, etc. O.C. IX 228 - 229.

insistence on them forced him into increasing the gap, already visible in his earlier works, between basic principles and the actual details of the laws which were to correspond to these principles.

Apart from the fact that his attitude has the disadvantage of preventing us from knowing exactly how far his views on certain matters of detail had developed by this period, it was to present him with a great problem for one very important reason. It left him no time to examine methods whereby the old political system could be maintained in the crucial period separating the declaration of the new principles which stripped it of its validity and its replacement by the new system. The consequences of this are seen in the contradictions in his ideas when he came to examine the work of the Constituent Assembly later on.

But the idea of using imperative mandates was to have other consequences. If they were to work, the nation as a whole had to agree on the basic principles which these mandates sought to impose. If some of the representatives received imperative mandates which went against the views of their colleagues, the proceedings would degenerate into anarchy. If these representatives were then allowed to return to their constituents in order to consult them as to what line they should follow, the proceedings would have to be temporarily suspended and chaos would follow.

That Condorcet feared this danger is clear from a passage in the "Lettres" where he underlines the gravity of a situation in which a number of representatives could simply withdraw from

the assembly.

"Il faut, pour qu'une province puisse légitimement renoncer à l'association, qu'elle prenne, pour déclarer ce vœu, une forme telle, que chaque canton, chaque communauté puisse exercer ce même droit de se séparer; d'ailleurs, elle ne peut se séparer légitimement sans avoir entendu les autres membres de l'association politique, sans avoir pesé les inconvénients d'une scission, et ceux de la disposition qui en est le motif, sans avoir transigé avec les autres provinces sur les dettes contractées ensemble, sur les conventions faites en commun." 1

The legalistic language barely conceals Condorcet's great fear of a break-down of the discussions in the Etats-Généraux. Later in the letter, he makes it quite clear that the representatives were to pass over the wishes of their electors if these went against the will of the majority:

"Après avoir donné ainsi des limites aux pouvoirs des députés pour toutes les questions où ils votent comme représentants, il reste à observer que ces pouvoirs doivent être absolus pour celles où ils votent comme juges; c'est-à-dire, en général, pour celles où ils votent d'après une décision déjà prise à la pluralité." 2

It would seem, however, that, by will of the majority, Condorcet had in mind those ideas which he himself considered to be fundamental to the new constitution. It was to ensure that the majority's ideas corresponded with his own that he expounded them at such length in his propaganda works of the period, even going so far as to dictate to the Tiers Etat electors the qualities which they were to look for in the men they were to return to power. Defenders of the natural rights of man were to be preferred to philanthropists, those who put the national interest

1. Lettres, etc. O.C. IX. 231; cf. also Sentiments d'un républicain, etc. O.C. IX. 141.

2. Lettres, etc. O.C. IX. 245.

first to the champions of specific localities, those whose views were acceptable to most elements of the community to radical extremists, and so on¹.

What he desired, in fact were carbon copies of himself, men who could endorse the slogan which, more than any other, epitomises his attitude in 1789 "Celui qui va trop vite, ou s'arrête, ou s'éloigne."²

This leads us to a third point, this time concerning Condorcet's relations with the Tiers Etat. It is a moot point whether he was really aware of the revolutionary potential of the Tiers in 1789 and whether his desire for unity did not threaten to isolate him definitively and hence to destroy his plans.

Not only did he attack those who wished to complain quite legitimately via the "cahiers de doléances" about the day to day injustices to which they were subjected in their localities - "Je crois qu'on ne saurait être trop réservé sur (les) demandes (particulières). Souvent elles sont contraires aux droits des autres parties de l'Etat, et quelquefois à l'intérêt de ceux mêmes qui les forment."³ - but he even went so far as to criticise those members of the Tiers who refused to accept the candidature of noblemen⁴. Against this he called for unity at all levels of the nation - "C'est de l'union de tous les citoyens, du patriotisme de tous les ordres et de toutes les provinces, que dépend

1. Réflexions, etc. O.C. IX. 255 - 257.

2. Ibid 257.

3. Lettres, etc. O.C. IX. 248 - 249.

4. Ibid 218 - 219.

aujourd'hui le salut de l'état."¹ - an attitude which was to develop into an "idée fixe" as the Revolution progressed.

However, it was an attitude which, in 1789, could only indicate a lack of awareness of the clashes of interest which divided the Orders at this time. Condorcet was of course aware of the Tiers Etat's importance and he addresses it in the "Lettres" in words reminiscent of Abbé Sieyè's pamphlet: "Je vous regarde comme formant vraiment la nation"². But his insistence on the divisions that existed within the ranks of the Tiers itself³ seems curiously shortsighted at a time when the true struggle was between the Tiers and the other two Orders. His view is perhaps justifiable in the long term, but it seems considerably out of temper with the times in 1789.

This is quite clearly illustrated by the great difficulties which he was to face during the elections to the Etats-Généraux when he attempted to act as a mediator between the different Orders, first at Mantes and then in Paris.

On the second day of the election proceedings at Mantes (10th March 1789), he made a speech calling for unity among the Orders and for the drawing up of one "Cahier de doléances" which would serve as a model for the rest of the nation⁴. The clergy, however, refused to agree to a request which had been made by a deputation of the Tiers Etat on the previous day calling for the first

1. Réflexions, etc. O.C. IX. 264.

2. O.C. IX. 215

3. Ibid. 217

4. Arch. nat. B.III 80. 459 - 484; cf. Cahen op.cit. p. 101.

two Orders to renounce their fiscal priveleges. At this, the Tiers rejected Condorcet's request that they accept candidates from among the nobility and decided to draw up their own "Cahier"¹. It was clear, therefore, that at Mantes, the Order which proved the main obstacle in the way of unity was the clergy.

When Condorcet presented himself as a candidate in Paris in April 1789, he was to discover that the obstacle, this time, was represented by the nobility. Here again, the Tiers Etat refused to accept the drawing up of a single "Cahier"², a decision which is hardly surprising when we see some of the points made by the nobles in their "Cahier" of May 5th, 1789. They rejected an amendment calling for the Etats-Généraux to have the right to fix the date of its sessions and even gave their representatives an imperative mandate to reject a majority vote on this point. They also refused such reasonable requests as that the members of all three Orders should receive the same punishment for the same crime, or even that judges should not be allowed to keep their posts on a permanent basis³.

It is hardly surprising that, in these circumstances, Condorcet should have had little chance of being elected and this despite the importance of the role which he played at both electoral assemblies. At Mantes, notably, he was chosen by the nobles to be spokesman of the six "commissaires" who were responsible for drawing up the "Cahier" of the order. This "Cahier", which many believe to

1. Ibid 155 Cahen op.cit. 108.

2. Cf. Chassin: Elections de Paris II. 4. cited by Cahen op.cit. p.117.

3. Ibid. III. 270, 322. Cahen p. 123.

be the work of Condorcet himself, is remarkable in that it transcends purely local interests and partisan demands.

Significantly, it contained no demands which could be considered irreconcilable with the interests of the Tiers Etat and the more enlightened nobles.

Although his influence was much weaker in Paris,¹ despite the fact, that, here too, he was chosen to be one of the Commissaires responsible for the nobles' "Cahier", it is significant that he was actually recommended to the Tiers Etat as a suitable candidate in the "liste des amis de peuple qui méritent de fixer le choix des électeurs de Paris"². And yet, despite all this, he was elected neither at Mantes nor at Paris.

The significance of Condorcet's failure here should not be underestimated, for two reasons. First, it reveals to how great an extent the people who were to make the Revolution were divided among themselves and how difficult it was seen to reconcile their different interests. Secondly, it forced him to follow the events of the two following years from the sidelines, a bitter disappointment for a man who had spent the previous fifteen years working out plans for a new system of government.

1. Arch. nat. B. III 80. 159, Cahen op.cit. p. 110.

2. Chassin op.cit. II 311 - 312; Montjoye: Histoire de la Révolution" pp. 64 - 65, cited by Cahen op.cit. p. 125.

The Opening of the Etats-Generaux

Condorcet's sense of isolation at the beginning of the meeting of the Etats-Généraux is reflected in the somewhat alarmist manner in which he reacted towards the deadlock caused by the refusal of the first two Orders to allow their representatives to meet with the Tiers Etat in one assembly. Though this was clearly the fault of the priveleged Orders, Codorcet in a short, unpublished piece called "Réflexions sur les affaires publiques par une société de citoyens"¹, claimed that this was just as much the responsibility of the Tiers Etat who had refused to accept candidates from the nobility, and this despite his experiences of the intransigence of the nobles at Mantes and, in particular, at Paris.

In order to break the deadlock, he recommends a somewhat far-fetched method whereby the Tiers Etat was to call for summoning of a second assembly which would meet to decide whether the system of Orders was to be maintained or not (the answer, in his mind, being a foregone conclusion). It would then draw up a Declaration of Rights, fix a date beyond which none of the old taxes were to be collected, and call on the King to summon a third assembly which would meet without any distinction of Orders in order to set up a constitution."².

1. p. 6, cited by Cahen op.cit. p. 130.

2. Hincker: Introduction to "Esquisse d'un tableau historique des progrès de l'esprit humain" p. 40, Editions Sociales, Paris, 1966.

It is scarcely surprising that his plan passed quite unnoticed. Undaunted, he proceeded to call on the Tiers Etat to confront the motives of the other two Orders directly by asking them to give their approval to a manifesto in nine parts which contained all the fundamental reforms which he had mentioned in his works.

All fiscal priveleges were to be abolished; the assembly of the nation was to meet every year and be renewed by elections organised by itself; no man was to be convicted unless he had been found guilty by a clear majority of a properly constituted jury and after having received every guarantee; capital punishment was to be abolished for all crimes except murder; no man was to be detained for more than 24 hours unless a legally constituted judge had examined the evidence against him and found that it justified such a detention; no sentences were to exceed two years until the Etats-Généraux had established a penal code; freedom of press was to be proclaimed; no property was to be taken from a man until he was guaranteed compensation; all taxes not approved by the Etats-Généraux were to be abolished at the same time as they themselves were dissolved; finally, all restrictions on commerce and industry were to be lifted¹.

Once again, this initiative led to nothing. However, these two futile attempts to break the deadlock are interesting not so much because they illustrate the efforts of a man who had written a great deal about political reform before the Revolution to adapt himself to events for which he was unprepared, as that of

1. Ibid. p. 40.

someone, overtaken by the events of the time, desperately striving to cut his losses by forcing the opponents of reform to reveal, once and for all, their true intentions.

By abandoning conciliation for confrontation, Condorcet found himself obliged to press on the nation reforms which he had rightly considered would take several years to effect. His action contrasts strikingly with the advice against precipitation which he had given to the Tiers Etat electors during the election campaign. In fact Condorcet was here moving on to dangerous ground for, almost un-awares, he was committing the very mistake for which he was to blame the Constituent Assembly - the making of promises which could not possibly be kept.

His dilemma may be considered as the inevitable consequence of his attitude towards constitutional reform before 1789, an attitude which may itself be explained by his temperament. A scholar by nature, he had approached the question of reform very much as an academic, expanding his views in long, carefully argued treatises. Now, however, unless he was to abandon all hope of seeing his ideas put into practice, he was forced to turn himself into a man of action, a role for which he was quite unsuited.

Even at the height of the deadlock, his solution reflects a strong desire to ensure that all was done via the proper channels, that is via elections and the written commitments of the legally elected representatives of the nation.

The paradox is underlined somewhat ironically by the manner in which the deadlock was finally broken, not by political manoeuv-

ring and written manifestoes, but by the strictly non-legalistic and direct action of the Parisian mob on 14th July.

This event, which was to have a decisive effect on the development of Condorcet's ideas during the Revolution, exacerbated the duality of his position as thinker and man of action. On the one hand, his instinctive fear of the masses and of any direct, political action, was to lead him increasingly to defend the principle of loyalty to the legally constituted assembly of the nation; on the other hand, the mob's initiative revealed to him the amazing fact that the ordinary people in the nation were not so lacking in political consciousness as he had believed and were quite prepared to act for themselves if they felt that their representatives were not defending their interests.

This revelation was to strengthen his resolution to ensure that the Asssmbly's reforms met the demands of the people and this in turn was to lead him increasingly to defend the political rights of the lower strata of the population as the Revolution progressed.

2. The Constituent Assembly

The duality of Condorcet's position must be borne in mind if we are to understand his activities during the first two and a half years of the Revolution.

These activities may be divided into three parts; his work as a member of the Paris Commune assembly, his attempts to form a centre party between July 1789 and June 1791 and, most important

of all, his use of journalism as a means of forming public opinion and educating the general public by keeping it informed of the merits and defects of the reforms made by the Constituent Assembly throughout 1789, 1790 and up to June 1791.

a) The Commune Assembly

As a member of the Commune's assembly¹ Condorcet, for the first time, came into close contact with that element of the population which was to become the driving force of the Revolution in its later years. It was inevitable, therefore, that this should have contributed to a development in some of his ideas on constitutional reform, turning them in a more "popular" or "left-wing" direction. We may appreciate this better by examining very briefly the atmosphere in which the Commune assembly came into being.

As we have seen, Condorcet's plans for establishing a new administrative system in France had placed great emphasis on the setting up of assemblies at the level of the small country parishes and the towns. From there, he had wished to pass on to the creation of assemblies at the level of the "districts", the "provinces" and, ultimately, the nation, the emphasis all the time being on co-ordination.

As it was, the impetus of the 14th July revolt led to the

1. He was elected by the Abbaye de St Germain quartier on 18th September 1789 (c.f. below).

formation of revolutionary assemblies at all levels of the community, which had nothing to do with those described by Condorcet and which, in some cases, even proceeded to assume legislative power.

At this stage, the Constituent Assembly had not even begun to consider plans for the setting up of a new administrative system and had no option but to recognise the "fait accompli". As early as 23rd July 1789 Mirabeau had called for the establishment of a regularly elected municipal government for Paris, this being the first mention of the word "municipalité" in the Assembly.

The elections which followed consolidated what had been achieved by spontaneous action, so that, before the Assembly had even approached the question of administrative reform, France found itself equipped with some 44,000 "municipalities", elected according to a system which satisfied none of the conditions which Condorcet had mentioned in his works, and which varied in importance according to the size of the towns, or even villages, to which they corresponded¹.

Faced with these developments so contrary to the plan which he had described in his works before 1789, one might have expected Condorcet to withdraw from the revolutionary movement in disgust. That he did not do so may be put down to the fact that he feared that, if he did not participate in events from the beginning, he would lose all contact with a Revolution towards whose preparation he had devoted much of his life.

1. Cf. Soboul: Histoire de la Révolution française, Ed. Idées N.R.F. (1962), I. 159 - 163; Cobban: Aspects of the French Revolution, Ed. Paladin (1968), Ch. 6, pp. 115 - 116.

But it is also quite evident that the capture of the Bastille, and the outburst of revolutionary fervour which followed, had a decisive influence on the development of his ideas by opening up to him an entirely new perspective as to the way in which the reforms which he so ardently desired could be effected. This is the view of one of the few major historians of the Revolution who has paid attention to Condorcet's activities of the time. In his Histoire politique de la Révolution française, F.U. Aulard sees a progressive evolution in Condorcet's attitude "depuis que les prolétaires avaient fait acte de citoyens en aidant la bourgeoisie à prendre la Bastille, depuis que la populace de Paris, par cette opération raisonnable et héroïque, s'était élevée à la dignité de peuple."¹.

Far from retiring from events, therefore, Condorcet threw himself with renewed fervour into the revolutionary "mêlée". He was one of the first to join the National Guard in Paris² and on 18th September was elected to the Commune's general assembly by the "quartier" of Abbaye de St Germain³. On the 3rd December he was elected to the committee of 24 set up by the general assembly, in collaboration with the National Assembly, to draw up the constitution of the Paris Commune.

In other words, for the first time, he found himself entrusted with the task of making reforms in a concrete situation. The

1. Paris. A. Colin, 1901, p. 73.

2. cf. Le Rôdeur, n° 2 pp. 27 et 28, cited by Cahen op.cit.p.138.

3. Lacroix: Actes de la Commune, II. 679; Rabiquet: Personnel municipal de Paris, 215; Patriote français 9th Sept. 1789, cited by Cahen op.cit. p. 138.

essence of these reforms is contained in a treatise which he proposed to the committee on 6th December 1789 in his capacity as Chairman¹. This is included among his complete works under the title "Sur la formation des communes"².

He defines a "commune" as consisting of "une réunion des citoyens à qui la proximité de leurs habitations a donné des intérêts communs et fait sentir l'utilité de former entre eux une association"³. It was to be a self-contained entity, possessing a constitution approved by its members and sanctioned by the State.

Its role reflects its autonomous, unified organisation. Its first duty was to create a "force publique" to ensure the protection of its members and the enforcement of the law⁴. It also had the responsibility for guaranteeing that public property - streets, paths, market-places - was accessible to the general public, and for fixing the limitations to this access, in the case, for example, of provocative political gatherings⁵.

It would supervise the building programme of the area under its control and the upkeep of buildings such as schools constructed in the community's interests. Finally, it would finance all public works undertaken in the "commune" with the money provided by the State according to the "commune's" own estimates⁶ and would have the right to make use of this money as it saw best.

The "commune", therefore, was to be a state within the State, its constitution a replica, on a smaller scale, of the nation's.

1. A position to which he was elected on 4th December; cf. Lacroix: "Actes de la Commune" III. 147, Cahen 140.

2. O.C. IX. 403 - 410.

3. Ibid 405

4. O.C. IX. 407

5. Ibid 407

6. Ibid 408

Like it, it was to recognise the universal rights of man, it was to be renewable and it was to be established by a single body representing all the "commune's" members¹.

These ideas of Condorcet are contained in embryo in some of his earlier works. However, they represent quite an evolution from the description of the administrative bodies given in the "Essai sur les Assemblées provinciales". The important difference is that Condorcet has here transferred to the "communes", and thus to the ordinary people at the level of the grassroots, the administrative responsibilities and the autonomy in matters of finance he had originally reserved for the provinces. That it had for long been his intention to enable the people to participate in the running of their own affairs should not lead us into underestimating the great novelty of his new ideas.

The significance of these is all the greater if we bear in mind that he was concentrating most of his attention on the capital city, and consequently on by far the most powerful "commune" in the nation. That the power of Paris was greatly feared by many of the representatives in the Constituent Assembly is clear from the debate which lasted through December 1789 on the question of the status to be given to the city within the new administrative system.

The debate was closely followed by the members of the Commune's constitutional committee and it reached a head on 14th December when they were asked to express an opinion concerning the two alternatives facing Paris. Was it to be amalgamated with the suburbs to form part of a large "département", or was it to remain directly under the control of the National Assembly?².

1. Ibid 409 - 410.

2. Lacroix: Actes de la Commune III. 185 - 188.

On 24th December the Parisian "districts" decided in favour of the first alternative by 23 votes to 10 and, significantly, the task of explaining the Commune's choice fell to Condorcet¹. The "Adresse à l'Assemblée nationale pour que Paris fasse partie d'un grand département"², read to the Assembly on 28th December³, is an eloquent "plaidoyer" in favour of a strong capital.

Condorcet's main argument here is that it was vital for a city which contained so great a concentration of the population to be well stocked with wheat, flour, wood, coal, etc. and to have reliable communications with the outside.

"Une ville qui nourrit tant d'hommes sur un espace si étroit ne peut être assurée, ni de subsistances, ni des denrées nécessaires à sa consommation, sans des magasins de blés, de farines, de bois, de charbon, etc. ... Que ces magasins... appartiennent à la commune ou à des particuliers, ... il est nécessaire que la ville de Paris ait des moyens prompts ... de veiller à leur sûreté."

This could only be done if these stores were "réunis sur un territoire soumis à une même autorité, à une autorité qui ne soit pas étrangère à la ville de Paris."⁴

Similarly, Condorcet attacks the idea that, if Paris did form part of a "département", the "chef-lieu" should lie elsewhere in one of the suburban towns.

"L'intérêt de ce ... département est que cette assemblée réside dans la capitale, dans ce centre de toutes les grandes affaires, dans cette ville où des motifs pressants appellent presque tous les Français." 5

Finally, he attacks the idea that the National Assembly should not meet in the capital.

1. Ibid 200

2. O.C. IX. 393 - 401.

3. Lacroix: op.cit III. 283, 302, 304, 305.

4. O.C. IX. 397.

5. Ibid 399.

a strong and united capital centred on the Hotel de Ville which has already been described.

All this is far removed from the Condorcet who, before 1789, had envisaged the possibilities of a federal system based on the provinces. As will be seen later when we examine his views on administrative reform as a whole, the role which he planned for the administrative assembly of each "département" was less important than the one which he had originally destined for the "provincial" assemblies. Their role was in fact to be purely administrative and they were to have none of the vitality and popular strength of the "communes".

Having said this, however, it is possible to raise two objections to the idea that Condorcet's support for a strong, united Paris, reflected a swing in a popular direction. First, it has been said that the Commune was very much a "bourgeois" creation. Against this, one can say that it was the action of the populace which had led, both to its formation after the 14th July, and to its formal recognition by the King after the October days. In both cases, the "bourgeoisie" merely consolidated what the people had achieved. This is illustrated by the fact that the King was escorted back to Paris by the National Guard under Lafayette after the people's invasion of the palace had forced him to leave Versailles.

At this stage of the Revolution, it is difficult to speak of any fundamental clash of interest between the "bourgeoisie" and the populace; however, it must have been clear to many that the "Commune" was the organisation which was closest to the people and that its revolutionary potential was considerable. It is significant, for example, that the general assembly did not give its opinion concerning the status to be given to Paris until it had consulted all the members of the Commune. Not only did

"Paris jouit de l'honneur d'être la capitale de la France depuis l'origine de la monarchie, et nous croyons pouvoir dire sans orgueil que, par sa conduite dans cette heureuse révolution, Paris n'a point mérité de la perdre." 1

The second part of the quotation clearly indicates the origin of Condorcet's spirited defence of the capital. He is referring of course to the Parisian mobs who opened the way to the Revolution on 14th July and who forced the King to move to Paris on 6th October.

Condorcet was particularly well placed to appreciate the mob's initiative. Already, on 23rd September, he had been elected by the Commune's general assembly to examine with three other "commissaires" the truth of rumours that troops were advancing on Paris². Just before the October days he had been appointed to the delegation sent by the Commune to Versailles to consult the King about the best method of bringing order to Paris³.

That he was right to put his faith in the citizens of Paris is underlined by the activities of such people as Mounier who, shortly after the October days, attempted to raise the "états" of Dauphiné against the Etats-Généraux and thus precipitated the Assembly's decision to turn away from reforms, envisaged before 1789, which would have granted each province a much greater autonomy than before⁴.

It is a measure of Condorcet's popularity at this time that, shortly afterwards, he was elected Chairman of the committee which was to draw up the Commune's constitution. It was against this background of popular euphoria that he envisaged the scheme for

1. Ibid 401.

2. Lacroix: op. cit. II. 39, 40, 51.

3. Ibid 201 - 202.

4. Cf. Cobban op.cit. Ch. 6: "Local government during the French Revolution", p. 115.

Condorcet approve of this attitude, but he went even further than this, calling for the citizens to have the right, not only to petition the authorities, but to assemble on their own initiative in order to come to an understanding on any point of division among themselves.

"...Les citoyens doivent conserver, non seulement le droit de s'assembler pour élire, et celui de faire des pétitions, ... mais, de plus, celui de pouvoir s'assembler, et de former un voeu commun, même dans le cas où ils seraient divisés en plusieurs sections." 1

This very democratic project illustrates Condorcet's ever growing wish to involve the ordinary citizens of the nation as much as possible in the political life of the areas in which they lived.

The second objection which may be made concerns the fact that, if Condorcet had really desired a strong capital, he would have supported the proposal that Paris become a "département" in her own right. He himself admitted that this would have given Paris more power than any of the other "départements":

"...L'assemblée de ce département, formée presque en entier des citoyens de la capitale, eût été en quelque sorte une autre municipalité, chargée seulement de fonctions différentes." 2

One must not forget, however, that the aim of Condorcet's address was to calm the fears of the provincial members of the Assembly concerning the dangers of too powerful a capital.

But, even then, it is doubtful whether he really believed that the new "département" assembly, which he insisted should always meet in Paris itself, could escape the influence of the Hôtel de Ville, particularly as he was unaware at that time that the National Assembly planned to place the "conseils généraux" of

1. Sur la formation des communes, O.C. IX. 409.

2. Adresse à l'Assemblée nationale, O.C. IX. 396.

the "départements" above those of the "communes": the first were in fact to be elected by the "Electeurs" and the second by the "citoyens actifs". This leads us to the important question of Electoral reform.

The Constituent Assembly's electoral reforms constituted a definite threat to Condorcet's conception of a unified nation, held in place at one end by an assembly elected by the property owners and, at the other, by the numerous active and popular "communes", linked in the middle by administrative assemblies, themselves elected by the property owners and operating at the level of the "districts" and "départements".

Since Condorcet made his most important attacks on this section of the Assembly's reforms as a member of the Commune's general assembly, they will best be examined at this point.

During the elections to the Etats-Généraux, Condorcet wrote a work on electoral reform called "Sur la forme des élections"¹ in which he attempted to simplify the laborious system which he had described in the "Essai sur les Assemblées provinciales"

He suggested two methods whereby the relative ignorance of the majority of the electors could be reconciled with their right to vote. Either the electors would meet to elect "Electeurs" who would vote on their behalf, or else they would elect "Présentateurs" who, using their superior knowledge and experience, would select a number of reliable candidates from whom the electors would then be bound to choose².

1. O.C. IX. 285 - 330.

2. O.C. IX. 290 - 292.

He also considered methods whereby the number of those eligible could be reduced to ensure that the electors should also be able to indicate their second choices¹. But the important point to be remembered about all these methods is that the electors were to be free to decide themselves about the distinctions which were to be made between them; these were not to be dictated by external circumstances such as the ownership of property.

The Constituent Assembly, however, decided to carry out its reforms precisely on such lines. Despite Article 6 of the Declaration of Rights - "La loi est l'expression de la volonté générale. Tous les citoyens ont le droit de concourir personnellement ou par leurs représentants à sa formation" - it placed all those who could not pay a tax equal to three days' work in the category of "citoyens passifs", thus depriving some three million people of the right to vote.

The bulk of the small property owners of the nation were classed as "citoyens actifs", but their responsibilities boiled down to nothing more than the election of the municipal authorities and the "Electeurs". The latter, who had to pay taxes equal to ten days' work, numbered only 50,000 (compared to 4 million "citoyens actifs") and yet it was on their vote alone that the real power of the nation was to depend.

To crown it all, the Assembly declared that, to be eligible for election to its ranks, a man would have to pay a tax equal to one "marc d'argent", or 52 livres, and would have to own property². Albert Soboul has aptly summed up this part of the Constituent Assembly's reforms.

1. O.C. IX. 294.

2. Constitution de 1791. Titre III, Ch. I, section II, articles 1 - 7.

"A l'aristocratie de naissance, ce système électoral censitaire à deux degrés, faisait succéder l'aristocratie de l'argent. Le peuple était éliminé de la vie politique." 1

The "left-wing" press naturally reacted very strongly to these reforms and Condorcet was among the first to protest. As early as 12th December 1789 he presented the assembly of the Commune with a short treatise on the subject. It was well received, but the version of it published in the first edition of the Journal de la Société de 1789 of the 5th June 1790² and included in Condorcet's complete works under the title of "Adresse à l'Assemblée nationale sur les conditions d'éligibilité"³ is a watered-down version of the original .

In it he argues that the Assembly's reforms were not sufficient to fulfil the aims for which they were intended. In other words the sum of one marc of silver was too small to ensure that only educated men would be elected, while it had the opposite effect of encouraging people to resort to such devices as the bribing of tax-collectors or the borrowing of large sums of money which would be reimbursed when the elections were over. If the sum were raised, however, many good men would become ineligible⁵.

By separating the electoral assemblies from the administrative ones⁶, the Assembly had done all that was required to ensure that the elections took place normally; the creation of a third category of citizens - the "Electeurs" - (a move which Condorcet quite rightly points out had been taken before it was decided to separate

1. Op. cit. p. 210.

2. Delsaux: Condorcet Journaliste Paris, H.Champion 1931, p. 38.

3. O.C. X. 77 - 91.

5. O.C. IX. 82 - 83.

6. Const. de 1791, Titre III, Ch. I, Sect IV, Art. 1.

the assemblies) - was thus quite superfluous¹.

Condorcet believed that a division of the electorate into two by the imposition of a special tax, destined to separate those who were really poor from the rest would be quite sufficient to guarantee that only independent people would have the vote². He had never yet suggested this method, but it represents less a new departure in his ideas than a temporary expedient for reconciling the right to vote with the uncertainty of the times, an uncertainty which made it so easy for the masses to be misled by demogues.

With his new method, all but the very poor would participate in the elections to the administrative bodies. He was fully aware of the danger of leaving the choice of the first elected administrative bodies which the nation had ever had to certain classes of people, for the activities of these first administrators would serve as the only guide-lines for all future electors to follow.

"Tous les corps municipaux, toutes les assemblées de district, de département, seraient divisés en deux classes, l'une des éligibles, l'autre des non-éligibles pour l'assemblée nationale; et cette distinction les partagerait bientôt en parties, y'détruirait cette base si noble de notre heureuse constitution." 3

However, Condorcet's most effective arguments are to be found at the level of the constitution. In his view, the electoral reforms violated at least two of the articles of the Declaration of Rights, Article 6 - "Tous les citoyens ... sont également admissibles à toutes dignités, places et emplois publics, selon leur capacité et sans autre distinction que celles de leurs vertus et de leurs talents" - and Article 14 - "Tous les citoyens ont le

1. O.C. IX. 84, 89 - 90.

2. Ibid 80.

3. O.C. IX. 86.

droit de constater par eux-mêmes ou par leurs représentants, la nécessité de la contribution publique, de la consentir librement, d'en suivre l'emploi et d'en déterminer la qualité, l'assiette, le recouvrement et la durée"¹.

Secondly they linked constitutional laws to financial laws², a very dangerous step at a time when the whole tax system was under review. For example, by merely decreasing the number of Church or army appointments, one could alter the political status of 200,000 people; the suppression of the Taille would deprive thousands of people of their "active" citizenship and would thus encourage them to revolt against reforms which were in themselves good and necessary³.

The "Adresse a l'Assemblée nationale" does not constitute a good example of Condorcet's changing attitude during his period of office as a member of the Commune's constitutional committee. His tone is moderate, the arguments are expressed in a very legalistic manner, while the majority of his comments consist in expressing his dismay at the fact that the Constituent Assembly had not paid any heed to reforms which he had already suggested in 1788 and the early part of 1789.

The original treatise⁴, however, is quite different, perhaps because it was written much closer to the events which it described. It mentions notably three important points which do not appear in the published work.

First, Condorcet points out the significant fact that it was

1. Ibid. 79.

2. Ibid. 79.

3. Ibid. 80.

4. For an account of the fate of this treatise and of the reasons why only its abridged form appeared, cf. Cahen op.cit. p. 159.

easier to acquire private property in the country than in the towns. It must have come as quite a shock to him to discover how few property owners lived in Paris and it is certain that this discovery was to make him doubt more and more the validity of what he, as late as August 1789 in his project for a Declaration of Rights, had still considered as the fundamental precondition for being allowed to vote¹.

Secondly, he became aware that direct taxes were much easier to assess in the country than in the towns and that therefore, there was always the danger that a town dweller could be deprived of his vote through the mistake, intentional or not, of a tax-collector. This was all the more scandalous as the only direct tax which was levied in the towns was the particularly odious "Capitation".

Finally, Condorcet's observations led him to discover that the indirect taxes were more difficult to tolerate in the towns than in the country and that, of the towns, Paris was the worst hit.

It is evident, from all this, that his changing attitude towards electoral reform was closely linked to his experience as a member of the Paris Commune, and though his influence in the Commune's general assembly began to wane between January and August 1790, the new slant given to his ideas was to have considerable consequences as the Revolution progressed.

b) La Société de 1789

Condorcet's move towards the people, although sincere, did not put an end to his instinctive fear of the masses or of all

1. Cf. *Projet de déclaration des droits*, Sect. V, Div. I, O.C. IX. 207.

forms of spontaneous political action. He was aware that the speed with which events had taken place since the summoning of the Etats-Généraux, and the passions which they had aroused, threatened to lead the makers of the constitution to lose sight of the fundamental principles which were to govern it.

It was to prevent this that he founded the "Société de 1789" which held its first meeting at the Palais Royal on 13th May 1790. Its aim was to avoid a method of dealing with political affairs which consisted in taking "le parti qui paraît le plus expédient, et à chercher ensuite quels principes on doit avoir l'air d'adopter, pour soutenir le parti auquel on s'est décidé d'avance"¹ and to follow instead the method of those who sought "des principes inaltérables et universals... dans la nature éternelle de l'homme et des choses"².

Condorcet was to struggle with the choice of which of these two lines of conduct to follow throughout the Revolution and one can understand the importance for him of the existence of a society which, through all the vicissitudes of the times, could act as an antidote to the temptation to sacrifice idealism to expediency.

It is indicative of the temper of the time, however, that the plan failed. Although the Society had four hundred and fifty members, almost all of whom belonged to the more progressive element of the bourgeoisie, only one hundred and forty seven subscribed to the paper edited by Condorcet, and only twenty three helped to finance it³. The last issue came out on 5th September 1790, only four months after the first⁴.

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1. Lettre à Monsieur XXX sur la Société de 1789, O.C. X. 70.
 2. Ibid 71.
 3. Cf. Cahen op.cit. p. 240.
 4. For an account of the newspapers' history, cf. Delsaux op.cit. Ch. 3. pp. 37 - 43.

In the opening months of 1791, the Society's survival was in grave jeopardy and the final blow came when the more conservative element among its members broke away to form their own group called "Les Amis de la constitution monarchique". The progressives joined the Jacobin Club and Condorcet, disillusioned by the failure of his efforts, followed them in May 1791¹.

The whole episode is interesting as a key to the understanding of Condorcet's works between 1789 and 1791 and to his later development. His works were dominated by the desire to transcend party politics and to seek to unite the nation around fundamental principles. The abandonment of the Société de 1789, which he had considered as essentially different from those societies "que des citoyens pourraient former dans l'intention de réunir leurs forces pour le succès d'une réforme dans la constitution et dans la législation de leur pays"² and his adherence to a body such as the Jacobin Club which had a much more "orientated" attitude towards the political problems of the day, illustrate the evolution of his ideas in a more committed direction.

However, so late an adherence to the Jacobins indicates that he was reluctant to identify himself too closely with any political groups. Thus, on his own admission, he incurred the hostility of both the nobility and the progressives and this was to increase the isolation into which he had already been forced by his initial inability to adapt to the speed of the events of 1789.

The tensions hidden behind his activities during the period of the Constituent Assembly are thus important and must be understood. But it is in his writings of the time that these tensions are felt the most. Thus it is vital to examine his work from 1789-

1. Cf. Justification, O.C. I. 580.

2. Sur la Société de 1789, O.C. X. 72.

1791 as a journalist and commentator on the reforms carried out during these three years by the Constituent Assembly.

c) The journalist

Condorcet's journalism probably represents the most important branch of his activities of the time as it enabled him, isolated as he was, to contribute in his own way to the Revolutionary movement. Hélène Delsaux has well summed up the importance which journalism was to take on from 1789 onwards:

"Enseignement populaire, diffusion de l'idée toute faite, facilement accessible, ... propagande révolutionnaire, coup de fouet quotidien aux passions des "démos", ... voilà, vers 1789, le but du journalisme, dont la puissance date de la Révolution." 1

It was via journalism that Condorcet made his most determined effort to adapt to events. The long, abstract treatises give way to short, incisive articles written directly in relation to topics being discussed by the Assembly. The detailed style of the philosopher is replaced by the racy, impassioned eloquence of the journalist and this naturally affects our comprehension of Condorcet's views.

As the tone of his articles is usually argumentative, he uses rhetorical devices such as irony and exaggeration which may sometimes mislead one as to the real strength of his feelings about a particular subject. This distortion is exacerbated by the dual aim which he gave to his journalism.

On the other hand, he wished to write for the benefit of the Assembly and, when he does so, he is usually critical. On the other hand, he realised that journalism was an ideal vehicle for explaining to the people what the Assembly was doing and for rallying them around

1. Op.cit. Ch. 3. pp. 36 - 37.: Cf. also: Histoire de la littérature française Lanson, Paris, Hachette 1895. p. 857.

their representatives so as to consolidate the Revolution's gains.

This tension, which is inherent in his writings, adds to the tension which we have already noted in his general attitude towards the events of the day.

All this must be borne in mind when we examine the numerous articles written by Condorcet from 1789 to 1791 in the Journal de la Société de 1789 and the Bouche de Fer. They constitute a very full review of the reforms undertaken during this period by the Constituent Assembly¹ and reveal his attempts to relate these reforms, not only to the plans he had devised before 1789, but also to the adaptation of these plans to the events of 1789 viz. the demands embodied in the imperative mandates and in the nine point ultimatum to the clergy and the nobility.

As was only to be expected from a body consisting of 1,200 men representing a wide range of opinion and all new to the task of reforming the entire political system of a nation, the Assembly paid no heed to the reform method so meticulously described by Condorcet in the early months of 1789. Instead of approaching the problems with caution and with reference to basic principles, it proceeded by fits and starts, sometimes rushing ahead recklessly as on the night of 4th August, sometimes seeking to reach deparate compromises which satisfied nobody. As a result, it did much harm in Condorcet's eyes, but, inevitably, a number of the reforms were such as he wished.

His reactions thus waver all the time between several shades of approval and disapproval, passing from the full acceptance or rejection of a reform, to the temporary acceptance of one. In order to gauge how far his views illustrate a development from his

1. His views are also given in the form of speeches delivered to the Jacobins, and other similar clubs.

earlier ideas or a distortion of them, we shall now study his writings on each main group of reforms.

The speed with which events were taking place in 1789 made Condorcet even more aware than he had been before the Revolution of the importance of a coherent and clear declaration of fundamental principles of reform.

It is not surprising, therefore, that he drew up his own project for such a declaration¹ shortly after the deadlock in the Etats-Généraux had been broken. In fact, his project goes much further than the mere listing of basic rights; it follows his advice to the National Assembly by illustrating the laws which should stem directly from these rights and even goes so far as to indicate how these laws should be executed in such a way as to ensure that they fulfilled their intentions.

It is significant, in the context of the times, that Condorcet's "Avertissement" placed great emphasis on the practical aspects of the project and less on abstract maxims and general theoretical principles. In this he was in agreement with the arguments advanced by moderates such as Malouet who considered that it was dangerous at a time of crisis to pass resolutions which could not be carried out. Unlike them, however, he retained his belief in the necessity of a Declaration; in his view, it was a vital safeguard against arbitrary rule. In fact, he considered that the value of a Declaration lay in its "negative" purpose: it was not to state

1. O.C. IX. 176 - 211.

which laws were to be made, but rather those which were not¹, and would thus be free from the danger of making promises which could not be fulfilled.

Many of the members of the Constituent Assembly had other views on this question; some of them contested, in particular, the opportuneness of a Declaration, the acceptance of which would have symbolised the end of an entire political system. It is hardly surprising in these circumstances that the Declaration which was eventually published on 26th August 1789, after three weeks of fierce debating, was so full of compromises and inconsistencies. Condorcet was quick to point out where its weaknesses were to be found².

One of the most important of these lay in the use of vague words such as "ordre public", "utilité" "intérêt commun"³. The first article in particular, which justified social distinctions provided they were based on "l'utilité commune", not only sought to base fundamental human rights on utilitarian grounds, a complete contradiction, but thereby also jeopardised the validity of other parts of the Declaration such as Article 10: "Nul ne doit être inquiété pour ses opinions, même religieuses, pourvu que leur manifestation ne trouble pas l'ordre établi par la loi." In Condorcet's view, such utilitarian considerations could have no part in a Declaration which was to be non-contingent by definition.

1. Cf. unpublished fragment, Inst. MSS. NS 20, dossier B i n^o 3, cited by Cahen op.cit. p. 179.

2. In the essay "Réflexions sur ce qui a été fait et sur ce qu'il reste à faire", O.C. IX. 443 - 468, which is the work which contains the bulk of his comments on the reforms of the Constituent Assembly.

3. Ibid. 448, 449.

In our opinion, however, Condorcet was here on extremely dangerous ground. To attack the Declaration's faults was merely to beg the question concerning the reason for its mistakes. This lay in the quite legitimate awareness of the impossibility of reconciling the aims embodied in the Declaration - aims which were desired by many - with the means available to attain these aims.

Condorcet himself in fact failed to overcome this difficult His policy of urging on the Assembly the necessity for first establishing basic principles before setting up the machinery whereby these principles would be put into practice - itself the result of his attempt to salvage the essence of his reform plans out of the turmoil of 1789 - led him into the trap facing all the reformers of the time and into the inconsistencies which he attacked in others.

For example, he reproaches the Assembly with having included in its declaration "des droits dont les citoyens ne jouiront pas même après l'exécution des décrets de cette assemblée"¹. Among these rights he includes "la liberté de l'industrie et du commerce", stating that they were implied in the Declaration, even though it did not mention them explicitly². Despite this, he later praises the Declaration precisely for this reason saying:

"... la liberté entière du commerce et de l'industrie
était un article essentiel de la déclaration des droits" 3

and even blaming the Assembly for not having gone far enough in this direction.

1. Ibid 448.

2. Ibid ibid.

3. Réponse a l'adresse aux provinces O.C. IX. 496.

Admittedly, in the first work, he was addressing the Assembly as a critical adviser; in the second, he was defending its decisions before the people. However, this explanation of the inconsistency should not lead us to underestimate what was a very serious problem.

Condorcet was acutely aware of its importance and there is no doubt that this was the reason which impelled him to insist at this time that the Declaration include among its articles a proviso for the revision of the constitution. He had of course called for this earlier, notably in the "Essai sur les Assemblées provinciales". However, his arguments in 1790 were inspired by different motives. He was no longer concerned with constitutional considerations, but wished, at a time of unrest, to unite the nation around its representatives in the absence of a slow and regular method for making the constitution.

The sense of urgency is clearly felt in the first letter which he wrote to Count Mathieu de Montmorency on 30th August 1789 concerning the absence of the all-important proviso.

"Les hommes ne jouiraient-ils vraiment de leurs droits qu'aux époques où des malheurs devenus intolérables, conduiraient les peuples à changer par la force une constitution qui les opprime?" 1

It was true to say that anarchy could only be avoided if people were prepared to obey laws which they felt were unjust; however, this could only be valid if they knew they had at their disposal a legal method for changing the laws.

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This line of approach is carried even further by Condorcet in another work of 1789 in which he appealed for all the citizens of France, no matter their social origins, to rally around the constitution. The beginning of this work, the "Réflexions sur ce qui a été fait et sur ce qu'il reste à faire", clearly reflects the ambivalence of Condorcet's attitude at this stage of the Revolution.

On the one hand, he praises the mobs for their political initiative following the events of 14th July, claiming that their action was justified by the intransigence of the privileged Orders. On the other hand, he expresses his fear of the danger represented by popular initiative at a time when the nation was undergoing such an important upheaval:

"Le peuple est venu au secours de l'assemblée nationale, et la cause de la liberté a triomphé; mais le pouvoir exécutif, comme le pouvoir judiciaire, sont restés sans force. Les lois anciennes sont devenues l'objet du mépris, avant d'avoir été remplacées par de meilleures lois; la vieille constitution... était détruite, et la nouvelle n'était pas même commencée." 1

By depriving the people of a legal method of reforming the constitution, the Assembly had not only paved the way for anarchy and mob rule, but had justified direct action on the part of the people. As Condorcet says in another work of the period:

"L'insurrection contre les lois n'est un exercice de droit de résister à l'oppression, que dans le cas où la constitution n'offre aucun moyen légal d'obtenir la révocation d'une loi injuste." 2

1. Réflexions sur ce qui a été fait, O.C. IX 445.

2. Aux amis de la liberté, O.C. X. 184.

The consequences of the Assembly's failure in this matter are incalculable as far as Condorcet's later development is concerned. It was to enable him psychologically to justify the mob's frustration and to defend them each time they rebelled against the constitution. This will be seen clearly when we come to examine his writings after 10th August 1792.

In 1789, however, it is important in so far as it led to a fresh evolution in his ideas. Although he repeated his early arguments in favour of a convention which would meet regularly every 20 years¹, he also made it clear that this alone did not suffice. The present constitution was being drawn up in conditions which had nothing to do with those described in the works he had written before 1789. The Assembly, divided within its own ranks, was rushing through legislation on a wave of enthusiastic fervour without making any allowances for a method whereby the people could either sanction their reforms or suggest changes to be made in them.

This led Condorcet, in the first instance, to describe a method whereby the people could express their opinion on the new constitution; from this, he passed on to an entirely new scheme whereby the people were to be able to call for changes in later constitutions without having to wait for the fixed periodical convention which would meet automatically every twenty years.

This second idea represents a new departure and it was born directly out of his fears that one approval limited to

1. Lettres à Montmorency, O.C. IX. 372.

the first constitution only would not be sufficient to remedy the defects of the organisation being established in so abrupt a manner by a large body of inexperienced men. The people should also be entitled to suggest changes.

The novelty of the idea is indicated by the fact that Condorcet was unable to come out, in 1789 and 1790, with one coherent plan whereby it could be put into practice. In fact, two schemes are described in the articles which he wrote on the subject during this period, the first "Lettre au Comte Mathieu de Montmorency"¹ and the "Réponse à l'adresse aux provinces"².

In both works, Condorcet expresses his fear that too many revisions could undermine the people's confidence in the constitution and encourage the subversive activities of "agents provocateurs":

"On doit ... redouter la trop grande difficulté de changer, (mais) on doit craindre (également) les changements trop fréquents qui ouvrent un champ vaste à l'intrigue, qui empêchent de jamais consulter la voix de l'expérience." 3

His task was therefore to find the right balance between the need for change and the danger of too frequent changes.

In the first work, he described a system which is adapted slightly from the one described in the "Lettres d'un bourgeois de Newhaven". Each time the electors met to choose the members of the National Assembly, they would give an imperative mandate

1. O.C. IX. 365 - 376.

2. O.C. IX. 489 - 541.

3. Ibid 526.

to their representatives obliging them to call for the changes which they desired. If a majority of the representatives agreed that certain basic changes had to be made, the Assembly would transform itself immediately into a Convention and would make the desired reforms¹.

In the second work, Condorcet by-passed the electoral assemblies, perhaps because of the Assembly's decision to limit the vote to the Electeurs. However, this led him into difficulties. If one ignored the electoral assemblies, one could only turn to the primary assemblies set up by the Assembly. As these did not elect the Assembly's members, the only way their views could be known lay in asking each citizen individually if he wished to see the constitution altered² and, if so, which articles.

But Condorcet was quick to point out the inconvenience of this system. The discussions in the assemblies would be interminable and it was dangerous to plunge the entire nation into the turmoil of discussion when there was no guarantee that the changes which needed to be made were really important. Nor was it possible to limit the changes to certain articles only as a constitution was a whole in which every article depended on the other³.

He therefore suggested that the primary assemblies meet to elect a convention for the area in which they found themselves.

1. Lettres à Montmorency, O.C. IX. 373 - 374.

2. Réponse à l'adresse, etc. O.C. IX. 530.

3. Ibid 531.

These conventions would examine the constitution more or less on a permanent basis and would call for a national convention if they felt an important change needed to be made. This convention would meet when a majority of the "local" conventions desired it¹. However, it would not be allowed to alter such fundamental sections of the constitution as the Declaration of Rights; this was to remain the concern of the Convention which was to meet every twenty years.

Condorcet believed that, between them, these two types of convention would offer all the guarantee necessary for ensuring both that the constitution could be changed and that this change would not play into the hands of demagogues or political saboteurs.

One may argue the impracticability of Condorcet's scheme, but the details of organization do not matter much here. The important point to note is that his belief in conventions called indirectly by the people to buttress the work of the main conventions meeting every twenty years represents a transition from the old scheme described in the works which he wrote before 1789 and the plan for massive popular participation in the running of the country which he was to set out in 1793.

It is important also as an illustration of his attempts throughout this period to ensure the Assembly's reforms did not alienate the people and make them the victim of "agents provocateurs". It was in fact for this reason that he concluded

1. Lettres à Montmorency, O.C. IX. 373-374.

his essay with a violent attack against those who wished to call elections as soon as the Constituent Assembly had finished its work, showing how this would be just the way to divide the nation at a time of great unrest¹.

He also attacked the proposition that the power of running the nation be granted directly to the primary assemblies:

"... comme si, dans un pays où plus de trois quarts des citoyens sont soumis ... à des travaux journaliers, cet exercice immédiat de leurs droits ... ne devait pas amener la destruction absolue de l'égalité, et par conséquent de la liberté." 2

However, despite these attacks on the ideas put forward by the more "progressive" elements, the implication of Condorcet's work is that more direct methods of rule would nevertheless be necessary if the Assembly did not set about the organisation of orderly methods of change. When we consider that it did not in fact do anything along these lines, we may already have an idea of how Condorcet's views were to develop at a later date.

Condorcet's attitude towards the next important section of the Constitution, that dealing with parliamentary procedure and the making of laws, is characterised by the same desire to reconcile the necessity for ensuring that important laws were passed without too great a delay and the need to prevent laws from being passed with excessive precipitation or recklessness.

1. Réponse à l'adresse, etc. O.C. IX. 538 - 539.

2. Ibid 539.

Needless to say, the Assembly paid no attention to the cautious systems for making laws which Condorcet had described before 1789 and, again, during the election of the Etats-Généraux, but rushed instead into the reforms of 4th August without so much as consulting the wishes of the electorate.

Thus, once again, Condorcet found himself in the position of having to discover methods of limiting the damage by adapting his old ideas to new events. In order to see how he did this, it would be best to deal with the legislative process according to the parts described by Condorcet in the long-term plans which he wrote before 1789, namely in the procedure which was to be followed within the Assembly and outside it.

In the new constitution which it was drawing up, the Constituent Assembly had adopted one of the reforms advocated by Condorcet before the Revolution, namely the procedure whereby a bill would have to go through several readings before becoming law¹; however, it had ignored the theory of graded pluralities which he had considered vital if important laws were to be passed while petty ones were held up.

It would seem, however, that his faith in this system was soon to crumble before his experience of the Assembly's methods.

"La méthode des pluralités graduées ne paraît plaire à personne; elle demande d'ailleurs, pour être employée avec utilité une précision et une finesse qui ne permettraient de la proposer qu'à une assemblée peu nombreuse." 2

1. Constitution de 1791, Titre III, Ch. 3, Sect. 2, Arts. 4 - 6.

2. Réflexions sur ce qui a été fait, O.C. IX. 450.

He was therefore obliged to turn to another method of controlling legislation and it is a further indication of his uneasiness throughout this period and of his desperate efforts to adapt old ideas to new situations that he should have had recourse to the idea of a two-chamber system.

He had paid scant attention to this question before 1789 contenting himself with a somewhat academic description of the workings of the American Senate and House of Representatives in a supplement to his essay on the "Influence de la Révolution d'Amérique sur l'Europe"¹.

It should be made clear however, that his support for the idea of a second Chamber did not mean that he agreed with the "Anglomanes" Mounier and Clermont-Tonnerre. In the essay "Est-il utile de diviser une assemblée nationale en plusieurs chambres?"² (written between the 1st and 9th September 1789, when the question was being debated), he attacked, not only the idea that legislative power should be divided between a Chamber of nobles and one made up of commoners, but any division of the Assembly into Chambers with equal powers.³

He showed, by an acute mathematical analysis, how it was possible, even with a two or three Chamber system, for an important law to be passed by a tiny majority or rejected by a huge one⁴.

1. O.C. 94 et sq.

2. O.C. IX. 333 - 364

3. Ibid 350 - 352

4. Ibid 339 - 343.

He showed also how it was easier to bribe the representatives of the nation if these were divided into two small Chambers¹. Furthermore, he attacked the idea that a divided Assembly would be less easily swayed by demagogues² and concluded by underlining the divisive influence which would be exercised by a second Chamber of specialists possessing the power of vetoing the legislation of the first³.

What he desired, in short, was a second Chamber which would check the precipitation of the Assembly while presenting no threat to its unity. There is something utopian about this wish, and this is seen clearly in the scheme which he himself proposed.

According to this, the second Chamber would not have the power to veto a bill, but could only suspend it for a given time. It could only do this, however, if it gave its reasons in writing within a period stipulated by the Assembly. It would not be allowed to suspend a bill which came before it for the third time.⁴

Condorcet hoped that this Chamber, with its limited powers, would attract only disinterested and enlightened people whose qualities would complement those qualities of zeal and energy which were expected of the Assembly's members.

He listed the advantages of such a Chamber as follows:

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1. Réflexions sur ce qui a été fait, O.C. IX. 348-349.
 2. Ibid. 344-345.
 3. Ibid. 353.
 4. Ibid. 355-356.

"Comme ce corps n'aurait pas le droit de résister, mais seulement de suspendre, et pour un temps déterminé, on n'aurait aucun intérêt à le corrompre; il ne céderait point par crainte aux mouvements de la chambre nationale, ou à ceux du peuple, parce que des représentations n'excitent point la colère autant qu'une résistance peut le faire. On n'aurait pas à craindre qu'il fût séduit parce qu'il doit être peu nombreux, et formé de personnes très éclairées."¹

There is a degree of wishful thinking about this which suggests that Condorcet was not entirely satisfied with the project. There is no doubt that the scheme threatened to compromise him in the eyes of the progressives; indeed his advocacy of a second Chamber was to be included among the charges the Montagnards were later to make against him. However, he was more or less driven to it, not only because of his fear of precipitation, but also in anticipation of the desire of many members of the Assembly to invest the King with the power of veto.

This is explicit in the second letter which Condorcet addressed to Montmorency when he states that the second Chamber, which he refers to as the "Sénat", would not have the right of veto as this would put it above the law and would call in question the entire basis of the power and authority of the Assembly.²

For the same reason, he states that the "Sénat" would have to be elected as only an elected body could be justified in suspending decisions made by the nation's representatives. In other words, he challenges the King's right of veto on two counts: he was not superior to the national will and his hereditary status did not justify his intervention in legislation.

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1. Réflexions sur ce qui a été fait, etc. O.C. IX. 356.
 2. Lettres à Montmorency O.C. IX.385-387.

When the Assembly finally decided to invest the King with the right of veto, Condorcet, faced once more with the "fait accompli", decided to advise the representatives on a method whereby they could get round the Royal veto. The details are not important¹, but the tactic is significant in so far as it is the first sign of the attitude he was to adopt more openly and much more systematically after the flight of the King.

It was inevitable that a man in his position should have attempted quietly to surmount the difficulties placed in the way of his plans by poor laws, but this attitude could nevertheless easily be confused with an attempt to subvert the law of the land. In fact we have here one of the first signs of how the absence of a process whereby the laws could be changed was to lead Condorcet automatically to join the forces of those who were prepared to undermine laws to which they objected. Significantly, however, he refused the appeal to force and preferred to resort to the tactic of exploiting the weaknesses of the laws so as to overcome the difficulties which they created for the realisation of his ideal.

Condorcet's problem when he came to study the procedure to be followed outside the Assembly was to adapt the plan described in detail before 1789 to the situation as it existed in 1789 and 1790.

He began his essay on the subject² with an admission that the system given in the "Lettres d'un bourgeois de Newhaven" was now quite

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1. They are given in the essay "Réflexions sur ce qui a été fait, etc. O.C. IX. 452.
 2. Sur la nécessité de faire ratifier la constitution par les citoyens, O.C. IX. 419-430.

impracticable. The assemblies which would be formed to ratify the constitution were a part of it and could therefore not pass judgement on it¹. On the other hand, if it was submitted for approval to the popular bodies which had established themselves at the beginning of the Revolution, how would it be possible to gauge the people's true opinions from the mass of demands and views expressed by the 40,000 or so assemblies concerned?

The problem could be avoided if a convention was immediately elected, but Condorcet was very sceptical as to the success of so early a questioning of a constitution which had not yet had any time to prove itself. Furthermore, the idea of a convention raised a whole series of new questions. For example, while the convention was in session, should the nation continue to be governed according to laws which had been passed without the sanction of the people and which were under revision? Was the convention to have constituent and legislative powers like the Constituent Assembly and, if so, would its own reforms have to be sanctioned by another convention?

These were the problems which he had to face as a result of the events of 1789 and the consequent invalidity of his earlier plans.

His solution lay in abandoning the old idea whereby the people were to deliberate on each article of the constitution. This task was now to be reserved solely to their representatives.

Similarly the people were to accept without discussion all those parts of the constitution which did not emanate directly from the

1. O.C. IX. 424.

Declaration of Rights, but only on condition that the constitution contained the provision that it would be revised automatically within the next twenty years.¹

Condorcet affirmed that this system was practicable as the articles which would violate the Declaration of Rights "sont en petit nombre, et sont nécessairement les plus simples."²

In fact, this whole scheme reflects a quite remarkable alteration in his attitude. It illustrates how the force of circumstances had obliged him temporarily to forget that the Assembly which was making the first constitution France had ever had had neither been elected according to the criteria which he had described in 1787, but had been summoned by a man who himself held his authority according to criteria which Condorcet did not accept, nor had set about making the constitution in the manner he had suggested at that time.

Short of denouncing the Revolution, however, there was little he could do but support the Assembly's right to make the laws and change them. It was thus with a spirited defence of the Assembly and of its right to combine both constituent and legislative powers that he concluded his major defence of its work, the "Réponses à l'adresse aux provinces, ou Réflexions sur les écrits publiés contre l'Assemblée nationale."³

Once again, Condorcet was prepared to accept changes which went against his principles in the hope that it was only by reconciling the people with the only body which could remotely represent them at the time that the Revolution could be protected and the hopes of progress kept alive.

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1. O.C. IX. 427. This article was written before Condorcet described his plans for more frequent conventions.
 2. Sur la nécessité, et . O.C. IX. 428.
 3. O.C. IX. 536.

The temporary acceptance of alien principles also characterises Condorcet's attitude towards the laws concerning the monarchy and the executive.

As he had already expressed his belief in the value of the monarchy during the Etats-Généraux elections, it is not surprising that he was to do so again when considering the Constituent Assembly's reforms. However, one may point out that his defence of the monarchy here was excessively enthusiastic and reflected a rather strong fear that too swift a change of regime would alienate the people's support for the Revolution.

Thus, despite his claim in the essay "Sur le choix des ministres"¹ that "ce serait une absurdité ... que de croire une nation liée par ce qu'elle a établi une hérédité perpétuelle", he asserts emphatically in the same essay that to claim that a monarchical system was incompatible with liberty "c'est parler d'après ses préjugés et ses passions, et non d'après sa raison."²

What is particularly remarkable is the mildness of his reaction to the decision to allow the King a degree of legislative power. In the first letter to Montmorency, he contented himself with the remark that such a sharing of power was acceptable provided one knew that there was a method of revising a decision in the future³, while, in the essay "Sur ce qui a été fait ...", as has already been shown, he took refuge in purely technical advice on how the effect of the Royal veto could be reduced⁴.

1. O.C. X. 49-66.

2. Ibid. 51.

3. O.C. IX. 369.

4. O.C. IX. 452.

One reason for this moderate attitude may lie in his relief that the Constituent Assembly had decided to maintain the hereditary character of the monarchy rather than replace it by an elected monarchy or a Senate with the power of veto. However, the argument which he advances against an elected monarchy - "... l'élection d'un monarque peut entraîner des troubles"¹ - conceals the true purpose of his support for an hereditary monarchy, namely the maintenance of a constitution based on two clearly separate principles.

An elected monarchy would have all the vices of the old system, but would give people the illusion that a profound change had been made. Being in this way integrated into the revolutionary movement and identified with it, this new form of monarchy would be much more difficult to remove. Condorcet thus wished to emphasise the contradiction inherent in the new constitution the better to pave the way for a genuine change later, namely the establishment of a republic. This must be borne in mind if we are to understand his later behaviour.

Another important matter which should be mentioned at this stage is the manner in which the debates within the Assembly led Condorcet to carry out a close examination into the nature of executive power. The bulk of his theoretical writings before 1789 had been concerned with the legislature; he had considered that it was this which would determine the form of the executive. It is for this reason that executive power is barely discussed in these earlier writings. Now that legislative power had been given to the people, he was obliged to examine how the laws made by the people's representatives were to be executed.

1. Sur le choix des ministres, O.C. X. 50.

In the work which he devoted to this question in 1790 - "Sur l'étendue des pouvoirs de l'Assemblée nationale"¹ - he laid down the basis of the plan which was eventually to be revealed in his constitutional project of 1793.

In Condorcet's view, executive power did not stem from legislative power. Both were distinct and had a common source in a natural law which existed before society was formed, namely in the right of the people both to make the laws and to execute them:

"Dans une constitution libre, le pouvoir exécutif est indépendant du pouvoir législatif, dans ce sens, qu'il est obligé d'exécuter les lois, en vertu d'une loi antérieure, de laquelle tous deux ont également reçu leur autorité et leurs fonctions, qui a fixé leurs droits et leurs devoirs respectifs."²

In 1790, however, Condorcet was by no means willing to put into practice this principle of a division between the executive and the legislative powers. Indeed, it is in this section of the Constituent Assembly's reforms that he most clearly showed his fear of the masses and of those who wished to exploit their dissatisfaction. Not only does he mention no method whereby the people could elect the ministers of their choice, but he even refuses to consider a method whereby the people could choose the candidates. This task he leaves to the Assembly or to a body of Electeurs chosen by the people³. Nor are the people even allowed to exclude any names which they felt unsuitable, the right to reject up to one-fifth of the candidates presented to him by the Assembly being left to the King⁴.

1. O.C. X. 25-34.

2. Ibid. 27.

3. Sur le choix des ministres, O.C. X. 55, 57.

4. Ibid. 53.

In other words, the formation and running of the cabinet is left entirely to the Assembly, on the one hand, and to the King, on the other. The former chose the candidates while the latter actually chose the ministers¹. The King had the power to dismiss any minister with whom he was displeased, but the Assembly was entitled to make any changes it wished in the list of candidates at the beginning of each session and could even replace one minister.

This system represents a definite evolution in Condorcet's ideas. Before 1789, he had considered the executive as forming one block consisting of the King and his ministers working in perfect harmony. In his new plan, the cabinet owes its existence as much to the authority of the people's representatives as to the King. Although the King, by virtue of his hereditary authority, is allowed a certain amount of control over the ministers, it is clear that, in Condorcet's plan, their first allegiance was to be to the Assembly. Their very existence is seen to emanate from the constitution made by the Assembly:

"Puisque, dans une monarchie héréditaire, le hasard seul nomme le chef du pouvoir exécutif, il faut que la loi constitutionnelle fixe l'organisation et règle les fonctions du ministère, dont la concurrence est nécessaire dans tous les actes de ce pouvoir."²

This view of the cabinet as emanating directly from the Assembly's laws is implicit in the wide powers which Condorcet allows the ministers. For example, they were to be able to discuss, and even question, the laws passed by the legislature³.

1. O.C. X. 53-55.

2. Sur le choix des ministres, O.C. X. 52.

3. Ibid. 57-63.

This idea, which would have had no part in Condorcet's "idealistic" schemes prior to 1789, is symptomatic of his attempts to come to terms with the new situation. He believed that collaboration between the executive and legislature was absolutely vital at a time when an absolute monarchy was being replaced by a constitutional one:

"Si cette concurrence de la législature n'est qu'utile dans une constitution libre et monarchique, déjà consacrée par le temps, elle devient presque nécessaire au moment où cette constitution remplace une monarchie absolue; elle détruit cette défiance qui, autrement, s'éleverait sans cesse contre les ministres, empêcherait de donner au gouvernement l'activité nécessaire, et ferait naître bientôt la tyrannie des factions."¹

However he makes it quite clear that the ministers were not to be allowed to abuse their position by working against the interests of the legislature. To ensure this, he underlined the fact that they were to be considered fully responsible for all their acts and were not to benefit from the inviolability which would be granted only to the King and the members of the Assembly. Secondly, they could be dismissed at any time by the Assembly.

The Constituent Assembly satisfied Condorcet on the first point². However, its decision to place the sole right of appointing and dismissing the ministers in the hands of the King³ threatened, in his view, to destroy the Assembly's very functioning. In his essay "Sur l'étendue des pouvoirs de l'Assemblée Nationale", he sought to make it clear to the general public that a constituent assembly was not the same as a legislative one. Not only did it have to make a constitution which would be put into practice at a later date, but it also passed laws destined to be executed immediately.

1. O.C. X. 64.

2. Cf. Constitution de 1791, Titre III, Ch. II, Sect. IV, Arts 5 et 6.

3. Ibid. Art. 1.

In other words, it would have to work hand in glove with the executive.

In fact, Condorcet even desired that the ministers of the first government be elected from among the members of the Assembly:

"Un premier pouvoir constituant ... a le droit d'établir tous (les pouvoirs) qui sont nécessaires à l'accomplissement du devoir qui lui est imposé; et par conséquent le pouvoir qui exécute ses décrets doit être dans sa dépendance."¹

This final hope was dashed by the Constituent Assembly's decision not to allow any of its members to become ministers².

The significance of Condorcet's ideas on the executive lies, therefore, in the fact that they evolved out of his attempts to come to terms with a situation which he had not considered before 1789, namely the need to organise the executive in such a way as to solve the incompatibility of an elected legislature functioning alongside a hereditary monarchy. When the latter disappeared, his views on the question, as we shall see later, were to evolve once more.

As we have seen, the most important feature of Condorcet's plan for the organization of the administrative system of France before 1789 lay in the powers given to the elected provincial assemblies in the field of taxation and general administration.

In 1789 he was thus faced with the task of discovering a system whereby the absence of these assemblies could be compensated. He was helped by the establishment of the "communes", as we have seen, and also by the Assembly's decision to exclude fiscal laws from the royal veto.³

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1. Sur le choix des ministres, O.C. X. 28.
 2. Law of 7th November 1789, Constitution de 1791, Titre III, Ch. II, Sect. IV, Art. 2.
 3. Const. de 1791, Titre III, Ch. III, Sect. III, Art. 8.

Condorcet accepted this decision with relief as it enabled him to have full confidence in the Assembly's sole right, as legal representatives of the people, to make the laws dealing with the nature of the taxes to be levied, their amount and the manner in which they were to be assessed and collected.¹

He was thus able to abandon his old plan whereby the fiscal laws were to receive the sanction of the people before becoming valid. This change of plan was not inspired only by the fact that the machinery for effecting this sanction did not exist; it owed as much to Condorcet's awareness that the chaotic financial state of the nation and the total disruption of the administrative system of the Ancien Régime could be alleviated only by the unifying influence of the National Assembly:

"Aucun autre corps ne pourrait être regardé comme un juge impartial entre les différentes divisions du territoire qui doivent supporter l'impôt d'une manière proportionnelle, entre les diverses classes de citoyens sur le sort desquels les autres genres d'impôts peuvent peser avec inégalité; et c'est par cette raison que ces fonctions (la fixation de la quotité des différents droits, la répartition des contributions directes entre les ... divisions du pays) sont encore, dans les pays libres, réunies au pouvoir législatif."²

He was obliged to face the fact that the old idea of dividing this right among several elected bodies was chimerical in the context of the times:

"... les circonstances n'ont pas permis d'examiner (la) question (de partager ces pouvoirs entre plusieurs corps de représentants), peut-être même d'en avoir l'idée."³

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1. Cf. Sur la constitution du pouvoir chargé d'administrer la trésorerie, O.C. XI. 544.
 2. Des lois constitutionnelles sur l'administration des finances, O.C. X. 108.
 3. Ibid. 108.

He was naturally appalled by the Assembly's decision to allow the King to choose, among others, the Finance Minister. At a time when local administration was in a state of chaos, this was tantamount to placing the entire control of the nation's finances in the King's hands. It was to prevent this that Condorcet attempted to produce an entirely new scheme for the financial administration of the nation.

Another important reason lay in the chaotic state of the finances themselves; this was due, not only to the riots in the countryside and the breakdown of local administration at all levels, but also (as we shall see when we come to examine the fiscal laws) to the panic reforms of 4th August 1789 which terrified the rich and discouraged the bankers from coming to the aid of the nation.

It is against this background that we must examine the scheme which Condorcet devised as an alternative to the long-term plan drawn up before the Revolution. We may best judge the extent to which he attempted to adapt his plan to events if we divide it into two parts.

We shall deal first with the organisation of the "Trésorier" and then with the reforms made in the sphere of local government.

Condorcet's idea concerning the "Trésorier" was based on the attempt to reduce local initiative in financial affairs by placing the responsibility for spending and watching over the receipts of taxation in the hands of a body created specifically for this purpose, and not in the hands of the provincial administration.

This body was to consist of a "Trésorier national" elected by the Assembly and of a committee of ten "commissaires", also elected, who would

be responsible for supervising the work of the "Trésorier"¹.

All the money collected in the different parts of the country would be kept in the "Caisse" in Paris and the supervision of this "Caisse" would be entrusted to the "Trésorier". The departmental administrators would only be entitled to spend this money with his permission and he in turn could only be able to grant this permission if he had the authorisation of the committee of Ten.²

Similarly, while each minister would be allowed to make free use of the money granted to his department, the responsibility for allocating the money would lie with the "Trésorier" and the committee.

The role of the Finance Minister would merely consist in informing the "Trésorier" of the expenditure of each "département"³. Finally, a "Procureur des créanciers de la nation", also elected by the Assembly, would be granted the responsibility for paying the interest on loans made to the government by the banks in order to reduce the national debt.⁴

Although this scheme, by the manner in which it concentrated power in the hands of a body which represented a vital link between the legislature, executive and administration - anticipates the plan described in the 1793 project, its aim was inspired by important short-term issues such as the need, very acute at a time of financial upheaval, to balance expenditure and revenue.

It is in fact directly out of this need that the other responsibilities given to the "Trésorier" and committee stemmed. As all the revenue from

1. Sur la constitution du pouvoir chargé d'administrer la trésorerie, O.C. XI. 547-549.

2. Ibid. 547-548, 549.

3. Ibid. 550.

4. Ibid. 550.

taxation was to be gathered in the main "Caisse" in Paris, the money needed by each "département" would have to travel each time to the "chef-lieu". The cost of this transport could be borne only by taxation. In Condorcet's scheme the tax would be fixed a year ahead by the "Trésorier national", the Committee of Ten, the "Procureur des créanciers" and the Finance Minister¹.

If the money required for an important payment exceeded the revenue from taxation, the responsibility for making a loan would fall to the "Trésorier", but only after the Assembly had fixed a date by which the money would have to be reimbursed.²

If an exceptional and unexpected payment needed to be made, the Committee would have the responsibility for declaring a "dette arriérée" which would enable it to use an advance from the following year's revenue³. If the bankers refused to advance the money unless the rate of interest was raised, or if the people refused to pay their taxes - both common occurrences in 1790 - then the Assembly would have the power to summon an emergency meeting to raise the money which was needed until the crisis had passed⁴.

Condorcet's scheme is thus very flexible, every part of it being designed to meet the eventualities of an uncertain period. His fear of chaos is reflected in particular in his provisions for the emergency powers which were to be granted to the Assembly. It would seem, however, that here he succumbed to a temptation which his instincts as a theorist of constitutional matters should have warned him to resist.

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1. Sur la constitution du pouvoir chargé d'administrer la trésorerie, O.C. XI. 554-555.
 2. Ibid. 558-559.
 3. Ibid. 559-561.
 4. Ibid. 561-562.

This is indicated by a passage of a later work on the subject in which he reacted against the very idea of emergency powers and called instead for the creation of a reserve fund which would be used to meet emergencies. This fund would be placed under the responsibility of "commissaires" elected by the people¹.

This change of plan provides us with another indication of the tension, which runs through all his works of the period, between the desire to consolidate the Assembly's power in order to save the Revolution and the desire to salvage the theoretical principles on which he had founded his earlier plans. The creation out of necessity of the "Trésorerie nationale" represents his most successful attempt to reconcile efficiency with constitutional principles.

Condorcet's attempt to adapt to events is also seen clearly in the evolution of his ideas concerning the role to be assigned to the local administrators.

In his first work on the question, the essay "Sur la constitution du pouvoir chargé d'administrer la trésorerie", the role of the provincial administrators consists simply in dividing up among the "districts" the sum of money granted to their province by the Assembly. They would also have the responsibility for appointing people to collect the money at the level of the "communautés de campagne", "district" and "département". The "trésorier" of each "département" would receive the money at the level of the province. If the machinery for electing him did not exist,

1. Des lois constitutionnelles sur l'administration des finances
O.C. X. 114-115. (19th June 1790.)

he would be appointed by the "Trésorier national"¹. As all the money would be centralised in Paris, there would be no need to elect the local administrators.

In his second work, the essay "Des lois constitutionnelles sur l'administration des finances", the responsibilities of the "département" administrators have considerably increased. Although the right to spend money would still rest with the "Trésorier national", each "département" would not be allowed to possess its own "caisse" and would be equipped for this purpose with a number of "commissaires" elected in each "département" to supervise the administrative assembly of the "département". Furthermore, Condorcet even considers the possibility of choosing the nation's "commissaires" via the "départements", and not, as before, via the National Assembly².

The evolution is limited in so far as the influence of the "Trésorier national" and the Committee of Ten is as powerful in the second work as in the first. Condorcet's fear of the new "départements", where the influence of the Electeurs predominated, was important enough for him to have doubts about the advisability of excessive decentralisation. The change is nevertheless interesting as an indication of his tacit acceptance of the new administrative divisions created by the Constituent Assembly.

The number of "départements"- 83³ - corresponded closely enough to the figure which he had suggested for the provinces before 1789 and the

1. Op.cit. O.C. XI. 569.

2. Op.cit. O.C. X. 113-114.

3. Decree of 15th January 1790,

new "districts" and "cantons" did bear some relation to the two-fold division of "districts" and "communautés de campagne" which he had also desired at that time. Above all, the Assembly had refused to divide France arbitrarily according to mathematical formulae; on the recommendation of Mirabeau, it had proceeded to a division along traditional lines, uniting areas which already possessed strong local affinities¹, a method which Condorcet had suggested before 1789.

His principal objection was to the Assembly's refusal to create the "communautés de campagne" which had formed the cornerstone of his earlier plans. He felt that the need for these was greater than ever as a result of the events of 1789-90. In his view, the panic which led to the uprisings in the countryside and eventually to the "Grande Peur" was caused to a great extent by the fear which the peasants had of the powerful land-owners, many of whom lived in the towns.

It was for this reason, and not out of nostalgia for his old ideas, that he wrote his essay "Sur la formation des communautés de campagne"², urging the grouping of villages which alone could balance the influence of the towns.

"Il n'y a aucune égalité réelle entre une ville même assez petite et un village. Tous les agents du pouvoir local résident dans la ville; elle est l'entrepôt du commerce, le séjour de l'industrie; elle renferme les habitants riches qui ont reçu de l'éducation ... et qui, moins occupés de leurs besoins, le sont plus de leur ... ambition; une partie considérable des propriétaires des biens de campagne résident même dans les villes. Il faut donc, pour rétablir l'égalité ... composer des communautés d'un certain nombre de villages."³

1. Cf. Soboul, op.cit. pp.226-227. Cf. also Hampson: Social History of the French Revolution, Routledge & Kegan, 1963, p.113.

2. O.C. IX. 431-439.

3. Ibid. 433-434.

His fear of the urban land-owners is perfectly in keeping with his attempts, already noted, to give greater responsibilities to the more forward-looking town dwellers who had set up the revolutionary "communes". There is nothing new about this fear; the work's novelty lies in the urgency of its tone and in a greater awareness on Condorcet's part of the natural conservatism of the towns and of the need to organise the revolutionary potential of the villages;

"En général, les villes sont attachées aux régimes prohibitifs ... La plupart des règlements qui s'y exercent blessent les droits des citoyens de la même patrie, mais étrangers à la ville. Si l'on désire que peu à peu toutes ces lois abusives soient réformées, il faut donner aux habitants des campagnes le moyen de se faire entendre."¹

The renewed fervour with which he attacked the wealthy town-dwellers is a further indication of his evolution in a more "popular" direction; it also illustrates his desire to win the masses over to the Revolution and to prevent the threat of separatism represented by the major towns. The theme of unity runs right through the essay:

"Autant ce qu'on appelle, dans les constitutions, balance, équilibre du pouvoir, me paraît une idée chimérique ..., autant il me paraît nécessaire d'établir une égalité suffisante entre les diverses divisions d'un Etat."²

On both these questions - the organisation of an independent treasury and the formation of country communities - Condorcet's suggestions passed unnoticed. The Assembly reserved for itself the sole right to pass financial laws, but placed the responsibility for executing these laws in the hands of a minister who would be chosen by the King.

By neglecting to form country communities, it isolated the peasants, opened the doors to the ambitions of the big towns and thereby linked the

1. O.C. IX. 435.

2. Ibid. 433.

Revolution only to the interests of the richer elements of the bourgeoisie.

All this was naturally to have an influence on Condorcet's future development. It added weight to his increasing dislike for the monarchy, the bourgeoisie of the large towns and the separatist tendencies in France which he came to associate increasingly with the counter-revolution.

It was in the sphere of fiscal reforms that Condorcet's dissatisfaction with the Constituent Assembly's work reached its height: "Les opérations de l'Assemblée sur les finances sont celles qui portent le plus à la censure."¹

The Assembly's fiscal legislation constituted the most important part of its work for, as we have seen, the institutions of the Ancien Regime depended entirely on the fiscal system on which it was based. It is thus on this question that the tension in Condorcet's position from 1789-90 may be most clearly seen.

His reactions here follow the same pattern as those he had shown to the other groups of reforms. On the one hand, he sought to urge on the Assembly the necessity for following the slow and regular method of reform which he had described in his early works. On the other hand, he expressed views of a very progressive nature which anticipated the position which he was to adopt in 1793.

1. Réponse à l'adresse aux provinces; O.C. IX. 507.

These two attitudes were naturally difficult to reconcile and this explains the inconsistencies which may be detected in his works of this period.

The intrinsic weakness of the Assembly's reforms lay in the dangerous gap which existed between the sweeping abolition of the abuses of the Ancien Régime on 4th August 1789 and the absence of any machinery whereby this system could be replaced.

It should of course be noted that this weakness would not have been avoided had the Assembly followed the method suggested by Condorcet himself during the elections to the Etats-Généraux.

Although apparently unaware of this, he was quick to see the danger of the situation and wrote about it in no uncertain terms:

"La nuit du 4 août mérite des reproches graves. Pourquoi décréter en tumulte, quand la justice, d'accord avec l'intérêt de la nation, exigeait qu'on se bornât à l'engagement d'examiner avec maturité? Pourquoi, sur des objets qui pouvoient agiter le peuple, séparer la publication des principes, de celle des lois qui en auraient réglé et modéré l'exécution."¹

The Assembly's precipitation threatened to alienate the financiers on whom the nation so greatly depended:

"Les arrêtés du 4 août ... n'ont pas été un moyen de rétablir le crédit. Les créanciers de l'Etat ont pu craindre le retour d'un pareil enthousiasme ... Les capitalistes ... attendront, pour se livrer à la confiance, que la nouvelle division de la France, que la nouvelle organisation des provinces ait été établie. C'est seulement alors qu'ils croiront à l'existence, à la solidarité de la nation dont on leur promet la garantie."²

The Assembly's failure to set up the machinery for making the reforms in a logical manner was particularly disastrous in Condorcet's view as it invalidated some of the worthwhile reforms which had been made.

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1. Réponse a l'adresse aux provinces, O.C. IX. 505.
 2. Réflexions sur ce qui a été fait, O.C. IX. 455.

For example, the Assembly had quite rightly abolished all internal customs barriers, but to no purpose:

"Le décret de l'assemblée nationale, pour la liberté de la circulation intérieure, n'a pas été respecté. La crainte (l'a) emporté presque partout."¹

The Assembly's initial mistake placed it in a difficult position, but in attempting to escape from this, it had proceeded to accumulate yet more errors which served only to exacerbate an already catastrophic situation.

The first basic mistake was to think that the sale of lands would act as a kind of miracle which would automatically persuade the bankers to lend money to the State at a low rate of interest.

"La première (erreur de l'assemblée) fut d'être trompée par l'idée que la garantie nationale devait ... faire tomber l'intérêt des emprunts."²

The panic reforms of 4th August had of course destroyed any chance which the sale of lands would have had of inspiring confidence in the bankers.

In an attempt to cut its losses, the Assembly promptly made another mistake. The call for a "contribution patriotique", a forced loan which would be reimbursed when the rate of interest fell to 4%, added to the general panic and was put into effect in so clumsy a manner that its results were negligible.³

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1. Réflexions sur ce qui a été fait, O.C. IX. 464.
Réponse à l'adresse aux provinces, O.C. IX. 505.
 2. Ibid. 508.
 3. Ibid. 510-511.

It was in reaction to this that Condorcet reiterated his old belief in the value of a fixed and properly collected tax for winning the badly needed confidence of the people: "Le public sait, depuis longtemps, que des impôts d'une valeur déterminée, d'une rentrée sûre, peuvent seuls inspirer la confiance."¹

He was in fact referring here to the land tax which had represented one of the cornerstones of his early plan for fiscal reforms.

However, not only had the Assembly failed to consider such a tax, it had not even taken the preliminary measures necessary for the carrying out of a cadastral survey. In addition to this, it had made no attempt to calculate the sums required to meet the expenditure of the Treasury. By thus failing to put an end to the chaos which prevailed in the accounts of the Ancien Régime it had encouraged the bankers to carry on speculating as they had done under Necker, to the detriment of the State's borrowings.²

Faced with this situation, Condorcet set himself the arduous task of establishing the long-term basis of the new tax-system of the nation; at the same time he sought to exploit the existing system to the full in order to ease the burden of the debt. The dual aspect of this task goes a long way to explain the tension inherent in his ideas at this time and the consequent inconsistencies into which he was forced. How was it possible, after all, to obtain the money which could alone reduce the national debt at a time when all the existing sources of revenue were under review?

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1. Réponse à l'adresse des provinces, O.C. IX. 511.
 2. Cf. Réponse à l'adresse, O.C. IX. 509-510.

One of the most notable of his inconsistencies lay in his desire that the "capitation" be retained. On his own admission, this was one of the worst of the direct taxes which he had wished to see abolished before 1789: "La capitation est un impôt très mauvais en lui-même, parcequ'il est impossible de le bien répartir."¹, and he felt obliged to confess that his defence of it now was a direct consequence of the difficulties of the time: "Il est difficile de ne pas le conserver ... parce que, dans le moment actuel, l'ébranlement causé par la manière dont la révolution s'est opérée ne permettra point à l'intérêt de baisser aussi rapidement qu'il aurait pu faire."²

Equally inconsistent was his defence of indirect taxes such as the "octroi" and the "douanes" which he had also attacked before the Revolution. It is paradoxical too that he should have defended the Assembly's decree ordering the people to continue to pay the "dîme" until it had been replaced by another tax and this despite the fact that it had been officially abolished.³

These somewhat "reactionary" attitudes contrast strikingly with the swift evolution of Condorcet's ideas on other matters. The most obvious example of this was his advocacy, for the first time, of the necessity for a progressive, as opposed to a proportional, tax.

The nature of the tax in question provides a clear indication of the fact that it was directly inspired by his experience as a member of the Commune's General Assembly. This taught him that the vast majority

1. Mémoires sur la fixation de l'impôt, O.C. XI. 461.

2. Ibid. 461.

3. Réponse à l'adresse, etc. O.C. IX. 494.

of Parisians did not own their houses, but paid rent. By imposing a proportional tax on rent, therefore, he felt that he could best ensure that each man contributed to the nation's welfare according to his possibilities.

The general idea was to establish a minimum rent which would be exempt from tax. Starting from one "sou" per "livre" of rent, the tax would then rise from "denier" to "denier", according to the overall rent, until it reached a maximum of ten "sous" per "livre".

However, his repeated claims that the progressive tax was quite justified and perfectly fair reveal his uneasiness at so original and bold an idea.

Having looked at some of the discrepancies in his attitudes and ideas at this time, it should be emphasised that the bulk of his efforts to solve the difficulties of the period were concentrated on the attempt to reduce class antagonisms and thus to remain as consistent as possible with the line of action which he had followed before the Revolution.

This is seen particularly in the principal works which he wrote on financial problems in 1790. In the two memoirs "Sur la fixation de l'impôt"¹, he sought to adapt his earlier scheme for overhauling the old fiscal system by soliciting the help of the "district" and "département" administrators whom the Constituent Assembly had established. In the essay "Sur la proposition d'acquitter la dette exigible en assignats"² he attempts to warn the Assembly of the danger that class warfare would break out if the plan to sell the Church lands rapidly and in large portions to the bearers of "assignats" was carried out. Those with the greatest

1. O.C. XI. 405-470.

2. O.C. XI. 487-515.

number of "assignats" would be the most determined to rid themselves of them by buying the maximum amount of land and would thus swamp the efforts of the poorer buyers:

"Admettre les assignats seuls ... c'est éloigner des acquisitions les cultivateurs, les habitants des campagnes, les petits propriétaires qui économisent sur leur revenu ... Iron-ils acheter des assignats sans savoir si la seule pièce de terre qu'ils désirent, la seule qui leur convienne, ne leur sera pas enlevée par un autre? ... Cette incertitude suffit pour éloigner, pour dégoûter ces hommes simples."¹

It was in fact the ol. fear of alienating from the Revolution the support of the masses which inspired his main plan for redeeming the debt, the slow sale of the Church lands in small lots.²

Condorcet's desire for peace and stability is seen also in his attitude towards the "Gabelle". He attacked the chaotic manner in which the Assembly had cut this arbitrarily by half and recommended instead that it be brought gradually into line with the Vingtième. As the Vingtième fell mainly on wealth, Condorcet's views may be interpreted as another indication of his evolution towards the left; however, the argument which he actually put forward in support of his case was that the Vingtième was a fixed tax, that its criteria were easy to establish and that it was therefore less likely to arouse suspicion in the public and hence anxiety:

"On pouvait, en proportionnant la répartition de cette imposition aux vingtièmes actuels des nobles ... s'assurer ... une distribution suffisamment exacte, une ressource d'une valeur connue et ne pas s'exposer, par des discussions entre les non-privilégiés et les privilégiés, à fomenter encore une haine qu'il serait temps d'étouffer dans un patriotisme commun."³

1. O.C. XI. 495.

2. Cf. Plan d'un emprunt public, O.C. XI. 354-356.

3. Réponse à l'adresse, etc. O.C. IX. 519.

The examples of conciliation which we have examined so far indicate that Condorcet was keener to satisfy the interests of the masses rather than those of the privileged minority. This was not always the case, however. Indeed the tone which runs right through the main work which he wrote in defence of the Constituent Assembly, the "Réponse à l'adresse aux provinces" is apologetic. The aim of the work was in fact to assure the land-owners that the Assembly's reforms, when they guaranteed compensation, did not violate the sacrosanct "droit de propriété".¹

Similarly, the aim of the plan devised for the evaluation of the land tax² was to ensure that the revenue of each parish, "district" and "département" was calculated in collaboration with the land-owners and potential buyers at every level of the community. And here, Condorcet made it quite clear that he had the interests of the rich as much at heart as those of the poor.

"Ou ce seront les pauvres qui voudront surcharger, soit un citoyen, soit quelques citoyens riches, ou ce seront quelques riches qui voudront surcharger un grand nombre de pauvres ... La première cause d'injustice n'est point à craindre, parce qu'un homme riche réclamera toujours la justice du directoire ou de l'assemblée du district."³

Condorcet was clearly not the fanatic out to destroy the rich. His aim seemed to consist in reconciling the interests of the various classes by emphasising the importance of the new administrative assemblies set up by the Revolution in arbitrating between the different sections of the community.

1. O.C. IX. 493-494.

2. Cf. Mémoire sur la fixation de l'impôt, O.C. XI. 437-448.

3. Ibid. 443.

His desire for cooperation at all levels on the question of fiscal reforms was proportionate to his deep dissatisfaction with the reforms which the Constituent Assembly actually carried out. He was aware that the delicate balance which he attempted to sustain between his desire to see that justice was done and that the debt was redeemed by the exploitation of all available resources, was threatened by the incompetence of the government. This was later to lead him to call for far more drastic measures.

The Constituent Assembly's legal reforms gave Condorcet considerably more satisfaction than the fiscal ones. The evolution which we may detect in his attitude in this field was no doubt caused by his fear of the subversive elements which were working in France throughout this period.

Thus, despite the fact that he had earlier called for the *Etats-Généraux* merely to lay down the basis for reform, leaving the reforms themselves to a later date, in 1790 he uncharacteristically attacked those who accused the Assembly of precipitation and argued eloquently in favour of the work which it had done in this field:

"On regarde comme précipitée la réforme de l'ordre judiciaire ... Peut-on ... en accuser la partie de l'assemblée sur laquelle tombent tous ces reproches? Si elle a paru craindre pour le succès de toute réforme, renvoyée aux législatures suivantes, est-ce envie de tout faire, ou plutôt n'est-ce pas la suite infaillible de l'espérance trop annoncée par le parti contraire, de parvenir à détruire, dans une autre législature, l'ouvrage de celle-ci? Ces éternels regrets de l'ordre ancien ... ont fait de la précipitation une sorte de devoir ... Les maux des partisans des anciens préjugés sont donc leur propre ouvrage."¹

1. Réponse à l'adresse aux provinces, O.C. IX. 520-521.

So sudden a change of position may not be put down exclusively to his aim in this work which was to defend the Assembly against gratuitous and insincere attacks. These words do not illustrate the desire to conciliate all ranks of the community which characterises his work on the other sections of reforms.

The answer lies most likely in the fact that the abuses of the Ancien Régime's judicial system were so flagrant that their speedy abolition was welcomed by all but the most reactionary sections of the community and presented Condorcet with an ideal opportunity for showing the masses who were their friends and who were their enemies.

This does not, of course, mean that he agreed with all that had been done. There are nuances in his reaction which may only be felt if we examine his views on the principal reforms undertaken by the Assembly in this domain.

By abolishing all the special courts of the Ancien Régime, particularly the Parlements, the Assembly achieved what Condorcet had consistently called for before 1789 and had again urged on it at the beginning of the Revolution:

"Les parlements, réduits par la constitution à n'être que des tribunaux, dépouillés de la justice criminelle par l'établissement des jurés, et de la police par celui des municipalités, ne seront plus à craindre."¹

The Assembly also took all the measures called for by Condorcet before 1789 to protect the accused: no man was to be detained without trial beyond a period of twenty-four hours; all trials were to be held in public; the accused were to be given legal aid, etc.²

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1. Réflexions sur ce qui a été fait. O.C. IX. 456.
 2. Constitution de 1791, Titre III, Ch. V, Arts. 9, 16, 18.

However, though the Assembly decreed that judges and juries were to be elected, the electoral method which it chose bore no resemblance to the one advocated by Condorcet before 1789. By deciding that the judges in civil cases were to be elected by the "district" electoral assemblies in collaboration with the "ministère public" nominated by the King, and those for criminal cases by the electoral assembly of the "département", the Assembly automatically limited the vote to the active citizens and the Electeurs and thus deprived five million people of the right to choose the judges.

Despite this, Condorcet made no objection to the reform. The most plausible explanation for this disturbing silence may lie in the fact that he did not wish to add weight to the opposition of those who were most directly affected by these reforms. So great a step was involved in the sudden eradication of such long-standing abuses as the "vénalité des charges" that it seemed quite superfluous to insist on matters which, though important in themselves, could be dealt with later once the principal reforms had been consolidated.

Nevertheless, Condorcet's uneasiness on this question is indicated by the fact that he did not keep silent when he heard of the method chosen by the Assembly for the election of juries. He could not accept the rule which obliged all the active citizens to place their names on the jury list of the area in which they lived, nor the considerable powers given to the "procureur syndic" of the "département".

Realising that his old scheme was impracticable in the circumstances, he attempted to replace it by two new methods which he hoped would reconcile the electoral system set up by the Constituent Assembly with

the need to reduce the influence of the centralised executive incarnated, in this instance, by the King's representative, the "procureur syndic".

According to the first method, the "canton" would be divided into small sections; the citizens of each section would then choose one man from the section in which they found themselves; the list would then be sent to the "chef-lieu" of the "département" where the electoral assembly would meet to draw up a final list from those presented to it by each "canton".

In the second scheme, the list would be drawn up by the outgoing members of the "district" and "département" administrators who, according to the constitution, were to be elected by the active citizens and the Electeurs¹. This fact in itself illustrates how far Condorcet was prepared to compromise with a system which went against his principles.

Despite the obvious fact that both schemes reflected his attempts to adapt to events, there is no doubt that they are nevertheless consistent with his other works of the period in so far as they illustrate his efforts to involve people all the time in local affairs so as to create the unity of purpose which he felt could alone resolve the contradictions which abounded at a time of great social upheaval.

Nowhere was participation and collaboration more important than in the sphere of civil and "police" laws which affected people more directly than the other laws and which were never more delicate than when a great number of traditional customs and relationships were being contested. It was precisely Condorcet's fear on this particular question which led

1. Inst. Mañ. N.S. 20, dossier B III, n° 17. Cited by Cahen op.cit. p.223.

him to insist on the importance of consulting the people before establishing the local tribunals:

"L'exécution des arrêtés du 4 août exige des tribunaux civils en pleine activité. Tout grand changement dans les tribunaux de ce genre demande du temps, entraîne des difficultés; il sera donc plus utile de laisser à une autre législature le soin de cette réforme, sur laquelle toutes les assemblées provinciales seraient consultées; elles seules peuvent éclairer sur les moyens d'exécution."¹

He must have been greatly relieved, therefore, to hear that the Assembly had established a network of Justices of the Peace (Juges de Paix) who were to be elected by the active citizens with the task of acting as arbitrators in disputes between citizens at the level of the "Canton"².

This reform, regarded by many historians as one of the most effective ones made during the Revolution, had played an important part in Condorcet's earlier schemes. Now, however, the need for a flexible and popular body of men operating at grassroots level was greater than ever. As the Assembly had paid no heed to his earlier plans for setting up judicial machinery at the lowest levels of the community, justice at this level could now only be carried out by such people as the "juges de paix".

Another reason why Condorcet greeted their creation with joy lay in his dissatisfaction with the new "tribunaux de district". These had been set up along quite arbitrary lines as the people had not been consulted either as to the places where they should reside or the methods according to which they were to function. Condorcet felt that the

1. Réflexions sur ce qui a été fait, O.C. IX. 456-457.

2. Const. de 1791, Titre III, Ch. V, Art. 7.

"juges de paix" could compensate for this by acting as the intermediaries between the people and the tribunals. This is particularly important when we bear in mind the emphasis placed on bargaining between land-owners and potential buyers in Condorcet's plans for financial reform. He was aware of the utility, not to say necessity, of a group of elected men who would have the power and the authority to intervene effectively in local disputes.

A number of steps taken by the Assembly satisfied Condorcet as they coincided with reforms for which he had already called. This was the case, for example, with the creation of a "Cour de cassation" to examine any breaches of procedure which might occur in the "tribunaux de département"¹, and of an "Haute cour nationale" to judge any members of the executive or any ordinary citizen who was accused of treason².

Condorcet's belief in the importance of such a court grew directly out of the disorders of the time and the need for an official tribunal to act as a deterrent against the ambitions of the executive and of demagogues. He had thus called for a tribunal of this kind in the opening months of the Revolution:

"L'anarchie a été formentée et a été perpétuée par des manoeuvres; il faut, pour détruire cette cause, établir un tribunal qui effraye les coupables, qui assure au peuple une juste vengeance ... afin qu'il voie, dans les lois, la justice et non l'oppression."³

However, he had to wait until 10th May 1791 before the Assembly finally established this court. In the early days of the Revolution it had contented itself with the creation of a "comité de recherches"

1. Const. de 1791, Titre III, Ch. V, Arts. 19-21.

2. Ibid. Art. 23.

3. Sur ce qui a été fait, O.C. IX. 462.

whose task had been to look into crimes against the State. Condorcet had objected strongly to this on the grounds that it exacerbated the insecurity of the masses:

"L'institution de ce comité ne pouvait qu'augmenter les inquiétudes, et il eût été plus sage de les calmer, par la création d'un tribunal chargé de poursuivre les crimes de lèse-nation, crimes dont la nature aurait été déterminée, et les peines fixées par une loi."¹

Condorcet was obsessed with the idea that disorder and anarchy could only be countered by the setting up of institutions whose purpose would be clearly fixed once and for all and which could not be manipulated according to the whims of the moment. In the very early days of the Revolution he had argued against the establishment of any court set up for the purpose of judging a specific crime:

"... la puissance publique ne pourra établir, en aucun cas, un tribunal qui soit nommé pour une affaire unique."²

Similarly he rejected the idea that the Upper Chamber or Sénat which he had described in the second letter to Montmorency could also have the right to judge crimes committed against the State, using an argument which was to appear in one of the articles of the new constitution³:

"On doit ... maintenir à la rigueur la division du pouvoir législatif et du pouvoir judiciaire."⁴

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1. Réponse à l'adresse, etc. O.C. IX. 502.
 2. Déclaration des droits, 2^o Div. Art. 3, O.C. IX. 187.
 3. Cf. Const. de 1791, Titre III, Ch. V, Art. 1.
 4. Lettres à Montmorency, O.C. IX. 383.

All this should be borne in mind when we come to examine Condorcet's attitude towards the trial of the King in 1793.

As far as the appeal courts are concerned, we may detect a slight evolution in Condorcet's ideas. His old fears that the credibility of the judges would be destroyed if other men were given the right to quash their verdicts has been reduced to an awareness of the danger of granting this right to people who were not in a position of superiority over those whose verdicts were to be examined. He thus objected to the Assembly's decision to refer the appeals made against a "tribunal de district" to another tribunal of the same kind.

"Lorsque les tribunaux d'appel ont une composition semblable à celle du premier tribunal, il résulte que l'on a deux jugements prononcés de même sur le même objet, qui peuvent être contradictoires, et dont l'un n'étant préféré à l'autre que par l'autorité de la loi, n'a aucun avantage que celui d'avoir laissé aux parties plus de temps pour faire valoir leurs moyens."¹

Faced with the accomplished fact, he sought to devise a new scheme which he hoped would eventually replace the one created by the Assembly. According to this the appeal courts would be placed in the hands, not of judges, but of juries chosen for this specific purpose.²

While it is true to say that Condorcet was satisfied with the bulk of the Constituent Assembly's reforms in the field of criminal laws, the position is much less clear when we come to examine his reactions to the reforms of the civil laws and the "lois de police".

The big question facing him in this sphere was how to bring about the reconciliation of the different classes of society at a time when the entire foundation of the social relationships of the Ancien

1. Sur les tribunaux d'appel, O.C. X. 167. This article was published in the ninth edition of the Journal de la Société de 1789 on 29th July 1790.

2. Ibid. 169-173.

Régime was in a state of collapse. It is in his efforts to find an answer to this question that we may detect the greatest evolution of his ideas between 1790 and 1792.

The task was so difficult that he found it impossible to remain faithful to the coherent reform plans which he had made before 1789. Instead his attitude was characterised by three conflicting tendencies: a refusal to speak out when the Assembly either violated or ignored important elements in his reform plan, a conservative clinging to the formal legalities of this plan and a progressive desire to strike at the reactionaries who threatened to undermine the success of the Revolution.

That he failed to speak out against the Assembly's failure to allow women the vote is understandable. It would have seemed absurd to pay too much attention to a matter which the deputies had ignored to the extent of not holding a single discussion about it¹.

His silence is much more remarkable on the question of slavery. As we have seen he had denounced slavery in no uncertain terms before 1789 and, during the election campaign, he had questioned the right of the Saint-Domingue "députés" to represent that territory in the Etats-Généraux² and had drawn the attention of the public to the whole question of slavery as an important electoral issue³.

Despite all this and despite the Assembly's refusal to take any measures to relieve the burden of the negroes in the colonies, Condorcet did not once refer to the question during the drawing up of the new

1. Cf. Thompson: Popular sovereignty and the French Constituent Assembly, Manchester, Manchester University Press, 1952. p.62.

2. Cf. Sur l'admission des députés de planteurs de Saint-Domingue dans l'assemblée nationale, O.C. IX. 477-486.

3. Cf. Au corps électoral contre l'esclavage des noirs, O.C. IX. 469-475.

constitution. It may of course be argued that domestic issues were so important during this period that the negro question appeared irrelevant and out of place.

But how then may we explain his silence on such important internal issues as the emancipation of the Protestants and the Jews? And yet the former were not given the right to vote until the 24th December 1789 and the Jews, for their part, had to wait till as late as the 28th September 1791.

The explanation lies surely in the fact that Condorcet's attitude to everything became much more pragmatic after 1789; this meant in effect that he became increasingly afraid of provoking the anger of important sections of the community whose support he considered to be vital for the Revolution's success.

Although it is unlikely that the granting of political rights to the Protestants and Jews would have greatly affected the material interests of the Assembly's members¹, there is no~~o~~ doubt that the abolition of salvery would most certainly have alienated the support of such powerful figures as the Lameth brothers and the representatives of the planters and the merchants of the large ports of Nantes and Bordeaux whose influence on the Assembly's legislation was quite considerable².

This explanation seems to be reinforced by Condorcet's remarkably moderate approach to the problem of the "émigrés" and of the nobility as a whole. Thus, despite the massive emigration of important sections of the

1. Cf. Alfred Cobban op. cit. Ch. 5, "The myth of the French Revolution" p.107.

2. Cf. Soboul op. cit. 209, 223-225; cf. also Cobban op. cit. Ch.8 "The fundamental ideas of Robespierre", p.147.

community throughout 1789 and 1790, the only violations of rights which Condorcet chose to point out in his exhaustive review of the Constituent Assembly's work consisted of two decrees which it had passed against the "émigrés":

"Jusqu'ici les deux décrets contre les émigrants sont la seule infraction des droits des hommes dont nos législateurs soient coupables."¹

These decrees suspending the pensions and other sources of income of those who had left the country were strongly attacked by Condorcet.

"Cette loi est ... une véritable violation du droit qu'a chaque citoyen de choisir librement le domicile que sa santé, ses intérêts, ses goûts même lui font préférer."²

This abstract adherence to principles is characteristic of the pre-1789 Condorcet; it seems strangely out of place in the context of 1790 and may only be explained by the reason which we have already given³.

As regards the clergy, Condorcet's ideas did not change after 1789. Thus, in his essay "Sur le Décret du 13 avril 1790, Religion Catholique"⁴, he renewed his assaults on the idea of a State religion and reiterated his support for the abolition of all ecclesiastical control over such matters as the registration of births, deaths and marriages and the running of schools⁵.

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1. Réponse à l'adresse aux provinces, O.C. IX. 500.
 2. Ibid. 497-498.
 3. The attack on the two decrees was not an isolated reaction on Condorcet's part. He was just as severe in his attitude towards the decree of 17th June 1790 which was also directed against the nobility. Cf. Réponse à l'adresse, etc. O.C. IC. 505 and the Lettre a Mxxx, O.C. I. 327.
 4. O.C. X. 95-103.
 5. Ibid. 96-99, 100, 101.

These old views were now accompanied, however, by a much more pragmatic view of events. Thus, despite his revulsion against a system whereby all the citizens of the nation, irrespective of their beliefs, were to pay for the upkeep of the Roman Catholic clergy, he now attempted to show that in the context of the times, this measure was necessary and justified:

"Il est aisé de voir que, dans l'état actuel des esprits, on aurait plutôt augmenté que diminué le pouvoir du fanatisme, si, au lieu de payer sur le revenu public les ministres de la religion ... on avait laissé à chaque individu la liberté de contribuer volontairement aux frais du culte. Ainsi, ce n'est point aux frais de culte de l'Eglise romaine que l'on oblige les non-catholiques de contribuer; c'est au maintien de l'ordre et de la paix, à celui de leur propre tranquillité."¹

That he was thus prepared to ignore the ideals for which he had struggled before 1789 once again is indicative of the need which he felt for unity among the different elements of the population. In fact he was so afraid of alienating the support of the Church that he pleaded eloquently in favour of granting compensation to the clergy who had been deprived of their lands, stating that priests were always more dangerous when they were poor.²

He attacked the Assembly's more flagrant anti-ecclesiastical measures such as the suppression of the "chanoinesses"³ and insisted on, several occasions that the Church was to retain full autonomy in the running of its internal affairs and on questions of doctrine.⁴

1. O.C. X. 100.

2. Ibid. 101-102; cf. Sur la constitution civile du clergé, O.C. XII. 7.

3. Reflexions sur ce qui a été fait, etc. O.C. IX. 461.

4. Religion catholique, O.C. X. 102; Sur la const. civile du clergé, O.C. XII. 5-6.

It is clear, therefore, that in the first two and a half years of the Revolution Condorcet found himself in a position of considerable difficulty.

In the field of administrative reform he was obliged to place his hopes in the hands of the "departmental directories" which were elected according to a system which violated his basic principles. Short of accepting chaos, he bowed to the new territorial divisions despite the isolation in which these left the villages.

In the field of electoral reform, he had to witness the making of laws which denied some three million people a say in the running of the nation. Although he protested against this, he said nothing about the negroes, Protestants and Jews for fear of dis-uniting the population.

In the field of legislative reform, he accepted the Assembly's right to draw up the new constitution without the participation of the people on condition that the latter be allowed to pass their opinion on it via the imperative mandates which they would give to their representatives in the Legislative Assembly. The Assembly's neglect to make allowance for this left him with no choice but to justify the "droit d'insurrection" which, as he realised only too well, could destroy at one stroke the unity which he considered vital to the success of the Revolution.

Faced with the absence of any means whereby the people could intervene in the legislative process and with the rejection by the Assembly of the bicameral system which he felt would compensate for this, he tacitly accepted the King's right to veto laws.

In the field of executive reform he deliberately played on the paradox of what he called the "Constitution à doubles principes" in order to show the value of a compromise at this stage of the Revolution,

but above all to underline the necessity for an eventual resolution of this incompatibility.

Having accepted the sharing of legislative power by the Assembly and by the King, he was forced to describe a system whereby the executive too was shared by both. But he took care to emphasise that the executive was an entity in itself which drew its power directly from the people on an equal footing with the legislature. He thus paved the way for an executive which could assume the role of monarch.

However, the Constituent Assembly's decision to give the King full control over the executive weighed the scales very much in the King's favour and created a situation which only a dramatic event could resolve.

We may thus understand Condorcet's relief and joy when he heard of the King's flight in June 1791.

CHAPTER III

FROM THE KING'S FLIGHT TO THE DISSOLUTION OF THE LEGISLATIVE ASSEMBLY

A. FROM THE KING'S FLIGHT TO THE MEETING OF THE LEGISLATIVE ASSEMBLY

The King's flight had much the same effect on the development of Condorcet's ideas as the capture of the Bastille. In the same way as the 14th July 1789 had prepared him psychologically to give the masses a much greater say in the running of the country, so the events of June 1791 convinced him of the need to abolish the monarchy immediately. The attacks which he launched against the King after the latter's return were extremely violent and indicate how relieved he was that the ideal opportunity for resolving the contradictions inherent in the constitution had at last arrived. So great was his enthusiasm that he even rediscovered the satirical verve which characterises the writings of his youth.¹ His main assault on the monarchy was given in a speech which he made to the Cercle Social on 12th July 1791.²

The speech reverses completely all the arguments he had himself put forward in defence of the monarchy during the first two years of the Revolution. He now maintained notably that "l'étendue de la France (est) plus favorable que contraire à l'établissement d'un gouvernement républicain"³ and went on to eliminate one by one the five main arguments commonly put forward by the monarchists: that an executive whose freedom was limited by law was less dangerous than the unbridled power of a usurper,⁴ that a king was necessary if the people were to be protected against the ambitions of powerful men,⁵

1. "Lettre d'un jeune mécanicien aux auteurs du Républicain" O.C. XII.239 (16th July 1791).

2. "De la République, ou un Roi est-il nécessaire à la conservation de la liberté?" O.C. XII.223-237.

3. Ibid 228-229.

4. Ibid 228-229.

5. Ibid 229-230.

or against the usurpations of the legislature¹ or the ministers², and, finally, that only the King could ensure that the executive had the necessary authority to accomplish its tasks.³

His approach in this speech was very subtle. He did not attempt to show that the constitution was perfect, for this would have undermined the criticisms of it which he had made before the King's flight, but he insisted that it contained the seeds of a constitution which could guarantee that the rights of man were respected and hence render the monarchy redundant. He thus made it quite implicit that a convention would very soon have to be called in order to revise the constitution. He was convinced that the King's flight had shown the masses that the monarchy constituted a threat to the Revolution and could no longer claim to act as a bulwark against anarchy:

"Le prétendu remède contre l'anarchie ne serait plus qu'un moyen de la perpétuer. Entouré de la défiance et de l'opprobre, le trône ne peut plus qu'avilir les pouvoirs qui paraîtraient émaner de lui, et les énerver en appelant contre eux la défiance du peuple". 4

He was so certain of the people's wish that he urged the Constituent Assembly to act fast if it wanted to preserve its authority:

"Si vous aspirez à ... conduire (la nation), ayez du moins le courage de l'égaliser dans sa marche rapide ..." 5

This statement contrasts strikingly with the "celui qui va trop vite, ou s'arrête, ou s'égare" of 1789.

He ended his speech to the Cercle Social with an eloquent appeal for a convention, claiming that the members of the Assembly were remaining silent on the question of the monarchy only because "se regardant sur ces grands objets, non comme les arbitres, mais comme les interprètes de la volonté nationale, ils attendent, pour lui obéir,

1. Ibid 230-231.

2. Ibid 231-232.

3. Ibid 232-234.

4. Sur l'institution d'un conseil électif O.C. XII.265 (23rd July 1791).

5. Ibid 266.

qu'elle se soit hautement manifestée".¹

So swift a change of attitude and so unfounded a belief in the will of the masses to do away with the monarchy may only be explained by his awareness of the incompatibility which existed between the new constitution and the principles to which he adhered and of the need, once and for all, to force on the Assembly the necessity for the masses to express their opinion of the new constitution.

In May and June Condorcet had in fact already made it clear that he was not prepared to tolerate for much longer the ambiguous attitude adopted by certain sections of the Assembly. Already, in June, he and Sieyès had attempted to unmask those who wished to take advantage of the period during which the Assembly was to review its reforms to question all that had been achieved by publishing a manifesto calling on the population to sign a petition in favour of the principal reforms.² He had failed to go through with this plan on account of the opposition of such important figures as La Fayette and Destutt de Tracy who feared that so extreme a move would split the nation into factions. The King's flight, however, provided him with the ideal opportunity for achieving his purpose and this partly explains the eagerness with which he seized on the occasion.

There is no doubt, however, that he seriously miscalculated the temper of the times. The press campaign released against him by the Royalists after the King's restoration on 15th July was of a particularly extreme and vicious kind. Apart from extremists such as Camille Desmoulins and Barère, few people shared his republican ideas. Among the "moderates", only Thomas Paine and Brissot were prepared to support him; by turning to them, he consummated the split with La Fayette and the "progressives" of the old Société de 1789 who remained loyal to the

1. "De la République" O.C. XII. 237.

2. Inst. Mss N.S.20, dossier BIII no. 12. Cited by Cahen op. cit. p. 244-6.

monarchy.¹

Although he took no part in the Republican demonstration on the Champ de Mars on 17th July, the massacre of the mob by La Fayette's national guardsmen and the violent anti-republican reaction which followed destroyed his faith in those who, up till then, had controlled the Revolution and laid down the basis for the conduct which he was to follow in the Legislative Assembly. When the Constituent Assembly, pursuing its repressive policy, suppressed two "left-wing" papers, the Orateur and the Ami du peuple, on 31st July and raised the property qualifications for voting on 14th August, Condorcet refused to remain silent. In the Patriote français he strongly attacked a measure which left the election of the judges and administrators in the hands of ten per cent of the population.² More significant was his bold defence of the left-wing press,³ a move which illustrates an evolution in his ideas away from the fear of the more progressive elements which he had felt during the previous months.

However, it would be wrong to think that this period is interesting only in so far as it clarifies Condorcet's true feelings with regard to the Constituent Assembly's work and provides an explanation of the attitude which he was later to adopt. It is in fact at this time that we may detect an evolution in his ideas on two very important sections of constitutional theory.

The first concerns his plans for the organisation of the executive and follows logically from his desire to abolish the monarchy. In the King's absence, the role and formation of the cabinet had inevitably to be modified; however, the plan described by Condorcet in his article

1. Cf. "Justification" O.C. I, 583.

2. Inst. etc. no. 5. "Patriote français" 14 août 1791. Cited by Cahen op cit. p. 267.

3. "Courrier de Grosas" 4 août 1791 XXVII.58 Cahen op. cit. p. 267.

of 23rd July 1791 "Sur l'institution d'un conseil électif"¹ marked a considerable departure from the ideas expressed in the 1790 essay "Sur le choix des ministres".

His first scheme was motivated by the desire to create a cabinet which would act as a barrier against the danger of what he called "le hasard", namely the arbitrary rule of a King whose importance depended entirely on the personality of the man who occupied the position. Consequently, he had insisted that the Assembly have the exclusive right of choosing the candidates for the ministry. In this way he had wished also to balance the King's right to choose his ministers, a right which could not be denied him in his capacity as head of the executive.

Now that "le hasard" had disappeared, Condorcet saw the opportunity for establishing an executive based on "rational" grounds and it is this that he emphasised at the beginning of his essay when he contrasted the stability which would result from a properly constituted "conseil électif" with the uncertainties of an unelected, hereditary monarchy.

"Un pouvoir héréditaire ... doit maintenir la paix, et, cependant, ses partisans et ses adversaires, occupés de le soutenir (ou) de le combattre ... divisent sans cesse le peuple en deux factions. Un conseil électif n'a pas le même inconvénient: le nombre des membres de ce conseil, la distribution, la durée de leurs fonctions, la forme de leur élection peuvent être changés par des conventions; mais ces changements n'auront sur l'ordre établi qu'une influence insensible". 2

He now at last attempted to bring the relationship between the executive and the legislature into line with the theoretical principles which he had described in the essay "Sur l'étendue des pouvoirs de l'Assemblée nationale", that of two distinct powers possessing a common source in a natural law which existed prior to society.

1. O.C. XII, 243-266.

2. Ibid 244.

The first consequence of this was that the election of the executive had now to be placed in the hands of the people.¹ It is a measure of Condorcet's awareness of the novelty of this idea that he reserved the right of election to "les mêmes électeurs que les membres des législatures",² and thus bowed to the electoral reforms of the Constituent Assembly. It is worth noting however, that whereas he had considered popular participation in 1790 only via the election of a body of Electeurs who were to meet in Paris, he now deliberately involved all the "départements" in these elections. He thereby wished to ensure that, in contrast to the monarchy, the new government would have the confidence of the nation as a whole and could legitimately claim to emanate from it.

"J'ai préféré le choix par les électeurs des départements à la convocation d'un corps électoral, ... parce que la confiance nécessaire à tout bon gouvernement exige que ceux qui le composent soient choisis non par un petit nombre d'électeurs, mais par la totalité des électeurs de toutes les parties de l'empire, lorsque l'élection immédiate, par les citoyens, est impossible".³

He also wished to underline the unity of purpose of the legislature and executive and to show how both operated according to the same criteria of reason and justice.

"(La) force (du) pouvoir exécutif serait d'autant plus grande, que cette autorité n'étant point, comme celle du conseil monarchique, dans une opposition d'intérêt avec l'autorité du corps législatif, elle inspirerait moins de crainte aux amis de la liberté".⁴

However, he was afraid that this unity of purpose would blur the fundamental theoretical distinction between legislative and executive power and it was to prevent this that he now reversed his earlier decision to allow the executive to be chosen from among the members of the Assembly. His aim in doing this was also to instil in

1. Ibid 247 Art. III.

2. Ibid 260-261.

3. Ibid 261.

4. "Sur l'institution d'un conseil électif O.C. XII.255.

the new executive a sense of its own unity and coherence. It was for this purpose that he called for such measures as frequent meetings between the departments of the executive and long terms of office.¹

The right of dismissal was now to lie exclusively with the National Assembly² and the latter would also have the responsibility of selecting the list of candidates for posts to the cabinet. This would be done just before its dissolution, so as to prevent the executive from coming too much under the legislature's control.³

Condorcet's plan was thus still very cautious. Powers reserved previously to the King now passed to the Assembly, while those reserved to the Assembly passed to the people. But the Assembly's role was central to the scheme and continued to overshadow that of the people.

The second major development in Condorcet's constitutional ideas concerns the measures whereby the people were to be able to participate in the changing of the constitution. This had been one of his main concerns during the previous year and a half, but the events which took place in June 1791 - the King's flight and the re-examination of the constitution which followed - gave the subject a new interest. Realising at long last that it was dangerous to make no provisions for reforming the constitution, the Assembly hastily added a seventh section of laws to the ones which it had already made. However, the new provisions were extremely moderate and effectively prevented any change from taking place for at least ten years.

Condorcet reacted to this in a speech "Sur les conventions nationales"⁴ delivered to the Assemblée fédérative des Amis de la

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1. Ibid 258-259.
 2. Ibid 258-259.
 3. Ibid 259.
 4. O.C. X, 207-222.

Vérité on 1st April 1791. Not only did the new regulations jeopardise all chances of immediate changes,¹ they left the responsibility for judging whether changes should be made entirely in the hands of the Assembly.

"On a dit qu'en établissant une convention, en ne la remettant pas à un temps éloigné, il était à craindre que la constitution française ne fût renversée ... Les hommes qui feraient cette objection ignoreraient donc bien profondément la pente vers laquelle les progrès de la raison entraînent tous les esprits ... Renvoyer une convention à un terme très éloigné, c'est remplir leurs vœux. L'intérêt personnel ne calcule que pour lui, et pour une courte durée".²

In the absence of any method whereby the people could express their approval or disapproval of the new constitution, it was only natural that the initiative for calling a revisionary body should be left, not to the Assembly which had made the constitution, but to the people.

"Peut-être aurait-on dû attendre du patriotisme de l'Assemblée nationale, qu'elle appelât cette convention nouvelle? ... Mais n'est-il pas plus généreux encore de laisser prononcer la nation elle-même?"³

The tone is moderate but the inference is quite clear. By contrasting "la nation" with "l'Assemblée nationale", Condorcet made it explicit that the latter had no right, in the context of the times, to claim it represented the nation and that the only solution was to summon a convention.

Nevertheless, the question which had troubled him throughout the previous year still remained. How was it possible for the masses to be consulted? In 1790 he had already pointed out that the only bodies which could truly claim to represent the citizens were the primary assemblies. As these numbered some forty thousand, absolute chaos would ensue if each was asked to discuss those sections of the

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1. Cf. Constitution de 1791 Titre VII Arts. II and III.
 2. "Discours sur les conventions nationales O.C. X.218-219.
 3. "Sur les conventions nationales" O.C. X.220.

constitution which it considered needed changing. As the provincial conventions for which he had called in 1790 had not come into being, he was forced to discover a new method for breaking the deadlock.

In his speech, Condorcet simply sidestepped the problem. The primary assemblies would not be allowed to hold debates; these would take place only in the convention which they would elect. The convention would draw up a new constitution, each article of which would be submitted for approval to the primary assemblies. When the new constitution was complete it would be submitted a second time and would become law if approved by a majority of the primary assemblies.

In other words, Condorcet simply adapted the system which he had described in his 1789 essay "Sur la nécessité de faire ratifier la constitution". But it reflects a definite departure from the method described in the first letter which he wrote to the Comte de Montmorency where the responsibility for changing the constitution was to lie exclusively in the hands of the National Assembly. In effect, it illustrates Condorcet's growing desire to involve the people more and more in the running of the nation's affairs.

B. THE LEGISLATIVE ASSEMBLY

1. The "loyalty" policy

The decision to establish a legislative assembly symbolises the complete failure of Condorcet's effort to use the King's flight as a means of breaking the deadlock in which the Revolution found itself. He could now no longer accept the compromises which had enabled him to tolerate for a time the weaknesses of the 1791 constitution. Despite this, he was forced to recognise that the people in power had no intention of even considering a method whereby the constitution could be re-examined.

The King's restoration did not so much signify that the Revolution had come to a standstill as that it was beginning to lose ground. The panic which had seized the nation shortly after Varennes had swelled the ranks of those who had opposed the Revolution from the beginning by adding to their numbers a considerable proportion of the liberals who had till then opposed the émigrés and their supporters.

That this was one of the principal reasons for Condorcet's disillusionment at this time seems to be indicated by a passage in the "Justification"¹ in which he speaks of Lafayette.

"La Fayette faisait profession de haïr les rois, quinze jours avant de voter pour la restauration de Louis XVI. Je l'avais vu rire avec moi ... des plaisanteries de Thomas Paine sur le ridicule de la royauté héréditaire. Sans doute il pouvait croire nécessaire de la conserver encore en France: une erreur de bonne foi est toujours excusable; mais devait-il faire insulter par des hommes qui lui appartenaient une opinion qui était aussi la sienne? Pouvait-il devenir tout à coup le zélé partisan d'un roi? ... Je lui écrivis le 17 juillet 1791: 'Depuis douze ans vous êtes compté parmi les défenseurs de la liberté; si vous ne changez de conduite ... vous serez compté parmi ses oppresseurs'. Le soir même ma prophétie fut accomplie, et je ne l'ai pas revu depuis". 2

In the circumstances, he could have decided either to turn his back on public affairs and become a detached observer; or else he could uncharacteristically have organised a resistance movement aimed at bringing down the Assembly. That he did neither indicated that, despite appearances, he believed that time was on the Revolution's side.

A violent attack on the constitution would not only have added weight to the forces of reaction, but it was quite clear that the balance of power was such that it would have been condemned to failure. The attacks made on Condorcet and the republicans after Varennes,³ the massacre of the republican petitioners at the Champ de Mars by La

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1. O.C. I.574-604. This work was written by Condorcet when he was in hiding in 1793.
 2. Ibid 583-584.
 3. Cf. Cahen op. cit. p. 263-265.

Fayette's National Guard on 17th July, and the Declaration of Pillnitz on 27th August were all warnings that a direct confrontation with the established powers was out of the question.

The balance of power was reflected also in the tendencies of the deputies who were elected to the Legislative Assembly at the end of September 1791. Opposite the two hundred and sixty-four Feuillants were to be found a mere one hundred and thirty-six members of what may be described in a very general manner as the "left".¹

Apart from this, Condorcet's decision to bide his time may be explained by other factors. He felt that past events had shown that the counterrevolutionaries, if unprovoked, would soon make the mistakes which would reveal their true intentions to the people. This was indicated by a series of incidents which took place in August 1791, notably the uprisings organised by the refractory priests in the Vendée.² Condorcet felt that the patience of the reactionaires could not match that of the progressives and he foresaw the eventuality of such incidents as the aristocratic uprising in Avignon on 16th October³ and the danger which they represented for the reactionary cause.

Realising that the Right, if allowed to pursue its own course, would soon show its desire to destroy the constitution, he decided to follow the only line of action open to him. Thus, despite his opposition to the Assembly, he fell back on the policy which had been his in 1789, 1790 and the first six months of 1791, namely that of rallying the people around the constitution in the hope that its enemies would be forced into the open.

This explains his decision to become a candidate for a seat in the Legislative Assembly; it indicates also that he was sincere when he

1. Cf. Soboul op. cit. p. 270.
2. Cf. Soboul op. cit. p. 274.
3. Ibid 274.

swore the deputy's oath of loyalty to the constitution.

"Je jurai de maintenir (la) constitution de tout mon pouvoir, et, j'ai été fidèle à mon serment ... Je n'avais promis d'être fidèle au roi qu'autant que lui-même garderait ses serments, et que cette fidélité au premier magistrat ne serait pas en opposition avec celle que je devais à la nation. Autrement le serment eût été contradictoire. Quel était donc ce serment? C'était ... celui de ne proposer aucune loi, aucune mesure contraire à la constitution, prise dans le sens le plus favorable à la liberté". 1

Ultimately, his policy was nothing more than a gamble, a weighing up of possibilities. Nevertheless he had good reasons for being optimistic. The most significant of these was his triumphant election to the Assembly on 26th September, and this despite the strong opposition of the predominantly Feuillant electors at the Evêché and the intrigues of the royalist fanatics of the Sainte-Chapelle.² It is significant also that his success was largely due to the recommendations made in his favour by several of the provincial societies, a fact which was to strengthen his belief that national unity was the most effective weapon which could be used in the struggle against reaction.

A final reason for his apparently paradoxical swing back to the constitution which he had so bitterly attacked in June 1791 may be found in the state of chaos prevailing in France towards the end of 1791 and in the opening months of 1792. In November, grain convoys and stores were pillaged by mobs in various parts of the country. In certain provinces such as Beauce, the mobs forced the municipalities to impose fines on the hoarders of vital foodstuffs and even went so far as to kill those, among them the wealthy mayor of Etampes, Simoneau, who refused to pay. In the centre and south the chateaux of the emigres were pillaged and burnt down in March 1792.³

1. "Fragment de Justification" O.C. I. 585.

2. Cf. Cahen op. cit. p. 273.

3. Soboul op. cit. pp. 273-274.

Condorcet's behaviour during the first few months of the new Assembly was in keeping with the policy which he had decided to follow. On the one hand, he attacked any attempt on the part of the executive to tamper with the constitution; on the other, he called repeatedly to the "Left" to have patience and to avoid creating dangerous splits within the Assembly's ranks. At the same time he pursued his plan of using the constitution itself as a weapon to bring pressure on the King and his ministers.

A few random examples illustrate quite clearly these two aspects of his attitude. On 6th October, he supported the decree which requested that the deputies of the Legislative Assembly be permitted to welcome the King with their hats on.¹ He also called for several decrees to be exempted from the royal sanction² and, on 17th November, demanded that the King be refused the right to issue proclamations or to appeal directly to the people concerning decisions taken by the Assembly, arguing that the people's sole right, according to the constitution, was to elect their representatives.³

This fidelity to the letter of the constitution was backed up by the numerous appeals he made to the Left in the columns of the progressive Chronique de Paris,⁴ asking its members to remain faithful to the Assembly so as to avoid the violence which he was sure could lead only to reaction in the circumstances of the times.⁵

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1. Journal de Paris 7th October 1791; cf. Cahen op. cit. p. 278.
 2. Chronique de Paris 17th November 1791; Ami des Patriotes IV.206; cf. Cahen op. cit. p. 278.
 3. Patriote français 5th November 1791 p. 517; Journal général de France 3rd November 1791 p. 1241; Mercure de France 12th November 1791; Parti historique p. 106; cf. Cahen p. 279.
 4. He was forced to leave the Journal de Paris in December 1791 because of his anti-ministerial attitude.
 5. Chronique de Paris 26th November p. 1327, 2nd December p. 1351, 11th November p. 1427 Cahen p. 280.

The manner in which Condorcet moved away from the extremist attitude which he had adopted in June and July 1791 is well illustrated by the way in which he approached the first major debate on the agenda of the Legislative Assembly, the one which took place towards the end of October 1791 on the question of the action to be taken against the émigrés.

It is slightly ironical that in his first important speech to the Assembly he spoke as a conservative. In contrast to Goupillou's violent attack on the émigrés in the opening speech of 15th October, and to Brissot's demand on 20th October that the land of the King's brothers be confiscated,¹ his own speech² was peaceful in tone and moderate in content.

He repeated the argument which he had put forward in 1790 concerning the fact that it was a violation of a man's rights to prevent him from leaving his country - "... la nature accorde à tout homme le droit de sortir de son pays; la constitution le garantit à tout citoyen français, et nous ne pouvons y porter atteinte"³ and went further than this by claiming that it was wrong to deprive a man of his property even if he became the citizen of another country: "Tout homme a ... le droit de changer de patrie ... Dès ce moment, citoyen de sa nouvelle patrie, il n'est plus qu'un étranger dans sa première; mais s'il y rentre un jour, s'il y a laissé des biens, il doit y jouir de

1. Cf. *Moniteur* X. 121, 159, 163-4, 171-3.
2. "Opinion sur les émigrants O.C. X. 223-242."
3. *Ibid* 227.

la plénitude des droits de l'homme".¹

Having gone so far he was, nevertheless, prepared to admit that it was absurd for a nation not to take vital measures to defend herself.

"... je demande pourquoi (la nation française) ne pourrait user du droit naturel à tout individu de prendre des précautions pour sa sûreté?"²

Consequently, he went on to propose an elaborate scheme whereby it would be possible to distinguish between those Frenchmen who had left France for "legitimate" reasons such as travel or business, those who had left out of hostility to the Revolution, and those who had left with the specific purpose of seeking aid in order to crush the new regime.

It is not necessary to go into the project in detail. It is worth mentioning, however, that it left him open to the attacks of the Left whose papers argued that so "legalistic" a scheme was quite inadequate at a time of national emergency. Condorcet's insistence that all men be considered equal before the law was attacked because of its too scrupulous fidelity to principles which the urgency of the times rendered anachronistic.³

In fact, his speech, far from reflecting a purely abstract adherence to ideals and principles, was governed by considerations of a very practical nature. Having sensed, after the bitter anticlimax and reaction which followed the burst of enthusiasm provoked by the flight to Varennes, that only fidelity to the constitution could enable the Revolution to pursue its course, he chose a policy which would appeal to the kind of people who he felt would be the least easily

1. Ibid 229.

2. "Discours sur les émigrants" O.C. X/229.

3. Cf. Journal universel no. 709 p. 249; Patriote français 29th October 1791. Cf. Cahen p. 287.

swayed by the rhetoric of extremists on either side.

That he was successful here was illustrated by the way his speech was acclaimed by the mass of the three hundred and forty-five middle-of-the-road deputies known as the "constitutionnels". Significantly, it was his project, not Brissot's, which came before the Assembly.¹ His plan to force the true enemies of the Revolution into the open was also well served by the speech, for the true character of the violent reactions to his project which appeared in the Royalist press² was revealed all the more effectively precisely by the fact that the project was so "legalistic" and more moderate than the wild schemes of the extremists.

In short, Condorcet felt that fidelity to the constitution's principles was a more powerful weapon in the hands of the Revolution than the falsely pragmatic attitude of the extremists who wished to rush through unconstitutional measures which, in the long run, would only turn to the advantage of those who they aimed to destroy. Only loyalty to the constitution could be considered truly "useful" and it was with this argument that he began his speech.

"C'est une grande erreur de croire que l'utilité commune ne se trouve pas constamment unie avec le respect pour les droits des individus, et que le salut public puisse commander de véritables injustices. Cette erreur a été partout l'éternelle excuse des attentats de la tyrannie, et le prétexte des menées artificieuses employées pour l'établir."

"Au contraire, dans toute mesure proposée comme utile, il faut d'abord examiner si elle est juste. Ne l'est-elle pas, il faut en conclure qu'elle n'avait qu'une vaine et trompeuse apparence d'utilité." 3

However, despite his initial success, Condorcet's hopes were soon dashed. Following a dramatic speech by Isnard, the Assembly

1. Cf. Journal général de l'Europe 26th October 1791 pp. 399-400; Chronique de Paris 26th October 1791 p. 1206; Patriote français 26th October 1791 p. 486; Journal général de France 26th October 1791 p. 126; Cahen p. 286.

2. Mercure de France patriotique 5th November 1791 pp. 14-15; Gazette de Paris 29th October 1791.

3. "Opinion sur les émigrants" O.C. X.225.

rejected his motion and it was Brissot's which came before the deputies on 31st October. The result was the decree of that day calling on the King's brothers to return within two months and that of 9th November which stated that the land of all the émigrés who had not returned within the same period would be confiscated.¹

As Condorcet had foreseen, this played straight into the King's hands by allowing him to reject the decrees on the grounds that they went against the spirit of the constitution. This course of action would have been denied him had Condorcet's project been voted. Two years later he recalled with a certain bitterness the feelings which the whole episode had inspired in him.

"(Mon) project fut rejeté avec humeur après avoir été applaudi, et j'appris par là qu'il se formait dans l'Assemblée un parti populaire plus passionné qu'éclairé, qui servirait la liberté contre le roi, mais qui nuirait par son zèle au succès des moyens propres à la sauver.

On fit contre les émigrés un décret sévère et surtout mal combiné. Le roi refusa la sanction, et en donna les motifs par une proclamation injurieuse à l'Assemblée.²

Condorcet remained true to his general policy in the second major debate of the new Assembly, the aim of which was to determine the measures which were to be taken against the priests who had refused to swear an oath of loyalty to the Constitution Civile du Clergé.

Here again, he refused to support any measures which violated the rights of man as these were defined in the constitution. Thus, despite his anticlericalism, he attacked all forms of gratuitous actions

1. Moniteur X. 268.

2. Mercure de France patriotique 12th November 1791; Chronique de Paris 2nd November 1791 p. 1233; Patriote français 1st November 1791 p. 501. Cf. Cahen p. 288.

taken against the clergy.

"La loi ne peut reconnaître aucun délit religieux; les violences à l'égard d'un prêtre ... doivent être punies comme les autres atteintes à la liberté; toute distinction de personne blesserait les droits de l'égalité". 1

Once this had been accepted, however, it was the duty of the nation to take every step in its power to limit the danger represented by the priests who opposed the Revolution.

"Lorsqu'une classe d'hommes fait servir un système religieux de prétexte à un plan de conspiration contre la tranquillité publique ... cette classe d'hommes ne peut-elle pas devenir l'objet de lois particulières?" 2

The measures suggested by Condorcet represent an evolution in his ideas in so far as they were more severe than those mentioned two years earlier. Incensed by the increasingly dangerous role played by the clergy, he now proposed, in addition to older measures such as the separation of Church and State,³ and the suppression of stipends,⁴ new measures such as banishment and forced residence.⁵

The arguments which he used to justify these steps echo those he had put forward during the debate on the emigre question; in both cases the principles of the constitution were shown to justify all legislation made against these two groups of people.

However, the tone which he adopted in his attacks on the clergy was more severe. He was as yet reluctant to criticise the emigres too harshly. He still believed that the support of part of the nobility was vital for the Revolution to be successful; this is clear from the statement he made in his speech concerning the willingness of

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1. "Fragment de justification" O.C. I. 587. Cf. "Révision des travaux de la première législature" O.C. X. 403-404 for a much more formal account.
 2. "Sur la nécessité d'oter au clergé l'état civil des citoyens" O.C. XII. 14.
 3. "Sur la nécessité d'oter au clergé l'état civil des citoyens" O.C. XII. 13-14.
 4. Ibid. 13.
 5. Cf. Chronique de Paris 18th November 1791 p. 1295; cf. Cahen p. 289.

the émigrés to return to France if they were given the opportunity.¹ He realised also that if the measures taken against the émigrés were too severe, the King's veto would be perfectly justified.

With the clergy, however, the matter was quite different. Condorcet was at pains to show that it constituted a far more serious problem. Whereas the émigrés could operate in France only at second hand and were not all hostile towards the Revolution, the clergy was active within the nation and was loyal by definition to an organised body within the State whose philosophical basis was such that it could not accept such fundamental principles of the Declaration of Rights as freedom of conscience and freedom of worship.

This is the essence of the argument he put forward in his Chronique du Mois article dealing with the decree passed against the clergy.² He had of course said the same thing before 1789, but the fact that he now felt it necessary to repeat the argument is symptomatic of his policy of showing to the people the appalling nature of the royal veto. The Assembly's decree against the emigres had ruined his first attempt to do this. This time he was determined not to fail and he gave his full support to the decree passed against the clergy on 29th November 1791.

He received the news of the King's veto with joy for he felt that the people would at last see to what extent the King's powers were incompatible with the spirit of the new regime.

"On savait déjà, d'un bout de France à l'autre, que le veto³ opposé à une loi temporaire était un véritable veto absolu. On commençait à sentir qu'en bornant ainsi le corps représentatif à faire des lois générales, on changeait la nature de la nouvelle constitution, on était insensiblement ramené à l'ancienne constitution

1. Cf. "Opinion sur les émigrants O.C. X.237.

2. Cf. "Révision des travaux de la première législature O.C. X.409-416.

3. In italics.

française, ou, consultés seulement sur les impôts et sur les ordonnances générales, les états généraux laisseraient au roi une autorité absolue sur tout le reste". 1

Condorcet believed that his plan had succeeded. After only a month the King had indicated quite clearly that he had no intention of cooperating with the new Assembly and that he wished to make the new constitution unworkable.

In the circumstances, Condorcet realised that the time had come to change tactics. It was no longer possible to create the unity of purpose which he felt would save the Revolution; one could not expect the people to rally round a constitution which they knew was moribund.

But he had other reasons for questioning the value of fidelity to the constitution. The decree which the Assembly had passed against the clergy included among its measures the provision that priests who refused to swear an oath of loyalty to the Constitution Civile du Clerge be expelled from their homes. The responsibility for effecting this was to fall on the administrators of each "département". It is most significant, however, that the King's decision to reject the decree was inspired to a large extent by an address from the Paris "Directoire". This was the first sign of a split, long foreseen by Condorcet, between the "département" administrators, who were elected by the "Electeurs", and the "district" administrators, who were elected by the "citoyens actifs".

Looking back on these events two years later, Condorcet indicated that it was this episode which really brought home to him the fact that France was in the hands of a movement which threatened to disrupt entirely what little unity still remained in the nation.

"Un décret relatif aux troubles religieux eut le même sort (as the one against the emigrés) et le refus de sanction fut provoqué par

1. "Révision des travaux" O.C. X.417.

une adresse du directoire de Paris. Les députés commencèrent dès lors à s'apercevoir que les directoires de départements, que les tribunaux appuyaient assez généralement la cause du ministère dans cette guerre qu'il déclara au pouvoir législatif, et qu'ainsi il existait déjà deux conspirations de la cour contre la liberté: l'une, plus secrète, qui se tramait par les confidents du roi avec les princes émigrés et les puissances étrangères; et l'autre, dirigée par la coalition de l'Assemblée constituante, et qui tendait à faire servir la constitution à l'accroissement du pouvoir royal et à la destruction de la liberté". 1

Condorcet was thus obliged to find another basis for consolidating the support of the people for the Revolution. His search was to culminate in April 1792 in the speech he made to the Assembly in favour of France's declaration of war on Bohemia and Hungary. But his support for war represents so great an evolution from the strongly pacifist ideas which he had always held that it may be explained only in the light of his reactions to the events which took place during the first seven months of the Legislative Assembly.

2. The war question

The starting point of Condorcet's evolution towards all-out support for war may be found, as we have seen, in his having become convinced by November 1791 of the existence in France of forces which had as their aim the overthrow of the Revolution. Throughout 1792 he became increasingly convinced of the danger represented by these forces and felt the need for more energetic measures to deal with them.

Only a study of his writings, speeches and activities between November 1791 and April 1792 may enable us to judge just how much his eventual support for war evolved naturally out of his reactions to events and did not represent a complete break with his general attitude towards the Revolution.

1. "Fragment de Justification" O.C. I. 587-588.

Condorcet's desire for vigorous action was largely inspired by the actively hostile attitude of foreign powers who, until 1791, had been content to express their disapproval of the Revolution in a passive manner. The first sign of a change in their policy was provided by the declaration of Pillnitz in August 1791; in his view this declaration constituted a flagrant violation of the 1756 Treaty between France and Austria and he attacked it severely, along with the Emperor's other activities, in a speech he made to the Assembly on 25th January 1792.¹

"L'empereur, qui avait mérité pendant vingt-cinq ans d'être placé dans la liste si courte des princes éclairés ... nous menace de troupes; dont, par une condescendance exagérée, nous avons souffert la réunion, et qu'il ne pourrait employer contre nous, si nous n'avions pas trop légèrement compté sur sa bonne foi personnelle. Lié avec nous par un traité utile à sa maison seule ... il forme contre son alliée des ligues secrètes ... Il oublie le traité de 1756 au bout de trente-six ans, précisément à l'instant même où, pour la première fois, c'est à lui que ce traité impose des obligations".²

In the same speech he attacked the Spaniards who, contrary to the conditions of the Pacte de Famille of 1761, had taken action against the French.

"L'Espagne, par laquelle nous avons armé en 1790, repousse, en 1791, les Français de son sein, ou veut les forcer d'abjurer leur patrie".³

This action confirmed the fact that the monarchy represented a definite threat to the Revolution for it made it clear that the foreign powers had no intention of recognising the new constitution and considered that France's interest was inextricably linked with the King's.⁴

It is evident from the speech that Condorcet did not consider the slide into war as an adventure born out of panic and desperation. His

1. "Discours sur l'office de l'Empereur" O.C. X. 281-299.

2. Ibid 284-285.

3. Ibid 284.

4. He had attacked the Pacte de Famille in 1790 precisely for this reason of "Extrait du Pacte de Famille" O.C. X. 35-45.

language is legalistic in form because he was intent on showing how the activities of the foreign powers constituted violations of official treaties and thus provided France with legal arguments for justifying a war. These arguments dominate the declaration he had made the previous month on the Assembly's behalf.

"Qui pourrait regarder encore comme un territoire ami, celui où il existe une armée qui n'attend, pour attaquer, que l'espérance du succès? Et n'est-ce pas nous avoir déclaré la guerre, que de prêter volontairement ses places, non seulement à des ennemis qui nous l'auraient déclarée, mais à des conspirateurs qui l'ont commencée depuis longtemps? Tout impose donc aux pouvoirs établis par la constitution, pour le maintien de la paix et de la sûreté, la loi impérieuse d'employer la force contre les rebelles qui, du sein d'une terre étrangère, menacent de déchirer la patrie". 1

It is not certain, however, that Condorcet would have adopted so aggressive an attitude towards the foreign powers had it not been for the internal disorders which threatened to destroy the nation.

Foremost among these disorders were those which stemmed directly out of the appalling financial situation of the time. Condorcet had always maintained that the Revolution would stand or fall according to the state of the finances. And it was thus with great alarm that he attempted to describe the drastic situation in which they found themselves at the end of 1791.

"Les assignats de diverses valeurs n'étaient pas distribués dans la proportion qu'exigeaient les besoins du commerce et de la circulation. On avait laissé des caisses particulières augmenter la masse du papier-monnaie, sans ordre, sans mesure, sans aucune précaution pour empêcher qu'un moment de terreur n'anéantît tout à coup, entre les mains du peuple, la seule monnaie qui lui restait pour son usage ... Les impôts directs de l'année qui allait expirer n'étaient pas encore établis ... Il n'existait aucun ordre dans la dépense publique ... Le montant de la dette était ignoré; celui des ressources n'était pas mieux connu: c'est uniquement sur cette connaissance ... que s'établit le crédit public; ce crédit n'existait pas, et il était important de le créer". 2

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1. "Déclaration de l'Assemblée nationale" 29th December 1791 O.C. X.255-256.
 2. "Révision des travaux de la première législature" O.C. X.385.

On 5th December 1791, as had so often happened in the past, the plan which he put forward for the creation of special committees to examine methods whereby the situation could be remedied was rejected by the Assembly.¹ By March 1792, however, the finances were in as poor a shape as ever.

Incensed by this, Condorcet made an important speech to the Assembly on 12th March urging it to take severe measures to reduce the amount of "assignats" in circulation.² He began by emphasising yet again the danger created by an unstable financial situation.

"La situation de nos finances est le seul danger réel que nous ayons à combattre. Si les ennemis du dehors nous menacent, c'est qu'ils comptent sur ce désordre qu'ils exagèrent; il est le seul fondement des espérances coupables que les conspirateurs conservent encore. C'est en le foymentant, en l'augmentant, que jusqu'ici ils ont pu nous nuire; et, si on aperçoit un refroidissement momentané dans quelques proportions de citoyens, si quelques autres ont pu laisser éclater des mécontentements; c'est encore là qu'il faut en chercher la cause unique".³

Despite this, the Assembly had, in his view, taken no measures to put the finances on a solid basis and had been content to use the guarantee of the "biens nationaux" to release vast amounts of "assignats". As early as November 1791 he had shown that the "assignats" had no intrinsic value and were useful only in so far as they could be exchanged swiftly for land. However, the sale of the lands could only be effective if done slowly over a long period of time. As soon as the purchasers realised they could not exchange their "assignats" for land, they would lose all confidence in their value. Consequently, the "assignats" would become useless, nobody would want them and the economy would be paralysed.⁴

1. Cf. Inst. Mss. N.S. 21, dossier A no. 6; Cahen op. cit. p. 315; Gornel: Histoire financière de la Révolution pp. 12-13 (cited by Cahen p. 315).

2. "Discours sur les finances" O.C. XII. 69-103.

3. Ibid 71.

4. Cf. Journal de Paris 6th November 1791.

This was precisely the stage which had been reached by March 1792 - an excess of paper money and a corresponding lack of confidence in its value.

"La masse des billets excède les besoins de la circulation: cela est prouvé et par la rareté extrême de l'argent, et par l'augmentation des prix. Existe-t-il de la défiance? Il serait difficile de le nier. Ce n'est pas, à la vérité, de cette défiance du moment présent, qui anéantit, en quelque sorte, tout effet public qu'elle a frappé, mais de cette défiance qui se porte sur un temps plus éloigné, qui, ... en augmentant l'empressement d'employer (un papier) avec quelque profit, en fait nécessairement baisser la valeur". 1

Condorcet's plans thus all had as their objective the removal of paper money from general circulation and its replacement as much as possible by hard cash. To this end he described a whole series of measures which are summed up at the end of his speech.

"Etablir des échanges à bureau ouvert; créer des bureaux de paiements par registres; séparer une masse des biens nationaux d'environ deux milliards, destinés dès ce moment à la seule extinction des assignats; en former une autre consacrée à un emprunt en métaux; offrir au reste de la dette liquidée, sur les forêts nationales, sur les produits des domaines aliénés, une hypothèque certaine et une assurance de remboursement, ou bien y employer immédiatement la vente de ces forêts; accélérer la rentrée du produit des ventes et diminuer la masse des assignats par l'aliénation des obligations contractées par les particuliers; créer une caisse publique pour y placer les épargnes des citoyens pauvres". 2

There is no need to examine the arguments with which he justified these measures. That they were so numerous is indicative of his frustration at the Assembly's errors and lethargy. However, more important than this, he was aware that these measures would be useless unless they were backed up by such fundamental acts as the payment of taxes and the drawing up of a coherent list of priorities for expenditure.

"L'accélération du paiement de l'impôt peut seule assurer la réussite de quelque opération que ce soit; et le véritable moyen d'y parvenir, est de bien convaincre les citoyens, que, du prompt paiement des contributions, dépend le salut public... Il est évident qu'en vain présenterions-nous un milliard, ou même plus d'un milliard

1. "Discours sur les finances" O.C. XII.75.
2. Ibid 102-103.

d'excédant entre nos ressources et les besoins ou les dettes, la confiance ne peut renaître, si l'on a pas la certitude d'avoir, dans le paiement des impositions, un moyen annuel de subvenir aux dépenses". 1

Hence the necessity for establishing precise priorities of expenditure.

"La fixation des dépenses doit être comptée à la fois, et parmi les moyens d'assurer le paiement de l'impôt, et parmi ceux de relever le crédit. Dans une constitution libre, les deux secrets les plus sûrs pour faire payer les contributions, sont de prouver aux individus que les taxes sont réparties avec une exacte et impartiale égalité; au peuple, que le produit des taxes est employé d'une manière utile pour lui". 2

The payment of taxes was, therefore, a truly patriotic act. It was the only way the economy could survive and it was on the survival of the economy that the fate of the Revolution depended.

However, there is a significant development in Condorcet's ideas in this speech which indicates a hardening of his attitude towards the administrative system which the Constituent Assembly had established. This evolution is seen in the fact that he made no mention of the "département" administrators, despite the important role which these had to play in the collection of taxes. Instead, he appealed directly to the popular societies whom he felt alone had the necessary influence to galvanise the masses into supporting the regime.

"C'est dans la force de l'esprit public qu'il faut placer nos plus fermes espérances. Que les sociétés populaires, bien convaincues de la liaison intime et nécessaire du paiement des contributions et du maintien de la liberté, continuent de faire à leurs membres un devoir d'acquitter régulièrement leurs impôts; qu'elles donnent cet exemple à toutes les réunions d'hommes, volontaires ou légales; qu'elles excitent, qu'elles récompensent par leur estime les travaux de détail entrepris dans les diverses parties du royaume, pour faciliter la composition des rôles, pour aider les municipalités dans leurs travaux". 3

Similarly, he called for the creation of a body of men, drawn from among the most trustworthy members of the Constituent Assembly who had been responsible for the fiscal reforms, whose role would consist

1. Ibid 97.

2. Ibid 97.

3. "Discours sur les finances" O.C. XII.96.

in travelling around the country in order to supervise the financial transactions which were taking place and to help solve any difficulties ensuing from the reforms.¹

This revolutionary measure represented yet another attempt to bypass the authority of the administrative system established by the Constituent Assembly and it leads us to examine what was probably the main cause of Condorcet's evolution towards support for war, his growing lack of confidence in the cabinet.

The rift which we have already noted between the popular municipalities and "département" administrators continued to widen in the early months of 1792. As Alfred Cobban has noted:

"By the summer of 1790 the departmental directories had managed to assert their authority up to a point, and from then until August 1792 theirs was the stronger influence in the country ... However the municipalities ... had not accepted the control of the 'départements' passively. By the end of 1791 ... they were in a state of almost open revolt against the directories. During the first half of 1792 revolutionary communes were being set up in many districts in open defiance of the legally constituted authorities".²

When we bear this in mind we may appreciate just how extreme a position Condorcet had reached in 1792. An appeal to the patriotism of the popular societies and municipalities in March 1792 was tantamount to a direct questioning of the validity of the departmental authorities set up by the constitution which he had sworn to support only six months before.

So great was the role granted to the departmental directories in such matters as the collection of taxes that their failure to act could only be met by equally drastic measures. However, it seems unlikely that Condorcet would have reacted so strongly unless he had lost all

1. Ibid 95.

2. Cobban op. cit. Ch. 6 "Local government during the French Revolution" Op. cit. p. 123.

faith in the people who controlled the departmental authorities themselves, namely the ministers.¹

His main grievance against them was their refusal to provide the Assembly with vital information, notably on financial matters, thereby directly violating one of the articles of the constitution.²

He had made this point to the Assembly as early as 29th December 1791 after a joint meeting of its military, diplomatic and financial committees.

"La constitution oblige les ministres à présenter, au commencement de chaque session, l'aperçu des dépenses de leur département pour l'année suivante. Cette année va commencer, et hier encore un seul ministre avait obéi à la constitution; deux seulement y ont obéi aujourd'hui, et vous serez forcés, par ce retardement, à décréter une partie de ses dépenses sous une forme qui ne sera point celle qu'une loi antérieure avait établie. Les ministres doivent, d'après la loi, le compte de l'emploi des sommes qui leur ont été confiées ...; aucun de ceux qui ont disparu du conseil n'a satisfait encore à cette obligation sacrée".³

The withholding of information, although most important in relation to financial questions, extended to several other vital matters.

"Dans plusieurs occasions importantes, dans les discussions, sur les émigrés, ou sur les troubles religieux, dans celles où il aurait été nécessaire de connaître l'état actuel de nos relations extérieurs, la véritable situation des conjurés, les ministres ont trop négligé de donner, soit à vous, soit à vos comités, les lumières qu'ils leur doivent".⁴

This lack of confidence in the ministers was the direct cause of the hardening of his attitude on all the important issues of the time. Thus, in January 1792, he rejected the moderate stance which he had taken on the émigré question only a few months earlier.

"On avait proposé de commencer par exiger (des émigrés) une déclaration pour un terme fixe, et de regarder comme ennemis ceux qui refuseraient de la donner.⁵ L'expérience a prouvé depuis, que, pour

1. Cf. "Justification". "La France sera tranquille quand le roi et les ministres le voudront" O.C. I/586.

2. Cf. "Constitution de 1791" Titre III, Ch. II, Section IV, Art. VII.

3. "Opinion sur le rapport des comités, etc." O.C. X/249.

4. Ibid 249.

5. A reference to the legislation of October 1791; cf. above p. 191.

les grandes assemblées, la marche la plus régulière est toujours la plus rapide; et si les ministres avaient instruit le corps législatif de la situation publiquement hostile des émigrés, et de l'éclat de leurs démarches, il aurait vu que ce moment des déclarations hypocrites était passé". 1

In the winter of 1792 he made renewed efforts to remove the cabinet from control of financial affairs, giving his reasons for this in an important speech to the Assembly on 3rd February.

"Le (seul) moyen ... de prévenir ce désordre des finances ..., d'assigner des bornes au pouvoir de corrompre ... c'est de séparer absolument du pouvoir exécutif l'administration du trésor public; c'est de la soustraire entièrement à son autorité". 2

However, in the absence of any method for changing the constitution, there was no way in which this could be done. Condorcet approached this delicate problem by attempting to show that the Constituent Assembly had desired its reforms in this field to be temporary and had deliberately left the way open for later changes which could be made quite legitimately within the framework of the constitution.

He proved that these reforms were only meant to be provisional by mentioning the fact that the Constituent Assembly had intentionally omitted to include the appointments to the "trésorerie nationale" among the list of posts to which the King did have the right of appointment. Later, by way of compromise, the Assembly had permitted the King to appoint whom he wished to these posts, a decision which was confirmed when the constitution was revised after the King's return. Significantly, however, the members of the "trésorerie" were given the title of "commissaires de la nation" in contrast to the other appointed members who were called "commissaires du roi". In Condorcet's view, this confirmed the provisional nature of the decision and left the way

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1. "Révision des travaux de la première législature" O.C. X.403.
 2. "Discours sur la nomination et la destitution des commissaires de la trésorerie nationale et des membres du bureau de comptabilité" O.C. XII.56.

open for a change whenever the Assembly desired.¹

The actual reforms which he now suggested represent an evolution in his ideas which may be traced directly to his distrust of the departmental assemblies and to his desire to involve the people much more in the running of the country. In his two earlier works on the subject² he had called for the "trésorerie" administrators to be elected either by the Assembly or by the departmental assemblies. He now suggested that this be done by a group of Electeurs representing all the "départements". They would be elected at each legislative election and would meet as a "corps électoral" in Paris whenever they were summoned by the Assembly. Until the next general election they were to be appointed by the Assembly, but this state of affairs would only last one year.³

In the remainder of the speech he concentrated on the question of dismissal, a matter which he had only mentioned in passing in the earlier works. However, he added little to what he had already said then. Where in the first work he had outlined a system whereby none of the finance administrators could hold office for more than two years, he now elaborated a little on the idea, suggesting more precisely that the Assembly alone would have the right of dismissal and would meet at the beginning of each legislature to decide what course of action to take with regard to the administrators.⁴

In other words, the emphasis this time was on continuity, an obvious consequence of Condorcet's growing belief in the value of administrative stability at a time of great social upheaval. The new

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1. "Discours sur la nomination, etc." O.C. XII. 57-58.
 2. "Des lois constitutionnelles sur l'administration des finances" O.C. X. 105 et sq.; "Sur la constitution d'un pouvoir chargé d'administrer la trésorerie nationale" O.C. XI. 541 et sq.
 3. "Discours sur la nomination, etc." O.C. XII. 61-62.
 4. Ibid 65.

scheme was an improvement on the first precisely because it allowed able men to occupy their posts without the fear of an immediate termination of their functions every two years; at the same time, it enabled the Assembly to dismiss, every two years, those whom it considered undesirable.

The principle of continuity is found also in the provision that the Assembly could not dismiss an administrator while a legislature was in process. Not only would this leave the way open to intrigues, it would also lead to an embarrassing confusion with the terms of the constitution where the only way a "commissaire" could be removed was if it could be proved that he had committed a crime.¹ No such confusion was possible if the dismissal took place at regular intervals via machinery laid down specifically for that purpose.

The brunt of Condorcet's criticisms of the executive fell on the Foreign Minister de Lessart. He attacked the latter repeatedly in his articles in the Chronique du Mois, accusing him notably of withholding vital information on such important issues as the attitude the Emperor would adopt if France were to use force against the army assembled in Koblenz.

"La non-communication d'une note du 7 janvier, qui eût éclairé sur les intentions du cabinet de Vienne, la négligence à instruire le comité de l'assemblée des nouvelles intrigues tramées par ce même cabinet ... tout annonçait dans le ministre, ou l'incapacité ou la perfidie".²

He also accused de Lessart of neglecting to take elementary steps in the defence of France.

"Le ministre, par son obstination à maintenir le traité fait en 1748 avec la maison d'Autriche, par sa négligence à former une alliance avec la Prusse, dans un moment où elle était presque en état de guerre avec l'empereur ... montrait évidemment qu'il suivait dans les

1. Ibid 63-64.

2. "Révision des travaux, etc." O.C. X.427.

3. Sic.

négociations un système contraire aux intérêts du peuple, mais favorable aux intérêts privés de la famille royale". 1

It is only when we bear all this in mind that we may explain the enthusiastic support which he gave to the nomination to the post of War Minister of the royalist Comte de Narbonne on 9th December 1791. Although written some time after the events to which it refers, the "Fragment de Justification" seems to indicate that, at this stage, Condorcet was still keen on finding a solution to France's dilemma outside war and he firmly believed that Narbonne was the kind of man who could achieve this.

"Je causai avec lui, et il me parut avoir des idées assez justes sur les véritables intérêts du roi, qui devait chercher à regagner la confiance du peuple et à gouverner conformément au vœu de la majorité de l'assemblée ... Son projet principal était de disperser les émigrés et de détruire par là un des principaux sujets de défiance envers les ministres". 2

The failure of this project and Narbonne's dismissal at the end of January 1792 confirmed him in his belief that the cabinet was in direct collusion with the émigrés³ and paved the way for his increasingly aggressive attitude towards the ministry in 1792, culminating in his active support for the Assembly's formal "décret d'accusation" against Bertrand de Molleville in February and the steps he himself took to propose another such decree against the minister Duport-Dertetre in March. The rejection of these decrees removed yet another barrier in the way of his evolution towards war.

However, any analysis of the hardening of Condorcet's position in 1792 would be incomplete unless we attempt to answer one question: was he sincere in calling for war? Did he really believe this was the only solution, or did he speak of war only as a threat destined to dissuade the King and his ministers from betraying the nation?

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1. "Fragment de Justification" I. 590.
 2. Ibid 588, 589.
 3. Ibid 589.

It is difficult to imagine that Condorcet was unaware of the fact that the King himself was in favour of war. Albert Soboul has shown how many of his intrigues of the time were aimed at exacerbating France's relations with the other powers. On 14th December 1791, for example, Louis XVI sent an official ultimatum to the Elector of Trier, threatening to declare war on him if he took no steps to expel the émigrés who had gathered there. On the same day he sent the Elector a secret letter urging him to reject the ultimatum.

"Et ce même 14 Décembre, Marie Antoinette à son ami Fersen: 'Les imbéciles! Ils ne voient pas que c'est nous servir'. La Cour précipita la France dans la guerre, dans le secret espoir qu'elle tournerait mal et que la défaite permettrait de restaurer le pouvoir absolu". 1

It is of course far-fetched to suppose that Condorcet was informed of all the King's secret activities; however, his anger at Narbonne's dismissal indicates that he realised something was afoot. The very fact that the King himself now desired war after having given examples of his bad faith so often in the past must itself have appeared extremely suspicious. That others were aware of the danger is revealed by Robespierre's speech of 2nd January 1792 calling for the supporters of the Revolution to seek the source of evil at home rather than beyond the frontiers. This source was not only to be found in Koblenz.

"Il n'est donc pas à Paris? Il n'y a donc aucune relation entre Coblenz et un autre lieu qui n'est pas loin de nous? ... Commencez par ramener vos regards sur votre position intérieure; remettez l'ordre chez vous avant de porter la liberté ailleurs".

And he went on to list the weaknesses which were rife in France's military organisation: all the officers had emigrated and had not been replaced by qualified men, the troops lacked arms and equipment, morale was low, and so on.²

Condorcet must have been aware of this situation for it was he who described it some weeks later (16th February) to the French people in a

1. Soboul op. cit. pp. 277-278.

2. Ibid p. 281.

speech made on the Assembly's behalf.

"(Les) officiers, qui ... grossissaient l'armée des rebelles, n'étaient pas remplacés ... Il fallait réparer les dangers de cette négligence du dernier ministre de la guerre, examiner la situation de l'armée, chercher par quelles lois on devait ... compléter son organisation ... La marine est une partie essentielle de la force publique, et une lettre du roi, adressée aux commandants, avait appris que l'émigration des officiers y faisait des progrès funestes". 1

This reads like a catalogue of weaknesses which needed to be remedied. Although Condorcet wished to show that the Assembly was doing all it could to rectify the situation, he showed also just how unprepared for war France was in the opening months of 1792.

This in turn would seem to suggest that his speeches in favour of war were merely a facade aimed at concealing France's weakness beneath a cloak of quiet self-confidence. It is when we bear this interpretation in mind that we may best appreciate the significance of the speech on foreign affairs which he made to the Assembly on 25th January 1792, the "Discours sur l'office de l'empereur". 2

It was a fine attempt to persuade France's potential enemies to consider whether it would profit them greatly to enter into a war with her. He argued notably that it was not in the interest of countries which already had fairly developed notions of what constituted constitutional rights to declare war on a nation which, for the first time, was attempting to put these rights into practice. Nor was it in the interest of princes and kings to take the risk of allowing their soldiers to become "contaminated" by the new ideas which they could pick up from their contacts with the French. 3

In his view, therefore, a country such as England, which acknowledged the existence of human rights, should be willing to bury its

1. "L'assemblée nationale aux Français" O.C. X.338.

2. O.C. 281-299.

3. "Discours sur l'office de l'Empereur" O.C. X.286-289.

differences with France in the cause of freedom. Although he admitted that the economic interests of the two nations constituted a potential source of conflict, he claimed that the globe was big enough for the enterprises of each to develop without clashing.¹ If France stayed clear of the Netherlands, for example, she would risk nothing from England.

Other allies would be found in Poland, whose reforms could only be protected by an alliance with a nation undergoing a similar evolution, and in Prussia, whose interests were threatened more by Austria than by France. Sardinia and Switzerland also threatened the interests of Austria and were thus potential allies.²

If Condorcet's intention in making this speech was to bolster up the morale of the Assembly, he was certainly successful. It was translated into English, German and Spanish and was sent to all the provinces of France, to the King himself and to the courts of Europe. It was even put into verse by a citizen of Caudebec and was directly responsible for Condorcet's election to the Presidency of the Assembly in February and to the diplomatic committee in March.

In fact, as Leon Cahen, otherwise a staunch supporter of Condorcet, has pointed out, the speech's content is hollow. Was it possible to believe that Poland, crushed under the heel of Russia, Prussia and Austria, could be an effective ally of France, or that England would forget France's aid to the Americans during the War of Independence, as well as her colonial rivalry, out of revolutionary idealism? Was it obvious that the rivalry which opposed the Hapsburgs to the Hohenzollerns was so strong as to destroy all hopes of collaboration between Prussia and Austria, or that Prussia's interests

1. Ibid 290-291.
2. Ibid 292-295.

would best be served by attacking Austria rather than France?

The entire speech is based on rather wild wish-fulfilment and bold suppositions. However, it does have meaning when seen, not as a realistic analysis of the diplomatic situation, but as a piece of propaganda destined to make the hostile powers think again before launching a full-scale war against France.

This interpretation certainly seems to be corroborated by the declaration which Condorcet agreed to make on the Assembly's behalf in April 1792 justifying France's declaration of war on the King of Hungary.¹ The theme of the speech was that the declaration was a necessary evil and was absolutely inevitable if France were not to leave herself wide open to the assaults of her enemies. This idea of necessity and inevitability occurs again and again.

"Forcée de consentir à la guerre, par la plus impérieuse nécessité, l'assemblée nationale n'ignore pas qu'on l'accusera de l'avoir volontairement accélérée ou provoquée".²

"Une ligue a été formée contre (l')indépendance (de la France), et elle n'a eu que le choix d'éclairer ses ennemis sur la justice de sa cause, ou de leur opposer la force des armes".³

"Elle a continué de vouloir la paix, mais elle devait préférer la guerre à une patience dangereuse pour sa liberté".⁴

As Condorcet was here speaking in his official capacity, it could be suggested that he was not voicing his own opinion. However, the same theme occurs in the newspaper articles which he wrote at the time.

"Le roi proposa la guerre, et l'assemblée nationale l'accepta.

"Il était impossible de prendre une autre résolution. L'intention avouée de protéger en France le parti des ennemis de l'assemblée nationale, de l'employer à changer ce qui, dans la constitution, était contraire aux intérêts de la maison d'Autriche ...; ses intrigues publiques contre la France ... ne permettaient plus de ne pas voir,

1. "Projet d'une exposition des motifs qui ont déterminé l'assemblée nationale à décréter, sur la proposition formelle du roi, qu'il y a lieu à déclarer la guerre au roi de Bohême et de Hongrie". O.C. X. 443-455.

2. Ibid 445.

3. Ibid 446.

4. Ibid 449.

dans son chef, un ennemi acharné de la liberté française. Il était évident que, s'il ne déclarait pas la guerre, c'est qu'il n'avait pas eu le temps d'achever ses préparatifs, de mettre en mouvement les troupes de ses alliés ... Devions-nous donc laisser notre ennemi choisir le moment où il lui serait le plus avantageux de nous attaquer; et, pour soutenir une telle opinion, ne faudrait-il pas où l'imbécillité la plus complète, ou la plus noire perfidie?" 1

It would seem clear from this that Condorcet, far from being a war-monger, would have preferred peace. He was aware of France's internal weaknesses and of the very real risk of defeat. His attitude towards war thus seems to have been more one of weary resignation to the inevitability of a conflict rather than a positive eagerness for fighting to commence. At any rate, this was certainly the interpretation which he himself gave in his retrospective account.

"Je ne désirais pas la guerre ...; j'aurais voulu pouvoir l'éviter. Mais il était évident que le roi de Hongrie ne la différerait que pour se donner le temps de faire ses préparatifs". 2

Against all this, however, it is possible to put forward a case showing that Condorcet's attitude towards war was not negative at all and that he saw quite clearly that, despite the risks involved, war could provide France with positive advantages which could ultimately, not only protect the Revolution from its internal and external enemies, but could infuse it with new life and vigour. So extreme an event as war would force the enemies of France into the open. This in turn would enable the loyal citizens to see where their interests lay and to unite in their defence.

Here his views coincided with those of the Girondins who had long argued the necessity for war precisely for these reasons. On 16th December 1791 Brissot had addressed the Jacobins in these words:

"Un peuple qui a conquis sa liberté après dix siècles d'esclavage a besoin de la guerre: il faut la guerre pour la consolider". 3

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1. "Révision des travaux de la première législature" O.C. X.430.
 2. "Fragment de justification" O.C. I.591.
 3. Cf. Soboul op. cit. p. 278.

A fortnight later he had returned to this theme, but this time in the Assembly:

"La guerre est actuellement un bienfait national; et la seule calamité qu'il ait à redouter, c'est de n'avoir pas la guerre ... C'est l'intérêt seul de la nation qui conseille la guerre". 1

In a speech to the Assembly on 5th January 1792, another Girondin, Isnard, had stated explicitly that a war would save the constitution by highlighting the treachery of those whose interests were most threatened by it.

"La classe la plus dangereuse de toutes se compose de beaucoup de personnes qui perdent la révolution, mais plus essentiellement d'une infinité de gros propriétaires, de riches négociants, enfin d'une foule d'hommes opulents et orgueilleux qui ne peuvent supporter l'égalité, qui regrettent une noblesse à laquelle ils aspiraient ...; enfin, qui détestent la constitution nouvelle, mère de l'égalité". 2

As we have seen, Condorcet was not an unconditional supporter of the constitution. However, he had made it his duty to support it at the beginning of the Legislative Assembly and had consequently endeavoured to discourage any popular attempts, born out of frustration and impatience, to outstrip it. This explains why he defended with such eagerness the actions of an Assembly which contained within its ranks a considerable number of people with whom he profoundly disagreed,³ seeking to show the ordinary citizens how great a task it had to face in all spheres - the organisation of the nation's financial system,⁴ the civil laws,⁵ and the armed forces.⁶

When we bear this in mind, it is possible to consider that the passionate tone of the April 1792 speech justifying France's declaration of war, notably in the passages where he sought to explain how France's

1. Ibid p. 279.

2. Soboul op. cit. p. 279.

3. Although it is true to say that the present Assembly was generally speaking, more acceptable to Condorcet than the Constituent Assembly had been; cf. its cancellation, on 24th March 1792, of an earlier decree ordering troops to be sent to Saint-Domingue to crush the slaves' revolt. "Révision des travaux de la première législature" O.C. X.418-425.

4. "Adresse de l'Assemblée nationale aux Français" O.C. X.323.

5. Ibid 328.

6. Ibid 338.

behaviour towards the Alsatian princes, the Low Countries and the Comtat Venaissin was fully in keeping with the principles of her constitution,¹ does not reflect resignation to the inevitability of conflict, but a triumphant assertion that the war was justified by the French constitution and that the Assembly truly represented the will of the French people.

"Tant que (la constitution) subsiste, les pouvoirs établis par elle ont seuls le droit de manifester la volonté nationale; et c'est par eux que cette volonté a été déclarée aux puissances étrangères. C'est le roi qui, sur l'invitation de l'assemblée nationale, et en remplissant les fonctions que la constitution lui attribue, s'est plaint de la protection accordée aux émigrés, a demandé inutilement qu'elle leur fût retirée; c'est lui qui a sollicité des explications sur la ligue formée contre la France; c'est lui qui a exigé que cette ligue fût dissoute. Et l'on doit s'étonner, sans doute, d'entendre annoncer, comme le cri de quelques factieux, le voeu solennel du peuple, publiquement exprimé par ses représentants légitimes".²

The rhetorical tone of the speech and the eloquent defence, not only of the Assembly, but of the King, indicate a return to the old policy of rallying the people around the constitution. But they also suggest a revival, in a more extreme form, of the policy adopted during the opening weeks of the Legislative Assembly of forcing France's internal enemies into the open. When we bear this policy in mind, as well as the Girondins' reasons for supporting the war,³ it is difficult to believe that Condorcet was merely lying when he wrote two years later:

"Il était évident ... que, par la nature du gouvernement, ... les notres (viz. the French troops) seraient lents et faibles, tant que le peuple ne serait pas certain que toutes les trahisons ménagées dans nos troupes et dans nos villes éclateraient au moment où l'ennemi nous attaquerait avec toutes ses forces. ... (La guerre) était le seul moyen de déjouer les complots d'une cour conspiratrice. Les patriotes qui auraient voulu qu'avant de combattre, on eût délivré la France d'un roi qui trahissait, ne voyaient pas que cette trahison ne frappait

1. Cf. "Projet d'une exposition, etc." O.C. X, 446-447, 449-451.

2. Ibid 452.

3. Cf. previous page and above.

alors les regards que d'une très faible portion des citoyens; qu'en agissant d'après les soupçons qui ne pouvaient encore être appuyés sur des faits constants, on risquerait de perdre la cause de la liberté". 1

The last part of the quotation indicates clearly that, in Condorcet's view, the old policy had failed and now needed to be revised in a much more drastic manner.

Having said all this, however, it should be made clear that his support for war in April 1792 was the result of a very gradual process. Unlike the Girondins Brissot and Isnard, he did not call for it at the bar of the Assembly as early as December 1791 or January 1792. Although he did make a particularly bellicose declaration on the Assembly's behalf in December 1791,² the whole tone and content of the declaration, notably when he affirmed that France was fully ready for war, suggest that it was more a threat to deter France's enemies than an actual call to war.

In fact, he did not commit himself to the war policy until his patience with the Revolution's enemies had been pushed beyond all endurance. We have noted how his attitude towards the emigres and ministers grew increasingly hostile in the early months of 1792, but it is the evolution of his attitude towards the clergy which best illustrates the extent of his exasperation in March and April of that year.

Thus, despite his original (albeit conditional) acceptance of the Constitution Civile du Clergé, he openly called for the complete separation of Church and State on 23rd March.³ Similarly, despite his earlier condemnation of ineffective and petty measures against the Church such as the suppression of the "chanoinesses", he now

1. "Fragment de Justification" I. 591-592.
2. "Déclaration de l'Assemblée nationale" O.C. X. 253-259.
3. Inst. Mss. N.S. 21, A, no. 11.

praised such people as the Archbishop of Bourges who called for the scrapping of vestments at Church services.¹

Even so, although he was convinced of the inevitability of war as early as February 1792,² it was not until two months later that he actually argued in favour of a declaration.

The true reasons for Condorcet's eventual support for war would thus seem to lie half way between the two theses put forward. On the one hand, it is unlikely that a man who was so obviously aware of the horrors of war³ could have pressed for it so eagerly unless he was convinced, both of its inevitability and, above all, of the fact that it was justified by the principles of self-defence established by the constitution. This explains the occurrence in his writings on foreign policy of arguments which are uncharacteristically feeble unless seen as attempts to deter France's enemies from provoking her into action.

On the other hand, it was clear that, by April 1792, the policy which he had decided to follow since the beginning of the Revolution would collapse unless extreme measures were taken to expose all the elements which threatened to destroy the unity of purpose which alone could save the revolutionary movement.

In either case, his support for war cannot be viewed as constituting a complete break with his past ideas, but as a necessary evolution of them under the pressure of events.

Having examined at some length the reasons for Condorcet's ultimate support for the declaration of war in April 1792, we must now

1. Chronique de Paris 7th April 1792 p. 389.

2. Cf. "L'Assemblée nationale aux Français" O.C. X.335 (16th February 1792).

3. As late as 25th January 1792 he repeated the statement he had made ten years earlier concerning the fact that war was inhuman and had to be avoided as far as it was possible ("Discours sur l'office de l'empereur" O.C. X.296, 297).

see whether this decision did in fact serve his purpose of forcing France's enemies into the open and forging the unity of the nation.

In the short term, the results were disastrous. Barely a month after the start of the war the French generals assembled at Valenciennes on 18th May declared that the offensive had to stop and asked the King to end hostilities immediately. Although the decision taken by the generals Dillon and Biron to withdraw their troops before making a single attempt to attack the inferior number of Austrian troops who confronted them on 29th April may be given as proof of the French high command's treachery, there is no doubt that the French armies were ill-prepared for a conflict. Dillon's murder was only one of many examples of their indiscipline.

On the political front, Condorcet's hopes for unity were threatened as never before. Not only did La Fayette refuse to advance with his army in the Ardennes, but he soon rallied to the ranks of the "Lamethistes" and eventually announced his intention of marching on Paris.¹

More serious even than this, however, was the split which now openly occurred within the ranks of the revolutionary movement itself. Only three days after the declaration of war which they had bitterly opposed, the Montagnards Collot d'Herbois and Chabot accused Condorcet, Brissot, Roederer, Fauchet and Vergniaud of treachery and demanded their exclusion from the Jacobins.² Despite Brissot's eloquent defence of the Girondins' motives in calling for war, the tide of sympathy was turning against them;³ this was clearly indicated by the election to the key posts in the Jacobin Club of the Robespierrists Mèrlin de

1. Cf. Soboul op. cit. p. 285.

2. Cf. Patriote français 25th April 1792; Cahen op. cit. p. 390.

3. Cf. Aulard: Jacobins III. 588.

Douai, Chabot and Collot on 17th May 1792.

Although Condorcet had often expressed his distaste for the more extreme element within the Assembly, this was the first time that he and Robespierre clashed so openly and with such bitterness.¹

Repeatedly, Robespierre and his supporters attacked him in the columns of the new paper the Défenseur de la Constitution, accusing him of being a friend of La Fayette,² of having called for a republic in 1791 merely in order to provoke the massacre of innocent people and paving the way for a royalist reaction,³ of supporting the royalist Narbonne,⁴ and so on.

In short, Robespierre was the first of a line of critics who have seen in the numerous inconsistencies of Condorcet's behaviour between 1789 and 1793 evidence of a weak and vacillating mind which was so out of touch with reality as to be unable to adapt its ideas to the events of the time.

It is only when we appreciate his consistent wish to transcend what he considered to be temporary disagreements on matters of procedure in the interests of preserving the essential gains of the Revolution that we may answer these critics and question the criteria on which their judgements were based. Significantly, Condorcet himself refused to reply to the attacks made against him and concentrated all his attention on important matters of state.

There is no doubt, however, that the clashes of April and May 1792 represented the beginning of a series of conflicts which were to lead ultimately to his death. Despite this, it would be wrong to

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1. Cf. for a more detailed account of this clash: J. Bouissounouse: Condorcet le philosophe dans la révolution Paris Hachette 1962. pp. 235-239.
 2. Ibid no. 1, p. 2; Cahen p. 391.
 3. Ibid nos. 10 and 11; Cahen p. 391.
 4. Défenseur de la constitution nos. 252-256.

suggest that his support for the war policy was a complete miscalculation which threatened to destroy the success of his plan. On the contrary, the war eventually accomplished what he desired by breaking the deadlock which was paralysing the revolutionary movement and by putting into motion the sequence of events which led eventually to the establishment of the republic and to the long awaited setting up of a body formed for the task of revising the constitution.

In the first place, the war did fulfil one of the main purposes of Condorcet's plan, which was to force France's enemies to reveal openly which side they supported. It soon became clear, for example, that the generals' revolt at Valenciennes had the King's support and the latter's reaction to the three decrees passed by the Assembly in May and June 1792 provided further proof of his hostile intentions.

The first stated that any refractory priest accused of treason by twenty citizens from his "département" would be deported (27th May); the second abolished the royal bodyguard (29th May); and the third established a garrison of 20,000 National Guardsmen near Paris with the dual aim of defending the capital and acting as a deterrent to the designs of any general who might be tempted to seize power (8th June).

The King responded to these deliberately provocative decrees by refusing to sanction the first and third of them; he bowed to the second, but made no effort to conceal his distaste for it.¹ Condorcet did not underestimate the importance of the King's attitude towards the decrees and he was to give it a prominent place in his article of 13th August 1792 justifying the invasion of the Tuileries by the mob.² But the decrees also had very interesting and significant side-effects.

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1. Condorcet had greeted the voting of this decree with joy (cf. Chronique de Paris 30 and 31st May pp. 602, 604-5), especially as this was partly due to the publicity which he had himself given to a skirmish caused by the royal bodyguard at Neuilly a short time before. (Ibid. 23rd May p, 601).
 2. Cf. "Exposition des motifs d'après lesquels l'assemblée nationale a ... prononcé la suspension du pouvoir dans les mains du roi" O.C. X.548, 551.

By taking the form of an ultimatum addressed by the Assembly to all those who refused to support the Revolution whole-heartedly they forced the King and his supporters into adopting a more positive and active attitude. Secret letters, half-hearted obedience to the Assembly's orders were no longer sufficient. Direct action had to be taken, and it was.

Within a week of the decrees' rejection, the King dismissed the Girondin cabinet and replaced it by one made up entirely of Feuillants (13th June 1792); two days later, Dumouriez, who had till then appeared to support the Revolution, rallied to the ranks of the northern army; three days after that, La Fayette clearly announced his intention of using force against those who wished to destroy the royalist constitution.

Despite all this, however, Condorcet's plan of forcing the King to violate the constitution had still not met with any success. After all, the King had every right to reject the Assembly's decrees. But an ideal opportunity soon presented itself. In June 1792, two ministers, Bertrand and Montmorin, reacted to a formal accusation made by the Assembly's "Comité de surveillance" charging them with belonging to the "comité autrichien" by ordering the arrest of three of the committee members - Merlin, Chabot and Basire - and dragging them by force before a tribunal presided by the Juge de Paix Lariviere.

This flagrant violation of the constitution convinced Condorcet that his plan was beginning to work and he seized the opportunity to give maximum publicity to the duplicity of the executive and the judiciary.

In a carefully argued article entitled "Opinion sur l'attentat commis contre la liberté des membres du corps législatif",¹ he attempted

1. O.C. X.457-473.

to illustrate just how serious a breach of the constitution had been made and to emphasise the gravity of the consequences which could ensue.

The constitution stated quite clearly that the people's representatives were inviolable.¹ A deputy could be arrested only if he was caught in the act of committing a crime and only after an official warrant had been issued. Further, he could only be detained with the Assembly's approval.² If these conditions were not respected, a man who wished to remove a deputy who threatened his interests could have him arrested on any pretext, a practice which would soon paralyse the parliamentary system.

"Ainsi, ... le jour où Mirabeau ... devait avertir la France des dangers qui menaçaient sa liberté naissante, ... un officier de police ... eût pu (l') enlever à l'assemblée des représentants du peuple!"³

And yet, in the case of Merlin, Chabot and Basire, none of these conditions had been respected. First, no warrant had been issued against them:

"Il n'y a pas eu de mandat d'arrêt: ainsi, la constitution a été violée".⁴

Secondly, the "crime" of which they were accused was not a crime at all.

"C'est ... d'avoir publié des faits contenus dans les papiers du comité de surveillance, que les trois membres de ce comité sont accusés! Or, 1^o ce n'est pas là un 'fait criminel' en lui-même, car aucune loi ne l'a mis au rang des crimes; 2^o la loi elle-même a prononcé que ce n'était pas un 'fait criminel'; car aucune action commise par la voie de l'impression n'est un délit, à moins qu'un jury ne l'ait déclaré tel. Il n'y a donc pas eu de 'fait criminel'. Ainsi, sous ce point de vue, la loi a encore été violée".⁵

Finally, the Juge de Paix's sole role in such a case would have

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1. Cf. Constitution de 1791 Titre III, Ch. I, Sect. V, Art. VII; "Opinion sur l'attentat, etc." O.C. X.463.
 2. Ibid 467; Const. de 1791 etc. Art. VIII.
 3. "Opinion, etc." O.C. X.465-466.
 4. Ibid 467.
 5. Ibid 467-468.

been to inform the Assembly of the deputies' action; but Lariviere had gone much further than this.

"La constitution a été violée par le juge de paix Larivière; ... il a attenté contre le texte précis de la loi, à l'exercice de la souveraineté nationale; il a attenté à la liberté des membres de l'assemblée nationale, en les forçant, à main armée, à se rendre chez lui, à y rester, en les faisant conduire et garder par la gendarmerie nationale, en leur interdisant toute communication entre eux, pendant le temps de cette détention illégale; délit pour lequel la peine de mort est expressément portée par la loi". 1

Condorcet was certain that so flagrant a violation of the constitution would galvanise the Assembly into taking measures against all those who were suspected of treason and it was to this purpose that he devoted the remainder of his article.

"On ne peut s'empêcher de reconnaître, dans la conduite du juge de paix, un des fils de ce complot d'avilir l'assemblée nationale aux yeux du peuple, afin que, d'un côté, sa faiblesse, de l'autre, les menaces des tyrans, conduisent à cet abandon de la constitution, ... à cette restauration de la noblesse, ... à cette dépendance du cabinet de Vienne dans nos relations extérieures; en un mot, à cette convention honteuse, objet public ou secret des vœux de tous les ennemis du peuple ... Un des fils de cette trame coupable est aujourd'hui dans vos mains. Ne laissez pas à vos ennemis le temps de le briser". 2

He thus greeted with joy the "décret d'accusation" which the Assembly passed against Larivière.³ This signified that the deputies were at last beginning to see who their enemy really was, and, coming after Larivière's panicky behaviour, indicated that the war policy was finally fulfilling its dual aim of clarifying the general situation and putting pressure on the King's supporters.

In an attempt to press home the advantage which the Larivière case had given him, Condorcet thus concluded his account of it in the "Révision des travaux de la première législature" by violently denouncing the "comité autrichien" -

"Y a-t-il en France un parti autrichien? Oui ... Ce parti a-t-il des chefs? Il est difficile qu'il n'en ait pas". 4 -

1. "Opinion sur l'attentat, etc." O.C. X 469.

2. Ibid 470, 471.

3. "Révision des travaux de la première législature" O.C. X. 433-434.

4. Ibid 434-435.

and by eloquently defending his war policy in the form of an answer to the question: "(Cette guerre) a été nécessaire, sera-t-elle utile?"¹

Finally, the war succeeded in bringing about what Condorcet had desired since 1789; it instilled in the masses a unity of purpose which was to have a decisive effect in forcing the Revolution out of the dangerous rut in which it found itself since the King's return. Even pro-Montagnards historians such as Albert Soboul agree that this long sought for feeling of unity came about as a direct result of the situation created by the war.

"Les revers militaires, l'attitude des généraux, leur collusion avec la Cour, donnèrent, contre les aristocrates qui bafouaient la nation, une nouvelle impulsion à l'élan national inséparable de l'élan révolutionnaire ... La crise nationale donna une nouvelle impulsion aux masses populaires, toujours hantées par le complot aristocratique, et approfondit le mouvement démocratique".²

The movement gathered force through April, May and June and was characterised principally by efforts to bridge the gap between Paris and the provinces and to end the divisions within the Assembly. On 8th June, the Assembly passed a decree summoning 20,000 National Guardsmen from the provinces to set up a camp near Paris. Significantly, this was followed, only twelve days later, by the "Journée du 20 juin" on which the citizens of Paris invaded the Tuileries. On 28th June, both Robespierre and Brissot made speeches calling on the deputies to put an end to their quarrels, and it was an unusually determined Assembly that, on 2nd July, summoned the federal troops to the Fête de la Fédération, thereby totally ignoring the King's veto. The official proclamation of the "Patrie en danger" on 11th July and the subsequent recruitment for the defence of France of troops from every part of the country was the prelude to the movement's climax. This was announced

1. Ibid 436-442.

2. Op. cit. pp. 285-286, 286.

by the arrival of the "fédérés" at the end of July and the triumphant reception given to them by the people of Paris grouped in their "Sections". The Brunswick manifesto provided the final push required to propel the movement to its logical conclusion, the revolution of 10th August.

"L'insurrection du 10 août ne fut pas l'oeuvre du seul peuple parisien, mais du peuple français représenté par les Fédérés; on a pu dire de la 'révolution du 10 août 1792' qu'elle fut nationale". 1

Although it would be rash to claim that Condorcet had foreseen that the war would release forces of such power that three months would suffice to sweep away so many of the contradictions which in 1792 were threatening to destroy the Revolution, there is no doubt that the 10th August came to him as a great relief. The insurrection was of course repugnant to his sense of order, but he felt that its justification lay, if nowhere else, in its very inevitability. The treatment of the mobs by the King's guards in the troubled context of the times had destroyed any possibility of another outcome.

"(Les soldats) reçurent l'ordre de faire feu sur les citoyens ... Alors, rien ne put arrêter la vengeance du peuple, qui éprouvait une trahison nouvelle, au moment même où il venait se plaindre de celles dont il avait longtemps été la victime". 2

However, as he pointed out in his retrospective account, even this would have made little difference after all the damage caused by the lies made at the people's expense by the King's supporters.

"Les déclamations de M. Vaublanc contre le peuple, et l'assertion également impolitique et fausse, que la demande de déchéance (du roi) était l'ouvrage d'une faction de sept à huit cents hommes, auraient déterminé le mouvement, s'il n'avait pas été résolu d'avance". 3

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1. Soboul op. cit. p. 292. It is worth noting that, only nine days later, Lafayette, among others, fled the country, a fact which suggests that the insurrection may be considered to symbolise the success of Condorcet's policy of forcing France's enemies into the open. Certainly, the events of that day signified that the influence of the "comité autrichien" was at an end.
 2. "Exposition des motifs d'après lesquels l'assemblée nationale a proclamé la convocation d'une convention nationale" etc. O.C. X/559-560.
 3. "Justification". I. 601.

Nevertheless, so paradoxical does support for such direct action on the part of the mobs seem in a man who, throughout the Revolution, had appealed to the people to have faith in the constitution and their representatives, that the matter must not be allowed to pass without examination.

3. The 10th August insurrection

Some critics have seen in Condorcet's support for the insurrection further proof of his inconsistency and muddle-headedness. It seems rather absurd, however, to accuse him of inconsistency when all he did on 10th August was to witness the ultimately inevitable consequence of a weakness in the constitution, the absence of any method for revising it, for which he was not responsible and against which he had repeatedly protested.

This does not mean to say that he approved of the way in which the deadlock was finally broken. So great was his dislike for any form of direct political action on the part of the masses that he had always appealed to the people to support a constitution which, as he knew only too well, violated, by not including it among its articles, one of the basic rights of man. If inconsistency there is, it lies in the fact that, as late as 1792, he supported a movement which, according to the logic of his philosophical ideas, he should have supported much earlier.

Enough has been said, however, about his awareness in 1790 of the fact that the constitution represented the only weapon which could be used against those who hoped to return to the constitutionless Ancien Régime. But there were other considerations too. In 1790 the people were disunited; any spontaneous attempt to overthrow the constitution would have led to anarchy and reaction. In addition to thus, the wave of emotional fervour which greeted the King's restoration

after the flight to Varennes, together with the massacre of the republicans which followed, were brutal reminders of the fact that the majority of the population still supported the King. Therefore, in 1791 also, there seemed little hope of changing the constitution.

However, all this does not exactly answer the question. If Condorcet's reluctance to condone direct action against the constitution in 1790 and 1791 is understandable, how could this be justified in the totally different context of 1792? By exposing the King's true intentions and instilling in the masses a new unity of purpose, had not the war created a situation in which an insurrection had every chance of serving the cause of the Revolution?

If we examine the question more closely, we may understand Condorcet's attitude a little better. In the first place, one of the less useful consequences of the war was that it had pushed many moderates who had till then remained loyal to the Revolution into rallying around the King. This polarisation of the nation into two factions, both of whom were hostile to the constitution, threatened to lead to civil war and anarchy and only the National Assembly had the authority to preserve order and legality.

Secondly, and more important, Condorcet was aware that the Revolution had reached a crucial stage in which it would either triumph over the contradictions which had till then paralysed it or would collapse completely. The movement which would ensure its triumph would come either as the result of a spontaneous revolt of the masses justified by nothing save the rather vague notion of the "droit d'insurrection", or by the solemn expression of the people's will via a method established by, and on the initiative of, the National Assembly.

Naturally enough, Condorcet preferred the second of these

solutions; but it was clear that things had gone so far by the summer of 1792 that the failure to employ the second method made the first one inevitable and validated it as a result. This matter was a source of great anxiety for Condorcet as he fully realised that, on the eve of what had every chance of turning into a second revolution, the question of precedent had become, as in 1789, one of great importance. A violent uprising, no matter how justified, could never have the force of a true precedent. An appeal to the people, coming on the initiative of the legally elected Assembly, would have this force. In short, it was a question not merely of justice being done (a popular insurrection would have achieved this), but of justice being seen to be done.

Condorcet knew, however, that, because of the very nature of the constitution, it would be impossible to discover a solution that was fully legal. At worst, whatever the method chosen, it could always be accused of being unconstitutional; at best, it could only be excused on the grounds that all methods which the constitution did not specifically forbid were justified by circumstances.

It was in fact with just such an argument that in an article of 1792 entitled, "Sur la nécessité d'une convocation extraordinaire des assemblées primaires en 1792", he countered the charge that, under no circumstances, could the Assembly inform the public of its wish to change the constitution.

"La loi nous interdit de faire aucun changement à l'acte constitutionnel."

"Elle nous interdit également d'appeler une assemblée de révision et même une convention nationale, destinée à changer la constitution."

"Mais elle ne nous interdit pas la faculté de déclarer à la nation que nous ne trouvons pas dans l'acte constitutionnel les moyens de sauver la patrie, et nous devons alors lui développer les motifs de cette déclaration". 1

1. O.C. X.263.

The complexity of the problems facing him and the great care with which he approached them is best seen in the two texts which he wrote just before 10th August, at a time when the need to come to a decision about what action to take was becoming increasingly urgent. The texts were written following two important events which occurred on 3rd August and which constituted a kind of prelude for what was to happen a week later.

The first event consisted in a petition, presented to the Assembly by Pétion, on behalf of the Paris districts, calling for the King's suspension. The Assembly accepted the petition and appointed a special committee to examine it. Speaking in the committee's name a week later, Condorcet advised the Assembly as to the course of action it should take.¹

This report represents a brilliant attempt to illustrate how the constitution, as it stood, was totally inadequate for dealing with a situation for which it had not been created. This inadequacy stemmed from the fact that the only condition which it had allowed for declaring the King to have abdicated consisted in his committing a flagrant act of treason which could leave absolutely no doubt as to his motives.

"La constitution ne parle dans aucun article de la déchéance du roi; mais elle détermine plusieurs cas où il est censé avoir abdicé, et c'est ce qu'elle appelle une abdication légale."

"Dans le cas d'absence prolongée au delà du terme fixé par la constitution, de la rétraction du serment, du délit de se mettre à la tête d'une armée ennemie ..., dans celui où il n'existerait de la part du roi ... aucun désaveu de cette entreprise, il est évident ... que le corps législatif pourrait déclarer l'abdication légale". 2

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1. This is included in Condorcet's complete works under the title, "Rapport fait au nom d'une commission extraordinaire, à l'assemblée nationale, sur une pétition de la Commune de Paris, tendant à la déchéance du roi". X.521-530.
 2. Ibid 524.

Unfortunately the King had on no occasion violated the constitution in so flagrant a manner and the only way that proof of his duplicity could be found was to examine his acts and writings in detail. But this would raise serious constitutional questions.

"Il s'agit de violations du serment qu'il eût été rétracté, d'une connivence avec l'ennemi, malgré des désaveux publics; comme alors vous n'avez plus de faits évidemment notoires, comme il faudrait à la fois obtenir la preuve des faits allégués et juger si la loi peut s'y appliquer, vous aurez à porter un véritable jugement, et la première question à résoudre est de savoir si la constitution vous en donne le pouvoir". 1

Even if it was decided that the constitution allowed the deputies to judge the King, the next problem would consist in discovering a method whereby this judgement could take place. Here again, the constitution remained silent.²

But the difficulties did not end there. If the Assembly did declare that the King had abdicated, power would automatically pass into the hands of a regent. Should no one accept to become regent, as would most likely happen, executive power would pass to the ministers. But what would happen if the ministers refused to accept it, or if they were considered too dangerous to be allowed to do so? Once again, the constitution gave no answer. It was clear, therefore, that it had to be changed, and this despite the fact that it said nothing about how this could be done.³

It is obvious that Condorcet's aim in writing the report was to show that the cause of the deadlock lay precisely in the fact that the constitution was inadequate and that it could only be changed with the approval of the people.

The gravity of the situation was underlined by the second event

1. Ibid 524-525.

2. "Rapport fait au nom d'une commission, etc." O.C. X. 525.

3. Ibid 525.

which took place on 3rd August. This was the decision made by the citizens of the Mauconseil section of Paris to renounce their civic oath and to consider themselves no longer bound by the laws of the constitution. Afraid that this was the first sign of a revolt which could lead to a civil war, Condorcet promptly wrote an article aimed at showing the Assembly where its responsibilities lay.

The "Instruction sur l'exercice du droit de souveraineté"¹ is interesting in so far as it is the first of his numerous writings on the nature of legislative power to have been written with specific reference to a concrete case. We may add that it was precisely because he had given so much thought to this question throughout his life that he was able to react so fast to the situation and to answer the claims of the Mauconseil citizens coherently and authoritatively.

He began by admitting that the behaviour of these citizens was understandable in the context of the times.

"Lorsque le peuple croit voir les moyens de défense, créés par son dévouement et son courage, s'évanouir entre les mains chargées de les diriger ..., lorsque une longue suite de trahisons semblent justifier toutes les défiances et légitimer tous les soupçons, on ne doit pas s'étonner ... de voir les citoyens n'attendre leur salut que d'eux-mêmes, et chercher une dernière ressource dans l'exercice de cette souveraineté inaliénable du peuple; droit qu'il tient de la nature, et qu'aucune loi légitime ne peut lui ravir". 2

However, using much the same arguments as those he had put forward during the Etats-Généraux, he went on to show the fundamental difference which existed between the spontaneous action of a group of citizens and the true expression of popular sovereignty. He stated notably that the people, having only delegated their right to make the laws to representatives, could, at any time, withdraw their delegation. However, as the original delegation was granted by the

1. O.C. X. 531-540.

2. Ibid 533.

majority of the people taken as a whole, only the majority could withdraw it. Therefore, although the citizens of Mauconseil had the right to express their dissatisfaction with the constitution, they had no right to reject it until the majority of the people had expressed its desire for a new constitution.

"Lorsque l'universalité d'une nation a voté dans des assemblées convoquées suivant une forme établie par la loi et formées de sections du peuple, déterminées aussi par la loi, alors le vœu de la majorité des citoyens présents à ces assemblées ... est l'expression de la volonté nationale; et l'absence volontaire des autres citoyens devient une preuve de leur adhésion préalable au vœu de cette majorité.

Mais si ces assemblées se sont formées spontanément, l'absence des citoyens n'est plus une preuve suffisante de leur renonciation momentanée à l'exercice de leurs droits; et le vœu de la majorité réelle des citoyens peut seul être l'expression de la volonté nationale". 1

The important thing here, however, was that the initiative for setting up the machinery for discovering a method whereby the people's wish could be expressed, lay with the only body which represented the delegated rights of the people.

"Lorsque de grands intérêts peuvent faire désirer de connaître la volonté nationale avec une entière certitude de dissiper tous les nuages ... il est aisé de sentir combien il est important qu'elle puisse se manifester dans des assemblées régulièrement convoquées ... Quand il existe une représentation générale, c'est ... à elle qu'il appartient ... d'indiquer cette convocation". 2

Failing this, the people had no alternative but to call for this convocation themselves; the spontaneous action of the masses would then represent the legitimate manifestation of popular sovereignty.

"Si ... une grande portion du peuple avait marqué la volonté (d'une convocation), si les représentants ne l'avaient pas écoutée, alors cette prérogative qu'ils tiennent, non d'un droit réel, mais de la confiance dont ils sont les dépositaires présumés, mais de la loi, mais de l'utilité commune, cesserait avec cette confiance, avec cette utilité; et le premier vœu spontané du peuple serait ... l'expression légitime de la volonté nationale". 3

Condorcet concluded the essay with an appeal to the Assembly to take the necessary steps to prevent such a situation from coming into

1. "Instruction sur l'exercice du droit de souveraineté" O.C. X.536-537.
2. Ibid 538.
3. Ibid 539.

being, implying that he would support the people if it refused to do so. When we bear in mind that the 10th August insurrection was the work, not just of a section of the French population, but of the representatives of thousands of communes scattered throughout France, we may understand why he decided to give it his backing.

Nevertheless, it is clear that the insurrection cannot be considered legitimate according to his own definitions of popular sovereignty. Other reasons, therefore, have to be found to explain his support for it. Two may be suggested.

The first was the breakdown of his long-term policy of loyalty to the constitution between June and August 1792. As this period corresponds to the final stage of the evolution of his ideas during the Revolution, it is worth examining fairly closely.

In retrospect, it is difficult to understand how the policy could possibly have succeeded. By attempting to use a constitution with which he disagreed as a means for revealing the King's hostility towards it, Condorcet undoubtedly took a great risk. The policy's success depended entirely on forcing the King into openly rejecting the principles of the constitution; this would have amounted to an abdication and would automatically have made a change of constitution possible. If the King refused to betray himself in this way, then it would be absolutely vital to make it clear to all that the constitution was quite powerless to deal with the new problems faced by the nation and hence to convince the Assembly of the necessity of asking the people if they wanted a change.

However, the war policy had, paradoxically enough, created just the kind of situation which could jeopardise his plan. On the one hand, it had succeeded in unleashing popular forces which were of great value for breaking the deadlock but which could barely be contained by a constitution whose powerlessness was being underlined everyday; on

the other hand, the polarisation of public opinion caused by the war had led to the formation within the Assembly itself of a group of men who had no intention of supporting any move in favour of changing the constitution. In other words, the situation was ripe for what Condorcet had endeavoured to prevent from 1789 onwards, the outbreak of a civil war which threatened to destroy all that the Revolution had accomplished.

From June to August, therefore, we have the picture of Condorcet dancing on a tightrope between loyalty to the constitution (in order to show both the King's opposition to it and its inadequacy) and an increasingly active support for emergency laws aimed at controlling the new forces let loose by the war. The situation reached a head in August 1792 as the following look at his action and writings during the two previous months will show.

In June 1792, Condorcet clearly wished to remain firm to his "loyalty" policy as is indicated by the text of a speech he was to have made to the Assembly on 1st June concerning the civil list. His aim was to deprive the King of an important source of income, but it is significant that he avoided mentioning this directly and based his case entirely on arguments derived from constitutional theory and expressed in very legalistic language.

He argued notably that the amount fixed by the Constituent Assembly in 1790 could be altered by the Legislative Assembly. The constitution had said that the amount would be reviewed at the beginning of each reign; in Condorcet's opinion, the King's status after the acceptance of the constitution was so different from what it had been before, that, under the Legislative Assembly, he could effectively be said to have started a new reign.¹

1. "Sur la liste civile" O.C. XII.183 Cf. "Le mot de 'changement de règne' doit ... s'entendre aussi des changements dans les conditions de la royauté".

He then went on to demonstrate how the aims of the old civil list had been so modified by new legislation that it had to be radically altered, in other words reduced,¹ and concluded with an elaborate scheme for calculating the amount to be granted to the King in such a way that the masses could be kept informed both of the amount and the uses to which it was put.²

These points are worth mentioning precisely because they reflect well his policy of the time - an exploitation of the constitution aimed at trapping the King and reducing his influence, but without questioning the validity of the constitution itself. That the attack on the civil list formed an integral part of this policy is indicated quite clearly in Condorcet's retrospective account of the events of the time.

"Je crus alors ... qu'il fallait profiter de ce ministère (i.e. the Girondin ministry) pour faire passer quelques lois utiles, et propres à diminuer du moins les moyens de nuire que la constitution avait donnés au roi. On le pouvait ... en diminuant la liste civile que l'Assemblée constituante avait provisoirement établie, et que l'Assemblée actuelle avait, d'après la constitution actuelle, bien entendu, l'obligation et le droit de fixer".³

The fact that the Assembly made no attempt to take such measures must have given Condorcet an idea of what to expect in the future, but he remained firm to his policy even after the dismissal of the Girondin cabinet on 6th June, urging the Assembly ten days later to remain faithful to the constitution and not to rush through panic measures which violated it.⁴

He was nevertheless perfectly aware of the danger of the situation as is indicated by his support for measures which, only two years before, he had strongly attacked. Thus, on 19th June, he himself moved a motion before the Assembly calling for the destruction of the

1. Ibid 186-188.

2. Ibid 189-190.

3. "Fragment de Justification" O.C. I.593.

4. Chronique de Paris 16th June 1792 p. 669; cf.

"titres généalogiques" belonging to the nobles.¹ This act, which, in the early days of the Revolution, he had included among those ineffective and demagogic measures which served only to whip up the fury of the reactionaries, he now urged as vital. This evolution may only be explained by his desire to satisfy the growing impatience of the people.

The 20th June announced the change which was to take place in Condorcet's ideas in July and August. His reaction to the events of that day reveal that he was perfectly aware of the new direction which the King's attitude was forcing the Revolution to follow.

"La coalition donna au roi un ministère de valets; et il fut prouvé, pour tous les hommes un peu prévoyants, qu'il n'y avait plus de ressource que dans une révolution nouvelle, ou un mouvement qui forcerait le roi à changer de conduite et à laisser sans réserve les rênes du gouvernement à des ministres populaires.

Ce fut dans ces circonstances qu'arriva l'affaire du 20 juin".²

As we have seen, the 20th June acted as a catalyst which put an end to the divisions which had separated the Girondins and Montagnards over the question of war. It is significant that Condorcet returned to the Jacobins on that very day for the first time since the beginning of the war.³ His plan of using the war to create a sense of unity among the masses had succeeded and the 20th June could be described as the symbol of this new-found unity.

On the other hand, the 20th June was a sign to Condorcet that his "loyalty" policy had reached the limit of its usefulness and would backfire if pushed too far. The threats of Generals Lafayette and Lukner, the demands of the "départements" directories that the ring-leaders of the 20th June revolt be arrested, etc., were indications that

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1. "Anniversaire de la séance du 19 juin 1790. Proposition de Condorcet". O.C. I.534-535.
 2. "Fragment de Justification" O.C. I.594.
 3. Cf. Aulard op. cit. IV.17.

the new unity of the masses had succeeded in forging also the unity of the forces who opposed the regime, thus setting the stage for civil war.

It was in this atmosphere that he made his important speech of 6th July 1792, the "Opinion sur les mesures générales propres à sauver la patrie des dangers imminents dont elle est menacée".¹ This speech is interesting in so far as it was his last attempt to conciliate the "loyalty" policy with the need for strong measures to save France from chaos. He believed that the rejection of the measures he proposed would prove beyond all doubt that the King was hostile to all that the Revolution stood for and would lead to the automatic suspension of the constitution and the setting up of machinery to create a new one.

To this purpose, the measures he put forward were all shown to be vital for the nation's survival and, above all, to be fully justified by the spirit of the constitution. He stated, for example, that, as the King was inviolable, he should not be attacked personally. However, the constitution said nothing about the inviolability of the ministers, the generals or the administrators. It was against these, therefore, that the bulk of the measures were to be taken.

Thus, the ministers were to report daily to the Assembly's committees on the affairs of their department; they were to be held responsible for any disorders ensuing from the King's refusal to sanction an important decree; the Foreign Minister was to be arrested if he withheld any information about the activities of agitators working against the State, and so on. More specifically, Condorcet called for the Minister of the Interior to inform the Assembly, on pain of arrest, who issued the order which rendered the Assembly's decree dissolving the

1. O.C. X.475-519.

Royal bodyguard.¹

Any general who deserted his army (an obvious reference to Lafayette), presented private petitions to the King or the Assembly, or who negotiated on his own initiative with the enemy, was to be considered guilty of treason and arrested.²

Finally, he called for the buying up of the land of all the émigrés who had refused to swear the oath proposed to them by the Assembly in the opening months of its session.³

However, Condorcet realised that all these measures would be futile unless important reforms were made in the financial field. For example, it was imperative that the King be prevented from exercising any control on the finances; these were to be placed in the hands of administrators nominated for the purpose.⁴

It is clear, however, that even at so late a stage, Condorcet still hoped that the King would agree to support the constitution. How else may we explain the appeal which he made to him at the end of his speech?

"En acceptant la constitution, vous n'avez pu séparer les pouvoirs qu'elle vous donne des devoirs qu'elle vous impose; et l'obligation de désavouer, par un acte formel, toute force armée, employée, en votre nom, contre la nation française, est le premier, le plus sacré de ces devoirs".⁵

It would seem that, despite the 20th June, he still retained an instinctive fear of violence and direct rule and felt that the King continued to wield great emotional power over the people.

However, the King's refusal to make the "acte formel" and to accept the measures put forward by Condorcet destroyed what remaining

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1. Ibid 507-509: "Acte du corps législatif sur la responsabilité des ministres" Arts. 1, 2, 4, 5.
 2. Ibid 509-510: "Acte du corps législatif sur la responsabilité des généraux" Arts. 1-3.
 3. Ibid 510-512: "Décret sur les biens des émigrés" Arts. 1-6.
 4. Ibid 512-514: "Décret sur l'ordre à établir dans les dépenses publiques" Arts. 1-3; "Décret sur la nomination ou la destitution des administrateurs des deniers publics" Arts. 1-5.
 5. "Opinion sur les mesures générales, etc." O.C. X.514.

hopes he had of retaining the constitutional monarchy. He therefore at last abandoned his "loyalty" policy and rallied to the ranks of those who now pressed for the constitution's suspension. This was done in effect on 11th July when Brissot proclaimed "la patrie en danger". A week later Condorcet was among nine deputies elected to the "Commission des Douze". This body, the ancestor of the "Comité de Salut Public", now became the most powerful force in the country, its specific purpose being to ensure that the Assembly's decrees were put into operation.

In other words, Condorcet's election to the presidency of the commission in place of the moderate Pastoret marked the zenith of his political career and it is significant that this event should have taken place precisely during the crisis which he had always considered inevitable in the absence of any legal method for changing the constitution.

The second reason why Condorcet supported the 10th August insurrection was that it not only served to break the deadlock which threatened to destroy the Revolution, but that it did so without provoking a general breakdown of law and order. On the contrary, events could not really have taken a better turn. The King's decision to seek refuge with the people's representatives in the National Assembly amounted to an admission of failure. By highlighting the Assembly's authority in so forceful a manner, he paradoxically paved the way for those who wished to see in this move the equivalent of an abdication.

It became much easier in the circumstances to take the steps which could now alone impose order on the nation - the suspension of the King and the election of a convention.

The period June 1791 to September 1792 was thus one of considerable significance in the evolution of Condorcet's ideas. Despite the linear progressive movement which saw them gradually evolve towards support for war and away from the tolerance which he had previously shown to the emigres and clergy, it may best be compared to a circle. It began after the King's flight with the important breakthrough in Condorcet's ideas on the organisation of the executive, was followed by a return to the attitude of compromise which characterised the Condorcet of the Constituent Assembly period and ended with what may be considered as the King's second flight.

This time, however, the King's departure was to be definitive and the period reached its conclusion with Condorcet on the threshold of at last putting into practice the ideas which he had described some nineteen months before. In short, this period marks the slow disintegration of the network of compromises and contradictions brought about by his attempts to adapt the plan he had draughted before 1789 to the political realities of the years 1790 and 1791 and paves the way for the synthesis which he at last saw the opportunity of achieving.

CHAPTER IV

a) CONDORCET'S WRITINGS AND ACTIVITIES BETWEEN
10th AUGUST 1792 and 20th JANUARY 1793.

In a thesis concerned with the development of Condorcet's ideas during the Revolution there is little to be said about his activities and writings during the weeks leading to the setting up of the Convention and the first few months of its deliberations. The most important aspect of this period was the need, greater than ever, to channel the new lease of life given to the Revolution by the 10th August uprising in the direction of unity. Practically all Condorcet's activities during this period were directed towards this end and it is as the crowning phase of his policy throughout the Revolution that the months leading from August 1792 to February 1793 appear most significant.

From 1789 to 1791 Condorcet had concentrated his policy on seeking a compromise between the desires of those elements who wished to press ahead with the Revolution and those who were satisfied with the spirit of the Constitution and had no desire to go any further. In effect this meant supporting the liberal element of the aristocracy and upper bourgeoisie represented for the most part by those who were later to be called the Feuillants.

By August 1792 of course the Feuillants no longer represented the middle road and, as has been seen, their leaders now rallied to the ranks of those who had opposed the Revolution from the beginning. The break-through of the "passive" citizens and the consequent rise to power of Robespierre's supporters left the lines of battle clearly drawn

between the two factions who were to dominate the Convention: Girondins and Montagnards. Behind these factions lay a whole series of conflicts and divisions which may, in a very general manner, be reduced to two headings: the division between Paris and the provinces and the division between the passive citizens who now claimed their share of the power which had been denied them since the beginning of the Revolution and the property owners who wished to preserve the rights and privileges which had been accorded them by the constitution.

For the purpose of clarity we may divide this struggle into two phases, the first lasting from 10th August 1792 to the setting up of the Convention on 20th September, the second lasting down to the fall of the Girondins in June 1793.

1) 10th August 1792 - 20th September 1792

As Soboul has shown¹ two distinct "powers" now governed France - the National Assembly and the revolutionary Commune of Paris. The latter had ousted the old Commune of 1789 and, after elections, had increased its membership to 288. The Assembly, faced with the "fait accompli", had been obliged to give way and continued to do so throughout August. It thus allowed the Commune to nominate "commissaires" to supervise the workings of the administrative bodies throughout the country and, under Commune pressure, ordered the municipalities on 11th August to arrest all people suspected of opposing the new regime.

On 17th August the Assembly¹ bowed to the Commune's wish for a "Tribunal criminel extraordinaire" consisting of judges elected by the Parisian sections. The sweeping measures brought in against the Church

1. Op. cit. pp.303-304.

on the 10th, 16th, 18th and 20th August and 20th September (notably the decree expelling all priests who refused to swear an oath of loyalty to the nation, and the Church's loss of control over the registration of births, deaths and marriages) were further reflections of the Commune's influence. This reached a height with its request on 28th August that all houses be searched for arms, the consequent arrests of 30th August and the massacres of 2nd-6th September which the Assembly was powerless to prevent or even stop.¹

It was against this background that Condorcet struggled to preserve the revolutionaries' unity of purpose, and he did so, sometimes by attacking the more extreme demands of the Commune, sometimes by attempting to justify the necessity of such demands to the provinces.

The most important step which he took in this direction, and one which the critics who accuse Condorcet of inconsistency are quick to point out, was the unqualified support which he gave to Danton in August 1792. Condorcet is inconsistent in so far as his closest friends in the revolutionary movement were to be found among the Girondins who hated Danton. Hélène Delsaux has also pointed out that, only a year before, Condorcet "déclarait dédaigneusement dans la Chronique (de Paris), qu'il ne se commettait pas avec lui et qu'il ne le connaissait même pas."²

In retrospect, it is easy to condemn Condorcet's decision to support Danton; it is clear, however, that at a time when no one body could claim to represent truly the wishes of the people, it was vital that

1. Cf. Soboul, op. cit. pp.305-311.

2. Delsaux, op. cit. p.133; Mathiez mentions Condorcet's angry reaction when Danton used the columns of the Chronique de Paris to announce his election to the post of "Substitut de procureur de la Commune" on 6th December 1791. Cf. Autour de Danton, Paris, Payot, 1926, p.99.

a strong personality should hold together the different parts of the revolutionary movement until the time when a new elected body could come into being. Danton seemed to possess all the qualities for the role. A modern historian has summed up the characteristics which are often associated with Danton in the writings of a great many commentators on the Revolution: "... éloquent, d'une manière populaire et sans apprêt, réaliste, sachant manoeuvrer comme se décider avec audace, foncièrement généreux et profondément jouisseur, prêt à l'emportement et incapable de rancune"¹ and it is in similar terms that Condorcet himself spoke of him:

"On m'a reproché d'avoir donné ma voix à Danton pour être ministre de la justice. Voici mes raisons. Il fallait dans le ministère un homme qui eût la confiance de ce même peuple dont les agitations venaient de renverser le trône; il fallait ... un homme qui, par son ascendant, pût contenir les instruments très méprisables d'une révolution utile, glorieuse et nécessaire; et il fallait que cet homme, par son talent pour la parole, par son esprit, par son caractère, n'avilît pas le ministère ni les membres de l'Assemblée nationale qui auraient à traiter avec lui. Danton seul avait ces qualités: je le choisis et je ne m'en repens point. ... D'ailleurs Danton a cette qualité si précieuse que n'ont jamais les hommes ordinaires, il ne hait ou ne craint ni les lumières, ni les talents, ni la vertu."²

Soboul has shown the important role played by the Conseil Exécutif during the vital weeks leading to the election of the Convention³. It was the only body which could act as liaison between the two assemblies which now effectively governed the country. Danton's past history as a member of the Cordeliers instinctively led him to lean towards the Commune, and it is interesting to quote the end of Condorcet's justification of his decision to support Danton as a reflection of his general attitude towards the people in the summer of 1792:

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1. Soboul, op. cit. p.305.
 2. Justification I. 602-603.
 3. Op. cit. p.304.

"Peut-être exagéra-t-il les maximes des constitutions populaires, dans le sens d'une trop grande déférence aux idées du peuple, d'un trop grand emploi dans les affaires, de ses mouvements et de ses opinions. Mais le principe de n'agir qu'avec le peuple et par lui, en le dirigeant, est le seul qui dans un temps de révolution populaire, puisse sauver les lois; et tous les partis qui se sépareront du peuple finiront par se perdre, et peut-être par le perdre avec eux."¹

These words clearly illustrate the conflict, which affected Condorcet's attitude towards events throughout the Revolution, between the supporter of order, keen to see that everything was done via the proper constitutional channels, and the realist who was quick to see where the balance of power lay and to adapt his ideas in consequence.

Faced with this dilemma yet again, Condorcet, between August and September 1792, opted for a three-fold course of action. The middle course consisted in exploiting the one point on which the two factions which now dominated the Revolution could unite - namely their common hostility towards the émigrés (cf. the decrees of 14th and 25th August concerning the sale of their lands in small portions and the abolition of the remaining feudal dues). Hence Condorcet supported all the measures taken against them and dwelt at length, in the various addresses which he wrote to the people, on the danger represented by the King and his allies. This theme he had expressed eloquently as early as 13th August in the "Exposition des motifs d'après lesquels l'Assemblée nationale a proclamé la convocation d'une convention nationale, et prononcé la suspension du ~~toi~~ pouvoir exécutif dans les mains des rois,"² but he returned to it six days later in the "Adresse de l'Assemblée nationale aux Français, imprimée par son ordre, envoyée aux 83 départements

1. Justification I. 602-603.

2. O.C. X. 545-564.

et à l'armée."¹ This theme also runs through one of the last articles he wrote before the Convention, the "Adresse de l'Assemblée nationale aux Français"² and plays a major part in the appeal for unity which he made on the day the Convention actually met, the essay "Sur la nécessité de l'union entre les citoyens".³

The second aspect of Condorcet's action lay in his opposition to any moves taken by the Commune and its extremist supporters which might jeopardise the nation's unity. His anxiety is reflected in the constant appeals he made to the people to remain loyal to the Assembly, starting with a text published on the very day of the insurrection: "L'assemblée nationale s'occupe de préparer les lois que des circonstances si extraordinaires, ont rendu nécessaires. Elle invite les citoyens, au nom de la patrie, ... à se rallier à elle, à l'aider à sauver la chose publique, à ne pas aggraver, par de funestes divisions, les maux et les divisions de l'empire."⁴

He was so afraid that the people in the provinces might not understand the motives of the Parisians that he urged the Assembly, on 18th August, to inform the provinces clearly why they had agreed to suspend the King at the wish of the Paris districts.⁵ His hostility to the too direct action of the Commune and its extremists was clearly

1. O.C. X. 573-577.

2. O.C. X. 579-585.

3. O.C. XII. 215-221.

4. Adresse aux citoyens de Paris sur le maintien de la tranquillité publique, O.C. X. 541-544.

5. Chronique de Paris, 18th August 1792, p.921; Cahen op.cit. p.425.

expressed on two occasions. On 18th August he strongly attacked the request of the Parisian districts that the Tribunal Criminel Extra-ordinaire be made up of people chosen from among their members.¹ The second occasion took place after the September massacres which he considered to be the consequence of the activities of people such as Marat. He is at pains in the "Justification"² to emphasise that these people constituted a tiny minority within the Commune, but his words seem to betray a much more profound distrust of the Commune's behaviour. "Les massacres du 2 septembre ... n'ont pas été l'ouvrage du peuple ... C'est celui d'un petit nombre de factieux, qui ont eu l'art ... de tromper les citoyens et l'Assemblée nationale ... De là cette lutte entre l'Assemblée nationale et la Commune de Paris, lutte facile à éviter en s'adressant aux sections qui ne partageaient point l'esprit violent ... de cette commune; en se servant de la commune elle-même, qui gémissait sous la tyrannie de quelques vils agitateurs."³ The implication here seems to be that the whole Commune was in fact controlled by these extremists and thus represented a danger.

It is true to say, however, that Condorcet's awareness of the basic importance of Paris as a bulwark against the dangers of reaction was stronger than his fear of alienating the provinces. It is perhaps for this reason that critics have rightly emphasised his relatively moderate reaction to the massacres. At a time when France was invaded

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1. Chronique de Paris, 16th August 1792, p.906.
 2. Cf. also his Chronique de Paris, articles of 4 and 8th September 1792. Cf. Delsaux op. cit. pp.133-134.
 3. Ibid. I. 603-604.

by Prussian troops, whose siege of Verdun on 2nd September, following closely on the capture of Longwy six days before, had precipitated the massacres, and at a time when the first elections for two years were about to take place, it would have been extremely clumsy, on Condorcet's part, to give publicity to events which could only have destroyed the feeling of unity which he was struggling so hard to create.

It is thus the third aspect of his action - support for the Commune - which is the most important. On the 10th August he had already expressed his faith in the good will of the majority of the citizens of Paris:

"Aujourd'hui, les citoyens de Paris ont déclaré au corps législatif qu'il était la seule autorité qui eût conservé leur confiance".¹

Thereafter he bowed to most of the sweeping measures taken by the Assembly under the pressure of the Commune. He thus hailed the decrees which were aimed at the refractory priests, believing that they were necessary if all the traitors were to be unmasked;² at no time did he oppose such emergency measures as house-searches, arrest of suspects, etc. and, despite his belief in the right of property³ and "laissez faire" economics, made no protest when the Commune persuaded the Assembly to pass the decrees of 9th and 16th September by which the "District directories" were to proceed to the requisitioning of grain.

1. Adresse aux citoyens, etc. X. 543.

2. Chronique de Paris, 15th August 1792, p.910; Cahen, p.427.

3. Repeated as recently as 10th August: "Elle (l'Assemblée nationale) invite les citoyens ... de veiller à ce que les droits de l'homme soient respectés, et les propriétés assurées" (Adresse aux citoyens, etc., X. 543-544.)

2. The Convention

As a member of the Convention, Condorcet naturally endeavoured to follow his policy of conciliation. From the beginning, however, it was clear that the task he had set himself was going to be extremely difficult. The very fact that he was deterred from presenting his candidature in Paris and was eventually elected by five provincial departements is illustrative of the problems he was to face. For the Montagnards, Condorcet was a Girondin and his numerous appeals to the provinces to accept the measures imposed by the Parisian sections on the Assembly were interpreted as attempts to gain the sympathy of public opinion outside Paris as a preliminary step towards using this as a weapon against the capital.

Condorcet was bitterly disappointed not to have been able to represent Paris in the Convention, as the "Justification" indicates¹, and he attempted to anticipate the difficulties into which this failure placed his policy by declaring, during the very first week of the Convention, that he would refuse to follow the policy of any one group of people: "Je ne serai d'aucun parti, comme je n'ai été d'aucun jusque-là."² It is clear in the context of the times that he was here attempting to disassociate himself from the Girondins with whom he had so often been identified in the past; thus, it is with reference to their ideas that the truth of his declaration may be verified.

In the field of foreign affairs we cannot say that Condorcet departed very far from the attitude of the Girondins. On 21st November 1792

1. I. 605.

2. Inst. Mss. N.S. N° 21 dossier B, N° 1, cf. Cahen op. cit. 437; Delsaux op. cit. p.241.

Brissot, then President of the Comité diplomatique, had called for the creation of a ring of small republics surrounding France and had announced that this could be achieved if the French armies continued to put pressure on the kings and princes of the various European states.¹ This ideal was repeated several times by Condorcet in his "Chronique de Paris" articles of the time². It recurs in the three passionate "memoires" which he addressed to the peoples of Spain, Prussia and the Netherlands during the same period, urging them to turn away from the foredoomed enterprises of their respective rulers and to follow the example of the French people.³

It is true to say, however, that Condorcet was here merely following the general will of the Convention which had enthusiastically passed the famous decree of the 19th November 1792 by which France undertook to offer aid to any peoples who wished to overthrow their despots⁴.

To find proof of his reluctance to follow the Girondins the whole way, we must look to his attitude towards the war in the opening weeks of the Convention. This contrasts strongly with the bellicose attitude which he was to adopt in November and December. It is interesting to note that it coincided with the ideas, if anyone, of Danton. Thus, on 28th September he enthusiastically supported Danton's appeal for the French not to follow a policy of "liberation" of the oppressed peoples of Europe⁵. Condorcet

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1. Soboul op. cit. pp.336-337.
 2. Cf. 6th November 1793, p.1242; 2nd December 1793, p.1345; 16th December 1793, pp.1401-1402; Cahen, 448.
 3. Cf. Avis aux Espagnols O.C. XII. 121-136; Adresse aux Bataves O.C. XII. 137-148; Adresse aux Germains, O.C. XII. 149-166.
 4. Cf. Soboul, p.336.
 5. Cf. Chronique de Paris, 30th September 1792.

was convinced that the war had now fulfilled its purpose and could not solve France's problems. Victory would only increase the dangers of a military dictatorship while defeat would exacerbate the internal divisions and create a climate of insecurity which would lead to more massacres. Consequently, the two important memoirs which he wrote during this period, the essay "La République française aux hommes libres"¹ and the "Lettre à M ..., magistrat de la ville de ... en Suisse"² represent appeals to the governments of Prussia and Switzerland to cease their war policy and come to terms with the French republic. That both writings had the support of Danton is indicated by the fact that they were very swiftly printed and sent to the different parts of France and abroad. It was only when they were rejected by the nations to which they were sent that Condorcet rejoined the ranks of those who wished to pursue the war to the end.

In the field of internal affairs, however, there can be no doubt that Condorcet remained true to his intention of not siding with any party. Evidence is to be found in the articles which he wrote almost daily in the Chronique de Paris throughout the last few months of 1792³, condemning with great consistency any moves, whether on the part of Girondins or Montagnards, which endangered the unity of the nation.

It is on the question of national unity that Condorcet's opposition to the Girondins may first be clearly seen. The truce between the two

1. O.C. XII. 107-119.

2. O.C. XII. 167-177.

3. Many writers on Condorcet have drawn attention to the fact that his illness and his inability to communicate his ideas in the passionate atmosphere of the Convention were responsible for his increasing reliance on newspaper articles.

parties during the first few weeks of the Convention was symbolised by the passing of the two vital decrees of the 21st and 25th September. The first abolished the monarchy and was triumphantly acclaimed by Condorcet in his article of 22nd September¹. The second solemnly declared that "la République française est une et indivisible", a move for which Condorcet had campaigned throughout the Revolution. In fact the truce was a very uneasy one, if only because of the different conceptions of national unity which were held by the two parties. The Girondin conception was revealed in the statement made by the deputy Lasource on 25th September desiring that the département of Paris "soit réduit à un 8^e d'influence comme chacun des autres départements,"² a clear attack on the influence of the Parisian citizens and their deputies. This statement is the antithesis of the one made by Condorcet in his appeal of 20th September: "La France a besoin d'être forte pour résister à ses ennemis et pour être forte, elle a besoin d'un centre commun"³. One would have thought that Condorcet's failure to be elected as a representative of Paris would have destroyed his faith in this centralised conception of unity; however his writings of October and November 1792 indicate the opposite.

Matters reached a head on the question of law and order and its importance for the cause of unity. On 24th September Condorcet had supported Roland's demands that law and order in the capital and elsewhere be strongly enforced so as to prevent disunity and anarchy⁴ and had even

1. pp.1061-62; Cahen, 451.

2. Cf. Soboul, p.320.

3. Sur la nécessité de l'union entre les citoyens, O.C. XII. 220.

4. Chronique de Paris, p.1070.

taken the risk of supporting Kersaint's decree that anyone who incited the mobs to murder should be very severely punished¹. However when he discovered that the Girondin's conception of mob-control involved sending troops from the provinces to Paris an idea which, in so far as it reflected the unity of the August days, he had originally accepted², he reacted very strongly, pointing out the grave consequences which such a move could have if the citizens of Paris chose to regard it as a provocation³. His attack on the arrival of a contingent from Marseille on 20th October⁴ symbolises his awareness of how the balance of power had shifted since the arrival of the Marseillais only two months before.

This is indicated by the fact that, although Condorcet was aware that the Montagnards were in part responsible for the atmosphere of tension which dominated the Convention, it was the Girondins who were more often than not the victims of his attacks. His occasional complaints against the Robespierristes as when he accused them of gratuitously attacking Brissot on 18th December 1792⁵, are far outnumbered by his frequent defences of Robespierre against the accusations of Girondins such as Barbaroux⁶ and Louvet⁷, or even by his defence of Marat whom he personally despised⁸. Similarly his occasional appeals to the people of Paris to respect the Assembly⁹ are outnumbered by his attacks against

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1. 26th September 1792, *ibid* p.1078; Cahen, 451.
 2. Cf. Chronique de Paris, 7th October 1792, p.1121; Cahen, 452.
 3. *Ibid.* 21st October 1792, pp.1177-78, Cahen, 452.
 4. *Ibid.* p.1174.
 5. *Ibid.* p.1409; Cahen, 454.
 6. *Ibid.*, 27th September, pp.1081-82; Cahen, 455.
 7. 31st October, p.1213.
 8. e.g. *Ibid.* 22nd October, p.1181; Cahen, 455.
 9. e.g. 18th December, p.1410.

those who wished to discredit the Convention by attacking the Paris Commune¹, his repeated claims that Paris and the provinces were inter-dependent² and his further protest at the idea of a "garde départementale" in Paris³.

In contrast to his opposition to the Girondins rather wild schemes for ensuring the nation's unity, Condorcet fully supported such ideas of Danton's as the re-election of the administrative bodies, a move which he believed would revitalise the people's faith in their administrators.⁴

This leads us to the second point on which a divergence between Condorcet and the Girondins may be clearly seen. To Condorcet, Danton came increasingly to represent the middle way between the two "parties" and it was his defence of Danton which served, more than anything else, to separate him from the Girondins between September and December 1792. The brunt of his attacks fell on Roland who is generally considered to have been responsible for the Girondin onslaught on Danton. Thus, on 1st October, he bitterly attacked the Convention for allowing Roland to remain a minister while retaining his place in the Assembly⁵, an accumulation of functions which contrasted strongly with Danton's resignation (albeit under Girondin pressure) from the post of Minister of Justice nine days later⁶.

1. e.g. 12th October, p.1141.

2. e.g. 1st November, p.1222.

3. 18th November, p.1289.

4. Ibid. 23rd September, p.1065.

5. Ibid. p.1097.

6. Cf. Soboul, op. cit. p.321.

On 31st October he vehemently denounced Roland's report on the situation in Paris as a pack of lies destined to destroy the reputation of the Commune¹ and struck again at Roland on 21st November, accusing him of having concealed from the Assembly the whereabouts of Louis XVI's secret papers².

Condorcet's attacks on the Girondins were so frequent during this period that, despite his background and past activities, the Montagnards themselves gradually ceased to identify him with their direct opponents. Thus, the Montagnard Chabot assured his colleague Thuriot that Condorcet was not responsible for an article in the "Chronique de Paris" which had attacked them, saying notably that it was no longer possible to prove that Condorcet was a Brissotin³. Albert Cahen cites the memoirs of another Montagnard, Paganel, who states that Condorcet's path during the Convention could be assimilated to that of no single group⁴. Significantly, Condorcet, unlike Brissot, was not expelled from the Jacobins during this period.

Condorcet's solo role is nowhere better seen than in the trial of the King which took place between the 11th December 1792 and 19th January 1793. A study of his attitude towards the trial is of extreme importance in so far as it indicates how consistent, despite everything else, he remained to his fundamental beliefs throughout the Revolution. He may be accused of vacillations and of having always

1. Chronique de Paris, p.1212.

2. Ibid. p.1302.

3. Cf. Aulard: Jacobins, IV. 379, Delsaux, p.243.

4. II. 215-225; Cahen, 457.

sought compromises; however, it would be difficult to prove that at any time he had sanctioned a law which blatantly violated the basic premise of his ideology - the doctrine of the rights of man.

It is on this question of ideology that Condorcet's position appears truly unique and distinguishes him from both the Girondins and Montagnards. Although historians differ as to the true intentions of the former, it is clear from the weakness of the arguments which they put forward against the trial of the King that their attitude was governed more by the fear of taking so drastic a step than by any coherent philosophical principle. Thus when Vergniaud sought to protect the King by pointing out that the Constitution of 1791 declared him to be inviolable, he forgot that the constitution in question had been drawn up by an Assembly elected by a minority of the nation. We have seen how Condorcet, on "utilitarian" grounds, had accepted the validity of the Constituent Assembly. The 10th August revolution had effectively destroyed this validity; a new constitution had not yet replaced it; the sole criteria which could serve as a basis for government during the interim were constituted by the rights of man.

Consequently Condorcet gave no support to the pseudo-constitutional arguments of the Girondins. He was himself convinced of their insincerity, as is indicated by the way in which he strongly attacked the Girondin demand that the King's fate be placed in the hands of the people, pointing out on 28th December just how dangerous such a move would be at a time of internal crisis¹.

He might also have pointed out that such a step destroyed the basis of Vergniaud's case and thus illustrated

Chronique de Paris, p.1150.

1. Robespierre had made the same point in an earlier speech which Condorcet had supported. Cf. Chronique de Paris, 29th December 1792, p.1454. Cf. Mathiez: Girondins et Montagnards, Paris, Firmin-Didot, 1930, pp.62-64 for an account of the clash between the two parties at this time.

the weakness of the Girondins' attempts to clothe their feelings under the camouflage of ideological arguments.

The case of the Montagnards too shows the same inconsistency, swinging from statements of an ideological nature to arguments based on "utilitarian" considerations such as the defence of the nation; at times both ideas are combined. For Saint-Just, for example, the King symbolised the ideology of the Ancien Régime. If the new ideology, that of the Republic, was to triumph, then the whole notion of Divine Right would have to be destroyed. This could only be done by destroying the incarnation of Divine Right, the King. In Saint-Just's view, two conceptions of Government were at stake; all other considerations had no place on a question of such fundamental importance: "Les mêmes hommes qui vont juger Louis ont une république à fonder: ceux qui attachent quelque importance au juste châtiement d'un roi ne fonderont jamais une république ... Pour moi, je ne vois pas de milieu: cet homme doit régner ou mourir."¹

The same tone was adopted by Robespierre in his speech of 3rd December: "Proposer de faire le procès de Louis XVI de quel-que manière que ce puisse être ... est une idée contre-révolutionnaire, car c'est mettre la Révolution elle-même en litige."²

Saint-Just's arguments are more "down-to-earth" at times: "(Louis) est le meurtrier de la Bastille, de Nancy, du Champ-de Mars, de Tournay,

1. Cf. Soboul, op. cit. p.330. Cf. also Albert Ollivier: Saint-Just, ou la force des choses, Paris, Gallimard, 1952, pp.173-174; Geoffrey Bruun: Saint-Just, apostle of the terror, New York, Archon Books, 1966, p.30.

2. Cf. Soboul, p.331.

des Tuileries, quel ennemi, quel étranger vous a fait plus de mal?"¹

Here Louis is placed on a lower level in so far as he is compared to any one of the opponents of France (albeit the worst) and is not seen in purely abstract terms. In his speech, however, Robespierre places both ideas on the same footing. "Le roi n'est point un accusé, vous n'êtes point des juges. Vous n'avez point une sentence à rendre pour ou contre un homme, mais une mesure de salut public à prendre²; un acte de providence nationale à exercer."³

Unlike the Girondins and the Montagnards, Condorcet does not judge Louis as King but, with implacable logic, takes his stand on the one doctrine which, at so crucial a moment, he felt could alone keep the Revolution strictly within its ideological bounds, namely the doctrine of the Rights of Man.

By considering Louis as a man, an ordinary citizen, Condorcet was able to oppose the arguments of both the Girondins and the Montagnards. As a man, Louis had forfeited the inviolability which the Constitution had granted to the King. This is the drift of the superbly argued passage of the essay entitled "Opinion sur le jugement de Louis XVI"⁴ in which he destroys one by one the efforts of the Girondins to point out that the nation did not have the right to try the King⁵.

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1. Ibid. p.330.
 2. i.e..A "utilitarian" argument based on the fear of France's enemies.
 3. Ibid. p.331; i.e. an ideological argument where the national will is seen as the new god which will destroy the old.
 4. O.C. XII. 267-303.
 5. Cf. pp.270-286.

The gist of these arguments is as follows: the Constitution said the King was inviolable; the only guarantee of this inviolability was thus the constitution and it was only in so far as the King obeyed the constitution that he was inviolable. Now that it was clear he had betrayed the constitution, he had forfeited his right to inviolability. He could not be judged as a King, but in so far as he had betrayed his country, he could be judged as any other citizen who had done the same thing.¹

Having established that the King could be tried precisely because he was a man, Condorcet was not able to oppose the Montagnard's wish for an immediate execution. As a man the King benefited from the human right of "sécurité", the first one mentioned by Condorcet in his famous summary of the doctrine in 1788² and this entailed a fair trial with all that that implied in terms of juries, etc.

Having thus attacked the Montagnards' arguments against the trial in the Chronique de Paris of 5th and 6th November³, he proceeded to outline the system which he alone believed could ensure that Louis was tried according to the conditions demanded by the doctrine of the rights of man.

This meant, in the first place, attacking the rights of the Convention to set itself up as a Supreme Court. Not only did this create a dangerous precedent; it represented a regression to the days of arbitrary judgements and constituted a direct threat to the security of the people.

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1. I have of course considerably simplified Condorcet's argument, but it would be rather laborious to go into his views in depth.
 2. "Lettres d'un citoyen des Etats-Unis," O.C. IX. 101.
 3. pp. 1357 and 1361.

"Le ci-devant roi ... ne peut être juge que d'après un mode qui n'est pas encore établi. Si la Convention se permet cette cumulation de pouvoirs ou de fonctions, les premiers principes de la jurisprudence seraient violés."¹

Apart from this, the Convention had already officially condemned the King and was thus badly placed to set itself up as a court, particularly as many of its members had been members of one or other of the two previous assemblies, and were thus directly involved in the case at hand. "Le principe non moins sacré, qui prescrit de mettre à l'abri de toute espèce de soupçon l'impartialité des juges, ne serait pas moins violé (...)
Les hommes qui, d'après ces projets bien connus, (i.e. the plans devised by the King and the émigrés to re-establish the Ancien Régime) étaient marqués pour victimes aux tribunaux d'un nouveau despotisme, les membres des deux Assemblées pourraient-ils rester les juges de celui qui les avait déjà désignés à ses bourreaux?"²

Condorcet proposed, therefore, that the King be tried by a judge and jury elected for the purpose by the nation³, that he be entitled to exclude from the jury those whom he considered undesirable, a right which every accused person held by law, and that he be granted legal aid⁴.
Condorcet, who was realistic enough to realise that the verdict was a foregone conclusion⁵ hoped by this to reconcile the necessity for punishing

1. Opinion sur le jugement, etc. XII. 288.

2. Ibid. pp.288-289.

3. It may be pointed out that this idea is a contradiction of Condorcet's arguments in 1790 against the creation of a court whose purpose was to judge a man for a specific crime, but the High Court created by the Constituent Assembly was not valid now that the Constitution of 1791 had become a dead-letter.

4. Ibid. pp. 292-296.

5. Cf. Chronique de Paris, 15th December 1792, p.1397.

the King one way or another with the necessity of proving to the world that the Revolution had come of age and was not to be a mere repetition of the despotism of a Cromwell.¹

It could be said that such legalistic arguments were absurd when major principles of government were at stake and particularly when the very safety of France was in jeopardy. Certainly they made absolutely no impact on the Assembly and Condorcet could only gaze on powerlessly as Louis was brought to trial, found guilty and executed.

However, his line of approach is understandable when one bears in mind a very important event which took place on 11th October 1792. On that day, he was elected to the committee which was to provide France with her new constitution. To Condorcet this nomination represented the first great opportunity to put into practice laws and principles towards whose elaboration he had devoted the bulk of his writings since 1775 and which he had seen either partly adopted or rejected or simply ignored through the three long and frustrating years of the Revolution. We can appreciate, therefore, that he considered the constitution towards whose draughting he was to devote all his energy between October 1792 and March 1793 as a work of great importance destined to provide France, not with a temporary body of laws to last until the war was over and the Republic was firmly established, but with a frame of reference for all succeeding legislators. This explains the sense of urgency with which he now reiterated his belief in the doctrine of the Rights of Man and his passionate desire that so important an event as the trial of the King be seen to be carried out in the light of that doctrine.

It would be wrong, however, to exaggerate the importance which

1. Cf. Opinion sur le jugement, etc. XII. 292.

Condorcet accorded to the King's trial. He refused to be carried away by the almost apocalyptic visions of Saint Just who saw the struggle between the King and the Convention in terms of a metaphysical clash between Good and Evil. As far as he was concerned, the monarchy was dead; the objective now was to draw up the principles and laws on which the new Republic was to be established. It is thus with a certain amount of irritation that he intervened in the trial, urging that it take place as quickly as possible: "Songeons ... que nous sommes chargés de préparer la constitution qui doit être proposée au peuple ... Pouvons-nous, au milieu de tant d'occupations, consacrer une portion de notre temps à la suite d'une procédure dont il faudra nous soumettre à suivre rigoureusement toutes les formalités."¹ This attitude is reflected even more clearly in the speech he made to the Convention during the debate on the Girondin proposition that the King's execution be deferred. Although he repeated his distaste for the death penalty² he urged the Assembly to come to a decision quickly and concluded by listing a series of measures which had to be taken urgently to alleviate the suffering of the masses³.

The King's execution on 20th January 1793 symbolised the end of the Ancien Régime. The stage was now set for the next major debate which was to divide the Convention between April and May 1793, the discussion of the first Republican constitutional project. As this project in effect represents the final stage in the evolution of Condorcet's ideas, it is with an examination of it that this thesis logically ends.

1. Opinion sur le jugement, etc. XII. 290-291.

2. Opinion de Condorcet prononcée dans la séance du samedi 19 janvier 1793, O.C. XII. 308.

3. Ibid. XII. 309-311.

b) THE GIRONDIN CONSTITUTION

1) The constitutional committee

The committee elected on 11th October to draw up the constitution consisted of nine people - Condorcet, Sieyès, Pétion, Vergniaud, Brissot, Paine, Gensonné, Barère and Danton. The first question to ask, therefore, is: to what extent may the constitutional project which came before the Convention for the first time on 15th February 1793 be said to represent the views of Condorcet?

It is difficult to give a precise answer as little is known, beyond the memoirs of contemporaries, of the contribution made by each of the nine members of the committee. It is known, for example, that Barère was largely responsible for the parts concerning the Declaration of Rights and the judiciary¹.

In the absence of any precise information, however, it would seem that the arguments in favour of a prominent part being played by Condorcet are very strong. If we look at the other members of the committee, only three could be said to have had any kind of reputation as thinkers on constitutional matters - Sieyès, Barère and Paine. Pétion, Vergniaud, Brissot, Gensonné and Danton were chosen more on account of their importance as political figures than as thinkers. It is well known that all took a very active part in the King's trial which lasted for three of the five months during which the committee met. This argument could also be levelled at Barère who, incidentally, in

1. Barère: Memoires, Paris, J. Labitte, 1842-44. Four Volumes. Vol.II, p.286.

his Memoires, admitted that the project was largely inspired by Condorcet¹.

Of the remaining two, other reasons may be given for suggesting the insignificance of their contribution. Sieyès had played practically no part in the Revolution since the days of the Constituent Assembly² and it seems unlikely that a man so out of touch with events and so eager to preserve himself for future developments should have been able to provide much to a project which, in the atmosphere of the times, could easily have backfired on its creators.

Tom Paine's views were very close to those of Condorcet but, once again, it is doubtful if he personally had much influence on the actual deliberations of the committee. It is known, for example, that he never actually attended the meetings, perhaps because his French was poor, and submitted his ideas in writing³.

Condorcet, on the other hand, intervened only occasionally in the King's trial and usually to urge the Assembly to press ahead with other important matters of legislation; he had no active political commitments, unlike Vergniaud, Brissot and Danton and had in fact more or less abandoned the Convention to assume the role of commentator on daily events; finally, and this is perhaps the most important consideration of all, no man had devoted so much time or energy to constitutional questions. Indeed it is only because his reputation in this sphere was well established that he was chosen, as it is obvious he had no claims to be a political leader in the true sense of the word. This last point seems to be

1. Barère II, 110,285; IV, 165.

2. Cf. J.H. Clapham: The Abbe Sieyès, London; P.S. King, 1912, p.141.

3. Cf. Conway: The Life of Thomas Paine, New York, Putnams, 1892. Two volumes, Vol. 1, p.362.

confirmed by the fact that it was he the Convention chose to be the "rapporteur" of the committee, in other words its spokesman and unofficial chairman. As H el ene Delsaux has pointed out: "... c'est dire que tout le travail retombait sur le philosophe, les autres membres se contentant d'un r ole tout   fait secondaire."¹

Having established this point, we must now examine the project itself in order to see to what extent it reflects ideas which Condorcet had expressed before 1789 and to suggest the influences behind the evolution of these ideas.

The "Girondin" constitutional project of 1793² consists of a Declaration of the Rights of Man followed by 13 sections covering the territorial divisions, the status and rights of citizenship, the organisation of the primary assemblies, local government, legislature, executive, judiciary and treasury and includes such elements as the right of the people to censure laws and the organisation of conventions which are totally absent in the Constitution of 1791.

"Projet de d claration des droits naturels, civils et politiques des hommes."

Although we have said that the man most responsible for the Declaration was Bar ere, its resemblance with Condorcet's earlier views and obsessions is such that it would be impossible to suggest that he played no part in its draughting.

1. Op. cit. p.86.

2. O.C. XII. 417-501

One of the main characteristics of the Declaration is its concern with defining abstract terms and with grouping the articles which correspond to these terms into coherent wholes. Thus in Art. 2 we are given a definition of the word "liberty" which is followed by four articles corresponding to basic principles concerning the freedom of the individual¹. Similarly the definition of "égalité" (Art.7) is followed by the corresponding rights mentioned in the two following articles², and the same may be said for the term "sécurité", defined in Art.10 and reflected in the rights enumerated in the seven articles which follow³.

In other words, the new Declaration is much clearer and more coherent than that of 1789. The latter gives the impression of a work hastily assembled under the pressure of events without any guiding principle. Alengry has shown how the articles in it which correspond to the basic rights of "liberté", "égalité", "intérêt général" and "souveraineté nationale" occur in almost any order, the first in Arts. 1, 2, 4, 5, 7, 8, 9, 10 and 11, the second in Arts. 1, 6, 13, the third in Arts. 2, 12, 13, 14, 15, 16 and 17 and the fourth in Arts. 3, 6, 14, 15, 16 and 17. In the project of 1793 the articles are arranged in the following groups:

- a) "liberté" Arts. 2-6
- b) "égalité" Arts. 7-9
- c) "sécurité" Arts. 10-17

1. Ibid. pp.417-418.

2. Ibid. p.48.

3. Ibid. Arts. 11-17, pp.419-420.

- d) "propriété" Arts. 18-21
- e) "contributions publiques, éducation, sécurité publique" Arts. 22-24
- f) "garantie sociale" Arts. 25-30
- g) "résistance à l'oppression" Arts. 31-32
- h) "révision de constitution" Art. 33.

Similarly, rights which are jumbled together in a single article in the 1789 constitution are expressed in separate articles in the 1793 project. As an example, we may take Article 7 of the original Declaration which goes as follows: "Nul homme ne peut être accusé, arrêté ni détenu que dans les cas déterminés par la loi et selon les formes qu'elle a prescrites. Ceux qui sollicitent, expédient, exécutent ou font exécuter des ordres arbitraires doivent être punis; mais tout citoyen appelé ou saisi en vertu de la loi doit obéir à l'instant: il se rend coupable par la résistance." In the 1793 Declaration these terms are repeated, with a few additions, but they are divided into three distinct articles, namely Articles 11, 12 and 13¹. As a result they gain in clarity and in emphasis.

The form of the Declaration thus testifies to the thoroughness with which it was drawn up and reflects the work of a man who, more than most perhaps, had devoted a great deal of his time to the elaboration of imaginary declarations, aware as he was of their great importance.

However, it is the Declaration's content which gives rise to the most interesting observations.

First, it is important to note that the Declaration carefully avoids the weaknesses which Condorcet had pointed out in the original one,

1. Ibid. XII. 419.

notably the inclusion of phrases of a "utilitarian" nature. This is particularly clear when we compare Article 10 of the old Declaration to Article 6 of the new one. In the former, the right to worship as one pleases is modified by the phrase "pourvu que leur manifestation (i.e. the manifestation of religious opinions) ne trouble pas l'ordre public établi par la loi." Article 6 of the new constitution merely announces the basic principle of the right to worship, and includes no modification of a more "practical" nature.¹ Similarly such expressions as "l'utilité commune" which occur in the old Declaration (cf. Art.1) and which Condorcet had condemned, do not occur in the new one.

Secondly, the new Declaration contains articles which are totally absent in the first and stem directly from concerns which were very close to Condorcet's heart. Article 33, for example, concerning the right of the people to change the constitution at regular pre-ordained intervals², contains an idea which lay at the heart of Condorcet's preoccupations throughout the Revolution. But mention must be made also of Article 23 concerning education: "L'instruction est le besoin de tous, et la société la doit également à tous ses membres."³ This aspect of Condorcet's activities has been neglected in the thesis as it lies somewhat on the periphery of the question of the evolution of his ideas, but it would be quite wrong to give no mention to it. It played a fundamental part in his activities as chairman of the Legislative Assembly's educational reform committee from October 1791 to April 1792, a period which culminated in the publication of the five Mémoires sur l'instruction publique⁴

1. Ibid. XII. 418.

2. Ibid. p.422.

3. Ibid. p.421: Mention was made of this only in the revised part of the 1791 Constitution. Cf. Lefèbvre: The Coming of the French Revolution, Princetown, Princetown University Press, 1947, p.176.

4. O.C. VII. 167-437.

in 1791 and 1792 and, notably, in the "Rapport et projet de décret sur l'organisation générale de l'instruction publique"¹ which was presented to the Legislative Assembly on 20th and 21st April 1792.²

Condorcet's educational ideas are in fact fundamental to an understanding of his general attitude towards the organisation of society as he believed that progress was ultimately dependent on the spread of knowledge and the emancipation of the masses from indoctrination. It is not surprising therefore, that he referred to the educational reform project on numerous occasions in 1792, alternatively praising the Legislative Assembly for its work³ or attacking it for not acting fast enough⁴. It would be justifiable therefore to claim that this article reflects the influence which Condorcet must have had on the drawing up of the new Declaration.

Another example of this influence is to be found in Article 24: "Les secours publics sont une dette sacrée de la société; et c'est à la loi à en déterminer l'étendue et l'application."⁵ This article also is not to be found in the Declaration of 1789 and it reflects the concern of a man who had devoted numerous articles before and during the Revolution to the question of public relief. The fear that poverty would undermine the

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1. O.C. VII. 449-573.
 2. For details of this, and for Condorcet's work on educational reform in general, cf. Buisson: Condorcet, Paris, F. Alcan, 1929, passim. J. Jaures: Histoire Socialiste de la Révolution Française, Paris, Editions de la librairie de l'Humanité, 1922, Eight volumes, Vol.III, pp. 232-235.
 3. Cf. L'Assemblée nationale aux Français, O.C. X. 329, 16th February 1792; Révision des travaux de la première législature, X. 392.
 4. Chronique de Paris, articles of May-June, 1792.
 5. O.C. XII. 421.

work of the Revolution by destroying the people's unity was always with him and influenced his views on several sections of reforms; hence his plea for a strong and unified administration in Paris in 1789, his call for a central reserve fund to be kept in Paris so as to respond to the need for emergency expenditure and, above all, his sweeping plans for the creation of savings banks and social insurance which would preserve the people from the dangers which arose from the economic upheavals created by the war and by the somewhat too abrupt reforms of the Constituent Assembly.¹

The third and, perhaps, most interesting series of observations which may be made concerning the content of the new Declaration stems from the influence on it of the situation created by the second revolution of 10th August.

This may be seen, first of all, in the emphasis given by the new Declaration to the notion of equality. The 1791 Declaration lists as the four basic rights: "La liberté, la propriété, la sûreté et la résistance à l'oppression" (Art. 2) and makes only a passing mention of equality in Art. 1. In the 1793 Declaration equality comes second only to liberty (Art. 1. XII. 417). There is nothing new in this in so far as Condorcet, as we have seen, had included equality among the five fundamental rights given in his first complete presentation of the doctrine of the Rights of Man in the "Lettres d'un citoyen des Etats-Unis sur les affaires présentes" of 1788². However it is clear

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1. Cf. Sur les caisses d'assumptions, O.C. XI. 387-403; and especially Discours sur les finances, XII. 80 (12th March 1792).
 2. O.C. IX. 101-102. It is also mentioned in his essay on the Déclaration des droits of 1789 (O.C. IX. 184, 206-211).

that the authors of the new Declaration intended the inclusion of equality to be seen as an official acknowledgement of the fact that a new state of affairs had come into being. A good illustration of this is to be found in Art. 27 - "(La souveraineté nationale) réside essentiellement dans le peuple entier, et chaque citoyen a un droit égal de concourir à son exercice"¹ - where the word "égal" stands out in contrast to the corresponding article (Art. 6) of the old Declaration.

Another important consequence of the 10th August is to be found in the emphasis given to the notion of "résistance à l'oppression". This is mentioned in the list of fundamental rights by both Declarations but the terms of the corresponding article in the 1789 Declaration - "Toute société dans laquelle la garantie des droits n'est pas assurée, ni la séparation des pouvoirs déterminée, n'a point de constitution" (Art.16) - are much weaker and vaguer than those which we find in the corresponding article of the new Declaration (Art. 32):

"Il y a oppression, lorsqu'une loi viole les droits naturels civils et politiques qu'elle doit garantir.

Il y a oppression, lorsque la loi est violée par les fonctionnaires publics, dans son application à des faits individuels.

Il y a oppression, lorsque des actes arbitraires violent les droits des citoyens contre l'expression de la loi.

Dans tout gouvernement libre, le mode de résistance à ces différents actes d'oppression doit être réglé par la constitution."

What is condemned here is the action of all those who had endeavoured between 1789 and 1792 to destroy the constitution of the nation, starting with the King and passing from the ministers to the Juges de Paix (the

1. XII. 421.

Larivière case), émigrés, rebel priests and local administrators. In other words, it represents a justification of the insurrection and a warning that all such insurrections could occur again quite legally if the constitution had not made any provisions for dealing with violations of it in an orderly way.

The third, and perhaps most important, illustration of the influence of the 10th August is to be seen in the inclusion for the first time among the list of fundamental human rights of the term "garantie sociale" (Art. 1) and the six articles (Arts. 25-30) which correspond to it.

These six articles represent the kernel of the constitutional project. First they illustrate that, for Condorcet, the period of compromise was over and that the time had come to put into practice those theories of popular sovereignty about which he had written before the Revolution. Secondly, they reaffirm the importance of approaching once and for all the concrete problems raised by the necessity for reconciling the inalienable right of the people to run their own affairs directly with the practical need for a representative system of government. Thus Articles 25-28¹ emphasise the fact that the ultimate authority for running the country lay with the people taken as a whole (a point which Condorcet had made in relation to the initiative taken by the Mauconseil

1. Art. 25: La garantie sociale des droits de l'homme repose sur la souveraineté nationale.

Art. 26: La souveraineté est une, indivisible, imprescriptible et inaliénable.

Art. 27: Elle réside essentiellement dans le peuple entier, et chaque citoyen a un droit égal de concourir à son exercice.

Art. 28: Nulle réunion partielle de citoyens et nul individu ne peuvent s'attribuer la souveraineté, exercer aucune autorité, et remplir aucune fonction publique sans une délégation formelle de la loi.

section of Paris on the 3rd August 1792, while Art. 29 - "La garantie sociale ne peut exister si les limites des fonctions publiques ne sont pas clairement déterminées par la loi, et si la responsabilité de tous les fonctionnaires publics n'est pas assurée." - implies that it was legitimate for the people to delegate a portion of their power, provided that this portion was clearly established by law.

It is clear, therefore, that Condorcet accepts the principle of representative government as he had done in 1789. But the great emphasis placed on the idea of the sovereign will of the people taken as a whole, as well as the emphasis given to the right of the people to react violently if their representatives abused their power (Art. 32), indicates that he believed that the 10th August insurrection, by sweeping away the monarchy and all the divisions among the people created by the Constituent Assembly, had paved the way for a political system drawn up on the lines of the constitutional project described by Condorcet in the "Essai sur la constitution et les fonctions des assemblées provinciales" of 1788 and in the "Lettres d'un bourgeois de Newhaven" of the previous year¹ (where Condorcet describes the limits of the legislative assembly's powers and the way in which all its acts were controlled by the people grouped in their local assemblies).

It is the massive intervention of the people in the direct running of the affairs of the nation that characterises the Girondin constitutional project of 1793 and which enables us to consider it as a natural evolution from the system described by Condorcet as an ideal in 1787 and 1788. In order to bring out the main characteristics of the project and to link

1. Cf. notably O.C. IX. 29-31.

them to the principal ideas of Condorcet as they were expressed before and during the Revolution, we have decided to follow the system adopted by Alengry in his exhaustive study of the Girondin constitution¹. This consists in approaching the project according to the nature of the different types of "powers" which it describes.

According to Alengry these may be reduced to three: delegated powers, i.e. powers which rested only with the people but which for practical reasons they delegated to representatives elected by them and acting on their behalf; retained powers, i.e. powers which rested only with the people and which they did not delegate to any representatives; and, finally, powers which were held in common by the people and their representatives.

Retained powers:

We will start with an examination of the retained powers as these represent the decisive break-through made by Condorcet's project in its attempt to bring the people as much as was practically possible into the direct running of the affairs of the nation. These powers are described in Titre VIII under the heading: "De la censure du peuple sur les actes de la représentation nationale, et du droit de pétition."² and may be divided, as Alengry has shown, into five parts:

- "1°) censure ou réforme, par consultation populaire,
des lois existantes;
- 2°) initiative d'une loi nouvelle: c'est le referendum
législatif, pour toutes les lois, y compris les lois
constitutionnelles;

1. Alengry: Condorcet, guide de la Révolution française, théoricien du droit constitutionnel et précurseur de la science sociale", Paris, Giard et Brière, 1904.

2. XII. 469.

- 3^o) referendum consultatif pour certains cas particuliers
- 4^o) droit de pétition
- 5^o) droit d'accusation des fonctionnaires publics par le peuple."¹

The system described by Condorcet is as follows: if a citizen felt it necessary to draw the attention of the representatives to any weakness he detected either in the constitution, legislation or administration of the nation, or if he desired the reform of an existing law or even wished to propose a new one, he would have the right to mention this to the "bureau" of the primary assembly to which he belonged. The "bureau" would meet on the following Sunday and would examine the citizen's request provided it was accompanied by the signatures of fifty legally registered members of the primary assembly. The "bureau" would summon all the members of the primary assembly for the following Sunday and the request would be put to the vote. If a majority decided in favour of the request the "bureau" would call on all the primary assemblies of the area to meet on the following Sunday to discuss the request. If the majority of the primary assemblies voted in favour of the request, the "bureau" of the first primary assembly would inform the administrative body of the "département" of the result and would call on it to summon all the primary assemblies of the "département" within a fortnight to vote on the request. If the majority of these primary assemblies voted in favour of the request, the administrative body of the "département" would call on the National Assembly to examine the original request. This signals the conclusion of the first phase (Titre VIII, Arts. 1-13).

1. Cf. Alengry: "Le referendum, ou Essai limité du gouvernement direct dans Condorcet", Revue d'histoire politique, Vol. III, 1939, pp. 215-229.

Phase two ends either with the passing of a new law or with the dissolution of the Assembly. The new law is passed if a majority of the representatives votes in its favour. If this does not happen the process does not end there. The Assembly would be obliged to summon all the primary assemblies of the nation in order to obtain their approval or disapproval of the rejection of the request. If the majority of the primary assemblies voted in favour of the Assembly's decision, then the process comes to a stop. If, on the other hand, the Assembly's decision is rejected, then the Assembly is considered to be in the minority and is obliged to dissolve itself. Not only does a new Assembly have to be elected, but the deputies who had voted against the request would be ineligible. Once the new Assembly had met it would be obliged to examine the original request again and, as before, its decision would go before the people. (Titre VIII; Arts. 14-26.)

This extraordinary reform, whereby one citizen could put in motion a whole series of processes leading ultimately to the passing of a law or to the dissolution and re-election of a National Assembly, naturally raises several questions.

In the first place, it is clear that the idea is not completely new. It may be found in embryo in the scheme described by Condorcet in the "Lettres d'un bourgeois de Newhaven" of 1787¹ where the citizens grouped in their "district" assemblies were to have the right to sanction or reject every law passed by the National Assembly.

1. Cf. IX. 30-31.

However, there are numerous differences between the 1787 project and that of 1793 and it is by enumerating these differences that we shall be able to see the decisive influence on the final evolution of Condorcet's ideas of the insurrection of 10th August.

The first important difference is that the new idea is much more progressive even than the first in so far as the ordinary citizen is given a great deal more initiative. Not only could he start a process which could lead ultimately to the passing of a new law or to a general election, but he had the right to question all laws and not just constitutional laws. This marks a considerable evolution in Condorcet's ideas for he had always argued that it would be quite impractical for the people to question every single law that was passed, a point which he repeated as late as November 1792 in an article published in the "Chronique de Mois" and included in his complete works under the heading: "De la nature des pouvoirs politiques dans une nation libre"¹:

"Il faut observer ... que toute loi ... peut être considérée sous deux points de vue: 1^o) sa conformité avec le droit naturel de chaque individu; 2^o) l'utilité ou le danger des combinaisons adoptées par les rédacteurs de la loi ... Dans une société étendue, on peut regarder comme impossible de faire prononcer l'universalité sur ce dernier objet."²

It is clear, therefore, that only a very good reason could have led him to include machinery for just such a consultation only three months later. This reason must surely lie in his great fear of another insurrection on the lines of 10th August and, in particular, of the recurrence of individual revolts against the legislation similar to that

1. O.C. X. 587-613.

2. Ibid. 593.

perpetrated by the Mauconseil section of Paris on 3rd August 1792.

As we have seen it was as a consequence of this revolt that Condorcet was impelled to write the famous "Instruction sur l'exercice du droit de souveraineté"¹ of 9th August 1792 in which he argued notably that the only acceptable way in which a minority of the citizens could make their opinion felt was by mobilising the whole nation. Only then could the will of the majority be known and a remedy be introduced. The absence of any method whereby this could be done had precipitated the violent uprising of 10th August and it was precisely to prevent this recurring that the Girondin project contains a method whereby the opinion of a small section of the community could lead to the consultation of the citizens as a whole.

The Girondin commentator of the project illustrated Condorcet's intention perfectly when he wrote in the Feuille villageoise: "Cette censure du peuple est l'insurrection pacifique de la raison et de la réflexion, c'est l'insurrection légale et organisée. Elle prévient les troubles et fait mieux connaître le voeu du peuple."²

Nevertheless this does not answer all the questions. In 1789 Condorcet had written that a system whereby the people could have any say at all in the running of the country could only come into being after a whole mass of preliminary reforms had been carried out. He considered that these reforms would take at least twenty years to effect. And yet, only four years later, here he was describing an even more progressive scheme of direct popular government.

1. O.C. X. 531-540.

2. Cited by Alengry in "Essai limité de gouvernement direct, etc." p.224.

Once again, it is the 10th August insurrection which provides the answer to this paradox. The Revolution, for good or for ill, had precipitated reforms which, under normal circumstances would have taken place very gradually. This movement had come to a head in the second revolution of 10th August which had at last established the unity without which any coherent form of public intervention in the running of the country would have been impossible. By unity is meant geographical and political unity and these were the two preconditions without which Condorcet's scheme could not work.

Geographical unity was proclaimed by the Convention on 25th September 1792 and the terms of the decree are incorporated verbatim into the first article of the Girondin project; "La République française est une et indivisible"¹. This unity at last having been established, Condorcet was now able to fix the different hierarchical divisions about which he had written so much before 1789. For administrative purposes, he adopted the three-tiered system devised by the Constituent Assembly, dividing the nation into 84 départements, the "départements" into "grandes communes" and the "grandes communes" into "municipalités" (Titre I, Arts. 2-7). The all-important difference of course is that, in the old constitution, these areas each represented a stage in the system whereby the various categories of citizens elected the National Assembly. This has now disappeared and the only political unit in the nation is represented by the primary assemblies. Thus, although Condorcet, for the purpose of organisation, implies that the number of both primary assemblies

1. Titre I, Art. 1, O.C. XII. 423.

and municipalities in a given "grande commune" would be fixed in relation to the size of the "commune" in question (Titre I, Art. 4), he makes it quite clear that the primary assembly was a unit quite different in nature from the "municipalité", a point which he underlines by stating that their geographical limits would be distinct (Art. 6).

In fact Condorcet has here returned (despite one fundamental difference) to the system described in the "Lettres d'un bourgeois de Newhaven" where the basic political unit in the nation was represented by what he referred to at that time as the "district" assembly¹. Finally, the separation of the "administrative" bodies - i.e. the "département" administration and the "municipal" administration - from the primary assemblies, represents the logical conclusion of an idea first seen in the "Essai sur les assemblées provinciales" of 1788 where, at each level, Condorcet called for an electoral assembly distinct from the administrative body of the corresponding area.

In other words the France which is described in the Girondin project is a France divided, for administrative purposes, into 84 equal areas with two sub-divisions and, for "political" purposes (if we may so make the distinction) into a vast network of primary assemblies through which the citizens of the nation could exercise to the full the direct intervention in the running of their affairs * which the new constitution allowed them.

It is obvious, however, that if Condorcet was able to dispense with the hierarchy of "political" areas established by the Constituent Assembly and to seek to implement his idea of direct popular intervention, this was because the revolution of 10th August had succeeded in bringing about what

1. O.C. IX. 10.

may be called, for want of a better word, the "political" unity of the nation, namely the abolition of all hereditary authority and, above all, the abolition of the distinctions between active and passive citizens.

In the constitutional project, the republic is proclaimed in the preamble and in the first article¹, while Arts. 1 and 9 of Titre II ("De l'état des citoyens et des conditions nécessaires pour en exercer les droits") abolish nearly all conditions for possessing the right to vote or to be eligible for office. In other words, for the first time, the conditions were such as to enable the masses, on an equal footing, to participate as far as possible in the direct running of their own affairs.

It would be true to say, therefore, that the situation in 1793 was so different from the conditions prevailing at the time when Condorcet was drawing up his vast schemes for a truly popular constitution that he was perfectly justified in attempting to establish his system so early. To have hesitated would in a way have meant denying the validity of the earlier schemes.

Against this, however, we may point out certain elements in the constitutional project which indicate that Condorcet was not entirely master of the situation in 1793 and was as much forced into bringing in his reforms out of a fear of the masses born from the tense situation created by the 10th August insurrection as by a perfectly legitimate desire to witness the implementation of ideas which were close to his heart. An indication of this unease is provided by articles in this part of the

1. O.C. XII. 423

constitutional project which cancel each other out and create confusion. For example, it is obvious that Condorcet feared the consequences which his reforms could have if allowed to go too far. For this reason he exempted from the "droit de censure" "les décrets et les actes de simple administration, les délibérations sur les intérêts locaux et partiels, l'exercice de la surveillance et de la police sur les fonctionnaires publics, et les mesures de sûreté générale"¹. However, in Art. 33, he suddenly allows the citizens the initiative "de provoquer la mise en jugement des fonctionnaires publics, en cas d'abus de pouvoirs et de violation de la loi."² This contradiction and the vagueness of the terms employed by Condorcet would seem to indicate that he had introduced the article as a mere sop to the masses.

The preceding articles also create the same impression of uneasiness on Condorcet's part. While it was normal for him to introduce the idea of a "referendum consultatif" (Art. 30) whereby the Assembly could call on the primary assemblies to give their opinion on any question concerning the running of the nation³, his experience of the rowdy interventions of the mob during the debates in the Convention had made him wary of allowing the people too great a freedom to use their right to petition the Assembly on important questions. And yet the right to petition

1. Titre VIII, Aet. 28; O.C. XII. 475.

2. O.C. XII. 476.

3. This was a logical consequence of his earlier ideas, cf. Lettres d'un bourgeois de Newhaven (O.C. IX. 30-31) and of his fear that the complicated machinery whereby the citizens could press for the changing of a law needed to be supplemented by a system which allowed the Assembly a certain amount of initiative in discovering the will of the people.

was a fundamental right which had to be included in the new constitution. The result of this conflict in Condorcet's views is reflected in the confusing terms which we find in Articles 31 and 32. Thus, the right to petition is acknowledged in the first:

"Indépendamment de l'exercice du droit de censure sur, les lois, les citoyens ont le droit d'adresser des pétitions aux autorités constituées, pour leur intérêt personnel et privé."

But in the second, this right, in nature so direct, is limited by other factors which are rather vaguely described:

"Ils seront seulement assujettis, dans l'exercice de ce droit, à l'ordre progressif établi par la constitution entre les diverses autorités constituées."

Despite this, we may nevertheless say that this part of the constitutional project allows the people an unprecedented share in the running of their affairs and marks a considerable advance even on the ideas expressed by Condorcet before 1789.

Powers held in common between Assembly and people

Under this heading we include the whole of Titre IX of the constitutional project concerning the organisation of the conventions whose task would be to revise the existing constitution according to Art. 33 of the Projet de Déclaration.

There is no need to elaborate on this section too much. Enough has been said on Condorcet's belief in the absolute necessity of a method of revision and also on the three forms of convention which he desired, the periodical convention meeting automatically every twenty years, the convention called by the people through provincial conventions every time they felt that the constitution as a whole needed to be examined and the

convention summoned by the legislature after a consultation of the people grouped in their primary assemblies. The first is embodied in Art. 4, the second in Arts. 5-6 (with the important difference that the people here operate directly via the machinery described in Arts. 1-29 of Titre VIII and that this convention has all the powers of the first) and the third in Art. 7.¹

The powers are in each case considered to be held in common in the sense that the reforms are the consequence of the joint action of the people and their representatives. The representatives actually make the reforms, but they do so with the approval of the people and it is the people who ultimately have the right to approve or reject the reforms which are made.²

Once again the primary assemblies represent the cornerstone of the system, for it was only thanks to these assemblies, uniformly spread throughout the nation and including all the citizens without distinction of rank, that Condorcet was able to by-pass the difficulties placed in the way of his earlier schemes for popular participation by the need to find a compromise with the reforms of the Constituent Assembly and return to a system which enabled him to conciliate as far as possible the right of the people directly to run their own affairs with the practical necessity for a representative system of government.

Delegated powers

By "delegated powers" is meant all the tasks not assumed directly by the people but passed on by them to persons acting in their name.

1. O.C. XII. 477.

2. Arts. 11-13.

These powers occur in Condorcet's constitutional project under the following headings or "titres": VII (organisation of the legislature), V (organisation of the executive), VI (organisation of the "Trésorerie"), IV (local government), X (organisation of the judiciary) and XII, XI and XIII concerning the laws dealing respectively with the tax system, the "force publique" and foreign relations.

The aim of the analysis of these delegated functions, as they are to be found in the Girondin project, is to illustrate to what extent they incorporate ideas and principles which Condorcet had expounded before 1789. It is impossible to do this, however, without referring to the 1791 Constitution for this represented the first attempt made by political theorists to give new philosophical doctrines concrete political form and greatly helped Condorcet himself when he came to draw up the new Constitution.

This is illustrated, as we hope to make clear, by the fairly substantial elements which he carried directly over into the new project. However, it is naturally in the difference between the two that is to be seen the extent to which the Girondin project reflects an attempt on Condorcet's part, both to adapt to the new situation created by the 10th August revolution and to return to the purity of the "ideal" scheme which he had outlined before the Revolution.

In our analysis, therefore, we shall concentrate on the differences and similarities which exist between the two projects and seek thereby to illustrate the difficulties experienced by Condorcet in his task.

The Legislature

The two most important points which both constitutions have in

common concern the immunity of the deputies¹ and the gathering of the nation's representatives into a single chamber².

These were of course old ideas which Condorcet had defended several months before. However, as the introductory speech which he made concerning the project indicates³, the unicameral system did not suggest itself as the only automatic solution. Condorcet was clearly against the idea of having two Chambers, and this for the same reasons as in 1790⁴; however his fears that the new assembly would be tempted to rush through legislation unthinkingly was so great that he toyed with the idea of either dividing the Assembly into two parts each time a bill had to be debated, or of setting up an unelected upper Chamber which would act as an advisory body without legislative power. Although he abandoned both ideas on the ground that they would threaten the unity of the legislature, it would seem that he did so rather reluctantly.⁵

Condorcet eventually settled for a scheme based on the one he had recommended for the Etats-Généraux in 1789, the setting up of a "bureau" elected every month by the deputies from among themselves, which would

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1. Const. de 1791, Titre III, Ch.I, Sect.V, Arts 7 & 8; Girondine, Titre VII, Sect.V, Arts. 13 & 14.
 2. Ibid. Art. 1; Ibid. Section I, Art. 1.
 3. Exposition des principes et des motifs du plan de constitution, O.C. XII. 363.
 4. Ibid. 356-360.
 5. It is interesting to note that the printer of the Girondin project mistakenly included the first scheme in the footnotes of the published version, with the result that the Montagnards were able to accuse the Girondins in February 1793 of supporting the division of the Assembly into two factions. It is worth noting also that Condorcet makes no mention in his project of the system of graded pluralities which he had described so painstakingly before 1789. He obviously felt that it would be too difficult to put into practice and could be just as effectively replaced by other systems.

have the task of analysing each bill in detail between readings and which would thus ensure that every potential law was thoroughly examined before being passed.¹

His fear of precipitation was equalled only by his fear, born out of his experiences with the Legislative Assembly, that parliamentary procedure could be brought to a standstill. This is to be seen in further differences between the two constitutions.

The most important of these lies in Condorcet's call, for the first time, for annual legislative elections.² This represents a definite evolution over his earlier scheme where only one-third of the National Assembly was to be renewed, and this every two years.

Similarly the quorum called for in the Girondin project, two hundred, was much smaller than the 1791 Constitution's three hundred and seventy-three;³ likewise, the time left aside for this quorum to be reached, a fortnight, contrasts with the first constitution's month.⁴ Condorcet had become too aware of the dangers constituted by an inactive Assembly to allow the risk of paralysing it for as long as a month.

Naturally enough the major differences between the two constitutions reflect the entirely new situation created by the second revolution. This is seen most clearly in Titre VII, Sect. II, Art. 2, where the Assembly's legislative powers are shown not to extend as far as the constitutional laws.

1. Titre VII, Sect. III, Arts. 5-16; Sect. IV, Arts. 1-6.

2. Ibid. Sect. I, Art. 1.

3. Const. de 1791, Titre III, Ch. I, Sect. V, Art. 3; Girondine, Titre VII, Sect. I, Art. 8.

4. Ibid. Art. 3; Art. 11.

It is seen also in the return to Condorcet's original criteria for fixing the number of deputies. These were to be chosen only according to the population of a given area and no longer according to the status of the people living there.¹

But other differences reflect Condorcet's own personal obsessions. The distinction between laws and decrees, for example,² illustrates his long-held desire to reconcile the need for stable, carefully thought-out laws and short-term practical measures which had to be taken quickly. His fear that the Revolution would pave the way for a dictator who would be only too happy to step into the vacuum left by the King's departure is seen in Section I, Art. 12, which limited to a month the term of office of the Assembly's president.

It is curious to note, however, that a certain number of fairly important points in the 1791 Constitution are not mentioned in the Girondin project. Among the more important of these is the absence of any remark concerning the question of whether a deputy could, or could not, also be a minister.³ Perhaps he considered that the question was answered by the fact that, in his scheme, the executive was to be elected separately. It is nevertheless rather odd that, despite the fact that he disliked any form of power cumulation,⁴ he made no attempt to clarify what was, after all, an important point.

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1. Const. de 1791, Titre III, Ch. I, Sect. I, Arts. 1-5; Girondine, Titre VII, Sect. I, Arts. 4 & 5.
 2. Ibid. Sect. II, Arts. 3-7.
 3. Const. de 1791, Titre III, Ch. I, Sect. III, Arts 4 & 5.
 4. Cf. his attitude towards Roland's refusal to resign from his post in 1792.

The Executive

As we have seen, Condorcet had paid little attention to the organisation of the executive before 1790; it is not surprising, therefore, to find that a considerable section of the 1791 Constitution has come over into the new project, despite the great differences in the political situations out of which both constitutions grew.

The first important similarity concerns the relationship between the executive and the local administrators. In both constitutions the role of the ministers was to consist in acting as intermediaries between the local assemblies and the National Assembly; it was their responsibility to see that the laws were transmitted to the local authorities and that they were executed.¹ Furthermore, they were to watch over the local authorities and would have the power to declare void any acts on their part which went against the law and suspend any of them who abused their authority.²

The second similarity concerns the relationship between the ministers and the National Assembly. In both constitutions is to be found the important article concerning the fact that the ministers were not immune, but could be arrested only on the passing of a special decree to that effect.³ On the purely administrative level the ministers were to report to the National Assembly at the beginning of each session to give an estimate of the expenditure which would be necessary during the next session,

1. Const. de 1791, Titre III, Ch.IV, Sect.I, Art.5;
Girondine, Titre V, Sect.I, Art.5.

2. Const. de 1791, *ibid.* Sect.II, Art.5; Girondine, Sect.I, Arts.8 & 9.

3. Ch.II, Sect.IV, Art.8; Titre V, Art.21.

to inform the Assembly of the amount which had been spent during the previous session and to give their view on any aspects of government which they felt to be in need of improvement.¹

Finally the whole mass of relatively minor duties which the first constitution had left to the King, such as the nomination of officers, the drawing up of annual lists of rewards, etc,² now pass to the ministers.³

The fundamental difference between the two constitutions obviously lies in the fact that, by the end of 1792, the King had been removed. As Condorcet had foreseen this eventuality after the flight to Varennes, all he had to do was to incorporate almost piecemeal the system which he had described in 1790. The cabinet which is described in the Girondin project thus has all the characteristics of the old Conseil Electif. Five basic similarities may be mentioned.

First, it was to be relatively small, consisting only of seven ministers (Titre V, Sect.I, Art.1). This time Condorcet describes what these ministers were to be responsible for, the only innovation being a minister for agriculture (Art.2).

Secondly, the basic principle governing the cabinet's organisation was to be that of "collégialité". This meant three things; first, no minister was to be considered more important than another; secondly, no minister could act within his department without first consulting the

1. Ch.II, Sect.IV, Art.7; Sect.III, Art.1.

2. Ch.IV, Arts.2-4.

3. Sect.I, Arts.13-15.

Conseil; thirdly, the Conseil's decision could not be considered valid unless all the ministers were present when it was made. The second idea is incorporated into Article 17; the first is seen in Condorcet's decision to reject the proposition that the Conseil be presided over by a permanent President. He argued in the "Exposition" that such a post would have disturbing similarities with the old monarchy and in war-time could encourage the man who occupied it to take control of the executive,¹ a fear which is understandable when we bear in mind the power wielded by the various committees which were dominant at the time Condorcet was drawing up his constitution. Thus, the Conseil was to be presided over alternatively by each minister, a change taking place every two weeks (Art.3).

A third important similarity lay in the fact that the executive was to be elected directly by the people (Sect. II). The only evolution here was that the National Assembly would no longer have the right to draw up the list of candidates. The old principle of separating the executive from the legislature was thus respected.

Fourthly, the King's absence signified that the right to dismiss a minister was to lie entirely with the National Assembly.²

Finally, the executive was to have no control over the nation's finances; as in 1790, this was to be left to a special body.³

1. Ibid. O.C. XII. 366-372.

2. Sect. I, Arts. 21 et seq.

3. Sect. I, Art.18.

"Trésorerie Nationale"

The formation of a "trésorerie nationale" is of course another idea incorporated directly into Condorcet's project from his writings of 1790. Once again, however, the evolution we have noticed in his organisation of the executive comes through in this section.

Thus, for the first time, the commissioners of the "trésorerie" and of the "bureau des comptes" were to be elected directly by the people and not appointed by the National Assembly as in the earlier scheme.¹

Secondly, Condorcet has greatly simplified the organisation of these two bodies. The number of commissioners has been reduced from ten to three (Art. 1) and the two posts of "Trésorier national" and "Procureur des créanciers de la nation" have been scrapped, an attempt on Condorcet's part to move away from individual power towards "collégialité".

However, only one genuine innovation is to be noted here - the appointment of special juries to examine the annual expenditure of the departmental administrators.² But this idea, due no doubt to the immensity of the task at hand, reflects more a change of form than of content; the basic role of the "trésorerie" is the same as the one designed for it in 1790 - to prevent the legislature and the executive from exercising any control over the nation's finances.

1. Titre VI, Art. 1, 7. This had been one of the measures called for by Condorcet on 6th July 1792.

2. Titre VI, Art. 10.

Local Government

Of all the sections of the Girondin project, Titre IV, dealing with local government, is the one which most resembles the 1791 Constitution. The reason for this clearly lies in the fact that the events of 1789 and 1790 had definitively put paid to the scheme described by Condorcet before the Revolution.

By making the primary assemblies the basic political unit of the nation, the Constituent Assembly had ensured that the task of the assemblies at the level of the "départements" and "cantons" was to be purely administrative and that they were to be placed directly under the authority of the central powers, the executive and legislative.

These aspects of the 1791 constitution are thus taken over wholesale into the new project, as the following brief summary will indicate.

The local administrators were not to be considered as representatives of the people,¹ they were to be elected by the people² and were to come under the control of the executive³. Their functions were to be laid down by the National Assembly⁴ and would consist principally in the collection of taxes⁵.

The executive would have the authority to suspend the "départemental" administrators and to nullify any of their actions which violated the law⁶

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1. Const. de 1791, Titre III, Ch. IV, Sect. II, Art. 2; Girondine, Titre IV, Sect. I, Art. 7.
 2. Art. 2; Section II.
 3. Art. 2; Titre V, Sect. I, Art. 7.
 4. Art. 4; Titre IV, Sect. I, Art. 13.
 5. Art. 4; Art. 10.
 6. Art. 5; Titre V, Sect. I, Arts. 8 & 9.

and the "départemental" authorities were to be able to do the same to the local authorities beneath them.¹

Of course there are a number of superficial differences between the two constitutions. Functions which were reserved for the King in the first now pass to the ministers and the Girondin project provides many more details about the internal organisation of the various assemblies.² That these differences are more in the form than in the spirit however, is indicated by one of the articles of the new project which most clearly reflects the influence of the new situation brought about by 10th August.

True to his old pre-Revolutionary ideas, Condorcet replaces the old Constitution's "canton" assemblies by those representing the "grandes communes". However, he makes it quite clear that the "commune" administrators were inferior to those of the "départements" and could be suspended by them. This may only be explained by two things: first the grouping of all the citizens in the primary assemblies ensured that their political power was guaranteed and consequently greatly reduced the importance which the "communes" had acquired in 1790³; secondly, the election of the departmental administrators by all the citizens ensured that the old charges of subjecting the people to the will of the men chosen only by the wealthy elements of the population was now a thing of the past.

1. Art. 6, Titre IV, Sect. I, Arts. 17 & 18.

2. Cf. Titre IV, Sect. I, Arts. 2 - 6.

3. But this did not prevent the Montagnards from pointing out, with some justification, that this reform considerably reduced the influence of the revolutionary "communes" in the towns. Cf. Godechot: Les constitutions de la France depuis 1789, Paris, Garnier - Flammarion, 1970. Introduction to 1793 Constitution, p.71.

Finally, mention should be made of the only genuine innovations in Condorcet's plan - the nomination of a "commissaire national" by the executive in each "département" to act as a kind of liaison officer between the provinces and the central government,¹ a move which reflects his strong desire for national unity and cohesion between the capital and the provinces.² More important than this, however, is the article concerning the nomination by the government of special agents who would have the task of ensuring that all the military installations in the provinces were being well administered (Art. 14), an idea clearly inspired by the war of 1792 and the creation by the Convention of the "représentants en mission".

We have come a long way from the decentralised system reflected in the remarkably powerful "district" assemblies of the "lettres d'un bourgeois de Newhaven".

The Judiciary

As we have seen, the part of the Constituent Assembly's work which Condorcet most approved of was that dealing with the reforms of the judiciary. Thus, many of the fundamental reforms reflected in the 1791 Constitution are taken over by the Girondin project - the separation of the judiciary from the executive and legislative³, the election of judges⁴, the protection of the accused⁵, the freedom of the press⁶, etc.

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1. Sect. I, Art. 15.
 2. These "commissaires", nominated by the central power, contrast notably with those allowed to the Communes in August 1792 to supervise the departmental administrators.
 3. Titre III, Ch. V, Art. 1; Titre X, Sect. I, Art. 5.
 4. Art. 2; Art. 3.
 5. Art. 9, 10 - 16; Sect. III, Arts. 5 - 8; Sect. VI, Art. 3, 4 - 13.
 6. Arts. 17, 18; Sect. VI, Arts. 16, 17.

The differences - and they are numerous - usually add little to thoughts which Condorcet had expressed when reviewing the legal reforms in 1790. The Girondin project thus includes matters which are fundamental to Condorcet's ideas as they were expressed before the Revolution and which have no echo in the 1791 Constitution. Among the most important of these are the following: the Republic was to have a code of criminal and civil laws¹ civil justice was not to be confused with criminal justice² and the court was to be composed according to the nature of the crime committed³; juries were to be elected⁴; capital punishment was to be abolished for non-political offences⁵ as was the old right of pardon⁶.

Other differences are once again more a matter of form than of spirit. This may be seen most clearly in the methods devised by Condorcet in his new project to put an end to the appeal system which he had considered one of the greatest weaknesses in the Constituent Assembly's legal reforms.

Among the methods which he devised for this purpose is to be found the greatest single innovation of this section - the creation of "censeurs judiciaires" elected by the people and entrusted with the task of receiving complaints or appeals on legal matters. They would have the authority to quash any judgement which they considered defective and to order a re-trial⁷. In this way Condorcet replaced the old rather feeble appeal courts by people

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1. Titre X, Sect. I, Art. 1.
 2. Here they are treated under different headings in the Girondin project, respectively Sects. 2 and 3.
 3. Sect. III, Art. 3.
 4. Sect. II, Arts. 9 - 12, although the method is slightly different from the one described in 1790.
 5. Sect. III, Art. 1.
 6. Sect. III, Art. 2.
 7. Titre X, Sect. IV, Arts. 1, 4.

whose sole purpose was to examine the validity of judgements and who derived their authority from the people. As in the 1791 Constitution, however, only the National Assembly could quash a judgement which had already been quashed twice¹.

It is interesting to note in this respect that Condorcet seems to have abandoned his old idea of a "Cour de cassation". The reason for this, as he himself admitted in the "Exposition"², was to strengthen the legal unity of the nation by transferring the maximum amount of authority to persons elected by the people, working at grassroots level throughout the nation and remaining in constant contact with the National Assembly. It was for this reason that the "censeurs"³ other responsibilities consisted in providing the Assembly with regular reports on every trial which took place in their area³.

The same spirit dominates the innovations introduced in the organisation of the courts. In place of the "procureur syndic" and the "commissaires du roi" the civil courts were to be supervised by "commissaires nationaux", "directeurs" and "rapporteurs"⁴ and the criminal courts by "accusateurs publics"⁵, all of them elected by the people⁶ and all entrusted with the highly important task of ensuring, with the collaboration of the "censeurs judiciaires", that the trials took place according to the letter of the law⁷.

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1. Const. de 1791, Ch. V, Art. 21; Girondine, Sect. IV, Art. 5.
 2. O.C. XII. 382.
 3. Cf. Sect. IV, Art. 11.
 4. Sect. II, Art. 15.
 5. Sect. III, Art. 10.
 6. Sect. II, Art. 14; Sect. III, Art. 9.
 7. Sect. IV, Arts. 6 and 9.

Such preoccupations had of course played an important role in Condorcet's writing before 1789, but the September massacres no doubt help to explain why he paid so much more attention to the question of ensuring that trials took place according to the proper forms than the 1791 Constitution had done. It is important to note also that, in every case, the people responsible for supervising the trials were not to be appointed from above, as in the old Constitution, but elected by the citizens.

It is here also that lies the great difference in the constitutions as regards the role played by the J.P.s. We have seen how Condorcet welcomed their creation in 1790, and a great many of their functions are incorporated directly into his own project¹. However, unlike the 1791 Constitution, the J.P.s in his project were to be elected annually and their duties are described in greater detail.

Finally, Condorcet replaces the old constitution's "Haute Cour Nationale" by a "Juré National", the essential difference between the two being, once again, that the members of the latter were to be elected by the people².

The Tax System, Titre XII

As Condorcet began his attack on the Ancien Régime by hitting at its system of taxation, it is hardly surprising that this section of his project contains many fundamental ideas expressed well before the Revolution had started.

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1. Art. 7; Sect. II, Arts. 2 - 5.
 2. Titre, X, Sect. V.

Thus Articles 1, 2, 4, 5, 6, 7, and 8, which sum up all Condorcet's basic principles concerning taxation, may be traced back to works written by him as early as 1776¹. It is indicative of Condorcet's dissatisfaction with the work of the Constituent Assembly that the 1791 Constitution contains only five of the articles found in the Girondin project: 3², 7 - 10 (Art. 3).

Of the four articles in the Girondin project which cannot be traced back to ideas expressed by Condorcet before 1789, three, namely Arts. 8, 9 and 10 have their origin in Condorcet's attempts in 1790 to establish a "trésorerie" which would put an end to the chaos existing in the nation's finances. It is worth noting however, that, in 1786, he had already pointed out the fact that the new constitution of the United States contained an article whereby Congress would have to inform the nation annually on the state of the finances, i.e. the balance between expenditure and receipts³. However, the necessity for obliging the local administrators and ministers to keep the nation regularly informed about the financial situation only made itself really felt in 1792 with the coming of war. It is in this period that Condorcet's views on the question truly began to take shape.

Article 6 seems to have created problems for the people who have studied the Girondin project. The Girondin commentator of the Feuille villageoise claimed that an article condemning any tax "qui ... nuirait à la libre disposition des propriétés, au progrès de l'industrie et du commerce, à la circulation des capitaux" could clearly only be referring to

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1. Cf. Remarques sur les 'pensées' de Pascal, O.C. III, 652; Eloge de Michel de l'Hôpital, O.C. III, 474, dealing respectively with the principle that the minimum required by a man to live should not be taxed and that taxation should be carried out entirely in the interests of the people.
 2. Titre V, Art. 1.
 3. Cf. Influence de la révolution d'Amérique sur l'Europe, O.C. VIII. 99.

the progressive tax.¹

It is obvious, however, that Condorcet was here referring to the indirect taxes which he had attacked before 1789 precisely on these grounds.

He had never opposed the principle of a progressive tax and had, on the contrary, hoped to introduce one in 1790. Any further doubts are removed by an important article which he contributed to the Journal d'Instruction Sociale on 1st May 1793² on the Impôt progressif³. In it he stated explicitly that a progressive tax, if levied with discretion and care "non-seulement est juste, mais .. utile, parce qu'il soulage le pauvre dont-il diminue les charges, sans le punir de ce faible soulagement par des coups funestes portés à la circulation et à l'industrie"⁴.

"Force publique" (Titre XI) and foreign relations (Titre XIII)

Before 1789, Condorcet had remained very vague on the question of what the "force publique" was to consist of. He said relatively little about the creation of a force within the country to supervise the behaviour of the people and ensure that the laws were enforced, and merely expressed his preference for the nation's defence to be placed in the hands of a voluntary militia recruited on a local basis, rather than in a permanent standing army. He refused to distinguish clearly between the two roles which this "force" would assume - that of ensuring law and order and that of defending the nation against attack.

1. Cf. Alengry op. cit. p.650.

2. i.e. only two months before his flight.

3. O.C. XII. 625 - 636.

4. Ibid. 632 - 633.

It was left to the Constitution of 1791 to make this distinction¹; in fact it was not until November 1792 that Condorcet actually gave details concerning the creation of an internal force to take care of law and order and suggested that it consist of a body of professionals recruited either on a local basis and operating in the area from which it was chosen, or on a national basis and deployed throughout the country.²

However, his distaste for a permanent professional army remained throughout the revolution. Already, in 1790, he had attacked conscription, claiming that an army of volunteers would be more efficient, because more enthusiastic, than an army of conscripts³, and on 20th April 1792 he celebrated the calling up of popular voluntary militias⁴.

His belief in the value of a volunteer army was intensified by the idea, shared by most of the revolutionaries, that the war was one in which the people were opposed to the monarchs. This idea was implied as early as 1790 in Condorcet's essay on the Pacte de famille and was repeated with more emphasis in the speech of 1792 "la république française aux hommes libres."⁵

It comes through in the first article of the Girondin project: "La force publique est composée de tous les citoyens en état de porter les armes", an article which contrasts with the equivalent one in the 1791 Constitution where only the active citizens are mentioned⁶.

1. Titre IV, Art. 1.

2. Cf. la nature des pouvoirs politiques dans une nation libre, O.C. X. 597 - 600.

3. Cf. Idées sur le despotisme, O.C. IX. 170.

4. Cf. Projet d'une exposition, etc. O.C. X. 455.

5. O.C. XIII. 113.

6. Titre IV, Art. 2.

However, the very magnitude of the war had made it clear to Condorcet that it was not sufficient to rely entirely on volunteers. The Girondin project thus calls for paid soldiers to supplement the ranks of the militia and the National Guard (Art. 2).

The section concerning the organisation of the National Guard is of course very similar to the 1791 Constitution as this body only came into being with the Revolution. Both constitutions reflect the fear that it might become a source of revolt against the central government: thus, the officers (who, in both cases were to be elected¹) were not to be allowed to take charge of the National Guard of more than one area². This is reinforced in the Girondin project by the article forbidding the National Guard of one area from passing into another without first informing the National Assembly (Art. 5).

However, in the context of 1793, Condorcet's real fear concerned the autonomy of the generals in the army. The spirit of the decree against them which he had wished to see adopted in July 1792 thus comes through very strongly in his project. Not only does he repeat the old Constitution's article which stated that the army's sole role was to obey³ but adds two more: officers were to receive commissions for only one campaign (Art. 10); only the National Assembly was authorised to begin negotiations with the enemy or order a cease-fire (Titre XIII, Art. 8). The memory of General Dillon's activities in April 1792 and of those of the French generals at Valenciennes in May of that year was still too much alive for matters to be otherwise.

1. Titre IV, Art. 6; Titre XI, Art. 12.

2. Art. 6; Art. 12.

3. Const. de 1791, Titre V, Art. 12; Titre XI, Art. 9.

Finally, we must look at Condorcet's organisation of the role of the executive and legislature in time of war, for it was at this that many of the Montagnards' attacks in 1793 were directed.

Condorcet had paid little attention to the role of the executive before 1789, merely stating that the war would be conducted by a "Conseil" nominated by the National Assembly. Now, however, this role has passed to elected ministers: "Toutes les parties de la force publique employée contre les ennemis du dehors, agiront sous les ordres du conseil exécutif."¹ Furthermore, the Conseil was to be allowed to take measures to defend the nation in case of attack and this on its own initiative². It was also to nominate the "agents nationaux" responsible for negotiating peace treaties and alliances with the other nations (Art. 9).

In a way, we may understand Saint-Just's claim that Condorcet wished to set up "la royauté des ministres"³, especially as the powers mentioned in the first two articles above correspond to those which the old Constitution had granted to the King⁴.

Though there is little doubt that the shape of Condorcet's project was inspired by his conception of the executive as forming an entity distinct from the legislature and his consequent wish to put an end to the revolutionary "committees" which flourished in 1793, it would seem, nevertheless, that Saint-Just's attack was rather unfair. It is quite obvious, from the project, that power really lay with the legislature. As we have seen, only the

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1. Titre XI, Art. 7.
 2. Titre XIII, Art. 6.
 3. Cf. Godechot, op. cit. p.71.
 4. Cf. Const. de 1791, Titre IV, Art. 1.

National Assembly could order a cease-fire; furthermore, none of the executive's initiatives could remain valid unless it immediately informed the legislature¹ and only the Assembly could validate the treaties negotiated by the "agents nationaux" (Art. 9).

However, Condorcet's project was not a mere reflection of abstract ideas and on these grounds too it may be defended. For example, how could we blame him for allowing the executive such freedom in taking the necessary steps to defend the nation when we bear in mind the lethargic behaviour of the War Minister de Lessart in 1792?

Finally, only the National Assembly was authorized to declare war on another nation², a move against which the Conseil, unlike the King of the old Constitution³, could do nothing whatsoever⁴.

We will conclude this section by looking at what the project says about France's relations with other nations for this too was a source of conflict between Condorcet, the Girondins and the Montagnards.

In the first article of Titre XIII, Condorcet states the basic principle on which the revolutionaries as a whole, Condorcet included, wished to establish their war policy: "La République française ne prendra les armes que pour le maintien de sa liberté, la conservation de son territoire et la défense de ses alliés."⁵

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1. Cf. Titre XIII, Arts. 6 and 7.
 2. Titre XIII, Art. 5.
 3. Cf. Titre III, Ch. III, Sect. I, Art. 2.
 4. The old provision that a declaration of war be followed by a legislative election has of course been dropped; the fact that these elections were to take place annually rendered it superfluous.
 5. Cf. Const. de 1791, Titre VI, First sentence.

Following on logically from this, Article 2 states that France would not refuse to incorporate any other state which requested it, an obvious allusion to the vote made by the Comtat Venaissin on 11th June 1790 and the decree of 19th November 1792.

However, Articles 3 and 4, although very "girondin" in character do not seem to reflect Condorcet's personal views on the question of the role which the French troops should adopt towards the peoples in the other nations. By stating that the French generals "seront tenus ... d'assurer aux citoyens (des pays occupés) la jouissance entière de leurs droits naturels, civils et politiques ... (et) ne pourront ... protéger ... le maintien des usages contraires à la liberté, à l'égalité, et à la souveraineté des peuples" (Art. 3), Condorcet fell in with the Girondin thesis that the war was a just one waged by the French armies in order to help all the peoples of Europe liberate themselves from the despots who ruled over them.

However, Condorcet had always remained much more reserved than Brissot on this point. On 20th April 1792 he had attacked Brissot's call for all the nations of Europe to join in the war on France's side¹. As we have seen, his position throughout 1792 was very cautious, being based more on discouraging the other powers from invading France than in threatening them with the prospect of a war of liberation. He was to repeat these views in February 1793: ("la nation française) a renoncé aux conquêtes ... parce qu'elle n'ignore pas que forcer des étrangers à partager ... les droits de nos citoyens, ce serait ... attenter à leur indépendance."²

1. Cf. Projet d'une exposition, etc. O.C. X. 448.

2. La nation française à tous les peuples, O.C. XII. 510 - 511.

The Girondins' views are carried over also into Article 4 where it is stated that the French republic "respectera les institutions garanties par le consentement de la généralité des peuples"; this meant presumably that it would not respect the institutions set up by the European despots and would therefore change them in all the countries which it occupied. However, it would not impose its own institutions on the "liberated" nations.

Condorcet's views on this question are not absolutely clear; it would seem, however, that his attitude was much more realistic than that of the wildly idealistic Brissot. The latter wanted the French troops to leave the "liberated" nations entirely in the hands of their new leaders; Condorcet, however, realising that the balance of forces would make this an extremely dangerous step, had supported the decree put forward by Cambon and Danton on 15th December 1792 which stated that it was quite legitimate for France to take over the administration of the conquered countries¹.

These inconsistencies may be explained by two things. First, there is the perfectly logical explanation that Condorcet had at first been rather reluctant to support a war policy; however, once the war had started, he quite naturally desired that France ensure by all possible means that it be won. Secondly, he wished, as always, to reconcile his views with those of the two leading factions in the Convention - the Girondins and Montagnards². He was aware that, on this issue, both these factions were,

1. Cf. Alengry, op. cit. p.674.

2. Robespierre himself called for total intervention in the affairs of the other nations. He was to criticise the Girondin project for not going far enough in this matter (cf. Alengry op. cit. p.675) and attempted on 24th April 1793 to persuade the Convention to vote in favour of four proposals for increasing France's activities within the "liberated" nations (cf. G. Rudé: Robespierre, Glasgow, W. Collins, 1975, p.254). But he was to back down from this bold position later in the year (cf. Hampson: The life & opinions of Maximilien Robespierre, Duckworth, 1974, p.189).

for once, in agreement and that it was pointless to risk jeopardising the success of the whole project on it. These two articles are therefore something of a compromise: they accept in theory the idea of a "guerre révolutionnaire", but remain vague as to the degree of intervention in the affairs of others that the French Republic would allow herself.

As this study has shown, the Girondin constitutional project was an astute application of the old principles put forward by Condorcet before 1789 to the situation as it existed in 1793. Although many of its provisions are to be found in old ideas, others are born directly out of the events of 1790 - 1793.

A good example of this, not mentioned above, is to be found in Titre II concerning the criteria whereby a man was to be considered a citizen of the republic. Although most of the conditions correspond to those of the 1791 Constitution¹, we may distinguish some which are clearly inspired by the anti-émigré legislation supported by Condorcet at the end of 1791 and in 1792. This is Article 6, barring from citizenship for the space of six months any man who had resided abroad for six months on non-government business.

Other characteristics which indicate that Condorcet was keen on adapting his constitution to the times is seen in the omission of women from the ranks of citizenship, a step which the pre-1789 Condorcet would have accepted only with difficulty but which follows the attitude he had adopted in 1790.

1. Cf. Titre II, Arts. 2, 3, 6.

However, it is the elaborate electoral system described at length in the project¹ which illustrates more than anything else the extent of Condorcet's influence on the Constitutional Committee. That he wished to maintain it despite the danger which lengthy electoral periods represented at times of social unrest such as those France was experiencing in 1793, indicates that he considered that an electoral method which did not ensure that the people chosen corresponded exactly to the wishes of the electorate, made nonsense of the very idea of a representative government.

He firmly believed that the system he had discovered in 1785 was the only one which could guarantee a fair election and there is no doubt that it represents one of the cornerstones of the new project².

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1. It occupies an entire section of Titre III.
 2. K.M. Baker claims that the work upon which this system was based, the Essai sur l'application de l'analyse à la probabilité des décisions rendues à la pluralité des voix was the one that Condorcet "valued ... more highly than any other of his scientific writings", op. cit. p.81.

The constitutional committee, having completed its task, was dissolved on 15th February 1793 and, thirteen days later, Condorcet, together with Barère and Sieyès, returned to his work on the educational committee. He had just over a year to live, but, in a thesis of this kind, there is little to say about his works and activities during this period. They represent no evolution over the ideas which are expressed in the Exposition to the constitutional project; in fact, they reflect the consistency of Condorcet's thought, illustrated by his persistent efforts to preserve at all costs the unity which he believed had been at last achieved by the 10th August revolution.

The desire to preserve this unity lies behind all his actions of the time and explains his attempts to reconcile the Girondins with the Montagnards, the masses in the provinces with Paris and the electors with the National Assembly.

Thus, on 9th and 21st February, he defended the Girondins against those who accused them of preferring a federal system of government¹ yet, the following month, blamed them for their continuing distrust of Paris².

Similarly, despite his hatred for the extremist elements who threatened to disrupt the workings of the Assembly, he defended the Convention's work in April in an address to the electors of Saint-Quentin³ putting the rowdiness down to enthusiasm. At the same time, however, he

1. Chronique de Paris, I. 157, 205.

2. Ibid. p.241.

3. Cf. Adresse des députés de l'Aisne aux citoyens de leurs départements, O.C. XII. 569 - 580.

called on the parties in the Convention to bury their differences and to vote through such vital measures as the distribution of land, the reduction in the number of assignats, etc.¹

Meanwhile, in the *Chronique de Paris*, he bitterly attacked the War Minister Pache and proposed a plan for the transformation of the ministry into a War Council², one of the consequences of which was his appointment to the Defence Committee on 25th March 1793.

Even after the rejection of the constitutional project on 29th April, he refused to give up hope and, on 13th May, urged the Convention to summon the primary assemblies immediately so that they could elect a new convention³, thus illustrating his extraordinary faith in constitutional methods of change.

That he preferred to side with the Montagnards rather than the Girondins in the crisis which culminated in the riots of 31st May - 2nd June, may be put down partly to his belief that the former were better placed to give the Revolution the impetus which it needed. It should be said also that his ideas were by now very similar to theirs.

Thus, when he left the Convention in June 1793 to found, with Sieyès, the Journal d'Instruction Sociale, he used it to support all the progressive measures which were now passed - the laws against the émigrés, against food hoarding, etc. - uncharacteristically defending these attacks on individual liberty on the grounds of necessity⁴. Significantly, it was

1. Ce que les citoyens ont droit d'attendre de leurs représentants, O.C. XII. 545 - 568.

2. Chronique de Paris, I. 121-122.

3. Discours prononcé à la Convention sur la convocation d'une nouvelle convention nationale, O.C. XII. 583-604.

4. Cf. Sur le sens du mot révolutionnaire, O.C. XII. 615-624.

at this time that he wrote his famous article in favour of the progressive tax¹.

However, although a week after the publication of this article, he made his last great appeal for unity in the Journal d'Instruction Sociale², it was obvious that his support for people like Robespierre and Marat could not be taken beyond a certain point.

His patience broke on 24th June 1793 when the Montagnard constitution, drawn up in a month by Héroult de Séchelles and incorporating large parts of the Girondin project, was almost unanimously accepted after barely a fortnight's discussion.

For the first time, Condorcet lost his self-control and issued a violent attack on the new constitution: "Aux citoyens français sur la nouvelle constitution"³. As a result he was denounced to the Convention by the Montagnard Chabot on 8th July.

He went into hiding and during the following eight months wrote the Esquisse d'un tableau historique des progrès de l'esprit humain, a last great summary of his philosophical ideas. On 27th March 1794 he was captured at Clamart while escaping from Paris, and it was in the cell at Clamart that his body was found on the morning of 28th March 1794⁴.

1. "Sur l'impôt progressif," O.C. XII. 625-636.

2. "Que toutes les classes de la société n'ont qu'un même intérêt," O.C. XII. 645 - 650.

3. O.C. 653 - 675.

4. For details of his death, cf. Robinet Condorcet, sa vie, son oeuvre 1743-94, Paris, librairies - imprimeries réunies 1895, pp.317 - 324.

CONCLUSION

That Condorcet's first appeal to the people to revolt against the National Assembly should have occurred so soon after the rejection of his own constitutional project underlines some of the principal themes which the thesis has sought to develop.

These concern not only the difficulties which he had to overcome in order to transform the project for overhauling the Ancien Régime which he had drawn up before 1789 into the coherent constitutional plan of 1793, but also his relations with the people, his wish that they be united around the Revolution so as to consolidate its gains.

These themes are of course related for, as we have seen, Condorcet's attitude towards the people and their representatives in the National Assembly was dictated precisely by the tactics he was forced to adopt in order to ensure that the chances of one day introducing a constitution along his own lines would remain intact.

We may in a way compare the people to a barometre by which he was able to direct his policy during the Revolution. Thus, between 1789 and 1791, realising that the balance of power was weighed very much against the masses, he sought to impose on them the need for compromise, taking as his slogan the phrase "celui qui va trop vite, ou s'arrête ou s'égaré".

In 1792, however, he realised that the balance was shifting all the time in favour of the masses and he quite logically followed the movement through the war policy to its conclusion in the second revolution of 10th August.

It is of course possible in retrospect, as René Doumic has done¹, to accuse Condorcet of having been the victim rather than the guide

1. Cf. introduction p. 2.

of events. That he vacillated on one or two occasions is undeniable. It is true also that his calculations were not always very accurate, as is indicated, for example, by the excessive support which he gave to the republican cause just after the King's flight.

It would be difficult, however, to accuse him of having been responsible for any fundamental inconsistencies. At a time of great social upheaval, the only way of ensuring that the gains of the Revolution were not thrown away was to rally the people around their representatives. This Condorcet sought to do throughout 1789, 1790, 1791 and 1792. The war policy, though going against his principles, grew quite logically out of the need to preserve national unity while the 10th August insurrection was nothing more than the application of the "droit d'insurrection" which, as Condorcet had foreseen, was the inevitable result of the Constituent Assembly's failure to make any provision for changing the Constitution.

As Condorcet's ideas were based on the fundamental principle that change should be gradual and should evolve out of concrete experience, the absence of such a provision was intolerable and its consequences inevitable.

In the light of what has been said, however, his attack on the Montagnards in April 1793 may appear somewhat misguided and unnecessary. Certainly it represents the first and last time that he abandoned his policy of loyalty to the Assembly. There is no need to defend Condorcet on this point as it is by no means obvious that his motives were any longer inspired by the need to preserve national unity at all cost. It may best be explained by the bitter disappointment he must have felt at seeing his project rejected on purely political grounds and replaced by another very swiftly drawn up project incorporating a great number of his own ideas.

But the volte-face of April 1793 leads us directly to another of the main themes of this study: the problems faced by political theorists who attempt to put their ideas into practice.

We have seen that the reform project developed by Condorcet between 1776 and 1789, although inspired by concrete events such as the reforms of Turgot and Brienne and the American Revolution, owed a great deal to the ideas expounded by the eighteenth century "philosophes". We have seen also how he intended it to be put into practice slowly and over a long period of time and how the events of 1789 caught him off his guard.

After 1789, however, he refused to abandon hope of seeing his ideas being put into practice one day; it is nevertheless very likely that the theorist's vision blinded him to the subtleties of the political struggle which was taking place. His attack on the "trivial" complaints found in several of the "cahiers de doléances" of 1789, his anger at the Tiers Etat's refusal to accept candidates from the nobility, his peculiar defence of the "émigrés" as late as October 1791 are so many signs that he was not entirely aware of the forces in presence and had far too "idealistic" a view of the events which were taking place.

It was not until 1792 that he became aware of the fact that the political struggle was fully relevant to the realization of his ideal; it is in this period that he busied himself with such practical matters as the war policy, the relations between Paris and the provinces and the party political squabbles which culminated in his apparently paradoxical support for Danton, the "man of action".

His nomination to the constitutional committee at the end of 1792 isolated him once more from the political struggle, as is illustrated by the irritation which he felt at the importance accorded

by the major political groups to the "irrelevant" matter of the King's trial. Condorcet enjoyed this isolation, feeling as he did that there were far more important matters to attend to, namely the drawing up of France's first truly "democratic" constitution.

But the constitutional project, finest expression as it is of the ideals expressed by Condorcet before 1789, contains a number of elements which were incompatible with the time in which it came out.

The rigorous separation of the legislature from the executive, the very complicated and laborious electoral system, the frequent elections, the preference shown for an amateur army made up of volunteers, the freedom granted to the press - these were articles which it would have been almost impossible to apply in a France engaged in a revolutionary war with some of the most powerful nations of Europe, in a France moreover dominated by revolutionary committees which drew their authority directly from the legislature.

But, more than this, Condorcet's total and disinterested commitment to his project had made him forget that the Revolution's history had been filled with clashes between rival political factions - Feuillants, Lamethistes, Brissotins, Montagnards, Hébertistes, etc. In particular, he had never really appreciated the importance of the struggle between the Gironde and the Montagne and, as a theorist, had placed far too much faith in the unifying power of a republican constitution.

The events of April and June 1793 were a brutal reminder of the fact that it was impossible to efface political rivalry by the mere drawing up of political systems and it was Condorcet's refusal to realise this that led ultimately to his attack on the Montagnards and to his death.

It is nevertheless both remarkable and fitting that only a few

months before his death and very soon after the rejection of the constitutional project which he had considered as the crowning achievement of a lifetime, he was able to write the Esquisse d'un tableau historique des progrès de l'esprit humain", a work which provides the final great summary of the principles on which his reform plans were based and in which he acclaims, in all sincerity, the achievements of the Revolution.