

infancy to every creature. The sanctions of a future life are thus added to the observance of civil and political as well as domestic and private duties. Prudence, justice, temperance and fortitude, are thus taught to be the means and conditions of future as well as present happiness."⁷⁵

75. *Diary and Autobiography of John Adams*, ed. L. H. Butterfield (Cambridge, Mass., 1962), Volume 3, pp. 240-241.

Self-evident Truth and the Founding Fathers

For obvious reasons, it is not easy to discover what *all* American revolutionary thinkers held concerning an epistemology of self-evident principles of the kind we have been discussing, and I shall therefore limit my discussion to major figures who gave the matter some thought. But before beginning that discussion I want to emphasize that we must first distinguish between the question whether someone believed that there were self-evident moral principles and the question whether he thought, as Locke and Burlamaqui did, that relatively few people did or could see the self-evidence of those principles. I shall begin this chapter by concentrating on the first question while examining Jefferson's views because of the importance of the Declaration in catapulting the word "self-evident" out of the pages of Locke and into the language of American politics. This means that I shall be concentrating on a period in Jefferson's life when, as it seems to me, he was under the influence of what may be called an intuitionistic or a rationalistic view of morality, according to which we use our intuitive reason in perceiving self-evident truths of natural law.

Self-evidence and Equality in Locke

Before turning to Jefferson's own scrappy and sporadic discussions of the kind of truth the final version of the Declaration called self-evident, it would be well to consider some of the more proximate sources of his thinking on this subject. In one of his few specific statements about the influences on his writing of the Declaration, Jefferson mentions "elementary books of public right, as Aristotle, Cicero, Locke, Sidney, etc."¹ However, even though Aristotle may have been the ultimate source of Locke's doctrine that science begins with self-evident truth because Aristotle insists that the first principles of science must be "immediate,"² there is relatively little discussion of that kind of question in Aristotle's *Politics*, which must have been the book by him on public right to which Jefferson refers. Also, I doubt whether Jefferson relied on Cicero's writing on public right for material on either undeniable or self-evident truth, whereas the books on public right by Sidney and Locke *did* contain material on self-evident truth which might well have entered Jefferson's mind while signing the Declaration, though we must remember his

1. *Writings of Thomas Jefferson*, Volume XVI, pp. 118-119.

2. See Aristotle, *Posterior Analytics*, 71 B 20-22, where he says that the premises of demonstrated knowledge must be, among other things, "immediate." See also 72 A 8, "An immediate proposition is one which has no other proposition prior to it," in *The Works of Aristotle* (Oxford, 1928), Volume I. It is worth adding here that although Aristotle thinks of immediate propositions as needing no proof in which they are derived from logically prior propositions by the interposition of *middle* or, as it were, *mediating* terms, he does not call such propositions self-evident. Furthermore, although Aristotle distinguishes between things which are "more knowable and obvious to us" and those "which are more knowable by nature" (*Physics*, 184 A; *Works*, Volume II), he does not, as Aquinas does, speak of some propositions being *self-evident in themselves* by contrast to being *self-evident to us*. I am indebted for this information about Aristotle to Professors Harold Cherniss, Marion Soreth, and Nicholas White.

statement that he "turned to neither book nor pamphlet while writing it."³

Like Jefferson, Algernon Sidney was no professional epistemologist, but in his *Discourses Concerning Government* we find an epistemological passage which deserves some notice here. In the course of attacking Sir Robert Filmer's *Patriarcha*, Sidney has occasion to point out that Filmer had tried to smear the principles of liberty by saying that they were espoused by "school divines." In response, Sidney asserts that the Schoolmen were merely espousing a "common notion" or proposition which "all men saw." He even goes so far as to say that the proposition in question was like an axiom of Euclid, from which Euclid proved other propositions "as were less obvious to the understanding." In other

3. Letter to James Madison, August 30, 1823, *Writings*, Volume XV, p. 462. In doubting that Jefferson relied on Cicero, I do not mean to imply that Jefferson was not influenced by the famous passage in Book III, Chapter 22 of *De republica*, where Cicero asserts that there will not be different natural laws at different places or times but that "one eternal and unchangeable law will be valid for all nations and all times." Perhaps Jefferson was. I am rather remarking on Cicero's failure to speak of the *self-evidence* of the law of nature in that work or in *De legibus*. True, Cicero does speak in *De republica* of a violator of the law as "denying his human nature" in the Loeb translation of "*naturam hominis aspernatus*" (which might better be translated as "rejecting his human nature"). But there is no talk about self-evidence in this passage. Furthermore, in his *Tusculan Disputations*, Book I, Chapter XIII, Cicero writes: "But in every inquiry the unanimity of the races of the world must be regarded as a law of nature" ("*omni autem in re consensio omnium gentium lex naturae putanda est*"). Grotius, in *De jure belli ac pacis*, (Book I, Chapter I, Section XII), lists this among a *posteriori* proofs of something's being according to the law of nature. However, he contrasts such proofs invidiously with *a priori* proofs which consist "in demonstrating the necessary agreement or disagreement of anything with a rational and social nature." And, of course, Locke vehemently attacks universal consent as a basis for the assertion that there are innate principles. See his *Essay*, Book I, Chapter I, Section 4. It will also be recalled that Locke in his *Essays on the Law of Nature* also attacked the idea that "the general consent of men" is a basis for accepting principles of natural law. See his views on "*Vox populi vox Dei*" in the passage identified above in Chapter 1, note 25.

words, the axioms were self-evident in the parlance of Locke; and to make matters more interesting, Sidney refers to these axioms as truths which are "undeniable," as Locke did in his *Reasonableness of Christianity*, and this, as we have seen, was the very adjective Jefferson applied in the Rough Draft of the Declaration to truths called "self-evident" in the final version. But when Sidney calls truths "undeniable" he makes clear that he is speaking elliptically and that what he means, in fuller terms, is that they are "denied by none, but such as were degenerated into beasts," which means, of course, those who had lost their *reason*. He also says that they are statements "which none could deny that did not renounce common sense,"⁴ a phrase that Jefferson might have been recalling when he wrote Henry Lee that he wished, in the Declaration, "to place before mankind the common sense of the subject."⁵

This brings me to a far more important antecedent of the Declaration's philosophical truths, namely, Locke's *Two Treatises of Government*. In Jefferson's letter of 1823 to Madison, he reports Richard Henry Lee's charge that the Declaration had been "copied from Locke's treatise on government"—undoubtedly the second of Locke's two treatises, for the second was more directly concerned with matters treated in the Declaration. And it was this charge of "copying" that Jefferson dealt with by saying that he had turned to neither book nor pamphlet while writing the Declaration.

4. Algernon Sidney, *Discourses Concerning Government* 3rd ed. (London, 1751), Chapter I, Section II. The first edition appeared in 1698. I have used a reprint published in 1968 by Gregg International Publishers in England. The passages referred to appear on p. 5. Sidney's admirer, John Adams says, after listing what he calls "revolution principles," like "all men by nature are equal," that it is astonishing that writers who call themselves friends of government "should in this age and country be so inconsistent with themselves, so indiscreet, so immodest, as to insinuate a doubt concerning them," *Works*, Volume IV, p. 15.

5. See note 1 above.

Still, we do have Jefferson's word that he was trying to harmonize the sentiments he found in books of public right like Locke's. We know that in 1769 Locke's "On Government" was ordered by him from a London bookseller along with Burlamaqui's "*Le Droit naturel*" and other volumes of interest⁶ to students of Jefferson's ideas, and we know that he wrote a correspondent in 1790 that "Locke's little book on government, is perfect as far as it goes."⁷

In the light of this evidence and of certain striking similarities of expression which go under the name of "internal evidence," there is little doubt in my mind that Jefferson had read Locke's *Second Treatise* carefully before writing the Declaration and that he had been influenced by what Locke had said there, in particular by passages in which Locke *freely uses* the concept of self-evident truth. I emphasize the phrase "freely uses" in order to make clear that the *Second Treatise* is not much concerned with the theory of knowledge, with telling us what a self-evident truth is, with the question whether there are or can be self-evident practical principles, or with the question whether morality is or can be a demonstrative science. In my opinion, if Locke had doubts on these questions, they were soft-pedaled in the *Second Treatise*, and he seems as firmly convinced there as Aquinas was in his *Treatise on Law* that there are self-evident practical principles. For example, Locke said in his *Second Treatise* that there is "nothing more evident, than that creatures of the same species and rank promiscuously born to all the same advantages of nature, and the use of the same faculties, *should* [my emphasis] also be equal one amongst another without subordination or subjection, unless the Lord and Master of them all, should by any manifest declaration of his will set one above another, and confer on him by an evident and clear appointment an undoubted

6. Kimball, *Jefferson: The Road to Glory*, p. 210.

7. *Writings*, Volume VIII, p. 31.

right to dominion and sovereignty.”⁸ When Locke said that there was “nothing more evident,” he meant that the proposition was *self-evident*, as may be seen in his discussion “Of the Degrees of Our Knowledge” in the second chapter of Book IV of his *Essay*. There it is clear that he holds that a self-evident truth possesses the greatest amount of evidence that can be supplied for a truth.⁹ And for anyone who might doubt that Locke is attributing self-evidence to a *practical* truth in the *Second Treatise*, I have emphasized the word “should” in the quotation. With his usual acumen, Sidgwick noticed this normative word and paraphrased the proposition to which self-evidence is attributed as follows: “God . . . has made men similar in nature and faculties, *therefore* they are *to be* [my emphasis] regarded as mutually independent.”¹⁰ Here the gerundive, “to be regarded,” is clearly moral.

Another way of formulating Locke’s allegedly self-evident principle in the *Second Treatise* is as follows: Because all men have been created equal in the sense of having been given the same nature and the same advantages, they should also be treated as equal in the sense that no one of them should depend on the will of any other man (unless God has by a manifest declaration given one man dominion or authority over others). Now I want to make some comments on

8. *Second Treatise*, Chapter II, Section 4. This passage was virtually quoted in full by James Otis in his famous pamphlet, *The Rights of the British Colonies Asserted and Proved* (1764), reprinted in B. Bailyn, *Pamphlets of the American Revolution: 1750–1776* (Cambridge, Mass., 1965), Volume I (1750–1765), p. 440. On Locke’s doubts, see below, p. 178, note 46.

9. See notes 11, 12, and 13 of Chapter 1 of the present work, which identify the places of certain passages relevant to this point after they have been quoted in the text.

10. In my “Original Sin, Natural Law, and Politics” (see above Chapter 1, note 58) I called attention to the moral “should” without giving credit to Sidgwick for having observed it. P. Laslett in his edition of Locke’s *Two Treatises* (first published in 1960, Cambridge, Eng.) also calls attention to the “should” without referring to any other comment on it. See the 1970 reprint of Laslett’s edition, p. 287, note 11; also Sidgwick’s *Outlines of the History of Ethics*, p. 178.

the statement so formulated, and the first point I should like to make about it is purely logical. I have converted Locke’s statement into a “because”-statement and in so doing have produced an equivalent which implies its own antecedent, that all men *have been created* equal in the sense of having been given the same nature. It also implies its own consequent, that all men *should be* treated as equal in the sense that no one of them should depend on the will of any other man (unless God has by a manifest declaration given one man dominion or authority over others). And although Locke does not explicitly attribute self-evidence to the antecedent of the “because”-statement, in the sentence which immediately follows the self-evident principle that I have rendered as a “because”-statement, Locke says respectfully that the “judicious Hooker” looks upon the equality of men by nature as evident in itself and beyond all question. I infer from this that Locke agreed with Hooker in attributing self-evidence to the proposition asserting the equality of men by nature.¹¹

But what proposition is Locke talking about when he speaks of “this equality of men by nature”? It is, I think, the proposition that God has given all of us the same nature, by which Locke means that we have all been put into the same species or natural kind. But if Locke meant to associate himself with Hooker in asserting the self-evidence of this proposition, the antecedent of his “because”-statement in my rendition of his view, then he would have been saying something which had great influence on Jefferson, as any reader of the Rough Draft and the final version of the Declaration can see when he finds “all men are created equal” among the sa-

11. In A. P. D’Entrèves, *The Medieval Contribution to Political Thought: Thomas Aquinas, Marsilius of Padua, Richard Hooker* (New York, 1959), pp. 125–129, there is a discussion of the relationship between Locke’s and Hooker’s political theories but, unfortunately for our purposes, no treatment of the concept of self-evidence.

cred and undeniable as well as the self-evident truths. And if one adds to this the fact that Locke believed in the self-evidence of the entire "because"-statement, one can also see his influence on the structure of the Rough Draft of the Declaration, where it is held to be a sacred and undeniable truth that men *derive* certain rights from their equal creation.

When we properly distinguish three propositions held by Locke: 1. his self-evident "because"-statement; 2. its implied antecedent, "all men are equal by nature"; and 3. its implied consequent, "all men should be treated as equal," we may protect Locke against the charge of asserting the trivial statement that because all men are created equal, they should be viewed as equal. When stated without qualification in this way it *seems* to be an instance of the principle that because men are endowed by God with a certain attribute, they should be viewed as having that attribute. But this is an incorrect interpretation of Locke's principle precisely because it *identifies* the attribute of equality expressed in the "because"-clause, or the antecedent, with the attribute of equality which the consequent says that all men should be viewed as having. That is why one must interpret Locke to maintain that "equal" has different senses in antecedent and consequent or that men may be said to be equal in different respects. I used the first method when I formulated Locke's principle as follows: "Because all men have been created equal in the sense of having been given the same nature and the same advantages, they should also be treated as equal in the sense that no one of them should depend on the will of any other man. . . ." Once we formulate Locke's principle in this way we see that Locke is *not* asserting anything of the form: "Because men are endowed by God with a certain attribute, they should be viewed as having that attribute." Locke is telling us that because God created men as equal in one specified sense (or respect), they should be treated as

equal in *another* specified sense (or respect). If one prefers to state the point in another way, one may say that Locke is telling us that because God endowed all men with one sort of equality, they should be treated or regarded as possessing another sort of equality. He is not asserting that we should view as a spade what God made a spade. Nor is he asserting the truism that equals are equal.

It is extremely important to emphasize the distinction between a truism, or what Locke calls a trifling proposition, and a truth which is instructive. For him, identical propositions, whether they take the general form of "An *A* is an *A*" or the more concrete form of "An oyster is an oyster," are trifling. Identical propositions are for him those "wherein the same term, importing the same idea is affirmed of itself";¹² but he goes on to say that "alike trifling it is to predicate any other part of the definition of the term defined, or to affirm any one of the simple ideas of a complex one of the name of the whole complex idea,"¹³ and he thinks that "Every man is an animal or living body" is trifling on this score.¹⁴ This disparagement of trifling propositions had special significance, he thought, for ethics, since he asked: "Let a man abound, as much as the plenty of words which he has will permit, in such propositions as these: 'a law is a law,' and 'obligation is obligation'; 'right is right,' and 'wrong is wrong':—will these and the like ever help him to an acquaintance with ethics, or instruct him or others in the knowledge of morality? Those who know not, nor perhaps ever will know, what is right and what is wrong, nor the measures of them, can with as much assurance make, and infallibly know, the truth of these and all such propositions, as he that is best instructed in morality can do. But what advance do such propositions give in the

12. *Essay*, Book IV, Chapter VIII, Section 3.

13. *Ibid.*, Book IV, Chapter VIII, Section 5.

14. *Ibid.*, Book IV, Chapter VIII, Section 6.

knowledge of anything necessary or useful for their conduct?"¹⁵

By contrast, there are propositions which are self-evident but not trifling which serve, as we have seen, as mathematical axioms. "The whole is bigger than a part" is one, and "Things equal to the same thing are equal to each other" is a second truth of this kind. Locke had special views about the status of such maxims, since he argued that a child can see that it is self-evident that his body is bigger than his little finger before he is introduced to the general maxim used by mathematicians, but this is not of particular importance to us. What is important is the fact that a self-evident truth could not be instructive or informative if it was trifling. And because of his insistence upon the distinction between trifling self-evident propositions and non-trifling ones, Locke's position would have to be distinguished from that of theorists of natural law who, like Culverwel, held that a first principle of morality is "near to a tautology and identity."¹⁶ In short, Locke thought that a first principle of natural law is one whose predicate expressed an idea not contained in its subject, and that is why I think it fair to construe his principle of equality as I have. Of course, one may argue with Locke about whether the principle is self-evident even if one accepts his definition of a self-evident proposition as one that we are forced to accept as soon as we grasp the two distinct ideas in it, namely, our equality of species and our obligation not to put each other under subjection, but that is another matter. Here I am concerned to be as fair as I can to him and to his American followers.

The same concern to be fair leads me to point out that Locke did not hold that the statement "all men are created equal" is incompatible with the existence of age-differences, height-differences, and other such non-essential differences

15. *Ibid.*, Book IV, Chapter VIII, Section 3.

16. See above, Chapter 1, note 2.

among men. And he cannot be thought to hold that our obligation to treat all men as equal in the sense of mutually independent is incompatible with other obligations or rights to give precedence to those who are greater in age, merit, or excellency of parts.¹⁷ All of these inequalities which, it should be emphasized, do not constitute inequalities of *species* or *nature* may justify inequality in what is owed to one man by another. But such permissible or obligatory inequality of treatment, Locke says, does not conflict with the equal right that every man has to what Locke calls on different occasions his natural freedom, his natural right not to be subjected to the will or authority of another man, his natural independence, or his natural liberty. This equal natural right that all men have in consequence of their equal nature is the affirmative counterpart of the duty that all men have not to put their fellow-men under dominion, for it will be observed that Locke's self-evident principle in Chapter II of the *Second Treatise* states a duty on the part of all men not to put their fellow-men in a state of subordination or subjection. Let us

17. In Section 54 of the *Second Treatise* he writes: "Though I have said above, Chap. II, that all men by nature are equal, I cannot be supposed to understand all sorts of equality: age or virtue may give men a just precedence; excellency of parts and merit may place others above the common level: birth may subject some, and alliance or benefits others, to pay an observance to those to whom nature, gratitude or other respects may have made it due; and yet all this consists with the equality, which all men are in, in respect of jurisdiction or dominion one over another, which was the equality I there speak of, as proper to the business in hand, being that equal right that every man hath, to his natural freedom, without being subjected to the will or authority of any other man." See W. F. Dana, "The Declaration of Independence," *Harvard Law Review* XIII (1900): 339, note 1, for a reference to this passage in Locke, which is made in order to clarify Jefferson's use in the Declaration of "equal." C. M. Wiltse, in *The Jeffersonian Tradition in American Democracy* (Chapel Hill, 1935), p. 158, makes the same point about the Declaration without mentioning Section 54 of Locke's *Second Treatise*. Neither Dana nor Wiltse, however, points out that so-called equality before the law is based by Locke on equality of species, and that this doctrine is also employed in the Declaration, as we shall see below.

also bear in mind that "independent" is a negative term, so that what is formulated on Locke's behalf by Sidgwick as "God . . . has made men similar in nature and faculties, therefore they are to be regarded as mutually independent" might also be expressed by saying "God . . . has made men similar in nature and faculties, therefore they are *not* to be regarded as mutually *dependent*."

Someone might raise the following question here. If the proposition said to be self-evident by Locke is that because all men are created equal, every man has a duty not to put under his dominion another member of his species, why should we regard a logical consequence of that statement, namely, that because all men are created equal, every man has a right to be independent of other members of his species, as self-evident? After all, the latter is *deduced* from the former, and so it might be thought to be a theorem rather than a self-evident axiom. The answer, I venture to say, is that this deduction is carried out by exploiting an equivalence which Locke would have called trifling, namely, the equivalence between "every man has a duty not to put under his dominion another member of his species" and "every man has a right to be independent of other members of his species." So one self-evident proposition may be deduced from another self-evident proposition if the mode of deduction is trifling.

Jefferson, Self-evidence, and Equality

I now wish to compare Locke's views on self-evidence and equality in greater detail with some views expressed in the Declaration of Independence. This is best begun by examining the so-called Rough Draft of it prepared by Jefferson for the Committee of Five, a document ingeniously reconstructed by Julian Boyd,¹⁸ who also shows how it was trans-

¹⁸ Julian Boyd, *The Declaration of Independence: The Evolution of the Text as Shown in Facsimiles of Various Drafts by Its Author, Thomas Jefferson* (Princeton, 1945), pp. 19-21.

formed into the document it finally became. After this Rough Draft is altered, perhaps crucially, by putting the word "self-evident" in place of "sacred and undeniable"—a change which some say was made by Jefferson himself before he submitted the Draft to the Committee of Five (John Adams, Franklin, Robert R. Livingston, Roger Sherman, and Jefferson himself)—a highly philosophical passage of the Rough Draft comes to read as follows:

We hold these truths to be self-evident; that all men are created equal & independent, that from that equal creation they derive rights inherent & inalienable, among which are the preservation of life, & liberty & the pursuit of happiness. . . .

One thing to note about this passage is that whether it is construed as containing the phrase "sacred and undeniable" or the word "self-evident" these terms are applied to two different kinds of truths. The first is illustrated by the proposition "all men are created equal & independent," and the second by one about derivability: "from that equal creation, they derive rights inherent and inalienable. . . ." The second may be converted into a proposition of the form: "Because all men are created equal, they have rights inherent & inalienable . . .," since it seems to me that when Jefferson says that men *derive* certain rights from their equal creation, he means that equal creation is the ground or foundation of these rights. And once we convert his statement of derivation into a "because"-statement, we can more clearly see the links between what Locke says in the *Second Treatise* and what Jefferson says in the Declaration. We can see that Jefferson's assertion in the Rough Draft of the undeniability of "all men are created equal" is the counterpart of Locke's remark that the "judicious Hooker" believed in the self-evidence of "this equality of Men by Nature." And we can also see that Jefferson's belief in the undeniability of the proposition I

have rendered as: "Because all men are created equal, they have rights inherent and inalienable . . ." is the counterpart of Locke's belief in the self-evidence of the proposition I have earlier rendered as: "Because all men have been created equal in the sense of having been given the same nature and the same advantages, they should also be treated as equal in the sense that no one of them should depend on the will of any other man (unless God has by a manifest declaration given one man dominion over others)." It is true that the consequent of Locke's "because"-statement differs from the consequent of Jefferson's by virtue of referring only to the right of liberty, but that difference should not be allowed to obscure the two points of similarity which I wish to underscore in this chapter. The first point is that Locke (on the assumption that he agreed with Hooker) and Jefferson both believed in the undeniability of the equality of men by nature, provided this is interpreted as Locke interprets it, namely, as an equality of species which is compatible with the various differences that Locke treats in Section 54 of his *Second Treatise*. And the second point is that both Locke and Jefferson believed in the undeniability of principles which asserted that certain moral rights were *derived from* this natural equality or equality of species.

We are now in a better position to evaluate certain criticisms of the statement that all men are created equal. *The Scots Magazine* of August 1776 reprinted the Declaration and attached two anonymous critical footnotes to it, one to the word "equal." Concerning the statement that all men are created equal, the hostile critic asks whether they are alleged to be equal in size, strength, understanding, figure, moral accomplishments, or civil accomplishments. "Every ploughman," the critic says in answer to his own question, "knows that they are not created equal in any of these." But then, after granting that all men are "equally created," the critic

denies that this is "to the purpose." Indeed, he goes further and says that the fact that all men are equally created is no reason why the Americans should rebel against the people of Great Britain, who are fellow creatures of the Americans.¹⁹ This allows us to observe that the critic failed to see that Jefferson, following Locke, thought that "created equal" meant "created as members of the same species," and that like Locke, Jefferson certainly did not mean to imply that all men are equal in size, strength, understanding, figure, moral accomplishments, or civil accomplishments.²⁰ Furthermore, if Congress had adopted the Rough Draft, containing as it did Jefferson's statement that the right to preserve one's life, the right to preserve one's liberty, and the right to pursue happiness are *derived* from equal creation, Jefferson's intent would have been harder to lampoon. Needless to say, if Jefferson could have added footnotes to Locke, such lampooning would have been made still harder. I say this because it would, or should, have been evident from the Rough Draft that if "equal creation" was used in a sense from which the right to liberty was derived, it could hardly have been meant to include equality in size. And certainly another British critic, John Lind, would not have been able to have inferred from the Rough Draft with apparent ease that "all men are created equal" implied that "a child, at the moment of his birth, has the same quantity of *natural* power as the parent, the

19. *The Scots Magazine*, XXXVIII (August 1776): 433. This note is reproduced in R. Ginsberg, ed., *A Casebook on the Declaration of Independence* (New York, 1967), pp. 6-7.

20. That Jefferson's views on this point were shared by other revolutionaries may be seen by consulting several passages in the works of signers. Although all were written after 1776, they may be regarded as retrospective clarifications of what John Adams and James Wilson had meant by "created equal" when they subscribed to the Declaration. See especially Adams, *Works*, Volume I, p. 462; Volume VI, pp. 285-286 and pp. 453-454; Volume X, pp. 52-53. See *The Works of James Wilson*, ed. R. G. McCloskey (Cambridge, Mass., 1967), Volume I, pp. 240-241.

same quantity of *political* power as the magistrate."²¹ I realize, of course, that a tough political antagonist might not have been deterred by the use of even the Rough Draft's language and would have been able to lampoon that as well. But I argue merely that statements in the Rough Draft were closer to Jefferson's philosophical intent and less susceptible to tendentious misinterpretation, especially of what he meant by "created equal."

In a chapter which is primarily devoted to showing that Jefferson and other founding fathers were as rationalistic in their view of morality as Locke was, I shall not comment in detail on the rights mentioned in the Rough Draft or in later versions of the Declaration. But in defending the idea that their view of morality was as rationalistic as that of Locke, I shall divide my argument into two parts, one in which I focus on the use of the phrase "sacred and undeniable" in the Rough Draft and another in which I focus on the use of "self-evident" in the final version. I do this because there is some reason to believe that the phrase "undeniable truth" was used in the philosophical literature of the time to cover a broader class of truths than that covered by "self-evident" since theorems deduced from self-evident truth, which is to say, demonstrated, were also called undeniable. Therefore, on the assumption that "undeniable" was wider than "self-evident" in extension, a serious philosophical change was made when the Rough Draft was altered because Jefferson was now put in the position of asserting that he could know truths by intuition which, perhaps, he regarded as merely

21. John Lind, *An Answer to the Declaration of the American Congress* (London, 1776), p. 120. The last part of this work of 132 pages, entitled "Short Review of the Declaration," contains a very brief criticism in its earliest pages of the more philosophical parts of the Declaration. The bulk of the book is devoted to answering, point by point, the more factual parts of the Declaration. This "Short Review" is reprinted in Ginsberg, *op. cit.*, pp. 9-17.

demonstrable. However, if Jefferson was being cautious in the Rough Draft and inclined not to commit himself as to whether his undeniable truths were self-evident or demonstrable, the fact is that even if he thought they were demonstrable rather than self-evident, he would have had to believe that some *other* truths were self-evident. In that case, he would still have been committed to moral rationalism of the Lockean variety. On the other hand, if we focus on the final version, in which "self-evident" is used, and if we construe that word as Locke construed it, then it is even more certain that Jefferson was a moral rationalist.²² For the present, I shall be content to argue that the use of either "sacred and undeniable" or "self-evident" would have made Jefferson a moral rationalist, but later on I shall argue that Jefferson would have been better off if he had let "sacred and undeniable" stand—on the assumption that he himself made the change, an assumption about which experts²³ seem to be in disagreement—or if he had resisted the person, probably Franklin, who proposed the change to "self-evident." All of

22. See Supplementary Notes, Moral Rationalism . . . , p. 273.

23. Carl Becker says on one page of his *Declaration of Independence* (New York, 1922), p. 142, note 1, that "it is not clear that this change was made by Jefferson. The handwriting of 'self-evident' resembles Franklin's." But on another page (p. 198) Becker writes: "When Jefferson submitted the draft to Adams the only correction which he had made was to write 'self-evident' in place of 'sacred & undeniable' . . . I suspect that he erased '& independent' because, having introduced 'self-evident,' he did not like the sound of the two phrases both closing with 'dent.'" Julian Boyd presents on p. 22 of his *Declaration of Independence* a very interesting discussion in which he seems to favor the view that Jefferson himself made the change. Concerning the removal of "& independent" from "all men are created equal & independent," an assertion made in the Rough Draft, I opine that whoever removed it realized that once the final version asserted that it was self-evident that the Creator endowed all men with the right to liberty, it was superfluous to say that he created them *independent*. For to have the right to liberty is to be independent, i.e. not under the dominion of other men.

this will become clearer, I hope, when I deal with Burlamaqui's effort to *derive* the principles of natural law in a manner which Jefferson might well have approved.

I should add that colonists other than Jefferson explicitly adopted a Lockean, rationalistic view, according to which some truths are self-evident and others demonstrated. As we have seen, the very passage on equality in Locke's work that I have been analyzing and linking with the Declaration was quoted favorably by James Otis in his famous pamphlet of 1765, *The Rights of the British Colonies Asserted and Proved*.²⁴ And Alexander Hamilton was even more explicit in his appeal to the epistemology of self-evidence, not only in his pre-Revolutionary writing but also in his contributions to the *Federalist Papers*.

Hamilton and Self-evidence

In 1774 and 1775, Hamilton engaged in a controversy with the pseudonymous "A. W. Farmer" in which Hamilton wrote one pamphlet called (for short) *A Full Vindication of the Measures of the Congress* and another briefly entitled *The Farmer Refuted*.²⁵ Both of them contain passages that show Hamilton's attachment to doctrines of the kind I have been discussing. At one place he writes: "That Americans are intitled to freedom is incontestible upon every rational principle. All men have one common original: they participate in

24. *Pamphlets of the American Revolution: 1750-1776*, ed. B. Bailyn, p. 440. For other examples of the rationalistic use of "self-evident" and allied expressions by signers of the Declaration, see *The Papers of Benjamin Franklin*, ed. L. W. Labaree (New Haven, 1959), Volume I, p. 59; *The Works of James Wilson*, Volume I, p. 223; *Works of John Adams*, Volume X, p. 85. One of the most Lockean statements may be found in *Diary and Autobiography of John Adams*, ed. L. H. Butterfield (Cambridge, Mass., 1962), Volume I, p. 32.

25. *The Papers of Alexander Hamilton*, ed. H. C. Syrett (New York, 1961), Volume I, pp. 45-165.

one common nature, and consequently have one common right."²⁶ Hamilton's reference to incontestability upon "every rational principle" is further support for what I have in mind, and his brief sentence about all men having one common original, one common nature, and consequently one common right is virtually a summary of Locke's self-evident principle in Section 4 of the *Second Treatise*—the *common right* of Hamilton being what Locke called in Section 54 of the *Second Treatise* "that *equal Right* that every man hath, to his *Natural Freedom*." In keeping with the rhetoric of "self-evidence" and allied terms, Hamilton says that "we may pronounce it a matter of undeniable certainty, that the pretensions of Parliament are contradictory to the law of nature."²⁷ And in *The Farmer Refuted*, he condescendingly advises his adversary: "Apply yourself, without delay, to the study of the law of nature. I would recommend to your perusal, Grotius, Puffendorf, Locke, Montesquieu, and Burlamaqui. I might mention other excellent writers on this subject; but if you attend, diligently, to these you will not require any others."²⁸ To this Hamilton adds an attack on the pseudonymous Farmer as one who subscribes to principles like those of Hobbes. Hobbes is then dismissed as an atheist who held that morality derived from the introduction of civil society and therefore that all virtue is artificial rather than natural. After a short disquisition on natural law in which he leans on Blackstone, Hamilton concludes with a typical intuitionistic

26. *A Full Vindication*, *ibid.*, p. 47. The spelling is Hamilton's.

27. *Ibid.*

28. *Ibid.*, p. 86. Well before Hamilton wrote this, James Otis had defended the proposition that Colonial rights were inherent and indefeasible by saying that it is "self-evident . . . to everyone in the least versed in the laws of nature and nations, or but moderately skilled in the common law," *A Vindication of the British Colonies* (1765), Bailyn, *Pamphlets*, Volume I, p. 562. This shows the influence of the idea that not everyone could perceive self-evidence. Moreover, Otis's passage was directed against Martin Howard's statement (Bailyn, p. 535) that he would "shun the walk of metaphysics in [his] inquiry," that is, the appeal to natural rights.

flourish: "To deny these principles will be not less absurd, than to deny the plainest axioms: I shall not, therefore, attempt any further illustration of them."²⁹ And although Hamilton opposes the Farmer by appealing to natural law as well as by appealing to the British Constitution and to colonial charters, there is an interesting passage in which, after noting that New York has no charter, Hamilton says that New York might "plead the common principles of colonization" on the ground that New York should not be prevented from enjoying the most important privileges of the other colonies. But Hamilton does not stop there: he goes on to employ a figure that is familiar to students of the history of natural law and natural rights: "There is no need, however, of this plea: The sacred rights of mankind are not to be rummaged for, among old parchments, or musty records. They are written, as with a sun beam [*sic*], in the whole *volume* of human nature, by the hand of the divinity itself; and can never be erased or obscured by mortal power."³⁰

29. *Ibid.*, pp. 88–89.

30. *Ibid.*, pp. 121–122. See Stourzh, *Alexander Hamilton and the Idea of Republican Government* (Stanford, Calif., 1970), for an interesting discussion of certain elements of Hamilton's thought. It is interesting to find that when Cicero in his *Tusculan Disputations*, Book I, Chapter XIII, is discussing the basis for belief in the existence of the gods and comes to the conclusion that what is unanimously accepted by the races of the world must be regarded as a law of nature and that belief in the existence of the gods is established in the same way, he begins the chapter on this by saying (in the Loeb Library translation by J. E. King) that if he were "to investigate old records and rummage out (*erueret*) of them the instances given by Greek writers," he could show us that the existence of the gods was accepted even by barbarous men. It is also interesting to find Jefferson reporting in his *Autobiography* that while preparing his *Summary View of the Rights of British America* (1774), he and his friends "rummaged over" John Rushworth's *Historical Collections* "for the revolutionary precedents and forms of the Puritans of that day" (*Writings*, Volume I, p. 9). There is a plain suggestion that this rummaging was for rhetorical purposes since Jefferson goes on to say that after finding some useful passages in Rushworth, "we cooked up a resolution, somewhat modernizing their [the Puritans'] phrases" (*ibid.*). In the *Summary View*, Jefferson

Without stopping here to examine certain non-epistemological aspects of Hamilton's thoughts on natural law, I wish to observe that his reference to God's writing the sacred rights of mankind into the volume of human nature by means of something like a sunbeam is not unrelated to Locke's notion that self-evident propositions express knowledge which is "irresistible, and, like bright sunshine, forces itself immediately to be perceived, as soon as ever the mind turns its view that way,"³¹ not to speak of the notions of other celebrators of the light of nature. However, the reader of the first chapter of *this* volume will recall that when discussing Locke's views I pointed out how he made deliberate use of that part of his figure which allowed him to deny that any person whatever could see this light. Not only was it necessary, said Locke, for the mind to turn its view toward the light, but the mind had to have the power of sight, it had to open its eye, and so on, to see self-evident truth.³² These figurative Lockean requirements for the perception of self-evident truth were, as I have shown, intimately connected with Locke's idea that "there are only few who, neither corrupted by vice nor carelessly indifferent, make a proper use of that light [of nature]"³³ and with his forceful rejection of the principle that the voice of the people is the voice of God.³⁴ And Hamilton, as one might expect, was also a partisan of self-evident principles who attempted to close loopholes through which his opponents might try to escape in their efforts to dispute his claims on *political* issues.

This attempt is most conspicuous in Federalist Number

rested a good part of his argument on natural rights, even though he also appealed to legal precedents. (See Chapter 3, note 65 below.)

31. See Chapter 1, notes 12 and 13 and the related parts of the text.

32. See Chapter 1, note 23 and the related parts of the text.

33. See Chapter 1, note 24 and the passage cited there.

34. See Chapter 1, note 25 and the passage cited there. Hamilton also rejected the principle that the voice of the people is the voice of God. See *The Papers of Alexander Hamilton*, Volume IV, p. 200.

31, where Hamilton brings out very big epistemological guns in order to defend the "necessity of a general power of taxation in the government of the union."³⁵ It should be underscored that the main proposition at stake in Federalist Numbers 30 and 31 is not an axiom of natural law, and that it is not, therefore, a moral principle in our contemporary sense of the word "moral." It is rather a political principle. Yet, so eager is Hamilton to bludgeon the opponents of a strong national union that he begins Federalist Number 31 with a little essay on first principles or primary truths which is worth our attention because it shows that some partisans of the doctrine of self-evident truth tried to win substantive political arguments by appealing to epistemology.

Hamilton begins Federalist Number 31 with the familiar philosophical statement that in disquisitions of every kind there are certain primary truths or first principles "upon which all subsequent reasonings must depend."³⁶ Then, in what will be recognized as a familiar move, Hamilton asserts that first principles "contain an internal evidence, which antecedent to all reflection or combination commands the assent of the mind."³⁷ But, next, we find Hamilton hedging in a manner with which we have also become familiar, for he says: "Where it produces not this effect, it must proceed either from some defect or disorder in the organs of perception, or from the influence of some strong interest, or passion, or prejudice."³⁸ And after illustrating the notion of self-

35. *The Federalist*, ed. J. E. Cooke (Middletown, Conn., 1961), p. 195. In discussing Hamilton's views in *The Federalist* I go beyond the temporal boundaries I generally observe in this study because such a discussion helps me delineate the political uses to which the epistemology of natural law could be and were put.

36. See Supplementary Notes, The Ambiguity of "Depend . . .," p. 276.

37. *The Federalist*, pp. 193-194. By "antecedent to all reflection or combination" Hamilton means antecedent to all discursive reasoning or deduction in Locke's sense.

38. *Ibid.*, p. 194. This kind of hedging we have observed in Locke and Burlamaqui. It is also to be found, for example, in Cumberland's *De*

evident truth by citing mathematical principles like "The whole is greater than any part," Hamilton asserts that both ethics and politics contain similar "maxims." When he comes to illustrate the maxims of ethics and politics, he presents the following list: "that there cannot be an effect without a cause; that the means ought to be proportioned to the end; that every power ought to be commensurate with its object; that there ought to be no limitation of a power destined to effect a purpose, which is itself incapable of limitation."³⁹

After listing his allegedly self-evident maxims of ethics and politics, Hamilton notes that there are other truths in ethics and politics which, even though they are not self-evident, are so directly inferred from self-evident axioms "and so obvious in themselves, and so agreeable to the natural and

legibus naturae (1672). In Chapter I, he says that the laws of nature are necessarily suggested to the minds of men, and that they are understood and remembered by men "whilst the faculties of their minds continue unhurt," trans. Maxwell (London, 1727), p. 39. The same idea that reason may fail to perceive moral truth because of the influence of passion, bias, ignorance, or madness may be found in Adams, *Works*, Volume III, p. 435 and in Wilson, *Works*, Volume I, p. 223.

39. *Ibid.*, p. 194. For a similar appeal to self-evidence, see Madison in Federalist Number 44, J. E. Cooke's ed., pp. 304-305. One wonders why Hamilton's first maxim is said to be ethical or political. One also wonders whether it is deliberately formulated by Hamilton in this way, even though he might have known that the principle of universal causation had been stated by Hume, for example, as follows: "Every object, which begins to exist, must owe its existence to a cause"—a proposition which, Hume asserted, was neither intuitively nor demonstratively certain. Hume had also written as follows in criticism of those who had, in effect, formulated the principle of causation as Hamilton had: "They are still more frivolous, who say, that every effect must have a cause, because 'tis imply'd in the very idea of effect. Every effect necessarily pre-supposes a cause; effect being a relative term, of which cause is the correlative. But this does not prove, that every being must be preceded by a cause; no more than it follows, because every husband must have a wife, that therefore every man must be marry'd. The true state of the question is, whether every object, which begins to exist, must owe its existence to a cause; and this I assert neither to be intuitively nor demonstratively certain," David Hume, *A Treatise of Human Nature*, ed. L. A. Selby-Bigge (Oxford, 1888), p. 82.

unsophisticated dictates of common sense, that they challenge the assent of a sound and unbiased mind, with a degree of force and conviction almost equally irresistible [*sic*]."⁴⁰ Here, Hamilton's idea is to introduce a few more truths—those that are theorems of ethics and politics—into the class of propositions that he wants to set upon a pedestal. To be sure, they are on a lower pedestal because they are almost as irresistible—Locke's word, it will be recalled—as axioms; but Hamilton the political thinker is very eager to speak with the authority of one who is working in what Locke calls "demonstrative science," and that is why he is determined to regard the theorems of his "sciences" as virtually self-evident. And there is in Hamilton a great desire to show that anyone who disagrees with him on taxation is disputing a self-evident truth or something close to a self-evident truth. But it is interesting to note that instead of taking the line of Aquinas, which would allow ignorance of essence to be a cause of another man's failure to see self-evidence where the assertor does, Hamilton is more inclined in this work to accuse his opponents of a defect in the organ by which man perceives truths of this kind, or of some strong interest, passion, or prejudice. Interestingly enough, it is just as easy to think of Hamilton's opponent who may be accused of having a defective "organ" or of being dominated by prejudice, interest, or passion, as either a member of the mob or as an over-sophisticated doctrinaire speaking for the few. In either case, Hamilton is not above using epistemology to bully his political opponents.

Whatever class of opponent Hamilton is attacking in the epistemological prologue of Federalist Number 31, that opponent is testily accused of being far less tractable in accepting the alleged truths—whether axioms or theorems—of ethics

40. *The Federalist*, p. 194.

and politics than he is in accepting those of geometry. Hamilton's explanation is that geometry is so removed "from those pursuits which stir up and put in motion the unruly passions of the human heart," that mankind without difficulty accepts even the most unnatural and paradoxical theorems—like the infinite divisibility of matter—from geometers, whereas they will balk at religious mysteries which are "not less incomprehensible." I am tempted to say here that the persons who accept the allegedly incomprehensible theorems of geometry do not strike one as making up all "mankind" at large. Hamilton must be speaking here of persons of more education than the average even though he speaks of them condescendingly, saying: "Caution and investigation are a necessary armour against error and imposition. But this untractableness may be carried too far, and may degenerate into obstinacy, perverseness or disingenuity. Though it cannot be pretended that the principles of moral and political knowledge have in general the same degree of certainty with those of the mathematics; yet they have much better claims in this respect, than to judge from the conduct of men in particular situations, we should be disposed to allow them. The obscurity is much oftener in the passions and prejudices of the reasoner than in the subject. Men upon too many occasions do not give their own understandings fair play; but yielding to some untoward bias they entangle themselves in words and confound themselves in subtleties."⁴¹

On this note Hamilton's epistemological prelude ends, and he begins to use the prelude concretely against political opponents, about whose disagreement with him he asks the following question: "How else could it happen (if we admit the objectors to be sincere in their opposition) that positions so clear as those which manifest the necessity of a general power

41. *Ibid.*, p. 195.

of taxation in the government of the union, should have to encounter any adversaries among men of discernment?"⁴² The question is, of course, rhetorical since Hamilton can think of no other way in which opposition to his views of taxation might be explained, except by supposing that his opponents fail to "give their own understandings fair play" because they yield to some "untoward bias." This explanation is related to, but different from Locke's observation that there are few men, who in matters of daily practice or matters easy to know, "surrender themselves to the jurisdiction of reason or follow its lead." Locke was speaking of the *many* who are led astray by passion and who "readily follow the inducements of pleasure or the urges of their base instincts rather than the dictates of reason."⁴³ But Hamilton, writing more than a hundred years after Locke and in defense of the United States Constitution, defended a view of how more discerning men might fail to use their understandings and to perceive self-evident truth, a view that resembled Locke's. Hamilton, because he was defending a people's Constitution, was more inclined to use the supplementary machinery of the theory of self-evidence against men of discernment who "confound themselves in subtleties" rather than against the many who have the unruly passions of a mob.

Perhaps it would be helpful to examine Hamilton's view of arguments against the necessity of a general power of taxation in order to show how at least one advocate of the doctrine of rationally intuited, self-evident truth used this doctrine to rebut political opponents. Immediately after indicating that only one who yields to untoward bias, entangles

42. *Ibid.* It is clear from this passage that Hamilton was attacking the passions and prejudices of "men of discernment" (unless he was being ironical) rather than the rude or ignorant multitude and therefore that a previously published comment of mine on this part of Federalist Number 31 needs alteration. See my *Science and Sentiment in America* (New York, 1972), p. 316.

43. See Chapter 1, note 23 and the passage identified there.

himself in words, and therefore fails to give his understanding fair play would oppose the necessity of a general power of taxation, Hamilton recapitulates his own argument for this necessity before dealing with opponents. First, he says, a government ought to contain in itself every power requisite to its care and for the execution of the trusts for which it is responsible, being controlled only by a concern for the public good and for the sense of the people. This seems to be an illustration of Hamilton's maxim or primary truth that "every power ought to be commensurate with its object." In short, if the federal government is assigned a goal of a certain kind, it must be granted a power of a certain kind. Secondly, says Hamilton, since the duties of superintending the national defense and securing public peace against both foreign and domestic violence involve providing for casualties and dangers "to which no limits can possibly be assigned," the power of making that provision ought to know no bounds other than those set by the needs of the nation and the resources of the community. This seems to be an instance of the supposedly self-evident maxim "that there ought to be no limitation of a power destined to effect a purpose, which is itself incapable of limitation." Thirdly, he says, since revenue is the "essential engine" by which the means of satisfying the nation's needs must be procured, "the power of providing for that article must necessarily be comprehended in that of providing for those" needs.

Note that so far Hamilton's argument seems to remain within the realm of self-evidence: (1) If you assign a certain end to a government, you ought to assign the government a power through the exercise of which it can attain that end. (2) If the end is illimitable, the power ought to be illimitable. (3) If you give government the power to attain an end, you should empower it to use the only means that will help it attain the end. But then we come to a fourth proposition that Hamilton needs in his argument, a proposition which is not

proposed to vest it; the national government might at any time abolish the taxes imposed for State objects, upon the pretence of an interference with its own. It might alledge a necessity of doing this, in order to give efficacy to the national revenues: And thus all the resources of taxation might by degrees, become the subjects of federal monopoly, to the intire exclusion and destruction of the State Governments.⁴⁷

Whatever the merit of this criticism of a crucial step in Hamilton's argument, it is clear that Hamilton would have a hard time making his critic seem like a man trying to show that two and two do not make four or that red was green. Hence, there is only a comparatively feeble effort on Hamilton's part to paint his opponent as mentally deficient or deranged, an effort to which we come after Hamilton has made the following comment: "This mode of reasoning appears some times to turn upon the supposition of usurpation in the national government; at other times it seems to be designed only as a deduction from the constitutional operation of its intended powers. It is only in the latter light, that it can be admitted to have any pretensions to fairness."⁴⁸ Now we are ready for what I call Hamilton's feeble effort to impugn his opponent's mental standing. Immediately after saying what I have just quoted, Hamilton focuses on his opponent's statements about what the national government *might* do in a spirit of usurpation and complains: "The moment we launch into conjectures about the usurpations of the federal Government, we get into an unfathomable abyss, and fairly put ourselves out of the reach of all reasoning. Imagination may range at pleasure till it gets bewildered amidst the labyrinths of an enchanted castle, and knows not on which side to turn to extricate itself from the perplexities into which it has so rashly adventured. Whatever may be the limits or

47. *Ibid.*, pp. 196-197.

48. *Ibid.*, p. 197.

modifications of the powers of the Union, it is easy to imagine an endless train of possible dangers; and by indulging an excess of jealousy and timidity, we may bring ourselves to a state of absolute scepticism and irresolution."⁴⁹

I think it should be plain that there is a good deal of bluster in this passage. Hamilton's reference to his critic's putting himself "out of the reach of all reasoning" because the critic fears that the national government might ride roughshod over the state governments if given an illimitable power to tax, is mere rhetoric riding on the back of "self-evident truth." Surely a man might have the mentioned fears about usurpation without being a madman, and this is why I think that Hamilton's efforts to place his opponent beyond the reach of reasoning are feeble. They do, nevertheless, show that American thinkers have invoked the epistemology of self-evident truth in support of concrete political views. This is not to say that Hamilton's political views were indefensible, that *no* argument could be constructed in support of them. It is rather to say that such an argument would not be demonstrative in nature, that it would not move from self-evident truths to theorems in imitation of pure mathematics as conceived by Locke. Before concluding the discussion of Hamilton's epistemological views on this subject, however, I should point out that he was quite preoccupied with them and that they do not appear only in Federalist Number 31. They also appear in Number 23, where Hamilton says that the powers to raise armies, build and equip fleets, to prescribe rules for the government of both, to direct their operations, and to provide for their support are powers which ought to exist without limitation because, Hamilton insists, it is impossible to foresee or define the extent and variety of national exigencies or the means necessary to satisfy them. So once again we are treated to a little lecture in the theory of knowledge:

49. *Ibid.*, p. 197.

"This is one of those truths, which to a correct and unprejudiced mind, carries its own evidence along with it; and may be obscured, but cannot be made plainer by argument or reasoning. It rests upon axioms as simple as they are universal. The *means* ought to be proportioned to the *end*; the persons, from whose agency the attainment of any *end* is expected, ought to possess the *means* by which it is to be attained."⁵⁰

Interestingly enough, however, when Hamilton uses his so-called truths that carry their own evidence while discussing common defense, he is willing to make remarks which to some extent soften his dogmatic appeal to self-evidence. He asserts, characteristically, that whether the federal government *should* be entrusted with the care of the common defense "is a question in the first instance open to discussion." But, he insists, the moment it is decided that it should, it will follow that the government ought to be given the powers requisite to the complete execution of its trust.⁵¹ However, these requisite powers, as in the case of taxation, are powers over the individual citizens of America and not powers over the States in their collective capacities. Moreover, when Hamilton defends his view that the federal government should have *these* unlimited powers in the case of defense, he takes the occasion to say that "experiment" has demonstrated that the practice, under the Articles of Confederation, of allowing Congress to make requisitions only on the *States* for these purposes, was based on an expectation that was "ill founded and illusory." "It was presumed," he says, "that a sense of their true interests, and a regard to the dictates of good faith, would be found sufficient pledges for the punctual performance of the duty of the members to the Federal Head."⁵² This remark seems to imply that *if* the States

50. *Ibid.*, p. 147.

51. *Ibid.*

52. *Ibid.*, p. 148.

had behaved differently, the Federal Head would have accomplished its goal by a means other than one which Hamilton said was logically *necessitated*. Obviously, Hamilton believed that it was *logically* possible for the States to have behaved differently. But if it was logically possible for the States to have behaved differently, then one could imagine the federal government being entrusted with the care of the common defense and carrying out its trust, not in the manner which Hamilton regards as logically necessitated by the nature of the trust, but by the method contemplated under the Articles of Confederation. In short, the Hamiltonian necessity which he expresses in an allegedly self-evident truth is not a logical necessity, and the truth is not self-evident. In the end, Hamilton must resort to the proposition that a failure to give the national government the right to go directly to the people—and not to the States—is "improvidently to trust the great interests of the nation to hands, which are disabled from managing them with vigour and success."⁵³ But improvidence, of course, is not irrationality.

The idea behind both Federalist Number 31 and Number 23 is to do away with a need on the part of the national government to accomplish some of its goals by way of the States, and to allow it to go directly to the people, whether to collect certain taxes or to raise an army. And for this idea one might provide an argument based on experience or prudence. It is better, other things being equal, not to have to work through intermediaries like the States when the national government may have to do many different things quickly in a time of danger. This, however, is not "one of those truths, which to a correct and unprejudiced mind, carries its own evidence along with it." It is based on the observation of human political behavior rather than on an immediate perception of the agreements or disagreements of ideas alone. Whether Hamil-

53. *Ibid.*, p. 149.

ton failed to see this because he was hypnotized by the Lockean model of demonstrative science, or whether he deliberately tried to inflate the certainty of what he had to say in a rhetorical effort to convince his political opponents, I do not know. In either case, it is clear that the doctrine of self-evident truth had an influence on the day-to-day political language of the eighteenth century and through that, I dare say, on the political behavior of the same period.

A Concluding Word

In this chapter I have tried, among other things, to reinforce the view that Locke's moral rationalism played a crucial part in the Declaration of Independence, especially in the revealing Rough Draft of it. Jefferson held there, in agreement with Locke, or Hooker, or both of them, that it may be discovered by reason that all men are created equal in the sense of having been given the same nature and advantages. He also held under the influence of Locke that it may be discovered by reason that because men are created equal in this sense, they all have certain inherent rights. And concerning Alexander Hamilton's thought I have tried to show not only that he appealed to Locke's theory of self-evidence in his defense of natural law against the Farmer in 1774 and 1775 but that in the *Federalist Papers* he was so carried away by Locke's model of demonstrative science that he tried to show that only a biased, prejudiced, passionate man could fail to agree with his supposedly self-evident political belief that the federal government ought to collect taxes from individuals as opposed to States.

In short, the rationalistic intuitionism of Locke was a powerful influence on two of the most important Colonial thinkers who, in spite of their many differences, held that there are truths in ethics and politics which have all the certainty of mathematical axioms and which would be denied, in the

words of Algernon Sidney, by "none, but such as were degenerated into beasts" or, in Hamilton's more temperate language, by those who were so "untractable" as to "degenerate into obstinacy, perverseness, or disingenuity." This onslaught against those who might depart from a debatable epistemology of morals and politics also had the support of Locke, who went so far as to say that a man who violates the self-evident law of nature, that is, the rule of reason, shows himself to have become "degenerate, and declares himself to quit the principles of human nature, and to be a noxious creature,"⁵⁴ a beast of prey. The frequent use of the word "degenerate" shows that the man who violates and hence by implication is so irrational as to deny the rational laws of nature loses the essential qualities given by God to all men. He sinks to a lower kind in the scale of nature and may therefore be treated as we would treat a wild beast. Small wonder, then, that Thomas Paine called the English king the "Royal Brute," thereby making him fair game for those who thought they knew a self-evident truth when they saw one.

Small wonder, too, that John Stuart Mill might have worried, as we saw at the end of the preceding chapter, about the political consequences of accepting the kind of rationalistic intuitionism to which Hamilton was certainly wedded in the *Federalist Papers*. However, it is important to bear in mind that when Hamilton exploited what I have called the jokers in the epistemology of self-evidence— notions like that of an unbiased, unprejudiced mind—he was not using them in an effort to bully Burlamaqui's "stupid wretches" so much as men of discernment, as Hamilton calls them, who degenerate into obstinacy, perverseness, or disingenuity when they deny what Hamilton regards as undeniable. This shows, I think, that the theory of self-evident truth was a politically versatile instrument, but it also shows, perhaps, how arrogant Hamil-

54. *Second Treatise*, Section 10.

ton was. For he could administer the same kind of treatment to his fellow-statesmen that they might administer to the "stupid wretches" mentioned by Burlamaqui and the credulous people whom Locke wished to protect from the dictators of principles. About Jefferson's view on this question, I shall have more to say in the next chapter. Naturally, it was complicated, as Jefferson's views always were when he was pulled in one direction by his respect for reason and in another by his sentiments regarding the people.

• 3 •

Reason, Moral Sense, and the People

Although the main concern of this study is the philosophy of the Revolution as expressed in the Declaration of Independence and in other documents of eighteenth-century America, and although I have argued that Locke's rationalistic doctrine of self-evident principles was accepted by Jefferson when he was writing the Declaration, I cannot, in my discussion of the Revolutionaries' theory of moral knowledge, avoid considering the impact of what is called the doctrine of moral sense on American thought in the revolutionary period. Because we find references to the moral sense in the writings of Jefferson, John Adams, and James Wilson,¹ we

1. Many of Jefferson's references to the moral sense will be discussed later in this chapter, as will those of James Wilson. Adams refers to the moral sense less frequently, but after Jefferson wrote to him in 1816 that he believed "that the moral sense is as much a part of our constitution as that of feeling, seeing, or hearing," Adams replied: "I agree perfectly with you, that 'the Moral Sense is as much a part of our constitution as that of feeling,' and in all that you say, upon this subject," *The Adams-Jefferson Letters*, ed. L. J. Cappon (Chapel Hill, 1959), Volume II, pp. 492 and 494. In a letter to John Taylor in 1814, Adams writes: "Being men, they have all what Dr. Rush calls a *moral faculty*; Dr. Hutcheson a *moral sense*; and

are obliged to ask whether the predominant epistemology of revolutionary morals ever ceased to be that of Lockean rationalism and whether it was ever replaced by the doctrine of moral sense.

It is hard to identify this doctrine with precision because different versions of it were adopted by its many advocates in the eighteenth century. Yet all those who adopted it had at least this much in common: they believed that when we engage in moral assessment we exercise a moral faculty which is different from reason or the understanding because that moral faculty resembles the normal five senses in certain respects. Appealing to such a faculty distinguished advocates of the moral sense from philosophers who subscribed to moral rationalism. According to the former, we are supposed to *sense* that a certain kind of action, such as telling the truth, is right, whereas lying is wrong; according to the latter we are supposed to see this by the use of reason—the same reason that is employed in mathematics. Advocates of the doctrine of moral sense also held that we use that faculty rather than Locke's reason while evaluating ultimate ends of human conduct. As we keep trying to answer those who keep asking us why we do certain things, we must finally cite a goal or an end which is approved of by the exercise of our moral sense and not by our reason. Why do we walk? For exercise. Why do we seek exercise? For our health. Why do we seek health? To attain happiness. Why do we wish to be happy? At some point such as this we must, theorists of the moral sense said,

the Bible and the generality of the world, a conscience," *Works*, Volume VI, p. 449. Earlier, in his *Novanglus* of 1774, Adams had expressed the same view, *Works*, Volume IV, p. 14. It is interesting to discover, therefore, that in 1756 Adams was reading Hutcheson's *Short Introduction to Moral Philosophy*, the translation of a work written by Hutcheson in Latin under the title *Philosophiae Moralis Institutio Compendiaria*. A translation had first appeared in 1747, the original in 1742. See *Diary and Autobiography of John Adams*, Volume I, p. 2.

stop offering further goals to be attained by the use of certain means and must flatly say that our moral sense immediately sees the worth of happiness and that of any other ultimate end to which we may have been driven in the course of such moral questioning.

The emergence of the doctrine of moral sense in the eighteenth century precipitated a controversy in which the main participants "were Shaftesbury, Hutcheson, Hume and Adam Smith on the side of sense or feeling, and Samuel Clarke, Wollaston, Balguy, Richard Price and Reid on the side of reason or knowledge,"² and the controversy engaged the attention of many educated Americans. Colonists who read philosophy and law often mentioned the moral sense, and signers of the Declaration such as Witherspoon, Jefferson, and James Wilson hoped to resolve the issues that divided the British moralists whom they read while seeking moral support for their own political positions. We must keep in mind, however, that it was one thing to acknowledge the *existence* of the moral sense, which some writers identified with conscience, and another to accept the technical *doctrine* of moral sense according to which it was the faculty that had the final say in morals. Even Locke admitted that moral principles could be supported in some degree by appealing to conscience, while insisting that reason was *the preferred* way of establishing moral principles. He also maintained that men could to some extent support their belief in such principles by appealing to utility or to the Gospel, but, as we have observed, Locke, like Pufendorf,³ regarded logical demonstra-

2. D. D. Raphael, *The Moral Sense* (Oxford, 1947), p. 2. Raphael remarks in a footnote to Reid's name that he must be classed with the rationalists in spite of narrowing the gap in the controversy by reinterpreting the moral sense theory. He discusses Reid's views in Chapter V of his work.

3. Pufendorf writes that "although by the wisdom of the Creator the natural law has been so adapted to the nature of man, that its observance is always connected with the profit and advantage of men, and therefore also

tion from self-evident principles as the way in which a philosopher would show them to be true. And it was this insistence on seeking final support from reason so conceived that made Locke's rationalism unacceptable to the most radical advocates of the doctrine of moral sense.

In this chapter I shall try to do a number of things. I mention them in a preliminary way so that the reader may distinguish certain intersecting threads of my argument. I shall begin by expounding a relatively pure form of the doctrine of moral sense, defended by Francis Hutcheson in his earlier work.⁴ When we understand this version of the doctrine, we can more clearly see the contrast between the doctrine of moral sense and the moral rationalism of Locke. We can also see more easily how someone like Burlamaqui—whose views I shall also examine—could combine elements of the doctrine of moral sense and moral rationalism in a sort of hybrid doctrine that Jefferson seems to have accepted when he was drafting the Declaration. Burlamaqui believed in the existence of the moral sense but, unlike Hutcheson, denied that it, all by itself, could firmly establish general moral principles; and, in my opinion, Jefferson followed Burlamaqui in holding that the moral sense *indicates* or *intimates* certain moral principles but that it was the task of Lockean reason to verify or establish those principles. However, Jefferson's

this general love tends to man's greatest good, yet, in giving a reason for this fact, one does not refer to the advantage accruing therefrom, but to the common nature of all men. For instance, if a reason must be given why a man should not injure another, you do not say, because it is to his advantage, although it may, indeed, be most advantageous, but because the other person also is a man, that is, an animal related by nature, whom it is a crime to injure," *De jure naturae et gentium*, Book II, Chapter III, Section 18 (Oldfather translation). Sidgwick cites this same passage, *Outlines of the History of Ethics*, p. 178, note 2, while maintaining that "Locke's relation to utilitarianism is exactly characterised by some phrases of Pufendorf."

4. See Supplementary Notes, Moral Sense and Reason . . . , p. 277.

statements on these matters are complex and require considerable explication which I shall present in detail below.⁵

So much for my preview of some of the main expository threads of this chapter. I now want to add a foreword about a thread which is more political in character. Many advocates of the doctrine of moral sense praised it for enlarging the class of persons who could form reliable moral judgments because, according to the doctrine, it does not take a Pufendorf to see that a certain kind of action is right or wrong. For example, James Wilson gave credit to the doctrine of moral sense for explaining why a ploughman is as good as a Pufendorf at making moral judgments. However, when we carefully examine what Wilson says on this subject, we see that for him only a pure, undebauched, undepraved moral sense could lead one to correct moral principles, and this makes us wonder about the vaunted democratic implications of the doctrine of moral sense.

Hutcheson's Early Doctrine of Moral Sense

The early Hutcheson held that the moral sense is completely different from and independent of reason. Regarding the moral sense as in certain respects analogous to the normal five senses, Hutcheson thought of it as a faculty which is exercised without being influenced by the will. In other words, when we respond favorably or unfavorably to moral actions, our will cannot prevent us from having the moral sensations we have. The action impinges on us, and we are caused directly to approve or disapprove. In addition, the early Hutcheson held that no form of reason intervenes between the perception of a feature of an action—e.g., its being heroic—and

5. I no longer hold views on the subject which I put forth in my *Science and Sentiment in America* (New York, 1972), pp. 68–70. There I exaggerated the extent to which some of Jefferson's references to the moral sense signified an abandonment of moral rationalism.

the immediate moral sensation that it is good or right. Our approval of a heroic act would not depend on our rationally intuiting the truth of the proposition "All heroic actions are good or right or ought to be praised" in the way that Locke says we intuit the truth of "The whole is greater than a part." Nor does anything like Locke's deductive reason intervene. Moreover, Hutcheson does not think that we use that form of reason which we today call empirical science when we attribute *immediate* goodness because, obviously, Hutcheson does not believe that when a person's moral sense *immediately* approves of someone else's heroic action, the first person *infers* anything on the basis of an empirical generalization that such actions tend to bring about the advantage of the person himself or of the public. And when the first person himself contemplates performing a heroic action, he does not engage in any similar reasoning before performing the action of which his own moral sense approves, even though Hutcheson says that while we are intending the good of others we "undesignedly promote our own greatest private good." According to the early Hutcheson, "We are not to imagine, that this *moral sense*, more than the other senses, supposes any *innate ideas, knowledge, or practical proposition*: We mean by it only a *determination of our minds to receive amiable or disagreeable ideas of actions, when they occur to our observation, antecedent to any opinions of advantage or loss to redound to ourselves from them*; even as we are pleas'd with a *regular form, or an harmonious composition*, without having any knowledge of *mathematics*, or seeing any *advantage* in that form, or composition, different from the immediate pleasure."⁶

It would appear that Bernard Peach⁷ is correct in speaking

6. *Inquiry Concerning Moral Good and Evil*, Section I, Part VII. This *Inquiry* is the second of two treatises printed in *An Inquiry into the Original of Beauty and Virtue*, 2nd ed. (London, 1726).

7. See Bernard Peach, Introduction to Hutcheson's *Illustrations on the Moral*

of the noncognitive nature of the sensing which is done in the exercise of the moral sense as described above, even though Hutcheson often speaks of the moral sense as *discerning* things. It would also appear that even though moral sensing was noncognitive for the early Hutcheson, it could entitle us to assert a moral *proposition* about, say, an heroic action. In other words, Hutcheson's allegedly noncognitive moral sensing allegedly entitles us to assert moral propositions that we can claim to *know*. In his early writings this claim to knowledge seems to be established immediately by the sensing, but later, presumably after absorbing the influence of Butler and the Stoics, Hutcheson acknowledged the need for some kind of correction of the moral sensations by reason before we could claim to have moral knowledge about an action.

Although Hutcheson does not make it altogether clear that a moral proposition about an action involves characterizing the action as, say, an act of heroism or an act of stealing, it is obvious that he must view moral propositions in this way. The moral sense responds to the action *as an action of a certain kind*, and this in itself suggests that the moral sense is at least partly cognitive. For if the moral sense, before it judges the action to be good, bad, right, or wrong, must view the action as possessed of a certain attribute, such as being a heroic act or an act of stealing, then the moral sense cannot react to the act without knowing or thinking *something*. Furthermore, when the moral sense responds unfavorably to an act which is known or thought to be an act of stealing, it must be responding unfavorably to that act *because* it is an act of stealing.⁸ And this suggests that the moral sense is capable

Sense (Cambridge, Mass., 1971), p. 20. Also see W. T. Blackstone, *Francis Hutcheson and Contemporary Ethical Theory* (Athens, Georgia, 1965), Chapter V.

8. See Hutcheson, *Inquiry*, Section I, Part II, where he writes: "as soon as any action is represented to us as flowing from *love, humanity, gratitude*,

of assessing a moral proposition such as "No one should steal" since it is hard to see how the moral sense could arrive at the conclusion that an act was wrong *because* it was an act of stealing without issuing a favorable verdict on the general proposition that all acts of stealing are wrong or on the proposition that no one should steal.

It is only by viewing Hutcheson's moral sense in this enlarged way that we can see how it could even be a competitor of Locke's intuitionism. For it must be remembered that Locke's notion of self-evidence, when it was used in ethics, was applied to *general* moral principles about what men should or should not do. And when Hutcheson's view is regarded as a competitor of Locke's in this sphere, we must think of Hutcheson as saying that the moral sense *immediately* perceives *the truth* that all men should honor their engagements or that no man should harm another, whereas Locke holds that rational intuition immediately perceives such truth. Nevertheless, the moral sense as conceived by Hutcheson must not be confused with Locke's intuitive reason, even though both of these faculties are said by their advocates to be exercised immediately. Locke explicitly avows that we use our rational intuition to see immediately that a certain *proposition* is true, whereas Hutcheson holds that we use our moral sense to see immediately that an action of a certain kind is good, bad, right, or wrong. Yet, once followers of Hutcheson say that his moral sense must pass judgment on moral propositions, they are put in an awkward position because of his insistence that the moral sense does not "suppose" a "practical proposition."

compassion, a study of the good of others, and a *delight* in their happiness, although it were in the most distant part of the world, or in some past age, we feel joy within us, admire the lovely action, and praise its author. And on the contrary, every action represented as flowing from *hatred*, *delight* in the misery of others, or *ingratitude*, raises abhorrence and aversion."

It is extremely important to recall that the "immediacy" of a primary truth as construed by Aristotle meant that it was not deducible by the interposition of middle terms from logically prior premises—and this was closely related to Locke's view of the immediacy of his self-evident principles. By contrast, the immediacy of the operations of the moral sense was more like the direct apprehension that certain theorists of sense-perception speak of, whether they are realists who say we see the physical object directly, or representation-*alists*, who speak of seeing a sense-datum directly. The moral sense was thought to be like eyesight, but it was sharply distinguished from intuitive reason, even though philosophers like Locke spoke of the intuitive reason as "seeing" or "perceiving" *truths*. We must bear in mind, of course, that throughout the whole tradition of rationalism philosophers who believe in immediate and self-evident truth have been forced, for want of other ways in which to make themselves understood, to use—only analogically, they would say—terms that refer to such sensory faculties as ordinary vision while referring to theoretical vision. And for this reason dictionaries are forced to report that words like "discern" in English, as well as its cognates in French and Latin, have both a sensory and an intellectual connotation. Nevertheless, while Locke thought of his rational intuition as seeing truth and perceiving agreements and disagreements of ideas, the early Hutcheson wished to strip his moral sense of all such rationalistic elements.

The extent of Hutcheson's opposition to Locke's moral rationalism is underscored when we observe his unwillingness to accept Gilbert Burnet's view that the seeings of the moral sense should be checked by, and their rightness derived from, the deliverances of reason in the form of self-evident truths. During a correspondence in the year 1725, Burnet tried to persuade Hutcheson to adopt this view but failed. Burnet tried to get Hutcheson to agree that one needed to

appeal to self-evident truth to show that the moral sense was *right* in regarding benevolence as the ultimate end of human behavior. According to Burnet, the conjunction of the statements, "It is best that all should be happy" and "Benevolence is the properest and fittest means to procure the happiness of the species," logically implies that benevolence should be the ultimate end of one's behavior and that the moral sense was *right* in seeing it as such. Yet, as I have said, Hutcheson never budged from his view that such a rationalistic proof of the rightness of the moral sense was not necessary to complete his theory.⁹

Hutcheson not only spurned Burnet's rationalistic addition to his system, but unlike most expositors of the doctrine of natural law, he played down the role of self-evident truth even in that happy hunting ground of rationalism. Thus he wrote even in his *Short Introduction to Moral Philosophy*, which was a late work: "The *Law of nature* as it denotes a large collection of precepts, is commonly divided into the *primary* and *secondary*; . . . This division is of no use as some explain it, that the primary consists of self-evident propositions, and the secondary of such as require reasoning . . . The only useful sense of this distinction is, when such precepts as are absolutely necessary to any tolerable social state are called the *primary*; and such as are not of necessity, but tend to some considerable improvement or ornament of life, are called *secondary*."¹⁰ This passage should make clear that unlike Locke, who thought that it was intuitive reason which should *really* establish the fundamental precepts of natural law, even though a test of their social utility might also be made, Hutcheson seems willing and even eager to by-pass

9. See *The Correspondence between Gilbert Burnet and Francis Hutcheson*, an appendix to Peach's previously cited edition of Hutcheson's *Illustrations on the Moral Sense*.

10. Francis Hutcheson, *A Short Introduction to Moral Philosophy in Three Parts, Containing the Elements of Ethics and the Law of Nature*, p. 94. I have used the English translation published in Dublin in 1787.

the rationalistic use of intuitive reason on the precepts as well as the use of discursive reason in deducing secondary precepts of natural law. The only kind of reason he seems willing to use in moral contexts is one which would establish *empirically* that primary precepts are absolutely necessary to any tolerable social state and that the secondary precepts tend to some considerable improvement or ornament of social life. But *this* reason is not Locke's intuition or deduction; it is rather the kind of reason that tells us whether one thing is in fact a means to an end. It is what Locke would have used, as he says in the *Reasonableness of Christianity*, to establish the "convenience" of the precepts of morality, their tendency to promote man's happiness.¹¹

Burlamaqui on Reason and the Moral Sense

Hutcheson's diffidence about appealing to self-evident and deductively derived principles of natural law is, I think, enough to show that *his* epistemology of natural law was not that of Jefferson in *the Declaration*. Rather, as I have already indicated, it was a view like Burlamaqui's which permitted Jefferson to believe in the moral sense and reason, and to regard reason as so much more reliable as to refer to truths of reason alone in the Declaration. So let me now turn to Burlamaqui, who wrote his textbook late enough for the publisher of the first English translation of his *Principes du droit naturel* in 1748 to subtitle it: "In which the true systems of morality and civil government are established; and the different sentiments of Grotius, Hobbes, Pufendorf, Barbeyrac, Locke, Clarke, and Hutchinson [*sic*] occasionally considered." Burlamaqui was the beneficiary of two distinct intellectual traditions within the history of moral philosophy, rationalism and

11. Hutcheson asks at one point: "What is Reason but that sagacity we have in prosecuting any end?", *Inquiry Concerning Moral Good and Evil*, Section III, Part XV. See Raphael, *op. cit.*, p. 29.

the doctrine of moral sense; and he tried to reconcile them in a way that may illuminate the views of certain Americans, notably those of Jefferson.

Burlamaqui entitles Chapter III of Part II of his *Principes du droit naturel*, first published in Geneva in 1747, as follows: "Of the means, by which we discern (*discernons*) what is just and unjust, or what is dictated by natural law; namely, 1. moral instinct, and 2. reason."¹² What Burlamaqui has to say on this subject is of special interest because he had read not only all of the standard treatises on natural law by Continental jurists like Grotius and Pufendorf but also the works of British philosophers like Locke, Clarke, and Hutcheson. One commentator on Burlamaqui holds that "*il n'est pas impossible*" that Burlamaqui's addition of moral instinct was inspired by his reading of Hutcheson, but the commentator underestimates the connection between the two thinkers. For Burlamaqui, in explaining what he means by "moral instinct," says: "Moral instinct I call that natural bent or inclination, which prompts us to approve of certain things as good and commendable, and to condemn others as bad and blameable, independent of reflection. Or if any one has a mind to distinguish this instinct by the name of moral sense, as Mr. Hutchinson [*sic*] has done, I shall then say, that it is a faculty of the mind, which instantly discerns, in certain cases, moral good and evil, by a kind of sensation and taste, independent of reason and reflection."¹³ I should add that Richard Price would have jumped on Burlamaqui's use of the verb "discern" (*discerne*), as he did on Hutcheson's use of it, because, as we shall see later, Price explicitly denies that the senses *discern*. The fact remains, however, that the translator of

12. *The Principles of Natural Law*, Part II, Chapter III.

13. *Ibid.*, Part II, Chapter III, Section I. "Hutchinson" is Burlamaqui's own spelling, repeated by the English translator. The commentator is B. Gagnebin in *Burlamaqui et le droit naturel* (Genève, 1944), pp. 109-110.

Hutcheson's Latin refers to nature's implantation of that "most divine of all our senses, that *Conscience* by which we *discern* [my emphasis] what is graceful, becoming, beautiful and honourable in the affections of the soul, in our conduct of life, our words and actions,"¹⁴ and this is in accord with what Hutcheson writes in his text about the moral sense. Burlamaqui may have realized that someone might complain in the manner of Price about letting a sense "discern," for Burlamaqui speaks of "this emotion of the heart, which prompts us, *almost without any reasoning or inquiry* [my emphasis], to love some actions, and to detest others."¹⁵ The use of the phrase "almost without" suggests that there is, for Burlamaqui, *something* rational about the moral sense. "Without any *great thought or reasoning* [my emphasis]," Burlamaqui also says, as he illustrates the exercise of the moral instinct, "a child, or untutored peasant, is sensible that ingratitude is a vice, and exclaims against perfidy, as a black and unjust action, which highly shocks him, and is absolutely repugnant to his nature."¹⁶

Burlamaqui goes on to say that if anyone should ask him where this "*mouvement du cœur*" comes from, he can only answer that "it is therefore a kind of instinct, like several others, which nature has given us, in order to determine us with more expedition and vigour, where reflection would be too slow. . . . The pressing and indispensable wants of man

14. *Short Introduction to Moral Philosophy*, p. 14. The text of Hutcheson justifies the translator's use of "discern," since the corresponding Latin passage reads: "*insitus est omnium divinissimus ille sensus, decorum, pulchrum, et honestum, in animi ipsius motibus, consiliis, dictis, factisque cernens.*" Note "*cernens*" and also the fact that the translator has inserted the word "conscience" into this passage. However, the insertion is in accord with Hutcheson's own identification throughout his writings of the moral sense and the conscience. And the Latin verb "*cerno*" may refer to something done with the senses as well as with the intellect.

15. *Principles of Natural Law*, Part II, Chapter III, Section III.

16. *Ibid.*, Part II, Chapter III, Section II.

required that he should be directed by way of sense, which is always quicker and readier, than that of reason."¹⁷ Indeed, the instinct that attaches us to life and our desire for happiness—"the primum mobile of all our actions"—are also given to us for our benefit because of the slowness of reason. And this is in accord with what Hutcheson says on the subject, namely: "Notwithstanding the mighty *reason* we boast of above other animals, its processes are too slow, too full of doubt and hesitation, to serve us in every exigency, either for our own preservation, without the *external senses*, or to direct our actions for the *good* of the *whole*, without this *moral sense*."¹⁸

So, according to Burlamaqui, God has given us a moral sense because of our need for a speedier route to moral rectitude and for a device that may be used either by children who have not reached the age of reason or by adults who do not usually engage in any great thought or reasoning. And it is in this context that we find a question and statement by Burlamaqui to which I have referred in an earlier chapter: "For what numbers of people would never trouble their heads with reflecting? What multitudes there are of stupid wretches, who lead a mere animal life, and are scarce able to distinguish three or four ideas, in order to form what is called ratiocination? It was therefore our particular advantage, that the Creator should give us a discernment of good and evil, with a love for the one, and an aversion for the other, by means of a quick and lively kind of faculty, which has no necessity to wait for the speculations of the mind."¹⁹

Nevertheless, says Burlamaqui, God did not stop after implanting in us this moral instinct or moral sense, which is "the first means of discerning moral good and evil." He also thought it proper that "the same light, which serves to direct

17. *Ibid.*, Part II, Chapter III, Section III.

18. *Inquiry Concerning Moral Good and Evil*, Section VII, Part III.

19. *Principles of Natural Law*, Part II, Chapter III, Section IV.

us in every thing else, that is reason, should come to our assistance, in order to enable us the better to discern [*démêler*] and comprehend the true rules of conduct."²⁰ It appears, then, that Burlamaqui moved in a direction not unlike that in which Gilbert Burnet urged Hutcheson to move. That is to say, Burlamaqui held that reason verifies what the moral sense first brings to our attention. In the same spirit, Witherspoon had said that conscience "intimates . . . duty, previous to all reasoning,"²¹ and Burlamaqui said that reason was better able than the moral sense to discern [*démêler*] the true rules of conduct. Reason, "*le flambeau de l'Ame*," also serves, says Burlamaqui, "to illustrate, to prove, to extend, and apply what our natural sense"—and here I turn again to Burlamaqui's French because of the importance of the verbs used in describing what the moral sense does—"indiquoit déjà touchant le juste & l'injuste" (already indicated concerning justice and injustice). For example, reason, far from weakening (*affoiblir*) paternal tenderness, strengthens it by making us see how appropriate it is to the relationship between father and son, and how it redounds to the advantage of the whole family.²² At this point Burlamaqui goes so far as to say that the light of reason has several advantages over the moral sense. The former, for one thing, serves to verify (*vérifier*) the latter by showing "*la justesse du goût*" (the propriety of taste), which is reminiscent of what Gilbert Burnet had said in his correspondence with Hutcheson. Reason

20. *Ibid.*, Part II, Chapter III, Section VIII.

21. *Lectures on Moral Philosophy* (Philadelphia, 1822), p. 39. These lectures had been delivered as early as 1772. See the Introduction to V. L. Collins's edition of the *Lectures* (Princeton, 1912), p. xxii. Witherspoon also tried to steer between the rationalists and the advocates of the moral sense. He writes: "Dr. Clarke, and some others, make *understanding* or *reason* the immediate principle of virtue. Shaftesbury, Hutcheson, and others, make *affection* the principle of it. Perhaps neither the one nor the other is wholly right. Probably both are necessary," *ibid.*, Philadelphia ed., pp. 15-16.

22. *Principles of Natural Law*, Part II, Chapter III, Section VIII.

shows us that the moral sense is neither blind nor arbitrary but directed by principles, and in this respect reason performs a similar service in the case of a sense such as sight. It helps us, for example, to judge with greater certainty the distance or shape of an object after having compared, measured, and examined it at leisure; and this leads us to a more accurate judgment than we should have made if we had relied solely on our first glimpse of the object. Reason also helps us avoid the prejudice that might be created by the influence of opinion and custom on our sentiments. "It is reason's province to rectify this erroneous judgment, and to counterbalance this effect of education, by setting before us the true principles, on which we ought to judge of things."²³

Another advantage that reason has over moral sense is its capacity to develop principles and to extract their consequences with attention to varying circumstances, times, and places.²⁴ And a third advantage mentioned by Burlamaqui is reason's capacity to cover more cases than moral sense or instinct, which can cover only a small number of simple cases that require quick determination.²⁵ Summing up his conception of the relationship between moral sense and reason, Burlamaqui says: "Such are the two faculties, with which God has invested us, in order to enable us to discern between good and evil. These faculties happily joined, and subordinate one to the other, concur to the same effect. One gives the first notice, the other verifies and proves it." So, for Burlamaqui, the moral sense is only the subordinate faculty which "*donne la première indication*" (gives the first indication), whereas "*l'autre vérifie & prouve*" (the other verifies and

23. *Ibid.*, Part II, Chapter III, Section IX. B. F. Wright, Jr., in his *American Interpretations of Natural Law* (Cambridge, Mass., 1931), notes that Burlamaqui held that man may "discover" the natural law "through the use of his reason and his moral sense" (p. 7) but fails to mention Burlamaqui's belief in the logical priority of reason.

24. *Ibid.*, Part II, Chapter III, Section X.

25. *Ibid.*, Part II, Chapter III, Section XI.

proves). By means of (1) the moral sense, which gives us the first notice of, or directs us to, the good and the right and (2) the reason, which verifies or shows that what we *take to be* good and right is *really* good and right, we come to *know* the good and the right, or "*ce qui est la même chose, à connoître quelle est la Volonté de Dieu*" (what is the same thing, to know the Will of God) with regard to our moral conduct.²⁶

Burlamaqui, it should be remarked, did not confine reason to what Locke called intuitive and discursive reason but also included under it what Locke sometimes called judgment or opinion. "Reason," Burlamaqui says, "I call the faculty of comparing ideas, of investigating the mutual relations of things, and thence inferring just consequences";²⁷ and I suggest that whereas comparing ideas and inferring just consequences might correspond respectively to Locke's intuitive and deductive reason, the activity of investigating the mutual relations of things seems to cover what we today would be more likely to call empirical science. It, rather than intuitive reason, is what Burlamaqui may have in mind when he speaks of our using our reason to improve our first impressions concerning the distance or shape of a given *object*. On the other hand, when Burlamaqui writes that the moral sense feels, gives us notice of, acquaints us with, discerns, or intimates *principles* which reason verifies or corrects, he is best understood as identifying reason with intuitive reason. Like the conscience of Pufendorf, Burlamaqui's moral sense introduces us to "maxims" or "precepts" which are then certified by reason.

Jefferson, Moral Sense, and Reason

Having presented the outlines of Burlamaqui's moral philosophy, I want to emphasize two conspicuous components of

26. *Ibid.*, Part II, Chapter III, Section XI.

27. *Ibid.*, Part II, Chapter III, Section VIII.

it before analyzing certain colonial American views on the same question. The first and more general one is that both moral sense and reason have roles in his system, but the second, which is more specific and more important, is that the moral sense is *logically subordinate* to intuitive reason. Now we may ask whether Jefferson assigned roles to both moral sense and intuitive reason, and whether he too regarded the former as subordinate to the latter. I should answer both questions in the affirmative with regard to Jefferson's thought while he was writing the Declaration, but the period after the Declaration is another matter and requires more elaborate discussion.

One reason for believing that both intuitive reason and the moral sense are assigned roles in the earlier period is that Jefferson in 1774, in his *Summary View of the Rights of British America*, asserts that "not only the principles of common sense, but the common feelings of human nature must be surrendered up, before his majesty's subjects here can be persuaded to believe that they hold their political existence at the will of a British parliament."²⁸ Here Jefferson appeals to reason, as expressed in the *principles of common sense*, and to the moral sense, as expressed in the *common feelings of human nature*. But since Jefferson asserted that both moral sense and reason had declared themselves on the wrongness of British domination of the Colonies only two years before he wrote the Declaration—where he defended a similar moral position by appealing to undeniable or self-evident truths of reason—he showed that he held in the Declaration that the moral sense was *subordinate* to reason simply because he dispensed with an appeal to moral sense in the Declaration. Dispensing with such an appeal did not mean that he denied the *existence* of a moral sense. Rather, the fact that he used only the language of undeniable or self-evident rational truth

28. *Papers of Thomas Jefferson*, ed. J. P. Boyd (Princeton, 1950-), Vol. I, p. 126.

suggests that he wanted to use only his strongest guns in the Declaration. And his strongest guns were truths which could be certified by intuitive reason, which could in turn *verify* and lend support to the moral sense, which only *intimated*—to use the signer Witherspoon's word—that the principles of natural law were true. The common feelings of human nature, being expressed by the subordinate faculty of the moral sense, did not *need* to be referred to in the Declaration once the voice of the superior faculty of reason had spoken.

In his *Notes on Virginia*, written in 1781, Jefferson deals with reason and the moral sense but in a context which does not permit any firm conclusion about his views on the advantages of one over the other so far as moral judgment is concerned. Speaking of the black writer Ignatius Sancho, Jefferson says that "his letters do more honor to the heart than the head," and that "his subjects should often have led him to a process of sober reasoning; yet we find him always substituting sentiment for demonstration."²⁹ And expressing what he calls an as yet unestablished "suspicion" about blacks in general, Jefferson maintains that they are "in reason much inferior [to whites], as I think one could scarcely be found capable of tracing and comprehending the investigations of Euclid."³⁰ Jefferson adds that "whether further observation will or will not verify the conjecture, that nature has been less bountiful to them in the endowments of the head, I believe that in those of the heart she will be found to have done them justice."³¹ Such remarks imply that in 1781 reason was

29. See Supplementary Notes, Jefferson on Ignatius Sancho, p. 279.

30. *Writings*, Volume II, p. 194. By contrast, Franklin had written as follows in 1763 after visiting a school in Philadelphia: "I was on the whole much pleas'd, and from what I saw, have conceiv'd a higher opinion of the natural capacities of the black race, than I had ever before entertained. Their apprehension seems as quick, their memory as strong, and their docility in every respect equal to that of white children," *The Papers of Benjamin Franklin*, Volume X, p. 396.

31. *Writings*, Volume II, p. 199.

still a faculty which Jefferson respected and that for him deficiency in rational power was a serious deficiency even in those who were full of moral feeling.³²

In 1793 he also speaks of reason and the moral sense without ranking them. In discussing the principles of natural law, he writes: "For the reality of these principles I appeal to the true fountains of evidence, the head and heart of every rational and honest man. It is there nature has written her moral laws, and where every man may read them for himself." And in the same paper he writes: "Questions of natural right are triable by their conformity with the moral sense and reason of man."³³ In 1788, Jefferson wrote as follows to Richard Price upon receipt of the third edition of Price's highly rationalistic work, *A Review of the Principal Questions in Morals*.

I thank you for the volume you were so kind as to send me some time ago. Everything you write is precious, and this volume is on the most precious of all our concerns. We may well admit morality to be the child of the understanding rather than of the senses, when we observe that it becomes dearer to us as the latter weaken, and as the former grows stronger by time and experience, till the hour arrives in which all other objects lose all their value.³⁴

Although Jefferson mentions no title, it would appear that he was speaking about the third edition of Price's *Review*, since the book appeared in 1787 and Jefferson's letter was sent from Paris on February 7, 1788. What, then, are we to say about the fact that the very first section of Price's book contains a sharp criticism of Hutcheson's view that right and wrong are perceived by the *moral sense* and that Price insists that it is a very different power called the *understanding* by

32. See Supplementary Notes, Jefferson, *Scientific Inquiry* . . . , p. 281.

33. Jefferson, *Writings*, Volume III, pp. 228-229 and 235.

34. *Ibid.*, Volume VI, p. 424.

which we perceive the distinctions of right and wrong? How could Jefferson, who, as we shall soon see, called the moral sense the "true foundation of morality" in 1786 and 1787, turn around in 1788 and "admit morality to be the child of the understanding rather than of the senses," when Price says the following in Section II of Chapter I of his *Review*?

In a word, it appears that *sense* and *understanding* are faculties of the soul totally different: The one being conversant only about *particulars*; the other about *universals*: The one not *discerning*, but *suffering*; the other not *suffering*, but *discerning*; and signifying the soul's *Power* of surveying and examining all things, in order to judge of them; which *Power*, perhaps, can hardly be better defined, than by calling it, in *Plato's* language, the power in the soul to which belongs . . . the apprehension of TRUTH.

It might be said in reply that Jefferson was offering polite and perfunctory praise to a great friend of the young nation, for Dr. Price had clearly shown such friendship when he published his *Observations on the Nature of Civil Liberty, the Principles of Government, and the Justice and Policy of the War with America* (1776). Indeed, the praise Jefferson gives to Price's work is so different from what Jefferson says about "the head" and science in letters to Mrs. Cosway in 1786 and Peter Carr in 1787—to which I shall soon come—that some readers may find it hard to regard the letter to Price as indicating much about Jefferson's views on morality in 1787.

So far, then, I have offered evidence, which is as strong as the documents available to me can reveal, that Jefferson believed in reason's logical superiority to moral sense while he was working on the Declaration. I have mentioned passages written in 1782 and others in 1793 in which both faculties are said, without being ranked, to be fountains of moral evi-

dence, but this is compatible with the theory of reason's superiority. And whatever Jefferson's motives were for writing the letter to Price, it too is compatible with that theory. But now I come to three letters which reveal views that do not so clearly show a confident belief in the subordination of the moral sense to reason. First, I quote the important and long letter to Peter Carr of 1787, in which Jefferson offers his nephew his views on the subject of moral philosophy; then I quote some remarks from another well-known letter to Mrs. Cosway of 1786; and finally I quote part of a letter Jefferson wrote to James Fishback in 1809.

The much-quoted part of the letter to Peter Carr reads as follows:

Moral philosophy. I think it lost time to attend lectures in this branch. He who made us would have been a pitiful bungler if he had made the rules of our moral conduct a matter of science. For one man of science, there are thousands who are not. What would have become of them? Man was destined for society. His morality therefore was to be formed to this object. He was endowed with a sense of right and wrong merely relative to this. This sense is as much a part of his nature as the sense of hearing, seeing, feeling; it is the true foundation of morality, and not the *το χαλον* [*sic*] truth, &c., as fanciful writers have imagined. The moral sense, or conscience, is as much a part of man as his leg or arm. It is given to all human beings in a stronger or weaker degree, as force of members is given them in a greater or less degree. It may be strengthened by exercise, as may any particular limb of the body. This sense is submitted indeed in some degree to the guidance of reason; but it is a small stock which is required for this: even a less one than what we call Common sense. State a moral case to a ploughman and a professor. The former will decide it as well, and often better than the latter, because he has not been led astray by artificial rules. In this branch therefore read

good books because they will encourage as well as direct your feelings. The writings of Sterne particularly form the best course of morality that ever was written. Besides these read the books mentioned in the inclosed paper; and above all things lose no occasion of exercising your dispositions to be grateful, to be generous, to be charitable, to be humane, to be true, just, firm, orderly, courageous &c. Consider every act of this kind as an exercise which will strengthen your moral faculties, and increase your worth.³⁵

The letter to Mrs. Cosway—a dialogue between the Head and the Heart—contains the following words: "Morals were too essential to the happiness of man, to be risked on the uncertain combinations of the head. She [nature] laid their foundation, therefore, in sentiment, not in science. That [sentiment] she gave to all, as necessary to all; this [science] to a few only, as sufficing with a few."³⁶ This statement is not unlike Jefferson's declaration to Peter Carr a year later. The moral sense is what the ploughman uses, the reason is what the professor uses, and, of course, there are more ploughmen than professors. Only a small stock of reason (science) guides the moral sense (sentiment), according to the letter to Carr, but using reason may lead to artificiality, which is the counterpart of "the uncertain combinations of the head" in the letter to Mrs. Cosway. In a related vein, Jefferson wrote to James Fishback: "The practice of morality being necessary for the well-being of society, he [the Creator] has taken care to impress its precepts so indelibly on our hearts that they shall not be effaced by the subtleties of our brain."³⁷

I begin my analysis of these letters—especially Jefferson's

35. *Papers of Thomas Jefferson*, Volume 12, pp. 14–15. As Nicholas White has pointed out to me, the Greek expression should contain a *kappa* instead of a *chi*. See *Writings*, Volume VI, p. 257. Accents are omitted in the *Papers* and the *Writings*.

36. *Writings*, Volume V, p. 443.

37. *Ibid.*, Volume XII, p. 315.

letters to Carr and Cosway—by observing that they may well be compatible with a continued acceptance of what I have called Lockean rationalism in morality. I call special attention to Jefferson's statement that the moral sense or conscience, even though he calls it the true *foundation* of morality, is submitted to the *guidance* of reason. By contrast to Jefferson, Hutcheson held that reason, conceived as empirical science, could be used in showing what means would accomplish ends approved by the moral sense, but for him, reason did not *guide* the moral sense to its immediate approvals and disapprovals. *Guiding* the moral sense is more reminiscent of the process advocated by Gilbert Burnet when he tried to get Hutcheson to acknowledge the necessity of appealing to rational principles. True, Jefferson minimizes the number of rational principles required for such guidance, but when Burnet tried to persuade Hutcheson, even he did not ask Hutcheson to accept more than two self-evident truths as premises in a demonstrative argument which allegedly deduced the rightness of the perceptions of Hutcheson's moral sense. And, of course, Aquinas thought that all rational precepts of natural law flowed from *one*.³⁸

Insofar, then, as intuitive reason is said by Jefferson to *guide* the moral sense, he seems, in his letter to Peter Carr, to subscribe to a view like Burlamaqui's. True, we do not find Burlamaqui speaking of the moral sense or conscience as the *true foundation of morality* when he describes it as the faculty which gives us the *first notice* of the principles, the *intimations* or *indications* of them which reason is to verify and correct. But the word "foundation" was not the clearest of philosophical words in that period, just as it is not the clearest of words in contemporary philosophy, and a good argument may be made for the idea that a faculty which God gave to all of us and which we all use instinctively from earli-

38. *Summa Theologica*, First Part of the Second Part, Question XCIV, Second Article.

est childhood was viewed as more fundamental than even the more sophisticated faculties we use in *establishing* moral principles. If Jefferson had meant that the moral sense or the conscience was the faculty through which we get the first glimmerings of moral precepts, then he would not have been veering from Burlamaqui or even from Locke and Pufendorf, who affirmed that man had such a conscience. With this in mind, many of Jefferson's statements in praise of the moral sense might well be accommodated by a reader who maintained that Jefferson remained a Lockean rational moralist for at least some time after the Declaration and, as such, continued to believe in the superior power of reason or science to arrive at moral truth, even though he believed in the existence of the moral sense.

But how, a reader may ask, can this attribution of rationalism be squared with Jefferson's writing to Peter Carr that God "would have been a pitiful bungler if he had made the rules of our moral conduct a matter of science. For one man of science, there are thousands who are not. What would have become of them?" In my opinion, Jefferson meant in this passage that God would have been a pitiful bungler if he had made the rules of our moral conduct a matter of science *alone*. Moreover, Jefferson's remark that there *are* men of science—however few—leaves open at least the possibility that those men of science establish moral rules through the use of intuitive reason. But Jefferson went further. When he says in the same letter that the moral sense should be submitted in some degree to the guidance of reason, he acknowledges the kind of superiority of reason that Burlamaqui and Locke had both asserted. True, Jefferson adds that the stock of rational principles which are necessary for guiding the moral sense is a small one. But this does not destroy the implication that the bulk of mankind should cheerfully accept whatever amount of supervision only a man of "elevated understanding"—to use Locke's term—can give. Therefore, I cannot see how

Jefferson could avoid agreeing with Burlamaqui that men of reason possess a faculty which is logically superior to the moral sense if that faculty must *guide* moral sense.³⁹ Jefferson's letter to Mrs. Cosway may be interpreted similarly. When he asserted there that nature—the counterpart of God in the letter to Carr—gave sentiment to all, but science only to a few “as sufficing with a few,” he granted that the few have powers which the many do not have.

The reader may now ask about Jefferson's disparaging references to men of science and to professors, to their being likely to be led astray by artificial rules and the “uncertain combinations of the head.” How shall we deal with such apparently anti-rationalistic remarks? By answering that Jefferson was merely repeating his fear that the fabric of society would be destroyed if moral precepts could be arrived at *only* by intuitive reason. This fear is evident in his letter to Fishback, where Jefferson explains that the Creator has written his precepts so indelibly on our hearts because he did not wish to let the very existence of society depend on what man could achieve by his brain alone, a brain that might have effaced these precepts if they were not deeply rooted in instinct, the moral sense, or conscience. I repeat, however, that this does not show that Jefferson had surrendered his belief that some men could discover self-evident moral truths nor his belief that such truths would amplify, verify, and correct the deliverances of the unaided moral sense or conscience. What it shows is a fear that the fortunes of social cohesiveness

39. Much as I should like to accept the support of C. M. Wiltse in his *Jeffersonian Tradition in American Democracy* when he quotes Jefferson as writing to Peter Carr in the letter I have been using that “your own reason is the only oracle given you by heaven” (p. 68), I am bound to point out that Jefferson makes this remark while discussing religion rather than morals. True, it is strange to find Jefferson writing such a sentence just after he has written his paean to the moral sense, but if Jefferson were thinking in this context of the manner in which we establish religious belief, we can draw no inferences from it about his views on the epistemology of morals.

could not be entrusted to the very few, who might be able to arrive at the rational principles asserted in the Declaration but who might also make mistakes that could destroy that cohesiveness. God gave all of us a moral sense, Jefferson held, as insurance against the vicissitudes of intuitive reason, but Jefferson did not deny the power of some men to use intuitive reason in discovering the laws of morality. This, however, was not very far from the views of Pufendorf, who, though he staunchly advocated the primacy of intuitive reason in discovering the principles of natural law, insisted that we are imbued from childhood by society with a consciousness of some of the maxims that we later see rationally, and that this early instillment of these maxims makes it certain that “they can never again be destroyed, no matter how the impious man, in order to still the twinges of conscience, may endeavor to blot out the consciousness of those precepts.”⁴⁰ Jefferson's concern that the subtleties of the brain and the uncertain combinations of the head might efface the precepts of conscience or the moral sense was the counterpart of Pufendorf's fear of what impious men might do while trying to still the twinges of conscience. So both of them thanked God for providing mankind with some kind of moral ballast in the form of moral sense or conscience.

What I have attributed to Jefferson so far I have attributed to him mainly as a figure of the eighteenth century. His view that both reason and the moral sense are avenues to moral truth and that reason is logically superior because it guides the moral sense cannot easily be regarded as a view that he held throughout his life, though a case *may* be made for regarding it as such—a case which I am not inclined to make for a number of reasons. Very few of Jefferson's comments on morality, which appear chiefly in letters rather than in treatises or essays upon which he lavished reflection, allow

40. Pufendorf, *De officio hominis et civis*, trans. F. G. Moore (New York, 1927), Book I, Chapter III, Section 12.

confident exegesis of the kind that one can offer when one is dealing with a more systematic writer on moral philosophy. In fact, I am prepared to admit that even what I have said so far may be questioned by scholars inclined to shift emphases upon which I have relied in my interpretation. But when one presses on into letters written by Jefferson later in life, one finds oneself grasping at straws and trying to bind them into consistent but fragile bundles that may not hold together for very long. Besides, my main interest is in Jefferson the Revolutionary thinker, and for that reason I do not feel obliged to make extensive forays into the nineteenth century except when they may illuminate the ideas of the younger Jefferson. One cannot help feeling that during the years when the ideas of canonical moral philosophers and jurists were still vividly before his mind, Jefferson held views in moral philosophy that are easier to expound just because they were the views of other and greater thinkers which he did not alter very much. But as he grew older and as new influences, new thoughts, and new problems crowded in on him, he gives the impression of a beleaguered sage, a philosopher-president who really has no deep or original ideas in moral philosophy but who, to his credit, tries very hard to produce some—often in response to inquiring correspondents. For this reason I am happy to stay for the most part within the temporal boundaries imposed by this book and to avoid excessive speculation on what Jefferson thought during the twenty-six years of life in the nineteenth century granted to him.

My reason, as I have indicated, for not conducting extensive forays into Jefferson's later moral philosophy is that once we leave the Jefferson who appeals to both the moral sense and reason in supporting the principles of natural law, it becomes more difficult to say just where he stood on some of the fundamental questions of moral philosophy. In particular, it becomes more difficult to represent him as holding that the

moral sense is subordinate to reason. For one thing, he becomes so eloquent about the virtues of the moral sense that one wonders whether he has abandoned Burlamaqui's idea that intuitive reason can verify the precepts which the Creator had impressed indelibly on our hearts so that they could not "be effaced by the subtleties of the brain." After this remark to Fishback in 1809, Jefferson began to sound like Locke in the *Reasonableness of Christianity*, especially when he announced to Fishback that "We all agree in the obligation of the moral precepts of Jesus, and nowhere will they be found delivered in greater purity than in his discourses."⁴¹ This thought lay behind the *Jefferson Bible*, in which Jefferson tries to extract the morality of Jesus, stripped of the mystifications of philosophers and theologians; and so one cannot help thinking that Locke's earlier retreat to the Gospel after failing to produce his demonstrative science of morality may have prefigured Jefferson's search for a scriptural heart-morality in the Gospel.⁴² The similarity extends even to Locke's concern that dairy-maids be provided with a revealed morality, the counterpart of Jefferson's desire that ploughmen get theirs directly from Jesus or from Laurence Sterne. Indeed, in 1814, Jefferson continues to argue in a letter to Thomas Law⁴³ that it was necessary for the Creator to make "the moral principle so much a part of our constitution as that no errors of reasoning or of speculation might lead us astray from its observance in practice"; that by "the moral principle" he means the moral sense or instinct, the "brightest gem with which the human character is studded" and the absence of which is "more degrading than the most hideous of the bodily deformities."

Had Jefferson said no more than this we might suppose that he was returning to something like the early Hutche-

41. *Writings*, Volume XII, p. 315.

42. See Wiltse, *op. cit.*, pp. 45-56.

43. *Writings*, Volume XIV, pp. 138-144.

son's views. But in the same letter to Law in which Jefferson extolled the moral sense with no clear reference to a supporting role for intuitive reason, he acknowledged that if a man were to lack a moral sense, we could try to educate him by appealing "to reason and calculations." However, this reason and these calculations are not intuitive and discursive reason, as they were for Locke. They are to be used in presenting the man who lacks a moral sense, or who has an inferior one, with motives to do good and to avoid evil. We may point out to him that he will gain the love of his fellow-men if he does good, or their hatred and rejection if he does evil, reminding him that their society is necessary to his happiness and even his existence. We may show him "by sound calculation that honesty promotes interest in the long run," and we may also call his attention to future rewards and punishments in an afterlife. And when Jefferson tries to deal with critics who attack the existence of a moral sense on the ground that a virtuous act in one country may be a vicious one in another, Jefferson denies that this argues against the existence of a moral sense and asserts that it shows that the moral sense can operate in different ways under different circumstances, much as Aquinas might have said that the rational natural law could be applied differently in different circumstances. In this connection, Jefferson also says that "nature has constituted *utility* to man, the standard and test of virtue" and therefore that a kind of act which is "useful, and consequently virtuous in one country" may be "vicious in another differently circumstanced."⁴⁴

Needless to say, the reference to utility as the standard and test of virtue has been seized upon by commentators who see it as evidence for Jefferson's utilitarianism. But even if they were right—as I doubt that they are—Jefferson would have to be viewed as a utilitarian who was also an intuitionist. For one thing, he says that *nature* has constituted utility the

44. *Ibid.*

standard and test of virtue, and therefore one wonders whether the principle of utility itself is viewed by Jefferson as an intuitively perceived principle of natural law. For another, he shows his continuing attachment to self-evident moral truths as late as 1823, when he repeated his belief in the self-evidence of the proposition that the earth belongs in usufruct to the living and that one generation cannot bind another.⁴⁵

For all of these reasons, the student of Jefferson's moral thought in the last years of his life will find it very hard to pin a clear label on him. Moral sense, utility, revelation, intuitive reason—all of these are offered by him at one time or another as avenues to moral truth, but no one of them is clearly given the sort of preference that intuitive reason was given by Locke, utility by Bentham, and the moral sense by Hutcheson. Under the circumstances I gladly defer to scholars who think that they can extract a clear moral theory which was consistently held by the Sage of Monticello from his earliest years to his death.⁴⁶

On the other hand, the temporal boundaries of this book do not prevent me from dealing with other eighteenth-century American politicians who spoke more systematically than Jefferson did about the relationship between reason and sense in morals, in particular with James Wilson. But before dealing with Wilson's views I am obliged—as usual—to say something about British and Continental antecedents of his thought.

The People and the Moral Sense

Turning to the supposed social and political implications of man's having a moral sense, I should point out that it was

45. *Ibid.*, Volume XV, p. 470.

46. Adrienne Koch, who recognizes that Jefferson's moral philosophy underwent change, tries to depict the development of his thinking in Part I of her *Philosophy of Thomas Jefferson*.

widely believed in the eighteenth century that if the only method of establishing moral precepts was that described by Locke in his rationalistic moods or that described by Samuel Clarke, then "the bulk of mankind," as Lord Kames said while using a phrase we have met in Locke's *Reasonableness of Christianity*,⁴⁷ would be unable to arrive at moral truth. For most men were not moral Euclids, either through failure to use their intuitive reason in arriving at moral axioms or to exercise their powers of discursive reason in order to arrive at moral theorems. As a matter of fact, we have already seen that Locke himself shared something of this concern. When he was not berating the populace for being too stupid or too biased to intuit the first principles of morality or to deduce its theorems, he seems to have worried about where they would find moral guidance—perhaps after he realized that he had, in setting up his ideal of a demonstrative science of morality, constructed a goal which even *he* could not attain. This was the Locke who expressed his satisfaction with the Gospel as a sufficient source of moral truth because he doubted that day-laborers, tradesmen, spinsters, and dairy-maids could become perfect in his science of deductive ethics.⁴⁸ And it was also the Locke who once wrote in a commonplace book: "A ploughman that cannot read, is not so ignorant but he has a conscience, and knows in those few cases which concern his own actions, what is right and what is wrong. Let him sincerely obey this light of nature, it is the transcript of the moral law in the Gospel; and this, even though there be errors in it, will lead him into all the truths in the Gospel that are necessary for him to know."⁴⁹

The notion that ploughmen, dairy-maids, and other such persons can make moral judgments without the benefit of mathematical morality, Scripture, or any other comparatively

47. See Chapter 1, note 29 above, and the passage cited there.

48. *Works*, Volume VII, p. 146.

49. See Lord King, *The Life of John Locke* (London, 1830), Volume 2, p. 78.

sophisticated method was not new in the history of Western thought. It may be traced at least as far back as Paul's statement: "For when the Gentiles, which have not the law, do by nature the things contained in the law, these, having not the law, are a law unto themselves: Which shew the work of the law written in their hearts, their conscience also bearing witness, and *their* thoughts the meanwhile accusing or else excusing one another."⁵⁰ Paul's view of heart-law prompted rationalists like Pufendorf and Locke to speak of conscience, but conscience was later identified with the moral sense and thereby elevated by philosophical critics of Locke and Clarke into a more technical concept.⁵¹ The doctrine of moral sense attributed a power of perception to persons who lacked many of the ideas contained in Locke's self-evident principles as well as the capacity to use God-given intuitive and deductive reason. It also attributed that power to savages who lacked the heart-law revealed in the Scriptures. It was therefore a godsend to ploughmen, to the uneducated, and to those who had not the law in Paul's sense.

With concern for such persons, Lord Kames writes as follows after summarizing part of Samuel Clarke's rationalistic and intuitionistic ethics: "If this demonstration, as it is called, be the only or chief foundation of morals, unlucky it is, that a doctrine of such importance should have so long been hid from mankind. And now that the important discovery is made, it is not however likely to do great service; considering how little the bulk of mankind are able to enter into abstruse reasoning, and how little influence such reasoning generally has when apprehended." Then, after complaining that Clarke makes the common error of moral philosophers

50. Romans II, 14–15.

51. Witherspoon commented as follows on Hutcheson's views of the moral sense: "This *moral sense* is precisely the same thing with what, in Scripture and common language we call *conscience*. It is the law which our Maker has written upon our hearts; and both intimates and enforces duty, previous to all reasoning," *Lectures on Moral Philosophy*, p. 24.

in substituting reason for sentiment, Kames continues to speak up implicitly for ploughmen and other such people when he writes that even if "our duty could be made plain to us by an abstract chain of reasoning, yet we have good ground to conclude, that the Author of nature has not left our actions to be directed by so weak a principle as reason: and a weak principle it must be to the bulk of mankind, who have little capacity to enter into abstract reasoning; whatever effect it may have upon the learned and contemplative."⁵² In a related vein, Francis Hutcheson sought to call attention to certain virtues of his own version of the doctrine of moral sense, according to which moral reactions are based on a benevolent "instinct, antecedent to all reason from interest," by pointing out that "an honest farmer will tell you, that he studies the *preservation* and *happiness* of his children, and loves them without any design of good to himself."⁵³ Kames's concern for the bulk of mankind and Hutcheson's admiration of the honest farmer were connected with the idea that the development of British moral philosophy from rationalistic intuitionism to the doctrine of moral sense was a step in the direction of democracy. Farmers, ploughmen, and, indeed, the bulk of mankind were thought to be better at using the moral sense than intuitive reason. Therefore, the moral judgments of the lowly would, in the view of those who looked at philosophical theories as political weapons, count for as much as the judgments of those "elevated understandings" who could do ethics in a deductive manner. We have also seen that some ethical rationalists required those who were able to arrive at "really" self-evident truths to be virtuous, learned, rational, or unbiased—to mention

52. Kames, *Essays on the Principles of Morality and Religion*, 3rd ed. (Edinburgh, 1779), pp. 104–105; 106–107.

53. *An Inquiry Concerning Moral Good and Evil*, Section II, Part IX. It might be noted that Hutcheson here uses the verb "studies" to mean the same as "aims at." See Scott, *Francis Hutcheson*, p. 186, on Hutcheson's effort to "democratize" Shaftesbury's philosophy.

only some of the requirements for moral judgeships that we have found in the literature. Consequently, many persons who arrived at moral truths which were unpalatable to those rationalists who set up these requirements might be dismissed as unvirtuous, ignorant, irrational, prejudiced, or in the grip of passion.

The question to which we now begin to address ourselves is whether advocates of the doctrine of moral sense were able to avoid setting up corresponding qualifications and hence able to make their theory much more democratic than the moral rationalism they were trying to escape. Because Hutcheson's early version of the doctrine of moral sense seemed not to require the use of anything that could be called reason while making immediate judgments, Hutcheson held that ploughmen were at least as able as professors to make such moral judgments and that an aristocratic bias in the doctrine of moral rationalism would be diminished or eliminated if a sense rather than reason were *the* moral faculty. Yet even Burlamaqui, who allowed the moral sense to be tinged with *some* element of rationality, however small, was concerned to answer critics of his belief in the existence of a moral sense who complained that there are men in *civilized* countries who seem to be devoid of all shame, humanity, and justice. In trying to defend the existence of a moral sense against such critics, Burlamaqui replied that "we must take care to distinguish between the natural state of man, and the depravation, into which he may fall by abuse, and in consequence of irregularity and debauch."⁵⁴ But once the moral sense has to be exercised by moral judges who are not in a depraved or debauched state, those who abandoned rational intuitionism because of its élitism and who fled to the doctrine of moral sense because of its supposedly democratic qualities, might wonder whether they had left the frying pan for the fire.

54. *Principles of Natural Law*, Part II, Chapter III, Section VI.

James Wilson and the Undepraved Moral Sense

One of the more innocent travelers along that path may well have been James Wilson, who appears to have felt the same concern that Kames and Jefferson felt for ploughmen and the bulk of mankind. For Wilson says: "If the rules of virtue were left to be discovered by reasoning, even by demonstrative reasoning, unhappy would be the condition of the far greater part of men, who have not the means of cultivating the power of reasoning to any high degree."⁵⁵ Gilbert Chinard was one of the first to point out that Wilson was a great admirer of Burlamaqui,⁵⁶ who actively influenced the American jurist's views in the latter's important pamphlet, *Considerations on the Nature and Extent of the Legislative Authority of the British Parliament* (1774). But the influence of Burlamaqui is also evident in Wilson's *Lectures on Law*, especially those delivered in 1790–91, only a few years after Jefferson was writing his letters to Cosway and Carr in praise of the moral sense.

I must say quickly that Wilson is not the clearest of thinkers on ethics and natural law, and although we have more of his systematic philosophical writing to go on than we have in the case of Jefferson, we cannot always be sure of his position on a number of fundamental questions of moral philosophy.⁵⁷ Nevertheless, he does address himself to the question which is our main concern in this section because at some places—though not in all—he regards the moral sense as a faculty which is noncognitive and which is exercised in *feeling* that the performance of a certain kind of action is a duty, or that

55. *Works*, Volume I, p. 136.

56. See *The Commonplace Book of Thomas Jefferson: A Repertory of His Ideas on Government*, ed. G. Chinard (Baltimore, 1926), Introduction by the editor, pp. 39–44.

57. See A. Beitzinger, "The Philosophy of Law of Four American Founding Fathers," *American Journal of Jurisprudence*, 21 (1976): 14–15.

it is right. In fact, at one place in his account of the moral sense, he shows the extent of his reliance upon the early Hutcheson by taking a whole passage from that author (without attributing it to him). The passage reads: "If there is no moral sense, which makes benevolence appear beautiful; if all approbation be from the interest of the approver; 'What's Hecuba to us, or we to Hecuba?' " To this Wilson attaches a footnote reading "*Hamlet*," thereby departing in at least one respect from Hutcheson, who had attached a footnote reading "*Tragedy of Hamlet*."⁵⁸ Believing, then, that there is a moral sense which is that of the early Hutcheson and hence is noncognitive, Wilson replies to those who deny its existence or authority, or who arraign the certainty and uniformity of its decisions, that the authoritative moral sense is not that of an individual who exemplifies human nature "in her most rude or depraved forms. 'The good experienced man,' says Aristotle, 'is the last measure of all things.' To ascertain

58. With regard to Wilson's appropriation of the words of others without giving them credit, I should point out that in my *Science and Sentiment in America* (pp. 65–67), I call attention to a striking similarity between a passage in Wilson and one in Hume—a passage which clearly suggests that Wilson agreed with Hume in regarding the approval of ultimate ends as noncognitive in nature. I also point out that Wilson never mentions the similarity between his own remark and that of Hume. Mr. Beitzinger (*op. cit.*, p. 15, n. 37) says that Wilson paraphrased the passage in question from a direct quotation of it in Thomas Reid's *Essays on the Active Powers of Man* (Essay V, Chapter VII) and that Wilson did not read the passage in Hume's first Appendix to his *Enquiry Concerning the Principles of Morals*. The only evidence Mr. Beitzinger appears to give for his contention that Wilson read Hume's remark only *as quoted by Reid* is the fact that the passage is quoted by Reid and that there is other evidence of Wilson's having been influenced by Reid in the same chapter of Wilson's *Lectures on Law*, "Of the Law of Nature," *Works*, Volume I, Chapter III. Nevertheless, it is noteworthy that Reid attributes the quoted words to Hume, whereas Wilson does not mention Hume in the chapter. Indeed, Wilson does not mention *Reid* in the chapter! I wonder whether the passage that Wilson lifted from Hutcheson came directly from the latter's *Inquiry Concerning Moral Good and Evil*, Section I, Part II, or whether Wilson found it quoted elsewhere.

moral principles, we appeal not to the common sense of savages, but of men in their most perfect state."⁵⁹

Now the story becomes complicated. How, we may ask, does Aristotle enter the story? First we must observe that Wilson is not quoting Aristotle directly but, characteristically, takes Aristotle's translated words from Hutcheson's *System of Moral Philosophy*, published posthumously in 1755, nine years after its author's death. Hutcheson writes there: "Aristotle well observes, that 'many points in *morals*, when applied to individual cases, cannot be exactly determined; but good men know them by a sort of sensation: *the good experienced man is thus the last measure of all things*.'"⁶⁰ But although in the passage quoted by Hutcheson, Aristotle is certainly not referring to the determination of moral *principles* like his principle of the mean but rather to the problem of determining whether *in an individual case* a man is *in fact* deviating from the mean, Wilson blithely regards Aristotle as formulating in this passage a criterion for the determination of general *moral principles*. For immediately after quoting Aristotle, Wilson writes: "To ascertain moral principles, we appeal not to the common [or moral] sense of savages, but of men in their most perfect state."⁶¹

Given Wilson's familiarity with Burlamaqui's *Principles of Natural Law*, as indicated throughout Wilson's chapter on natural law, and especially in the passage which immediately precedes the reference to Aristotle, it seems clear that Wilson was trying to meet the same sort of arguments that Burlamaqui tried to meet in *his* effort to defend the existence of the moral sense in an undepraved, natural man as the indicator—at least—of moral principles. But when Wilson refers to Aristotle's good experienced man—whether correctly or not—he

more blatantly reminds us of something we have seen in our examination of moral rationalism. First of all, this reference is reminiscent of Locke's exclusion of certain people as unable to see the natural law because they have been brought up in vice. Secondly, it resembles Locke's view in being subject to the charge of circularity. After all, we are sent to the moral sense in order to discover what is *good*, but we are also warned that not just any individual's moral sense can be trusted to detect what is good. So, we ask, to whose moral sense *shall* we appeal? Answer: to that of a *good* experienced man. But at this point we have a right to ask: How shall we find out who is a good man? And if we are sent to the good moral sense once again, we shall have a perfect right to complain that we are being given what is known in the vernacular as a run-around, and in logic as a circular definition. Finally, if we are told that there is no circle involved because the word "good" in the phrase "good experienced man" is not to be defined by reference to what is sensed by the moral sense of a good man, we have a right to ask how it *is* defined. If it is said to be undefinable or definable only by pointing to particular individuals, then we may well complain that the supposedly democratic move of the theorists of moral sense is not as democratic as it was cracked up to be. Of course, there seems to be a move in the direction of increasing the class of reputable moral judges by virtue of dropping the requirement that they use the reason of moral rationalists. However, as soon as the moral sense is characterized as it is by Wilson—in the wake of Burlamaqui and Hutcheson—we may well come to think that we have not been brought as far from moral élitism as we might have supposed.⁶²

Indeed, the idea of Burlamaqui that moral principles are *indicated* by a perfect, undebauched, undepraved moral sense, when coupled with his idea that these principles must

59. *Works*, Volume I, p. 139.

60. Hutcheson, *System of Moral Philosophy*, Book II, Chapter I, Section V (p. 237).

61. Wilson, *op. cit.*, Volume I, p. 139.

62. See Supplementary Notes, Hutcheson's Appeal . . . , p. 282.

then be verified by reason of the kind celebrated by Locke, results in a demand that a given person's moral sensings be *doubly* screened before they are to be trusted as guides to conduct. In order to get into the court of reason, so to speak, such sensings had to be those of a superior moral sense; and once inside that court they had to be scrutinized and verified by persons who had to pass muster before other stringent criteria. The net effect, therefore, of adopting a view like that of Burlamaqui was to limit even more severely the number of persons in a position to tell a true moral principle from a false one, and therefore to make us wonder how many persons in revolutionary America could be trusted to know the truth of the principles that supposedly justified the Revolution.

*Jefferson, the People, and the
Epistemology of Morals*

In these first three chapters I have said a good deal about the epistemology which lay behind what John Adams called the "revolution principles" expressed in the Declaration of Independence. I have expounded the elements of Locke's moral rationalism, and I have shown how they influenced the Jefferson of the Declaration. I have called attention to certain possible consequences of that epistemology of natural law by pointing out that the seer of self-evident moral principles had to be learned, virtuous, dispassionate, and unbiased, and that such a seer of moral principles could, under certain circumstances, claim to be a dictator of principles, whereas Locke had regarded the theory of self-evident principles as a vast improvement over the doctrine of innate principles precisely because it could not be used as a tool of political dictators. Yet no sooner was the rationalistic theory of self-evident principles challenged by Wilson's version of the doctrine of moral sense, which seemed to give all moral

power, as it were, to the people, than it too showed a similar capacity to be used by dictators. The doctrine of moral sense also sets up job-specifications for moral judgeships which might easily exclude some of the people from casting their moral ballots and even their electoral ballots.

Nevertheless, philosophical minds can seriously differ on one crucial matter even when they are forced into the seemingly paradoxical position of resting the rights of all the people on moral principles that only some of the people can know without instruction by the few. They can either be optimistic about the capacity of the people to rise to the levels demanded by their theories of moral knowledge or they can be less than optimistic, and I think it fair to place Jefferson among the optimists. To see how optimistic he was, we need only contrast some of his statements with some of the statements made by his mentor Locke, who announced that "there are only few who, neither corrupted by vice nor carelessly indifferent, make a proper use of [the] light" of reason in discovering the law of nature,⁶³ and who also said that, in discovering that law, "not the majority of the people should be consulted but those who are more rational and perceptive than the rest."⁶⁴ Jefferson might have been logically forced to adopt a position like Locke's if pressed hard enough to explain his statement in 1793 that the head and heart of a *rational* man are the fountains of evidence for the principles of natural law. On the other hand, one finds him declaring in 1774: "The great principles of right and wrong are legible to every reader: to pursue them requires not the aid of many counsellors."⁶⁵ And where he is discussing the education of "the great mass of the people" in his *Notes on Virginia* he is confident that "the first elements of morality . . . may be

63. See Chapter I above, note 24.

64. See Chapter I above, note 23.

65. *A Summary View of the Rights of British America* (1774), *Papers of Thomas Jefferson*, Volume I, p. 134.

instilled into their minds; such as, when further developed as their judgments advance in strength, may teach them how to work out their own greatest happiness, by showing them that it does not depend on the condition of life in which chance has placed them."⁶⁶ The tone of this reference to "the condition of life in which chance has placed them" is very different from Locke's reference to what he seems to have regarded as the inevitable shortcomings of those who happened to be day-laborers, tradesmen, spinsters, or dairy-maids and who would therefore be obliged to listen to plain commands without asking questions. True, Jefferson believed that those he called men of science were intellectually superior to others and that those who were really equipped to see the Lockean self-evidence of his truths in the Declaration may have made up a comparatively small number in spite of the rhetorical suggestion that the signers were speaking for *all* Americans in 1776. But it is clear from Jefferson's "Bill for the More General Diffusion of Knowledge" that he hoped to prevent tyranny by illuminating "as far as practicable, the minds of the people at large" and that he wished those "whom nature hath endowed with genius and virtue" to be educated to become guardians of public liberty at public expense "without regard to wealth, birth or other accidental condition or circumstance."⁶⁷ He seems to have believed that certain people who might not at a certain moment be able to know the natural law could be educated to know it in all of its ramifications while others, less gifted, could be trained to see the truth of at least its elementary principles. Furthermore, when Jefferson spoke rhapsodically about the moral sense he was also optimistic about who could serve as a moral judge. He believed, as we have seen, that God gave man a moral sense partly to swell the class of reputable moral judges so that it would include the ploughman of Jefferson. But Jefferson,

66. *Writings*, Volume II, pp. 204-205.

67. *Papers*, Volume 2, pp. 526-527.

recognizing, as we have also seen, that some people have stronger moral senses than others, held that these senses could be strengthened by exercise and that a ploughman who happened to have a weak moral sense could be taught how to exercise it and thereby elevate himself to a moral judgeship.

I do not wish to suggest by these remarks that Jefferson thought very deeply about the *criterion* for what I have called moral judgeships, but there is little doubt that he believed that many people could be educated to preside, so to speak, in the lower courts of natural law and that many *gifted* people could be educated to preside in the higher courts. This was the democratic optimism of Jefferson as expressed in the epistemology of morals and the philosophy of education. He held, it is true, that in his system of education "the best geniuses will be raked from the *rubbish* annually,"⁶⁸ but when he said that the minds of the people must and therefore could be improved to a certain degree because the people are the only safe depositories of government,⁶⁹ he was certainly departing from the spirit of Locke's denunciation of the maxim, "Vox populi vox Dei."⁷⁰

Still, Jefferson's reference to "rubbish" must be reckoned with, and we must bear in mind that one Jefferson scholar has written: "For all his faith in the people and their ultimate possibilities and achievements he had no love for what

68. *Notes on Virginia, Writings*, Volume II, p. 203, my emphasis.

69. *Ibid.*, p. 207. Although Jefferson believed that the people were the only safe depositories of government, he thought that they could not, so to speak, go it alone without leadership. This is evident when he writes in 1776 against the direct election of senators: "I have ever observed that a choice by the people themselves is not generally distinguished for its wisdom," *Papers of Thomas Jefferson*, Volume I, p. 503.

70. See above, Chapter 1, note 25. This is a convenient place at which to remark that John Adams, not always known as a tribune of the populace, subscribed to that maxim. See *Works*, Volume IV, p. 404. On the other hand, we have seen (Chapter 2 above, note 34) that Alexander Hamilton flatly denied the maxim, saying that "the people are turbulent and changing; they seldom judge or determine right."

he called 'the rabble.' His early education made him an aristocrat, and an aristocrat of the intellect he remained to the end of his days."⁷¹ An aristocrat of the intellect he was and did remain, but this was compatible with his thinking that education would produce distinguished minds from among those not born to power or wealth.⁷² These minds, he thought, would serve the whole people and guard their liberties by knowing relevant moral principles and historical facts. There was, I agree, some condescension in Jefferson's attitude toward the people, especially when he spoke of them as his children.⁷³ But Jefferson was a parent, it must always be remembered, who freely left those children to self-government while others, he said, were afraid to trust them without nurses.⁷⁴ And while he was a man of the Enlightenment who would have resented on some occasions the imperative: "Do not argue but believe," Jefferson would not have hesi-

71. Gilbert Chinard, *The Literary Bible of Thomas Jefferson*, p. 1.

72. Although Jefferson is often seen as more optimistic in this regard than John Adams, it is worth citing a few passages in which Adams expressed the view that education could and should be provided to all ranks of society, with the idea that some of the people would rise to great heights as a consequence of this aid. This idea was connected with Adams's Burlamaquian view that God, who does nothing in vain, gave man an understanding which he has a duty to perfect. See in this connection, Adams, *Works*, Volume I, p. 195; Volume III, p. 457; Volume IV, p. 259.

73. In his *Self-evident Truths* (Bloomington, Indiana, 1974), p. 122, Paul Conkin has written of Jefferson's condescension toward the common people, taking this to be indicated in the following passage in Query XVIII in the *Notes on Virginia*: "... can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are of the gift of God? That they are not to be violated but with his wrath." William Peden, an editor of the *Notes*, tells us that Jefferson in his original manuscript had at this point also written but later deleted the following words: "when they can not imagine a single argument in their [the liberties'] support which their own daily practice does not bely?" *Notes on the State of Virginia* (Chapel Hill, 1955), p. 292.

74. *Writings*, Volume XIV, p. 489. Letter to Dupont de Nemours, April 24, 1816.

tated to approve of Beccaria's exclamation: "How great are the obligations due from mankind to that philosopher, who from the obscurity of his closet, had the courage to scatter amongst the multitude, the seeds of useful truth, so long unfruitful!"⁷⁵

75. *An Essay on Crimes and Punishments*, trans. ed. (London, 1775), pp. 2-3. I quote this passage merely as an example of the Enlightenment's view that philosophers should scatter seeds of truth amongst the multitude. However, because the passage follows Beccaria's introduction of his famous phrase, "the greatest happiness of the greatest number," W. R. Scott speculates that Beccaria was specifically referring to Francis Hutcheson as the originator of the famous slogan. See Scott's *Francis Hutcheson*, p. 273.