

from the hand of God. Burlamaqui might also have reminded Wilson that even Jefferson, a more wayward pupil of Burlamaqui's, had taken care not to put property on a par with liberty and safety in the Declaration.<sup>71</sup>

71. Those concerned with the history of what I have called the sacred trinity of rights might be interested in a remark by C. F. Mullet on p. 47 of his *Fundamental Law and the American Revolution, 1760-1776* (New York, 1933) about Francis Bacon's views. Mullet cites a passage in Bacon's *Works*, eds. J. Spedding et al. (Boston, 1861), Volume XV, p. 225, in which Bacon lists three things that "flow from the law of nature," namely, "preservation of life, natural; liberty, which every beast or bird seeketh and affecteth, natural; the society of man and wife, whereof dower is the reward, natural." Upon this passage Mullet comments: "Students of constitutional history and political theory may find in those phrases of Bacon more than a fanciful resemblance to Jefferson's 'life, liberty, and the pursuit of happiness.'" Pressing this resemblance fancifully would require an identification of the pursuit of happiness with sexual intercourse or with marriage—a rather narrow view of happiness—but it is interesting that Bacon should speak of "dower" as the reward of the society of man and wife, since Jacob Viner reports in his review of Macpherson's *Political Theory of Possessive Individualism* that "dower" often appears in the history of this subject as a replacement for "estate" in the stock phrase "life, liberty, and estate," *Canadian Journal of Economics and Political Science* 29 (1963): 554. I might add that for Burlamaqui marriage is an adventitious state, just as property is, so that the Baconian trio would, by Burlamaqui's standards, consist of two primary natural rights and one secondary or adventitious one. Of course, Burlamaqui holds that nature "invites" human beings to form marriages, but marriage is nonetheless an adventitious state.

. 6 .

## "Rebellion to Tyrants Is Obedience to God"

I have analyzed the basic epistemological, theological, metaphysical, and moral ideas of the leading American revolutionaries, and so it remains for me to present the moral argument that they offered for their rebellion against Britain and the moral criteria which they thought any government, especially a new government, would have to meet. Having retraced the path they followed from their belief in God to their belief in unalienable rights, I now come to the ultimate step on that path, the one that brought the signers from their belief in the individual's unalienable rights mentioned in the Declaration to their belief that they, as a people, had a right—in fact a duty—to alter or abolish the government under which they had been living. The notion that they had a duty to rebel is extremely important to stress, for it shows that they thought they were complying with the *commands* of natural law and of nature's God when they threw off absolute despotism. This was in keeping with the strong language of the Virginia Bill of Rights of June 1776, according to which a majority of the community has, under certain circumstances, "an indubi-

table, inalienable, and indefeasible right to reform, alter, or abolish [the government] in such manner as shall be judged most conducive to the public weal." On the very plausible assumption that this passage, which appeared less than a month before the Declaration, had exerted great influence on Jefferson,<sup>1</sup> it is easy to see that the connection between a duty and an unalienable right was conceived by the revolutionaries as I have said they conceived it. An unalienable right to alter or abolish a government was unalienable because it was derivable from a duty to do the same. In short, the colonists thought that their rebellion was more than morally possible: it was morally necessary.

### *The Revolutionaries Were Not Utilitarians*

However, this moral necessity, duty, or obligation was not, according to them, based on utilitarian considerations as the word "utilitarian" is generally understood. I have pointed out that Locke was not a utilitarian, and now I want to show why the colonists should not be called utilitarians in spite of their tendency to speak so much about pursuing happiness, a tendency which they shared with Burlamaqui, who, as we know, regarded the pursuit of happiness as a God-imposed duty along with other God-imposed duties, like the duty to preserve our lives and the duty to perfect our understandings. By regarding it as a duty he departed from the theorists of natural law who tended to regard as obligatory only specific actions, such as the preservation of life, the honoring of engagements, the honoring of parents, refraining from lying and stealing, and so on, in the manner of the Decalogue, which contained no such commandment as "Thou shalt pursue happiness." As we have seen, happiness was rather viewed by Pufendorf and Locke as a state to be achieved in *causal consequence* of carrying out duties which followed from the

1. Boyd, *Declaration of Independence*, pp. 12-14.

nature of man. These duties were perceived, therefore, by the exercise of intuitive or discursive reason and not by discovering empirically that carrying them out would cause us to be happy. Therefore, Burlamaqui's incorporation of the duty to pursue happiness into the body of natural law represented a significant change in the doctrine. He puts this duty on a par with the duty to preserve life and liberty, and by doing so he makes the principle that all human creatures should pursue happiness a rational principle of natural law. Witherspoon summed up an analogous view by announcing that "*reason teaches natural liberty, and common utility recommends it.*"<sup>2</sup> And when reason *teaches* that the pursuit of happiness is a duty and a right, it does so by showing that the proposition that all human creatures ought to pursue happiness is self-evident or demonstrable. The moment a moralist takes this intuitionistic view of the way in which we *know* that a moral principle is true—whether it dictates the pursuit of happiness or the preservation of liberty—that moralist cannot be called a utilitarian in the normal sense of that technical term.<sup>3</sup>

As we have seen in our discussion of Locke, a utilitarian is normally regarded as a philosopher who thinks we can establish a moral principle by showing empirically that adopting and acting on it will in fact maximize happiness or pleasure. And when the utilitarian advances this view of how we can establish, for example, the moral principle that every man has a duty not to put his fellow-man in a state of subjection, the utilitarian usually also asserts or implies that such a principle cannot be established either by intuition, or by deduc-

2. Witherspoon, *Lectures on Moral Philosophy*, p. 90.

3. John Stuart Mill, in Chapter 1 of his *Utilitarianism*, makes clear that the epistemological contrast between the "intuitive" and the "inductive" schools of ethics underlies the issue about whether to reject or accept utilitarianism, the latter being the doctrine of his inductive school of ethics. He also points out that these two schools differ with regard to the evidence for "the same moral laws."



ing it from other intuitively known truths, or by deriving the duty it expresses from the essence or nature of man. These methods, being nonempirical, nonfactual, rationalistic methods of establishing a moral principle, are avoided by the utilitarian on that ground alone. That is why it is often said that a utilitarian cannot be an intuitionist and that an intuitionist cannot be a utilitarian—that the term “intuitionistic utilitarian” is virtually a contradiction in terms. And that is why it is incorrect to call the signers of the Declaration utilitarians in spite of their espousal of the duty and right of individual men to pursue happiness and the duty and right of a people to abolish or alter a government which does not effect its happiness.<sup>4</sup> The fact that these duties and rights concern *happiness* in no way eliminates, for the utilitarian, the epistemological taint which they receive from being expressed in self-evident principles, or the metaphysical taint which they receive from being derived from the essence of man. The utilitarian need not deny that men have a right to pursue happiness nor that governments have a duty to promote happiness, but he does deny that these rights are established in the manner described by the doctrine of natural law.

To defend what I have been saying I want to turn once again to the Declaration itself. It must be recalled that there

4. Of course, if one thinks of the fundamental thesis of utilitarianism, or of any other thesis in philosophical ethics, as an *analysis* of a concept like *good, right, true moral principle, etc.*, then any such thesis might be called rationalistic or intuitionistic if one holds that its truth is discovered by the use of intuitive reason. This would, as a consequence, show that there is a sense in which *all* philosophical ethical theories might be regarded as intuitionistic and that the expression “intuitionistic utilitarian” is therefore not a contradiction in terms. Alternatively, if one thinks of utilitarianism as the second-order moral principle that one should accept only ordinary moral principles conducive to utility, and one regards this second-order moral principle as intuitively known, then the expression “intuitionistic utilitarian” is, once again, not a contradiction in terms. However, I want to repeat that no American revolutionary was an intuitionistic utilitarian in the senses just explained.

are two contexts in which the word “happiness” enters the Declaration. The first is that in which the *individual's* moral right to pursue happiness is asserted and the second is that in which Jefferson speaks of the happiness of *the people*. This distinction was also made explicit by John Adams when in the winter of 1776 he wrote his “Thoughts on Government” to George Wythe and maintained that “upon this point all speculative politicians will agree, that the happiness of society is the end of government, as all divines and moral philosophers will agree that the happiness of the individual is the end of man.”<sup>5</sup>

Let us first focus on the question whether it is correct to call Jefferson a utilitarian with regard to the moral principles of individual human behavior, especially those in the Declaration which assert the rights of individual men. In my opinion, Jefferson was not a utilitarian *when he wrote the Declaration*, even though he accepted the moral principle that every man has a duty and a right to pursue happiness. The crucial point is that he held that this duty followed from the essence of man and therefore defended the principle by appealing to intuition. He did not defend it on the ground that adopting and acting on it would *maximize the happiness* of individual men. Since Jefferson held with Burlamaqui that the duty and right to pursue happiness is based on the fact that God made the pursuit of happiness an end of man by incorporating a desire for happiness in man's essence, Jefferson needed no utilitarian justification of the right to pursue happiness. Adams defended the right to knowledge in the same non-utilitarian way when he asserted that the people “have a right, from the frame of their nature, to knowledge, as their great Creator, *who does nothing in vain* [my emphasis], has given them understandings, and a desire to know.”<sup>6</sup>

5. Adams, *Works*, Volume IV, p. 193.

6. *Ibid.*, Volume III, p. 456, *Dissertation on the Canon and the Feudal Law*. Also see above, Chapter 4, note 32.

Adams certainly does not justify the right to knowledge by saying that having it would maximize happiness. What about two other moral principles maintained in the Rough Draft of the Declaration, namely, that all human creatures have a right to preserve their lives and that all human creatures have a right to preserve their liberty. Are *they* defended by asserting that man's possession of such rights will maximize happiness? Not at all. These two principles of individual morality are also thought to be self-evident or undeniable, and the rights they express are also said to be derived from man's created essence.

Now let us turn to the moral *principles* governing the actions of a *people* in order to see whether *they* are defended by an appeal to their tendency to promote happiness. We must not forget that the following truth was held to be self-evident or undeniable in the Declaration: "That whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness."<sup>7</sup> It will be noted that *two* rights of the people are asserted in *this* self-evident or undeniable proposition: the first that of altering or abolishing a government when it becomes destructive of certain ends mentioned earlier, the second that of forming a new government in such a way as shall seem most likely to the revolutionaries to effect their "safety" and "happiness." But these two rights of a *people* are not justified by asserting that if a people exercises such rights, it will *in fact* maximize its happiness. Because they are asserted in a principle which is said to be a self-evident or undeniable truth, such an appeal to what would in fact happen if such rights were exercised was at the least superfluous.

Jefferson and his co-signers claim that the principle which

7. Becker, *Declaration of Independence*, p. 186.

asserts these rights *of the people* is undeniable or self-evident, and thereby avoid an appeal to utility in justifying the principle, because they accepted a conception of the state or of government like that of Burlamaqui, namely, that it is "a society, by which a multitude of people unite together, under the dependence of a sovereign, in order to find, through his protection and care, the happiness, to which they naturally aspire."<sup>8</sup> Therefore, a government which fails to give that which it is government's purpose to give, is a degenerate government just as men who have lost their reason are degenerate, according to Locke, beings who have dropped out of their species—which is what "degenerate" means.<sup>9</sup> If a government is made by men with the purpose of promoting their happiness, when it fails to promote that end, it violates its duty just as an individual violates his duty when he fails to preserve his life and liberty or when he fails to pursue his own happiness. And when government fails to do its duty of promoting happiness, then those who have made it may alter it, or they may abolish it altogether. But the crucial thing to keep in mind is that *these* moral truths about the duty and right to alter or abolish a government which is not happy-making are not *themselves* supported by utilitarian arguments. They are supported by peering into the idea of government and asserting that it is self-evident that a government which fails to attain the end of happiness for which it was instituted may be altered or abolished.

It might be said in reply that John Adams was a utilitarian because he was more given to using the language of utilitarians than some of his fellow-revolutionaries. Let us consider two passages which might be thought to support this view. One appears in his "Thoughts on Government," where he not only says that the happiness of society is the end of government but also goes on to infer "that the form of govern-

8. *Principles of Politic Law*, Part I, Chapter IV, Section IX.

9. *Second Treatise*, Section 10.



ment which communicates ease, comfort, security, or, in one word, happiness, to the greatest number of persons, and in the greatest degree, is the best."<sup>10</sup> Even though he uses a stock utilitarian phrase in this passage—"happiness to the greatest number of persons, and in the greatest degree"—he is relying on a proposition I have already discussed in my earlier remarks on the Declaration, namely, that since men proposed social happiness as an end of government, government has a duty to promote social happiness. This supposedly self-evident truth is analogous to Burlamaqui's proposition that since God proposed individual happiness as an end of man, man has a duty to pursue his own happiness. Leaving aside the fact that in one case God makes man whereas in the other man makes government, and also the fact that happiness is an end in both cases, we are faced in both cases with instances of the following general proposition: *If the maker of a thing (like a man or a government) proposes a certain end for it, then it has a duty to attain that end—and the more successful it is in attaining that end, the better it does its duty.* I believe that Adams must have regarded this as a self-evident truth which is reminiscent of the so-called primary truths that Hamilton announced in Federalist Number 31. But when we focus on the consequent of Adams's instance of this general self-evident truth—"government has a duty to promote social happiness and the more social happiness it promotes, the better it does its duty"—we see that Adams can assert this categorically only if men did indeed propose social happiness as the end of government. Therefore, the statement that the government which promotes the happiness of the greatest number of persons, and in the greatest degree, is conditional upon the truth of a highly debatable proposition about the *end* for which government was formed. Adams's so-called utilitarianism, therefore, is unable to stand on its own legs, unable to serve as a test of good government

10. Adams, *Works*, Volume IV, p. 193.

without depending on an allegedly self-evident conditional statement and the highly debatable antecedent of that statement. In short, Adams's so-called utilitarianism with regard to government is as much dependent on a thesis within the doctrine of natural law as Burlamaqui's doctrine that individual men have a duty to pursue happiness. Both of them must therefore appeal to some form of intuitionism, the traditional philosophical enemy of utilitarianism. Neither one of them can dispense with an appeal to allegedly preestablished ends that allegedly create duties in a way that utilitarianism is committed to avoiding. The very principles which assert that men have a duty and a right to pursue happiness and that governments ought to promote the happiness of the greatest number of people were supported in a manner that utilitarianism was dedicated to abandoning because of its aversion to rationalism and *natural* rights, which Bentham called nonsense on stilts.

I now come to a second passage in which we find Adams using utilitarian terminology while thinking in terms of natural law. In his *Defence of the Constitutions of Government of the United States of America*, he begins a sentence (whose ending is of no relevance here) by writing, "As the end of government is the greatest happiness of the greatest number, saving at the same time the stipulated rights of all. . . ."<sup>11</sup> Here we see that quite apart from the question whether the achievement of the greatest happiness of the greatest number is said to be the test of the goodness of government in a self-evident or demonstrated proposition—which is what I have been focusing on up to now—Adams does not advocate a full-fledged utilitarian test of the goodness of a form of government. The crucial phrase in this passage is "saving at the same time the stipulated rights of all." Adams inserts it because he takes for granted that men have certain natural rights which are God-given and that an inquiry about social

11. *Ibid.*, p. 318.

happiness can never, *whatever its outcome*, support the invasion or abridgment of those rights. In short, he would not be willing to have a government invade those rights even if it could be shown that invading them would lead to the greatest happiness of the greatest number. He believes there are essential natural rights which are impervious to the outcome of any calculation about social happiness, and his belief that *there are* such rights shows that he is not a utilitarian in the ordinary sense of that philosophical term.

In spite of all that I have said, I can imagine someone wondering why we should not say that a *utilitarian* appeals to the nature of man while justifying a moral principle. After all, it might be urged, when the utilitarian shows that acting on a certain moral principle leads to happiness, he shows something about the nature of man. He shows that it is a fact of nature that man will gain happiness, pleasure, or well-being from acting on that principle. He shows something in the *natural* science of psychology or of sociology when he reports that man is made happy by acting in a certain way. What is to be said in response to this? Something that exposes the ambiguity of the expression, "the nature of man," and something that exposes the obscurity of the doctrine of natural law. If a philosopher who holds that doctrine maintains that all men *by nature* have a duty to act in a certain way, he means that this duty and the corresponding right follow from man's essence. But if someone who is not a theorist of natural law asserts that man is *by nature* a being who becomes happy by acting on a certain moral principle, this more innocent statement is not intended as a statement about man's *essence*. It merely asserts that men, who are parts of nature, are made happy by doing certain things. Clearly, then, the phrase "by nature" is ambiguous. The philosopher of natural law uses it in one way; the imaginary reader who thinks that the utilitarian speaks about man's nature uses it in another way. And the reason why the American revolu-

tionaries were not utilitarians is that they thought that man had certain duties and rights by nature in the sense of "essence," whereas the utilitarian did not think he was extracting something from man's essence in asserting that man *by nature* becomes happy by acting on certain principles. The utilitarian merely meant that, *as a matter of fact* which was not to be extracted from man's essence, acting on these principles would make men happy. However, the utilitarian's matter-of-fact statement about nature was not enough for revolutionaries who subscribed to the doctrine of natural law. They thought their duties and rights *followed* in what we have seen was an obscure sense from that obscure entity, the essence or nature of man. They insisted that these duties and rights followed from the nature of man, and therefore they thought that their moral principles were necessarily true and immutable. That is why they were not content with maintaining a utilitarian theory according to which man's duties and rights were expressed in contingent principles which were true or acceptable merely because acting in accordance with them happened to make men happy. Even the principle that every man had a duty and right to pursue happiness had to be extracted from man's essence; and the principle that every government had a duty and right to promote the happiness of the people also had to be extracted from the essence of government. These principles could not be allowed to depend on the way the world happened to wag, for they had to be immutable, necessary, self-evident, sacred, and undeniable truths.

### *From the Unalienable Rights of Men to the People's Right To Rebel*

Now that we have disposed of a possible misunderstanding of just how the duty and right to pursue happiness fits into the Revolutionary philosophy, it is time to turn to a network



of rights that linked the unalienable rights of individuals with the people's right to rebel. In the background there is the basic idea that a social contract of some sort had been made in which the people transferred certain rights to government in return for something. What the government was supposed to have given is not unambiguous, and later in this chapter I shall have something to say about the ultimate ambiguity in the Revolutionary philosophy when I concentrate in greater detail than I have so far on the ends of government as viewed in the Declaration. What rights the people transferred is less important than the rights they did *not* transfer because they were not transferable, that is to say, unalienable. Unalienable rights were thought to be held under *any* form of government so that when a government merely showed signs of wishing to invade these rights, it could be regarded as intending to reduce the people under absolute despotism. And when the people were sure that the government had this intention or design, that assurance was enough to justify resistance. Now our task is to develop some of the finer points of this argument by explaining the different kinds of rights that are mentioned in some philosophical treatments of this subject.<sup>12</sup>

We find discussions of it not only in the textbooks of jurists like Pufendorf and Burlamaqui but also in those written by moral philosophers like Hutcheson and Witherspoon, so that we can infer that they were commonplace in the eighteenth century. Such discussions appeared in those parts of the textbooks that also contained definitions of unalienable and adventitious rights, which we have already examined. Let us turn to two other commonly made distinctions between rights.

12. James Otis, in *The Rights of the British Colonies*, Bailyn, *Pamphlets*, Volume I, p. 434, quotes Section 149 of Locke's *Second Treatise*, which contains the argument some refinements of which I am about to present. Also see Bailyn, *ibid.*, p. 477, for a related comment by Otis.

The first is that between *perfect* and *imperfect* rights. According to Witherspoon, a perfect right is one which we may use force to maintain, whereas an imperfect right is one that we may not use force to maintain.<sup>13</sup> The question is simply whether we may or may not use force in seeing to it that we are not prevented from exercising a right. Self-preservation is considered a perfect right, whereas the right to gratitude for a favor is imperfect.

I now come to a kind of right called "external," which is sometimes defined as a right the exercise of which is "contrary" to an imperfect right of another person. Thus, if one person has done a favor for another, and hence has an imperfect right to the other's gratitude, the other has an *external* right to withhold his gratitude. For that reason the exercise of the external right of the beneficiary to withhold gratitude from his benefactor is "contrary" to the imperfect right of the benefactor to receive it. At one point Hutcheson speaks contemptuously of this as "an external shew of right," though he insists that it should not be denied.<sup>14</sup>

We are now in a position to understand a statement by Hutcheson about all "human power, or authority" of the kind that is vested in government. Before quoting this statement, I should, with due recollection of our earlier discussion of power and right, call attention to Hutcheson's putting "authority" in apposition to "power," thereby showing that *power* was not only not *contrasted* with the moral concept of

13. Witherspoon, *op. cit.*, p. 70. For other philosophical discussions of this distinction, see Hutcheson's *Inquiry Concerning Moral Good and Evil*, Section VII, Part VI; his *Short Introduction to Moral Philosophy*, Book II, Chapter II, Section III; and his *System of Moral Philosophy*, Book II, Chapter III, Section III. For a legal discussion of a perfect right, see Pufendorf's *Elementorum*, Book I, Definition VIII. The difference between a perfect moral right and a perfect legal right involves the distinction between what can be done in a state of nature and what can be done in civil society.

14. Hutcheson, *Short Introduction*, *loc. cit.*; also *System of Moral Philosophy*, *loc. cit.*, where the phrase "shadow of right" is used.

authority but it was often identified with the latter. Hutcheson says that all such power or authority consists "in a right transferred to any person or council, to dispose of the alienable rights of others."<sup>15</sup> It should be observed that a government's power or authority is, first of all, transferred, that is to say, alienated to it by others. Secondly, this alienated right is a right to dispose of the *alienable* rights of those others, which means that the government may exercise, or do what it will with, the alienable rights. But, Hutcheson goes on to say, "there can be no government so absolute, as to have even an *external right* to do or command everything. For wherever any invasion is made upon *unalienable rights*, there must arise either a *perfect*, or *external right to resistance*."<sup>16</sup>

The first part of this passage shows that no government can be so absolute as to have even an *external right*—the weakest kind of right—to do or command *everything*. This is because the people never transferred to the government *all* of their rights and because a government can have no rights except those transferred to it by the people. The second part of the passage shows that when a government tries to do or command *everything* and in consequence invades the people's unalienable rights, the people have either a perfect or an external right to resist. Now why is the right to resist said to be perfect or *external*? The reason for the addition of "or external" becomes clearer in a subsequent passage where Hutcheson says that there are two moral restraints upon the right of subjects to resist. First of all, there is the restraint imposed by the subjects' realization that if they are too weak, they may cause more harm than good by their resistance. And, secondly, there is the restraint imposed by their realizing that governors who are on the whole good may have done some injury which is too small to outweigh the advantages of their administration or the evils that resistance would

15. *Inquiry*, Section VII, Part VII, p. 294.

16. *Ibid.*

occasion. In such cases, even though an invasion of an unalienable right has occurred, the subjects have only a "show of right" or an external right to resist.

I want to remark here that although Hutcheson's treatment of rights is, in general, more utilitarian than that of the Lockean and Burlamaquian colonists, what he says about weighing harm and good in exercising the right to resist is not so utilitarian as to be incompatible with the intuitionistic Declaration precisely because one of the self-evident or undeniable duties of the people *is* to take account of their own happiness when contemplating a revolution. The right to reform, alter, or abolish a government is said to be an inalienable right in the Virginia Bill of Rights, but it must be exercised in such a manner "as shall be judged most conducive to the public weal." So, plainly, the right or duty to resist must be exercised with due attention to the public weal even according to those who enunciate the duty or right in a self-evident or undeniable principle.

I also lay stress on this idea that the right to resist a government which has invaded an unalienable right *may be* external because it bears closely on a part of the Declaration in which the signers speak of a dictate of *prudence* that governments long established should not be changed for "light and transient causes." This is the passage which concludes with the reference to "the patient sufferance of these colonies" and is consonant not only with Hutcheson's idea that subjects who contemplate resistance should keep in mind certain restraints which would make their right to resist merely external rather than perfect but also with more psychological remarks that Locke makes about revolution in the *Second Treatise*. He observes, while discussing the dissolution of government that "such *revolutions happen* not upon every little mismanagement in public affairs. *Great mistakes* in the ruling part, many wrong and inconvenient laws, and all the *slips* of humane frailty will be *born by the people*, without



mutiny or murmur." And not only does Locke strike that note of "patient sufferance" but he does so just before he uses words which are astonishingly close to Jefferson's. Locke says: "But if a long train of abuses, prevarications, and artifices, all tending the same way, make the design visible to the people, and they cannot but feel, what they lie under, and see, whither they are going; 'tis not to be wonder'd, that they should then rouse themselves, and endeavour to put the rule into such hands, which may secure to them the ends for which government was at first erected."<sup>17</sup>

*The Rights of Men, the Ends of Men,  
and the Ends of Government*

In the passage above, Locke concludes with a phrase of considerable importance, namely, "secure to them the ends for which government was at first erected." What were these ends as conceived by the American revolutionaries? What was government supposed to do according to the contract whereby the people gave up certain rights? What was it obliged to do? What omissions on the part of the government would justify patient people in rousing themselves against it? I said earlier that the answer to this was not unambiguous, but I went on to say that there was one thing that government was clearly obliged *not* to do. It was obliged not to invade the unalienable rights of the people on pain of being resisted. But was this the sum total of the government's obligation? Was this the only duty or end of government? It might

17. Locke, *Second Treatise*, Section 225. See also Sections 210 and 230 as well as P. Laslett's reference to the similarities between Locke and the Declaration in Laslett's note to Section 225. Bailyn has noted James Otis's echoing of Section 225. See Otis, *Rights of the British Colonies* in Bailyn's *Pamphlets*, Volume I, p. 429 and Bailyn's note 7 on p. 720. E. S. Corwin had observed that in the Declaration Jefferson had repeated Locke's language about a long train of abuses, *The "Higher Law" Background of American Constitutional Law*, p. 82, note 119.

be added that government was also obliged to guard those rights against invasion by other people. But should one stop there? Clearly not, for even though the invasion of *unalienable* rights constitutes one of the greatest sins, there are *alienable* rights, like the right to estates and goods, which government would also be obliged not only not to invade but also to guard. So far, however, we have talked only of government's obligation not to invade and its obligation to guard the rights of people. Can we go any further in the sequence of which *not invading* and *guarding* are the first two members? For example, is the government obliged to aid and abet people in the exercise of the unalienable rights (which, as we have seen, are derived from duties) listed in the Declaration? Concerning that profound question there may have been differences among the American revolutionaries and doubt in the mind of Jefferson himself.

In order to try to answer this question, I want to compare Jefferson's Rough Draft with the final version of the Declaration. I have already called attention to the removal of Jefferson's statement that certain rights were *derived from equal creation*, to the removal of the word "inherent" as a characterization of those rights, and to the shift from speaking of the preservation of life, the preservation of liberty, and the pursuit of happiness to speaking of life, liberty, and the pursuit of happiness. Now I wish to discuss the fact—perhaps of greatest significance for political philosophy—that Jefferson in the Rough Draft, just after listing *its* trio of rights, goes on to write: "that to secure these *ends* [my emphasis] governments are instituted among men, deriving their just powers from the consent of the governed," whereas in the final version the word "ends" is replaced by the word "rights."

Because I think the reader will be able to follow my argument more easily with verbatim texts available, I reproduce first a part of the Rough Draft which is long enough to show the crucial section in its full context:

We hold these truths to be sacred & undeniable; that all men are created equal & independant, that from that equal creation they derive rights inherent & inalienable, among which are the preservation of life, & liberty & the pursuit of happiness; that to secure these ends, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government shall become destructive of these ends, it is the right of the people to alter or to abolish it, & to institute new government, laying it's foundation on such principles & organising it's powers in such form, as to them shall seem most likely to effect their safety & happiness. prudence indeed will dictate that governments long established should not be changed for light & transient causes: and accordingly all experience hath shewn that mankind are more disposed to suffer while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. but when a long train of abuses & usurpations, begun at a distinguished period, & pursuing invariably the same object, evinces a design to subject them to arbitrary power, it is their right, it is their duty, to throw off such government & to provide new guards for their future security. such has been the patient sufferance of these colonies; & such is now the necessity which constrains them to expunge their former systems of government. the history of his present majesty, is a history of unremitting injuries and usurpations, among which no one fact stands single or solitary to contradict the uniform tenor of the rest, all of which have in direct object the establishment of an absolute tyranny over these states.<sup>18</sup>

Now I reproduce the corresponding part of the final version:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are

18. See Boyd, *Declaration of Independence*, p. 19.

Life, Liberty and the pursuit of Happiness. — That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, — That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security. — Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States.<sup>19</sup>

In the Rough Draft, when Jefferson writes "to secure these ends governments are instituted among men" immediately after the phrase "the preservation of life, & liberty & the pursuit of happiness," to what does the phrase "these ends" refer? I think it refers to three Burlamaquian ends of man: the preservation of life, the preservation of liberty, and the pursuit of happiness. Now let us ask what the word "secure" means here. I believe that it is synonymous with the word "attain" in this context, being influenced as I am not only by

19. Becker, *Declaration of Independence*, pp. 186–187.



the fact that this makes grammatical sense when speaking of ends, but also by certain views which Burlamaqui advances about civil government. He calls it an adventitious though natural state; he also holds with Locke that human society is originally and in itself a state of equality and independence, and that the institution of sovereignty destroys this independence. *But* he affirms resolutely that this institution does not subvert natural society. On the contrary, he says, it contributes to strengthen and cement it. Therefore, Burlamaqui says, to form "a just idea of civil society we must call it natural society itself, modified in such a manner, that there is a sovereign presiding over it, on whose will whatever relates to the welfare of the society ultimately depends; to the end that, by these means mankind may attain, *with greater certainty* [my emphasis], that happiness to which they all naturally aspire."<sup>20</sup>

In order to lend further support to my hypothesis that Jefferson was using the word "secure" to mean *attain* the goals of *preserving* life and liberty, and of *pursuing* happiness, I call attention to the fact that Burlamaqui holds that when a man has a natural right, "other people ought not to employ their strength and liberty in resisting him in this point; *but on the contrary, . . . they should respect his right, and assist*

20. *Principles of Politic Law*, Part I, Chapter I, Section III. The French passage which is translated by the matter following the semicolon is: "*afin que par ce moyen les hommes puissent se procurer d'une manière plus sûre le bonheur auquel ils aspirent naturellement.*" The verb "*procurer*" is to be noted here. Elsewhere Burlamaqui is translated as follows: "Government . . . was intended to enable us the better to discharge the duties, prescribed by natural laws, and to attain more certainly the end, for which we were created." Here the French reads: "*On a voulu mettre les hommes plus en état de s'acquitter des devoirs que les loix naturelles leur prescrivent, & de parvenir plus sûrement à leur destination.*" *Principles of Natural Law*, Part II, Chapter VI, Section II. He also writes in the *Principles of Natural Law*, Part II, Chapter VI, Section III, that in civil society the sovereign acts "to the end that, under his protection and through his care, mankind may surely attain (*procurer*) the felicity (*bonheur*), to which they naturally aspire."

him in the exercise of it, rather than do him any prejudice [my emphasis]." Reason, he goes on to say in the same vein, "obliges every body to favor and abet" those who exercise these rights.<sup>21</sup> And this favoring and abetting of right-holders in the exercise of their rights would be in keeping with the idea that civil society or government has as *its* end the assisting and abetting of men who wish to exercise the inherent rights of preserving their life, preserving their liberty, and pursuing their happiness.

Supplied with this information, let us see what happens when the phrase "these ends" is changed to "these rights" in the final version. The verb "secure" can no longer mean "attain" there. Rather it must have the meaning of "make secure" or "guard." Since the revision of the Rough Draft involved changing "the *preservation* of life" to "life" and "the *preservation* of liberty" to "liberty," when the final version goes on, after saying that all men are endowed by their Creator with the rights of life, liberty, and the pursuit of happiness, to say "that to secure these *rights*, governments are instituted among men," the final version has to construe "secure" as meaning *make secure* rather than *attain*. Why? Well, once we speak of *rights* as secured by government, and especially of rights with which men have already been endowed by their Creator, it is manifestly pointless to use the verb "secure" to mean *attain* since government need not be instituted to *attain* what people already have. It might be held that when the final version put "secure these *rights*" in place of the Rough Draft's "secure these *ends*," no change in the meaning of "secure" became necessary, on the ground that the word "ends" in the Rough Draft referred to the *rights* previously mentioned in the Rough Draft, namely, rights of preservation of life, preservation of liberty, and pursuit of happiness. Therefore, this argument would run, when the final version

21. *Principles of Natural Law*, Part I, Chapter VII, Section V.

replaced "ends" by "rights" it was simply making more explicit what had been intended originally, namely, to assert that government was instituted to *guard* rights whose names were changed merely to simplify the prose. In reply I repeat that I do not think that in the Rough Draft Jefferson used the word "end" to refer to a right since it was more common in the literature of the period to speak, as both Burlamaqui and Locke did, about an *activity* as an end of man than it was to speak about a *right* as an end of man. Moreover, it hardly makes sense to speak of a right already possessed by man as an *end* which is to be secured in the sense of attained by government while it makes eminently good sense to speak of the activity of preserving one's life as an end to be attained. But even more persuasive, I think, is the fact that my interpretation of the referent of "these ends" is in accord with what I take to be the Burlamaquian tendency of Jefferson's philosophical thinking at the time he wrote the Rough Draft. Consequently, I think that what looks on first sight like a mere verbal change, in which the word "rights" replaced the word "ends" while maintaining the same referent as "ends," might have altered the fundamental purpose of government as Jefferson conceived it in the Rough Draft. That purpose was, I believe, to *aid and abet men in attaining ends proposed by God*: the preservation of life, the preservation of liberty, and the pursuit of happiness. But in the final version of the Declaration the purpose of government must be understood as merely that of *making secure rights which have been given by God*, which means making them secure against invasion.<sup>22</sup>

In the light of what I have said, I cannot avoid the conclusion that somewhere between the Rough Draft and the final version certain philosophical changes were made which were not "merely verbal" and which were not made simply out of

22. See Supplementary Notes, Further Remarks . . . , p. 285.

concern for style.<sup>23</sup> On the contrary, these changes reveal a tendency on the part of Jefferson, or of others to whose wishes he acceded, to dilute the purpose of government to the point where it ceases to be an *abettor* of men in the active attainment of three Burlamaquian ends proposed by God and becomes only a *protector* of certain rights. Consequently, in the final version we are not presented with a moral basis for altering or abolishing a government which fails to *increase* the probability that mankind will attain the happiness to which all persons naturally aspire. Rather, we are only presented with a basis on which we may alter or abolish a government which *decreases* the probability of our attaining that happiness. And that may well have been the purpose of the transformation of the first occurrence of "these ends" to "these rights," a transformation which forced "secure" to mean *guard* rather than *attain*.

The changes I have mentioned and the problems they raise give one the feeling that Jefferson may have been wobbling on a fundamental question in the philosophy of government. And his wobbling may well be connected with something that puzzled Gilbert Chinard fifty years ago. Chinard wondered why Jefferson, while copying certain passages from James Wilson's *Considerations on the Nature and Extent of the*

23. Jefferson described the changes made by Franklin and Adams before he showed it to the Committee of Five as "merely verbal." See Jefferson's letter to Madison, August 20, 1823, *Writings*, Volume XV, p. 461. On the merit of certain changes I cannot agree with Becker. He thinks, for example, that "'they are endowed by their creator' is obviously much better than 'from that equal creation'"—on stylistic grounds. Perhaps it is, but it obscures Jefferson's reliance on Locke's view of the connection between equal creation and liberty. Becker also writes: "Why say 'the preservation of life'? If a man has a right to life, the right to preserve life is manifestly included" (*op. cit.*, pp. 198–199). But the elimination of "equal creation" and "preservation of life" obscures the connection between Jefferson's views and Burlamaqui's and therefore prevents us from seeing the intended progression from the created essence of man to his God-proposed ends, his God-ordained duties, and to his unalienable rights.



*Legislative Authority of the British Parliament* into his own *Commonplace Book*, failed to reproduce a passage of Wilson which said, among other things, that those who are subject to government had given their consent to being governed "with a view to *ensure and to increase* [my emphasis] the happiness of the governed above what they could enjoy in an independent and unconnected state of nature." In this passage Wilson cites Burlamaqui, and the crucial reference for us is to *increasing* as well as to *ensuring* happiness. On the other hand, Jefferson *did* quote Wilson when Wilson asked rhetorically, by way of testing the legitimacy of Parliament's possessing a supreme, irresistible, uncontrolled authority over the American colonies: "Will it then ensure and increase the happiness of the American colonies?"<sup>24</sup>

In my view, ambiguity about whether the end of government is merely to protect certain rights or whether government was to go further and *encourage* man's exercise of those rights is intimately connected with the question whether government was not only to ensure but "to *increase* the happiness of the governed above what they could enjoy" in an independent and unconnected state of nature. Only some seriously divided person, or some seriously divided Committee, could have produced a final Declaration which bore the marks of both these philosophical conceptions of the ends of government since Congress, we are assured, did not concern itself with the more philosophical parts of the Declaration except for deleting "inherent" as applied to rights.<sup>25</sup>

The importance of calling attention to these two conceptions of government between which Jefferson himself may have oscillated is underscored when we find one student of

24. See Chinard's Introduction to his edition of the *Commonplace Book*, pp. 39-44.

25. Boyd, *op. cit.*, p. 32. See C. M. Wiltse, *The Jeffersonian Tradition in American Democracy*, Chapters VII and VIII, *passim*, for a discussion of certain political acts of Jefferson that may have reflected the intellectual division I have been discussing.

Jefferson, Daniel Boorstin, arguing, mainly on the basis of the Declaration, that "the Jeffersonian natural 'rights' philosophy was thus a declaration of inability or unwillingness . . . to face the need for defining explicitly the moral ends to be served by government."<sup>26</sup> This statement, however, is directly controverted by Jefferson's statement in the Rough Draft that governments are instituted among men to secure *the ends* listed there. Furthermore, the statement would also be controverted if Jefferson believed that the purpose of government was to increase as well as to ensure the happiness of society. It might be said in reply that, according to Jefferson, active governmental intervention would not always be necessary to increase the happiness of society because under certain conditions it would be increased by individuals without governmental aid. This idea was expressed in Jefferson's First Inaugural when he wrote that a wise and frugal government will restrain men from injuring one another but leave them otherwise free to regulate their own pursuits of industry and improvement. On the other hand, Jefferson once said that if the advantage of the people could be increased by executive intervention, the executive would not only have a right to intervene but a duty. This emerges clearly in a letter of September 20, 1810, where Jefferson is imagining that the executive might, while pursuing his duties, buy the Floridas cheaply without Congressional approval if he expected that such approval would be forthcoming when Congress met.<sup>27</sup>

Boorstin has also said that Jefferson was not concerned with duties because he failed to make explicit the moral ends of government. But if I am right in supposing that the rights in the Rough Draft were advocated by Jefferson as logical consequences of Burlamaquian duties, then Jefferson believed in man's duty to attain certain moral ends and that

26. Daniel Boorstin, *The Lost World of Thomas Jefferson* (New York, 1948), p. 195.

27. *Writings*, Volume XII, p. 418, Letter to J. B. Colvin.

government should aid man in that pursuit. It is true, as Boorstin says,<sup>28</sup> that in asserting a right we imply what the community *cannot* do, but in asserting a right in the spirit of Burlamaqui we imply that every one ought to favor and abet the exercise of the right, and to that extent we prescribe what the community and every individual in it *must* do. Therefore, I cannot accept the statement that Jefferson's " 'natural rights' theory of government left all men naturally free from duties to their neighbors: no claims could be validated except by the Creator's plan, and the Creator seemed to have made no duties but only rights."<sup>29</sup> This, I believe, can be maintained only if one neglects the Lockean and Burlamaquian roots of Jefferson's thinking which *require* reference to duties not mentioned in the Declaration but implicit in Jefferson's telescoped derivation of rights. Jefferson never could have derived his rights from equal creation without statements of God-imposed duties of natural law as intermediate steps.

Furthermore, Jefferson wrote the economist J. B. Say that the laws of nature "create our duties."<sup>30</sup> Indeed, Boorstin quotes this letter; and to make more ironical his view that, according to Jefferson, God made no duties for man, Boorstin tells us that the motto which Jefferson chose for his seal, "Rebellion to Tyrants Is Obedience to God," comes close to summing up his whole political philosophy.<sup>31</sup> But how could Jefferson have spoken of *obedience* to God if he had thought that God had laid no duties on man? And what about the Lockean passage in the Declaration—not very different from its ancestor in the Rough Draft—which I have previously mentioned and which says that "when a long train of abuses and usurpations, pursuing invariably the same Object evinces

28. Boorstin, *op. cit.*, p. 195.

29. *Ibid.*, p. 196.

30. *Writings*, Volume XI, p. 3; February 1, 1804.

31. Boorstin, *op. cit.*, p. 203.

a design to reduce [the people] under absolute Despotism, it is their right, *it is their duty* [my emphasis] to throw off such Government"?

I emphasize that much of my interpretation relies on the Rough Draft, where the influence of Burlamaqui and even that of Locke is more evident than in the final version. However, if Jefferson himself made the changes in the Declaration that pointed toward a less affirmative view of the role of government, it becomes interesting to ask why Jefferson decided to alter it so as to give the impression that governments are instituted to *secure* in the sense of *guard* certain *rights* rather than that they are instituted to *secure* in the sense of *attain* certain *ends*. To this question I cannot present an answer that satisfies me. But I cannot resist expressing the *opinion*—and I underscore that word—that two warring philosophical souls dwelt within Jefferson's breast and that one of them may have triumphed before he showed his draft of the Declaration to anyone. The victory did not go to the Jefferson who thought that the government should actively encourage the attainment of certain human ends proposed by a God who gave man a certain nature, and it did not go to the Jefferson who thought that government should not only ensure but increase the happiness of the people through favoring and abetting the exercise of their rights. Rather, the victory went to the Jefferson who thought that government should merely see to it that man did not enjoy *less* happiness than he could enjoy in what James Wilson called "an independent and unconnected state of nature." The same Wilson continued to sound the same Burlamaquian note in his *Lectures on Law*, delivered in 1790, for there he affirmed: "Government, in my humble opinion, should be formed to secure and to enlarge the exercise of the natural rights of its members; and every government, which has not this in view, as its principal object, is not a government of the legitimate kind."<sup>32</sup> But the

32. Wilson, *Works*, Volume II, p. 592.



idea that government is formed "to *enlarge* the exercise of the natural rights" as well as "to secure" or guard them does not come through in the final version of the Declaration. Therefore, we may describe this difference between Wilson and the Declaration he signed as evidence of what I have called the ultimate ambiguity of the American revolutionary mind: its failure to come to a single conclusion on the role of government with regard to man's natural rights. Was it merely to guard them, to see to it that they were not invaded? Or was it to abet and favor the people in attaining certain God-proposed ends? The revolutionaries who signed the final version of the Declaration seemed to answer the question in the first way, but they also left signs of an inclination to answer it in the second way. The Republic would spend the next two hundred years trying to answer it in its own way.

## Epilogue

### Man's Glassy Essence: The Murky Mirror of Morality

" . . . man, proud man,  
Drest in a little brief authority,  
Most ignorant of what he's most assur'd,  
His glassy essence, like an angry ape,  
Plays such fantastic tricks before high heaven,  
As make the angels weep. . . ."

*Measure for Measure,*

I.i.33

It is often pointed out in studies of the *Federalist Papers* that the task of constructing a new government was very different from that of overthrowing an old one and that therefore the ideas employed in those papers were significantly different from those that I have been examining. I agree with this to some extent, and that is why I have not studied concepts like faction, separation of powers, and checks and balances. Such concepts were tools of the constitution-makers who tried to construct a government that would achieve the ideals that the revolution-makers had extracted from the essence of man as they saw him. I agree therefore with Arthur O. Lovejoy, who said that "The ablest members of the Constitutional Convention were well aware that *their* task—unlike that of the Continental Congress in 1776—was not to lay down abstract principles of political philosophy, not to rest the system they were constructing simply upon theorems about the 'natural rights' of men or of States, though they postulated such

rights. Their problem was not chiefly one of political ethics but of practical psychology, a need not so much to preach to Americans about what they *ought* to do, as to predict successfully what they *would* do. . . .<sup>1</sup> However, Lovejoy seems to couple this attribution of what is sometimes called "realism" to the constitutionalists of 1787 with a suggestion that whereas they were tough, shrewd psychologists who saw men as lower than the angels, the revolutionaries of 1776 viewed men as residents of Carl Becker's "Heavenly City of the Eighteenth-Century Philosophers." And it is with this suggestion that I wish to take exception on the basis of what I have shown in earlier chapters.

For one thing, it is clear that those who believed in self-evident moral truth and those who believed in the existence of the moral sense did not think all men were of celestial caliber. If they had, they would not have acknowledged with Locke and Aquinas that some men are incapable of seeing the truths of natural law, they would not have asserted that the perception of moral truth could be and was often blinded by vice, corruption, prejudice, ignorance, and stupidity, and they would not have taken pains to point out that the reliable moral judge must have qualities that many human beings do not have.

The fact that the rationalistic followers of Locke made an Aquinas-like distinction between truths self-evident *in themselves* and truths self-evident *to the learned* showed little faith in the capacity of *all* the people to absorb the moral truths to which the revolutionaries appealed. It is worth pointing out, therefore, that when Alexander Hamilton employed a version of that distinction to beat down political enemies in Federalist Number 31,<sup>2</sup> he was not inventing an idea that was not available to him in the 1770's, when he was wrapped up in the Revolutionary philosophy I have been ex-

1. A. O. Lovejoy, *Reflections on Human Nature* (Baltimore, 1961), pp. 46-47.

2. See above, Chapter 2, section entitled "Hamilton and Self-evidence."

amining in this book. Nor did Hamilton have to wait until 1787 to learn how to defend a practice which dramatized his lack of faith in *all* of the people—the requirement of property qualifications for voting. Hamilton indirectly gave his approval to that practice in *The Farmer Refuted* (1775), one of his early pamphlets that was full of natural law and Revolutionary sentiment. Hamilton extracted what he must have at that time regarded as the best defense of that practice from the following passage in Blackstone's *Commentaries*:

The true reason of requiring any qualification, with regard to property, in voters, is to exclude such persons as are in so mean a situation that they are esteemed to have no will of their own. If these persons had votes, they would be tempted to dispose of them under some undue influence or other. This would give a great, an artful, or a wealthy man, a larger share in elections than is consistent with general liberty. If it were probable that every man would give his vote freely and without influence of any kind, then, upon the true theory and genuine principles of liberty, every member of the community, however poor, should have a vote in electing those delegates, to whose charge is committed the disposal of his property, his liberty, and his life. But, since that can hardly be expected in persons of indigent fortunes, or such as are under the immediate dominion of others, all popular states have been obliged to establish certain qualifications; whereby some, who are suspected to have no will of their own, are excluded from voting, in order to set other individuals, whose wills may be supposed independent, more thoroughly upon a level with each other.<sup>3</sup>

Hamilton quoted from this passage mainly to show that the opulent as well as the indigent American colonists were worse off than the meanest Britisher. He did not condemn the view that the meanest Britisher should not be entitled to

3. Blackstone's *Commentaries*, Volume II, pp. 170-171.



vote, nor did he quarrel with Blackstone's view that such people did not possess independent wills. On the contrary, Hamilton noted with approbation that the poor in England

compose a part of that society, to whose government they are subject. They are nourished and maintained by it, and partake in every other emolument, for which they are qualified. They have no doubt, most of them, relations and connexions, among those who are privileged to vote, and by that means, are not entirely without influence, in the appointment of their rulers. They are not governed by laws made expressly and exclusively for them; but by the general laws of their country; equally obligatory on the legal electors, and on the law makers themselves. So that they have nearly the same security against oppression, which the body of the people have.

To this we may add, that they are only under a conditional prohibition, which industry and good fortune may remove. They may, one day, accumulate a sufficient property to enable them to emerge out of their present state.<sup>4</sup>

Hamilton's willingness to accept the idea of property qualifications for voting in a pamphlet dominated by Lockean moral philosophy, shows that the eleven years separating the Declaration and the Constitutional Convention did not witness a transformation in which ardent lovers of the common people were altogether replaced by shrewd observers of their limitations. On the contrary, the idea that the indigent were not men of independent will was as commonplace in pre-Revolutionary years as Locke's idea that dairy-maids could not detect self-evidence and Jefferson's fear that blacks might not possess that degree of rational power which would give them the same essence and therefore the same position in the scale of being as whites.

Since we have seen in earlier chapters that the ignorant

4. *Papers of Alexander Hamilton*, Volume I, p. 107.

and the stupid were regarded by major theorists of natural law as lacking the *understanding* to grasp the ideas contained in the natural law, it should not surprise us to find Blackstone denying some people the right to vote on the basis of a defect in their *wills*. For just as many moralists of 1776 held that only a certain kind of person could see that he had certain natural rights, so Blackstone held that only a certain kind of person was fit to elect those who would run the government that would do what it was obliged to do concerning those rights. Blackstone's argument, tacitly accepted by Hamilton in 1775, was that an indigent person was not fit to vote. And this lack of fitness was said to rest on considerations which are *analogous* to those adduced when blacks, insane people, children, and women were held not to be fit. I say "analogous" because when those individuals were deprived of a right to vote, they were deprived of it because they allegedly lacked, had lost, or had failed to attain *rationality*, whereas Blackstone's argument concerning the poor rested on their alleged lack of *a will* of their own, or of an *independent* will. And his main evidence for this is that they are prone to sell their votes to the rich. If, therefore, an indigent man were prevented from having a vote to sell to a rich man, then the rich man, Blackstone maintained, will be prevented from having a larger share in elections "than is consistent with general liberty," and all individuals, "whose wills may be supposed independent" will be "more thoroughly" set "on a level with each other." However, Blackstone did not seem to worry about whether the voters would deprive the voteless of their natural independence in Locke's sense. If he had been asked about this, I suspect that he would have said that taking the vote away from a poor man would be less likely to interfere with "general liberty" than giving him the vote would.

Behind this preoccupation with *general liberty* there stood a distinction between various liberties of individuals and the liberty of a civil society or state—a distinction which is made

clear in Richard Price's pamphlet, *Observations on the Nature of Civil Liberty, the Principles of Government, and the Justice and Policy of the War with America* (1776). Whereas what Price calls physical liberty, moral liberty, and religious liberty are attributed to *individuals*, "*civil liberty* is the power of a *civil society* or *state* to govern itself by its own discretion, or by laws of its own making, without being subject to the impositions of *any* power, in appointing and directing which the collective body of the people have no concern, and over which they have no control."<sup>5</sup> It would appear, however, that Price thinks of the "collective body of the people" as composed only of what he calls "independent agents," namely, those of us who possess what he calls physical liberty, spontaneity, or self-determination "which gives us a command over our actions, rendering them properly *ours*, and not effects of any foreign cause."<sup>6</sup> Therefore, although a state can vary in its degree of liberty, it sinks to the lowest degree of it if "the majority of its representatives are always elected by a handful of the meanest persons in it, whose votes are paid for; and if also, there is a higher will on which even these mock representatives themselves depend, and that directs their voices: In these circumstances, it will be an abuse of language to say that the state possesses liberty."<sup>7</sup>

Here we see a philosophical rationale for property qualifications in a free society. The whole society or state can be free if and only if its "independent agents" elect representatives, and the indigent are, for Price, definitely not independent agents. What has happened, however, is that a metaphysical conception of independence espoused by Price—according to which a man's actions are *his* only when he has willed them through an undetermined volition of his own—has been sophistically transformed into an economic conception of inde-

pendence. For, clearly, a man who accepts a bribe to vote in a certain way is an independent agent by Price's definition. He has command over his action in accepting the bribe and in voting; both actions *are* properly *his*. Yet Price tries to persuade us that the action of voting is not *his* when he has voted as directed by someone who has paid him. By that argument, one might show that if *A* is *persuaded* by *B* to vote in a certain way by *B*'s eloquent appeal to *A*'s self-interest, *B* is *directing* *A*'s actions. Yet Price surely cannot hold that *A* and others like him would be so lacking in independence as to make us call the state in which they live and vote a free state only by an abuse of language.

I do not wish at this late stage to enter into a full discussion of free will, but I think it is clear that Price misused his powers as a philosopher when he suggested that the indigent should be disenfranchised for lacking what *he* calls "physical liberty" or the "independence" of an agent whose actions are his own. The poor lack money, but if they are said to lack independence on this score and are therefore to be disenfranchised, then I believe that the number of voters in Price's free society would shrink to zero if his argument were consistently applied. For who is not moved to vote by considerations which, even though they are not financial, are nevertheless similarly effective in getting us to vote as another man votes?

If I have succeeded in showing anything in this look forward to the Constitutional Convention, it is that the most subtle argument for property qualifications was not a merely political one devised by "realistic" psychologists, but was rather formulated in 1776 by a friend of the Revolution and an acute moral philosopher who fallaciously identified poverty and metaphysical bondage within his own system. This is enough to show at least two things: (1) that high-powered metaphysics rather than political argument was sometimes employed in the effort to deny a poor man the right to vote;

5. Richard Price, *Observations on the Nature of Civil Liberty*, p. 3.

6. *Ibid.*

7. See Supplementary Notes, Richard Price on the Dependent Voter, p. 289.



and (2) that the revolutionaries of 1776 did not fail to see man's limitations. It is worth noting that John Adams in his defense of the state constitutions of the United States wrote that "our friend Dr. Price has distinguished very well, concerning physical, moral, religious, and civil liberty" in a reference to the work by Price that I have just been discussing; and one might conclude from this alone that Adams in his capacity as constitutionalist was prepared to accept Price's argument for property qualifications.<sup>8</sup>

Such a conclusion is supported by a letter written by Adams to James Sullivan from Philadelphia on 26 May 1776, a place and date which make abundantly clear that those who were fomenting the Revolution were able to be "realistic" well before they were obliged to make the Constitution of the United States of America. Sullivan had written a letter on May 6 to Elbridge Gerry that Gerry had given to Adams, and this letter prompted a response by Adams to Sullivan on a wide range of important topics. In his reply, Adams worries about the reason why the majority may govern the minority, why men may govern women without their consent, and why the old may bind the young without theirs. He answers that necessity requires that the majority have a right to govern and that the minority have a duty to obey: "there can be no other rule." Women are excluded from the governing class, he continues, because "their delicacy renders them unfit for practice and experience in the great businesses of life, and the hardy enterprises of war, as well as the arduous cares of state. Besides, their attention is so much engaged with the necessary nurture of their children, that nature has made them fittest for domestic cares." And children, says Adams as he explains *their* exclusion, "have not judgment or will of their own."<sup>9</sup>

8. Adams, *Works*, Volume IV, p. 401.

9. *Ibid.*, Volume IX, pp. 375-376.

When—at this point in his argument—Adams comes to the thorny question of property qualifications, he contends that a combination of the reasons he has given for denying votes to women and children will also apply in the case of men "wholly destitute of property." Like women, they are too little acquainted with public affairs to form a right judgment; and like children, they are "too dependent upon other men to have a will of their own." Summing up this point, Adams writes: "If this is a fact, if you give to every man who has no property, a vote, will you not make a fine encouraging provision for corruption, by your fundamental law? Such is the frailty of the human heart, that very few men who have no property, have any judgment of their own. They talk and vote as they are directed by some man of property, who has attached their minds to his interest."<sup>10</sup>

This, however, is not the end of Adams's thinking about property qualifications. Like any intelligent reader of Blackstone's reasons for that institution, Adams was aware that someone might ask why, if differences of property cause some men to be dependent, their dependency should not be *eliminated* rather than used as a basis for denying the vote to them. Adams offers this comment on the subject: "Harrington has shown that power always follows property. This I believe to be as infallible a maxim in politics, as that action and reaction are equal, is in mechanics. Nay, I believe we may advance one step farther, and affirm that the balance of power in a society, accompanies the balance of property in land. The only possible way, then, of preserving the balance of power on the side of equal liberty and public virtue, is to make the acquisition of land easy to every member of society; to make a division of the land into small quantities, so that the multitude may be possessed of landed estates. If the mul-

10. *Ibid.*, p. 376.

titude is possessed of the balance of real estate, the multitude will have the balance of power, and in that case the multitude will take care of the liberty, virtue, and interest of the multitude, in all acts of government."<sup>11</sup>

We are still not finished with Adams's discourse on property qualifications, for he now becomes more practical and writes: "I believe these principles have been felt, if not understood, in the Massachusetts Bay, from the beginning; and therefore I should think that wisdom and policy would dictate in these times to be very cautious of making alterations. Our people have never been very rigid in scrutinizing into the qualifications of voters, and I presume they will not now begin to be so. But I would not advise them to make any alteration in the laws, at present, respecting the qualifications of voters."<sup>12</sup> And then he ends with a warning: "Depend upon it, Sir, it is dangerous to open so fruitful a source of controversy and altercation as would be opened by attempting to alter the qualifications of voters; there will be no end of it. New claims will arise; women will demand a vote; lads from twelve to twenty-one will think their rights not enough attended to; and every man who has not a farthing, will demand an equal voice with any other, in all acts of state. It tends to confound and destroy all distinctions, and prostrate all ranks to one common level."<sup>13</sup>

In sum, the philosophy of the *American Revolution* contained much theoretical ammunition that the so-called political psychologists who wrote the Constitution could have used if they wished arguments for disenfranchising blacks, women, and poor people. A supposed deficiency in the power to use reason was thought by some philosophers to be enough to exclude blacks and women, and a supposed lack of will-power was thought sufficient to exclude the poor. Whatever the ad-

11. *Ibid.*, pp. 376-377.

12. *Ibid.*, p. 377.

13. See Supplementary Notes, Price's Measures . . . , p. 291.

mirable features of the philosophical ideas advocated in the Revolutionary era might have been, then, a faith in all of the people was not one of them. We can certainly see this if we probe deeply into the epistemology, the metaphysics, the philosophical theology, and the ethics of the American Revolution—which is what I have tried to do in this book.

The reader knows that I have concentrated on the theory of knowledge, the metaphysics, the philosophical theology, and the ethics used by theorists of the American Revolution. I have expounded in detail their views and those of their transatlantic mentors on self-evident truth, on the God-created essence of man, his God-proposed ends, his God-ordained duties, and his God-given rights. I have dilated on the nature of those rights, on their various kinds, and on the relationship of rights to powers; I have also pointed out that some rights were regarded as unalienable because they were derived from duties of natural law and that the people's right and duty to rebel was defended by arguing that the British monarch had shown an intention to invade their unalienable rights as individuals, an intention which entitled the colonists to believe that the social contract had been broken by the monarch before they had ever fired the shot heard round the world.

I have just sketched what may be called the analytical part of my inquiry, but the reader knows that I have also offered a number of reflections on those philosophical concepts which could be and were used for various political ends. My recent treatment of Price's views of the relationship between physical and civil liberty is, to some extent, an example of what I have tried to do in more detail at several earlier places in this book. In reflecting in this manner on ideas that I have also analyzed, I have, as I have previously indicated, done something similar to what Locke did when he remarked on the political potentialities of the doctrine of innate principles, and also something similar to what John Stuart Mill did when he assessed the political impact of intuitionism. We



find similar reflections on the possible and actual impact of relatively abstract ideas of philosophy in the writings of those eighteenth-century moralists and their Colonial disciples who argued that a moral philosophy which made no room for a moral sense thereby showed itself indifferent to the powers and aspirations of ploughmen. However, my own claims in this area have been guarded. I have not said flatly that the doctrine of self-evident truth was inevitably a tool of haughty dictators of principles but rather that it *could have been* easily turned into one under certain circumstances, and that on occasion it was used in this way. An advocate of this doctrine could claim that those who did not agree with him on the self-evidence of some proposition were biased, incapable of using their reason, insistent upon not using it, ignorant, or prisoners of vice and blindness. And we have seen in one of our rare leaps forward to the *Federalist Papers* that Hamilton used the doctrine in this way while trying to bully some of his political opponents. By contrast, I have argued that although Jefferson subscribed to this epistemological doctrine, he was optimistic enough to think that the majority could and should be educated to the point where what was self-evident to him was also self-evident to them.

While pursuing such reflections I have also remarked that not only the theory of self-evidence could be, and was at times, used tendentiously but that the theory of moral sense, in spite of having been advertised as the democrat's answer to the alleged political defects of moral rationalism, also contained jokers. Thus, James Wilson, following Burlamaqui, was careful to point out that the moral sense to which we must appeal in showing that moral principles are true is not the moral sense of any person whatsoever—certainly not that of a savage—but rather that of a man in a perfect state, perhaps someone like the Stoic sage or the prudent man to whom Aristotle always appeals in a moral pinch.

Mentioning Aristotle leads me to remind the reader that

our Revolutionary theorists not only leaned on an epistemology of self-evident truth which was easily turned to political advantage but also relied heavily on eighteenth-century versions of Aristotle's concept of essence. And any thinker who professed to be able to penetrate man's mysterious essence thought he was in a position to extract certain duties and rights from it rather than others. If he were to say that possession of an opposable thumb differentiated man's essence from that of other beings, he could consider a life of thumb-opposing obligatory on man rather than a life of reason.<sup>14</sup> And, to take an issue which seriously divided modern theorists of natural law, it is worth recalling that one alleged penetrator of man's essence—Pufendorf—leaned heavily on Aristotle's statement that man was essentially a sociable animal, whereas another, Locke, seized on his statement that man was essentially a rational animal. Moreover, if Burlamaqui had not seen the *desire* for happiness in man's "glassy essence," Jefferson might never have regarded the *pursuit* of happiness as an unalienable right.

All of this, I should emphasize, is intended to show that because so much was thought to depend on what was inside so obscure a notion as man's essence—a notion which its greatest sponsors thought was difficult to analyze even when they insisted on its existence—those who claimed to penetrate it often saw what they *wanted* to see there because if they did not, how would they be able to arrive at all of those duties

14. See Aristotle's criticism of Anaxagoras' opinion that the possession of hands is the cause of man's being intelligent, it being Aristotle's view that man's possession of hands is the *consequence* of the fact that he is the most intelligent of all animals, *De partibus animalium*, 687 A 7-23. I am indebted to Professor Harold Cherniss for calling my attention to this passage, as I am for his calling my attention to, and helping me to understand, so many passages from classical philosophers. Although Aristotle does not speak here about man's possessing an opposable thumb, the passage serves, nevertheless, to illustrate the sort of debate about man's essence that reveals the obscurity of that doctrine as traditionally conceived.

and rights? As the reader may have gathered, I am not exactly sympathetic to the doctrine of essence, and whether I express my disapproval of it by saying that I do not understand the word "essence" or by saying that I do not think there are any essences, I am bound to conclude that those who think duties and rights follow from essences really come to their views on duties and rights in some other way. For some reason they *think* there are rabbits in a hat which doesn't contain them; and, to go further by means of this figure, they wrongly suppose that there is a *hat*.

I must conclude therefore that when some thinkers say that a certain right is derivable from the essence of man and others disagree with them, their differences must be explained in some other way on the supposition that each disputant has *some* reason for saying what he says. I take the same view of the dispute between those who think that the essence of government is to protect rights and those who think that it should not only protect them but also abet and favor the exercise of them. I take the same view of those who defend property qualifications for voting by declaring that an indigent man's bribed voting would not be *his* act because it is the essence of *his* act that it should not be "determined" by a cause outside of himself, as Price does in his most technical philosophical work, *A Review of the Principal Questions in Morals*.<sup>15</sup>

15. See pp. 181-182 of that work (Oxford, 1948) where the following passage appears:

The *liberty* I here mean is the same with the power of *acting* and *determining*: And it is self-evident, that where such a power is wanting, there can be no moral capacities. As far as it is true of a being that he *acts*, so far he must *himself* be the cause of the action, and therefore not necessarily determined to act. Let any one try to put a sense on the expression; *I will; I act*; which is consistent with supposing, that the volition or action does not proceed from myself. Virtue supposes determination, and determination supposes a determiner; and a determiner that determines not himself, is a palpable contradiction. Determination requires an efficient cause. If this cause is the being himself, I plead for no

Before I conclude this set of reflections, I should point out that although I have called *self-evident truth* epistemological and *essence* metaphysical, we have seen that they are intimately connected in the minds of some theorists of natural law. For example, Aquinas thought that one who did not know the *essence* of man would not be able to see that the proposition that man is a rational being is self-evident, and Locke held that one who did not grasp the *ideas* that made up the proposition "creatures of the same species and rank promiscuously born to all the same advantages of nature, and the use of the same faculties, should 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 right to dominion and sovereignty"<sup>16</sup> would not see that *it* was self-evident. But if there are any two words which have been viewed suspiciously in the history of philosophy, it is "essence" as used by Aristotle and "idea" as used by Locke. Here we are, however, advised that if we do not see something to be self-evident, it is because we have not grasped an essence or an idea. So, since our failure to see as self-evident what the great theorists of natural law regarded as self-evident depends on our failure to

---

more. If not, then it is no longer *his* determination; that is, *he* is no longer the determiner, but the motive, or whatever else any one will say to be the cause of the determination. To ask, what effects *our* determinations, is the very same with asking who did an action, after being informed that such a one did it. In short; who must not *feel* the absurdity of saying, *my* volitions are produced by a *foreign* cause, that is, are not *mine*; I determine *voluntarily*, and yet *necessarily*?—We have, in truth, the same constant and necessary consciousness of liberty, that we have that we think, chuse, will, or even exist; and whatever to the contrary any persons may say, it is impossible for them in earnest to think they have no active, self-moving powers, and are not the causes of *their* own volitions, or not to ascribe to *themselves*, what they must be conscious *they* think and do.

16. *Second Treatise*, Section 4.



know what Aristotelian essences and what Lockean ideas are, we may say that the potentiality for political abuse in the doctrine of self-evident truth in part depends on the darkness surrounding Aristotle's *essences* and Locke's *ideas*. He who does not know what they are cannot honestly agree with any assertions of self-evidence and is therefore put in an awkward position. If he hypocritically assents to them without understanding them, he would earn the contempt of the Jefferson who wrote "A Bill for Establishing Religious Freedom," but if he does *not* assent to them, he would earn the contempt of the Jefferson who wrote the Declaration of Independence. It is clear to me which contempt it would be better to earn, and I hope it is the same contempt as that which my readers would prefer to earn, however much they admire the Republic that was born when the Declaration of Independence was signed.

## Supplementary Notes

### *Moral Rationalism in Jefferson, Bolingbroke, and Locke\**

Some evidence for believing that Jefferson subscribed to moral rationalism when he wrote the Declaration may be derived from a commonplace book of Jefferson's which has been edited by Gilbert Chinard under the title, *The Literary Bible of Thomas Jefferson: His Commonplace Book of Philosophers and Poets* (Baltimore, 1928). In it Jefferson copied a passage from Bolingbroke which reads as follows:

It is not true that Christ revealed an entire body of ethics, proved to be the law of nature from principles of reason, and reaching all the duties of life. If mankind wanted such a code, to which recourse might be had on every occasion, as to an unerring rule in every part of the moral duties, such a code is still wanting; for the gospel is not such a code. Moral obligations are occasionally recommended and commended in it, but nowhere proved from principles of reason, and by clear deductions, unless allusions, parables, and comparisons, and promises and threats, are to pass for such. Were all the precepts of this kind, that are scattered about in the

\* Page 77.

whole new-testament, collected, like the short sentences of ancient sages in the memorials we have of them, and put together in the very words of the sacred writers, they would compose a very short, as well as unconnected system of ethics. [p. 50]

When Chinard comments on this excerpt from Bolingbroke, Chinard never tells us that it immediately follows a passage in which Bolingbroke is attacking the latter part of Locke's *Reasonableness of Christianity* (see above, Chapter 1, notes 31-36 and the material in the text associated with them). Bolingbroke mistakenly thought, as I have indicated, that Locke believed that the Gospel contained a demonstrative system of morality and that is why Bolingbroke felt obliged to write the passage which Jefferson copied and which is reproduced above. It is probable that Jefferson excerpted that passage from Bolingbroke partly because Jefferson was sympathetic at the time to the view that morality *could be* a demonstrative science.

The larger passage in Bolingbroke from which Jefferson excerpted the passage I have reproduced above reads as follows:

. . . The great book of nature lies open before us, and our natural reason enables us to read in it. Whatever it may contain, that cannot be thus read, cannot be called natural religion with any precision of ideas, or propriety of words; nor will the example, that has been brought, of men who assent readily to truths consonant to their reason, which they receive from others, and would have found it hard to discover themselves, be made applicable to the present case, so as to destroy the distinction. Mr. Locke should have seen this sooner than any man, and one would think a reflection so obvious should escape no man. He did not, or he would not, make it. He seems to me, in the latter part of his treatise concerning the reasonableness of Christianity, not only to confound the want of sufficient means to propagate, and the want of

sufficient means to know the religion of nature, but to play so loosely in his expressions between this religion and the Christian, that it is hard to distinguish sometimes what he intends; whether he intends means of propagating or means of knowing; to what sense he confines natural, and to what revealed religion. Thus much, however, is very clear: he asserts the insufficiency of "human reason, unassisted by revelation, in its great and proper business of morality." Human reason, he says, "never made out an entire body of the law of nature from unquestionable principles, or by clear deductions. Scattered sayings—incoherent apophthegms of philosophers and wise men—could never make a morality—could never rise to the force of law." These assertions now are in part, and in part only, true. But when he comes to contrast this supposed imperfect knowledge of the religion of nature, which the heathen had, with that supposed perfect knowledge which is communicated by the gospel, what he advances stands in direct contradiction to truth. It is not true, that Christ revealed an entire body of ethics, proved to be the law of nature from principles of reason, and reaching all the duties of life. If mankind wanted such a code, to which recourse might be had on every occasion, as to an unerring rule in every part of the moral duties, such a code is still wanting; for the gospel is not such a code. Moral obligations are occasionally recommended and commanded in it, but nowhere proved from principles of reason, and by clear deductions, unless allusions, parables, and comparisons, and promises, and threats, are to pass for such [*The Works of Lord Bolingbroke*, Volume III, pp. 405-406].

In her *Philosophy of Thomas Jefferson* (New York, 1943), Adrienne Koch discusses the connection between Jefferson and Bolingbroke in Chapter II. However, although she indicates (p. 11, note 6) that the Declaration was written under the influence of moral rationalism, she does not point out that Bolingbroke believed that Locke had exaggerated the



degree of moral rationalism in the Gospel. Like Chinard, Koch seems not to be aware that the passage of Bolingbroke which Jefferson excerpted and which begins with the words, "It is not true that Christ revealed an entire body of ethics," was directed against Locke's *Reasonableness of Christianity*.

*The Ambiguity of "Depend" in the Description  
of Fundamental Principles\**

The history of philosophy has been bedeviled by an ambiguity which affects this phrase of Hamilton's. The word "depend" is crucial here. Sometimes it refers to a principle which is immediate or self-evident because it is immediately known to be true and also such that if we denied it, we could not go on thinking. The so-called Laws of Thought, or Aristotelian principles of logic or metaphysics, are sometimes characterized in this way, for example, "Whatsoever is, is" and "It is impossible for the same thing to be and not to be"—to use Locke's formulations. (See Chapter 1, note 9 above, and the related part of the text.) However, many philosophers who say that these are principles on which all our reasonings "depend," do not mean to assert that they are axioms from which other propositions follow as theorems do in geometry. By contrast, "The whole is greater than any part," which is also said to be immediately true and such that our mathematical reasonings depend on it, is thought to be a proposition from which others may be deduced. In the latter case, the theorems *depend* on the axioms in the sense that they rely on them for direct deductive support. Hamilton seems to be using "depend" in the latter sense because his illustrations are: "The whole is greater than its part," "Things equal to the same are equal to one another," and two other mathematical propositions.

Readers of Locke will know that he vehemently denied

\* Page 82.

that the principles of Aristotelian logic could serve as the first principles or axioms upon which a science like that of mathematics could be erected. See, for example, his *Essay*, Book IV, Chapter VII, Section 11. One wonders what he would have said if he had been confronted with systems of modern logic.

*Moral Sense and Reason in Hutcheson,  
Butler, and Kames\**

See Raphael, *The Moral Sense*, pp. 15–16. Also see W. R. Scott, *Francis Hutcheson* (Cambridge, Eng., 1900), Chapter XII. Scott emphasizes the impact on the later Hutcheson of Stoicism as well as that of Butler. Although Raphael (*op. cit.*, p. 16, note 1) cites a passage from Hutcheson's *System of Moral Philosophy* (London, 1755), Volume I, p. 58, in which Hutcheson says that the moral sense "may be a constant settled determination in the soul itself, as much as our powers of judging and reasoning," Hutcheson immediately adds that "'tis pretty plain that *reason* is only a subservient power to our ultimate determinations either of perception or will. The ultimate end is settled by some sense, and some determination of will: by some sense we enjoy happiness, and self-love determines to it without reasoning. Reason can only direct to the means; or compare two ends previously constituted by some other immediate powers." It would seem, therefore, that Hutcheson's later blurring of the distinction between the moral sense and reason is not as plausibly associated with the passage quoted by Raphael as it is with passages discussed by Scott (*op. cit.*, p. 247) in his linking of the later Hutcheson with the Stoic doctrine of "right reason."

Since I am concentrating on Hutcheson's views on moral sense, I want to mention certain views about the moral sense held by Bishop Butler and Lord Kames in order to contrast

\* Page 100.

the views of each of them with the view of the early Hutcheson. It is worth noting that Butler was prepared to assert the existence of a moral sense provided that he was not obliged to identify it flat-footedly with reason or sense, and provided that he was not obliged to say, with Hutcheson, that benevolence was the whole of virtue. In Butler's *Dissertation of the Nature of Virtue*, appended to his *Analogy of Religion*, he avoided arguing about whether the moral faculty was to be identified with a sense or with reason by saying: "It is manifest, [that a?] great part of common language, and of common behavior over the world, is formed upon supposition of such a moral faculty; whether called conscience, moral reason, moral sense, or divine reason; whether considered as a sentiment of the understanding or as a perception of the heart, or, which seems the truth, as including both." And in that same *Dissertation* Butler further disassociated himself from Hutcheson by writing: "benevolence, and the want of it, singly considered, are in no sort the whole of virtue and vice." Like Butler, Lord Kames rejects Hutcheson's views on the role of benevolence in moral judgment but Kames insists that it is a moral *sense* which tells us what our moral duty is because he agrees with Hutcheson that there is a nonrational faculty. The authority of our moral sense or conscience, Kames says, "arises from a direct perception, which we have upon presenting the object, without an intervention of any sort of reflection. And the authority lies in this circumstance, that we perceive the action to be our duty, and what we are indispensably bound to perform. It is in this manner that the moral sense, with regard to some actions, plainly bears upon it the marks of authority over all our appetites and passions. It is the voice of God within us, which commands our strictest obedience, just as much as when his will is declared by express revelation" (*Essays on the Principles of Morality and Religion*, 3rd ed. [Edinburgh, 1779], pp. 43-44).

### Jefferson on Ignatius Sancho\*

*The Letters of the Late Ignatius Sancho*, to which Jefferson refers, were first published (posthumously) in two volumes (1782). The fifth edition of 1803 in one volume has been reprinted in facsimile, with an Introduction by Paul Edwards (London, 1968), and my references will be to this edition. Upon reading it, I am struck by the weakness of Jefferson's use of it to support his suspicion that blacks were inferior to whites in rational power as opposed to moral feeling. The work is a collection of letters written to friends in unbuttoned moods and rarely provide Sancho with an occasion for what Jefferson rather pompously refers to as "demonstration." It is true, as Jefferson says, that they "breathe the purest effusions of friendship and general philanthropy," but their author is quite aware of his own tendencies in this regard, referring at one point to "the simple effusions of a poor Negro's heart" (p. 179) and at another to "the warm ebullitions of African sensibility" (p. 205). Those effusions lead Sancho to fill his pages with the word "heart" but he is also given to *commenting* on both the heart and head as faculties—as Jefferson is—and with about the same degree of consistency. In a letter recommending books to a young man, Sancho writes much as Jefferson was to write five years later to Carr (see Chapter 3, note 35): "Two small volumes of Sermons useful—and very sensible—by one Mr. Williams, a dissenting minister—which are as well as fifty—for I love not a multiplicity of doctrines—A few plain tenets, easy, simple, and directed to the heart, are better than volumes of controversial nonsense" (p. 152). And, like Jefferson, Sancho also admired the work of Laurence Sterne, with whom he corresponded. Writing to a Mr. M—— in 1777, Sancho says: "You have read and admired Sterne's Sermons—which chiefly

\* Page 115.



inculcate practical duties, and paint brotherly love and the true Christian charities in such beauteous glowing colours—that one cannot help wishing to feed the hungry—clothe the naked, &c. &c.—I would to God, my friend, that the great lights of the church would exercise their oratorical powers upon Yorick's plan:—the heart and passions once lifted under the banners of blest philanthropy, would naturally ascend to the redeeming God—flaming with grateful rapture.—Now I have observed among the modern saints—who profess to pray without ceasing—that they are so fully taken up with pious meditations—and so wholly absorbed in the love of God—that they have little if any room for the love of man” (pp. 84–85). In the same vein, he writes to another young man in 1780: “My dear youth, be proud of nothing but an honest heart” (p. 302).

In other moods, Sancho, like Jefferson, praised the *combination* of head and heart—as when he speaks with approval of “the head and heart of Addison's Sir Roger de Coverley” (pp. 247–248); or when he says to a correspondent that a certain proposal “did honor to your heart, and credit to your judgment” (p. 197); or when he speaks of a man “whose looks and address bespeak a good heart and good sense” (p. 193); or when he writes: “I would wish you to note down the occurrences of every day—to which add your own observation of men and things—The more you habituate yourself to minute investigation, the stronger you will make your mind—ever taking along with you in all your researches the word of God—and the operations of his divine providence” (p. 188).

After reading through these letters I can sympathize with Jefferson's judgment of their general merit—Mr. Paul Edwards, who edited them, says that “the reader should not expect to find anything remarkably original” in them—but it is hard to see how they support the view that Sancho or blacks in general are inferior to whites in rational power. Perhaps Jefferson was affected by some of Sancho's remarks on the

American Revolution. See, for example, his remark on November 5, 1777, about the good news of “the defeat of Washington's army—and the capture of Arnold and Sullivan [*sic*] with seven thousand prisoners—thirteen counties return to their allegiance” (p. 117).

*Jefferson, Scientific Inquiry,  
and Ranking Blacks in Intelligence\**

Jefferson's diffidence about advancing more than a “suspicion” of the inferiority of blacks in rational power was based on more than what he took to be the difficulties of establishing this scientifically. It was also based on his awareness of what was riding on the outcome of such a scientific inquiry, namely, the possibility that it “would degrade a whole race of men from the rank in the scale of beings which their Creator may perhaps have given them” (*Writings*, Volume II, p. 200). Jefferson's maintaining their rank in the scale of beings as possessing reason in a certain degree might bear on being able to defend their rights on the basis of the “equal creation” from which Jefferson had *derived* these rights in the Rough Draft of the Declaration. It should be noted that in the *Notes on Virginia* Jefferson does not deny that blacks are *men* just as Aristotle had not denied manhood to his natural slaves. Furthermore, Jefferson was prepared to say that “It is not against experience to suppose that different species of the same genus, or varieties of the same species, may possess different qualifications” (*ibid.*, p. 201), thereby echoing to some degree Aristotle's notion that the natural slave “participates in reason to the extent of apprehending it in another, though destitute of it himself” (*Politics*, 1254 B 13, Barker's translation). Aristotle, however, placed his slaves above animals, “which do not apprehend reason, but simply obey their in-

\* Page 116.

stincts" (*ibid.*, 1254 B 13-14). By "apprehending reason," Aristotle meant that slaves could understand the commands of their masters even though they could not use reason to originate such commands.

Jefferson's concern about the rank of the American black in the scale of being or nature was not unrelated to earlier concerns of Bishop Berkeley as indicated by a sermon preached by Berkeley about some of his experiences in Rhode Island. He reports, in a sermon preached in London in 1732, "an irrational contempt of blacks, as creatures of another species, who had no right to be instructed or admitted to the sacraments" (*Works of George Berkeley*, ed. Fraser, Vol. IV, p. 405).

### *Hutcheson's Appeal to Aristotle's Moral Philosophy\**

I add this note for the reader who may be interested in Hutcheson's use of Aristotle, as indicated in his *System of Moral Philosophy*—particularly in those parts of that work to which Wilson refers us.

Among the references to Aristotle given by Hutcheson we find one to the last chapter of Book II of the *Nicomachean Ethics*. There Aristotle, after a discussion of his concept of the mean, tells us that, after all, no general rule will tell us what to do in specific cases. There he also says, in a passage which is attractive to Hutcheson for obvious reasons, "But up to what point and to what extent a man must deviate before he becomes blameworthy it is not easy to determine by *reasoning* [my emphasis], any more than anything else that is perceived by the *senses* [my emphasis]; such things depend on particular facts, and *the decision rests with perception* [my emphasis]" (Ross's translation in Volume IX of the Oxford

*Works of Aristotle*, 1109 B 20-26). This is one of the passages on the basis of which Hutcheson claims the support of Aristotle for Hutcheson's own statement that "many points in morals, when applied to individual cases cannot be exactly determined; but good men know them by a sort of *sensation*." However, the passage which Hutcheson, by his method of quotation, leads us to think follows immediately afterwards in Aristotle's text does *not*. To find the statement, "The good man is thus the last measure of all things," or something like it, we must go to another place in Aristotle cited in Hutcheson's text, namely, to Book III, Chapter 4, of the *Nicomachean Ethics*. There Aristotle is discussing the relationship between wishing and the good. After he tells us that some people think we wish for the good and others think we wish for the apparent good, and after he points out difficulties in both of these views, he begins to consider a third possibility and in the course of that says something that is to Hutcheson's taste: "If these consequences are unpleasing, are we to say that absolutely and in truth the good is the object of wish, but for each person the apparent good; that that which is in truth an object of wish is an object of wish to the good man, while any chance thing may be so to the bad man, as in the case of bodies also the things that are in truth wholesome are wholesome for bodies which are in good condition, while for those that are diseased other things are wholesome—or bitter or sweet or hot or heavy, and so on; since the good man judges each class of things rightly, and in each the truth appears to him? For each state of character has its own ideas of the noble and the pleasant, and perhaps the good man differs from others most by seeing the truth in each class of things, being as it were the norm and measure of them" (Ross's translation of 1113 A 23-35).

I think this passage is to Hutcheson's taste not only because of its reference to the good man being the norm or measure but because of Aristotle's references to bitterness and heat,

\* Page 135.



which are, of course, *sensed*. For the same reason Hutcheson is drawn, as we have seen, to the last chapter of Book II of the *Nicomachean Ethics*, where there is also emphasis on perception by the senses. What Hutcheson does not say, however, is that Aristotle's reference in the last chapter of Book II is to the perception of facts concerning the deviation of acts from the mean, and not to the perception of goodness or badness, rightness or wrongness.

### *Property and the Doctrine of Natural Law\**

The word "property" is notoriously vague as well as ambiguous in the literature of natural law. Often, therefore, some right associated with property is said to be unalienable by some writers. Thus, John Adams writes: "All men are born [equally] free and *independent*, and have certain natural, essential, and unalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting [their] property; in fine, that of seeking and obtaining their safety and happiness" (*Works*, Volume IV, p. 220). And Benjamin Franklin writes: "If the British subjects, residing in this island, claim liberty, and the disposal of their property, on the score of that unalienable right that all men, except those who have justly forfeited those advantages have to them, the British people, residing in America, challenge the same on the same principle" (*Papers*, Volume 17, p. 7). If the word "their" in the passage from Adams—which, like the other bracketed words above, was deleted by the convention on a Constitution for Massachusetts—is allowed to remain, then these passages together seem to assert the unalienability of the rights to possess, protect, and dispose of one's property *while it is one's own*. Such unalienability is, so to speak, asserted in

\* Page 214.

a trifling proposition since if one at a certain time does hold a piece of land as property, it is logically impossible to alienate one's right to possess, protect, and dispose of the land *while owning the land*. Nevertheless, this trifling kind of unalienability is compatible with the alienability of the land itself. If, on the other hand, one strikes the word "their" from Adams's statement, one seems to be left with an assertion of the unalienability merely of the right *to be a property-holder*, which is also compatible with the alienability of the land itself. Insisting upon the unalienability of the right *to be a property-holder* is comparable to insisting on the unalienability of one's right to be a free man as opposed to a slave.

Puzzles about Locke's seemingly shifting use of the word "property" are debated by J. Viner and C. B. McPherson in the *Canadian Journal of Economics and Political Science*, Volume 29 (1963): 548–566. Since I need not become involved in that controversy, I am inclined to say only this: that Locke, instead of being charged with *ambiguity* or with using different senses of "property" because in some places in the *Second Treatise* he refers to life, liberty, and estates as property whereas in others he refers only to estates as property, might better be understood as using *one* sense of the word "property" but illustrating it differently in different contexts. It should be remembered that in the *Essay*, Book IV, Chapter III, Section 18, Locke identifies the idea of property simply with the idea of a right in order to establish the proposition that wherever there is no property, there is no injustice since injustice is simply the violation of a right.

### *Further Remarks on "these ends" and "these rights"\**

If we seek a full explanation of why this change from "these ends" to "these rights" was made, it is impossible, I think, to

\* Page 250.

find one with the evidence now at our disposal. Julian Boyd's careful analysis in *The Declaration of Independence: The Evolution of the Text* (pp. 28–31) suggests that Jefferson himself made this change since Boyd believes that it was not made by anyone else on the Committee of Five or by the Congress, which concentrated on making others when it, as someone said, mangled Jefferson's draft. But I have found nothing in the writing of commentators nor in Jefferson's own writing which illuminates the change in a specific manner. To make matters more confusing, we discover that in spite of getting rid of "these ends" in favor of "these rights" at one place in the document, Jefferson, the presumed eliminator of "these ends" at its first occurrence in the Rough Draft, allowed it to remain in the immediately ensuing "self-evident truth," that is to say, in the clause "that whenever any form of government becomes destructive of *these ends* [my emphasis], it is the right of the people to alter or abolish it." To what does the phrase "these ends" which Jefferson allowed to remain in the Declaration refer? If it refers back to the textual successors of Jefferson's *rights* in the Rough Draft, namely, to the right to life, to the right to liberty, and to the right to pursue happiness, one wonders what the "destruction" of *them* could possibly mean. Can a government *destroy* a God-given *right*? One would not have thought so. Such rights are supposedly immutable and therefore indestructible. If, on the other hand, the second occurrence of "these ends," which was allowed to remain in the final version, refers to what were sometimes called "the objects" of rights, that would permit the ends to be destructible and also support my view that in the Rough Draft both occurrences of "these ends" referred to the preservation of life, the preservation of liberty, and the pursuit of happiness as objects of rights and not as rights. It would, as a consequence, also support my view that government was, in the Rough Draft,

thought to be instituted to *attain* these objects of rights and not the rights themselves, and that it could be abolished when it either destroyed or failed to attain these objects. Such objects of rights may be plausibly spoken of as attained and also as destroyed when the rights of which they are objects are invaded. Therefore, had the Rough Draft's rights been allowed to remain in the final version, the occurrence of the phrase "these ends" which stayed on would have made more sense. In addition, the Declaration would have been clearer, more coherent, and more Burlamaquian. "These ends" would have been ends proposed by a Creator who thereby created obligations which implied that individual men had rights to strive for certain ends; government would have been understood to have been instituted in part to *help men* as they strove for those ends; bad governments would have been clearly viewed as destroyers of those *ends*; and such bad governments would have been more clearly seen as institutions which men had a right, *nay a duty*, to alter or abolish.

Now that I have employed the distinction between a right and its object, I must consider another possibility. Consider the right of preservation of one's life, or the right to preserve one's life. I have spoken as though the object of this right were the preservation of life, as though the object of the right to preserve liberty were the preservation of liberty, and as though the object of the right to pursue happiness were the pursuit of happiness. But why, it might be asked, can't we think of the objects of these rights, respectively, as life, liberty, and happiness, the things preserved and pursued? Let us, therefore, consider the possibility that in the Rough Draft the objects of the rights and the ends to be secured by government are life, liberty, and happiness not conceived as rights. Plainly, this will have an absurd consequence in the case of life if we read "secure" as meaning *attain* in the Rough Draft, because government could not



have been thought of as instituted to *attain* life. But what if we read "secure" as meaning *make secure*, or *guarded*, in the Rough Draft? I still see difficulty in referring to life, liberty, and happiness as *ends* and also as things to be *guarded* for we simply don't speak of guarding ends, but there is another objection to it which derives from the philosophical tradition upon which the signers drew. I have in mind Aristotle's distinction between *doing* and *making*. In the *Nicomachean Ethics* (1140 B 6-7) he says: "Doing and making are generically different, since making aims at an end distinct from the act of making, whereas in doing the end cannot be other than the act itself: doing well is in itself the end." The same distinction is also present in the *Politics* (1254 A), one of the books on public right to which Jefferson refers when he speaks of the various ideas he was trying to harmonize while writing the Declaration. I am inclined to think, therefore, that the rights enunciated in the Rough Draft and in the final version were rights to *do* or to *act* in Aristotle's sense. And if the Declaration's rights were rights to *do* or *act*, then actions were the ends to which Jefferson referred whenever he spoke of "these ends." In that case we can rule out the possibility that life, liberty, and happiness were the ends which could be secured in the sense of attained. Only acts could serve in that capacity, a conclusion which is further supported by the tendency of most eighteenth-century jurists and moralists to define a right as a power to *act*, as we have previously seen. Furthermore, only acts could be destroyed in the sense required by the phrase "whenever any form of government becomes destructive of these ends." So, when this occurrence of "these ends" was allowed to remain even after the first occurrence had been removed, it could now only refer in an incomprehensible way to *the rights* of life, liberty, and the pursuit of happiness whereas in the Rough Draft it could meaningfully refer to the *acts* of preserving life, preserving liberty, and pursuing happiness.

### Richard Price on the Dependent Voter\*

To the word "meanest," Price attaches a footnote that reads: "In Great Britain, consisting of near *six millions* of inhabitants, 5723 persons, most of them the lowest of the people, elect one half of the *House of Commons*; and 364 votes chuse a ninth part. This may be seen distinctly made out in the *Political Disquisitions* [by James Burgh], Volume I, Book 2, Chapter 4, a work full of important and useful instruction."

This idea was of some importance to Price because, in his later pamphlet, *Observations on the Importance of the American Revolution and the Means of Making It a Benefit to the World* (New Haven, 1785), Price writes as follows in a footnote to a remark in the text where he refers to "abuses so gross as to make our boasts of liberty ridiculous": "The majority of the British House of Commons is chosen by a *few* thousands of the dregs of the people, who are constantly paid for their votes" (p. 54). This reference to "the meanest persons" and "the dregs of the people" is very interesting in a writer who is preoccupied with the civil liberty of the state, who virtually identifies it with a pure, majoritarian democracy, and who is willing to settle for a representative democracy as the next best thing. Note that he seems to worry about the dangers of vote-buying and giving the "dregs of the people" power only when he comes to discussing a *representative* democracy, and that what he also fears there is the relative *fewness* of these mean people who manage to acquire power out of proportion to their numbers. But it would be interesting to know whether the possibility of a *majority* of these "dregs" having power in a pure democracy worried him. Presumably votes can be bought in a *pure* democracy and presumably the majority of *its* members could be mean and dregs.

\* Page 262.

have been thought of as instituted to *attain* life. But what if we read "secure" as meaning *make secure*, or *guarded*, in the Rough Draft? I still see difficulty in referring to life, liberty, and happiness as *ends* and also as things to be *guarded* for we simply don't speak of guarding ends, but there is another objection to it which derives from the philosophical tradition upon which the signers drew. I have in mind Aristotle's distinction between *doing* and *making*. In the *Nicomachean Ethics* (1140 B 6-7) he says: "Doing and making are generically different, since making aims at an end distinct from the act of making, whereas in doing the end cannot be other than the act itself: doing well is in itself the end." The same distinction is also present in the *Politics* (1254 A), one of the books on public right to which Jefferson refers when he speaks of the various ideas he was trying to harmonize while writing the Declaration. I am inclined to think, therefore, that the rights enunciated in the Rough Draft and in the final version were rights to *do* or to *act* in Aristotle's sense. And if the Declaration's rights were rights to *do* or *act*, then actions were the ends to which Jefferson referred whenever he spoke of "these ends." In that case we can rule out the possibility that life, liberty, and happiness were the ends which could be secured in the sense of attained. Only acts could serve in that capacity, a conclusion which is further supported by the tendency of most eighteenth-century jurists and moralists to define a right as a power to *act*, as we have previously seen. Furthermore, only acts could be destroyed in the sense required by the phrase "whenever any form of government becomes destructive of these ends." So, when this occurrence of "these ends" was allowed to remain even after the first occurrence had been removed, it could now only refer in an incomprehensible way to *the rights* of life, liberty, and the pursuit of happiness whereas in the Rough Draft it could meaningfully refer to the *acts* of preserving life, preserving liberty, and pursuing happiness.

*Richard Price on the Dependent Voter\**

To the word "meanest," Price attaches a footnote that reads: "In Great Britain, consisting of near *six millions* of inhabitants, 5723 persons, most of them the lowest of the people, elect one half of the *House of Commons*; and 364 votes chuse a ninth part. This may be seen distinctly made out in the *Political Disquisitions* [by James Burgh], Volume I, Book 2, Chapter 4, a work full of important and useful instruction."

This idea was of some importance to Price because, in his later pamphlet, *Observations on the Importance of the American Revolution and the Means of Making It a Benefit to the World* (New Haven, 1785), Price writes as follows in a footnote to a remark in the text where he refers to "abuses so gross as to make our boasts of liberty ridiculous": "The majority of the British House of Commons is chosen by a *few* thousands of the dregs of the people, who are constantly paid for their votes" (p. 54). This reference to "the meanest persons" and "the dregs of the people" is very interesting in a writer who is preoccupied with the civil liberty of the state, who virtually identifies it with a pure, majoritarian democracy, and who is willing to settle for a representative democracy as the next best thing. Note that he seems to worry about the dangers of vote-buying and giving the "dregs of the people" power only when he comes to discussing a *representative* democracy, and that what he also fears there is the relative *fewness* of these mean people who manage to acquire power out of proportion to their numbers. But it would be interesting to know whether the possibility of a *majority* of these "dregs" having power in a pure democracy worried him. Presumably votes can be bought in a *pure* democracy and presumably the majority of *its* members could be mean and dregs.

\* Page 262.



I now turn to what Price had in mind when he cited Burgh. In Book II, Chapter IV of his *Political Disquisitions*, Burgh cites certain statistics which are intended to show "the monstrous irregularity of parliamentary representation." He says that he relies on "the learned and indefatigably laborious Brown Willis, Esq; in his NOTIT PARLIAM" and infers from these statistics that 254 members of the House of Commons—almost a majority—were elected by 5,723 votes. Burgh's method is to take first Wallingford, for example, which sends 2 members who are chosen by 76 people, which is a majority of the 150 electors. He uses 76 as the number of what he calls the *efficient* votes on the theory that anyone elected by 76 "is as effectually elected as if he had the whole 150." Thus Burgh seems to disregard the *actual* vote for the 2 members, arguing that 76 *could and therefore do* elect the 2 members. He continues in this way, adding all the members to get 254, and adding all the bare electing majorities to get 5,723. Burgh remarks that the 254 members constituted nearly a majority of the 502 who voted in "the most numerous meeting of the commons ever known"—in the debate on Walpole in 1741. And, continuing with his reasoning about *efficient* numbers, he says that this 254 "comes very near . . . the *whole acting and efficient number*" (*ibid.*, p. 45) in the House of Commons. In connection with Price's remark about "dregs," we should observe that Burgh confines himself to saying of the 5,723: "And the greatest part of these illustrious 5723 who have the power of constituting lawgivers over the property of the nation, are themselves persons of no property" (*ibid.*, pp. 45–46).

It is interesting that although Price cites Burgh in support of a view that Price shared with Blackstone about the importance of limiting the voting of the poor, Burgh thought that Blackstone was not sufficiently aroused by defects of the system of voting and representation in England at the time. See a note to Blackstone's *Commentaries*, Volume II, p. 172, in

which Burgh's criticisms are reproduced by the editor. They are taken from Burgh's *Political Disquisitions*, Volume I, pp. 80–81. It might be argued that American thinkers believed their own country to be one in which the class of indigent people was relatively small but that belief was compatible in their eyes with accepting the idea of property qualifications and certain philosophical defenses of them. Adams quoted with approval Harrington's saying that "he who wants bread, is his servant that will feed him" (*Works*, Volume IV, p. 427), and spoke glowingly of the equality that prevailed in the colonies in 1765 (*Diary and Autobiography of John Adams*, Volume I, p. 278), but he was all for assuring the continuation of an independent electorate in Price's sense. Moreover, Jefferson's life-long celebration of the independent yeoman was linked with Harrington's views about establishing one's independence by the acquisition of real estate. See James Harrington, *Oceana*, ed. S. B. Liljegren, (Lund and Heidelberg, 1924), especially where Harrington writes: "equality of estates causeth equality of power, and equality of power is the liberty not onely of the *Commonwealth*, but of every man" (p. 21).

#### *Price's Measures for Discouraging Inequality of Property\**

I might add here that Richard Price, in spite of supplying some metaphysical support for property qualifications, was willing to recommend to the Americans certain measures for preventing too great an inequality of property, for example, the discouragement of primogeniture. He thinks that "the disposition to raise a name, by accumulating property in one branch of a family, is a vanity no less unjust and cruel, than dangerous to the interest of liberty; and no wise state will

\* Page 266.

encourage or tolerate it" (*Observations on the Importance of the American Revolution*, pp. 60–61). Indeed, Price went so far in the same work as to suggest that the establishment of a community of goods and the annihilation of property advocated by Plato and Thomas More were not "wholly impracticable" (*op. cit.*, p. 59). Price reports, in a letter to Jefferson, that his pamphlet had been reprobated in South Carolina because of its remarks on preventing too great an inequality of property and its attack on slavery, *Papers of Thomas Jefferson*, Volume VIII, p. 258. There is a striking resemblance between what Price says in the *Observations* just mentioned and what Jefferson says in a letter to James Madison about a year after Price's *Observations* had first appeared, and after an extended correspondence between Price and Jefferson. Jefferson's letter to Madison is dated October 28, 1785, and concerns the economic situation in France. At one point it reads: "I am conscious that an equal division of property is impracticable. But the consequences of this enormous inequality producing so much misery to the bulk of mankind, legislators cannot invent too many devices for subdividing property, only taking care to let their subdivisions go hand in hand with the natural affections of the human mind. The descent of property of every kind therefore to all the children, or to all the brothers and sisters, or other relations in equal degree is a politic measure, and a practicable one" (*Papers*, Volume VIII, p. 682).

## Index

- Adams, John, 4, 5, 49, 52, 59–60, 64<sup>n</sup>, 75<sup>n</sup>, 83<sup>n</sup>, 136, 139<sup>n</sup>, 143, 206; and Declaration of Independence, 73, 251<sup>n</sup>; on education, 140<sup>n</sup>; on happiness, 233, 235–238; on liberty, 39<sup>n</sup>; on moral sense, 97–98<sup>n</sup>; on natural law and natural rights, 163<sup>n</sup>, 237–238, 284; on power, 192–193, 195, 266, 291; on qualifications for voting, 264–266; on right to knowledge, 233–234; and utilitarianism, 235–238; on women as voters, 264–266  
 letters: to and from Jefferson, 97<sup>n</sup>, 168<sup>n</sup>; to Sullivan, 264–266; to Taylor, 97–98<sup>n</sup>, 192<sup>n</sup>  
*Defence of the Constitutions of Government of the United States of America*, 39<sup>n</sup>, 237; *Dissertation on the Canon and Feudal Law*, 195, 233<sup>n</sup>; "Thoughts on Government," 233, 235–236  
 Adventitious rights, 186, 195; to property, 213–222, 224–227  
 Alienable (and unalienable) rights, 195–213, 242, 245  
 Anaxagoras, 269<sup>n</sup>  
 Aquinas, St. Thomas, 7, 11, 38, 48, 49, 84, 120, 126, 160, 181<sup>n</sup>, 217; on law, 153–154<sup>n</sup>; on the learned and the ignorant, 21–22; Locke compared with, 21–23, 27, 33; on self-evidence, 20–23, 65, 258  
 Aristotle, 22, 105, 174<sup>n</sup>, 214, 268, 276; on doing and making, 288; on essence of man, 182–184, 269, 271–272; Hutcheson's use of, 134, 282–284  
*Nicomachean Ethics*, 12, 171, 282–284, 288; *Politics*, 62, 288  
 Articles of Confederation, 92  
 Authority: and power, 193, 241–242; and right, 188–189  
 Bacon, Francis, 228<sup>n</sup>  
 Bailyn, Bernard, 6<sup>n</sup>, 66<sup>n</sup>, 192, 194–195, 244<sup>n</sup>  
 Balguy, John, 99  
 Barbeyrac, Jean, 49, 107  
 Beccaria, Cesare Bonesana, 141  
 Becker, Carl, 77<sup>n</sup>, 157, 159, 251<sup>n</sup>, 258  
 Beitzinger, A., 132<sup>n</sup>, 133<sup>n</sup>  
 Belief (judgment), right to, 186, 195–202, 210  
 Bentham, Jeremy, 127, 237  
 Berkeley, George, Bishop, 151, 282  
 Blacks: disqualified as voters, 261, 266; Jefferson on intelligence of, 115–116, 184, 221, 260, 279–282; see also Slavery  
 Blackstone, W. T., 103<sup>n</sup>  
 Blackstone, Sir William, 79; on primary rights and property rights, 223–226; on property qualifications for voting, 259–261, 290–291



- Blackstone, Sir William (*Cont.*)  
*Commentaries on the Laws of England*, 223<sup>n</sup>, 224–225, 259, 290–291
- Boethius, 22
- Bolingbroke, Henry St. John, Viscount, 34, 35, 273–276
- Boorstin, Daniel, 253–254
- Boyd, Julian, viii, 72, 77<sup>n</sup>, 191<sup>n</sup>, 206, 286
- Bradford, William, 37–38<sup>n</sup>
- Bradley, F. H., 4
- Brogan, A. P., 45<sup>n</sup>
- Buonafede, Appiano, 183<sup>n</sup>
- Burgh, James, *Political Disquisitions*, 289–291
- Burlamaqui, Jean Jacques, 5, 7, 36–43, 48–50, 52, 61, 79, 82<sup>n</sup>, 95, 96, 142, 192, 195, 205, 211, 223, 240, 252; on essence of man, 164, 168, 169, 171, 180, 183; Jefferson influenced by, 37, 108, 161–170, 181–184, 206, 214, 219–220, 233, 247–248, 250, 254, 255; Locke compared with, 37–43; on moral sense and reason, 100–101, 107–113, 120–122, 125, 131, 135–136; on natural law and God, 160–169, 178–183, 215; on natural rights, 150, 162–170, 181–182, 215–220, 248–249; on property (adventitious right), 196<sup>n</sup>, 215–220, 224–228; on pursuit of happiness, 162–164, 166, 220, 230–231, 233, 236, 237, 269; on right and power, 189–190, 200<sup>n</sup>, 207; on self-evident principles, 38–41; the state defined by, 235; James Wilson influenced by, 132, 134–136, 227–228, 268
- Principles of Natural and Politic Law*, 37, 38<sup>n</sup>, 65, 107, 108, 134, 189–190, 200<sup>n</sup>, 218, 219<sup>n</sup>, 248<sup>n</sup>
- Burnet, Gilbert, 105–106, 111, 120
- Butler, Joseph, Bishop, 193, 277–278
- Carr, Peter, letter from Jefferson, 117–122, 132, 279
- Cato's Letters*, 190, 192, 194
- Cherniss, Harold, vii, 62<sup>n</sup>, 269<sup>n</sup>
- Chinard, Gilbert, 37, 132, 140<sup>n</sup>, 218<sup>n</sup>, 251–252, 273, 274
- Cicero, 42, 62; *De legibus*, 63<sup>n</sup>; *De officiis*, 157<sup>n</sup>; *De republica*, 63<sup>n</sup>; *Tusculan Disputations*, 63<sup>n</sup>, 80<sup>n</sup>, 162<sup>n</sup>
- Clarke, Samuel, 99, 107, 108, 111<sup>n</sup>, 128, 129
- Coleridge, Mill's essay on, 45–47
- Colvin, J. B., letter from Jefferson, 253<sup>n</sup>
- Conkin, Paul, 140<sup>n</sup>
- Constitutional Convention, 257–258, 263
- Constitution of the United States, 86
- Corwin, Edward S., 157–159, 225<sup>n</sup>, 244<sup>n</sup>
- Cosway, Maria, letter from Jefferson, 117–120, 122, 132
- Culverwel, Nathanael, 12, 70
- Cumberland, Richard, 183<sup>n</sup>; *De legibus naturae*, 82–83<sup>n</sup>
- Dana, W. F., 71<sup>n</sup>
- Declaration of Independence, 3, 4, 37, 52, 97, 272; "all men are created equal," 67–68, 73–75, 163, 164; Jefferson's sources for, 62–65; Locke's influence on, 62, 64–78, 94, 136, 243–244, 254–255; moral sense and reason in, 107, 114–115, 117, 123; natural law in, 13, 143, 144; natural rights in, 13, 148, 150, 163–170, 181–183, 185–188; powers in, 191, 192; property (adventitious right) omitted from, 186, 213–216, 219–220, 228; pursuit of happiness in, 163, 182, 186, 208, 213–214, 220, 230, 232–236, 269; and right or duty to rebel, 229–230, 234–236, 240, 243–256; Rough Draft, 8, 14, 34<sup>n</sup>, 39<sup>n</sup>, 64, 67, 68, 72–77, 94, 160, 163, 165–170, 181–183, 186, 191, 206–207, 209, 211–213, 220, 234, 245–247, 249–250, 253, 255, 281, 286–288; *Scots Magazine* criticism of, 74–75, 206–208; self-evident truth in, 9–11, 14, 16, 34<sup>n</sup>, 39, 48, 61, 64, 72–78, 136, 138, 161, 164, 181; slavery, passage on, omitted,

- 220–221; "these ends" and "these rights" in, 244–252, 255–256, 285–288; unalienable (inalienable) rights in, 186, 195–196, 203–214, 220, 229–230, 239–240, 244–245
- Descartes, René, 11
- Dewey, John, 13–14, 19
- Dulany, Daniel, 193<sup>n</sup>
- Duncan, William, 16<sup>n</sup>
- Dupont de Nemours, Pierre Samuel, letter from Jefferson, 216
- Duty (duties): and natural rights, 145–150, 160, 162–171, 187; to rebel against tyranny, 252–256
- Elrington, Thomas, 50, 149–150, 205
- Equality of all men, 65–76, 163, 164
- Essence or nature of man, 160–162, 165, 168, 269–272; Burlamaqui on, 164, 168, 169, 171, 180, 183; Jefferson's view of, 168<sup>n</sup>, 170, 183, 184; and natural law, 170–184
- Farmer, A. W., pseud., 78–80, 94
- The Federalist*, 78, 257, 258, 268; on self-evident truths, 82–94, 236; on taxation, 82, 86–90
- Filmer, Sir Robert, *Patriarcha*, 63
- Fishback, James, letter from Jefferson, 118, 119, 122, 125
- Fisher, S. G., 225<sup>n</sup>
- Franklin, Benjamin, 34<sup>n</sup>, 73, 77, 251<sup>n</sup>; on intelligence of blacks, 115<sup>n</sup>; on liberty and property, 284
- Gerry, Elbridge, 264
- Gierke, O., 180–181<sup>n</sup>
- Gordon, Thomas, 190<sup>n</sup>
- Grotius, Hugo, 79, 107, 108, 214, 218<sup>n</sup>; on natural law, 11–12, 158–160, 170–172, 183; on property, 219, 220, 226
- De jure belli ac pacis*, 63<sup>n</sup>, 157<sup>n</sup>, 197<sup>n</sup>, 219<sup>n</sup>
- Hamilton, Alexander, 4, 5, 78–96; on natural law, 79–81; on "the people," 139<sup>n</sup>; on property qualifications for voting, 259–261; on rights of man, 79–81; on self-evident truths, 78–96, 236; on states and federal government, 92–93; on taxation, 82, 86–90
- The Farmer Refuted*, 78–80, 259; *Federalist* papers, 82–94, 236, 258, 268; *A Full Vindication of the Measures of the Congress*, 78–79
- Happiness: powers of government affecting, 191, 232–239, 251–253; see also Pursuit of happiness
- Harrington, James, 265, 291
- Harvey, R. F., 38<sup>n</sup>, 214, 218, 219, 225<sup>n</sup>
- Hobbes, Thomas, 79, 107, 160; on natural law and natural right, 145–148; *Leviathan*, 145–146
- Hofstadter, Richard, 6<sup>n</sup>
- Hooker, Richard, 12–13, 67, 74, 161; on natural law, 151–157, 160; *Of the Laws of Ecclesiastical Polity*, 151, 152<sup>n</sup>, 155
- Howard, Martin, 79<sup>n</sup>
- Howell, W. S., 16<sup>n</sup>
- Hudelson, Richard, viii
- Hume, David, 99, 133<sup>n</sup>; *A Treatise of Human Nature*, 83<sup>n</sup>
- Hutcheson, Francis, 108, 111, 116, 125–126, 142, 240; on alienable and unalienable rights, 196–200, 202–205, 209, 211–213, 242; and Aristotle's moral philosophy, 282–284; on external rights, 241, 242; on moral sense, 97–98<sup>n</sup>, 99–107, 109–110, 120, 127, 130–131, 277–278; on power as authority, 241–243; Wilson influenced by, 133–135
- Inquiry Concerning Moral Good and Evil*, 102<sup>n</sup>, 103–104<sup>n</sup>, 130<sup>n</sup>, 197, 200<sup>n</sup>, 212, 241<sup>n</sup>; *Short Introduction to Moral Philosophy*, 98<sup>n</sup>, 106, 109<sup>n</sup>, 197, 212, 218<sup>n</sup>, 241<sup>n</sup>; *System of Moral Philosophy*, 134, 197, 241<sup>n</sup>, 277, 282
- Inalienable rights, see Unalienable rights
- Intuitionism, 231–232, 237, 267; of Jefferson, 126–127; of Locke, 45–47, 94, 104–107; J. S. Mill opposes, 45–47, 95

- James, William, 4, 199
- Jefferson, Thomas, 4, 5, 7-8, 10, 34, 52, 61, 96; and alienable or unalienable rights, 198-206, 211-215, 220; on beliefs and opinions, 198, 200; Burlamaqui's influence on, 37, 108, 161-170, 181-184, 206, 214, 219-220, 233, 247-248, 250, 254, 255; on duties to oneself and to others, 167*n*; on education, 137-140; and equality of all men, 73-76; on essence of man, 168*n*, 170, 183, 184; on freedom of mind, 201; on Ignatius Sancho, 115, 279-281; on intelligence of blacks, 115-116, 184, 221, 260, 279-282; Locke's influence on, 62, 64-65, 67, 72-78, 97, 121, 136, 251*n*, 254, 255; on moral ends of government, 253-254; on moral philosophy, 118-119; moral rationalism of, 273-276; on moral sense, 97*n*, 99-101, 107, 113-127, 136-141; on natural law and natural rights, 144-145, 148, 157, 164-170, 201-203; "the people," attitude toward, 138-140; on property (adventitious right), 213-217, 219-220, 222, 225; on property, inequality of, 292; and reason in morals, 114-127; and right or duty to rebel, 230, 254-255; and self-evident truths, 14, 34*n*, 64, 73, 76-78, 97, 127, 138, 142, 161, 268; slavery opposed, 206, 220-221; not a utilitarian, 126-127, 233
- letters: to and from Adams, 97*n*, 168*n*; to Carr, 117-122, 132, 279; to Colvin, 253*n*; to Mrs. Cosway, 117-120, 122, 132; to Dupont de Nemours, 216; to Fishback, 118, 119, 122, 125; to Law, 125-126; to Henry Lee, 64; to Madison, 63, 64, 292; to and from Price, 116, 118, 142*n*, 292; to Say, 254
- Autobiography*, 80*n*; "Bill for Establishing Religious Freedom," 198, 203, 272; "Bill for the More General Diffusion of Knowledge," 138; First Inaugural, 253; *Jefferson Bible*, 125; *Notes on Virginia*, 115, 137-138, 139*n*, 140*n*, 168*n*, 221, 281; *Summary View of the Rights of British America*, 80-81*n*, 114, 144-145; see also Declaration of Independence
- Judgment, see Belief
- Justinian Code, 157
- Kames, Henry Home, Lord, 128-130, 132, 218*n*, 277-278
- Kant, Immanuel, 176, 200; "What Is Enlightenment?" 14, 15, 31, 36
- Kennedy, John F., 4
- Kimball, Marie, 37*n*
- Koch, Adrienne, 127*n*, 275
- Laslett, P., 66*n*, 214-215, 244*n*
- Law, Thomas, letter from Jefferson, 125-126
- Lee, Henry, letter from Jefferson, 64
- Lee, Richard Henry, 64
- Leibniz, Gottfried Wilhelm von, 11
- Letter to the People of Pennsylvania*, 191*n*
- Leyden, W. von, 12*n*, 13*n*, 180*n*, 183
- Liberty, 71, 163-164, 166-167, 181-182, 186, 214, 222-223, 247-250, 261-263, 287-288, 289
- Life, right to and right to preserve, 162-168, 170-172, 181-183, 186, 204-212, 246-249, 287-288
- Lind, John, 75-76, 208
- Livingston, Robert R., 73
- Locke, John, 4, 5, 7, 11, 13, 52, 82*n*, 84, 86, 88, 89, 91, 107, 108, 161, 182, 193, 197*n*, 205, 223, 230, 235, 248, 250, 267, 271-272, 276-277; on alienable or inalienable rights, 210-211; Aquinas compared with, 21-23, 27, 33; on belief and the will, 199, 210; Burlamaqui compared with, 37-43; and Declaration of Independence, 62, 64-78, 94, 136, 243-244, 254-255; on dictators of principles, 23, 28, 34-35, 43, 48; on equality of all men, 65-72; on essence or nature of man, 170, 173-178, 269; on innate principles and their political uses, 15-19, 27-32, 35, 43, 47,

- 267; as intuitionist and rationalist, 17-18, 45-47, 94, 97-98, 100, 104-107, 136; and Jefferson's ideas, 62, 64-65, 67, 72-78, 97, 121, 136-139, 251*n*, 254, 255; and laboring classes, 31, 42, 53-60, 128, 138; and moral sense, 98-100, 102, 104, 105, 126-129, 135-138; on natural law, 23-29, 34, 42-48, 63*n*, 70, 145-146, 158-160, 171*n*, 172-178, 180*n*, 258; on natural rights, 79, 145-146, 149, 164, 167; "people," use of term, 50-51; on property, 214-217, 285; religious beliefs, 30-35, 42-43, 47, 51; on revolution, 243-244; on riches and ignorance, 55-56; on self-evident principles, 15-20, 22-36, 38, 39, 41, 48-49, 61-72, 79, 81, 94-96, 105, 136, 142, 173, 260; on trifling propositions (truisms), 69-70, 175-176; and utilitarianism, 43-45, 48, 230, 231; on "the voice of the people is the voice of God," 26-27, 139
- Essay Concerning Human Understanding*, 16, 28, 36, 41, 44*n*, 54-56, 59, 63*n*, 66, 173-175, 277, 285; *Essays on the Law of Nature*, 23-28, 31, 63*n*, 145, 152*n*, 171*n*, 172-175, 180*n*, 183; (first) *Letter Concerning Toleration*, 199, 210; *The Reasonableness of Christianity*, 31-34, 41-43, 53, 56-59, 64, 107, 125, 128, 175, 274, 276; *Second Treatise*, 37, 64-66, 71, 74, 79, 149, 166, 210, 214, 217, 240*n*, 243, 285
- Lovejoy, Arthur O., 257-258
- Maclaurin, Colin, 159-160
- McPherson, C. B., 53, 54, 57-59, 285
- Madison, James, 37*n*; letters from Jefferson, 63, 64, 292; *Federalist papers*, 83*n*
- Maine, Sir Henry, 224-225
- Maitland, F. W., 181*n*
- Malone, Dumas, 187
- Mayhew, Jonathan, 191*n*
- Mill, John Stuart, 13-14, 19, 95, 267; on Locke and intuitionism, 45-48; *On Liberty*, 47; *Utilitarianism*, 231*n*
- Molyneux, William, 29-30, 175
- Montesquieu, Charles de Secondat, 79
- Moral sense, 97-141, 268; and the common people, 101, 125, 127-131, 137-139; Hutcheson on, 97-107, 109-110, 120, 127, 130-131, 277-278; Jefferson on, 99-101, 107, 113-127, 136-141; Locke and, 98-100, 102, 104, 105, 126-129, 135-138; and reason, 98, 107-127, 277-278; and reason, Burlamaqui on, 107-113, 120-122, 125, 131, 135-136; and reason, Jefferson on, 97*n*, 99-101, 107, 113-127; James Wilson on, 99, 101, 127, 132-137, 268
- More, Sir Thomas, 292
- Mullet, C. F., 228*n*
- Murray, Rose T., viii
- Natural law, 142-184; in Declaration of Independence, 13, 143, 144; and essence of man, 170-184; and God, 143-144, 152-157, 160-170, 178-182; Grotius on, 11-12, 158-160, 170-172, 183; Hamilton on, 79-81; Jefferson on, 115, 144-145, 157, 181-184; Locke on, 23-29, 34, 42-48, 63*n*, 70, 145-146, 158-160, 171*n*, 172-178, 180*n*, 258; and natural rights, 145-150, 160-170, 187-188; and power, 192-195; and property, 50-51, 284-285; and self-evident truths, 22-52, 62-83, 94-95, 106-107, 143, 160-161; two kinds of (moral and scientific), 150-160
- Natural rights: Burlamaqui on, 150, 162-170, 181-182, 215-220, 248-249; in Declaration of Independence, 13, 62-78, 148-150, 163-170, 181-183, 185-188; and duties, 145-150, 160, 162-171, 187; Hamilton on, 80-81; Jefferson on, 163-170, 181-184; Locke on, 62-79, 145-146, 149, 164, 166, 167; and natural law, 145-150, 160-170, 187-188; and power, 192-195; primary (primitive) and secondary,



- Natural rights (*Cont.*)  
 215-218, 223-227; and property,  
 217-218, 223-228
- Newton, Sir Isaac, 157-160
- Otis, James: on property rights, 223,  
 224; *The Rights of the British  
 Colonies Asserted and Proved*,  
 66n, 78, 143-144n, 189n, 191n,  
 193n, 196n, 240n, 244n; *A Vindi-  
 cation of the British Colonies*,  
 79n, 144n, 223
- Paine, Thomas, 95, 218-219n
- Parrington, V. L., 124
- Paul, St., 129
- Peach, Bernard, 102-103
- Peden, William, 140n
- Peirce, Charles S., 4
- Pitcher, George, 177n
- Power(s): arbitrary, 190, 191, 193; and  
 authority, 193, 241-242; despotic,  
 190, 191, 193; and dominion, 195;  
 just, from consent of governed,  
 191; moral, 188-190, 195; natural,  
 188; and natural law, and nat-  
 ural rights, 192-195; of the peo-  
 ple, 192; physical, 185-186, 189-  
 190, 193-195; and rights, 185-195
- Price, Richard, 99, 108, 109; on acting  
 and determining, 270-271n; on  
 civil and physical liberty, 262-  
 263, 267; on dependent and inde-  
 pendent voters, 262-263, 289-291;  
 on inequality of property, 291-  
 292
- letters to and from Jefferson, 116,  
 118, 142n, 292
- Observations on the Importance of  
 the American Revolution*, 289,  
 292; *Observations on the Nature  
 of Civil Liberty*, 117, 262; *A Re-  
 view of the Principal Questions  
 in Morals*, 116-117, 270-271n
- Property: as adventitious right, 213-  
 222; Burlamaqui on, 196n, 215-  
 220, 224-228; Grotius on, 219-  
 220, 226; inequality of, 291-292;  
 Jefferson and, 213-217, 219-220,  
 222, 225, 292; "life, liberty, and,"  
 214-215, 222-223, 225; and nat-  
 ural law, 50-51, 217-218, 284-  
 285; and natural rights, 217-218,  
 223-228; Pufendorf on, 219-220,  
 226; qualifications for voting,  
 259-262, 265-266, 290-291; rights  
 to, 213-228
- Pufendorf, Samuel von, 12, 79, 107,  
 108, 113, 123, 129, 192, 194-196,  
 218n, 230, 240, 269; on natural  
 law, 12, 99-100n, 148, 172, 183;  
 on natural power and moral  
 power, 188-189, 199n; on prop-  
 erty, 219-220, 226
- Elementorum Jurisprudentiae Uni-  
 versalis*, 148n, 190n, 241n; *Law of  
 Nature and Nations*, 49, 100n,  
 190n, 196n, 197n, 219n
- Pursuit of happiness, 8, 162-164, 230-  
 239, 246-251, 286-288; Burla-  
 maqui on, 162-164, 166, 220, 230-  
 231, 233, 236, 237, 269; as duty  
 and right, 162-167, 181-183, 186,  
 212-213, 225
- Raphael, D. D., 99n, 277
- Rebellion as right or duty, 187, 191,  
 192, 229-256
- Reid, Thomas, 99, 133n
- Rights, 185-228; adventitious, 186,  
 195, 213-222, 224-227; alienable,  
 195-197, 199-213, 242, 245; and  
 authority, 188-189; to belief or  
 judgment, 186, 195-202, 210; clas-  
 sifications of, 195-196, 240-242;  
 external, 241-243; as moral pow-  
 ers, 189-190; natural, *see* Natural  
 rights; perfect and imperfect,  
 241-242; and power, 185-195; to  
 property, 213-228; of rebellion,  
 187, 191, 192, 229-256; of reli-  
 gious worship, 203-204; unalien-  
 able, *see* Unalienable rights
- Robbins, Caroline, 51n
- Roosevelt, Franklin D., 4
- Rousseau, Jean Jacques, 196
- Rush, Benjamin, 97n
- Rushworth, John, 80n
- Sancho, Ignatius, 115, 279-281
- Say, J. B., letter from Jefferson, 254
- Scots Magazine*, comments on Decla-  
 ration of Independence, 74-75,  
 206-208

- Scott, W. R., 277
- Selden, R. E., 209n
- Self-evident truths, 7, 9-96, 267-269,  
 271-272; Aquinas on, 20-23, 65,  
 258; Burlamaqui on, 38-41; and  
 equality, 62-78; Hamilton's view  
 of, 78-96, 236; ignorant and  
 learned persons perceiving, 20-  
 22, 24-28, 31, 33, 38-42, 49-50,  
 81, 258, 260; and innate prin-  
 ciples, 15-19, 38, 46-48, 136; and  
 moral sense, 105-106, 114-115;  
 and utilitarianism, 41-52; *see  
 also* Declaration of Independ-  
 ence; Jefferson, Thomas; Locke,  
 John
- Seneca, 42
- Shaftesbury, Anthony Ashley Cooper,  
 3d Earl of, 99, 111n
- Sherman, Roger, 73
- Sidgwick, Henry, 43-45, 57, 66, 72,  
 100n
- Sidney, Algernon, 62, 95; *Discourses  
 Concerning Government*, 63-64
- Slavery: Jefferson opposes, 206, 211,  
 220-221; passage omitted from  
 Declaration of Independence,  
 220-221
- Smith, Adam, 99
- Soreth, Marion, 62n
- Spinoza, Benedict, 11
- Sterne, Laurence, 119, 125, 279-280
- Stourzh, Gerald, 80n
- Suarez, Francisco, 145, 153-154n, 181n
- Sullivan, James, letter from Adams,  
 264-266
- Taxation, Hamilton on, 82, 86-90
- Taylor, John, letters from Adams, 97-  
 98n, 192n
- Thacher, Oxenbridge, 191n
- Towerson, Gabriel, 13n
- Trenchard, John, 190n
- Tyrrell, James, 51n
- Unalienable (inalienable) rights, 195-  
 199, 203-213, 219-221, 239-256;  
 definition of, 196; and right to  
 rebel, 239-244; *see also* Decla-  
 ration of Independence; Liberty;  
 Life; Pursuit of happiness
- Utilitarianism, 230-239, 243; and  
 Adams, 235-238; and Jefferson,  
 126-127, 233; and Locke, 43-45,  
 48, 230, 231; revolutionaries not  
 utilitarians, 230-239; and self-  
 evident truths, 41-52
- Vattel, Emmerich von, 161n
- Venturi, Franco, 183
- Viner, Jacob, 228n, 285
- Virginia Bill of Rights, 229-230, 243
- Voluntarism, 180-181
- Voting: blacks, women, children, and  
 poor disqualified, 261, 264-266;  
 bribes for, 270, 289-290; depend-  
 ent and independent voters, 262-  
 263, 289-291; property qualifica-  
 tions for, 259-262, 265-266, 290-  
 291
- White, Lucia, viii
- White, Morton, 6n, 49n, 66n, 86n,  
 101n, 133n
- White, Nicholas P., viii, 62n, 119n
- White, Stephen D., viii
- Wilson, James, 4, 5, 37, 75n, 83n;  
 Burlamaqui's influence on, 132,  
 134-136, 227-228, 268; the happi-  
 ness of the governed to be en-  
 sured and increased, 252;  
 Hutcheson's influence on, 133-  
 135; on moral sense, 99, 101, 127,  
 132-137, 268; on natural rights,  
 227, 255-256
- Considerations on the Nature and  
 Extent of the Legislative Author-  
 ity of the British Parliament*, 37,  
 132, 251-252; *Lectures on Law*,  
 132, 133n, 227, 255
- Wiltse, C. M., 71n, 122n, 218n, 252n
- Witherspoon, John, 99, 111, 115, 231,  
 240; on moral sense, 129n; on  
 rights, 147, 148; on perfect and  
 imperfect rights, 241
- Lectures on Moral Philosophy*,  
 111n, 129n
- Wollaston, William, 99
- Women: disqualified as voters, 261,  
 264-266; excluded from govern-  
 ing class, 264-265
- Wright, B. F., Jr., 112n
- Wythe, George, 233