

# rebellion, revolution, and the constitution

## thomas jefferson's theory of civil disobedience

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The American Republic was conceived in revolution. Many of the men who wrote the Constitution and administered the new political system had been leaders of the American Revolution; the citizens of the new Republic had fought in the war and absorbed its ideology. The Declaration of Independence, a document that Jefferson claimed was merely an “expression of the American mind,” declared that it was the “Right of the people to alter or abolish” any government, and institute a new one that would better secure their safety and happiness. A proviso was indeed inserted declaring that the people would not, and should not, change their government for light and transient causes. The qualification, however, was lightly passed over in the propaganda of the revolution.<sup>1</sup>

The founding fathers could not simply renounce the right of revolution, partly because they believed in it themselves, partly because the people believed in it, and partly because the legitimacy of the new country rested on this right. Yet the popular version of the Revolutionary theory could be very dangerous to a new government that none of the founding fathers wished to see destroyed. There were various solutions to this problem. Many ignored it. A few, like Hamilton, ultimately renounced the idea that the people had the right to overthrow the central government. Madison did not renounce the theoretical right of revolution and indeed originally included it as one of the rights protected by the Bill of Rights. But Madison was also extremely fearful of revolution—even the amending process seemed risky to him—and he was unwilling to allow any practical applications for this theory. Jefferson, whose ideas we will examine in this article, was the least afraid of revolutionary ten-

dencies. He sometimes threatened revolution and praised specific rebellions, and always defended the theoretical right of revolution. On the other hand Jefferson was not willing to see the constitutional system destroyed. It was from this tension that an important part of Jefferson's political theory and rhetoric developed, and Jefferson was consistent in maintaining this tension throughout his life.

## I

Revolution was a subtle instrument in Jefferson's hands. He never renounced the right of revolution and at various times in his life appears to have contemplated revolution. He wrote the Kentucky Resolutions with their doctrine of nullification and implied threat of secession. He linked his election in 1800 to the right of revolution (see footnote 10 below) and believed the Federalist attempt to block his election by the House, and pass a law allowing the Senate to select a temporary President was both illegal and anti-revolutionary.<sup>2</sup> Jefferson countered the Federalist plan with a threat to invoke the right of revolution, arguing that,

. . . we thought it best to declare openly and firmly, one and all, that the day such an act passed, the middle states would arm, and that no such usurpation, even for a single day should be submitted to . . . they were completely alarmed at a recourse for which we declared, to wit, a convention to reorganize the government, and to amend it.<sup>3</sup>

Jefferson did not reject the possibility of revolution after his presidency (though he did assume an anti-revolutionary stance during his term of office). Even in 1825 revolution seems to have remained a viable alternative for Jefferson. In reacting to the national government's encroachment on state power Jefferson rejected revolution, but as always his rejection was not flippant and indicated a sincere weighing of the revolutionary arguments:

. . . And what is our resource for the preservation of the Constitution? Reason and Argument? you might as well reason and argue with the marble columns encircling them. The representatives chosen by ourselves? They are joined in the combination. . . . Are we then to *stand to our arms*, with the hot headed Georgian? No. That must be the last resource, not to be thought of until much longer and greater sufferings. If every infraction of a compact of so many parties is to be resisted at once, none can ever be found which would last one year. We must have patience . . . and separate from our companions only when the sole alternatives left are the dissolution of our Union with them, or submission to a government without limitation of powers. Between these two evils, when we must make a choice, there can be no hesitation.<sup>4</sup>

Even more important than Jefferson's specific revolutionary proposals

is the revolutionary tenor of his thought. He is remembered for his revolutionary questions (Whether one generation of men has the right to bind another . . .) and statements (“The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants.” “If the happiness of the mass of the people can be secured at the expense of a little tempest now and then, or even of a little blood, it will be a precious purchase.”)<sup>5</sup> Jefferson was an ardent supporter of the French Revolution. He did not withdraw his support after the Terror or after his Presidency. In 1825 he wrote Adams that if Europe was to attain freedom, “rivers of blood must yet flow, and years of desolation pass over.” The object, he continued, “is worth rivers of blood and years of desolation. For what inheritance so valuable, can man leave to his posterity?”<sup>6</sup>

Jefferson never renounced the radical Natural Rights philosophy enunciated in the Declaration of Independence. The people delegate power to their representatives only because of “the inconvenience of meeting to exercise these powers in person, and their general inaptitude to exercise them.” But the nation retains the right of revolution; it is the people’s will “which creates or annihilates the organ which is to declare and announce it.”<sup>7</sup>

## II

Jefferson seems, however, to contradict his own revolutionary rhetoric. The same man who asserted that it could be proved “that no society can make a perpetual constitution” argued for a permanent union and a permanent Bill of Rights, since he thought the political morals of the people would decay and it was necessary to fix them at the beginning.<sup>8</sup> Despite his numerous revolutionary assertions and threats he never actually led a revolution against the federal government, worked very hard to avoid secession by the New England States,<sup>9</sup> and almost always qualified his revolutionary statements with the proviso that real revolution was not *now* necessary. Jefferson often talked of revolution, but in practice he preferred the use of a number of alternatives to revolution, such as elections, the amending process, threats of revolution, and partial rebellion.<sup>10</sup>

Like John Locke, Jefferson placed a high value on the threat of revolution, and thought this threat a safe way to realize the goals of real revolution.<sup>11</sup> In 1788 he wrote Adams that he hoped France’s internal affairs would be settled without blood. “None has been shed yet. The nation presses sufficiently upon the government to force reformatations, without forcing them to draw the sword. If they can keep the opposition always exactly at this point, all will end well.”<sup>12</sup> “Under governments wherein the will of everyone has a just influence,” Jefferson had earlier written Madison,

. . . the mass of mankind . . . enjoys a precious degree of

liberty and happiness. It has its evils too: the principal of which is the turbulence to which it is subject. . . . Even this evil is productive of good. It prevents the degeneracy of government, and nourishes a general attention to the public affairs. . . . *Unsuccessful rebellions indeed generally establish the encroachments on the rights of the people who have produced them.* [Rebellion] is a medicine necessary for the sound health of government.<sup>13</sup>

It was this theoretical position that Jefferson retained for the remainder of his life. The right of revolution was seen as a necessary defense of freedom. But real revolution could lead to just the type of despotism that Jefferson was struggling to avoid. Threats of revolution, combined with “unsuccessful rebellions” (even if these were unwise like Shays’ Rebellion and the later Whiskey Rebellion) would secure the benefits of revolution without increasing their dangers. Both forced the society to deal with problems before they assumed proportions that would justify real revolution. Both acted as alternatives to real revolution, performed the functions that American theory ascribed to real revolution and were consistent with the style of a society founded by revolution. Afraid of the destruction of the Constitutional system, Jefferson emphasized the political role of unsuccessful rebellion and of the threat of revolution. These, he felt, did much good and little evil.

### III

Jefferson thought of rebellion as an element in forcing a moral decision rather than as a weapon designed to conquer. Rebellion had a juridical role, and the rebels were, in effect, presenting their case to the remainder of the society which Jefferson envisioned as a vast Court. Like Madison, Jefferson felt that the variety of groups and the large area of the country provided assurance that most people in the national arena would not be affected by local conflicts and prejudices.

. . . Perhaps it will be found, that to obtain a just republic . . . it must be so extensive as that local egoisms may never reach its greater part; that on every particular question, a majority may be found in its councils free from particular interests, and giving, therefore, an uniform prevalence to the principles of justice.<sup>14</sup>

Just as the affections of the people of the world, if unaffected by a particular conflict, “will ever take part with those encountering oppressions” so the unbiased majority in the United States would sympathize with those suffering oppression—at least Jefferson thought they should sympathize. But since men usually have some interest in preserving an existent immorality, Jefferson did not expect a perfect moral response.

All men, Jefferson thought, had a ‘Moral Sense’ that was a valid judge of right and wrong. The contents of this sense were cultural: different

societies had different conceptions of those things which were right. But in all societies the essence of virtue lay in 'doing good to others,' and all members of all societies tried to be virtuous, even though the acts deemed virtuous might vary due to differing circumstances and beliefs.<sup>15</sup>

Fair-minded people—unbiased people with a moral sense—would pay attention to verbal claims of oppression. But because people were usually not completely unbiased, or simply because of inertia, a verbal moral claim was often ignored. The 'moral sense,' Jefferson thought, would usually need some prodding.

One way of heightening a moral problem, and forcing the people to take notice of it, was by rebellion. Rebellion was the forceful presentation of a case—people rebelled because they thought they were being denied important rights. By disobeying the law—by illegally attempting to change the conditions of legality—the rebels were placing themselves in a state of war with the rest of society. They could either be defeated and punished or allowed to achieve victory, but they could not be ignored; there could be no refusal to decide. If a society already half-suspected the rightness of the law, or if the laws ran counter to the expressed and felt moral demands of the society, forcing a moral decision should benefit the lawbreakers.

Jefferson thought in terms of two levels of revolt: populist rebellions (e.g., Shays) and elitist threats of rebellion (e.g., the Virginia and Kentucky Resolutions). Either type of rebellion could be right or wrong; the rebels could be either correct or incorrect in their belief that they were being discriminated against and denied their natural liberties. If the participants in a populist rebellion were wrong in this belief, the way to end the rebellion was to educate and inform them of the facts. This done, the rebellion, like the Whiskey Rebellion and Shays' Rebellion, would quietly end.<sup>16</sup> No real harm would come from this type of rebellion, and since it would remind the government that the people retained their right of revolution—thus serving as a check upon future despotism—and was a necessary symptom of democratic man, Jefferson thought they would be productive of some good.

But if the participants in a populist rebellion were right, the rebellions would never cease and could not be repressed. The rebels would act because human values, as defined by their own society, were not granted to them. As men became aware of the moral, or natural, law they would demand their rights under that law. The more they learned, the more they would rebel. Thus democratic revolutions—of some sort—were inevitable in the Western World. And slaves, in a society that declared all men were created equal, would rebel—as they became aware of the moral values of the society, and to the extent that they regarded themselves as men. The ambivalent moral position of those who had no interest in owning slaves would make them unwilling to fight to retain the institution; the inconveniences caused by constantly recurring rebellions and

the ever present threat of rebellion, would make them glad to destroy it. In America rebellion would thus accomplish what only real revolutions could do in other, more closed societies.

American values, Jefferson noted, were stated so they applied to all men as men. As such they had to apply to every man in America; as he came to understand these values, every man would apply them to himself. As early as 1786, Jefferson obliquely declared that either Americans would grant slaves their human rights, or, when the slaves understood the extent of their deprivation, they would rebel. The passage, inserted in his Encyclopedia Article is rhetorical, overblown, and worthy of John Locke in its vagueness.

. . . What a stupendous, what an incomprehensible machine is man! Who can endure toil, famine, strifes, imprisonment or death itself in vindication of his own liberty, and the next moment be deaf to all those motives whose power supported him thro' his trial, and inflict on his fellow man a bondage, one hour of which is fraught with more misery than ages of that which he rose in rebellion to oppose. But we must await with patience the workings of an overruling providence, and hope that it is preparing the deliverance of these our suffering brethren. When the measure of their tears shall be full, when their groans shall have involved heaven itself in darkness, doubtless a god of justice will awaken to their distress, and by diffusing light and liberality among their oppressors, or at length by his exterminating thunder, manifest his attention to those things of this world, and that they are not left to the guidance of a blind fatality.<sup>17</sup>

A much more specific statement of the theory of righteous rebellion was made almost twenty years later. Jefferson argued that slave rebellions would not stop; the slaves, convinced their rebellion was justified, would not lie quiescent. Unlike the participants in wrong rebellions, the slaves could not be quieted by education and information. They would “rise more formidable after every defeat.” Those who did not have an interest in slavery would either perceive the moral issues involved or perceive the inconvenience of slavery; those whose interests were involved would find that the burden of slaves outweighed their benefit. The burden of forcing the moral decision rested on the slaves—those deprived of their rights. They had to rebel to start the process. The pure good will of the majority could not be relied upon.<sup>18</sup> Since slaves were a weak minority they could not hope to win by force; their violence was to be a form of moral persuasion. The society would not be able to ignore the slave rebellions—the slaves would have to be either repressed or freed. The flaw in Jefferson’s analysis is that he did not foresee the strengthening of the interests involved. He argued that

. . . There are many virtuous men who would make any sacrifice to effect it [the freeing of the slaves], many equally

virtuous men who persuade themselves either that the thing is not wrong, or that it cannot be remedied, and very many with whom interest is morality. The older we grow the larger we are disposed to believe the last party to be. But interest is really going over to the side of morality. The value of the slave is everyday lessening; his burden on his master daily increasing. Interest is therefore preparing the disposition to be just; and this will be goaded from time to time by the insurrectionary spirit of the slaves. This is easily quelled in its first efforts; but from being local it will become more general, and whenever it does it will rise more formidable after every defeat. . . .<sup>19</sup>

#### IV

Jefferson believed that populist rebellions either in Europe or America could, under certain conditions, be both useful and justified. He did feel that the Americans were better qualified than the “canaille” of Europe who were “habituated from their infancy to passive submission of body and mind to their kings and priests.” The Europeans, he argued in 1823, “are not qualified when called on to think and provide for themselves; and their inexperience, their ignorance and bigotry make them instruments often, in the hands of Bonapartes and Iturbides, to defeat their own rights and purposes.”<sup>20</sup> Ten years earlier he had written to Adams that the masses of Europe had thwarted the European revolution of “science, talents, and courage, against rank and birth.” “The mobs of the cities,” explained Jefferson, though “the instrument used for its accomplishment, debased by ignorance, poverty and vice, could not be restrained to rational action.”<sup>21</sup>

Even though the Americans were more peaceful and better qualified to rule than the European mobs, Jefferson was reticent about mass rebellions and in general did not think that the masses—the mob—should attempt to revolt on their own. In action, the arm of the people was a machine, “not quite so blind as balls and bombs, but blind to a certain degree.”<sup>22</sup> Like Shays’ Rebellion, mass rebellions were usually led by men whose information was wrong or incomplete, and who misunderstood public affairs. Popular groups were isolated, and lacked both the wisdom and the coordination needed to successfully influence the nation. Finally, there remained the problem that the people, if they ever captured power, would be as tyrannical as any despot.

Throughout his life Jefferson preferred the pattern that had been followed during the American Revolution. The society had been led not by populist leaders but by the lesser magistrates of the realm—the leaders of the colonial governments. The people, he thought, functioned best as a control rather than as an active force; they were better qualified to judge the relative merits of different propositions placed before them than they were to formulate proposals themselves. If properly educated,

the people would be the “true corrective of abuses of constitutional power”;<sup>23</sup> they were to judge rather than initiate.

As is clear from his educational plans, Jefferson believed in leadership by an elite—as Gilbert Chinard stated, Jefferson’s ideal government would have been “a government of the best minds selected by a populace sufficiently enlightened to select the best minds. . . .”<sup>24</sup> Ideally, Jeffersonian revolts probably would have been led by the natural aristocrats. Since as a practical matter it was difficult to identify isolated natural aristocrats, Jefferson was willing to exploit an ambiguity inherent in the federal structure and use the states to initiate elitist revolts. State action against the federal government could be justified either by constitutional theory—as were the Virginia and Kentucky Resolutions—or by direct appeal to the right of revolution.<sup>25</sup> As with populist revolts, State action could be right or wrong—this was to be judged by the people.

Unlike populist revolts, state action had to remain merely verbal and threatening. A real rebellion by a political unit as powerful as a State would have destroyed—or at least seriously endangered—the constitutional system far more than an isolated rebellion by a relatively weak and disorganized group of people. On the other hand the states were powerful enough so that a threat of revolution by them would be as effective in raising an issue as a real rebellion by a weaker group.

Although Jefferson contemplated state action many times, the most obvious and important example of a Jeffersonian State revolt remains the Kentucky Resolutions. Some writers feel that Jefferson, as a last resort, was willing to lead a true revolution and destroy the Union rather than see the liberties guaranteed by the first amendment destroyed.<sup>26</sup> It seems clear, though, that the Kentucky Resolutions were not a part of such an attempt, nor did Jefferson seriously consider destroying the Union at any time of his life.<sup>27</sup> Rather, as Ethelbert Warfield notes, the Kentucky Resolutions were “in the nature of a political manifesto, and as such incurred a danger which frequently attacks such fulminations.” The resolutions, Warfield argues, “did not contemplate immediate action, and so wanted that restraint which the very nature of the case imposed upon all declarations which are intended to be acted upon at once, or to become a rule of conduct.”<sup>28</sup>

The Kentucky Resolutions were primarily a presentation of the Republican case to the court of the people. Just as with populist rebellions, the attempt was not to defeat the adversary on the field of battle, but to convert the unbiased populace. Real revolution would have been self-defeating.

A wonderful and rapid change has taken place in Pennsylvania, Jersey and New York. Congress is daily plied with petitions against the Alien and Sedition laws and standing armies. Several parts of this state (Pennsylvania) are so violent that we fear an insurrection. This will be brought



about by some if they can. It is the only thing that we have to fear. The appearance of an attack of force against the government would check the present current of the Middle States, and rally them around the government; whereas, if suffered to go on, it will pass on to a reformation of abuses.<sup>29</sup>

Jefferson feared that if strong protest was not made against the Alien and Sedition laws, further unconstitutional acts would be promulgated by the Federalists. The laws were “merely an experiment on the American mind, to see how far it will bear an avowed violation of the constitution.” Unfortunately, the people had “shown themselves susceptible” to “dupery” and had to be awakened.<sup>30</sup> Years later Jefferson, presumably still conscious of the Kentucky Resolutions, wrote that the “true barriers of our liberty in this country are the State governments,” since they prevent any one passion, or the influence of any one man, from controlling the whole country at once, and they provided an organized center for opposition to despotism. The danger that might “reasonably be apprehended from this perfect and distinct organization” of the states was that certain states might attempt to secede from the union. But, Jefferson argued, this was impossible. Either the states would not have the power to secede because they represented an impotent minority, or they would not need to secede because they could control the majority and thus control the government.

. . . it is not probable that local discontents can spread to such an extent, as to be able to face the sound parts of so extensive a Union; and if ever they should reach the majority, they would then become the regular government, acquire the ascendancy in Congress, and be able to redress their own grievances by laws peaceably and constitutionally passed. And even the States in which local discontents might engender a commencement of fermentation, would be paralyzed and self-checked by that very division into parties into which we have fallen . . .<sup>31</sup>

It is difficult to believe that at the time of the Kentucky Resolutions Jefferson would have settled for the destruction of the union when what he wanted to do was control it. Furthermore, as was noted earlier, Jefferson believed that democracy needed the large expanse of America if it was to work effectively. Secession, or the destruction of the constitutional system, would therefore be self-defeating.

The Kentucky Resolutions, the justification of Shays' Rebellion, the enunciation of revolutionary doctrines and the warnings of future slave rebellions were all a part of the same pattern. Both the elitist threats of revolution and the isolated “unsuccessful rebellions” of populist groups were an appeal to the sense of the majority; they were all an attempt to win an “election”—a majority vindication. The complete victory of a revolutionary group—except by the process of convincing the majority—would be despotic. Secession would be self-defeating. The tension be-

tween order and revolution had to be maintained; safe maintenance of the tension required the large area and the geographical diversity of the United States.

The argument can be made that Jefferson seems at times to go beyond this tension and advocate real revolution; it is certainly improbable that he was completely aware that he advocated only a domesticated form of revolution. Undoubtedly Jefferson was sincere when he claimed that the society retained its right of revolution. But he was equally sincere in his fear of successful revolution and his feeling that—in America—they could only be useless and harmful. Thus, although he sometimes continued to talk in terms of real revolution, he actually used rebellion and the threat of revolution as a persuasive and cautionary technique. Jefferson incorporated civil disobedience into the constitutional structure. For the preservation of minority rights Jefferson relied far more on limited rebellions than he did on the checks and balances of the constitutional system.

Finally, one has to make a distinction between Jefferson the theoretician and Jefferson the politician. Jefferson thought honest rebels educated the rest of the country and could be educated themselves. But what of dishonest rebels—men who were rebelling for hidden reasons of personal aggrandizement, who were monarchists and agents of England, and who used public discussion as a means of corrupting the values of the people? Obviously those men could not be converted and would only present false issues to the country. This type of rebellion was dangerous and could only sap the democratic spirit of the nation.

Jefferson, like the other leading political figures of his time, believed that his own motives were pure, and he suspected the motives of those who opposed him. The principles of partisan politics were not yet clearly formulated, and as a politician Jefferson was not willing to allow that a corrupt opposition could legitimately utilize political methods legitimate for other groups.<sup>32</sup> This position raises problems for Jefferson the theoretician but Jefferson was never forced to confront them on other than a superficial level.

Jefferson won most of the important political battles he engaged in, and he did not live long enough to face the actuality of widespread slave rebellions. Would he have participated in an actual revolt if the Republicans had lost the election of 1800? Would he have supported real, as opposed to threatened, slave rebellions? Jefferson's position was never tested in this way, though I do not see how he could consistently deny the legitimacy of limited slave rebellions. By the terms of his own theory, though, Jefferson would not have to face up to ultimate revolutionary questions so long as the basic political morality of the American people retained its strength. Partial rebellions and threatened revolution would be enough under these circumstances, and the tension between revolution and legality could be maintained.

In the Jeffersonian model certain types of rebellions are viewed as an intrinsic part of the constitutional system in that they, combined with the reactions against them and the debates they foster, force the polity to come to grips with the implications of the American political creed. The theory also seems to assume a distinction between 'good faith' rebellions—in which an ideological position is sincerely put forth and held, and in which the rebels themselves are somewhat open to change and education—and 'bad faith' rebellions in which the arguments advanced are viewed as mere covers for larger, covert operations and in which the agents perpetuating the rebellion are not open to the educative process.

There is a serious problem of drawing the lines between the two types of rebellion, and of deciding which types are legitimate, and which types are forbidden. Categorical answers are not supplied by the Jeffersonian model. On the other hand, Jefferson's theory has obvious contemporary relevance, and it does present an extremely interesting approach to the legal system. The theory precludes simplistic arguments in which violence and talk of violence are always viewed as incompatible with democracy, and supplies a way of reconciling the revolutionary and the legalistic-constitutional aspects of the American political system. In Jefferson's model a country born in revolution was to be educated by rebels, who served themselves and the country when they raised questions and forced the majority to confront them.

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### footnotes

1. Bernard Bailyn has noted that "defiance to the highest constituted powers passed from the colonial presses and was hurled from the pulpits of the land" during the revolutionary period. "The right, the need, the absolute obligation to disobey legally constituted authority had become the universal cry. Cautions and qualifications became ritualistic exercises in ancient pieties." He notes that though the arguments were applied to Parliament, it had been the character of the actions Parliament had taken, rather than its location and composition, that had been important in creating opposition. Provincial assemblies were also susceptible to the same arguments. "Representative or not, local or not, any agency of the state could be defied." Bernard Bailyn, ed., *Pamphlets of the American Revolution* (Cambridge, Mass., 1965), 191-3. Alexander Hamilton noted the popular radicalization of the revolutionary argument early, and was extremely suspicious of it. He wrote John Jay that "In times of such commotions as the present, while the passions are worked up to an uncommon pitch, there is a great danger of fatal extremes. The same state of passions which fits the multitude, who have not a sufficient stock of reason and knowledge to guide them, for opposition to tyranny and oppression, very naturally leads them to a contempt and disregard of all authority. The due medium is hardly to be found among the more intelligent, it is almost impossible among the unthinking populace. When the minds of these are loosened from their attachment to ancient establishments and causes, they seem to grow giddy and are apt more or less to run into anarchy." To John Jay, November 26, 1775, in Harold C. Syrett, ed., *The Papers of Alexander Hamilton*, I (New York, 1961), 176.

2. In a letter to James Madison, Jefferson noted the probability of a tie between himself and Burr in the electoral college and said that the Federalists "openly declare they will prevent an election, and will name a President of the Senate, *pro tem*, by what they say would only be a stretch of the Constitution." (Jefferson's emphasis) December 19, 1800. In Albert Bergh, ed., *The Writings of Thomas Jefferson* (Washington, D.C., 1907) X, 184. On December 31, 1800 Jefferson wrote Tenche Coxe that "The federalists . . . propose to prevent an election in Congress, and to transfer the government by an act to the C.J. [Jay] or Secretary of State, or

to let it devolve on the President *pro tem.* of the Senate, till next December, which gives them another years predominance, and the chances of future events. The republicans propose to press forward to an election." *Ibid.*, 188.

3. To Monroe, February 15, 1801. Paul L. Ford, *The Works of Thomas Jefferson*, IX (New York, 1904-05), 170. (Cited hereafter as Ford.) See also Jefferson to Madison, IX Ford 182.

4. To William Giles, Dec. 26, 1825, XII Ford 452. In another letter, Jefferson wrote that he had been "blamed for saying that a prevalence of the doctrines of consolidation would one day call for reform or *revolution*. I answer by asking if a single State of the Union would have agreed to the constitution, had it given all powers to the General Government? . . . And if there is any reason to believe the states more disposed now than then, to acquiesce in this general surrender of all their rights and powers to a consolidated government one and undivided?" To William Johnson, June 12, 1823, XII Ford 254.

See also Jefferson's reaction to Marshall's decision in *Cohens v. Virginia*. He complained that "The Judiciary branch is the instrument which, working like gravity, without intermission, is to press us at last into one consolidated mass. . . . If Congress fails to shield the States from dangers so palpable and imminent, the States must shield themselves and meet the invader foot to foot." (to Archibald Thwait, Jan. 19, 1821, XII Ford 196). In another letter written to John Cabel Breckenridge, Jefferson expressed the hope that the young generation would struggle against the Judiciary "with the same determination as your father and his did the 'alien and sedition laws.'" (Dec. 11, 1821, VIII Ford 459-60).

5. Most of Jefferson's famous revolutionary statements were made relatively early in his career, in support of Shays' Rebellion. They have to be used cautiously because Jefferson did not support the rebellion until he was quite sure it failed. And then his support rested on the fact that it was unique, mild and easily settled. Jefferson liked a "little" rebellion "now and then" and thought a "few" lives lost in a "century or two" did not matter very much. See his letter to William Smith, November 13, 1787, in Julian P. Boyd, ed., *The Papers of Thomas Jefferson*, XII (Princeton, 1950), 356 (cited hereafter as Boyd).

6. To John Adams, September 4, 1823, XII Ford 310-11.

7. To Edmund Randolph, August 19, 1799, IX Ford 74.

8. In his *Notes on Virginia* Jefferson wrote that "From the conclusion of this war we shall be going down hill." The rights of the people would be disregarded and even the people "will forget themselves, but in the sole faculty of making money." The time to define the natural rights of the people, thought Jefferson, was soon after the revolution "while our rulers are honest, and ourselves united." IV Ford 81-2. In 1802 Jefferson wrote that the Constitution, though it might be "violated in moments of passion or delusion" would, when combined with the Bill of Rights, "fix . . . for the people the principle of their political creed." To Dr. Joseph Priestly, June 19, 1802, IX Ford 381-2. In 1797 Jefferson called the union "the last anchor of our hope, and that alone which is to prevent this heavenly country from becoming an arena of gladiators." To Elbridge Gerry, May 13, 1797, VIII Ford 286-7. In 1798 Jefferson rejected a suggestion that the Southern States secede from the Union, arguing that the temporary superiority of one party over another provided no excuse for secession, since then a federal government could never exist. To John Taylor, June 1, 1798, VIII Ford 431-2. During his Presidency Jefferson fought against the destruction of the Union by the New England states and in 1820, discussing the possibilities of disunion that resulted from the Missouri Compromise, Jefferson characterized "scission" as an act of "suicide on themselves, (the seceding states) and of treason against the hope of the world." "I regret," he wrote, "that I am now to die in the belief that the useless sacrifice of themselves by the generation of 1776, to acquire self government and happiness to their country, is to be thrown away by the unwise and unworthy actions of their sons, and that my only consolation is to be that I shall not live to weep over it." To John Holmes, April 22, 1820, XII Ford 159. In 1822 Jefferson said: "I scarcely know myself which is most to be depreciated, a consolidation, or a dissolution of the states. The horrors of both are beyond the reach of human foresight." To William Johnson, October 27, 1822, XII Ford 251. Gilbert Chinard noted that while Jefferson claimed that "theoretically the States had the right to secede, he could no more consider actual secession than he would have approved of any man breaking the social compact in order to live the precarious life of the savage." Gilbert Chinard, *Thomas Jefferson: The Apostle of Americanism* (Boston, 1939), 504.

9. It was the resistance of the New England states that caused Jefferson to recommend that the Embargo Acts be withdrawn. To William Giles, December 25, 1825, X Ford 223. See also Chinard, *Thomas Jefferson*, 504.

10. In his first Inaugural Address, Jefferson specifically argued that the "right of election by the people [is] a mild and safe correction of abuses which are lopped off by the sword of revolution where peaceable remedies are unprovided." It is perhaps open to question if Jefferson would have made this linkage if he had lost the election. In 1819 Jefferson repeated this view, arguing that the election of 1800 "was as real a revolution in the principles of our government as that of 1776 was in its form; not affected indeed by the sword, as that, but by the rational and peaceable instrument of reform, the suffrage of the people." To Judge Spencer Roane, September 16, 1819, XII Ford 136.

Jefferson also viewed the amending process as an alternative to revolution, and argued that the Virginia constitution ought to be revised every nineteen years, because if the avenue of legal revision was "shut to the call of sufferance, it will make itself heard through that of force, and we shall go on, as other nations are doing, in the endless circle of oppression, rebellion, reformation, and oppression, rebellion, reformation again; and so on forever." To Samuel Kercheval, July 12, 1816, X Ford 42-3. Stuart Gerry Brown argues that Jefferson's advocacy of a revolution every 20 years probably refers to the amending process. "The Mind of Thomas Jefferson," *Ethics*, LXXIII, 2 (January, 1963), 79-89.

11. Locke responded to the charge that the doctrine of a right of revolution "lays a ferment for frequent rebellion" by arguing that people would not start revolutions often in any case, and if sorely oppressed would revolt no matter what hypotheses were presented by philosophers. The assertion that people possess a right of revolution was seen as the best way to prevent revolution, since the governing authorities would be afraid to be oppressive and thereby start revolutions.

12. August 2, 1788. In *The Adams-Jefferson Letters*, Lester J. Cappon, ed. (Chapel Hill, 1959), I, 230. (Cited hereafter as Cappon).

13. To James Madison, January 30, 1787 (my emphasis), XI Boyd 92, 61.

14. To M. D'Invernois, February 6, 1795, VIII Ford 165. See also a letter to Nathaniel Miles, March 22, 1801, IX Ford 221.

15. To John Adams, October 14, 1816, II Cappon 492.

16. Jefferson argued that Shays' Rebellion was, "founded in ignorance, not wickedness," and argued that the remedy for that type of rebellion was to set the rebels "right as to the facts, pardon and pacify them." See his letter to William Stephens Smith, November 13, 1787, XIII Boyd 356.

17. To Jean Nicholas Demeunier, June 26, 1786, X Boyd 63.

18. This aspect of Jefferson's theory is a possible explanation of his own failure to either free his own slaves or to really fight in the political arena for the freedom of all slaves. This lack of action on Jefferson's part has posed a real problem for the student of Jefferson's ideas. There is a constant (though I think erroneous) temptation to dismiss him as a charlatan and go along with Hamilton's characterization of Jefferson as a man who is not a "zealot enough to do anything in pursuance of his principles, which will contravene his popularity or his interest. He's as likely as any man I know to temporize; to calculate what will be likely to promote his own reputation and advantage . . ." (to J. A. Bayard, January 16, 1801).

In an excellent article William Cohen found that Jefferson was not particularly lenient towards his slaves. He sold them and sometimes broke up families in the process (though he did try to avoid this), tried to recapture runaways, and sometimes punished his slaves by flogging. Cohen argues that Jefferson was not willing to give up the standard of living made possible by slavery. Jefferson justified his behavior by arguments demonstrating the intellectual, physical and emotional inferiority of the Blacks (though Jefferson also believed the slaves had a moral sense equal to the whites—otherwise they could not be men). Jefferson sympathized with the slave owners during the Santa Domingo slave revolt of 1791 and approved a grant of arms and ammunition to them. William Cohen, "Thomas Jefferson and the Problem of Slavery," *Journal of American History*, LVI, 3 (December, 1969), 503-26.

One can rationalize some of Jefferson's attitudes towards his slaves. The cause of abolition in Jefferson's time was not very popular, and too strong an advocacy of this cause would have jeopardized Jefferson's ability to achieve other goals which he desired and which were realizable. Other rationalizations could be offered. But clearly slavery, for Jefferson as a member of the master class, was a problem of low intensity. Jefferson the slave owner acted just as Jefferson the theoretician predicted a member of the master class would act. He always argued that one could not rely on the moral sense of the oppressor—the oppressed had to make the issues clear and inescapable. As long as Jefferson and his fellow citizens could avoid confronting the issue of slavery they did. It was only later in American history (due in part to the slave rebellions, the fear of slave rebellions, and the words of the Abolitionists) that slavery became the dominant issue around which all other issues revolved.

19. January 28, 1805, X Ford 126-7.

20. To John Adams, September 4, 1823, XII Ford 310.

21. To John Adams, October 28, 1813, XI Ford 349.

22. To William Short, January 3, 1793, VII Ford 203.

23. To William Charles Jarvis, September 28, 1820, XII Ford 163.

24. Chinard, *Thomas Jefferson*, 127. Jefferson was always something of an elitist. In his first inaugural address he listed "absolute acquiescence in the decision of the majority," as one of the "essential principles of our government." At the same time he argued that though he would often "go wrong through defect of judgement," he would often be thought wrong by those who did not know as much as he did: "When right, I shall often be thought wrong by those whose positions will not command a view of the whole ground." The people, Jefferson thought, had power, not wisdom. They had to be educated to recognize wisdom and follow it. (To DuPont de Nemours, April 24, 1816, XI Ford 522-3. See also to John Adams, October 28,

1813, XI Ford 343-4.) They were "competent to judge the facts occurring in ordinary life," and they were "competent judges of human character." They were not qualified to rule the country, however, since they were "unqualified for the management of affairs requiring intelligence above the common level." (To DuPont de Nemours, April 24, 1816, XI Ford 520-1.) If popular rebellions were successful, it would mean that the people were determining—not influencing or judging—public policy. But this, thought Jefferson, they did not have the wisdom to do.

25. Interestingly enough, it was the Federalists who resorted to the latter, more radical theory. Concerning the Hartford Convention, Pickering wrote to Hillhouse on December 16, 1814: "I wished . . . for an earlier interposition of New England to stay the hands of our destroyers. *Obsta principiis* was the governing maxim, when we resisted incipient oppression by the mother country,—an oppression rather in *prospect* than in *action*. But for the last seven years we have been submitting to one act of tyranny after another. . . . It is necessary for the Convention to take those firm and decided steps which will raise the people from the *spell* which, through an unbounded fear of breaking the *Union*, the boldness and impudence of political mountebanks have imposed upon them." December 16, 1814, in *Documents Relating to New England Federalism* (Boston, 1877), 415. In 1804 Pickering wrote Cabot "the principles of our revolution point to the remedy" for the evils committed by Jefferson—"a separation." Pickering claimed the Republicans were molding the constitution into "an instrument to crush the Federalists" and declared he did not believe in the practicality of the union. *Ibid.*, 341.

26. See, for example, Adrienne Koch, who wrote that Jefferson placed "no *absolute* value upon 'Union.' Compared to the extreme evil of the ruthless suppressions of liberty, it appeared to him that the destruction of the compact that bound the states together was the *lesser* evil. This line of thought is in accord with his earlier judgment that only an Adam and Eve left upon this earth, but left free, would be better than a host of men enslaved." *Jefferson and Madison: The Great Collaboration* (New York, 1950), 199.

27. He readily dropped a proviso in the Kentucky Resolutions reserving the right to secede "not only in deference to [Madison's] judgment, but because as we should never think of separation but for repeated and enormous violations, so these, when they occur, will be cause enough of themselves." As was mentioned above, Jefferson never thought that revolution was *now* necessary. (September 5, 1799, IX Ford 79-80).

28. Ethelbert Dudley Warfield, *The Kentucky Resolutions of 1798* (New York, 1887), 166-7.

29. To Mr. Stewart, February 13, 1799. In *The Writings of Thomas Jefferson*, Albert Bergh, ed. (Washington, 1907) IX, 103.

30. To Stephens Thompson Mason, October 11, 1798, VII Ford 450.

31. To A.C.V.C. Destutt de Tracy, January 26, 1811, XI Ford 188. It is true that in this letter Jefferson is talking of cases where he believed the state faction was wrong, but the same analysis of power relations would hold if the states were right. See also Jefferson's letter to John Taylor, June 1, 1798, VIII Ford 431-2 (summarized above, footnote 8).

32. For a generally excellent discussion of this problem, see Richard Hofstadter, *The Idea of a Party System: The Rise of Legitimate Opposition in the United States, 1780-1840* (Berkeley, 1970). The whole book is relevant, but see especially Chapter IV, Section 1 (in which Hofstadter discusses Jefferson's views of the Federalists) and Section 6 (in which Jefferson's behavior as President is discussed). Leonard Levy notes that Jefferson was willing to accept state prosecutions of Federalist editors even though he had reservations about national sedition laws. See Leonard Levy, *Jefferson and Civil Liberties: The Darker Side* (Cambridge, Mass., 1963), Chapter 3. As Jefferson's educational theories indicate, he did not have confidence that the people, exposed to anti-Republican "falsehoods," would be able to resist them. Jefferson therefore proposed a censorship of such anti-Republican writers, and generally wanted the schools to inculcate correct values. For a discussion of this problem see David Tyack, "Forming the National Character: Paradox in the Educational Thought of the Revolutionary Generation," *Harvard Educational Review*, XXXVI, 1 (Winter, 1966), 29-41.