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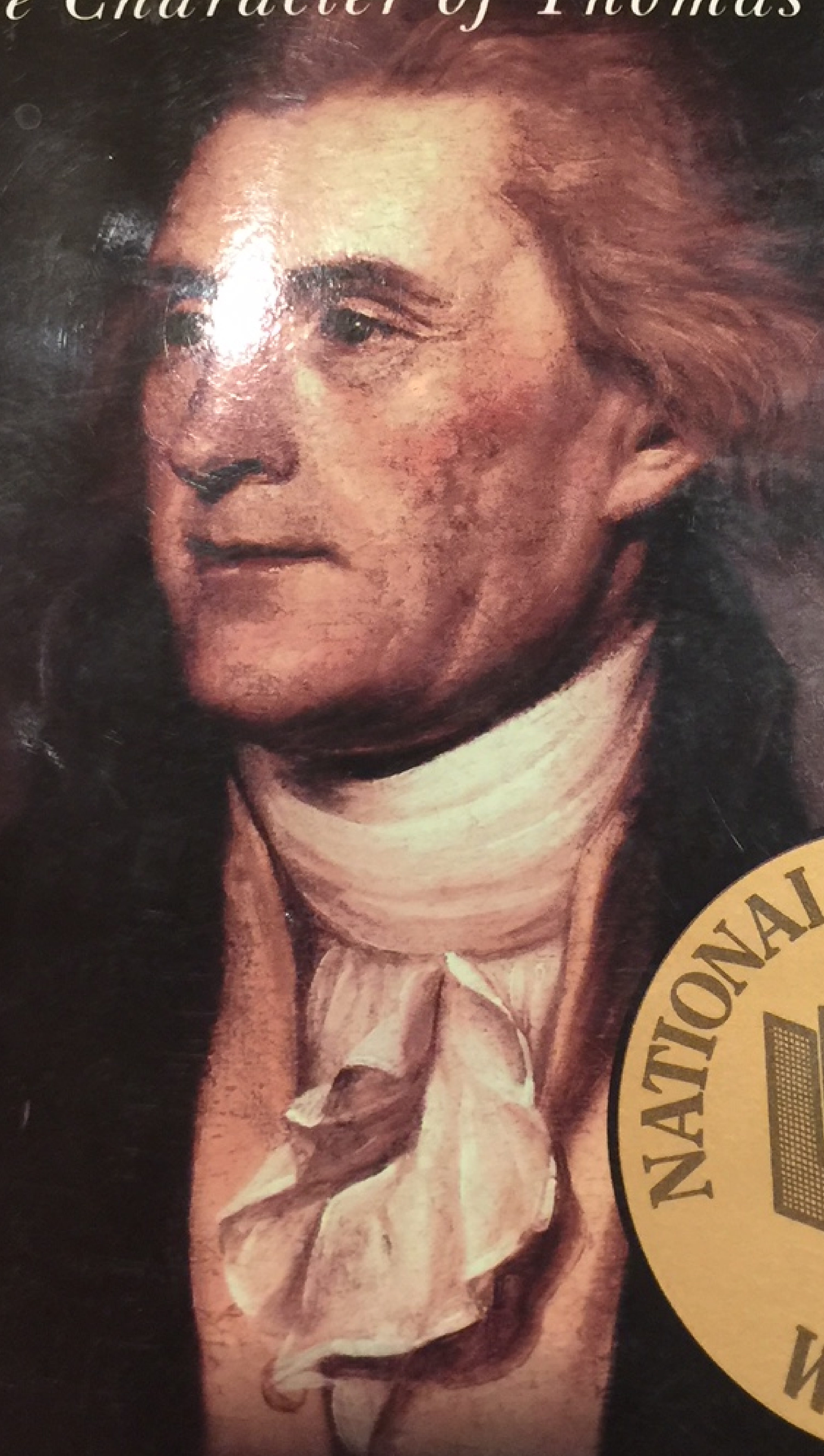
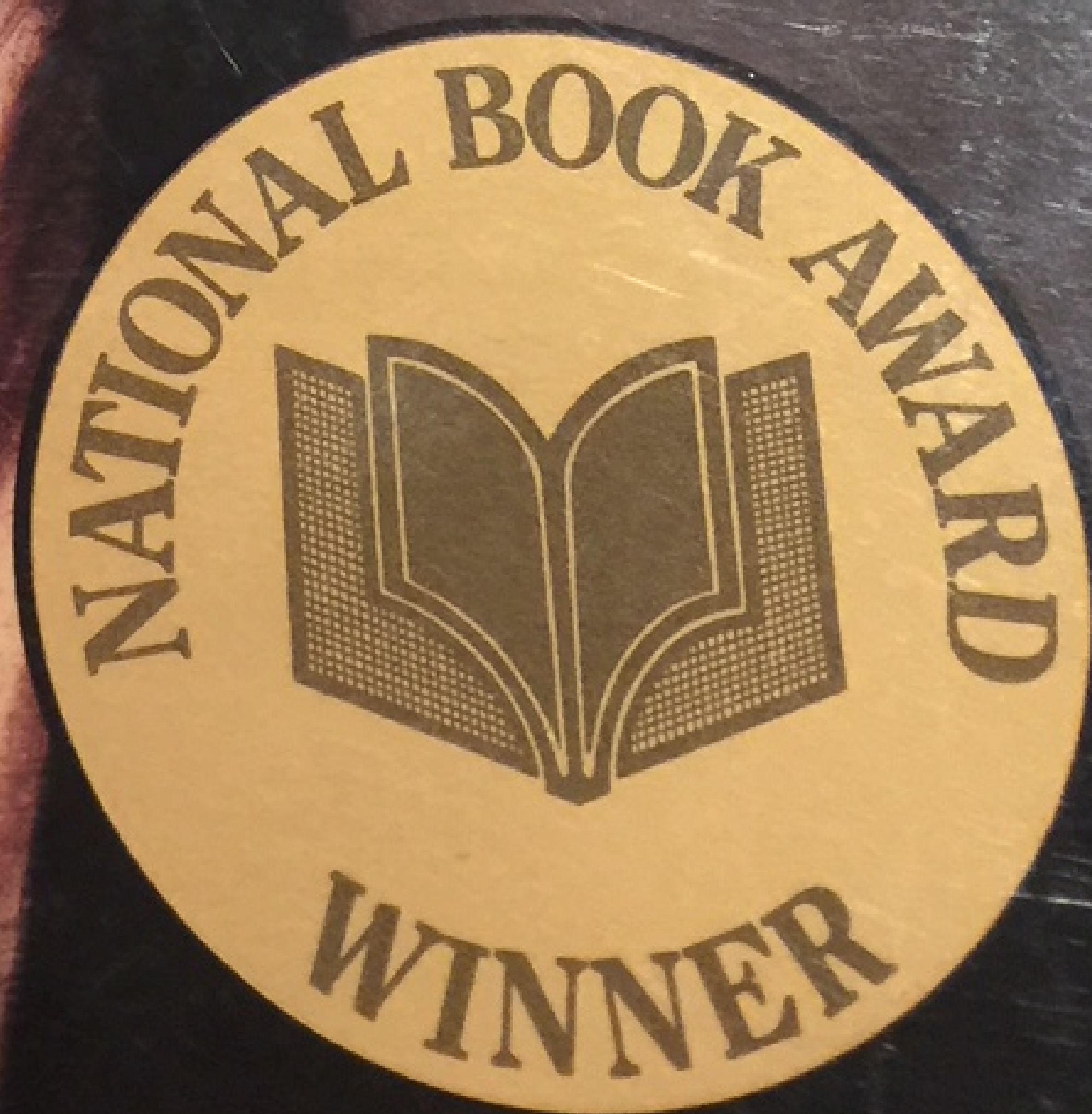
AMERICAN SPHINX

The Character of Thomas Jefferson





JOSEPH J. ELLIS

In retrospect it is clear that both the Shaysites' fear of tyranny and the corresponding fear of observers like Jay and Abigail Adams that America was on the verge of social disintegration were mutually reinforcing overreactions of near-paranoid proportions. Jefferson's response to the entire display was especially revealing both for its clear-sighted and even serene endorsement of popular resistance to government in almost any form and for its eventually famous phrasing: "I hope they pardoned them [i.e., the Shaysites]," he told Abigail. "The spirit of resistance to government is so valuable on certain occasions, that I wish it to be always kept alive. . . . I like a little rebellion now and then. It is like a storm in the atmosphere." He had first proposed a similar formulation of the problem two months earlier in a letter to Ezra Stiles, the president of Yale. "If the happiness of the mass of the people can be secured at the expense of a little tempest now and then," he had written Stiles, "or even of a little blood, it will be a precious purchase." A month later he had written Madison in language almost identical to his message to Abigail. His boldest formulation came more months later, in November 1787, when he told William Stephens Smith that Shays's Rebellion was actually a symptom of America's political health: "What signify a few lives lost in a century or two?" he observed. "The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants. It is its natural manure." Moreover, those alleged statesmen who wished to use Shays's Rebellion as an occasion to justify more coercive political institutions, he warned, "are setting up a kite to keep the hen yard in order."[71]

These were extremely radical statements, which, taken literally—or, for that matter, taken at all seriously—placed Jefferson far to the left of any responsible political leader of the revolutionary generation. For his remarks suggested that his deepest allegiances were not to the preservation of political stability but to its direct opposite. Given the radical and even anarchistic consequences of the ideas he seemed to be advocating in response to the Shays scare, one is tempted to put them down as hyperbolic occasions, or perhaps as momentary excesses prompted by his genuine aversion to the overreaction of those condemning the

Shays insurrection, an aversion rendered more plausible and comfortable by his distant and safe location in Paris.

But there is reason to believe that Jefferson meant what he said, indeed that his entire way of thinking about government was different from that of any other prominent American leader of the time. In January 1787, while Madison was studying the classic texts of Hume and Montesquieu in preparation for the Constitutional Convention later that spring, Jefferson wrote him to share his own thoughts on the appropriate political models for American society. While Madison was grappling with questions about political architecture—how to configure federal and state power; how to design institutions so as to balance interest groups without replicating the gridlock of the current government under the Articles of Confederation—Jefferson was thinking much more grandly, about the very ground on which any and all political structures must be constructed. While Madison was struggling with arrangements of authority in three branches of the government, Jefferson was identifying three kinds of society in which human beings might arrange themselves.

There was European society, with governments that ruled by force, usually monarchical in form, what Jefferson described as "a government of wolves over sheep." Then there was American and, to a slightly lesser extent, English society, with governments responsive to the populace as a whole, where "the mass of mankind enjoys a precious degree of liberty & happiness." Finally there was Indian society, which managed itself without any formal government at all by remaining small and assuring the internalization of common values among all members. If forced to choose, Jefferson preferred the Indian solution, while admitting that it was "inconsistent with any degree of population." He reiterated the point in a letter to Edward Carrington, a conservative Virginian planter and politician. "I am convinced," he explained, "that those societies (as the Indians) which live without government enjoy in their gen'l mass an infinitely greater degree of happiness than those who live under European governments."[72]

The Jeffersonian ideal, in short, was not a specific version of bal-

anced republican government. It was a world in which individual citizens had internalized their social responsibilities so thoroughly that the political architecture Madison was designing was superfluous. Though prepared to acknowledge the need to make necessary compromises with his ideal for practical reasons—the size of the American population and the vastness of its territory obviously demanded some delegation of authority beyond the sovereign self—he did so grudgingly. And the elaborate reasoning about constitutional structure that so captivated political thinkers like Madison and the other delegates at the Constitutional Convention never animated the best energies of his mind, which drew its inspiration from a utopian vision of the liberated individual resisting all external coercion and regarding all forms of explicit government power as a necessary evil.

All this helps explain his initially hostile reaction to the news leaking out of Philadelphia about the shape of the new American Constitution in the summer of 1787. Madison had tried to prepare him for what was coming, suggesting that America needed an energetic federal government "with a negative *in all cases whatsoever* over the local legislatures." But Jefferson resisted the suggestion and questioned the decision to make wholesale changes in the current, albeit inadequate, national government: "The negative proposal . . . on all acts of the several [i.e., state] legislatures is now for the first time suggested to my mind," he told Madison. "Prima facie I do not like it. It fails in an essential character [by proposing] to mend a small hole by covering the whole garment." He expressed the same apprehension to Adams, claiming that "the good of the new constitution might have been couched in three or four articles to be added to the good, old, and venerable fabrick, which should have been preserved even as a religious relique." Edward Carrington also tried to prepare him for a fundamentally new kind of federal government, not just a minor revision of the Articles of Confederation. "The Ideas here suggested," Carrington wrote in June, "are far removed from those which prevailed when you was amongst us, and as they have arisen with the most able, from an actual view of events, it is probable you may not be prepared to expect them." Jefferson's location in Paris rather than Philadelphia proved a major advantage, by providing time to adjust to political ideas that ran counter to his own and that he would in all likelihood have opposed if present.[73]

He concealed his worries about what was brewing in Philadelphia from all his European correspondents, preferring to play his customary role as America's champion. "Our Federal convention is likely to sit till October," he wrote a French friend, "and we may be assured their propositions will be wise, as a more able assembly never sat in America. Happy for us, that when we find our constitutions defective and unsufficient to secure the happiness of our people, we can assemble with all the coolness of philosophers and set it to rights, while every other nation on earth must have recourse to arms. . . ." Meanwhile Madison apologized for his inability to provide a detailed account of the ongoing deliberations. "I am still under the mortification of being restrained from disclosing any part of their proceedings," he wrote in July. "As soon as I am at liberty I will endeavor to make amends for my silence and . . . give you pretty full gratification. I have taken lengthy notes of every thing that has yet passed. . . ."[74]

Madison was as good as his word. His letter of October 24, 1787, provided Jefferson with a lengthy report on the wide-ranging deliberations at the Constitutional Convention and a truly remarkable appraisal of the constitutional issues at stake. He described how the delegates had tried "to draw a line of demarkation which would give to the General Government every power requisite for general purposes, and leave to the States every power which might be most beneficially administered by them." This formulation blurred the relative powers of federal versus state authority, but in terms that clearly extended federal jurisdiction over domestic policy in ways that Jefferson staunchly opposed. Madison then went on to analyze the intricate and purposefully ambiguous layering of jurisdiction by the different branches of government and the different versions of representation. "Those who contend for a Simple Democracy, or a pure republic, actuated by a sense of the majority, and operating within narrow limits," he

observed, "assume or suppose a case which is altogether fictitious." What Madison was terming "fictitious" was in fact the essence of Jefferson's thinking about government. Jefferson acknowledged as much in his response to Madison. "I own I am not a friend to a very energetic government," he confessed. "It is always oppressive. . . . After all, it is my principle that the will of the Majority should always prevail." Madison did not write back to explain that, at least as he saw it, the Constitution had been designed to subvert mere majority rule on the assumption that the chief threat to individual liberty in America was likely to come from that direction. Jefferson would have found such an argument unintelligible, since he found it impossible to regard popular majorities as dangerous or to think about the powers of government in positive ways. Madison's entire emphasis on social balance was at odds with Jefferson's commitment to personal liberation.[75]

Here was the first significant occasion—it would not be the last—when the special relationship between Jefferson and Madison assumed a human version of the checks and balances principle. Despite deep reservations about an energetic federal government, especially a federal government empowered to tax, Jefferson decided to follow the advice of his most loyal lieutenant and endorse ratification of the new Constitution. At first he declared himself neutral, telling Carrington that "there is a great mass of good in it . . . , but there is also to me a bitter pill or two," then directing him to confer with Madison for more specific information about his views. On all the specific provisions empowering the new national government to make laws for all the states, he decided to remain silent and let Madison speak for him. Over the course of the following months, as the ratification process went forward in the respective states, Jefferson worked out a responsibly critical posture: The new Constitution had his approval, even though he preferred specific limitations on the tenure of the president and an explicit bill or declaration of rights that defined those personal freedoms that no federal government could violate.[76]

Even Adams concurred on the latter point, as did many of the advocates of the Constitution in the state ratifying conventions. As

for his apprehensions about excessive executive power, Jefferson wrote to Washington to assure the man who was virtually certain to be elected the first president that his worries were about the future, after Washington had left the office. They were also intensified by his European experience. "I was much an enemy to monarchy before I came to Europe," he apprised Washington, and was "ten thousand times more so now since I have seen what they [i.e., kings] are. . . . I can further say with safety there is not a crowned head in Europe whose talents or merits would entitle him to be elected a vestryman by the people of any parish in America." He had expressed his worries more directly to Adams, claiming that "the President seems a bad edition of the Polish king." But his preference for term limits—he favored one four-year term—did not place him outside the boundaries of respectable criticism.[77]

Nevertheless, word leaked back to America that Jefferson's support for the new Constitution was soft and perhaps even nonexistent. "Bye the Bye," wrote Francis Hopkinson from Philadelphia, "you have been often dish'd up to me as a strong Antifederalist, which is almost equivalent to what a Tory was in the Days of the War, for what reason I know not, but I don't believe it and have utterly denied the Insinuation." During the ratification debate in Virginia both Patrick Henry and George Mason, who led the opposition, claimed that mutual friends assured them that Jefferson also opposed the creation of a strong central government with powers over the states. Madison, however, rose to contradict the claim and, as he explained it to Jefferson, *"took the liberty to state some of your opinions on the favorable side."*[78]

Precisely what Jefferson himself would have said if he had been present in Virginia for the ratification debate is impossible to know. Madison, perhaps the most able parliamentary maneuverer in American politics, carried the Jeffersonian flag with him to victory in the Virginia convention. Jefferson's own remarks throughout the summer and fall of 1788 were inconsistent and contradictory. First he advocated support for the Constitution until nine states had ratified, then opposition so as to force amendments and acceptance of a bill of rights.

Then he backed away from that position, endorsing ratification but only on the condition that a bill of rights be added once the new government was in place. When Carrington sent him a copy of the recently published *Federalist Papers*, Jefferson sent his compliments to Madison, one of the main contributors, praising the work as "the best commentary on the principles of government which was ever written" and conceding that "it has rectified me in several points." In an earlier letter to Madison he had conceded that on the specific question of presidential term limits, "I readily therefore suppose my position wrong. . . ." But when asked by Hopkinson if he was a staunch Federalist, meaning supporter of the Constitution, he gave an equivocal answer that was rescued from its inherent ambivalence by the lyrical quality of its concluding line: "I am not a Federalist, because I never submitted the whole system of my opinions to the creed of any party of men whatever. . . . Such an addiction is the last degredation of a free and moral agent. If I could not go to heaven but with a party, I would not go there at all."[79]

In a very real sense, this statement, albeit unintentionally, captured the essence of Jefferson's ultimate position on the Constitution and indeed on all specific constitutional schemes. He found them excessively technical configurations of political power that did not speak directly to his own political creed, which transcended categories like "Federalist" and "Antifederalist" by inhabiting a more rarefied region where political parties, constitutional distinctions and even forms of government themselves were rendered irrelevant. His lifelong attitude toward the constitutional settlement of 1787–88 remained ambiguous and problematic. The trouble with most Europeans, he wrote to Hopkinson, was that they had been bred to prefer "a government which can be felt; a government of energy. God send that our country may never have a government, which it can feel." Madison and most Federalists believed that the new American Constitution was admirable for precisely the energetic qualities Jefferson denounced. As for Jefferson, his mind and heart longed for a world where government itself had disappeared. Given the terms of the constitutional debate that raged in

America in 1788, the one issue that best embodied his political convictions was the insistence on a bill of rights that transcended all the Madisonian complexities. That was pretty much what he chose to emphasize.

REVOLUTIONS AND GENERATIONS

AT ALMOST THE same time that the delegates to the Constitutional Convention were gathering in Philadelphia, the Assembly of Notables was convened by the French king, Louis XVI, in Versailles. The advantage of hindsight allows us to know that this gathering, rendered necessary by a financial crisis that threatened to bankrupt the French government, was actually the opening chapter in a bewilderingly complex and horridly bloody chain of events that tore French society to pieces and fundamentally altered the course of modern history. But neither Jefferson nor anyone else for that matter could be expected to recognize at the time that he was witnessing the start of the French Revolution, or that comfortably confident endorsements of "a little rebellion now and then" would take on such a very different meaning after the cataclysms of 1789.[80]

Jefferson's initial instinct was to see the Assembly of Notables as an inferior version of the Constitutional Convention, another illustration of his running argument about the inherent superiority of the American environment and the degraded condition of European politics. He kept up a standing joke with the Adams family in which the delegates at Philadelphia were described as demigods or modern-day Ciceros, while the French nobility gathered at Versailles were comic buffoons who delivered long soliloquies that bore only a tenuous relationship to the political issues at stake. (Lafayette, Jefferson's closest French friend and himself a delegate to the Assembly of Notables, joined in the banter by wondering if his colleagues should be called "not able.") By the summer of 1787 Jefferson could complain to Monroe that the latter's reports on the Constitutional Convention were brimming with excite-