

Part I. England

Chapter 2 .

A country Whig in Williamsburg: the education of Thomas Jefferson

My father's education had been quite neglected, but being of a strong mind, sound judgment and eager after information, he read much and improved himself.... he died Aug. 17. 1757. leaving my mother a widow who lived till 1776. with 6 daurs & 2. sons, myself the elder.... on the death of my father I went to the revd mr Maury a correct classical scholar, with whom I continued two years, and then went to Wm & Mary college to wit in the spring of 1760 where I continued 2. years.... It was my great good fortune, and what probably fixed the destinies of my life that Dr Wm Small of Scotland was then professor of Mathematics, a man profound in most of the useful branches of science, with a happy talent of communication, correct and gentlemanly manners, & an enlarged & liberal mind.... [H]e was the first who ever gave in that college regular lectures in Ethics, Rhetoric & Belles Lettres. He ... introduced me to the acquaintance and familiar table of Governor Fauquier, the ablest man who had ever filled that office. With him, and at his table, Dr Small & Mr Wythe, his amici omnium horarum [friends at all hours], & myself, formed a parti quarré, & to the habitual conversations on these occasions I owed much instruction. mr Wythe continued to be my faithful and beloved Mentor in youth, and my most affectionate friend through life. in 1767 he led me into the practice of the law at the bar of the General court, at which I continued until the revolution shut up the courts of justice.

In 1769. I became a member of the legislature by the choice of the county in which I live, & continued in that until it was closed by the revolution. (TJ, *Notes on Early Career*, 1821, in *PTJ, RS*, 17: 309-11).

I had the good fortune to become acquainted very early with some characters of very high standing.... Under temptations and difficulties, I would ask myself what would Dr Small, Mr Wythe, Peyton Randolph do in this situation? ... I am certain that this mode of deciding on my conduct tended more to it's correctness than any reasoning powers I possessed (TJ to his grandson Thomas Jefferson Randolph, 4 Nov. 1808, in Peterson 1984: 1194. Peyton Randolph (1721-75) was a member of the Virginia House of Burgesses when TJ was in Williamsburg, and later led the Virginia delegation to the first Continental Congress.)

at these dinners [with Small, Wythe, and Fauquier] I have heard more good sense, more rational & philosophical conversations than in all my life besides. they were truly Attic societies. the Governor was musical also & a good performer and associated me with 2. or 3. other amateurs in his weekly concerts. (TJ to Louis H. Girardin, 15 Jan. 1815, in *PTJ, RS*, 8: 200).

Thus far, we have Jefferson's education in his own words. Mr Maury really began it. For the rest of his life Jefferson was a fluent reader of classical Latin and Greek. Like most of the well-educated revolutionaries, above all his close collaborator James Madison, he frequently referred to Greek or Roman models: whether in architecture, poetry, or institutional design. His classical

education was what there was in frontier Virginia in his time: maybe of little practical use, but Jefferson (like Madison) put it to the best use he could (Winterer 2012). A nice illustration from late in Jefferson's life comes in a letter to a biographer of his bitter enemy Patrick Henry:

he drew all natural rights from a purer source, the feelings of his own breast. he never, in conversation or debate, mentioned a hero, a worthy, or a fact in Greek or Roman history, but so vaguely & loosely as to leave room to back out, if he found he had blundered. (TJ to William Wirt, Sep. 4 1816 in *PTJ: RS* 10: 365).

The role of Greek and Roman history in the American Revolution has been much discussed (Bailyn 1967, 2018; Winterer 2002, 2012; Shalev 2009). The exemplar was the Roman Republic; the bugbear was the Roman Empire that succeeded it when Julius Caesar seized power in 44 BCE. Americans universally used pseudonyms in their published revolutionary-era polemics. Most of these were Roman; most identified themselves as successors of the good guys (the republicans) by giving themselves names such as *Publius*, *Junius*, *Brutus*, or *Cato*. Publius Valerius Publicola (d. 503 BCE) was one of the aristocrats who deposed the last king of Rome. He became one of the first consuls along with Lucius Junius Brutus. A later Brutus, Marcus Junius (d. 42 BCE) was one of the assassins of Caesar. Cato the Younger (d. 46 BCE) was a leading republican politician who committed suicide rather than accept Caesar's dictatorship. *Publius* was the collective pen name of Madison, Alexander and John Jay, the authors of *The Federalist*. There were numerous Junii, Bruti, and Catones – in Britain as well as in the United States. Opposition pamphleteers in Britain wrote polemics under the titles *Letters of Junius* and *Cato's Letters*. Jefferson owned both.

However, in contrast to both Madison and Hamilton, Jefferson did not use a Roman or Greek frame of reference when writing about politics. His Latin and Greek reading, which he maintained to the end of his life, was cultural, not political. To be sure, it cast a romantic haze over his view of the idealized American, or at least the idealized Virginian. Defending American primacy over English in the matter of making a cartwheel rim from a single piece of bent timber, Jefferson notes that Homer describes the practice is in his epic poem *The Iliad*. He goes on:

The writer in the paper supposes the English workman got his idea from Homer. But it is more likely that the Jersey farmer got the idea from thence, because ours are the only farmers who can read Homer (TJ to St John de Crèvecoeur, Jan. 15 1787, in *PTJ* 11: 43)

He goes on to quote, in the original Greek, the passage from the *Iliad* that he imagines New Jersey wheelwrights read. He owned three copies of the Roman poet Virgil's *Georgics*, a poem praising the life of the independent farmer that inspired his own Virginian idyll. One of his three copies was from the Foulis Press in Glasgow, a fount of classical learning at which Jefferson often drank (Sowerby 1952 ## 4279-4282). Unlike Madison and Hamilton, who both used classical history to frame their (very different) views of how to design the American republic, Jefferson mostly shunned analogies from the Roman republic or the Greek city-states. His attitude to the classics is that captured by Bernard Bailyn:

The classics of the ancient world are everywhere in the literature of the Revolution, but they are everywhere illustrative, not determinative, of thought. They contributed a vivid vocabulary but not the logic or grammar of thought, a universally respected

personification but not the source of political and social beliefs (Bailyn 2018: 20; cf also Cole 2011: 172, who takes the same view).

Thus the classics that the schoolboy Jefferson learnt from the Rev. Mr Maury gave him cultural, but not political nor scientific, hinterland. The key stage of Mr Jefferson's enlightenment came next, in his college and post-college time in Williamsburg, then the capital of Virginia.

The College of William & Mary was not a happy place in Jefferson's student days. The eponymous British monarchs chartered it in 1693 as a "perpetual College of Divinity, Philosophy, Languages, and other good Arts and Sciences" (source: <https://www.wm.edu/about/history/>, accessed May 8 2024). It was an unfortunate charter, which divided power between the President and Faculty on one hand and a lay Board of Visitors on the other. There were perpetual rows between the two centers of power, which crosscut other disputes about whether the faculty need be Anglicans and whether the Governor of Virginia or the Bishop of London had the final word. In 1758 the temporarily dominant faction fired the entire university faculty (the college also comprised a school and a separate 'Indian school'.) One of their new appointments was an eminent but unfortunately alcoholic Welsh poet, Goronwy Owen (Williams 1951), who soon departed without teaching Jefferson Welsh. (All above details are from Clagett 2021 and Williams 1951). Hence, the entire teaching in Jefferson's freshman year fell upon 'Dr Wm Small of Scotland, professor of Mathematics'. Jefferson's intellectual formation cannot only have come from the disorganized college. It also depended on the *partie quarrée* (party of four) around the governor's table. What may each of the other three have brought to their precocious violin-playing student?

Francis Fauquier (1703-68) was the royal lieutenant governor of Virginia from 1758 until his death. Born in London, his father was a French Huguenot (=Protestant) immigrant to London, who made a fortune in banking and investment. Francis obviously developed an interest in pure and applied science, as he became a fellow of both the Royal Society (the UK's scientific academy, founded in 1660) and the Royal Society of Arts. He may have owed his appointment to his publication *An Essay on Ways and Means for Raising Money for the Support of the Present War, without Increasing the Public Debts* (Fauquier 1756). His time in Virginia was difficult. He had to try to raise local revenue to help fund the frontier wars of 1756-63, ('Seven Years War' in UK parlance; 'French and Indian War' in contemporary American parlance). Taxes were usually paid in tobacco or its cash equivalent, but the tobacco crop, Virginia planters' main source of remittances, fell short. By all accounts, including Jefferson's, he was an able and congenial man. His background was unusual for a colonial governor. The South Sea Company, where his father had made his fortune, had traded in slaves to the Caribbean and Latin America. Fauquier was a slaveholder himself, but he was not from the English (or Scottish) aristocracy which supplied most governors of the colonies at the time (Kolp 2021; Evans 2008). He may have stimulated Jefferson's interest in mathematics and science. He does not seem to have communicated his passion for sound finance, an issue that troubled both Jefferson's public and his private life in Paris and subsequently.

George Wythe (1726-1806, pronounced 'with' with hard th as in 'thing') was an Anglican but with a Quaker background, who dressed in plain black Quaker clothes (going by surviving

portraits). He was already one of the leading lawyers in Virginia in 1761. Jefferson said that Wythe

had not the benefit of a regular education in the schools, but acquired a good one of himself, and without assistance, inasmuch as to become the best Latin and Greek scholar in the state.... [H]e also acquired by his own reading a good knowledge of Mathematics, of natural and moral philosophy. (TJ note, 1820, scanned by Library of Congress at <http://memory.loc.gov/master/mss/mtj/mtj1/052/0200/0217.jpg>).

Wythe had qualified as a lawyer in 1746. By the time Jefferson met him at the governor's table, he was not only in law practice, but also a member of the House of Delegates, and from time to time its clerk. He soon took the fresh graduate Jefferson on as his law student, and Jefferson bought a whole library of books on English law and equity, which formed a high proportion of his first collection. Wythe went on to be a delegate to the Continental Congress, a signer of the Declaration of Independence, a law professor at William & Mary, tutor to many of the leading lawyers of the next two generations, and a murder victim, almost certainly poisoned by a great-nephew with gambling debts. He bequeathed his library to Jefferson, who sold duplicate books, and incorporated the rest into the library that he sold to Congress in 1815.

Virginia law in 1761 was English law. Note: English, not British. Virginia was a royal colony, which inherited the English legal system because the colony was founded before the UK Union of Parliaments in 1707. Lawyers, and legal historians, distinguish between common-law systems and 'civilian' systems. The common law of Virginia in 1761 had largely been made by English

judges and enforced by courts of law and equity (two distinct court systems, but both in the common-law tradition). Civil law systems were based on Roman law ('civil' because it originally applied to Roman citizens – *cives*). It had been codified in the 6th century CE by Justinian, whose work was rediscovered in medieval times. Roman, civil, law became the basis of the codified legal systems of Spain (hence of the Spanish colonies in America); of France (hence of Louisiana and Quebec), of the Dutch Republic; and therefore to a considerable extent of Scotland, whose law and philosophy students studied in the Netherlands not England. As Presbyterians they were ineligible to enter Oxford or Cambridge, the only two English universities. In time Jefferson was to develop an interest in civil systems, through his purchases of books by Scottish Enlightenment writers such as the jurist Lord Kames, and ultimately from the first American edition of Justinian. But as he sat round the governor's table and then at George Wythe's feet, the legal system that he absorbed and practiced was the English common-law system bequeathed to colonial Virginia. He also absorbed, then and/or from his other early reading, a life-long attachment to 'country party' ideology.

The first reliable edition of Jefferson's 'Legal Commonplace Book' (Konig and Zuckert 2019) has been recently published. A commonplace book was a blank notebook into which the user copied passages that he found interesting or important. It was, well, an 18th-century commonplace. Jefferson also kept an Equity Commonplace Book, which has never been published but which may be read in facsimile by appointment with its custodian, the Huntington Library in San Marino, California; and a Literary Commonplace Book, which I discuss elsewhere. But the Legal and Equity Commonplace Books probably began in the era of the parties

quarrée, and Jefferson kept them up intensely until he moved out of legal practice into politics in the mid 1770s, and more sporadically after that.

In the Legal Commonplace Book, Jefferson absorbs case from English common-law judges, who assert the supremacy of the common law over both the king (in the *Case of Proclamations*) and parliament (in *Dr Bonham's Case*). Jefferson's world view is 'opposition whig', or as it was called in England in his time 'country whig'. It leads him to trust parliament when it was independent of the executive, as in the War of Three Kingdoms ('English Civil War', 1639-1648), and to distrust it when he sees it as a creature of the executive, as in his own time. Another point to note is that 'common law' is made by judges who interpret past cases. It is not the same as the Scottish concept of 'common sense', to which we will come shortly.

Jefferson attempted to explain the distinction between law and equity to a member of his Paris spin room in 1785, twenty years after his studies with Wythe and his commonplace books:

The system of law in most of the United states, in imitation of that of England, is divided into two departments, the Common law and the Chancery.

The Common law is a written law the text of which is preserved from the beginning of the 13th. century downwards, but what preceded that is lost. It's substance however has been retained in the memory of the people and committed to writing from time to time in the decisions of the judges and treatises of the jurists, insomuch that it is still considered as a *lex scripta*, the letter of which is sufficiently known to guide the decisions of the courts.... The history of the struggles between the ordinary, or common law courts, and

the court of equity or Chancery would be beyond our purpose.... The power of that court [of Chancery] as acknowledged at this day, is to relieve

1. where the Common law gives no remedy.
2. where it's remedy is imperfect.
3. where it would do injustice by comprehending within it's letter cases not within it's reason, nor intended to have been comprehended (TJ to Philip Mazzei, November [28] 1785, in *PTJ*: 9: 67-69).

The distinction between [common] law and equity can be hard for non-lawyers to grasp. Fortunately, although Jefferson described it correctly for the benefit of his friend who was writing a propaganda work on the United States for the benefit of a French audience, it has no practical importance for the development of Jefferson's own political philosophy. Curiously, a main source for the equity cases he commonplaced was the Scottish judge Lord Kames, writing about English cases in equity because Scots law does not observe the distinction.

William Small, the fourth man at the Governor's table, was a remarkable person whose importance is only now starting to be understood. He was born in 1734 in Carmyllie, near Dundee, Scotland, the son of the parish minister, and educated at Dundee Grammar School, a medieval foundation which was renamed Dundee High School in 1859. As in the other Scottish cities at the time, the main city school was governed by the Town Council and was modernizing its curriculum from Latin to English. Adam Smith (1776 V.i.f.55) said that Scotland in his day had better schools than England because church and state insisted on a school in every parish.

Scots historians of a nationalist bent have endlessly repeated this. It may or may not be true; but it is likely that city schools at least could offer a broad curriculum with competent teachers. From Dundee, Small moved on to Marischal College, Aberdeen, one of two universities there (which merged in 1860). He arrived while the ‘Aberdeen Enlightenment’ was in full flood. The Aberdeen Philosophical Society, which called itself the ‘Wise Club’, was founded in 1758, but its principals were already writing and socializing. Small’s tutors included both the logician William Duncan, whose *Elements of Logic*, designed to ‘introduce scientific Reasoning into natural Knowledge’(cited in Westby-Gibson 2004), became the leading logic text in the early American republic, and, probably, the physician John Gregory. Although not listed as Small’s tutor, the leading light of the Wise Club was Thomas Reid, regent (i.e., professor of everything) at the other Aberdeen university half a mile away, King’s College. Reid’s masterpiece, *Inquiry into the Human Mind, on the Principles of Common Sense*, was not published until 1764 (Reid 1764/1997), but he had been developing its ideas for many years and it is likely that Small had imbibed them before he departed for Virginia.

From Aberdeen, Small followed his medical mentor John Gregory, to London while training to become a physician. There the Bishop of London’s agent spotted him as a suitable professor for the struggling college in Virginia, where he arrived in 1758 to replace the fired faculty members (Clagett 2021: 43-8). He stayed in his exhausting post until 1764 (not, as Jefferson misremembered, 1762), when he returned to the UK to buy scientific equipment. He never returned. Having met the great networker Benjamin Franklin, he was introduced to the circle of Birmingham engineers and entrepreneurs that clustered around his fellow-Scot James Watt. He settled in Birmingham, a burgeoning city 100 miles north-west of London and a cradle of the

Industrial Revolution. But his health was never good, and he died in 1775. Jefferson, who had not heard that Small had died, wrote affectionately to him later that year, promising him six dozen (!) bottles of Madeira, and concluding:

I sat down only to ask your acceptance of the wine, and express my constant wishes for your happiness. This however seems secured by your philosophy and peaceful vocation. I shall still hope that amidst public dissension private friendship may be preserved inviolate (TJ to WS, 7 May 1775, in *PTJ*, 1: 165).

What do we know of Small's contribution to Jefferson's intellectual formation? Like Wills (1978) and Clagett (2021), I regard Small as the principal conduit of Scottish Enlightenment philosophy to Jefferson. Reid's 'principles of common sense' were developed in opposition to David Hume. In his *Treatise of Human Nature*, Hume had argued that we have no valid conception of the existence of external things, but only our sensations (Hume 1739, 1.2.6.8). Many of his contemporaries tried to refute this shocking proposition, most thoroughly Reid. In his *Inquiry*, he goes through the senses one by one to show that when we touch, taste, smell ... things, those are real things and not just our sensations. The 'principles of common sense' mean something more than common sense in our everyday usage: they mean that we can all (even if, e.g., blind or deaf) use some senses to detect real stuff out there.

So far, this is an arcane argument in the philosophy of mind, a long way removed from politics. Thomas Reid did not go into political philosophy, but other Scottish philosophers did. They include Francis Hutcheson, Henry Home (Lord Kames), his cousin David Hume (their surname

is pronounced as David re-spelled it), and Adam Smith. Of these, we know that Jefferson owned Hutcheson's works and Hume's *History of England* before his first library burnt down in 1770. In 1771, while rebuilding it, he recommended these and other Scottish works to a friend, Robert Skipwith. These include several works by Kames (whom Jefferson always spelled Kaims); Hume's *Essays*, Reid's *Inquiry into the Human Mind*, and Smith's *Theory of Moral Sentiments*, which came out in 1759. Thus the Scottish Enlightenment began to enter Jefferson's world, or he entered its world, as early as 1760. Its importance, however, did not blossom until the next stage of his career, where I discuss it at greater length in the next two chapters.

Wythe and Jefferson were what in contemporary England were called 'country Whigs'. The labels 'Whig' and 'Tory' were the normal labels for party politicians in eighteenth-century Britain. Both were originally nicknames bestowed by enemies. The first usage of *whig* picked up by the *Oxford English Dictionary* is Scottish, attested in 1657:

A nickname for: an adherent or supporter of the National Covenant of 1638; a Covenanter; (more generally) an adherent of the Presbyterian cause in Scotland, esp. in the 17th cent.; (later also) a strict or extreme Presbyterian *OED online* 'whig' n. sense 1)

The noun was soon adapted to cover those who opposed the covert Roman Catholic tendencies of king Charles II, and the overt Roman Catholicism of his brother and successor James II of England (VII of Scotland):. Two of the colorful illustrative quotations for this usage are:

The latter party have been called by the former, whigs, fanaticks, covenanters, bromingham protestants, &c.; and the former are called by the latter, tories, tantivies, Yorkists, high flown church men. [1681]; What pimple Whig shall dare controule, or check the lawfull Heir. [1682]. Both from *OED* online, 'whig' n. sense 2

The 1681 entry nicely shows that both 'whig' and 'tory' were originally terms of abuse. The latter originally signified an Irish Catholic rebel:

In 17th-cent. Ireland: a person living as an outlaw after being dispossessed by English settlers, and surviving by acts of robbery and plunder against the English; (later) any Irish Catholic or Royalist who has taken up arms against the English government. (*OED* online, 'tory' n. sense 1a).

In one of the illustrative quotations:

Wee, the undernamed parrish priests in the County of Kyery,...doe undertake and faithfully promise..That in our respective congregations wee shall publike and solemnly declare, and denounce, all toreys, murtherers, thieves & Robors. [1675]

The Whig Ascendancy began in 1689 with the flight of James II/VII, and the invitations from both English and Scottish convention parliaments to the Dutch Calvinist invader William of Orange, to assume both crowns jointly with his English wife Mary. There were brief Tory administrations between 1710 and 1715, but the accession of the Hanoverian king George I in

1714 introduced a long Whig hegemony that lasted almost until Jefferson's day. The Tories retreated to the sidelines, all the more so after the failure of the two Jacobite risings of 1715 and 1745-6. In the American revolution, those who remained loyal to the British crown were named 'Tories' by analogy with the earlier usages.

The Whig hegemony meant that the party itself broke into factions, which contemporaries labelled 'court' and 'country'. The court party comprised the government and its supporters, appointed by the king to form an executive, and corralled, its opponents alleged, by outright bribery. Patrons 'owned' parliamentary seats with tiny electorates, which they could deliver to the government. The country ideology was set out by Jefferson's first political mentor: Henry St John, Lord Bolingbroke (see, e.g., Robbins 1958; Kramnick 1992; Bailyn 2017), who is by far the most commonplace author in Jefferson's Literary Commonplace Book. Later, Jefferson acquired a copy of *Cato's letters* (Trenchard and Gordon 1748), a more extreme expression of the radical English and Scots Country ideology of the 1720s. He owned two copies of James Burgh's *Political Disquisitions* (Burgh 1774). Burgh was a London Scots pamphleteer whose anti-Court polemics were quite strident.

The totems of country Whig ideology were the Roman republic, the supposed Saxon democracy destroyed by the 'Norman yoke', and the English common law. All three were mental constructions, the second of them almost entirely comprising wishful thinking. The Roman republic was celebrated by the young Jefferson's favorite Latin author Cicero. But soon after Cicero's time, the republic degenerated into a dictatorship, under Julius Caesar, and then into a formal empire, under his adopted son and successor Caesar Augustus. American country Whigs

like Wythe and Jefferson insisted on strong controls over the executive, lest the American republic should perish like the Roman republic. As the US Constitution entered its early fragile state, Jefferson and those who thought like him were seriously worried about the lack of restraint on the Presidency. They were reassured by George Washington's voluntary retirement after two terms. The political debate was phrased in Roman terms. As noted above, this was an abiding feature of the American Revolution. Jefferson was usually less moved by the myth of the Roman Republic than by the myth of the Norman Yoke. But on one matter, Jefferson proved as Roman as any other American revolutionary.

According to the Roman historian Livy, whose work Jefferson knew better than Patrick Henry, Lucius Quinctius Cincinnatus (c. 519 – c. 430 BCE) was a republican politician who returned to his farm after his term of service, to be recalled as dictator to put down a rebellion. He succeeded after 16 days and returned again to his farm. We need not worry whether this, or any other story in Livy, is true. What matters is that it was a symbolic story both for late Roman republicans faced with the Caesars, and for Jefferson and his friends, who came to name their political party the Democratic-Republicans. Washington indeed returned to his farm (and slaves) in Mount Vernon, Virginia, after his presidency. But Jefferson worried enormously about the Society of the Cincinnati. This was founded in 1783 as a veterans' association for Revolutionary War officers. It still exists, and you may join if you are a "male descendant... of Revolutionary War officers who fought for American independence" (source: <https://www.societyofthecincinnati.org/>, accessed Dec. 12 2023). It made George Washington its first president, and immediately became controversial. Jefferson's later political enemy Alexander Hamilton gave a speech at its first meeting, and succeeded Washington as president of

the society. It was originally proposed that membership should be hereditary, although this was soon dropped.

Jefferson hated the idea from the outset, and wrote remarkably bluntly to Washington:

whatever may be the ultimate fate of the institution of the Cincinnati, as in it's course it draws to it some degree of disapprobation, I have wished to see you stand on ground separated from it;those opposed to the institution ... urge that it is against the Confederation; against the letter of some of our constitutions; against the spirit of them all, that the foundation, on which all these are built, is the natural equality of man, the denial of every preeminence but that annexed to legal office, and particularly the denial of a preeminence by birth (TJ to George Washington, Apr. 16 1784. *PTJ* 7: 105-8.

Washington ignored Jefferson's advice. The controversy did not die down. While Jefferson was in Paris the Anti-Federalist (and later Jefferson ally) Elbridge Gerry of Massachusetts complained at the Constitutional Convention that:

A popular election in this case [viz., to the Presidency] is radically vicious. The ignorance of the people would put it in the power of some one set of men dispersed through the Union & acting in Concert to delude them into any appointment. He observed that such a Society of men existed in the Order of the Cincinnati. They were respectable, United, and influential. They will in fact elect the chief Magistrate in every instance, if the election be referred to the people. — His respect for the characters composing this Society could

not blind him to the danger & impropriety of throwing such a power into their hands.

(James Madison, *Notes*, Jul. 25 1787 in Farrand 1911, II: at

<https://oll.libertyfund.org/title/farrand-the-records-of-the-federal-convention-of-1787-vol-2>, accessed Dec. 12 2023).

So prominent was the Society in its first decade that it gave its name to a newly founded city on the Ohio River in 1790. More importantly, the Cincinnati row shows why Jefferson and his allies called themselves ‘Republicans’, successors to the ‘Anti-Federalists’, while their enemies, headed by Hamilton, called themselves ‘Federalists’. For Jefferson, the (idealised, largely fictitious) Roman Republic was a place of dispersed power, changing annually from one consul to the next. A permanent executive was a recipe for tyranny. In his *Notes on Virginia*, written in 1781 but not published until 1787, Jefferson expresses his anti-authority view with his usual eloquence:

All the powers of government, legislative, executive, and judiciary, result to the legislative body [in the Virginia Constitution of 1776]. The concentrating these in the same hands is precisely the definition of despotic government. It will be no alleviation that these powers will be exercised by a plurality of hands, and not by a single one. 173 despots would surely be as oppressive as one.... An *elective despotism* was not the government we fought for[,] (Peden 1982: 120).

So taken is Jefferson’s soulmate James Madison with the phrase ‘173 despots’ that he quotes it in *Federalist* #48.

For Madison's co-author Hamilton and his allies, a strong federal government was a prerequisite for US survival. These perspectives were to determine the great struggle between him and Jefferson in Washington's first administration (and a recent musical), discussed further below.

Another fiction in which country Whigs devoutly believed was the 'Norman yoke'. The idea was that the people of Anglo-Saxon England enjoyed liberties that were lost at the Norman conquest of 1066. The phrase was first used by a medieval chronicler, Orderic Vitalis, but was popularised during the civil wars of the 1640s. The most thoroughgoing political theorist of the Norman Yoke was Gerrard Winstanley (1609-1676), who set up a commune called the Diggers in Surrey, south of London, in 1649, dedicated to working the land and distributing the products to all. His writings survived better than the Digger experiment. He was one of several writers in the civil war period to stress that property originally belonged to all in common:

In the beginning of Time, the great Creator Reason, made the Earth to be a Common Treasury, to preserve Beasts, Birds, Fishes, and Man, the lord that was to govern this Creation; for Man had Domination given to him, over the Beasts, Birds, and Fishes; but not one word was spoken in the beginning, That one branch of mankind should rule over another.

And the Reason is this, Every single man, Male and Female, is a perfect Creature of himself; and the same Spirit that made the Globe, dwells in man to govern the Globe; so that the flesh of man being subject to Reason, his Maker, hath him to be his Teacher and

Ruler within himself, therefore needs not run abroad after any Teacher and Ruler without him, for he needs not that any man should teach him, for the same Anoynting that ruled in the Son of man, teacheth him all things.

But since humane flesh (that king of Beasts) began to delight himself in the objects of the Creation, more then in the Spirit Reason and Righteousness, who manifests himself to be the indweller in the Five Sences, of Hearing, Seeing, Tasting, Smelling, Feeling; then he fell into blindness of mind and weakness of heart, and runs abroad for a Teacher and Ruler: And so selfish imaginations taking possession of the Five Sences, and ruling as King in the room of Reason therein, and working with Covetousnesse, did set up one man to teach and rule over another; and thereby the Spirit was killed, and man was brought into bondage, and became a greater Slave to such of his own kind, then the Beasts of the field were to him. (Winstanley 1649)

Jefferson did not own any of the works of the radical Levellers such as Winstanley or John Lilburne, but he had indirect links to them. The doctrine that the earth belonged to mankind in common was revived, in a slightly weaker form, by Jefferson's idol John Locke, and Jefferson himself was to develop it further while in France. His link, through Wythe, to Norman Yoke ideology, came rather through his early legal reading. The theory ran that land tenure in Anglo-Saxon England was allodial (one of Jefferson's more obscure favorite words). The landowner had absolute title to it, owing nothing, neither rents nor service, to any superior. Along came the Normans (ran the story), and allodial tenure was replaced by feudal tenure, where all land was ultimately in the title of the Crown (or, sometimes the church, in the person of a bishop

appointed by the Norman conquerors). The Crown would grant land to knights or barons in return for feudal services (usually an army), the baron would sublease some to his dependants, on similar conditions, and so on down to propertyless serfs and villeins. Jefferson's first published statement of grievances against the British Crown and Parliament, *A Summary View*, proceeds incongruously from the Stamp Act and suppression of Boston harbor to this:

Our Saxon ancestors held their lands, as they did their personal property, in absolute dominion, disencumbered with any superior, answering nearly to the nature of those possessions which the Feudalists term Allodial: William the Norman first introduced that system generally. The lands which had belonged to those who fell in the battle of Hastings, and in the subsequent insurrections of his reign, formed a considerable proportion of the lands of the whole kingdom. These he granted out, subject to feudal duties, as did he also those of a great number of his new subjects, who by persuasions or threats were induced to surrender them for that purpose....

America was not conquered by William the Norman, nor it's lands surrendered to him or any of his successors. Possessions there are undoubtedly of the Allodial nature (TJ, *A summary View*... 1774. See Documentary Appendix)

Jefferson's law studies under Wythe introduced him to the idea that the common law had existed since time immemorial (i.e., since before 1066) and to the parallel equity court system which allocated property according to rules of equity (fairness) where the common law failed to give a solution. Two of the detestable features of the feudal system, according to Jefferson, were

primogeniture and entail. Although Jefferson was himself an eldest son, he threw enormous energy, during an effort to revise the laws of Virginia beginning in 1776, to ensure that primogeniture (the right of the eldest son to inherit real estate) was abolished there:

I proposed to abolish the law of primogeniture, and to make real estate descendible in parcenary to the next of kin, as personal property is by the statute of distribution. mr Pendleton wished to preserve the right of primogeniture, but seeing at once that that could not prevail, he proposed we should adopt the Hebrew principle, and give a double portion to the elder son. I observed that if the elder son could eat twice as much, or do double work, it might be a natural evidence of his right to a double portion; but being on a par in his powers & wants, with his brothers and sisters, he should be on a par also in the partition of the patrimony. and such was the decision of the other members. (TJ, *Notes on Early Career*, in PTJ: RS 17: 323)

Entail meant the right of a testator to impose conditions on the future disposal of land he bequeathed:

I obtained leave to bring a bill declaring tenants in tail to hold their lands in feesimple. in the earlier times of the colony when lands were to be obtained for little or nothing, some provident individuals procured large grants, and, desirous of founding great families for themselves, settled them on their descendants in fee-tail. the transmission of this property from generation to generation in the same name raised up a distinct set of families who, being privileged by law in the perpetuation of their wealth were thus formed into a

Patrician order, distinguished by the splendor and luxury of their establishments. (TJ, *Notes on Early Career*, in PTJ: RS 17: 318).

Thus, abolition of primogeniture and entail was a country Whig political project as well as a legal and ethical one. The two institutions had enabled the landed interest, in Virginia as well as England, to build up disproportionate power. The eldest son of a peer succeeded to his father's estate, and his hereditary seat in the House of Lords. Ironically, the state of Virginia had been largely populated by *younger* sons of the British aristocracy, themselves victims of primogeniture. Once in Virginia, however, according to Jefferson they turned the tables.

All of these themes come together in *A Summary View*, which Jefferson drafted as a Virginia contribution to a Continental Congress called to bring the states together in a united front against the British Parliament. The document is more coherent than its odd excursions into the Norman yoke and allodial tenure may make it seem. It reflects Jefferson's careful and exhaustive legal scholarship (Konig 2012). Although addressed to George III, its complaints are against the UK government. Under the tradition of parliamentary sovereignty, extolled by the leading English lawyer Sir William Blackstone, Parliament is sovereign. Parliamentary sovereignty is the capstone of the War of Three Kingdoms and the Glorious Revolution. But, as Blackstone knew as well as anybody, 'Parliament' by 1774 had come to mean 'the Whig government which could get a majority in the House of Commons'. In addressing the monarch, Jefferson and his colleagues were portraying a legal fiction that the monarch could in some sense arbitrate among the many parliaments of his realms. The same move was made by Maori chieftains in New Zealand who negotiated the Waitangi Treaty in 1840 with the representatives of Queen Victoria.

The Crown could, in the Maori view, act as an honest broker between themselves and the white settlers who wishes to establish a colony, to preserve Maori title and property rights.

In *A Summary View*, Jefferson advances his distinctively Virginian country whig ideology. None of the thirteen colonies, he argues, has ever been subject to control by the UK Parliament, which therefore has no right to tax them. The northern colonies were never government-sponsored: at most, as in Pennsylvania and Maryland, the government issued a charter to an entrepreneur (respectively, William Penn and the 2nd Lord Baltimore) to found and run a colony. Even Virginia (and by implication, the Carolinas and Georgia), although a direct royal foundation, was entirely outside the control of the British parliament. He links this theory to the Norman yoke right at the start of the document, 'reminding' George III that:

[O]ur ancestors, before their emigration to America, were the free inhabitants of the British dominions in Europe, and possessed a right, which nature has given to all men, of departing from the country in which chance, not choice has placed them, of going in quest of new habitations, and of there establishing new societies, under such laws and regulations as to them shall seem most likely to promote public happiness. That their Saxon ancestors had under this universal law, in like manner, left their native wilds and woods in the North of Europe, had possessed themselves of the island of Britain then less charged with inhabitants, and had established there that system of laws which has so long been the glory and protection of that country.

Hence as the free Saxons had unfettered right to make law for England, so the free settlers had equally unfettered right to make law for Virginia. The *Summary View* is silent, at this point, on the rights of indentured servants or slaves in Virginia.

At this point in his career, Jefferson still saw the British monarchy as an imperial sovereign, served by independent legislatures and executives in each of his realms. Jefferson knew that that had been the situation in England and Scotland between 1603 and 1707. Hence the family resemblance among *A Summary View*, the works of the Scottish anti-Union writer Andrew Fletcher of Saltoun (Robertson 1997), and the Waitangi Treaty.

Within two years, however, Jefferson had moved on. He had rejected allegiance to George III, and his thought had taken on new, more Scottish dimensions.

One of the vectors bringing Scottish Enlightenment thought to Jefferson was the teaching of William Small. In the next chapter, we examine some other transmission belts.