

The Declaration of Independence

A Critique

HOWARD MUMFORD JONES

THE DECLARATION OF INDEPENDENCE is one of the two most powerful public papers ever issued in this country, the other being the Federal Constitution. The Declaration is firm in structure and laconic in expression. Its form is that of a classical oration in five parts: an exordium; the statement of a general political theory to which appeal is made; an indictment of the king in twenty-six counts; a resumé in 161 words of the legal recourse the colonists have vainly employed for redress of grievances; and a peroration stating what Congress had done and appealing to Divine Providence because of the rectitude of those making the appeal. The text runs to 1310 words. It takes the King James Bible only 843 words to tell the story of creation through God's taking a vacation on Day Seven, but the Declaration is nevertheless succinct. One paragraph has only eight words. The most familiar paragraph runs to 267 words and is nine words shorter than the Gettysburg Address. But the Gettysburg Address does not set forth a theory of political philosophy.

My word-count does not include the title because the title varied. On July 6, 1775, the Continental Congress adopted a declaration of the causes and necessity of taking up arms against Britain, and though this declaration is commonly ascribed to Jonathan Dickinson, Julian Boyd has demonstrated that Jefferson had a considerable hand in writing it.¹

¹Thomas Jefferson, *The Papers of Thomas Jefferson*, ed. Julian P. Boyd et al. (Princeton: Princeton University Press, 1950-), 1:187ff.

Three points about this declaration should be made. First, it employs the term 'United Colonies.' Second, it appeals to world opinion. Third, this is but one of three or four such declarations in which Jefferson's pen was employed.

In the Continental Congress on June 7, 1776, on behalf of Virginia Richard Henry Lee introduced the fateful resolution that the United Colonies 'are, and of right ought to be, free and independent States.' The colonies have now become states but they have not yet become united states. On June 10 it was voted that Lee's resolution lie on the table until July 1 in order that the wavering middle colonies might swing around. On June 11 the Congress forehandedly appointed a committee of five, including Jefferson, to prepare a statement for public consumption to justify independence when and if Lee's resolution was adopted. The Jefferson committee submitted its report to the committee of the whole on June 28 under the title 'A Declaration of the Representatives of the United States of America in General Congress Assembled.' On July 2, 1776, the United Colonies, now become the United States, adopted a resolution of independence; and until late in the afternoon of July 4 the Congress, sitting as a committee of the whole, debated, modified, adopted, and reported to the formal sitting of the Congress the report, mainly by Jefferson, now known as the Declaration of Independence. All the colonial delegations had not voted for it. Maryland was opposed. South Carolina and Pennsylvania abstained, the Pennsylvania situation being notably queer, since a Pennsylvania Assembly, sitting on the floor over the heads of the Continental Congress, was opposed to the independence being voted by the body just under its feet. The Delaware delegation was split until the arrival in the hall of Caesar Rodney, whose vote carried the delegation. The New York delegation did not vote because it lacked instructions from the New York Assembly, which, however, sent word to accept independence. This was done by a vote of July 15. On July 19 the docu-

ment was ordered engrossed—that is, given permanent written legal form—to be signed under the title ‘The Unanimous Declaration of the Thirteen United States of America,’ all the colonies having come round. Signing, however, dragged on until November 1776. Some who signed were not members of Congress when the Lee resolution was adopted, and some of those then members of Congress never signed.

Without waiting for the formal acquiescence of the New York delegation, public announcement of the Declaration of Independence was made for the first time on July 8 in Philadelphia from a platform erected in the court of what we now call Independence Hall. Printed copies of the Declaration were also rushed to various towns, cities, and units of the armed forces from Maine to Georgia. If we are to believe official printed accounts, the reading aloud of the document was invariably followed by shouts of joy, bell-ringing, cannon-firing, toast-drinking, and general jubilation. The modern historian wonders what the Tories were doing. Presumably the Loyalists were either prudently silent or stayed away. Loyalists were not happy. Publishing a history of the American War in 1794 in London Charles Stedman gloomily observed that the revolution was the result of combining popular representation and the art of printing.² Fourteen years earlier a London work called the revolution the work of a ‘few violent and unprincipled scoundrels,’³ and in that same year, 1780, the Reverend John Wesley, who had spent some years in the New World, referred unkindly to a ‘seditious faction within the bowels of the state.’⁴

Charles Warren, distinguished historian of the Supreme

²Charles Stedman, *The History of the Origin, Progress, and Termination of the American War . . .*, 2 vols. (London, 1794), 2:446–47.

³*An Account of the Rise and Progress of the American War. Extracted from a Late Author*, 4th ed. (London, 1780). R. W. G. Vail attributed the work to John Wesley. See Joseph Sabin et al., *A Dictionary of Books Relating to America*, 29 vols. (New York, 1868–1934), 28:55 (entry 102646).

⁴[John Wesley], *Reflections on the Rise and Progress of the American Rebellion* (London, 1780), p. 84.

Court, has remarked that the greatest event in American history, the Declaration of Independence, has been the subject of more incorrect popular belief, more bad memory on the part of the participants, and more false history than any other subject in our national life.⁵ Let me get rid of four or five of the more egregious errors. The inalienable right to life, liberty, and the pursuit of happiness is in the Declaration of Independence but forms no part of the Constitution of the United States. No blue-eyed boy waited for the final vote till the shades of twilight fell on July 4, 1776, and then ran to an aged sexton who had kept his hand on the bell rope all day long, shouting in his childish treble, 'Ring, grandfather, ring!' This pleasing anecdote was invented by B. J. Lossing, apparently short of material for a book of 1847 entitled *Washington and his Generals: Legends of the Revolution*. The Liberty Bell did not crack in 1776. It had been recast in 1753 and cracked in 1835, the year that Richard Lawrence tried to assassinate Andrew Jackson. If by the original manuscript of the Declaration one means the paper that John Hancock as president and Charles Thomson as secretary of the Congress sent to the printer, this no longer exists either because the printer lost it or because Thomson prudently destroyed it; what is guarded in Washington is the engrossed copy. Finally, the painting by John Trumbull, sometimes known as 'Signing the Declaration' and sometimes as 'The Committee Presenting the Declaration to Congress,' whatever its aesthetic merits, is historically inaccurate. The report of a committee is presented by its chairman only; this report was made to Congress sitting as a committee of the whole, so that President John Hancock could not have been presiding, and voting to lay a report on a table does not require a table, although a table is the largest physical object presented in the painting. Of the canvas as a whole I regret to have to report that Oliver Larkin, the art

⁵Charles Warren, 'Fourth of July Myths,' *William and Mary Quarterly*, 3rd ser. 2 (July 1945): 237.

historian, says that the grouping of the figures remains completely inert after eight years of labor on the canvas.⁶ But let us get back to the document.

When in a Fourth-of-July oration of 1823 Timothy Pickering said the Declaration of Independence ought to be suppressed or forgotten as a libel on the British government and, unreconstructed Federalist that he was, hinted that Jefferson was no great shucks anyway, the Virginian mildly responded that he had not sought to be original but he had set down the common sense of the subject.⁷ 'Common sense' is a sound enough term, but if we look at the weakest part of the Declaration, that picturing George III as a modern Nero waging war in 'circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages,' one wonders what Jefferson meant by 'common sense.' Most of the twenty-six indictments of the king were taken over, many of them *verbatim*, from the preamble to a new constitution Jefferson proposed for his native state. This he drew up in June 1776. No historian today accepts this caricature of George III, a dull but not unamiable monarch who, as a matter of fact, was trying to rule through Parliament, and the colonies having refused to obey the statutes of Parliament, the king declared them out of his protection. Yet Jefferson calls him 'the malevolent author of repeated injuries and usurpations all tending to establish an absolute tyranny over these states.'

In Virginia Governor Dunmore had burned some houses and wharves at Norfolk—the patriots burned most of the rest of them—and in Massachusetts General Gage, after an unsuccessful foray to Concord, had been shut up by minutemen in Boston. A master of propaganda, Jefferson translated into a general statement covering all the colonies, what had happened in two or three of them. The eighteenth-century habit

⁶Oliver W. Larkin, *Art and Life in America* (New York: Rinehart, 1949), p. 129. Larkin's statement remains unchanged in later editions of his work.

⁷Dumas Malone, *Jefferson the Virginian* (Boston: Little, Brown, 1948), p. 220.

of writing in general terms made this an easy thing to do. The threat of tyranny was made probable by news of British attempts to enlist European mercenaries either for American service or to replace British regiments that could be so employed. It does not take any vast amount of reading in the literature of the revolution to discover that the gravamen of colonial complaints was not against the king but against Parliament or the ministry or both. These institutions were indicted usually on one or all of three counts. First, granted that the British Parliament had the responsibility for the British Empire, it did not therefore, in colonial opinion, have a right to legislate for the internal affairs of America, each colony being an autonomous political unit within that empire. Second, the British Parliament was simply *primus inter pares*, an older legislature than the colonial ones, but, once these assemblies were constituted, no longer a superior body per se, and it is a political solecism for one legislature to legislate for another legislature. Third, even if the colonists, as Englishmen before coming to America, had acquiesced in parliamentary legislation, they were now colonials, made so by charter, crown grant, or otherwise, and therefore owing allegiance to the crown but to no other body. It therefore followed that if, on one theory, the king could do no wrong, he was receiving bad advice from his ministers, but that, on another theory, the king, by vetoing or postponing colonial legislation, was exercising in America a right the crown had long since given up in England. Now if one is writing propaganda—and the Declaration is a masterpiece of propaganda—it is wiser to concentrate your venom on a person than on an impersonal institution. Hence, although as late as July 5, 1775, Congress petitioning the king declared that all Americans were His Majesty's loyal, dutiful, and affectionate subjects, by July 8, 1776, George is pictured as having abdicated government here, engaged in war, plundered our seas, ravaged our coasts, burnt our towns, destroyed the lives of our

people, excited domestic insurrection, and as trying to bring on the inhabitants of our frontiers the merciless Indian savages, 'whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions.' Such a tyrant is unfit to rule a free people. It is a comment on human consistency that Sir Guy Carleton, the British commander in Canada, refused to enlist Indians because he could not control them, but that in July 1775 Congress appointed commissioners to negotiate a treaty of peace, and preferably of alliance, with these same savages.

To most Americans nowadays the twenty-six indictments of George III are merely a sort of tail on the revolutionary kite. I do not place a disproportionate emphasis, however, upon them. The phrases we are familiar with, beginning: 'When in the course of human events,' run through what I have called the exordium and the central statement of theory, and assert the right to throw off a tyrannical government—the right of revolution. But turning George III into a British Nero was of more consequence than perhaps we realize. First, it outraged British public opinion so that the war in America became known as the King's War. Second, it did not precisely hearten other monarchies, where heads of state, not averse to seeing Britain humbled, were extremely hesitant about supporting wild-eyed American radicals; and insofar as the French Revolution was a consequence of the American Revolution, these fears were justified. Third, it split American opinion itself since, despite all the bell-ringing and the toast-drinking, Loyalists were seldom converted to radicalism by the social ostracism, business boycotting, tarring and feathering, physical threats to their homes and their families, and the refusal through mob action of that very freedom of speech and action declared by the Declaration to be one of the three unalienable rights of all men. Even today one can uncover in Nova Scotia traces of the deep bitterness in Loyalist families aroused by the Declaration and the subsequent failure of the

infant republic to honor its obligations to Loyalists set down in the Treaty of Peace.

Let us, however, return to the two paragraphs that are the heart of the document. The first paragraph asserts something called 'the course of human events' and appeals to the 'Laws of Nature and of Nature's God.' It asserts the Americans are one people about to assume their proper place among the powers of the earth, and that place is to be a free and equal station. The second paragraph asserts that men are born equal and with unalienable rights, three of which—life, liberty, and the pursuit of happiness—are enumerated. It says that just governments derive their powers from the consent of the governed, that governments exist to preserve human rights, and that any government long violating this condition may be altered or abolished by the people, who are empowered to institute a new government with principles and powers likely to effect popular safety and happiness. Finally, it asserts that a long train of abuses and usurpations can be endured for a time, but when their aim is clearly despotism, it is the right and duty of the sufferers to throw it off and provide new guards for their future security—the right of revolution. Let us examine these.

The appeal to the course of human events, to Nature's laws and to the God of Nature parallels the providential theory of history common among the Puritans and rhetorically revived by George Bancroft in his famous *History*, begun in 1834;⁸ but the statement in the Declaration is deistic, not Christian; it implies something determining the course of human events but beyond a reference to Nature—the Nature of Sir Isaac Newton—and to Nature's God, it does not say what this power is. It next appears that, although up to 1775 the Americans were asserting the rights of Englishmen, they have in 1776 become a people apart who

⁸George Bancroft, *A History of the United States, from the Discovery of the American Continent*, 10 vols. (Boston: Little, Brown, 1834–1875).

constitute a nation. But what is a people? The thirteen colonies contained all sorts of races and former nationals; even during the Revolution they fought among themselves, sometimes to bloodshed, about boundary lines, fishing rights, taxes, military service, the monopoly of navigation; and they tried, though unsuccessfully, to get the inhabitants of Quebec, mainly French and Catholic, the inhabitants of the British West Indies, and even those of the distant Island of Bermuda to join their insurrection. What is a people? What is a nation? The Swiss are a people, but they speak four languages; the Germans are a people who at present form two separate nations; Russia is a nation, though its inhabitants include Kal-mucks, Chinese, Letts, Germans, White Russians, and many more; and the islands of Trinidad and Tobago are a nation with a population of about 900,000, a flag, a written constitution, and an area of less than 2,000 square miles. As for the Americans, meaning the inhabitants of the United States, as late as his famous Seventh of March speech in 1850 Daniel Webster found it necessary to begin: 'I speak not as a Massachusetts man, nor as a Northern man, but as an American.'⁹ On the one hand, these oddly assorted countries, each of which votes in the United Nations, can scarcely be held to represent that separate and equal station which the Declaration demands; on the other hand, three-quarters of a century after the Declaration, Daniel Webster was desperately trying to prevent one people—the South—from dissolving the political bands which had hitherto connected them with another people—the North. If you think I am being fantastic, you will find in the *Magazine of American History* for 1885 an article by A. W. Clason entitled 'The Fallacy of 1776,' from which I quote this single passage: 'War in 1861 was the logical outcome of the fallacy of 1776.'

Well, what about unalienable rights? Before 1865 the

⁹J. W. MacIntyre, ed., *The Writings and Speeches of Daniel Webster*, 18 vols. (New York, 1902), 10:57.

South of course could not admit that all men are created equal except in the Christian sense that we are all the children of God. 'Unalienable' as a term came into the language in 1645 in the form 'inalienable,' meaning that which cannot be transferred from its present ownership or location, and meaning, also, I take it, something that under no circumstances can be legally given or taken away.

What about the unalienable right to life? Many civilized states and probably many more uncivilized ones hold as a matter of course that nobody who has committed certain sorts of crimes against society or against the state has an unalienable right to life; and in this country our courts, our legislatures, our churches, and a great many social organizations have locked horns for some decades over the right to life when it involves the death penalty, abortion, or euthanasia. No one, not even, I suggest, Jefferson, thought of liberty as an absolute right, since, pushed to its logical extreme, it would result in total anarchy, and we are therefore fond of the phrase 'liberty under the law,' which is clearly desirable but which is not the same as an unalienable right to liberty. The right to free speech is supposed to be an important aspect of the right to liberty; most agree, I think, with a dictum of the late Mr. Justice Holmes when he said that no man has a right to cry 'Fire!' in a crowded theater.¹⁰

As for the unalienable right to pursue happiness, no one, so far as I know, has ever understood why Jefferson substituted this phrase for John Locke's comprehensible trilogy, life, liberty, and property, except that Jefferson may have had in the back of his mind an imperfect recollection of a passage which George Mason wrote into the Virginia Declaration of Rights of June 1776, which in turn echoes some resolutions adopted in Fairfax County, Virginia, in July 1774. The Mason passage states that all men are entitled to 'the enjoyment of

¹⁰This famous phrase occurs in Holmes's opinion for the court in *Schenck v. U.S.*, 249 U.S. 47 (1919).

life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness. . . .’ The zany, unalienable right to pursue happiness led the lamented Mark Howe of the Harvard Law School to ask me to find out, if I could, what it has meant; and I therefore published in 1953 a small book on the subject, the substance of the book being lectures I delivered at the University of Michigan Law School.¹¹ In our courts the right to pursue happiness has in one area defended the right of a Chinaman to smoke opium, in another forbade the right of a state board of examiners to require a masseuse to take an examination in the care of women’s hair, in a third authorized the right of one group to slaughter animals as a monopoly, and, in a reverse decision, allowed a second group to enjoy the happiness of killing cattle; it once denied the capacity of the state to sterilize imbeciles, in another case forbade the state to compel the spraying of fruit trees, in another stopped the taxing of trading stamps, in still a different commonwealth defended the right of a reformed prostitute to privacy, and, most amazing decision of all, denied the right of the commonwealth to license plumbers and fortune-tellers and—the only decision that has much relevance—forbade another government to prohibit the sale of contraceptives. Perhaps a decision against prohibition illuminates the confusion. Said the court in an Indiana case of 1855 (*Herman v. the State*, 8 Indiana 545):

It thus appears, if the inspired Psalmist (Ps. 104) is entitled to credit, that man was made to laugh as well as to weep, and that those stimulating beverages were created by the Almighty expressly to promote his social hilarity and enjoyment. And for this purpose have the world ever used them, they have ever given, in the language of another passage of scripture, strong drink to him that was weary and wine to those of heavy heart. The first miracle wrought by our Saviour, that at *Cana of Galilee*, the place where he dwelt in his youth, and where he met his

¹¹*The Pursuit of Happiness* (Cambridge, Mass.: Harvard University Press, 1953). The Mason quotation is on p. 12.

followers after his resurrection, was to supply this article to increase the festivities of a joyous occasion; that he used it himself is evident from the fact that he was called by his enemies a wine-bibber; and he paid it the distinguished honor of being the eternal memorial of his death and man's redemption.

Counsel had argued that the statute was justified on the ground that one man shall not injure another, but the presiding judge swept this argument away in a single sentence: This argument 'is based on the principle that a man shall not use at all for enjoyment what his neighbor may abuse, a doctrine that would, if enforced by law in general practice, annihilate society, make eunuchs of all men, or drive them into the cells of the monks, and bring the human race to an end, or continue it under the direction of licensed county agents. . . .'

The Declaration lacks the force of statutory law. In an article in the *American Historical Review* for October 1940, H. B. S. Ogden assures us that by 1800 the theory of natural rights as phrased by Locke in 1690 had lost virtually all its English adherents, and that the idea of happiness had been made over by Bentham into utilitarianism, that queer concept that tries to portion out felicity in mechanical doses. In a 1962 issue of the *William and Mary Quarterly*, Philip F. Detweiler, after a careful study of the half-century that succeeded the Declaration, finds little interest in its theory, a great deal of partisan quarreling on its anniversaries, and no great praise of the Declaration until well after 1815.¹² In 1854 George Fitzhugh of Virginia declared in his *Sociology for the South* that there is no such thing as natural human liberty and that the Declaration and the Virginia Bill of Rights were 'at war with all government, all subordination, all power.'¹³ He was an apologist for slavery. But in 1856 Rufus Choate of Massachusetts in a letter to a political convention in Maine spoke of the

¹²Philip F. Detweiler, 'The Changing Reputation of the Declaration of Independence: The First Fifty Years,' *William and Mary Quarterly*, 3rd ser. 19 (1962): 557-74, *passim*.

¹³George Fitzhugh, *Sociology for the South* (Richmond: A. Morris, 1854), p. 175.

glittering and sounding generalizations of natural rights that make up the Declaration.¹⁴ As late as 1970 David L. Jacobson edited a book, *Essays on the American Revolution*; neither the Declaration nor its philosophy receives much attention in the volume.¹⁵

The French parallel to life, liberty, and the pursuit of happiness is, of course, liberty, equality, and fraternity. The despotism of Napoleon, though it compelled fraternity of a sort, evoked counter-despotisms symbolized by the Holy Alliance and the Congress of Vienna; and Professor Herbert W. Schneider of Columbia, in lectures at Indiana University in 1956, has thoughtfully traced the fortunes of our revolutionary catchwords in the nineteenth and twentieth centuries.¹⁶ Along with the rise in the Western world of despotisms of one form or another, ranging from that of Napoleon to that of contemporary Moscow, the second great enemy of life, liberty, and happiness, and of equality, liberty, and fraternity was obviously the rise and spread of the doctrine of evolution, particularly of social evolution; and Professor Schneider has thoughtfully traced the decline and fall of the power of these great political words from the days of de Tocqueville through the days of William Graham Sumner of Yale. I borrow from his book what is perhaps the most damaging statement against Jeffersonianism ever made by a social scientist. This is from Sumner's influential volume of 1907, *Folkways*:

The doctrine that all men are equal is being gradually dropped from its inherent absurdity, and we may at any time find it expedient to drop the jingle about a government of the people, by the people, and for the people. . . . Competition is a law of nature. Nature is entirely neutral. . . . If, then, there be liberty, men get from her just in proportion to their works. . . . Let it be

¹⁴*The Works of Rufus Cboate with a Memoir of His Life*, 2 vols. (Boston: Little, Brown, 1862), 1:215.

¹⁵David Louis Jacobson, ed., *Essays on the American Revolution* (New York: Holt, Rinehart, & Winston, 1970).

¹⁶Herbert W. Schneider, *Three Dimensions of Public Morality* (Bloomington: Indiana University Press, 1956).

understood that we cannot go outside of this alternative: liberty, inequality, survival of the fittest; not-liberty, equality, survival of the unfittest. The former carries society forward and favors all its best members; the latter carries society downwards and favors all its worst members.¹⁷

To those who are saddened by the powerlessness of the United Nations, an organization in which the vote of Trinidad and Tobago, a single state, is equal to the vote of the USSR, a multiracial, multinational state, Sumner's words may seem like prophecy.

The Declaration was a long time no part of the American scriptures, despite the felicity, as Carl Becker said, of Jefferson's literary style.¹⁸ I suspect the change came about the time of the Centennial Exposition at Philadelphia in 1876. I agree with Professor Detweiler when he says that the problem of understanding the Declaration is a problem in historical semantics to a greater degree than it is a problem in either political, legal, sociological, or philosophic history. Let me illustrate my meaning from its companion document, the Federal Constitution.

I think the men who wrote the Constitution would have been aghast at what we have twisted that document to mean. Let me take the simple instance of the so-called commerce clause. This reads simply enough; you will find it in Article I, Section viii: Congress shall have power 'to regulate commerce with foreign nations and among the several States, and with the Indian tribes.'

I suspect that all this simple English was intended to do was to exercise the usual rights of nations about foreign trade

¹⁷In addition to the famous discussion in *Folkways* (Boston: Ginn, 1907), see also the essay entitled 'Equality' in Albert Galloway Keller and Maurice R. Davie, eds., *Essays of William Graham Sumner*, 2 vols. (1934; reprint ed., Hamden, Conn: Archon Books, 1969), 1:421-23, which concludes: "It is evident that God alone could give distributive justice, and we find, in this world in which we are, that God has not seen fit to provide for it at all."

¹⁸Carl Becker, *The Declaration of Independence: A Study in the History of Ideas* (New York: Knopf, 1952), p. 194. But Becker used the noun to describe Jefferson's prose in other writings by him.

and to stop the tariff wars which were then going on among the states, for example, between New York and New Jersey, and between New York and New England. Yet under the authority of this simple clause Congress and the courts have regulated child labor, railway rates, the transportation of wines, liquors, dynamite, and other articles from state to state, the transportation of goods made under unwarranted hours of labor, the service of alcoholic drinks on trains though not on airplanes, the right to sell meat in one state satisfactorily inspected in the state of origin but not inspected by federal agents, the sale of contraceptives but not the right of a patient to go to another state to get one, the licensing of automobiles, but not of radio or television programs in all cases; the carrying capacity of trucks but not of other vehicles, the sale of oleomargarine, the bringing into one state of fruits and vegetables raised in another, money for the construction of highways and the rehabilitation of cities, and so many more items that the mind staggers at their variety. This of course has to do with the construction of a phrase in the Constitution, and we are discussing the Declaration of Independence. But the principle is the same. We use the same words that Jefferson used, but they do not mean the same thing.

I find it difficult two centuries later to recapture the original sense in which Jefferson employed such common words as 'people,' 'despot,' 'tyrant,' 'establishing an arbitrary government' in Quebec, 'give assent to acts of pretended legislation,' 'sending swarms of officers to harass our people and eat out their substance'—all words from Jefferson's denunciation of King George. George III never attempted to govern either Great Britain or the colonies without a parliament as Charles I had done, nor corrupted the judiciary as James II did; during his long reign, so long as he was sane, George III governed his realm according to then-existent parliamentary formulae. He was neither a Turkish sultan nor a Moorish despot; he led a most exemplary private life; and since words like 'despot'

and 'tyrant' bring to our minds names like that of Napoleon or Hitler, we are at a loss whether Jefferson really meant what he said. The swarms of officers sent to harass the American people and eat out their substance amounted to a few scores of revenue men, scarcely enough to man the gates at the Kennedy airport; the number of persons killed and wounded in the Boston Massacre was about that of a revenue skirmish in some Scottish seaport, and a trial, the fairness of which has not, I think, been contested, found that the soldiers had acted only after extreme provocation from a Boston mob. As for plundering our seas, ravishing our coasts, burning our towns, and destroying the lives of our people, which is Jefferson's language, I quote Admiral Morison's *Oxford History of the American People*: 'The minute men of Falmouth (Portland), Maine, roughed up Captain Henry Mowatt, RN, and attacked his ships at anchor, after which he took revenge by bombarding the town with red-hot cannon balls which destroyed it. The burning of Norfolk, Virginia, in December 1775 was done by Patriot forces on their retreat; but they succeeded in transferring the blame to Governor Lord Dunmore and the Tories.'¹⁹ None of this justifies either the Patriots or the British, nor does it make Jefferson a hypocrite; what it does is to point to the caution with which we, who are almost in the twenty-first century, must read the English of Jefferson's time. If I have teased you by citing modern historical reconstructions of eighteenth-century events that used to be quite differently pictured in our schoolbooks, it is precisely to make clear my point.

The Declaration used to be read aloud in parks or on the village green every Fourth of July, a day we now chiefly look to as indicating whether the number of deaths on our highways is greater or lesser than it was last year. I am sorry that the Declaration is not better known. Jefferson wrote a literary

¹⁹Samuel Eliot Morison, *The Oxford History of the American People* (New York: Oxford University Press, 1965), p. 220.

masterpiece, one of the great products of the American Enlightenment, in the most advanced, as it was, despite my harsh treatment of some phrases in it, the most exact language of his time. He wrote in general terms because he was making a general appeal to the enlightened minds of the Europe of his age; he had to take the news of the day as he found it, and I have a feeling that, precisely as we know how to discount the advertising language of our time, so those who read the Declaration knew how to discount the philosophical diction there employed. When they read that a decent respect for the opinions of mankind required them to declare the causes that impelled the Americans to independence, the readers did not think that Jefferson was aiming at the Japanese or the Hottentots or the Highlanders or the Algerians; he was talking to that elite group, limited in number but admirable in brain power, which made the high culture of the eighteenth century the great thing it truly was. When he said George III was a despot, they did not confuse him with the Sultan of Sulu; they knew that what Jefferson meant was that George Guelph, as Jefferson elsewhere dubs him, was acting below standards set for European kings. When Jefferson said the Americans had appealed in vain to justice and consanguinity, readers did not understand that the Americans had somehow failed to write to their cousins in Liverpool and their aunts in London; they understood what he meant, which was simply that the traditions of justice had somehow broken down in America and that the identity of cultural tradition between the mother country and the colonies was being ignored or violated beyond reasonable endurance. Jefferson was not Tom Paine, and he never said that an island should not govern a continent.

The last sentences of the Declaration take us back in form to some of the ancient principles of Greek and Roman law and all the Declaration does in effect is firmly to announce the determination of the Congress that the United States shall

join the family of Western nations, act like them, and be treated as an equal by their sovereigns. It proposes nothing more revolutionary in one respect than that the colonies are going to unite and assume, however awkwardly, the civilized responsibilities of the modern state. The Declaration may or may not be the first full statement, however imperfect, of what it means to strive after maturity in modern society, but it is certainly one of the most persuasive statements ever penned of the reasons for not tolerating injustice after a sufficient period for trial and reform. The Americans did not, it is true, state what form of state they were to establish, and I think the young republic suffered for some years because of this failure, but it soon learned what was needed and the sequence of the Declaration was, inevitably, the oldest written constitution continuously at work for two centuries in the modern world.

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